



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Third periodic reports of States parties due in 2005

AZERBAIJAN*

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[13 July 2007]

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Part I

INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION (articles 1-16 of the Convention)

1. The Republic of Azerbaijan, having declared safeguarding human and civil rights and freedoms to be its foremost objective, attaches great importance to this question and is consistently carrying out measures in this field. As a demonstration of its commitment to the generally accepted standards and principles of democracy, Azerbaijan has acceded to all the major international human rights treaties.
2. In order to implement the recommendations made by the Committee against Torture following its consideration of the second periodic report of Azerbaijan, effective measures have been adopted in the country. The President issued a special order on 27 September 2003, and a working group has been set up to give effect to the recommendations.
3. Pursuant to the presidential order, the implementation of the Committee's recommendations has been extensively discussed, at a high-level meeting at the Ministry of Justice and in other national law enforcement agencies. An order on the subject issued on 5 June 2003 by the Minister of Justice outlines the tasks of the various departments of the Ministry in this area.
4. In accordance with the presidential order referred to above, the Minister of Justice has developed and approved a comprehensive and integrated plan of action to ensure implementation of the Committee's recommendations by the various bodies answering to it.
5. With a view to providing methodological assistance to the courts in the proper application of legislation and convention-based international rules against torture, the Supreme Court of the Republic of Azerbaijan has consolidated judicial practice in this area, as a result of which a decision was adopted reflecting the recommendations of the Committee against Torture and indicating in particular that when instances of the use of torture, cruel treatment or physical or mental violence are found to have occurred, they must give rise to legal action, since these are criminally punishable offences and no exceptional circumstances can serve to justify them. Evidence obtained by unlawful means cannot form the basis of a judgement.
6. This Supreme Court decision has been transmitted to all courts and pretrial investigation agencies for practical use in their work. It should also be emphasized that, in the practice of the courts, acts of torture or ill-treatment identified at the pretrial investigation stage are not ignored. Thus, in the course of a judicial investigation all claims of the use of torture against persons being investigated are considered, evidence is gathered and the court scrupulously verifies the full observance of such persons' right to protection. Moreover, in the event of a complaint of torture or ill-treatment from a person under investigation, the courts immediately call for a forensic examination, which is carried out thoroughly, objectively and independently. Thereafter, when rendering a definitive judgement, the courts consider anew all the evidence collected, noting any instances of violence against the person under investigation, if any such acts have occurred during the pretrial investigation.

7. A national plan of action for the protection of human rights in the Republic of Azerbaijan was adopted by a presidential order of 28 December 2006. The plan calls for measures to improve the legal and regulatory framework, cooperation with international organizations active in the field of human rights, the protection of the rights of various groups and the work of State agencies in safeguarding human rights, and for the enhancement of human rights education and training. It also contains provisions on the drafting and submission of the country's periodic reports to the United Nations treaty bodies.
8. To ensure that judicial bodies implement this national plan, a corresponding set of measures has been drawn up. Among other important issues, it covers steps to defend the rights of convicted and remand prisoners, to improve their conditions and regime of detention and to bring these into line with generally accepted standards. The measures also include studying international best practices, organizing visits to prisons in other countries so as to benefit from their experience when new facilities are built to meet modern requirements, providing for the social reintegration of released prisoners and adopting the appropriate measures to implement the recommendations of international organizations.
9. The study of best practices and cooperation with authoritative international organizations are of special importance, both in respect of the prison system and in all other fields.
10. As a demonstration of its commitment to the principles of human rights and democracy, in 2000 the Government of Azerbaijan signed an agreement with the International Committee of the Red Cross (ICRC). The agreement has been extended several times.
11. Under this agreement, ICRC representatives are given systematic and unlimited access to places of detention; they carry out individual interviews with prisoners and provide them with specific medical assistance, in particular for those suffering from tuberculosis. On the basis of the confidential prison visit reports by ICRC, the required action is taken. For example, in 2005-2006, ICRC representatives carried out 65 visits at 33 facilities. As these visits progressed, improvements were noted in the prison system, in observance of prisoners' rights and in conditions of detention.
12. In cooperation with ICRC and other international organizations, measures have been undertaken in accordance with State strategy to combat tuberculosis to provide specialized treatment and special conditions of detention and nourishment for prisoners with the disease. In line with World Health Organization (WHO) recommendations, prisoners with tuberculosis are treated using the Directly Observed Therapy Short-course (DOTS) method; penal institutions have been provided with modern equipment, including mobile laboratories; a prison anti-tuberculosis programme has been adopted; and international seminars and training sessions have been held for medical personnel. As a result of these measures, the number of deaths from tuberculosis in prisons has declined significantly in recent years.
13. By 6 December 2005, the Ministry of Justice and ICRC had been working against tuberculosis in the country's prisons for 10 years.
14. In order to improve living conditions in prisons and remand centres, substantial repair and construction works are being carried out to bring conditions of detention into line with international standards. New accommodation blocks have been built at prisons, and new sports

facilities, clubs and libraries are being built and put into service to permit prisoners to make effective use of their leisure time. To ensure prisoners' freedom of religion, premises have been set up for religious ceremonies, including expanded rooms for short and longer events, and the necessary conditions are being created for prisoners and their families, in accordance with international standards.

15. Consideration is now being given to rebuilding and reorganizing penal institutions, along with additional measures that are being planned or implemented, such as making appropriate amendments to the law. The aims include avoiding overcrowding at remand centres; ensuring that accused persons are held in accordance with international standards; setting aside space for extended visits at remand centres; improving conditions of detention, especially for people serving life sentences; guaranteeing prisoners' right to move about (i.e. to take exercise and make effective use of free time outside their cells, following the example of European countries); providing minors and women, in particular women who are breastfeeding and those with small children, with improved conditions commensurate with international standards; affording inmates the opportunity to obtain a secondary or specialized secondary education; and involving prisoners in socially useful work and sports.

16. Over and above the repair and construction works that are being conducted at a number of facilities to improve conditions of detention and medical services, in the Naxçıvan Autonomous Republic work is drawing to a close on a new, mixed-regime prison complex (with a capacity of 640) that meets international standards. At the same time, construction has begun on similar facilities in Şäki (capacity 900) and Länkäran (capacity 1,000) districts. In line with recommendations from the United Nations Educational, Scientific and Cultural Organization (UNESCO), plans are being drawn up for the transfer of Qobustan prison, and in accordance with a decision issued by the Cabinet of Ministers on 5 August 2005, a new prison building is to be built so as to improve the conditions of detention at the prison and bring them into line with international standards, including for persons serving life sentences. A decision has also been made to build a new remand centre in the vicinity of Baku. Twenty hectares of land has been set aside for this purpose, and the preliminary works are under way.

17. On 25 December 2001, Azerbaijan acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

18. The entry into force of this Convention for Azerbaijan on 1 August 2002 gave the European Committee for the Prevention of Torture the ability to carry out unhindered visits to the corresponding State institutions and places of detention.

19. In the light of the new tasks to be performed by the justice system under these international obligations, additional steps have been taken to protect human rights.

20. In recent years, delegations from the European Committee have carried out two periodic visits and two ad hoc visits to Azerbaijan. Further to the visits, they presented reports containing appropriate recommendations.

21. The second periodic visit took place in November 2006. The European Committee delegation held meetings with relevant Government agencies and visited places of detention, familiarized itself with the conditions of detention of convicted prisoners and those awaiting

trial, and held individual interviews with them. The members of the delegation also held meetings with directors of State agencies, representatives of international organizations and members of the Public Affairs Committee.

22. At a meeting with the Government, the European Committee delegation not only addressed questions requiring a solution, but also noted the progress made in implementing the recommendations issued as a result of previous visits. The Committee members, sharing their first impressions of the second periodic visit, specifically emphasized the positive changes that had taken place in the prison system in Azerbaijan.

23. Further to the recommendations made by the European Committee, including those concerning the running of prisons and their construction and modernization to meet up-to-date requirements, the Ministry of Justice requested the Committee's assistance in studying best practices in European countries in the organization and operation of prisons. This would include arranging visits and ensuring access by the Ministry's representatives to facilities chosen by the Committee for their level of advancement and for the opportunities to emulate their experience at comparable institutions in Azerbaijan. The Committee recommended that visits be paid to prisons in Estonia and Finland. The required steps are currently being taken to that end.

24. The Ministry of Health has also taken the necessary steps to implement the recommendations of the European Committee. For example, at the Şäki interdistrict clinic for people with mental and nervous disorders, a series of measures have been taken to eliminate existing problems. A 12-ton tank has been set up to improve the water supply, and the proper functioning of the baths, laundry facilities and disinfection room is constantly monitored. The food provided to patients has improved, and there are plans to increase its variety.

25. In November 2006, following a visit to the clinic by the European Committee delegation, the isolation unit in the clinic was eliminated, and two colour televisions were installed in the wards. There are plans to open a psychotherapy service there in the near future.

26. The supply of medicines has already improved, and efforts are continuing in this area. Patients at the clinic are permitted to exercise, depending on weather conditions. Each patient is treated on the basis of an individual diagnosis and his or her state of well-being.

27. At Baku municipal psychiatric hospital No. 1 too, a supplementary 10-ton tank has been set up in the hospital yard to improve the water supply. The proper functioning of the baths, laundry facilities, disinfection room and sewerage system is constantly monitored.

28. The directors of both facilities have been informed of the recommendations of the European Committee delegation and have been instructed to address the shortcomings at their respective institutions as soon as possible. To prevent neglect and avoid heavy-handed and denigrating treatment of patients at the hospital, specialized training is being given to the medical staff.

29. In addition to the above, a building is now under construction for Baku municipal psychiatric hospital No. 2. A new treatment ward has been built and has entered into service at

Ministry of Health psychiatric hospital No. 1 for tuberculosis patients, located in the Maştağa area of Baku. Also, basic repairs have been carried out at the children's and adolescents' department.

30. In addition, at compulsory treatment facilities of the Ministry of Health, a series of measures are planned to enhance patient care, to improve conditions of treatment and detention and to prevent the use of any form of torture, or inhuman or degrading treatment or punishment against the patients.

31. The Government of Azerbaijan and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have been conducting a project entitled "Strengthening capacities and infrastructure for human rights protection and promotion" since 2000. This project has been extended several times because of its special importance, and measures have been taken to increase its effectiveness. A number of outreach activities have been carried out under the project, including workshops on submitting periodic reports to United Nations treaty bodies and training for judges, procurators and other judicial officers. For example, on 2 November 2006, the Azeri translation of a compendium of international documents entitled *Human Rights and Pretrial Detention* was launched. The compendium has been distributed to the courts, law enforcement agencies and NGOs.

32. The above-mentioned project is being carried out in close cooperation with the United Nations office in Azerbaijan. As part of the project, representatives of OHCHR have visited Azerbaijan, holding important meetings with various members of the Government to discuss the prospects for further cooperation. The project is ongoing.

33. Currently, as part of the democratic legal reforms under way in Azerbaijan, wide-ranging measures are being put in place to improve the operation of the prison system, to render it more efficient and to correct any shortcomings. Accordingly, by a presidential order of 28 January 2005, the chief of the prison service was removed from his post for misconduct, and other senior prison officers who were in charge of the prison catering services were removed from their posts, prosecuted and convicted.

34. In order to bring the prison system up to international standards, improvements have been made to the legislative framework, and specific steps have been taken to safeguard prisoners' rights. For example, the amount of money appropriated from the State budget for the prison service has increased threefold in recent years.

35. In the last few years, including in 2006, on the initiative of the Head of State, new laws have been adopted. Some of these have strengthened legal regulation of the activities of the Ministry of Justice, in particular the prison service.

36. The Ministry of Justice has been given new powers, and new units have been set up at the Ministry. Among the new instruments introduced, the new Statute of the Ministry of Justice, approved by a presidential decree of 18 April 2006, the Act on Conditions of Service in Judicial Bodies of 26 May 2006 and the presidential decree of 17 August 2006 on the development of judicial bodies are worthy of note.

37. These enactments govern the activities and powers of the Ministry, strengthen the legal framework for conditions of service in judicial bodies and provide for major steps to improve the administration of justice by the State.

38. The new structure of the Ministry of Justice includes nine central administrations and eight departments; among these is a Judicial Academy that will train judges, procurators and other officials in the justice system, including prison staff. Regional justice departments have been set up as well, with the aim of coordinating activities and strengthening oversight of local judicial bodies.

39. In keeping with the prominent place accorded human rights protection, a Human Rights and Public Relations Office has been established within the Ministry of Justice to safeguard and protect the rights and freedoms of convicted and remand prisoners, maintain close cooperation with human rights NGOs in this area, enhance legal education and public information, and strengthen community relations.

40. In the instruments referred to above, special attention has been paid to the situation in prisons. A new set of laws meeting international standards has been adopted, and the Central Administration for the Enforcement of Judicial Decisions has been renamed the Prison Service. Measures have been taken to radically improve convicts' conditions of detention. To provide convicts with medical care meeting modern requirements and to ensure the independence of medical specialists, there is a central medical authority operating within the Ministry of Justice. Also, a special inspectorate in the Ministry provides internal oversight of enforcement of sentences and observance of the law applicable to persons in detention. A Public Affairs Committee has been set up and is working effectively within the Ministry; it ensures participation by civil society in rehabilitation and provides public oversight of prisons.

41. Under the Statute of the Ministry of Justice, the Ministry is tasked with ensuring the realization of human and civil rights and freedoms, preventing violations and cooperating in this field with local and international NGOs. It is in particular assigned the task of protecting the rights of convicts, providing for their everyday needs and ensuring that they have access to medical services.

42. The Act on Conditions of Service in Judicial Bodies sets out the legal status of prison service employees, the conditions for their recruitment and for the performance of their duties, and addresses the question of their remuneration.

43. The presidential decree on the development of judicial bodies *inter alia* set objectives for the establishment of new prison facilities in the country's regions, for the improvement of the performance of the prison service, for the elimination of existing problems in this field and for the adoption of measures to ensure the observance of the rights and freedoms of convicts and the provision of assistance in their reintegration in society.

44. In April 2006, the Milli Mejlis (parliament) adopted on first reading a draft law on the custody of suspects and accused persons. This law is very important for the prison system, in particular where the proper organization of remand centres is concerned. In the draft law, special attention is paid to protecting the rights and freedoms of suspects and accused persons, ensuring their legal status and upholding their rights.

45. A new draft law has been drawn up on the reintegration in society of persons released from prison. This draft law, the adoption of which is planned for the end of 2007, defines the specific bodies and institutions responsible for carrying out social reintegration measures. It establishes the activities to be undertaken for persons requiring such assistance, and calls for them to be provided with decent living conditions, education, vocational training, employment and medical care. The draft law also sets out how such activities are to be funded and addresses other questions.

46. Further to the reforms in public administration, a presidential decree of 6 February 2006 established a State Committee on the Family, Women and Children. Presidential decree No. 444 of 9 August 2006 ratified the Regulations on this State Committee, according to which it serves as the central agency of the executive branch implementing State policy in the field of family, women's and children's affairs. According to article 8.1 of the Regulations, the Committee's duties include ensuring, within its mandate, the realization of human and civil rights and freedoms, in particular those of women and children, and the adoption of measures to prevent violations thereof. Under article 8.18 of the Regulations, the Committee is required to receive complaints and statements from citizens relating to its sphere of activity, and to take the appropriate measures, as stipulated by law.

47. In addition to the above, Azerbaijani law establishes special conditions for women and minors serving sentences in penal institutions. Under article 72 of the Penal Enforcement Code, minors are held separately from adults and women from men in such institutions.

48. Under article 91.8 of the Code, pregnant convicts, women convicts with children under the age of 3 and convicted persons under the age of majority are provided with better living conditions, and special dietary standards apply. In accordance with article 88 of the Code, convicted women who have worked conscientiously and complied with prison regulations and who have served at least one third of their terms may be permitted to live outside the institution during their release from work as stipulated by the law on pregnancy and childbirth and until their children reach the age of 3. Under article 172 of the Code, a court may defer the serving of a sentence for pregnant convicts and women serving sentences who have small children, until the children reach the age of 8.

49. Moreover, the Code also stipulates that minors, pregnant convicts serving sentences and women with small children should be given vocational training, while women over 55, women more than four months' pregnant and mothers with children in children's homes at penal institutions should be assigned work on a voluntary basis. Convicted women are released from work during pregnancy and after childbirth for the period set out by law.

50. At the same time, the law stipulates that the personal accounts of women over 50, pregnant women and women with children in children's homes at penal institutions should be credited with at least 50 per cent of their wages, pensions or other incomes, and those of women living outside such institutions or serving their sentences at correctional colonies (or open prisons) with at least 60 per cent of their wages.

51. Since its creation, the State Committee on the Family, Women and Children has received over 800 statements, communications and letters from citizens. Yet not a single one of these has contained information on torture and other cruel, inhuman or degrading treatment or punishment.

52. There are two correctional establishments for women and minors in Azerbaijan: penal institution No. 4, with a mixed regime, for women convicts, and reform school No. 45, for minors. Officials of the State Committee on the Family, Women and Children regularly visit these facilities.
53. During these visits, the officials of the State Committee hold interviews with the convicts so as to understand their problems and receive their complaints and statements. Such interviews are held in private with the convict; prison staff do not attend. Since the State Committee began its work in February 2006, it has received no complaints from convicts of torture or other inhuman or degrading treatment or punishment. The visits have shown that the convicts' conditions of detention are in keeping with European standards.
54. A profound reform of juvenile justice and the administration of justice for minors is under way in the country. New laws have been adopted, along with measures for their implementation. The Juvenile Homelessness and Delinquency Prevention Act was adopted on 24 May 2005; it clearly sets out the powers and responsibilities of agencies working to prevent homelessness and delinquency among minors.
55. Among the new laws adopted in the country, it is worth noting the law adopted on 1 September 2004 introducing certain changes to the Labour Code, pursuant to the European Social Charter Ratification Act of 6 January 2004.
56. For example, two new subparagraphs, (m) and (n), were inserted in the second paragraph of article 31 of the Labour Code (Content of collective agreements) as follows:
- (m) The adoption of all necessary measures for the protection of certain employees from attacks on their dignity in the workplace or in relation to work, and for the provision of assistance in the event of openly hostile acts, and also for public awareness efforts aimed at clarifying what constitutes an offensive act and providing information in order to prevent such acts from being committed against employees;
- (n) The adoption of all necessary measures for the promotion of awareness of what constitutes sexual harassment in the workplace, and for the prevention of such harassment, with the aim of protecting employees from such acts.
57. The Government of Azerbaijan has cooperated closely with the Council of Europe and the European Commission to improve the prison service. It launched a joint prison reform programme with those organizations in 2006, with a budget amounting to 1.4 million euros. Under the programme, proposals have been prepared on further improving the legislation and management system in this area, training has been organized and activities conducted for the rehabilitation of convicts. In addition, technical assistance has been rendered to the prison service, to correctional facilities, and also to the training centre in the prison service, including the provision of essential computer equipment.
58. Following the conclusion of the joint programme, a conference was held on 15 December 2006 to review its results. The conference was attended by representatives of

the Council of Europe, the European Commission, the United Nations and other international organizations, the Ombudsman, deputies of the Azerbaijani parliament, members of the Public Affairs Committee, and representatives of the judicial system, law enforcement agencies, the Bar and NGOs.

In paragraphs 8 (a) and 8 (b) of its conclusions and recommendations, the Committee requested detailed information on complaints of torture and ill-treatment committed by law enforcement officials

59. Investigations of criminal cases involving complaints of torture and ill-treatment committed by law enforcement officials are constantly monitored by the country's law enforcement agencies and are carried out fully, comprehensively and objectively.

60. We present hereunder information on the following cases and case-files:

1. Death of Mr. Rasim Dzhafar oğly Alyshov, 25 July 2006

61. On 20 July 2006, Mr. M. Shukurov, an investigator in the Mingäçevir Police Headquarters investigative department, instituted criminal proceedings against Mr. E. Aliev under article 177.1 of the Criminal Code (Theft).

62. During questioning, Mr. Aliev indicated that the crime had been committed by prior conspiracy with Mr. Alyshov. Accordingly, Mr. Alyshov was arrested on Mr. Shukurov's orders by Mingäçevir police officers on 25 July 2006 and taken to the office of the chief of criminal investigations at Mingäçevir Police Headquarters, Mr. İlgar Abbasov.

63. Under interrogation, Mr. Alyshov admitted that he had stolen livestock by prior conspiracy with Mr. Aliev, stating that they had acted alone. However, Mr. Abbasov and police officer Mr. E. Musaev, did not believe him, and they used physical coercion to extract information on other accomplices in the theft.

64. Mr. Alyshov died from the injuries sustained in the office of the chief of criminal investigations, Mr. Abbasov.

65. A criminal case was brought on 25 July 2006 by the Mingäçevir municipal procurator for excess of authority by the Mingäçevir police officers, under article 309.2 of the Criminal Code (Excess of authority).

66. The investigation established a prime facie case against the chief of the criminal investigation department, Mr. Abbasov, a detective in the department, Mr. Musaev, and police officer Mr. R. Murtuzov, and they were charged under article 309.2 of the Criminal Code.

67. The Mingäçevir municipal court ordered their remand in custody.

68. The investigation is still under way.

2. Death of Mr. Namik Zeidulla ogly Mamedov, 4 April 2006

69. On 3 April 2006, an investigator in the XıZı District Police Station's investigative unit brought a criminal case under article 177.1 of the Criminal Code (Theft) against Mr. Mamedov, who on 4 April 2006 was arrested as a suspect on his orders. On the same day, at 3.50 p.m., he was placed in the XıZı District Police Station's holding facility.

70. While in the cells, Mr. Mamedov removed his T-shirt and used it as a rope, tying it to the upper bunk, and hanged himself.

71. An investigator in the XıZı district procurator's office initiated criminal proceedings in respect of Mr. Mamedov's suicide on 4 April 2006, under article 125 of the Criminal Code (Incitement to suicide).

72. During questioning, the holding facility guards, XıZı district police officers Mr. Vekil Bairam ogly Mamedov and Mr. Zokhrab Tanryverdi ogly Atamov, indicated that after the prisoner had been placed in the cells, when they were on duty, at 5.50 p.m., he asked them to bring him tea. At 6.10 p.m., once the tea was ready, Mr. V. Mamedov, the guard, brought the prisoner a mug of tea. When passing the mug through the window in the cell door, he saw Mr. Mamedov hanging there. When the guards entered the cell to assist him, the prisoner was already dead.

73. The forensic report, dated of 5 April 2006, concluded that death had occurred at 6 p.m. on 4 April 2006 by asphyxiation with the T-shirt. No injuries whatsoever were found on the body.

74. During the investigation, it was further established that the holding facility guards, police officers Mr. Mamedov and Mr. Atamov, had been negligent, i.e. they had not fulfilled their duties as public servants owing to a careless attitude to their work. Their actions were thus considered to be covered by article 314.2 of the Criminal Code (Neglect of duty), and they were charged under the same article. The court ordered their remand in custody.

75. On 7 July 2006, the criminal investigation was completed, and the case was referred to the XıZı district court for trial.

76. They were found guilty of the charges by the XıZı district court, which issued a judgement to that effect.

3. Death of Mr. Yusif Talyb ogly Abdullaev, 13 July 2005

77. On 13 July 2005, Mr. Abdullaev was taken to Salyan District Police Station, as he was suspected of illicitly procuring, storing, transporting and selling narcotic drugs. During a search of his person, 0.053 grams of heroin and 1.28 grams of marijuana were found in his pockets. The same day, he was placed in the police station's holding facility, and criminal proceedings were

brought against him under article 234.1 of the Criminal Code (Illicit manufacture, production, procurement, storage, transport, transfer or sale of narcotic drugs, psychotropic substances or precursors).

78. While in the cells, Mr. Abdullaev began to complain of feeling unwell, and at his request, on 18, 19 and 20 July ambulances were called, and the doctors attending provided first aid. However, despite receiving medical attention, he died in his cell on 20 July 2005, at 12.50 p.m.

79. An examination established that Mr. Abdullaev was a drug addict and was suffering from withdrawal.

80. Forensic report No. 24, dated 20 July and 5 September 2005, concluded that death had resulted from mechanical asphyxiation. The injuries found on the body had been sustained between four and six days prior to the autopsy, and had in no way been detrimental to Mr. Abdullaev's health.

81. In the light of the results of the examination, it was decided not to bring criminal proceedings, as no offence had been committed.

4. Death of Mr. Bairam Agalar ogly Agaev, 14 August 2005

82. On 13 August 2005, Mr. E. Abdullaev and Mr. V. Abyshov lodged complaints with Narimanov District Police Station No. 18 of an assault committed against them by Mr. Agaev with intent to rob them of their mobile phones. Mr. Agaev had been apprehended by the complainants and turned in to the above-mentioned police station.

83. Their complaint was recorded in the crime log and transmitted for investigation to Narimanov District Police Headquarters detective Mr. K. Orydzhev, in charge of conducting the initial inquiry. That same day, Mr. Orydzhev transferred the materials collected for initiating criminal proceedings to the police station senior duty officer, Mr. D. Mamedov, together with a covering letter, and the prisoner, Mr. Agaev. Instead of carrying out Mr. Orydzhev's instructions, Mr. Mamedov handcuffed the prisoner to the railings of the duty officers' rest quarters.

84. On 14 August 2005, at 7 a.m., Mr. Agaev made a noose out of a length of electrical wire found on the railings and hanged himself.

85. On the same day, the procurator for the Narimanov district of Baku instituted criminal proceedings under article 309.2 of the Criminal Code (Excess of authority) in connection with Mr. Agaev's suicide.

86. During the investigation of the criminal case, numerous expert reports were ordered and a large number of witnesses interviewed.

87. The findings of the reports and the witness testimony established a prima facie case against Mr. Mamedov, and he was charged under the above-mentioned article of the Criminal Code.

88. Mr. Mamedov was found guilty by judgement of the Narimanov district court on 30 November 2005 and sentenced to three years' deprivation of liberty.

5. Death of Mr. Babal Atamoglan ogly Babaev

89. On receipt of a complaint made to Abşeron District Police Station by Mr. Anar Geibull ogly Dadashov concerning the obtention by deception by brothers Mr. Badal Babaev and Mr. Murad Babaev of \$2,200 belonging to him, a preliminary investigation was initiated by a detective, Mr. A. Aslanov.
90. On 30 December 2004, Mr. B. Babaev was summoned by Mr. Aslanov to Abşeron District Police Station in order to give a statement.
91. On the afternoon of 30 December 2004, Mr. B. Babaev left Xırdalan settlement in his own car for Abşeron District Police Station, but at 5 p.m. in the vicinity of the settlement, while en route, he died at the wheel from cardiovascular insufficiency.
92. On 30 December 2004, the Abşeron district procurator's office carried out a preliminary investigation into the death of Mr. B. Babaev.
93. The forensic report, dated 14 January 2005, concluded that death had occurred on 30 December 2005 at 5 p.m. from cardiovascular insufficiency; no injuries whatsoever were found on the body.
94. The relatives of the late Mr. Babaev did not suspect anyone of his death or lodge any complaint.
95. On 14 January 2005, it was decided not to bring criminal proceedings, as no offence had been committed.

6. Death of Mr. Ekhtibar Dagbek ogly Nadzhafov

96. On 27 March 2007 at approximately 11.30 a.m. at the Sakhil underground station in Baku, on board shuttle bus No. 271, Mr. Nadzhafov stole 200,000 manats belonging to Mr. Intigam Cherkez ogly Farkhadov and was caught by the latter at the scene of the crime.
97. At the request of the victim, police officers from the Sabail district of Baku were summoned to the scene. They brought Mr. Nadzhafov, suspected of the theft, to Sabail District Police Headquarters.
98. During a search of his person in the presence of witnesses, 200,000 manats were found in Mr. Nadzhafov's trouser pockets and identified by Mr. Farkhadov as belonging to him.
99. On being questioned, Mr. Nadzhafov admitted to the theft.
100. That same day, the materials collected relating to the theft were recorded in the crime log and handed over to a police detective, Mr. A. Abbasov.
101. On 28 March 2004 at 1.30 a.m., Mr. Nadzhafov, who was in office 18 on the second floor of the police headquarters, stepped into the corridor in the presence of a police officer and suddenly leapt out of a window onto the street. He died in hospital from injuries sustained as a result of his fall.

102. On 28 March 2004, the prosecutor for the Sabail district of Baku brought a criminal case against the police officer in connection with Mr. Nadzhafov's suicide, under article 125 of the Criminal Code (Incitement to suicide).

103. During the criminal investigation, various expert reports were drawn up and a large number of witnesses interviewed.

104. Based on the expert findings and witness testimony, incitement to suicide was not proved and, in consequence, on 3 June 2004, the case was dropped.

7. Bodily injuries sustained by Mr. Eshgin Ziyadkhan ogly Gamidov, Ms. Khoshgadam Abdulgamid kyzy Gadimova, Mr. Babek Bagban ogly Aliev and others, 6 December 2005

105. On 4 November 2005, a criminal investigation was initiated under article 177.2.3 of the Criminal Code into the theft of gold objects from the apartment of Ms. Agigat Idris kyzy Mamedova by the investigative unit for Nizami district in the city of Gäncä.

106. On 6 November 2005, Mr. Gamidov and Mr. Aliev were arrested by Nizami district police officers on suspicion of theft from Ms. Mamedova's apartment.

107. The Gäncä municipal procurator was only informed of the arrest of the above-mentioned citizens on 9 November 2005.

108. The Gäncä municipal procurator's office therefore launched an investigation into the illegal detention of the citizens in the Nizami District Police Station's holding facility.

109. Based on the findings of the investigation, on 14 October 2005 the Gäncä municipal procurator's office instituted criminal proceedings against the chief of the Nizami District Police Station's criminal investigation department, police major Mr. K. Kasymov, and others under article 309.2 of the Criminal Code (Excess of authority).

110. During questioning, Mr. Gamidov, Ms. Gadimova, Mr. Aliev and others described being brought illegally to the police station and subjected to physical violence by the chief of the criminal investigation department, Mr. Kasymov.

111. When the victims complained that the investigation of the criminal case by the Gäncä municipal procurator's office was biased, the case was withdrawn from Gäncä and entrusted to the Xanlar district procurator's office for further action.

112. Following the outcome of the investigation, the actions of the chief of the criminal investigation department, Mr. Kasymov, were dealt with under article 308.1 of the Criminal Code and the investigation was completed.

113. On 12 April 2005, by judgement of the Xanlar district court, Mr. Kasymov was found guilty of the offence with which he had been charged and fined 1,500 standard financial units.

8. Death of Mr. Nariman Tofiq ogly Veliev, 17 December 2005

114. On 17 December 2005, Mr. Veliev was arrested by Binagadi district police officers on suspicion of stealing personal property belonging to Ms. M. Guseinova. At approximately 1 p.m. on that day, while in the office of police major Mr. R. Shakhverdiev, chief of the Binagadi District Police Headquarters criminal investigation department, on the second floor of the building, Mr. Veliev started to complain of shortness of breath and asked permission to step out onto the balcony for some fresh air.

115. With Mr. Shakhverdiev's permission, Mr. Veliev went out onto the second floor balcony. He then leapt off onto the street and died in hospital from injuries he sustained as a result of his fall.

116. On 12 December 2005, criminal proceedings were initiated in connection with Mr. Veliev's suicide by the procurator for the Binagadi district of Baku, under article 125 of the Criminal Code (Incitement to suicide).

117. During the investigation of the criminal case, an expert report was made and a large number of witnesses were interviewed.

118. Based on the expert findings and witness testimony, incitement to suicide was not established, and the criminal case was dropped on 8 August 2006.

9. Bodily injuries sustained by Mr. Balagardash Khosrov ogly Amiraliev, 17 June 2006

119. On 15 June 2006, Mr. Amiraliev was summoned by a detective, police lieutenant Mr. Z. Abbasov, to Äli Bayramli Police Station for questioning in connection with criminal case No. 4911, which had been brought to investigate a violent assault. While Mr. Amiraliev was in Mr. Abbasov's office on the second floor of the police station's administrative building, he took advantage of the latter's leaving the room to jump from the balcony in an attempt to escape. He sustained bodily injuries as a result of his fall to the ground and was taken to hospital.

120. An investigation was initiated by the Äli Bayramli district procurator's office into the circumstances of the bodily injuries sustained by Mr. Amiraliev.

121. During the investigation, several expert reports were ordered and a large number of witnesses interviewed.

122. Based on the findings of the reports and the witness testimony, incitement to suicide was not confirmed, and on 27 June 2006, it was decided not to institute the criminal proceedings, as the actions of the police officers concerned did not constitute an offence.

10. Death of Mr. Bakhtiyar Ibad ogly Dzhabbarov, 2 July 2006

123. By a decision of Länkärän district court of 30 June 2006, administrative proceedings for petty hooliganism were initiated against Mr. Dzhabbarov, under article 310.1 of the Code of

Administrative Offences. His guilt was proved during the proceedings, and he was subjected to administrative detention for a period of seven days. That same day, he was placed in a holding facility in Länkaran District Police Station.

124. While in the holding facility, Mr. Dzhabbarov removed his T-shirt and used it as a rope, tying it around the bars of his cell window, and hanged himself.

125. On 2 July 2006, an investigator in the Länkaran district procurator's office instituted criminal proceedings in respect of Mr. Dzabbarov's suicide, under article 125 of the Criminal Code (Incitement to suicide).

126. According to the forensic findings, death occurred by asphyxiation with the T-shirt; no injuries whatsoever were found on the body.

127. During the investigation, it was further established that the holding facility guards, police officers Mr. A. Mirzaev and Mr. E. Gurbanov, had been negligent, i.e. they had not fulfilled their duties as public servants owing to a careless attitude to their work. Their actions were thus considered to be covered by articles 314.2 and 131 of the Criminal Code, and they were charged under those articles, the court ordering their remand in custody.

128. On 27 November 2006, the criminal investigation was completed, and the case was referred to Länkaran district court for trial.

129. The case is currently before the court.

11. Death of Mr. Agadzh Aziz ogly Nuriev, 26 July 2006

130. On 26 March 2006, Mr. Nuriev was arrested by Ağcabädi district police officers on suspicion of selling narcotic drugs, namely 2 grams of heroin, to Mr. Dzhavid Gadir ogly Gasymov. That same day, a case was initiated against Mr. Nuriev under article 234.2 of the Criminal Code (Illicit manufacture, production, procurement, storage, transport, transfer or sale of narcotic drugs, psychotropic substances or precursors) and, by order of the district court, he was remanded in custody for three months.

131. On 24 July 2006, Mr. Nuriev was transferred from the remand centre to a holding cell in Ağcabädi District Police Station for questioning. Between 24 and 26 July 2006, ambulances were called out at the prisoner's request, and the doctors attending provided first aid.

132. On 26 July 2006 at approximately 10.20 a.m., Mr. Nuriev died in the holding cell from cardiac insufficiency.

133. An investigation was carried out into Mr. Nuriev's death by the Ağcabädi district procurator's office.

134. During the investigation, several expert reports were drawn up and a large number of witnesses interviewed.

135. Based on the findings of the reports and the witness testimony, incitement to suicide was not established, and on 30 August 2006 it was decided not to bring a criminal case, as no offence had been committed.

136. The most difficult problem facing Azerbaijan continues to be the conflict between Armenia and Azerbaijan over Nagorny Karabakh. The Nagorny Karabakh region and seven other surrounding districts, which account for some 20 per cent of the territory of Azerbaijan, have been occupied by Armenia. More than 1 million Azerbaijanis have become refugees or displaced persons as a result of the policy of ethnic cleansing pursued by Armenia.

137. In response to Armenia's occupation of Azerbaijani territory, in 1993 the United Nations Security Council unanimously adopted four resolutions: resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993). These resolutions confirmed that the Nagorny Karabakh region is an integral part of Azerbaijan, called for respect for the territorial integrity and sovereignty of Azerbaijan and its internationally recognized borders and stressed the inadmissibility of the use of force for the acquisition of territory. The resolutions demanded the immediate, complete and unconditional withdrawal of all occupying forces from the occupied areas of Azerbaijan and the creation of conditions that would enable displaced persons to return to their homes in safety. The Security Council's reaffirmation, in its four resolutions on the Nagorny Karabakh conflict, of respect for the sovereignty and territorial integrity of the Republic of Azerbaijan once again attests to the absence of a basis under international law for Armenia's claim to the Nagorny Karabakh region of Azerbaijan.

138. Despite the Security Council's unequivocal demands, which Armenia has ignored, some 20 per cent of Azerbaijani territory remains occupied.

139. During its aggression against Azerbaijan, the Armenian side has committed gross violations of the norms of international humanitarian law; there have been numerous incidents of extrajudicial executions and mass shootings, torture and other cruel and inhuman treatment and punishment of Azerbaijani civilians, hostages and prisoners of war.

140. Regrettably, the Republic of Azerbaijan is not in a position to fulfil its obligations under the Convention against Torture in Azerbaijani territory occupied by Armenia.

141. The efforts of the Azerbaijani side to achieve a rapid and peaceful settlement of the conflict, liberate the occupied territories and facilitate the return of displaced persons have been thwarted by the unconstructive position of Armenia, which is demanding that the Nagorny Karabakh region of the Republic of Azerbaijan be granted independence or that this part of Azerbaijani territory be annexed to Armenia.

142. The problem of the conflict between Armenia and Azerbaijan over Nagorny Karabakh represents the only difficulty preventing Azerbaijan from implementing fully its obligations under the Convention.

Part II

COMPLIANCE WITH THE COMMITTEE'S RECOMMENDATIONS IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT

(Section D. Committee's conclusions and recommendations)

(a) Ensure that the offence of torture in national legislation fully complies with the definition provided in article 1 of the Convention

143. Under article 133.1 of the Criminal Code, torture is defined as the infliction of severe physical pain or mental suffering through systematic beatings or other violent acts, where this has not led to the consequences set out in articles 126 and 127 of the Code. Further on, under article 133.3 of the Code, the infliction of severe physical pain or mental suffering through systematic beatings or other violent acts by officials taking advantage of their official position or by others acting at their instigation for the purpose of obtaining information from the victim or from other persons, forcing them to make a confession or punishing them for acts they have committed or are suspected of having committed is punishable by deprivation of liberty for a period of from 5 to 10 years.

144. In addition, under article 293 of the Criminal Code, the coercion of suspects, accused persons, victims or witnesses into giving evidence in the course of interrogation or the coercion of experts into giving findings through the use of threats, blackmail, insults or other unlawful acts, including acts involving the use of torture, performed by or at the bidding of procurators, investigators or persons conducting initial inquiries is punishable by deprivation of liberty for a period of from 5 to 10 years.

145. Furthermore, article 308 (Abuse of authority), article 309 (Excess of authority) and article 314 (Neglect of duty) of the Criminal Code make the use of torture with the tacit consent of an official a criminal offence.

146. As all aspects of torture set out in the Convention definition are covered by the aforementioned articles of the Criminal Code, there is no need at present to make any amendments to the legislation.

(b) Guarantee that, in practice, persons cannot be held in initial preventive detention (police custody) longer than 48 hours, and eliminate the possibility of holding persons in temporary detention in local police facilities for a period of up to 10 days

147. Article 157.3 of the Code of Criminal Procedure provides that persons taken into custody on a court order may not be kept in temporary holding facilities for more than 24 hours and must be transferred to a remand centre before the expiry of that term.

148. However, given that the three remand centres under the authority of the Ministry of Justice are located 200 to 300 kilometres away from many municipal and district police stations and in the light of the practical impossibility of moving remand prisoners back and forth within a single month, provision has been made, under exceptional circumstances, for holding persons transferred from remand centres or correctional labour institutions in police custody in temporary

holding facilities for up to 10 days for the purposes of court proceedings and other investigative activities, in accordance with the Instruction on the rules for the custody and transportation of persons kept in temporary holding facilities by police authorities, agreed by the Ministry of Justice, Ministry of Health and Procurator General's Office (and confirmed by order No. 28 of the Ministry of Internal Affairs of 5 November 2001). It should be emphasized that only in exceptional cases are persons kept in temporary holding facilities for more than 24 hours.

149. There are plans to build additional remand centres in the regions to obviate the need for such measures.

(c) Clearly instruct remand centre personnel that they must respect the right of detained persons to obtain access to a lawyer immediately following detention and a medical doctor on the request of the detainee, and ensure the full independence of medical experts

150. Under article 85 of the Code of Criminal Procedure, investigators are obliged to ensure the right of suspects to have the services of counsel from the moment of arrest, the laying of charges or remand in custody. Under article 153 of the Code, the criminal prosecution authorities must make arrangements for detainees to meet their lawyers or legal representatives in private.

151. Under articles 92.7 and 92.9 of the Code of Criminal Procedure, as soon as a lawyer is admitted to a case, he or she has unimpeded access to the place of detention to meet with his or her client at any time. No prior authorization is required for a meeting between counsel and a person under investigation, and neither lawyers nor persons under investigation encounter any problems in this regard.

152. In addition to substantial efforts to improve amenities and the conditions in which convicted prisoners are held, great importance is attached to the provision of qualified medical assistance in the penal enforcement context. For example, as stipulated by the Penal Enforcement Code, health-care, prevention and disease control initiatives are being organized and carried out in penal institutions. Convicted prisoners who fall ill are provided with the necessary bedding, and their sanitation and hygiene conditions have been improved. The costs of medical care and medicines for convicted prisoners are borne by the State.

153. Medical staff in penal institutions and remand centres attend extensive further training courses under a special programme, with the participation of experienced specialists from the Ministry of Health. These courses focus on issues relating to the detection by medical experts of the use of torture and cruel treatment and the documentation of such cases.

154. Under an order of the Minister of Justice, the administration at places of detention must ensure that all persons entering such institutions are medically examined, registered and accorded the right to receive essential medical treatment for as long as they are detained.

155. It should be noted that an ad hoc working group was established to put forward proposals on implementing practical measures to ensure the independence of medical experts. The working group has carefully studied the recommendations of international organizations and foreign experience in this domain.

156. As outlined above, in order to provide convicted prisoners with medical care that meets modern standards and ensure the independence of medical experts, medical services have been separated from the prison service and reorganized under a central medical authority set up and operating within the Ministry of Justice.

157. The Ministry of Justice has placed advertisements in the media and organized competitive examinations to ensure the recruitment of properly qualified staff.

158. Prison and remand centre medical staff attend extensive further training courses under a special programme with the participation of experienced specialists, including from the Ministry of Health and ICRC and other international organizations. These courses focus on issues relating to the protection of remand and convicted prisoners from the use of torture and cruel treatment, as well as on the detection and documentation of such cases.

159. A procedure has been established to ensure that all persons held in remand centres are medically examined and properly registered on entry and accorded the right to receive essential medical treatment for as long as they are detained. Any injuries specified in complaints of ill-treatment are recorded and reported to the relevant authorities. Convicted prisoners and their counsel are given the opportunity to examine the documents.

160. Meanwhile, convicted prisoners who fall ill are provided with all necessary bedding, and their sanitation and hygiene conditions have been improved. A new building has been constructed in the specialized treatment facility for prisoners with tuberculosis under the programme of technical assistance to the Commonwealth of Independent States (TACIS). With the participation of professional specialists from the Ministry of Health, special psychiatric training courses are being run in the institutions for paramedical staff, and steps are being taken to fill vacant junior medical officer posts.

(d) Transfer the remand centre of the Ministry of National Security to the authority of the Ministry of Justice, or discontinue its use

161. Pursuant to the presidential decree on the application of the Code of Criminal Procedure of the Republic of Azerbaijan (Ratification and Entry into Force) Act and on regulatory matters associated with its application, and pursuant also to the Code itself, as ratified by this Act, the Central Investigations Office of the Ministry of National Security conducts preliminary investigations into offences against public security, economic activities, law and order, and the public authorities (articles 206, 214, 214-1, 216, 219, 224-1, 270 and 271-285 of the Criminal Code). To ensure that such preliminary investigations are objective, suspects and accused persons are temporarily remanded in custody in the manner prescribed by law and are held in the remand centre of the Ministry of National Security.

162. Official operations in the Central Investigations Office and in the remand centre are carried out in conformity with the requirements set out in the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code, and in internal rules and regulations ratified by the Minister of National Security in application of current legislation, and also with the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners of 1955, the Code of Conduct for Law Enforcement Officials of 1979, the Principles of Medical Ethics relevant to the

Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1982 and the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

163. The Ministry of National Security has taken appropriate steps in recent years to bring the operations of the remand centre into line with international standards and significantly improve the conditions of detention of remand prisoners and suspects held there. Furthermore, much attention has been focused on social and living conditions and health and hygiene, and privileges have been extended.

164. Representatives of ICRC, the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights and international governmental and non-governmental organizations with a focus in this area, as well as members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on an official visit to Azerbaijan, have visited the remand centre and praised its operations as exemplary among the pretrial detention institutions in Azerbaijan.

165. It should also be noted that there has not been a single complaint from any detainees or their lawyers and legal representatives in recent years about the conditions of detention in the remand centre.

166. The Ministry of National Security continues to take practical steps to improve the detention regime, social and living conditions, health and hygiene, and legal protection of remand prisoners.

167. The elimination of the Ministry of National Security remand centre or a change in its status could make it more difficult to ensure the objectivity, productivity, thoroughness and speed of pretrial investigations into the serious crimes listed above.

168. In the light of the complexity of the criminal cases under the authority of the Ministry, the need to protect State secrets and national security interests and to combat terrorist activities effectively and the degree of the threat posed to society by the offences and suspects concerned, it is considered advisable to keep the remand centre, the work of which meets international standards according to the conclusions of NGOs that have monitored the situation, within the Ministry and to leave its status unchanged. Nevertheless, a change in the status of the remand centre or the cessation of its activities may be considered within a set of reforms carried out in the area of improving the operation of remand centres and the institutions of the prison system in Azerbaijan.

(e) Ensure full independence of the judiciary

169. Azerbaijan's entire judicial and legal system has been radically reformed. In a short space of time, a range of major new laws have been adopted, including the Constitutional Court Act, the Courts and Judges Act, the Procurator's Office Act, the Police Act, the Operational and Investigative Activities Act, the Bar and Advocacy Act, as well as the Civil Code, the Code of

Civil Procedure, the Criminal Code, the Code of Criminal Procedure, the Penal Enforcement Code and others. All were drafted in accordance with democratic principles and international legal standards and have been commended by international experts.

170. As a result of the reforms in the country's legal system, an independent, three-tier judicial system has been established, consisting of courts of first instance, appeal and cassation.

171. The signing of the presidential decree of 19 January 2006 on modernization of the judicial system constituted an important landmark in the enhancement and development of Azerbaijan's judicial system. In the context of the social and economic development of the country's regions, this decree provides for the establishment of regional courts of appeal and additional economic courts to give the population access to legal institutions and legal assistance. Under another presidential decree, of 17 August 2006, the number of judges in Azerbaijan was increased by almost 50 per cent.

172. The district (municipal) courts currently serve as courts of first instance, as do eight military tribunals and six local economic courts, the Court for Serious Crimes of the Republic of Azerbaijan, the Court of the Naxçivan Autonomous Republic and the Military Tribunal for Serious Crimes of the Republic of Azerbaijan.

173. The courts of appeal and the Supreme Court of the Naxçivan Autonomous Republic are appeals courts, whereas the Supreme Court of the Republic of Azerbaijan is a court of cassation.

174. The courts of appeal, which have territorial jurisdiction, comprise four divisions covering civil matters, criminal matters and administrative offences, military tribunal cases, and economic disputes. These courts may review the decisions of district (municipal) courts, military tribunals, serious crimes courts and local economic courts through an appeals procedure. The Supreme Court of the Naxçivan Autonomous Republic serves as an appeals court for the district (municipal) courts, the Military Tribunal, Serious Crimes Court and Economic Court of the Autonomous Republic.

175. The Supreme Court of the Republic of Azerbaijan, which is a court of cassation, has four divisions covering civil matters, economic disputes, criminal matters and military tribunal cases. Through a cassational procedure, the Supreme Court may review the decisions of the courts of appeal of the Republic of Azerbaijan and of the Supreme Court of the Naxçivan Autonomous Republic.

176. The Constitutional Court of the Republic of Azerbaijan, the highest judicial body in the country, ensures the supremacy of the Constitution and the equal rights and freedoms of every citizen. Under reforms carried out on the basis of amendments made to legislation in 2003, citizens enjoy a right of direct appeal to the Constitutional Court to restore constitutional rights and freedoms that have been violated.

177. Influential financial institutions have welcomed and supported the judicial and legal reforms under way. For example, a joint project to strengthen the justice sector was agreed by the Ministry of Justice and the World Bank, which has commended the country's achievements in this field; an agreement was reached to extend a \$21.6 million loan to Azerbaijan for the project and non-repayable financial assistance of some \$3 million from the Japanese

Government, with the Azerbaijani Government contributing an additional \$11 million. The project involves constructing 17 new court buildings, making major repairs and technical renovations to many others, providing the Constitutional Court and Supreme Court with the latest equipment and funding various other activities.

178. Under cooperation with the Council of Europe, comprehensive measures are being taken to enhance the effectiveness of justice, ensure the independence of judges and improve procedures for their selection.

179. For this purpose, a joint Azerbaijan-Council of Europe working group was established, which drafted a special plan of action. In accordance with the plan, several bills were drafted and reviewed by the Council of Europe; the ad hoc Judicial and Legal Council Act was enacted by the country's parliament; and significant amendments were made to the Courts and Judges Act. Under these laws, the Judicial and Legal Council was granted a special status, its powers were expanded, its membership was enlarged to include judges primarily, as well as representatives of the President, parliament, Procurator's Office and Bar Association, and the Minister of Justice was made its Chairperson. Pursuant also to these laws, the accountability of judges was increased; matters relating to their immunity and terms of office were reviewed; arrangements for the indefinite appointment of judges were introduced for the first time; and the procedures for disciplining and impeaching judges were simplified - in meetings of the Judicial and Legal Council, only those members who are serving judges are allowed to vote on this matter - the Council being given exclusive authority with respect to discipline. In addition, a new body, the Judicial Selection Committee, was established for selecting aspirant judges for vacant judgeships, a special multi-stage procedure for selecting candidates was devised and specialized training courses were developed for them in keeping with international practice.

180. Pursuant to the Rules for selecting candidates for vacant judgeships, the curriculum vitae of more than 1,000 aspirant judges were received and, on 18 September 2005, all candidates were given a multiple choice test in the same examination hall, in identical conditions. All stages of the examination procedure, including the selection and photocopying of questions and the marking of answers, were carried out in the examination hall, in the presence of all candidates, and the results were also announced there. For the second stage, a written examination was held for those candidates who had passed the test.

181. Many observers from international organizations and NGOs, all television channels and news agencies and other representatives of the mass media monitored the conduct of the examinations. The unparalleled transparency of the process was praised by all participants and observers.

182. A long (five-month) course was organized for those candidates who had been successful in the first two stages of the examinations, with leading international lecturers and experts brought in. Fifty-five candidates who had successfully passed through these stages were then invited to final interview.

183. In view of the need for judicial personnel, a further selection procedure for aspirant judges was organized by the Committee, and more than 700 individuals submitted applications. Since candidates in the earlier examinations had demonstrated a low level of knowledge, this time a preparatory course was organized for them prior to the examinations.

184. Based on the results of multiple choice tests and written examinations held in late 2006, 188 aspirant judges were allowed through to the next stage.

185. It should be noted that, as in the first round of examinations, observers from more than 30 international and local NGOs monitored the process, as well as numerous mass media representatives. All examinations stages were deemed to be transparent and objective.

186. The comprehensive efforts made in this regard undoubtedly help to safeguard and strengthen judicial independence and to enhance the effectiveness of the country's judicial system.

(f) Ensure full independence of the Ombudsman

187. In order to put into effect the presidential decree of 5 March 2002 on implementation of the Constitutional Act on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan and in accordance with a Cabinet of Ministers decision of 9 March 2002, relevant corrections and amendments were made to the Instruction on the Rules for the custody and transportation of persons in temporary holding facilities by police authorities (confirmed by order No. 224 of 12 June 2002) and the Rules governing internal procedure in police temporary holding facilities (confirmed by order No. 29 of 21 January 2004 of the Minister of Internal Affairs). Under the Constitutional Act on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, the Ombudsman has the right to unimpeded access to police temporary holding facilities and may visit without prior warning for the purposes of investigating complaints and ascertaining the legality of detention.

188. The Instruction provides for the Ombudsman to be granted prompt access to temporary holding facilities and for the necessary arrangements to be made to enable him or her to meet in private with detainees and study the documents detailing the grounds for detention.

(g) Ensure full protection of non-governmental human rights defenders and organizations

189. There is constant monitoring to ensure the full protection of non-governmental human rights defenders and organizations, and any attempt to restrict the rights of non-governmental human rights defenders and organizations will be addressed. To date, there have been no complaints in this regard.

(h) Ensure that all persons have the right to review of any decision about his/her extradition to a country where he/she faces a real risk of torture

190. It should be noted that Azerbaijan has acceded to the 1957 European Convention on Extradition and conscientiously complies with the international obligations that derive from it, in particular the grounds for denying extradition.

191. At the same time, Azerbaijan has concluded bilateral extradition treaties with a number of countries and is committed to implementing their provisions.

192. The requirement of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that no State should extradite a person to another State

where there are substantial grounds for believing that he would be in danger of being subjected to torture has been incorporated also in the Act of 15 May 2001 on the Surrender (Extradition) of Persons who Commit Offences.

193. On receipt of an extradition request, information is gathered about the requesting State, for example information about the occurrence of torture and cruel treatment in that State, and the reports and conclusions of international human rights organizations are studied.

194. The rendering of a decision on extradition is the prerogative of the Serious Crimes Court, which must examine such cases as a bench comprising three professional judges. Special attention is paid to ensuring the right of defence and the right to challenge and review decisions in appeal proceedings.

(i) Intensify efforts to educate and train law-enforcement personnel, prison staff and judges on their obligations to protect from torture and ill-treatment all individuals who are in State custody

195. With a view to implementing the Committee's recommendation, a number of activities have been carried out by the Ministry of Justice to intensify efforts to educate and train prison staff and judges in preventing torture and ill-treatment.

196. In accordance with an order issued by the Ministry of Justice on 5 June 2003 on compliance with obligations deriving from the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention has been introduced in the curriculum of the Ministry's Training Centre as a separate subject.

197. In addition, special courses on human rights (70 hours) and international instruments on the treatment of offenders (28 hours) were included alongside legal and special subjects in the prison system's Training Centre curricula for the training and further training of penal institution and remand centre staff.

198. In view of the importance and topicality of this matter and in line with the requirements of the Convention, the recommendations of the Committee against Torture and other documents, the Ministry of Justice prepared and published a special compendium of relevant materials including international instruments in the field of torture. The compendium was distributed to all penal institutions, judicial bodies, courts and other law enforcement bodies, after consideration of the first periodic report of Azerbaijan under the Convention.

199. Under a joint European Commission-Council of Europe prison system reform programme for Azerbaijan, the new version of the European Prison Rules, adopted by the Committee of Ministers of the Council of Europe on 11 January 2006, was translated into Azeri and 4,000 copies were issued. These Rules were distributed to penal institutions, relevant State agencies, courts, law enforcement bodies and NGOs. Under the programme, prison officers were offered professional training and exercises in rehabilitating convicted persons, as well as study visits to prisons in a number of European countries.

200. It should be emphasized that, in the context of cooperation with international organizations, two special manuals endorsed by the Legal Training Centre attached to the

Ministry of Justice were published, entitled “Torture is Prohibited” and “Are You Ready to Meet the European Committee for the Prevention of Torture: Questions and Answers”. Their author, Mr. V. Ibaev, a judge of the Supreme Court of the Republic of Azerbaijan, is an expert in the field.

(j) Ensure the right of detainees to lodge a complaint by ensuring their access to an independent lawyer and by reviewing rules on censorship of correspondence

Right of prisoners to lodge complaints

201. In order to ensure that complaints by convicted and accused persons to the relevant bodies and organizations are processed in conditions of full confidentiality, these individuals and their relatives are kept informed of their rights. Libraries for convicted prisoners are supplied with copies of legislative acts and each convicted prisoner is issued a “prisoner’s handbook”, printed in Azeri, Russian and English. The recently published *Information Manual for Convicted Prisoners* reproduces all the laws and regulations governing the rights of convicted prisoners, together with a collection of international human rights treaties. It also includes, in particular, information about the procedure for appealing to the European Court of Human Rights.

202. The right of convicted prisoners to file complaints is covered in detail in the Penal Enforcement Code. Article 10.2.7 of the Code sets out the right of convicted prisoners to make proposals or to submit representations and complaints in the State language or in other languages for the purpose of defending their rights and freedoms and, where necessary, to have recourse for these same purposes to the services of an interpreter provided by the institution or body administering the punishment. At the same time, article 10.2.12 of the Code sets out additional rights of convicted prisoners to appeal to other authorities. Article 14 of the Code, which is fully devoted to this topic, is entitled “Communications from convicted prisoners and the procedure for their consideration”. This article states that “proposals, applications and complaints by convicted prisoners may be submitted both orally and in writing”.

203. Written communications are transmitted through the administration of the penal institution. The offices and officials to whom proposals, applications and complaints are addressed must consider them within the time limits prescribed by law and must inform the convicted prisoners of any decision taken.

204. Article 83.5 stipulates that proposals, applications and complaints submitted to the authorities responsible for overseeing the activities of penal institutions and to the Commissioner for Human Rights (Ombudsman) may not be censored and must be transmitted to their addressees within a period of no more than 24 hours, excluding holidays and weekends.

Right of prisoners to receive legal assistance

205. The Penal Enforcement Code fully reflects the rights of convicted persons to legal assistance. These rights are included in the list of fundamental rights of convicted persons and are explicitly stated in article 10.2.9 of the Code. They are also spelled out in article 81 of the Code. Article 81.7 provides that “convicted persons shall be able, on the basis of an application

from themselves, their immediate family or their legal representatives, to have interviews with lawyers for the purpose of obtaining legal assistance, or with other persons entitled to render such assistance". Article 81.8 of the Code states that "the number and duration of interviews between convicted persons and their lawyers shall not be limited, and such interviews shall be conducted in accordance with the internal rules of penal institutions. These interviews shall not be included in the number of visits stipulated by the Code". Article 81.9 states that "lawyers or other persons having the right to render legal assistance shall be admitted to correctional facilities on production of a document attesting to their identity and credentials. These interviews shall, at the request of the parties concerned, be conducted in private".

206. The above articles of the Penal Enforcement Code accord to convicted persons the right to have unimpeded access to the assistance of any lawyer. It should be noted that convicted persons freely and widely avail themselves of this right.

Review of rules on censorship of correspondence of persons sentenced to deprivation of liberty

207. A law adopted by the Milli Mejlis (parliament) on 14 May 2004 to amend article 83 of the Penal Enforcement Code, which governs prisoners' correspondence, abolished censorship of correspondence between prisoners and their defence counsel or persons providing them with legal assistance in accordance with the law.

208. To ensure full compliance in this area with the Convention against Torture, a new version of this article has been prepared and submitted for consideration. It reads as follows:

"83.2 Correspondence received and sent by prisoners shall be opened by the administration of the institution in order to detect any prohibited objects but shall not be read. If the administration has reliable information that a prisoner is planning to commit new offences, it may decide to censor the correspondence of the prisoner in question."

(k) Review the treatment of persons serving life sentences

209. In order to ensure that persons serving prison sentences, including those serving life terms and those held in Qobustan prison, enjoy normal material and living conditions, the measures described below have been put into effect.

210. To allow new arrivals to be held apart from other prisoners for up to two weeks, separate cells have been set aside for them affording normal conditions of detention. To ensure that prisoners can exercise their freedom of conscience and freedom of worship, a separate room has been allocated with the appropriate facilities and religious literature, and arrangements have been made for ministers of religion to visit prisoners, including those serving life terms. Noticeable improvements have also been made to the quality and range of food served. Thus, under the joint European Commission-Council of Europe prison system reform programme for Azerbaijan, the prison kitchen has been thoroughly renovated and provided with new, modern equipment. Work has also been carried out to improve the heating system in the prison and to ensure that cells are properly ventilated. In addition, the punishment cells have been refurbished, with the installation of central heating, and equipped with tables and stools. The shower rooms for prisoners have also been renovated, and the number of showers has been increased.

211. A new washing machine has been installed and put into operation for prisoners' bedding and clothing, and a separate room has been set aside and equipped as a library for inmates, stocked with a range of reading material. To ensure that prisoners enjoy their right to exercise, four new exercise yards have been created.

212. In addition, a modern, 44-bed medical wing has opened. Provision of medical equipment and medicines has been improved, and properly qualified doctors have been appointed to fill existing vacancies. At the same time, in accordance with the timetable approved by the Central Medical Authority of the Ministry of Justice, doctors specializing in different fields, including psychiatrists, routinely visit the prison and psychiatric care is made available to prisoners. Within 24 hours of their admission, new prisoners undergo a medical examination and any found to be unwell, including those suffering from tuberculosis, are promptly transferred to the prison's medical wing and, where necessary, sent to a designated treatment facility.

213. To improve the conditions of detention of persons who have received life sentences and render those conditions more humane (increased contact with the outside world, i.e. more visits and telephone conversations, opportunities to study, permission to view television programmes, etc.), corresponding proposals for amendments to the Penal Enforcement Code have been prepared and submitted for consideration.

(l) Institute a system of regular and independent inspections of all places of detention and facilitate in practice access by non-governmental organizations to these places of detention

214. The Criminal Code and the Statute of the Ministry of Justice, together with the European Prison Rules and other international instruments, all contain standards for public participation in the rehabilitation of convicted persons and public oversight of the activities of penal institutions.

215. The Ministry of Justice has established effective links with voluntary associations and has ensured the conditions required for objective monitoring and interviews with prisoners.

216. Over the course of 2006 alone, the prison service received 216 applications from voluntary associations wishing to visit remand centres and penal institutions. These applications were granted and the necessary conditions provided for the organizations to visit these institutions and conduct various measures.

217. In addition, in order to strengthen public oversight in this area and to gather information on violations of the rights of convicted prisoners, and also to ensure a rapid response to any complaints, in 2006 telephone hotlines were set up in the Ministry of Justice, and information stands for members of the public visiting inmates have been placed at the entrance to penal institutions, displaying the contact details of the Ministry of Justice and the prison service, to which people can send written complaints of violations of prisoners' rights.

218. In order to strengthen interaction with human rights organizations in this field, proposals were put forward and used as the basis for preparing draft rules on public participation in the rehabilitation of convicted persons and public oversight of penal institutions. These rules have since been approved by the Board of the Ministry of Justice and ratified by ministerial decree. Pursuant to the rules, a selection board was set up, with a view to forming a public affairs

committee to participate in the rehabilitation of convicted persons and in public oversight. The selection board comprised members of parliament, representatives of the Bar Association, Supreme Court, judicial bodies and Procurator's Office, and prominent Azerbaijani academic, religious and public figures. At the board's first meeting, in which the Minister of Justice took part, members identified the tasks before them.

219. A competitive examination was announced in the media, including on the Ministry of Justice website and in its own publications, and details were given of the procedure for submitting projects and proposals to the selection board, with the aim of setting up the Public Affairs Committee and attracting applications to participate in its work.

220. Unfortunately, local NGOs have so far not shown due interest in participating in this institution, which is so important to society; there are currently some 2,300 NGOs in Azerbaijan, 108 of which are engaged in the protection of human rights.

221. Documents submitted by 16 NGOs and human rights defenders applying to join the Public Affairs Committee were reviewed. In the selection process, which was conducted in accordance with the rules, preference was given to candidates with the highest ethical and moral standing, with experience and knowledge in the field of human rights, and who were known both in Azerbaijan and abroad for their activities.

222. Following a round of objective, fair and public hearings, the members of the Public Affairs Committee were selected. They included representatives of such organizations as the Public Association for the Protection of Human Rights and the Rule of Law, the Committee for Democracy and Human Rights, the Azerbaijan against Torture Committee, the Public Detention Facilities Monitoring Committee, the "El" development programmes centre, the Constitutional Research Foundation, the Association of Young Lawyers of Azerbaijan, the Azerbaijani National Bureau of the International Society for Human Rights and the Citizens' Labour Rights Defence League. At its first meeting, the Committee considered organizational matters and elected a coordinator. The Committee is now carrying out its activities. It conducts regular monitoring, performs the tasks assigned to it and draws up recommendations on the basis of its visits. These recommendations are subject to careful scrutiny and are used in identifying the measures to be taken in further reforming the prison system.

223. The Constitutional Act on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan of 28 December 2001 provided for the development of a more open society, including where the prison system is concerned. Thus, the Minister of Justice has issued a special order to ensure that the Commissioner has unimpeded access to places of detention and remand centres, that he or she is promptly accorded interviews with their administrations and able to hold meetings with the persons detained in those facilities, that the necessary conditions are provided for one-to-one interviews with each of the detainees and that documents confirming the legality of their detention are made available. Additional measures are being undertaken to ensure effective cooperation with the Commissioner for Human Rights.

224. It should be noted that the Commissioner and his staff are able freely and without prior notification to visit remand centres, police cells and prisons and to meet and talk face-to-face with detainees and remand and convicted prisoners.

225. In 2006 alone, the Ombudsman and his staff conducted 50 visits to custodial facilities. Following these visits, the Ombudsman issued recommendations for the improvement of conditions of detention for convicted and remand prisoners. The recommendations are now being put into effect.

(m) Ensure that prompt, impartial and full investigations are carried out into allegations of torture and ill-treatment and establish an independent body with the authority to receive and investigate all complaints of torture and other ill-treatment by officials

226. Pursuant to a presidential decree dated 25 August 2000, an order by the Cabinet of Ministers of 6 December 2004 and an order of the Minister of Justice of 15 December 2004, an inspectorate has been established under the Minister of Justice to monitor the enforcement of sentences, and this inspectorate is now in full operation. It has exclusive powers to obtain direct and unimpeded access to prisons, to hold one-to-one meetings with convicted prisoners, to observe their detention conditions, and to demand and scrutinize documentation setting out the legal grounds for their detention. The inspectorate's functions also include considering complaints and representations by convicted prisoners and persons on or awaiting trial, in particular regarding torture and ill-treatment; monitoring the conditions under which they are guarded and transported, and also preparing and submitting proposals based on the findings of investigations of officials guilty of misconduct.

227. In addition, in order to uphold the rights of convicted and remand prisoners, pursuant to an order of the Minister of Justice, the Human Rights and Public Relations Office in the Ministry of Justice has been given unimpeded access to prisons. The Office looks at detention conditions when visiting such facilities, holds regular meetings with the prisoners, receives and considers complaints from them, and also submits recommendations prepared in the light of these visits to senior officials in the Ministry.

(n) Provide assistance to victims of torture in obtaining compensation

228. In accordance with the requirements of a law adopted on 29 December 1998 on compensation for damage suffered by natural persons during an initial inquiry or pretrial investigation or as a result of illegal actions taken by a judicial body or procurator's office, the following is subject to compensation:

- Income or profits lost as a result of illegal actions
- Property confiscated or transferred to the State by a court decision
- Property confiscated by bodies conducting an initial inquiry or pretrial investigation, or by other investigative bodies
- Seized property (including monetary deposits and derived interest, securities and derived interest, personal shares in company equity and lost profits or other assets)
- Amounts paid by victims for legal assistance
- Moral damage suffered by victims

229. Compensation for damage suffered by victims is governed by articles 55 to 63 of the Code of Criminal Procedure. Article 13 of the Code prohibits actions that are degrading to human honour and dignity or that are offensive in nature, and also decisions that may jeopardize the life or health of persons involved in criminal proceedings.

230. At the same time, article 293 of the Criminal Code establishes the criminal liability (with sentences of up to three years' deprivation of liberty) of procurators and investigators for coercing testimony from suspects, accused persons, victims and witnesses, or forcing experts to submit a given finding. When carried out with the use of torture, such acts are punishable by 5 to 15 years' deprivation of liberty (article 292.2 of the Criminal Code).

(o) Widely disseminate in the country the reports submitted to the Committee, the conclusions and recommendations of the Committee, as well as the summary records of the review

231. As stated above, effective measures have been taken in the country to implement the recommendations made by the Committee against Torture in connection with the second periodic report of Azerbaijan. The President signed a special order on 27 September 2003, and a working group on the implementation of the recommendations was set up. This question has been widely discussed in the country's law enforcement bodies.

232. To raise public awareness on this question, the Committee's recommendations and the Convention itself have been widely publicized, including through posting on the websites of the various State agencies, and this fact has been broadcast through the media. Detailed information on the adoption and implementation of measures to give effect to the Committee's recommendations is disseminated to the public through the media.
