

CORI

country of origin research and information

CORI Thematic Report

Mental Health; Azerbaijan

March 2014



Preface

Country of Origin Information (COI) is required within Refugee Status Determination (RSD) to provide objective evidence on conditions in refugee producing countries to support decision making. Quality information about human rights, legal provisions, politics, culture, society, religion and healthcare in countries of origin is essential in establishing whether or not a person's fear of persecution is well founded.

CORI Country Reports are designed to aid decision making within RSD. They are not intended to be general reports on human rights conditions. They serve a specific purpose, collating legally relevant information on conditions in countries of origin, pertinent to the assessment of claims for asylum. Categories of COI included within this report are based on the most common issues arising from asylum applications made on the basis of mental health related issues by nationals from Azerbaijan. This report covers events up to March 2014.

COI is a specific discipline distinct from academic, journalistic or policy writing, with its own conventions and protocols of professional standards as outlined in international guidance such as The Common EU Guidelines on Processing Country of Origin Information, 2008 and UNHCR, Country of Origin Information: Towards Enhanced International Cooperation, 2004.

CORI provides information impartially and objectively, the inclusion of source material in this report does not equate to CORI agreeing with its content or reflect CORI's position on conditions in a country. It is acknowledged that all sources have a bias, it is for decision makers to place a weight on sources, assessing relevance to each individual application.

CORI Country Reports are prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced. Every effort has been taken to ensure accuracy and comprehensive coverage of the research issues, however as COI is reliant on publicly available documentation there may be instances where the required information is not available. Any translations made are unofficial translations made by CORI, as with all sources referenced, please see the full text of the original article. The reports are not, and do not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

CORI is an independent centre providing specialist research resources to support Refugee Status Determination.

CORI works internationally with all parties to RSD, including governments, legal representatives and NGOs, producing commissioned research reports and providing knowledge management services. CORI works to improve standards of COI production through capacity building and training.

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1. Mental Health Legislation

1.1 *Right to health, including mental health*

Article 16 of the *Constitution of Azerbaijan* states that the Azerbaijani state participates in the improvement of the social protection of all citizens and the development of public health,

"Article 16. Social development and state

I. Azerbaijani state takes care about improvement of prosperity of all people and each citizen, their social protection and proper living conditions.

II. Azerbaijani state participates in development of culture, education, public health, science, arts, protects environment, historical, material and spiritual heritage of people."¹

Article 31 of the *Constitution of Azerbaijan* states that infringement on another person's physical health is prohibited, except in "cases envisaged by law",

"Article 31. Right to live in safety

I. Everyone has the right to live in safety.

II. Except cases envisaged by law it is prohibited to infringe on anybody's life, physical and spiritual health, property, living premises, to commit acts of violence."²

Article 41 of the *Constitution of Azerbaijan* states that everyone has the right to protection of their health and access to medical care,

"Article 41. Right for protection of health

I. Everyone has the right for protection of his/her health and for medical care.

II. The state takes all necessary measures for development of all forms of health services based on various forms of property, guarantees sanitary-epidemiological safety, creates possibilities for various forms of medical insurance.

III. Officials concealing facts and cases dangerous for life and health of people will bear legal responsibility."³

Article 138 of the *Constitution of Azerbaijan* states that Ali Majlis of Nakhchyvan Autonomous Republic establishes general procedures concerning the protection of health,

"Article 138. Competence of Ali Majlis of Nakhchyvan Autonomous Republic

I. Ali Majlis of Nakhchyvan Autonomous Republic establishes general procedures concerning the following:

1. elections to Ali Majlis of Nakhchyvan Autonomous Republic;
2. taxes;
3. routes of economic development of Nakhchyvan Autonomous Republic;
4. social maintenance;
5. protection of environment;
6. tourism;
7. protection of health, science, culture.

II. Ali Majlis of Nakhchyvan Autonomous Republic accepts laws related to questions specified in the present Article."⁴

¹ Constitution of the Republic of Azerbaijan, Article 16, available at http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf, accessed 12 February 2014

² Constitution of the Republic of Azerbaijan, Article 31, available at http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf, accessed 12 February 2014

³ Constitution of the Republic of Azerbaijan, Article 41, available at http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf, accessed 12 February 2014

⁴ Constitution of the Republic of Azerbaijan, Article 138, available at http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf, accessed 12 February 2014

The 2011 *World Health Organisation (WHO) Mental Health Atlas* stated that provisions relating to mental health were included in the general health legislation and in welfare and disability laws. Specific mental health legislation has existed since 2001 and an official National Mental Health Policy and Five-year Strategic Action Plan had been approved that year. The priority areas of this included the "improvement of governance and intersectoral coordination in mental health and human rights protection", the development of human resources, physical capital and financing related to mental health and services for "people with mental disorders" as well as supporting measures to prevent mental illness among the population. The mental health plan also described the process for the integration of mental health services into primary care and the allocation of funding.⁵

On 3 May 2013 the Addendum to the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan stated that there is no governing authority on mental health in Azerbaijan, which "leads to a lack of coordination and oversight of the provision of mental-health care in the country".⁶

On 22 May 2013 the comments of the Republic of Azerbaijan on the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan stated that the Law on Protection of the Health of the Population (1997) as well as the Concept on Health Financing Reforms and Introduction of Mandatory Health Insurance (2008) emphasise the importance of health care provision for all citizens,

"The Health Financing Concept reinforces the right of all citizens to a state-guaranteed basic benefit package. Recent reform initiatives have been focused more on the issues of quality of services and efficiency. The Government of Azerbaijan attaches importance for establishment of mandatory health insurance, to this end the Law on Medical Insurance was adopted in 1999 and the State Agency on Mandatory Health Insurance was established by the Presidential Decree in 2007.

Furthermore, the Concept on Health Financing Reforms and Introduction of Mandatory Health Insurance was approved in 2008. With regard to the implementation of the Law on Medical Insurance and in order to providing the implementation of mandatory medical insurance system, the Coordination Council consisting of senior officials of relevant ministries was established by the Order of the Cabinet of Ministers."⁷

On 22 May 2013 the comments of the Republic of Azerbaijan on the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan also stated that the Law on Protection of Health of the Population states that all citizens are entitled to receive health care, including medicosocial aid in case of sickness or disability.⁸

⁵ The World Health Organisation, Department of Mental Health and Substance Abuse, *The World Health Organisation Mental Health Atlas 2011*, Azerbaijan, http://www.who.int/mental_health/evidence/atlas/profiles/aze_mh_profile.pdf, accessed 10 January 2014

⁶ United Nations Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum : Mission to Azerbaijan (16–23 May 2012) A/HRC/23/41/Add.1, 3 May 2013, available at <http://www.refworld.org/docid/51a73f5c4.html>, accessed 25 January 2014

⁷ Comments of the Republic of Azerbaijan on the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mission to Azerbaijan (16-23 May 2012), A/HRC/23/41/Ad, 22 May 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-41-Add4_en.pdf, accessed 12 February 2014

⁸ The Law on Protection of Health of the Population quoted in Comments of the Republic of Azerbaijan on the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mission to Azerbaijan (16-23 May 2012), A/HRC/23/41/Ad, 22 May 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-41-Add4_en.pdf, accessed 12 February 2014 (unable to source original)

In June 2013 the *International Organisation for Migration* stated that the Ministry of Health leads on and monitors the implementation of reform and initiates its legislative basis. State funding is allocated to the Ministry of Health and institutions directly subordinate to it , e.g. national hospitals and health departments of regions and cities. Regional health administrations are responsible for "technical issues" to the Ministry of Health but are funded by district administrations, making accountability complex. Over 90% of official funding for the health care system comes from taxes and other government revenues including health departments of various ministries which are not subordinate to the Ministry of Health, self-financing initiatives in public facilities account for less than 10%.⁹

1.2 Right to health care in relation to mental health

Article 18 of the 1997 *Law on Public Health* states that minors, those under the age of eighteen, have the right to free medical consultations, dispensary control and treatment and those with physical and mental disadvantages" can be held in institutions of "social protection" following permission from their parents or legal representatives,

"Article 18. The rights of minors in the field of health protection

Minors have the right on: free dispensary control and treatment in child care and teenage medical institutions of the state health care system according to the procedure, established by relevant organ of the executive authority; study and work in the conditions meeting sanitary-and-hygienic demands; free medical consultations in case of establishment of professional suitability; preferential delivery and receipt of the medico-public assistance at the expense of budget funds according to the procedure, established by relevant organ of the executive authority.

At the desire of parents or legal representatives minors with physical and mental disadvantages can contain in organizations of system of social protection."¹⁰

Article 25 of the 1997 *Law on Public Health* states that citizens have the right to receive any form of accepted information about their diagnosis, treatment and prognosis. If a person is a minor or considered "incapacitated" this information is given to their parent or legal representatives, Details of psychiatric care received by a patient should be provided by the psychiatric institution within two days of their being requested by a relative caring for the patient or legal representative. However, "it is forbidden to provide to them information which can harm the patient",

"Article 25. Right of citizens to receipt of information on state of health

Each citizen has the right to obtaining, in form of information accepted for about state of health including data on results of inspection, the diagnosis and disease forecast, methods of treatment and the risk degree, bound to it, and also about results of carrying out treatment.

Data on state of health are transferred by the specialists who were immediately participating in inspection and treatment, to the citizen, and information on state of health of the persons which are considered as incapacitated in the established legislation procedure, or minors is transferred to parents or their legal representatives.

In case of negative forecast of course of a disease, information on it is transferred to close relatives or legal representatives of the patient, and on request of the patient, these data

⁹ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MILoDB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_ase_rbaidschan_dl_en.pdf?__blob=publicationFile, accessed 25 January 2014

¹⁰ Republic of Azerbaijan Law on Public Health, 1997, available at <http://cis-legislation.com/document.fwx?rgn=5809>, accessed 16 February 2014

intercommunicate to it in careful form.

Citizens have the right to immediate acquaintance with the medical documents reflecting state of their health, and on receipt of consultation of other specialists in connection with these documents. On request of citizens, repetitions of the medical documents reflecting state of their health are shown it.

Data on the measures of the help rendered to the person, receiving the psychiatric help or earlier receiving the psychiatric help, shall be provided by organization management within 2 days from the moment of the written address of the person or his legal representative. The right of the patient to receipt of information can be circumscribed only for the purpose of damnification avoidance to its health and safety of other persons.

The members of the family who are looking after the patient with alienation, can receive information only concerning the help rendered by them. It is forbidden to provide to them information which can harm the patient.¹¹

Article 28 of the 1997 *Law on Public Health* states that medical care can be given with the consent of the patient or their legal representative if they suffer from "serious alienations" or if they are a danger to others as a result of a "mental disease"

"Article 28. Medical care rendering to the citizen without necessity of its consent

Medical care rendering to the citizen (physical examination, hospitalization, control, isolation) in the procedure established by the legislation without necessity of its consent or consent of his legal representative falls into to persons, the patients with diseases dangerous to people around suffering from serious alienations or representing public danger as a result of mental disease. The decision on rendering of medical care by the specified patient is accepted by the doctor.

Medical care rendering in connection with exercise of antiepidemic measures, in the absence of consent of the citizen, but with the permission of his legal representatives, is regulated by the legislation.

Inspection and hospitalization of the persons suffering from serious alienations, is performed according to the procedure, established by the legislation.¹²

Article 3 of the 2001 *Law on Psychiatric Assistance* states that "medical and public assistance to the persons being in the condition of mental disturbance" is guaranteed by the state,

"Article 3. Basic principles of rendering of the psychiatric help

Rendering of the medical and public assistance to the persons being in the condition of mental disturbance, is guaranteed by the state and performed on the basis of principles of legality, humanity, keeping of rights and freedoms of man and citizen."¹³

Article 6 of the 2001 *Law on Psychiatric Assistance* states that "persons with mental disturbances" have the right to free psychiatric care and the rights provided by the Constitution may only be restricted when stipulated by law,

"Article 6. The rights of persons with mental disturbances

¹¹ Republic of Azerbaijan Law on Public Health, 1997, available at <http://cis-legislation.com/document.fwx?rgn=5809>, accessed 16 February 2014

¹² Republic of Azerbaijan Law on Public Health, 1997, available at <http://cis-legislation.com/document.fwx?rgn=5809>, accessed 16 February 2014

¹³ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

- 6.1. Persons with mental disturbances have all rights and freedoms provided by the Constitution of the Azerbaijani Republic.
- 6.2. Restriction of the rights and freedoms of persons with mental disturbances is admissible only in cases, stipulated by the legislation.
- 6.3. Persons with mental disturbance have the right on:
 - 6.3.1. non-admission of humiliation of their advantage and implication of the humane relation to them;
 - 6.3.2. obtaining in the public medical institutions of the free psychiatric help in the conditions, conforming to sanitary-and-hygienic requirements;
 - 6.3.3. receipt of information on the rights, and also mental disturbance and applied methods of treatment;
 - 6.3.4. stay in the psychiatric hospital during the period necessary for examination and treatment;
 - 6.3.5. receipt of all possible types of treatment according to medical indications;
 - 6.3.6. the choice of any specialist, having the right to render the psychiatric help (from its consent), and medical institution, the demand of carrying out the consultation and consultations, except as specified rendering of the urgent psychiatric help, and also forced and involuntary hospitalization;
 - 6.3.7. use in the procedure for the help of the lawyer established by the legislation, legal representatives or other persons.
- 6.4. Involvement of the person to testing of medical agents and methods, to research works or educational process, use as objects photo, video and filmings probably only from its consent or with the consent of his legal representative, this person can refuse it at any time."¹⁴

Article 8 of the 2001 *Law on Psychiatric Assistance* states that the opinion of doctors should be the primary source of the diagnosis of mental disturbance but this is not sufficient basis for "involuntary hospitalization of the person, its acceptance on psychiatric registration and solutions of other social legal issues". Methods of psychiatric treatment causing "impreventable consequences" are not permitted,

"Article 8. Diagnostics of mental disturbance and treatment of patients

- 8.1. In case of carrying out psychiatric examinations and examinations the diagnosis of mental disturbance is established only according to principles of modern diagnostics and only the psychiatrist corresponding to the international classification. The diagnosis of mental disturbance established by doctors of other specialization, is considered the primary diagnosis and is not the basis for involuntary hospitalization of the person, its acceptance on psychiatric registration and solutions of other social legal issues. If the diagnosis of mental disturbance of the patient does not correspond to earlier established diagnosis, it is replaced or cancelled by the decision of the medical and consulting commission or the highly skilled psychiatrist (the doctor of medical sciences, the professor, the assistant professor) mental health facility.
- 8.2. The psychiatric help to the patient appears only during the period necessary for treatment of the disease, without restriction of its rights and freedoms with use of agents and the methods which are most providing efficiency of the psychiatric help, the stipulated by the legislation Azerbaijani Republic.
- 8.3. Diagnostics without examination of the person is (in absentia) forbidden.
- 8.4. Medical agents and methods shall not be used for punishment of the patient or be used in interests of other persons.
- 8.5. Carrying out medicobiological experiments on the persons recognized in the procedure established by the legislation as incapacitated, and also persons, the psychiatric help which appears in the involuntary procedure, or involved in enforcement powers of medical nature,

¹⁴ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

and use in case of treatment of mental disturbance of the operational methods causing impreventable consequences, it is forbidden."¹⁵

Article 15 of the 2001 *Law on Psychiatric Assistance* states that emergency, consultative, diagnostic "psychoprophylactic" and rehabilitative psychiatric care are guaranteed by the state, as are all types of psychiatric examination and the "exercise of other measures necessary for social protection of persons with mental disturbance",

"Article 15. Types of the psychiatric help and the social protection, guaranteed by the state

15.0. By the state are guaranteed:

15.0.1. urgent psychiatric help;

15.0.2. consulting and diagnostic, medical, psychoprophylactic, rehabilitational help in stationary and out-patient conditions;

15.0.3. carrying out all types of psychiatric examination (military-medical, medico-social and judicial and psychiatric examination), recognition temporarily incapacitated or incapacitated, establishment of disability or restriction of possibilities of health in the procedure established by the legislation;

15.0.4. rendering of the social help and providing persons with mental disturbance by the corresponding work;

15.0.5. solution of questions of guardianship and custody;

15.0.6. rendering of the psychiatric help in case of natural disaster and catastrophic crashes;

15.0.7. the organization of general educational and professional training of minors with mental disturbance;

15.0.8. creation of medical production enterprises for labor therapy of persons with mental disturbance, their familiarizing with new professions and the work arrangement, and also special production sites with the facilitated working conditions;

15.0.9. creation of hostels for persons with the mental disturbances, lost social communications;

15.0.10. rendering of the psychiatric help in the conditions similar to other types of the medical care;

15.0.11. exercise of other measures necessary for social protection of persons with mental disturbance."¹⁶

Article 17 of the 2001 *Law on Psychiatric Assistance* states that psychiatric examination can be carried out at the request of the patient or their parents or legal representatives if they are a minor or incapacitated,

"Article 17. Psychiatric examination

17.1. Psychiatric examination is performed for the purpose of identification of the mental condition of the person, determination, whether this person needs the psychiatric help, and also decision makings about rendering of the psychiatric help.

17.2. Psychiatric examination, and also routine inspections are carried out in the following cases:

17.2.1. in the direction of treatment-and-prophylactic organization of the territory in the residence of the person;

17.2.2. from the consent (at the request) the surveyed;

17.2.3. from the consent (at the request) parents or the legal representative of the person under the age of of 16 years;

¹⁵ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

¹⁶ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

17.2.4. from the consent (at the request) the legal representative of the person recognized in the procedure established by the legislation as the incapacitated.

17.3. Drawn psychiatric examination and the conclusion of survey (diagnosis) are fixed in medical documentation of the person. In the document the reasons of the address to the psychiatrist and medical references are specified also."¹⁷

Article 23 of the 2001 *Law on Psychiatric Assistance* states that patients of psychiatric hospitals have the right to legal representation, to meet with the Commissioner for Human Rights (Ombudsman) of the Azerbaijani Republic and to freely address the "chief physician of mental health facility" and main psychiatrist in the area regarding their treatment. They also have the right to uncensored correspondence and other communication, although this can be limited by their psychiatrist,

"Article 23. The rights of the patient hospitalized in the psychiatric hospital

23.1. The patient being on examination and treatment in the psychiatric hospital, has the right:

23.1.1. to address immediately to the chief physician of mental health facility concerning examination, treatment and the statement from the hospital and to require keeping of its rights established by this Law;

23.1.2. freely to address to the main psychiatrist of the territory, in relevant organs of the executive authority, prosecutor's office, court and to the lawyer;

23.1.3. to meet the legal representative, the Commissioner for Human Rights (Ombudsman) of the Azerbaijani Republic, the lawyer and the ecclesiastic alone;

23.1.4. to be trained according to the program of comprehensive school or the special program for children with limited possibilities of health.

23.2. For the purpose of providing health and the patient safety, and also other persons the administration of mental health facility based on the reference of the psychiatrist can limit the following rights of the patient:

23.2.1. on correspondence without censorship;

23.2.2. on obtaining and departure of sending, parcels post and money transfers, free use of cash and other appliances;

23.2.3. on using phone and other means of communication;

23.2.4. on the occurring with the family.

23.3. Paid services (the individual newspaper and magazine subscription, communication services and so forth) appear at the expense of the patient.

23.4. The reasons and the purpose of the room in the psychiatric hospital, the rules established in the hospital and the rights of the patient shall be explained to the patient right after hospitalization or as soon as health of the patient about what entry in medical documentation is made will allow.

23.5. During the whole period of stay in the psychiatric hospital the person is considered disabled and in the procedure established by the legislation uses the right of receipt of benefit or in accordance with general practice — pensions."¹⁸

Article 24 of the 2001 *Law on Psychiatric Assistance* states that physical constraint and isolation of the patient should only be used when the patient presents a danger to others and cannot be controlled by other methods,

"Article 24. Security measures when rendering the psychiatric help

24.1. The stationary psychiatric help appears in the least restrictive conditions providing the patient safety and safety of other persons, and also in the conditions of keeping by the medical personnel of the rights and legitimate interests of the hospitalized person.

¹⁷ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

¹⁸ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

24.2. Measures of physical constraint and isolation of the patient in the psychiatric hospital are applied only by the conclusion of the psychiatrist in the case when the actions of the patient representing immediate danger to it and (or) people around, it is impossible to prevent other methods. These measures are applied under permanent control of the medical personnel. In medical documentation record about forms and terms of application of measures of physical constraint or isolation is conducted."¹⁹

Article 29 of the 2001 *Law on Psychiatric Assistance* states that a patient hospitalised involuntarily is discharged by a court order requesting the termination of their treatment or "the conclusion of the medical and psychiatric commission". A patient hospitalised under the resolution regarding "enforcement powers of medical nature" can only be discharged by a court order about the termination of the compulsory treatment prescribed by the court,

Article 29. The procedure for the statement from the psychiatric hospital

29.1. In the absence of need for hospitalization as a result of improvement of the mental condition or the absolute recovery, and also on termination of the examination forming the basis for stay in the hospital, the patient is written out from the psychiatric hospital according to its application in person or the statement of the parent or the legal representative and (or) according to the decision of the psychiatrist.

29.2. The person hospitalized in the psychiatric hospital in the involuntary procedure, is written out from the psychiatric hospital according to the court order about refusal of prolongation of term of hospitalization or the conclusion of the medical and psychiatric commission.

29.3. The patient to whom under the resolution enforcement powers of medical nature are applied, is written out from the psychiatric hospital only according to the court order about the termination of the compulsory treatment prescribed court.

29.4. In case of establishment of the stipulated in Clause 11th present of the Law of the bases for hospitalization and treatment of the patient placed in the psychiatric hospital voluntary, the medical and psychiatric commission refuses its statement from the hospital. Thus the question of prolongation of term of its content in the psychiatric hospital is solved according to the procedure, the stipulated in Clause 28th present of the Law.²⁰

Article 30 of the 2001 *Law on Psychiatric Assistance* states that psychiatric hospital staff are obliged to provide necessary care , maintain the safety of the patient and to notify the relatives or legal representative of a patient admitted involuntarily within 24 hours,

"Article 30. Obligations of administration and medical personnel of the psychiatric hospital

30.0. Obligations of administration and the medical personnel of the psychiatric hospital treat:

30.0.1. providing patient with the necessary medical care;

30.0.2. provision to the patient of possibility to familiarize with addresses and phone numbers of officials, representatives to survey its claim;

30.0.3. the possibility of correspondence of the patient, its appeal to relevant organs of the executive authority, prosecutor's office, court, and also to the lawyer;

30.0.4. within 24 hours from the moment of entering of the patient in the psychiatric hospital in the involuntary procedure - the notification of his relatives, the legal representative or on the instructions of the patsiyentadrugy person;

30.0.5. informing of relatives, the legal representative or on the instructions of the patient - other person about the mental condition of the patient;

30.0.6. safety of the patient;

¹⁹ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

²⁰ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

- 30.0.7. the appeal to relevant organ of the executive authority with the request for appointment of the legal representative concerning the patient recognized in the procedure established by the legislation as incapacitated and not having legal representative;
- 30.0.8. establishment and the explanation to believing patients of the corresponding rules and places on free execution of religious practices without causing of inconveniences to other patients;
- 30.0.9. accomplishment of other obligations established by this Law."²¹

Articles 31 and 33 of the 2001 *Law on Psychiatric Assistance* states that the placing of persons with "mental disturbance in psychoneurological organization for social security" is subject to the decision of the medical and psychiatric commission and the institution is obliged to carry out medical examinations of residents at least once a year,

"Article 31. The placement of the person to psychoneurological organization for social security

31.1. The basis for the room of the person with mental disturbance in psychoneurological organization for social security is its application in person and the decision of the medical and psychiatric commission, and for the room of minors or the persons recognized in the procedure established by the legislation incapacitated, - the decision of relevant organ of the executive authority based on the conclusion of the medical and psychiatric commission.

31.2. In the conclusion of the medical and psychiatric commission data on availability at the person of the mental disturbance depriving its possibilities to remain in specialized agency on social protection, and concerning the capable person - except those data on lack of the bases for statement in court of the question of recognition its incapacitated shall be specified.

31.3. The relevant organ of the executive authority shall protect property rights of the persons placed in psychoneurological organizations for social security.

Article 33. The rights of the persons placed in psychoneurological organizations for special training or social security, and the obligation of administration of data of organizations

33.1. The persons placed in psychoneurological organizations for special training or social security, have the rights, the stipulated in Clause 23 presents of the Law.

33.2. The administration of psychoneurological organizations for special training or social security shall not less often than once a year to carry out medical examination of persons living here."²²

Article 36 of the 2001 *Law on Psychiatric Assistance* states that only psychiatrists with "higher medical education both the corresponding diploma" have the right to provide psychiatric care. Doctors who provide initial medical care may only treat the mental illnesses they are authorised to, as "established by relevant organ of the executive authority",

"Article 36. The right to be engaged in the activities bound to the psychiatric help

36.1. The psychiatrists who having the higher medical education both the corresponding diploma and have confirmed the qualification in the procedure established by the legislation, have the right to be engaged in the activities bound to the psychiatric help.

36.2. Doctors of the medical institution rendering the first medical care, can treat only those diseases (mental disturbances) which are authorized for treating in these organizations. The list of diseases (mental disturbances) which are authorized for treating in the medical institutions rendering the first medical care, is established by relevant organ of the executive authority.

²¹ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

²² Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

36.3. Activities of the psychiatrist, other specialists in rendering of the psychiatric help are based on regulations of professional ethics and are performed in the procedure established by the legislation."²³

Article 37 of the 2001 *Law on Psychiatric Assistance* states that diagnosis of mental illness and decisions regarding psychiatric care of patients who have been involuntary admitted are "the exclusive right of the psychiatrist". The conclusions of other doctors regarding the mental condition of the person "has preliminary nature and is not the basis for restriction of the rights and legitimate interests of this person",

"Article 37. The rights and the obligations of the psychiatrist bound to rendering of the psychiatric help

37.1. The rights and the obligations of the psychiatrist bound to rendering of the psychiatric help, are established by the legislation.

37.2. Establishment of the diagnosis of mental disturbance, decision making about rendering of the psychiatric help in the involuntary procedure or pronouncement of the conclusion for treating of the question of rendering of such help are the exclusive right of the psychiatrist, the medical and psychiatric commission or the main psychiatrist of the territory, except as specified, provided by this Law.

37.3. The conclusion of the doctor of other specialty about the mental condition of the person has preliminary nature and is not the basis for restriction of the rights and legitimate interests of this person, and also using the privileges established by the legislation for persons with mental disturbance.

37.4. For the purpose of safety of psychiatrists rendering the psychiatric help, other specialists, average and associate medical officers the right to use special measures (physical restraint of the person with mental disturbance, its temporary isolation, application of strait jackets) is provided to it. About it the corresponding records are brought in medical documents of the person with mental disturbance, and is reported to the management of medical institution."²⁴

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that the most recent mental health legislation, adopted in 2012, states that patients with "mental disorders" have the same rights as others receiving medical care,

"The last piece of mental health legislation was adopted in 2012. According to the legislation people with mental disorders have the same rights and benefits as patients receiving care in other health facilities. The legislation specifically focuses on the followings:

Rights of mental health service users

Respectful attitude and prohibition of degrading treatment and discrimination

Access to free mental health care in the least restrictive conditions

Confidentiality

Psychiatric examination, in-patient and out-patient treatment

Competency, capacity, and guardianship issues for people with mental illness;

Accreditation of professionals and facilities

Mechanisms to oversee existing practices."²⁵

1.3 Non-discrimination provisions as they relate to mental health

²³ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

²⁴ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

²⁵ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

In 2012 the *USDOS Human Rights Report* stated that discrimination against "persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services" is prohibited by law but that these provisions were not sufficiently enforced in practice and that employment discrimination in particular remained problematic. The protection of the rights of persons with disabilities were the responsibility of the Ministries of Health, and Labor and Social Welfare.²⁶

In 2012 the *European Committee of Social Rights* stated that discrimination on grounds of disability was not specifically prohibited but "covered by the phrase "and other factors"" and no further information is provided on the ground of disability. Access to employment for intellectually disabled persons should be enhanced,

"[] There must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities. Therefore the Committee asks whether jurisprudence requires employers to make reasonable accommodation for persons with disabilities. It asks for details of any case law concerning discrimination on grounds of disability."²⁷

In 2012 the *European Committee of Social Rights* also stated that measures are in place to protect persons with disabilities from "discrimination for genuine occupational requirements". There are no limits to the amount of compensation awarded in cases of discrimination but the burden of proof in such cases has not yet been shifted.²⁸

1.4 Provisions relating to forced confinement to a mental health institution (on the basis of the person's own best interests or in the interests of society)

Article 93 of the *Criminal Code of the Republic of Azerbaijan* states that "forced measures of medical nature" may be ordered by the court for suspects who have committed crimes as a result of "mental frustration", mental illness or in a state of "diminished responsibility",

"Article 93. Bases of application for forced measures of medical nature

93.1. Forced measures of medical nature can be appointed by court to persons:

93.1.1. committed act (action or inaction), provided by the Especial part of the present Code, in a condition of diminished responsibility;

93.1.2. after commitment of a crime deceased by mental illness excluding assignment or execution of punishment;

93.1.3. committed a crime and suffering from mental frustration which are not excluding responsibilities;

93.1.4. committed a crime and recognized as required for treatment from alcoholism or narcotics.

²⁶ US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012, Azerbaijan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> accessed 9 January 2014

²⁷ European Social Charter (revised), European Committee of Social Rights Conclusions 2012 (AZERBAIJAN) Articles 1, 9, 20 and of the Revised Charter, http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/Azerbaijan2012_en.pdf, accessed 12 February 2014

²⁸ European Social Charter (revised), European Committee of Social Rights Conclusions 2012 (AZERBAIJAN) Articles 1, 9, 20 and of the Revised Charter, http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/Azerbaijan2012_en.pdf, accessed 12 February 2014

- 93.2. To a persons specified in articles 93.1.1-93.1.4 of the present Code, forced measures of medical nature shall be appointed only in cases when mental frustration derivative danger of causing harm to himself or to other persons.
- 93.3. The order of application on forced measures of medical nature shall be determined by the legislation of the Azerbaijan Republic.
- 93.4. Concerning the persons, who are specified in articles 93.1.1-93.1.4 of the present Code and who do not represent danger by mental condition, necessary materials shall be passed to bodies of public health services for decision on a question of treatment of these persons or their direction to psycho neurology establishments."²⁹

Article 94 of the *Criminal Code of the Republic of Azerbaijan* states that the purpose of "forced measures of medical nature" should be the treatment of the suspect, to improve their mental state and prevent them from committing further offences,

"Article 94. Purposes of application on forced measures of medical nature
The purposes of application on forced measures of medical nature shall be treatment of the persons provided in articles 93.1.1-93.1.4 of the present Code, or improvement of their mental condition, and also prevention of commitment by them of new acts."³⁰

Articles 95-96 of the *Criminal Code of the Republic of Azerbaijan* state that forced measures of medical nature may involve mandatory treatment in a general or specialised psychiatric hospital, with or without intensive supervision, or "outpatient compulsory supervision" and treatment by a psychiatrist, if there is no grounds to admit the patient to hospital,

"Article 95. Kinds of forced measures of medical nature

95.0. The court can appoint the following kinds of forced measures of medical nature:

95.0.1. out-patient compulsory supervision and treatment at the psychiatrist;

95.0.2. mandatory treatment in a psychiatric hospital of the general type;

95.0.3. mandatory treatment in a psychiatric hospital of the specialized type;

95.0.4. mandatory treatment in a psychiatric hospital of the specialized type with intensive supervision.

Article 96. Out-patient compulsory supervision and treatment at psychiatrist Outpatient compulsory supervision and treatment at the psychiatrist can be appointed at presence of grounds provided by article 93.2 of the present Code, if there is no necessity of a premise of a person to a psychiatric hospital."³¹

Article 97 of the *Criminal Code of the Republic of Azerbaijan* states that mandatory treatment in a specialised psychiatric hospital "with intensive supervision" may be ordered by the court if the patient is considered a danger to himself or others,

"Article 97. Mandatory treatment in psychiatric hospital

²⁹ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

³⁰ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

³¹ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

- 97.1. Mandatory treatment in psychiatric hospitals can be appointed at presence of grounds provided by article 93.2 of the present Code, if nature of mental frustration of a person demands such conditions of treatment, care, maintenance and supervision which can be carried out only in psychiatric hospitals.
- 97.2. Mandatory treatment in psychiatric hospitals of the general type can be appointed to persons who on mental condition require hospitalization and supervision, but do not demand intensive supervision.
- 97.3. Mandatory treatment in psychiatric hospitals of the specialized type can be appointed to persons who on the mental condition demand constant supervision.
- 97.4. Mandatory treatment in psychiatric hospitals of the specialized type with intensive supervision can be appointed to persons who on mental condition represent special danger to himself or other persons and demands constant and intensive supervision."³²

Article 98 of the *Criminal Code of the Republic of Azerbaijan* states that "extension, change and cancellation of forced measures of medical nature" may be ordered by the court, based on the conclusion of psychiatrists from the medical institution carrying out the compulsory treatment. Psychiatric assessment on which to base these reports should be made "not less than once in six months" after which the first extension to compulsory treatment can be made,

"Article 98. Extension, change and cancellation of forced measures of medical nature

- 98.1. Extension, change and cancellation of forced measures of medical nature shall be carried out by court on presentation by administration of the medical institution which is carrying out compulsory treatment, on basis of conclusion of doctors commission– psychiatrists
- 98.2. The person to whom the forced measure of medical nature is appointed, is subject to survey by commission of doctors – psychiatrists, not less than once in six months for decision of a question on cancellation or change of such measure. At absence of grounds for cancellation or change of a forced measure of medical nature, administration of the establishment which are carrying out compulsory treatment, represents to court the conclusion for extension of compulsory treatment. The first extension of compulsory treatment shall be made after expiration of six months from the moment of the beginning of treatment, and subsequent extension of compulsory treatment shall be made annually.
- 98.3. Change or cancellation of a forced measure of medical nature shall be carried out by court in case of such change of a mental condition of the person at which disappears necessity for application of appointed measure or there is a necessity for assignment of other forced measure of medical nature.
- 98.4. In case of cancellation of forced measures of medical nature, a court directs necessary materials concerning a person who is taking place on compulsory treatment, to bodies of public health services."³³

Article 99 of the *Criminal Code of the Republic of Azerbaijan* states that when treating a patient in whom "mental frustration" appeared after committing a crime their punishment shall be offset "at the rate of one day in a psychiatric hospital for one day of imprisonment,"

³² Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

³³ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

"Article 99. Offset of time on application of forced measures of medical character

In case of treatment of a person at which mental frustration has appeared after commitment of a crime, at assignment of punishment or renewal of its execution, time during which person was compulsory treated in a psychiatric hospital, shall set off in time punishments at the rate of one day in a psychiatric hospital for one day of imprisonment."³⁴

Article 146 of the *Criminal Code of the Republic of Azerbaijan* states that illegal placement in psychiatric hospital is punishable by two years "corrective work" or three years imprisonment or three to five years imprisonment "with deprivation of the right to hold the certain posts or to engage in certain activities for the term of up to three years." If committed "with use of the service position". If this results in "death of the victim or other serious consequences" through negligence it is punishable by imprisonment for five to eight years,

"Article 146. Illegal placement in psychiatric hospital

146.1. Placement of the obviously mentally healthy person in psychiatric hospital – is punished by corrective work for the term of up to two years or imprisonment for the term of up to three years.

146.2. The same action committed by the guilty person with use of the service position –is punished by imprisonment for the term of three to five years with deprivation of the right to hold the certain posts or to engage in certain activities for the term of up to three years.

146.3. The actions provided by articles 146.1 or 146.2 of the present Code, on negligence ended with death of the victim or other serious consequences – is punished by imprisonment for the term of five to eight years."³⁵

Articles 20-21 of the 2001 *Law on Psychiatric Assistance* states that ambulatory or outpatient psychiatric care is based on the consent of the patient unless their condition is thought to be a "chronic and fixing disorder with serious or often becoming aggravated morbid implications", in which case treatment is given "irrespective of the consent of the person with mental disturbance or its legal representative". The decision to commence or terminate treatment can be appealed,

"Article 20. Ambulatory psychiatric care

20.1. The ambulatory psychiatric care to the person with mental disturbance depending on medical indications appears in the form of the advisory and medical help or the dispensary observation.

20.2. The advisory and medical help to the person with mental disturbance appears from its consent (at its request), and the person under the age of is 16 years old, - from the consent (at the request) his parent or the legal representative.

20.3. In cases, the stipulated in Clause 21.1 presents of the Law, the psychiatric dispensary observation is prescribed irrespective of the consent of the person with mental disturbance or its legal representative. It provides observation over the mental condition of the person for ensuring regular control from the psychiatrist, rendering to it the necessary medical and public assistance.

³⁴ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

³⁵ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

20.4. The forced outpatient observation and psychiatric treatment is performed by the psychoneurological dispensary or the out-patient department in the residence of the person based on the judgment according to the procedure and on the bases established by the legislation.

Article 21. Psychiatric dispensary observation

21.1. The psychiatric dispensary observation is established for the patient with chronic and fixing disorder with serious or often becoming aggravated morbid implications.

21.2. The question of need of establishment of the psychiatric dispensary observation and its termination is solved by administration of the organization rendering the ambulatory psychiatric care, the medical and psychiatric commission or the main psychiatrist of the territory. The motivated decision of the medical and psychiatric commission or the main psychiatrist of the territory is drawn up by entry in medical documentation.

21.3. Established earlier psychiatric dispensary observation stops from the consent (at the request) persons, his parent or the legal representative in case of convalescence of the person or appreciable and steady improvement of its mental condition. In case of deterioration of the mental condition of the person the psychiatric dispensary observation can be renewed according to the decision of the medical and psychiatric commission or the main psychiatrist of the territory.

21.4. The decision on establishment or the termination of the psychiatric dispensary observation can be appealed according to the procedure, stipulated in Clause 43 presents of the Law."

Article 22 of the 2001 *Law on Psychiatric Assistance* states that basis for psychiatric hospitalisation is the consent of the patient in conjunction with the conclusion of the psychiatrist or medical and psychiatric commission. If a patient is hospitalised involuntarily a court order regarding their examination and treatment must be provided,

"Article 22. The bases for hospitalization in the psychiatric hospital

22.1. The basis for hospitalization in the psychiatric hospital is availability at the person of mental disturbance and the conclusion of the psychiatrist (the medical and psychiatric commission), and in case of involuntary hospitalization the court order about carrying out examination and treatment in stationary conditions. The room of the person with mental disturbance in the hospital is allowed only in case of inexpediency of the out-patient treatment and the inefficiency of the non-stationary help for exercise of urgent measures.

22.2. The person is located in the psychiatric hospital from the consent (at the request) his or his legal representative, except as specified, provided with Articles 11 and 12 of this Law.

22.3. Need of carrying out psychiatric examination for cases, stipulated by the legislation the Azerbaijani Republic, also is considered the basis for the room in the psychiatric hospital.

22.4. The person under the age of 16 years, is located in the psychiatric hospital from the consent (at the request) parents or the legal representative.

22.5. The person recognized in the procedure established by the legislation incapacitated, is located in the psychiatric hospital from the consent (at the request) his legal representative.

22.6. The consent to hospitalization is drawn up by entry in medical documentation signed by the person or his parents or the legal representative and the psychiatrist."³⁶

³⁶

Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

Article 5 of the 2001 *Law on Psychiatric Assistance* states that psychiatric care "is provided based on the informed consent [] without threats and application of violence" and must be submitted in writing and signed by the patient or their legal representative and the psychiatrist,

"Article 5. Voluntariness of the psychiatric help

5.1. The psychiatric help appears in case of the personal address of the person, except as specified, provided by Articles 11 and 12 of this Law.

5.2. Persons under the age of 16 years old, the psychiatric help or recognized in the procedure established by the legislation incapacitated, appears in the procedure provided by this Law from the consent (at the request) their parents or legal representatives.

5.3. The psychiatric help is provided based on the informed consent. This consent turns out without threats and application of violence, is drawn up in writing, signed by the patient or his legal representative and the psychiatrist."³⁷

Article 10 of the 2001 *Law on Psychiatric Assistance* states that psychiatric patients may refuse treatment or request the termination of treatment, except under the conditions specified by legislation. The consequences of refusing treatment should be explained to the patient and/or their legal representative,

"Article 10. Refusal of treatment

10.1. The person with mental disturbance or his legal representative have the right to refuse offered treatment or to stop treatment, except as specified, provided by this Law.

10.2. With the mental disturbance, refused treatment, or to his legal representative possible consequences shall be explained to the person. Refusal of treatment and the explanation about its further consequences become perceptible in medical documentation signed by the person or his legal representative and the psychiatrist."³⁸

Article 11 of the 2001 *Law on Psychiatric Assistance* states that a patient may be involuntarily hospitalised if there is reason to believe they may present a danger to others, are unable to care for themselves adequately, or it is thought that their mental state will significantly deteriorate if they are not placed in psychiatric care,

"Article 11. The bases for rendering of the involuntary psychiatric help

11.1. If nature of mental disturbance requires carrying out examination and treatment only in the psychiatric hospital, involuntary treatment in the psychiatric hospital is prescribed in the presence of the following bases:

11.1.1. if the person with mental disturbance represents danger to and (or) people around;

11.1.2. helplessness of the person as a result of mental disturbance, that is disability it independently to satisfy the basic vital needs;

11.1.3. if non-rendering of the stationary help with serious mental disturbance can do to the person impreventable harm to its health or make its treatment impossible.

11.2. Treatment of involuntary hospitalized patient in the psychiatric hospital can be carried out without the informed consent."³⁹

Article 12 of the 2001 *Law on Psychiatric Assistance* states that "enforcement powers of medical nature" may be ordered by the court and "are performed in specialized mental health facilities",

"Article 12. Enforcement powers of medical nature

³⁷ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

³⁸ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

³⁹ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

12.1. Enforcement powers of medical nature are prescribed court according to the procedure, established by the legislation of the Azerbaijani Republic.

12.2. Enforcement powers of medical nature are performed in specialized mental health facilities.

12.3. The persons involved in enforcement powers of medical nature, have the rights, the stipulated in Clause 23 presents of the Law."⁴⁰

Article 18 of the 2001 *Law on Psychiatric Assistance* states that psychiatric examinations may be performed with the consent of the patient or their legal representative if the patient "performs aggressive actions" towards himself or others, if they are unable to care for themselves or if failure to provide appropriate psychiatric care would "pose threat of his life and to health". This decision may be appealed in court,

"Article 18. Carrying out psychiatric examination of the person without its consent or without the consent of his legal representative

18.1. If it will be taped that the person performs aggressive actions in relation to itself and (or) to people around, the psychiatrist, including the doctor of organization of ambulance, instantly makes the decision on psychiatric examination of the person without its consent (request) or without the consent of his legal representative and the decision is drawn up by record it in medical documentation.

18.2. If in cases when the person as a result of mental disturbance is not capable to satisfy independently the basic vital needs or when non-rendering of the urgent psychiatric help can pose threat of his life and to health, the person or his legal representative do not give the consent to examination, the decision on examination is accepted by court based on the conclusion of the medical and psychiatric commission.

18.3. Psychiatric examination of 16 years which have not reached age or recognized in the procedure established by the legislation incapacitated the persons which do not have parents or legal representatives or if one of parents objects, is performed by the decision of relevant organ of the executive authority. This decision can be appealed in court."⁴¹

Article 25 of the 2001 *Law on Psychiatric Assistance* states that a psychiatrist must make the decision to examine patients who have been hospitalised involuntarily within 48 hours, diagnosis is then confirmed by the medical and psychiatric commission,

"Article 25. Examination of the person which has been involuntary placed in the psychiatric hospital

25.1. The psychiatrist makes the decision on the involuntary room of the person being in the condition of mental disturbance, in the psychiatric hospital and its examination before confirmation of the preliminary diagnosis by the medical and psychiatric commission and the judgment and draws up it entry in medical documentation.

25.2. The person which has been involuntary placed in the psychiatric hospital, shall pass examination within 48 hours.

25.3. In case of recognition of hospitalization unreasonable the person is subject to the immediate statement from the hospital.

25.4. In case of recognition of hospitalization reasonable the conclusion of the medical and psychiatric commission within 48 hours from the moment of the room of the person in the psychiatric hospital is brought into court in the location of mental health facility or accommodation of the person for the solution of the question on its stay in the hospital."⁴²

⁴⁰ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

⁴¹ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

⁴² Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

Article 26 of the 2001 *Law on Psychiatric Assistance* states that the involuntary hospitalisation of a patient is "determined by court by the location of mental health facility or accommodation of the person",

"Article 26. The reference to the court about hospitalization in the involuntary procedure

26.1. Hospitalization of the person in the psychiatric hospital in the involuntary procedure in the presence of the bases, the stipulated in Clause 11th present of the Law, is determined by court by the location of mental health facility or accommodation of the person.

26.2. The statement for the involuntary room of the person in the psychiatric hospital is brought into court according to the Code of civil procedure of the Azerbaijani Republic members of the family, the guardian or the custodian, and also the principal of mental health facility in the residence of the person or in the location of organization.

26.3. Accepting the statement, the judge also prolongs content of the person in the psychiatric hospital for the term necessary for the adjudication in court."⁴³

Article 28 of the 2001 *Law on Psychiatric Assistance* states that involuntarily hospitalised psychiatric patients must be examined at least once a month for the first six months to establish whether their stay needs to be prolonged. If treatment extends for more than six months patients must be examined at least once every three months,

"Article 28. Prolongation of term of hospitalization in the involuntary procedure

28.1. The person contains in the psychiatric hospital only during time of conservation of the conditions giving the grounds for its involuntary hospitalization.

28.2. For the solution of the question of prolongation of term of involuntary hospitalization this person in the first six months not less often than once a month passes examination in the medical and psychiatric commission. If treatment was extended over six months, psychiatric examination of the person is carried out not less often than once each three months.

28.3. The question of prolongation of term of involuntary hospitalization is solved court in the location of mental health facility performing treatment according to the petition initiated by the management of organization based on the conclusion of the medical and psychiatric commission each six months from the date of the initiation of treatment."⁴⁴

In June 2010 the *Commissioner for Human Rights of the Council of Europe* stated that mental health care in Azerbaijan is regulated through the Law on Psychiatric Assistance and involuntary placement in psychiatric institutions "always requires a court decision, issued on the basis of a medical assessment". The Director of Nakhchivan City psychiatric hospital stated that all patients had given written consent and were considered "voluntary",

"He also stressed that, according to the LPA, an involuntary placement can only take place if three conditions are met, once a written request to admit a person to a psychiatric hospital against his/her will has been made: 1) if the person cannot take care of him or herself, or if his or her condition may deteriorate without treatment; 2) an examination should be undertaken by three psychiatrists, including one from the hospital, who should, within 48 hours from the moment of the initial admission, reach a conclusion on the need for further hospitalisation and, as appropriate, either recommend that the patient be discharged or make a reasoned request to the competent court to confirm the placement in the psychiatric hospital; 3) finally, the court should confirm the placement in a judicial decision, with the possibility of an appeal to a higher court.

⁴³ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

⁴⁴ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

The LPA also stipulates that a review of hospitalisation of each involuntary patient should be carried out on a regular basis in order to evaluate the necessity to maintain the person in the hospital. In some circumstances, a forensic psychiatric assessment can be requested by an investigator, prosecutor or court with a view to establishing the criminal responsibility of a person. Such an assessment is performed by a commission of psychiatrists, who decide whether a person should be treated in the psychiatric hospital or remain in prison."⁴⁵

In June 2010 the *Commissioner for Human Rights of the Council of Europe* stated that there had been some allegations about forced placement in psychiatric hospitals, without a psychiatric evaluation, in the Autonomous Republic of Nakhchivan and that the establishment of an independent body to monitor conditions in psychiatric institutions could contribute to guaranteeing the proper implementation of the Law on Psychiatric Assistance.⁴⁶

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that involuntary admission may be necessary in "exceptional cases", e.g. if a patient has attempted suicide, is in a "catatonic stupor", if the patient cannot care for themselves or their condition would deteriorate seriously if they were not admitted,

"Although the legislation emphasizes that every effort shall be made to avoid involuntary admission in exceptional cases people with mental disorders may be admitted and treated involuntarily. The criteria for involuntary admission which include the following:

Serious immediate danger of a patient with mental disorder for self or others (examples suicide attempts, aggressive behavior)

Helplessness i.e. inability to meet essential life needs due to mental illness (e.g. catatonic stupor, severe dementia)

If a person whose mental illness is severe and likely to lead to a serious deterioration in his or her well-being and will prevent provision of appropriate treatment that can only be given by admission to a mental health facility (e.g. life threatening anorexia)"⁴⁷

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that following involuntary admission, a patient should be assessed within 48 hours. If their admission is considered valid, and confirmed by three psychiatrists, an "opinion letter" should be presented to a local court which then makes a decision regarding treatment,

"A person involuntary admitted to mental health facility should be evaluated within 48 hours and if his or her hospitalization is considered as unfounded a patient should be discharged immediately. In case of valid reasons for involuntary admission confirmed by a commission of three psychiatrists the opinion letter should be presented to a local court no later than 48 hours after hospitalization. Then a court considers compliance of the reasons indicated in the opinion letter with the criteria listed in the article 11 and makes appropriate decision regarding involuntary admission and treatment.

Regardless voluntariness of admission all patients treated in mental hospital are eligible to apply at any time to a hospital administration regarding all issues related to their stay in hospital as well as to require observance of their rights and interests. They also are eligible to apply freely to Head Psychiatrist of the MoH, executive authorities, office of prosecutor,

⁴⁵ Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010, <https://wcd.coe.int/ViewDoc.jsp?id=1642017>, accessed 12 February 2014

⁴⁶ Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010, <https://wcd.coe.int/ViewDoc.jsp?id=1642017>, accessed 12 February 2014

⁴⁷ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

Office of Ombudsman, court, legal representative (lawyer) and guaranteed for privacy during their meetings with the named officials.⁴⁸

1.5 Criminal justice

1.5.1 Provisions related to fitness to appear in court

Article 13 of the 2001 *Law on Psychiatric Assistance* states that if an individual disagrees with the decision of the judicial and psychiatric commission they or their legal representative can appeal this in court,

"Article 13. Judicial and psychiatric examination

13.1. The procedure for the organization and carrying out judicial and psychiatric examination is established by the legislation.

13.2. Control of activities of the commissions making judicial and psychiatric examination, is performed by the central judicial and psychiatric commission of experts framed by relevant organ of the executive authority.

13.3. In case of disagreement with the conclusion of the judicial and psychiatric commission of experts the person or his legal representative can address in the procedure established by the legislation in court."⁴⁹

Article 43 of the 2001 *Law on Psychiatric Assistance* states that the actions of medical workers and others involved in psychiatric care may be appealed in court if they are thought to have infringed the rights and legitimate interests of the patient,

"Article 43. The right of appeal of the actions bound to rendering of the psychiatric help

43.1. Actions of medical workers, workers of social security and the education, infringing the rights and legitimate interests of persons when rendering the psychiatric help, can be appealed in the procedure established by the legislation in the higher body (the higher official), prosecutor's office and (or) is immediate in court.

43.2. Participation in treating of the claim of the person, whose rights and legitimate interests are broken, if its mental condition allows, or his legal representative, the person, whose actions are appealed, or his legal representative is obligatory.

Article 44. Responsibility for violation of the present

The law the Legal entities and individuals who have broken this Law, bear responsibility in the procedure established by the legislation."⁵⁰

1.5.2 Provisions related to the defence of mental illness

Article 19 of the *Criminal Code of the Republic of Azerbaijan* states that those who have "mental capacity" are subject to Criminal Liability,

"Article 19. General conditions for the criminal liability

⁴⁸ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁴⁹ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

⁵⁰ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

To Criminal Liability shall be subjected person, who has mental capacity, committed a crime and reached appropriate age, settled by the present Code."⁵¹

Article 20 of the *Criminal Code of the Republic of Azerbaijan* states that the legal age for criminal liability is sixteen or fourteen in the case of more serious crimes including rape and murder,

"Article 20. Legal age for determination to criminal liability

20.1. The person who has reached age of 16, to time of committing a crime shall be subjected to the criminal liability.

20.2. The persons who have reached the age of 14, to time of committing a crime, shall be subjected to the criminal liability for deliberate murder, deliberate causing of heavy or less heavy harm to health, kidnapping of the person, rape, violent actions of sexual nature, theft, robbery, extortion, illegal occupation of the automobile or other vehicle without the purpose of plunder, deliberate destruction or damage of property under aggravating circumstances, terrorism, capture of the hostage, hooliganism under aggravating circumstances, plunder or extortion of fire-arms, ammunition, explosives and explosives, plunder or extortion of narcotics or psychotropic substances, reduction unsuitability of vehicles or means of communication.

20.3 - Is excluded by the law of the Azerbaijan Republic from July, 2 2001."⁵²

Article 21 of the *Criminal Code of the Republic of Azerbaijan* states that those who commit offences "in a condition of diminished responsibility" as a result of "chronic mental disease, timed infringement of mental activity, dementia or other mental disease" are not subject to criminal liability. However, "forced measures of medical nature" may be ordered by the court if a dangerous offence was committed in a state of diminished responsibility,

"Article 21 Diminished capacity

21.1. The person, who at the time of committing publicly dangerous act (action or inaction), was in a condition of diminished responsibility, and could not realize actual nature and public danger of the acts (actions or inaction) or supervise over them in order to chronic mental disease, timed infringement of mental activity, dementia or other mental disease shall not be subjected to the criminal liability.

21.2. To the person, who has committed publicly dangerous act (action or inaction) in a condition of diminished responsibility, court can appoint the forced measures of medical nature provided by the present Code.

21.3. To the person, who has committed a crime in a condition of legal capacity, but before adopting by court of a decision, he has become emotionally diseased, and depriving opportunity to realize actual nature and public danger of his acts (actions or inaction) or supervise over them, court can appoint forced measures of medical nature as it provided by the present Code."⁵³

Article 22 of the *Criminal Code of the Republic of Azerbaijan* states that a crime committed "by virtue of mental frustration" by a person unable to "fully realize" the dangerous nature of their actions is subject to criminal liability,

⁵¹ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵² Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵³ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

"Article 22. Criminal liability of persons with the mental frustration which is not excluding legal responsibilities

22.1. The person with legal responsibility, who at the time of committing a crime by virtue of mental frustration could not fully realize actual nature and public danger of the acts (action or inaction) or to supervise them, shall be subjected to the criminal liability.

22.2. The mental frustration, which is not excluding responsibilities, shall be taken into account by court at assignment of punishment and can form the basis for purpose of the medical nature forced measures provided by the present Code."⁵⁴

Article 59 of the *Criminal Code of the Republic of Azerbaijan* states that a crime committed "as a result of physical or mental compulsion" is subject to mitigation of punishment,

"Article 59. Circumstances mitigating punishment

59.1. Circumstances softening punishment shall be following:

[] 59.1.6. commitment of a crime as a result of physical or mental compulsion or by virtue of material, service or other dependence;"⁵⁵

Article 60 of the *Criminal Code of the Republic of Azerbaijan* states that punishment for a crime committed under mitigating circumstances may not "exceed three quarters of a limit of more strict kind of the punishment,"

"Article 60. Assignment of punishment at presence of mitigating circumstances

At presence of the circumstances mitigating punishment, as it is provided by articles 59.1.9 and 59.1.10 of the present Code, and absence of aggravating circumstances, term or measure of punishment can not exceed three quarters of a limit of more strict kind of the punishment, provided by appropriate article of the Especial part of present code."⁵⁶

Article 78 of the *Criminal Code of the Republic of Azerbaijan* states that if, after committing a crime, the suspect was "deceased by mental illness, depriving his opportunity to realize actual nature and public danger of the act (action or inaction) or to supervise over this act", they should be released from punishment,

"Article 78. Release from punishment in connection with illness

78.1. The person, who after commitment of a crime was deceased by mental illness, depriving his opportunity to realize actual nature and public danger of the act (action or inaction) or to supervise over this act, shall be released from punishment or from its deserved part. Concerning such person by court can be applied forced measures of medical character, which are provided by the present Code.

[] 78.4. The persons specified in articles 78.1 and 78.2 of the present Codes, in case of their recovery, can be instituted to the criminal liability and punishment, if time limits have not expired as articles 75 and 80 provide it in the present Codes."⁵⁷

⁵⁴ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵⁵ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵⁶ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵⁷ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

Article 86 of the *Criminal Code of the Republic of Azerbaijan* states that when deciding on punishment for a minor the court must take into account their "level of mental development,"

"Article 86. Assignment of punishment to a minor

86.1. At assignment of punishment to a minor except for the circumstances provided by article 58 of the present Code, court also takes into account conditions of life and education of this person, a level of mental development, other features of his individual, and also influence on him of extraneous persons"⁵⁸

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that criminal suspects considered "irresponsible due to insanity" are given compulsory treatment in state psychiatric facilities,

"Fitness to appear in court or provisions related to the defense of mental illness are provided by the Criminal Code. Crime offenders identified during forensic psychiatric examination as irresponsible due to insanity are provided by compulsory treatment in the special or general psychiatric facilities of the Ministry of Health. The same measures are applied to those offenders whose mental disorder has started after their arrest (before trial) or after sentence."⁵⁹

2. Treatment of individuals suffering from mental health conditions by state agents

2.1 Health care

In 2011 the *World Health Organisation (WHO)* stated that there was no specific mental health budget but government expenditure on mental health was estimated to be 2-3% of the total health budget, roughly 85% of this was spent on mental hospitals. Primary health care doctors were authorised to prescribe "psychotherapeutic medicines" but primary health care nurses were not, or to independently diagnose and treat mental disorders. Most primary health care clinics made "officially approved manuals on the management and treatment of mental disorders" available.⁶⁰

In 2011 the *World Health Organisation (WHO)* also stated that the mental health system was undergoing significant changes, with a new emphasis on community based mental health rather than institutionalisation,

"[] The mental health system in Azerbaijan is in the process of dramatic reform which is intended to shift institutional services to modern integrative community-based mental health care. In the line with this reform so called psycho-neurological dispensaries (PND) have been transformed into mental health centres with new functional profiles. The most of psychiatrists working in PND were moved to district primary healthcare facilities while the newly established mental health centres have to employ not only psychiatrists but also other mental health professionals such as clinical psychologists, social workers, occupational therapists, etc. Along with implementation of community-based approach

⁵⁸ Criminal Code of the Republic of Azerbaijan, available at <http://legislationline.org/documents/section/criminal-codes>, accessed 20 March 2014

⁵⁹ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁶⁰ The World Health Organisation, Department of Mental Health and Substance Abuse, The World Health Organisation Mental Health Atlas 2011, Azerbaijan, http://www.who.int/mental_health/evidence/atlas/profiles/aze_mh_profile.pdf, accessed 10 January 2014

mental health centres should ensure multidisciplinary teamwork in mental health care provision.⁶¹

In 2012 the *USDOS Human Rights Report* stated that care provided for persons with mental and other disabilities was varied, some facilities provided "adequate" care, while in others standards of care, sanitation and nutrition were described as "inadequate", despite qualified caregivers, equipment, and supplies.⁶²

In February 2012 Lithuanian NGO the *Global Initiative on Psychiatry* in partnership with Azerbaijani organisation the *Initiative for the Sake of Development* stated that they had begun implementing a 24 month project "empowering mental health service users in five regions of Azerbaijan", with the intention of increasing NGO capacity and service users' involvement in the mental health system. The project planned to establish "users organisations" at psychiatric facilities in five regions of Azerbaijan to provide an opportunities for communication and "self-help" while working with staff to improve quality of care. The project also aimed to create a "social campaign" to address negative stereotypes of people with mental illness, to conduct a public opinion poll to assess current attitudes towards mental illness in Azerbaijan and provide training for journalists on the presentation of mental health problems in the media.⁶³

In April 2012 the *Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC)* stated that information on the health of IDPs was currently unavailable but that the latest research showed that factors associated with displacement, including conflict trauma, overcrowded living space, inadequate income and poor health, continued to result in mental health issues. Women were twice as likely as men to have a mental health disorder.⁶⁴

On 4 May 2012 a press release for the joint project by the *Global Initiative on Psychiatry* and the *Initiative for the Sake of Development* also stated that "round-tables" related to the project involving psychiatrists, other hospital staff, service users and project staff had taken place in psychiatric facilities in Guba, Lenkaran, Sheki, Ganja and Baku. Participants discussed the "users' movement" in mental health and received information about its goals and objectives and the project in general. The press release stated that participants supported the use of service user organisations to encourage a more equal dialogue between staff and users and it was thought that regular exchanges regarding their views and experience "should result in improvement of psychiatric care and ultimately in better quality of life in Azerbaijan". Health system and hospital administration staff expressed interest in and encouragement of this project.⁶⁵

On 15 May 2012 the *European Commission* reported that health sector reform was ongoing and included the construction and refurbishment of health care facilities and the adoption of a national strategy to address mental health.⁶⁶

In an undated report the *Azerbaijan Psychiatric Association* stated that in addition to its head office in Baku, it had eleven regional offices, uniting mental health specialists in different regions and was represented by 350 psychiatrists and also clinical psychologists, psychotherapists, narcologists, and "public figures". The *Azerbaijan Psychiatric Association* also stated that it had recently

⁶¹ The World Health Organisation, Department of Mental Health and Substance Abuse, The World Health Organisation Mental Health Atlas 2011, Azerbaijan, http://www.who.int/mental_health/evidence/atlas/profiles/aze_mh_profile.pdf, accessed 10 January 2014

⁶² US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012, Azerbaijan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> accessed 9 January 2014

⁶³ Empowering Mental Health Service Users in Five Regions of Azerbaijan, Training on "User movements' advocacy and Mental Health lobbying strategies" took part in Baku Mental Health Centre, 8 June 2013. <http://www.mhusers.az/eng/project.html>, 25 January 2014

⁶⁴ Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) for consideration at the 49th session of the Committee on Economic, Social and Cultural Rights (21-25 May 2012) (Pre-Sessional Working Group) : Azerbaijan, 2 April 2012, available at <http://www.refworld.org/docid/52d543f54.html> accessed 28 January 2014

⁶⁵ Empowering Mental Health Service Users in Five Regions of Azerbaijan, Training on "User movements' advocacy and Mental Health lobbying strategies" took part in Baku Mental Health Centre, 8 June 2013. <http://www.mhusers.az/eng/project.html>, 25 January 2014

⁶⁶ Empowering Mental Health Service Users in Five Regions of Azerbaijan, Press Release, 27 February 2012, http://europa.eu/rapid/press-release_MEMO-12-331_en.htm?locale=en, 25 January 2014

"established cooperation with international organizations and implemented several significant projects in the field of mental health" and worked in partnership with the Global Initiative in Psychiatry, the European Psychiatric Association, the American Psychiatric Association, the Turkish Society of Psychiatrists and the Russian Society of Psychiatrists.⁶⁷

In 2013 *Human Rights Watch* reported that the government had become "wary of the potential of social media to mobilize the public" and had arrested a number of well-known bloggers as well as making statements which linked social media, mental illness and problems with relationships.⁶⁸

On 2 May 2013 the report of the Working Group on the Universal Periodic Review for Azerbaijan to the *United Nations General Assembly Human Rights Council* stated that the recommendations made to the government on the basis of the report included; further investment and development of the health care system, particularly in rural areas, enhancing the protection and promotion of the right to health care, especially of "people with difficulties" and other vulnerable groups, increase efforts to create integrated work opportunities for persons with disabilities and improve standards of employment, as per the National Action Plan and to establish a clear legal definition of disability.⁶⁹

On 22 May 2013 the comments of the Republic of Azerbaijan on the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan stated that the Constitution of Azerbaijan asserts citizens' right to the protection of their health and the receipt of health care services and that the improvement of the population's health is given as a primary aim in health legislation. The Government of Azerbaijan reportedly also increased its budget for and expenditure on health "significantly" in recent years. Pharmaceuticals are under specific control of the Government following the establishment of Analytical Expertise Centre of Drugs within the Ministry of Health.⁷⁰

In June 2013 the *International Organisation for Migration* stated that 69,000 adults and 9,000 children were registered as "persons with mental disorders" and that public health care was below European standards while private health care was limited to small clinics, general practice and emergency treatment. The country as a whole contained 1,817 out-patient facilities, 862 hospitals with 74,000 beds and 29,000 physicians. The *International Organisation for Migration* also stated that "persons with mental disorder are mainly related to categories with low income Two psychiatric dispensers and one psychiatric clinic exist in Baku and nine psychiatric dispensers in other regions. There are three forensic psychiatric services, three doctors and roughly 400 specialists in the field of health care for persons with mental disorders"⁷¹

On 17 October 2013 the *United Nations Department of Public Information Azerbaijan* reported that the United Nations Office Baku, in partnership with the World Health Organization and Azerbaijan Mental Health Center, held a public awareness event in Baku on World Mental Health Day, October 10 2013, in which over sixty healthcare practitioners and public health representatives from around the country were briefed on its most recent mental health initiatives and given information about the WHO and United Nations' focus that year on "mental health and older adults."

⁶⁷ Azerbaijan Psychiatric Association. History, undated, http://www.psychiatry.az/index.php?option=com_content&view=article&id=8&Itemid=9&lang=en, accessed 19 January 2014

⁶⁸ Human Rights Watch, *Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent*, 2 September 2013 <http://www.hrw.org/reports/2013/09/01/tightening-screws>, accessed 19 January 2014

⁶⁹ United Nations General Assembly Human Rights Council, Working Group on the Universal Periodic Review Azerbaijan, Sixteenth Session Geneva, 22 April – 3 May 2013 A/HRC/WG.6/16/L.11 UNEDITED VERSION, 2 May 2013, http://www.upr.info/IMG/pdf/a_hrc_wg.6_16_l.11_azerbaijan.pdf, accessed 19 January 2014

⁷⁰ Comments of the Republic of Azerbaijan on the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mission to Azerbaijan (16-23 May 2012), A/HRC/23/41/Add. , 22 May 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-41-Add4_en.pdf, accessed 19 January 2014

⁷¹ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MI/Lo-DB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_aserbaidshandl_en.pdf?__blob=publicationFile, accessed 19 January 2014

The *United Nations Department of Public Information Azerbaijan* also reported that the Director of the Azerbaijan Mental Health Center, MD Fuad Ismayilov, stressed the importance of UN support for health professionals in addressing mental health issues and that this initiative, created by representative Envera Selimovic, was "seen by many as a particularly timely and effective event for it brought the spotlight on an issue highly stigmatized in a country still developing its fledgling mental health resources, while increasing dialogue across the Azerbaijani health care sector".⁷²

2.1.1 Ill-treatment of individuals suffering from mental health conditions by health care professionals working in mental health care (chaining, beating, isolation, starvation, neglect, etc.)

Articles 43 and 44 of the 2001 *Law on Psychiatric Assistance* state that the actions of medical workers providing psychiatric care can be appealed in court, to higher officials or the prosecutor's office if they are thought to infringe the "rights and legitimate interests" of patients,

"Article 43. The right of appeal of the actions bound to rendering of the psychiatric help

43.1. Actions of medical workers, workers of social security and the education, infringing the rights and legitimate interests of persons when rendering the psychiatric help, can be appealed in the procedure established by the legislation in the higher body (the higher official), prosecutor's office and (or) is immediate in court.

43.2. Participation in treating of the claim of the person, whose rights and legitimate interests are broken, if its mental condition allows, or his legal representative, the person, whose actions are appealed, or his legal representative is obligatory.

Article 44. Responsibility for violation of the present The law the Legal entities and individuals who have broken this Law, bear responsibility in the procedure established by the legislation."⁷³

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that In 2011 a delegation from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted that improvements had been made in mental health facilities and services following its earlier visits,

"In 2006 the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited several mental health facilities in Azerbaijan. The visit revealed significant shortcomings related to conditions in the hospitals as well as to observance of existing legislation. The CPT critical report resulted in closure of the City Psychiatric Hospital #1 and refurbishment in the mental hospital in Sheki.

During the follow-up visits in 2008 CPT delegation noticed that "unlike during the 2006 visit, hardly any allegations of ill-treatment by staff were received at the mental hospital in Sheki where the vast majority of the patients now spoke positively of the staff. Further, inter patient violence did not appear to be a significant problem at the establishment."

In 2011 the CPT's delegation assessed progress made since previous visits and the extent to which the Committee's recommendations have been implemented, in particular as regards to legal safeguards for patients in psychiatric institutions. As a positive fact the

⁷² United Nations Department of Public Information Azerbaijan UNO Baku Advocates on World Mental Health Day – Don't Sit in Silence, Speak Out, 17 October 2013, <http://baku.sites.uniconnetwork.org/tag/wmhd-2103/>, 25 January 2014

⁷³ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

delegation noted the improvements associated with reconstructions in mental health facilities and better services."⁷⁴

2.1.2 Discrimination against individuals suffering from mental health conditions by health care professionals in the delivery of health care not related to the person's mental illness

In February 2013 private Azerbaijani news agency *Azeri-Press Agency (APA) LLC* reported that parents with mental illness can be temporarily deprived of their parental rights over the children under the age of 18, "until the medical decision on restoration of the health is confirmed". According to *APA*, Parliament stated that other amendments will be made to the Article 60 of the Family Code including custody of children being given to close relatives or the state after a judicial decision if "mental illness is found in both parents". *Azeri-Press Agency (APA) LLC* stated that,

"If the mental illness is found only in one parent, then custody of the child is granted to Another parent. Parental right is given back, after the treatment of sick parent is completed and doctor confirms that he/she is healthy. The draft law is expected to put up for discussion at the parliament by the end of this year."⁷⁵

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that medical staff are often forced to discharge patients knowing that their families may reject them following their treatment in hospital,

"There are many examples when family members reject to accept their mentally ill patients back home after termination of their treatment in hospital. In such situation both doctors and hospital administration experience un-decidable problem to discharge a patient regardless a high probability that he or she will stay on the streets or to keep a patient in mental hospital without medical indications. In both cases it is a violation of patient's human rights and medical ethics."⁷⁶

2.2 Criminal Justice

2.2.1 Treatment of criminal suspects suffering from mental health conditions

Article 25 of the *Civil Code of the Republic of Azerbaijan* states that the ability of a person to possess civil rights and be liable for civil obligations or "civil legal capacity" is recognised equally for all "natural persons" , defined as "an individual participating in legal relationships on his own behalf",

"Article 25. Civil Legal Capacity of a Natural Person

25.1. The civil legal capacity of a natural person is the ability of a person to possess civil rights and be liable for civil obligations. Civil legal capacity is recognized equally for all natural persons.

⁷⁴ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁷⁵ Azeri-Press Agency (APA) LLC, Parents with mental illness can be deprived of parental right in Azerbaijan, 9 February 2013, <http://en.apa.az/news/187567>, accessed 25 January 2014

⁷⁶ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

25.2. Legal capacity for a natural person arises from the moment of birth and ceases to exist upon the moment of death. The moment of death is the moment of termination of brain activity.

25.3. The right to inherit arises from the moment of conception; however, the exercise of this right is possible only after a natural person's upon birth.

25.4. A natural person may not be deprived of his legal capacity."⁷⁷

According to Article 92.3.2. of the *Criminal Procedural Code* if the suspect or the accused cannot exercise the right to defend himself independently because of "serious chronic illness, mental incapacity or other defects" the participation of defense counsel shall be ensured.⁷⁸

According to Article 153.2.10 of the *Criminal Procedural Code* the officials of the prosecuting authority and those in charge of the temporary detention facility shall not treat the detainee in a way that fails to respect his personality or dignity, and pay special attention to those with disabilities.⁷⁹

According to Article 229 of the *Criminal Procedural Code* [] If a witness suffers from a mental or other serious illness, the interview shall be held with the permission and the participation of a doctor.⁸⁰

In February 2013 the initial report submitted by the government to the *UN Committee on the Rights of Persons with Disabilities (CRPD)* regarding the implementation of the Convention on the Rights of Persons with Disabilities stated that "all citizens of the Republic of Azerbaijan are equal before law and law court", the rights and legal interests of persons with disabilities and children with impaired health in court are guaranteed by the state. The *UN Committee on the Rights of Persons with Disabilities (CRPD)* requested that the state report on measures taken to ensure that persons with disabilities enjoy equal legal capacity, "in particular such measures as to ensure the equal right of persons with disabilities to maintain their physical and mental integrity, full participation as citizens, own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and their right not to be arbitrarily deprived of their property".⁸¹

In February 2013 the initial report submitted by the government to the *UN Committee on the Rights of Persons with Disabilities (CRPD)* regarding the implementation of the Convention on the Rights of Persons with Disabilities stated that the court will establish a "guardianship" for those who do not have legal capacity as result of "mental retardation or mental disease",

"The court may also declare natural persons who suffer from mental retardation or mental disease as not having legal capacity and are, therefore, unable to understand the meaning of their actions or to manage such actions. A guardianship shall be established for such persons. Upon recovery or substantial improvement of the health of a person previously

⁷⁷ Civil Code of the Republic of Azerbaijan, Article 25, available at https://s3.amazonaws.com/landesa_production/resource/773/Azerbaijan-Civil-code_2000.pdf?AWSAccessKeyId=AKIAICR3ICC22CMP7DPA&Expires=1392238470&Signature=8uneR6OJA%2B3IR4qTiWFTOF1da0%3D, accessed 12 February 2014

⁷⁸ Code of Criminal Procedure of the Azerbaijan Republic, Adopted on 14 July 2000, available at https://www.unodc.org/tldb/pdf/Azerbaijan_Code_of_Criminal_Procedure_Full_text.pdf, accessed 18 January 2014

⁷⁹ Code of Criminal Procedure of the Azerbaijan Republic, Adopted on 14 July 2000, available at https://www.unodc.org/tldb/pdf/Azerbaijan_Code_of_Criminal_Procedure_Full_text.pdf, accessed 18 January 2014

⁸⁰ Code of Criminal Procedure of the Azerbaijan Republic, Adopted on 14 July 2000, available at https://www.unodc.org/tldb/pdf/Azerbaijan_Code_of_Criminal_Procedure_Full_text.pdf, accessed 18 January 2014

⁸¹ United Nations Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest Attainable standard of physical and mental health, Addendum : Mission to Azerbaijan (16–23 May 2012), 3 May 2013, A/HRC/23/41/Add.1, available at <http://www.refworld.org/docid/51a73f5c4.html>, accessed 25 January 2014

declared as not having legal capacity, a court shall declare such person as having legal capacity and the guardianship established for such person shall be terminated by court order. An individual may not be deprived of his legal capacity in any circumstances. An individual's legal capacity and capability may be limited only in those cases and in accordance with the procedures provided by law.

[] At the request of an adult having legal capacity, who, due to health conditions, cannot independently exercise and protect his rights and perform obligations, patronage may be established over such person. The establishment of patronage does not restrict limit the rights of a natural person."⁸²

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that "forensic psychiatric examination" is provided by the Ministry of Health for all mentally ill criminal suspects. If the suspect's mental health condition prevents them from participation in a trial or from "post-conviction imprisonment" they are relieved of responsibility and provided with compulsory in-patient or out-patient treatment.⁸³

2.2.2 *Ill-treatment of individuals suffering from mental health conditions in prisons and other detention facilities (police stations etc.)*

The Addendum to the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan also stated that "the tendency to incarcerate people with mental disorders based on a misconception that they are a danger to the public; the failure of treatment and rehabilitation or the lack of mental health care outside of prisons; and conditions within the prison environment, including experiences of violence and lack of meaningful activity" all have a negative effect on prisoners mental health and contribute to the need for mental health care. Mental illness also often remains undiagnosed or untreated making successful integration into the prison population, and into the community after release, less likely. Mental health in the prison system is allocated very little funding but a pilot programme in the main prison in Baku has recently contracted non-governmental organizations to give "psychological consultations" to inmates.⁸⁴

On 3 May 2013 the Addendum to the report of the UN *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* on his 2012 Mission to Azerbaijan stated that mental illness and suicide were "highly prevalent" in prisons and factors relating to imprisonment were detrimental to prisoners' mental health but that mental health care in prisons in Azerbaijan was "virtually non-existent" and required prisoners to be transferred to facilities outside the prison or obtain care through the Ministry of Health. The Special Rapporteur stated that on two occasions during the mission he was informed by senior prison administrators that mental health did not concern them as their inmates did not suffer from mental illness. He was also informed that mental health workers were employed only as part-time staff.⁸⁵

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that recent reform of penitentiary system

⁸² United Nations Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest Attainable standard of physical and mental health, Addendum : Mission to Azerbaijan (16–23 May 2012), 3 May 2013, A/HRC/23/41/Add.1, available at <http://www.refworld.org/docid/51a73f5c4.html>, accessed 25 January 2014

⁸³ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁸⁴ United Nations Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest Attainable standard of physical and mental health, Addendum : Mission to Azerbaijan (16–23 May 2012), 3 May 2013, A/HRC/23/41/Add.1, available at <http://www.refworld.org/docid/51a73f5c4.html>, accessed 25 January 2014

⁸⁵ United Nations Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest Attainable standard of physical and mental health, Addendum : Mission to Azerbaijan (16–23 May 2012), 3 May 2013, A/HRC/23/41/Add.1, available at <http://www.refworld.org/docid/51a73f5c4.html>, accessed 25 January 2014

had "significantly improved the situation in prisons" regarding ill-treatment of individuals suffering from mental health conditions and that there was "no evidence of maltreatment in police stations,"

"In the past years there were facts of mistreatment of individuals suffering from mental disorders. The recent reform of penitentiary system significantly improved the situation in prisons in this respect. There is no evidence of maltreatment in police stations. According to the regulations in case of detention of a person with mental conditions police officers should contact immediately with mental health team at medical emergency station."⁸⁶

2.3 Housing

In February 2013 the initial report submitted by the government to the *UN Committee on the Rights of Persons with Disabilities (CRPD)* regarding the implementation of the Convention on the Rights of Persons with Disabilities stated that the Law of the Republic of Azerbaijan "On prevention of disabilities and impaired health of children and rehabilitation and social protection of the disabled and children with impaired health" states that executive power bodies in the Republic of Azerbaijan "provide necessary conditions for unimpeded access of persons with disabilities and children with impaired health to housing".⁸⁷

3. Children

Article 43 of the 1997 *Law on Public Health* states that diagnoses of "mental lagging" in children are made by Psikhologo, the medico-pedagogical commission. Parents have the right to be present during assessments and to discuss the results afterwards,

"Article 43-1. Psikhologo - the medico-pedagogical commission

Carrying out diagnostics of physical failure, mental and (or) mental lagging at children, decision making about attraction them on this establishment to vocational education, provision to their parents or other legal representatives of the conforming consultations, performs treating of matters of argument permanently functioning psikhologo - the medico pedagogical commission framed by relevant organ of the executive authority.

Parents or other legal representatives of persons with limited possibilities of health have the right to be present in case of the inspection which is carried out psikhologo - the medico pedagogical commission, and discussion of results of inspection."⁸⁸

In April 2012 Azerbaijani news agency *TODAY.AZ* reported that internet social networks "threatened children's psychological and moral development" according to a statement made by Huseyn Aliyev, head of the Department of Preventive Work with Juveniles, Baku Head Police Department of the Interior Ministry, at a conference on 'violence against children' earlier that month,

"Every day children's interest in the social networks is increasing, and this becomes unhealthy. Despite the fact that most young people use social networks to enhance knowledge and skills, some are visiting such networks as Facebook, Odnoklassniki and

⁸⁶ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁸⁷ UN Committee on the Rights of Persons with Disabilities (CRPD), Implementation of the Convention on the Rights of Persons with Disabilities : initial reports submitted by States parties under article 35 of the Convention : Azerbaijan, 7 February 2013, CRPD/C/AZE/1, available at: <http://www.refworld.org/docid/52402e064.html>, accessed 28 January 2014

⁸⁸ Republic of Azerbaijan, Law on Psychiatric Help 2001, available at <http://cis-legislation.com/document.fwx?rgn=2602>, accessed 16 February 2014

Twitter and watch erotic and pornographic materials which adversely affects their mental, psychological and moral development," said Aliyev.

He said that young girls by taking advantage of lack of parental controls are falling under the influence of the opposite sex resulting in them becoming acquainted and communicating online. Ultimately, this dating leads to sexual violence and over time these girls become victims of trafficking."⁸⁹

In 2013 *The International Federation of the Red Cross and Red Crescent* reported that mentally and physically disabled children were one its primary target groups in Azerbaijan.⁹⁰

In February 2013 the initial report submitted by the government to the *UN Committee on the Rights of Persons with Disabilities (CRPD)* regarding the implementation of the Convention on the Rights of Persons with Disabilities stated that Article 2 of the Law of the Republic of Azerbaijan "On prevention of disabilities and impaired health of children and rehabilitation and social protection of the disabled and children with impaired health" states that the term "children with impaired health" has now replaced the word "disabled". Children with impaired health are seen as having limited life activities displayed as a total or partial loss of self-service, mobility, orientation, communication, control of behaviour, as well as education and employment skills sometimes as result of "mental defects arisen from birth, sickness or injury" and may require social assistance or protection⁹¹

In March 2013 Azerbaijani news agency *Trend* reported that a "national community model on social integration" for children with special needs was in development in the Garadagh region of Sahil, the aim of which was to "create opportunities for independent life through exposing abilities". of children, using therapeutic, psycho-social and medical care services and an "inclusive education system". The program had been implemented by "Holcim" and the Rehabilitation Center for Disabled Children - "Musfiq" in Sahil over the past ten years and offered professional training in fields including carpet weaving and "small publishing activities". *Trend* reported that the centre is "equipped with PORTEC as early intervention system for disabled children" and assisted children in continuing their public school education, and in the "deinstitutionalization process" of families with children with special care needs are improved.⁹²

On 14 January 2014 private Azerbaijani news agency *Azeri-Press Agency (APA) LLC* reported that Parliament plans discuss a "long-delayed" draft law on the "liberalisation" of punishments for juveniles, juvenile prosecutors, courts and lawyers on juvenile crimes later in the year. *APA* stated that study of international practice and consultation with "experts of international organizations" were used in the development of the draft law.⁹³

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that existing policy contains "many provisions for children with special needs" but that "the main problem is inadequate number of child mental health professionals in the country".⁹⁴

⁸⁹ TODAY.AZ , Social networks threat children' psychological and moral development, 16 April 2012, <http://www.today.az/news/society/105489.html>, accessed 25 January 2014

⁹⁰ The International Federation of the Red Cross and Red Crescent, Azerbaijan Long Term Planning Framework 2014, adore.ifrc.org/Download.aspx?FileId=22065, accessed 25 January 2014

⁹¹ UN Committee on the Rights of Persons with Disabilities (CRPD), Implementation of the Convention on the Rights of Persons with Disabilities : initial reports submitted by States parties under article 35 of the Convention : Azerbaijan, 7 February 2013, CRPD/C/AZE/1, available at: <http://www.refworld.org/docid/52402e064.html>, accessed 28 January 2014

⁹² Trend, Social integration program for children with special needs implemented in Azerbaijan, 14 March 2013, <http://en.trend.az/news/society/2129426.html>, accessed 17 March 2014

⁹³ Azeri-Press Agency (APA) LLC, Azerbaijan to have juvenile prosecutors, courts and lawyers, 14 January 2014, http://en.apa.az/xeber_azerbaijan_to_have_juvenile_prosecutors_205589.html, accessed 25 January 2014

⁹⁴ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

3.1 Education

In October 2012 Azerbaijani news agency *Trend* reported that “gender education lessons” would be given to senior pupils in secondary schools as part of an amendment to the law on Protection of Reproductive Health and Family Planning, in order to resolve the “problem” of mentally ill people marrying, leading to unhappy marriages,

“Gender education must be held among minors in Azerbaijan, member of the committee on Social policy of the Azerbaijani Parliament Elmira Akhundova told *Trend* today. [] Besides gender education, family planning must be also discussed. She added that mentally ill people, the disabled, drug addicts marry. This leads to unhappy marriages. Gender education must be held to resolve this problem.”⁹⁵

In June 2013 the *International Organisation for Migration* stated that two special schools managed by the Ministry of Education and Ministry of Health for children registered as “persons with mental disorders” exist and pupils board there is subsidised by the Special Medical and Pedagogical Commission.⁹⁶

In its June 2013 concluding observations, the *UN Committee on Economic, Social and Cultural Rights (CESCR)* stated that it remained concerned by the high dropout rates of children with disabilities and the lack of trained teachers and services to facilitate their inclusion, particularly in schools. The Committee recommended that the State should ensure the right to education to children with disabilities and requested that it include statistics on the number of schools that enrolled students with disabilities in urban and rural regions in its next periodic report.⁹⁷

3.2.1 Discrimination and ill-treatment of children suffering from mental health conditions by education professionals

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that inclusive education remains “a great challenge” and there are “no well-developed services specifically for children with Attention Deficit Hyperactivity Disorder, dyslexia and Autistic Spectrum Disorder.”⁹⁸

3.2 Orphanages

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that UNICEF had reported “some evidence of maltreatment of children in special institutions” in 2004 but that in the past ten years this had “been improved significantly”.⁹⁹

⁹⁵ Trend, Azerbaijani schools to have gender education lessons, 29 October 2012, <http://en.trend.az/news/society/2081589.html>, accessed 27 January 2014

⁹⁶ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MLo-DB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_aserbaidshandl_en.pdf?blob=publicationFile, accessed 25 January 2014

⁹⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the 3rd periodic report of Azerbaijan, adopted by the Committee at its 50th session, 29 April-17 May 2013 : Committee on Economic, Social and Cultural Rights , 5 June 2013, E/C.12/AZE/CO/3, available at: <http://www.refworld.org/docid/52d541624.html> , accessed 28 January 2014

⁹⁸ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

⁹⁹ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

4. The use of forced treatment or institutionalization as a punitive measure

4.1 Abuse of provisions on forced confinement to mental health institution

In an interview with CORI in March 2014 Professor Fuad Ismayilov, Director of the National Mental Health Center of the Ministry of Health in Baku reported that instructions to mental health staff specifying that any means of physical restraint and seclusion may only be used for a "very short time by nurses and orderlies with a doctor's authorization" and recorded with the doctor's name and signature. Each instance should also be investigated afterwards.¹⁰⁰

4.1.1 On the basis of a person's political opinions

In an interview with CORI in March 2014 Professor Fuad Ismayilov, Director of the National Mental Health Center of the Ministry of Health in Baku reported that "no psychiatric abuse related to political opinions have been ever observed in Azerbaijan"¹⁰¹

4.1.2 On the basis of a person's religion or religious practices

In an interview with CORI in March 2014 Professor Fuad Ismayilov, Director of the National Mental Health Center of the Ministry of Health in Baku reported that "religious practices have never been a cause of mistreatment."¹⁰²

4.1.3 On the basis of other grounds not related to the person's mental health needs

During the timeframe of this research we were unable to identify information concerning the use of forced treatment or institutionalization as a punitive measure within the sources consulted.

5. Societal attitudes and discrimination by members of society / non-state agents

5.1 Ostracization, stigmatization

In 2012 the *USDOS Human Rights Report* stated that children with disabilities were still often thought of as "ill", and in need of separation and institutionalisation. Campaigns aimed at challenging these perceptions through education and ending the separation children with disabilities were facilitated by a number of international and local NGOs.¹⁰³

In an undated report the NGO *Central Asian Research and Development (CARD)* stated that it provided music, painting, and other craft classes at the Ganja Psychiatric Hospital "one of the main

¹⁰⁰ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹⁰¹ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹⁰² CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹⁰³ US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012, Azerbaijan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 9 January 2014

psychiatric care facilities for Western and Central Azerbaijan" containing four wards with roughly 147 residents,

"[] we have regular interactions with the patients reminding them of skills, talents, and interests they had before coming to the hospital. We also organize special events at some holidays to help bring an extra touch of vitality to their lives."¹⁰⁴

The *Central Asian Research and Development (CARD)* also stated that it worked with the hospital doctors to identify which patients were ready to be discharged as some remained longer than necessary due to their families not being able to support them financially or uncertainty over "what their return home could mean". *CARD* stated that mental health care continued to be a developing area in Azerbaijan and had a "low profile" within the health sector.¹⁰⁵

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that "stigmatisation and self-stigmatisation" were very common and often resulted in patients and their families avoiding official mental health services,

"Stigmatization and self-stigmatization are still very common in our country. Many people believe that mental diseases are incurable and psychiatric patients are portrayed as unpredictable and dangerous. The families with such ill members try to hide mental health problems because they believe it would damage their reputation and negatively influence family's well-being in general. Due to stigma accompanying psychiatric disorders patients and their families avoid applying to the official mental health services."¹⁰⁶

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku also reported that mental illness is "conceived as an illness of soul or madness" to which there is a genetic predisposition, making marriage into a family with a mentally-ill member "undesirable",

"There is no single definition of a mental health in Azerbaijan. In the most of cases talking of mental health means just an absence of mental illness. At the same time a mental health is considered as an inner balance, positive mood, stable interpersonal relationships, ability to manage the everyday activities as well as to adhere to the conventional standards. In general mental health is considered as less important than physical health.

Mental illness is conceived as an illness of soul or madness. As biological aspect of mental illness, the social attitude admits a genetic predisposition. That is why marriage with a representative of a family with mentally-ill member is undesirable. The other cultural concepts of mental illness include a fright or stressful events, brain injuries, poisoning and supernatural causes. It is unlikely that common mental disorders such as depression, anxiety disorders, PTSD, etc. are perceived as a mental illness. The concept of "mental illness" is related to only severe mental disorders."¹⁰⁷

5.2 Employment

In 2012 the *USDOS Human Rights Report* stated that discrimination against "persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services" is prohibited by

¹⁰⁴ Central Asian Research and Development (CARD), Mental Health Program, undated, <http://www.card.org.uk/programs/mentalhealth-program>, accessed 17 January 2014

¹⁰⁵ Central Asian Research and Development (CARD), Mental Health Program, undated, <http://www.card.org.uk/programs/mentalhealth-program>, accessed 17 January 2014

¹⁰⁶ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹⁰⁷ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

law but that these provisions were not sufficiently enforced in practice and that employment discrimination in particular remained problematic. The protection of the rights of persons with disabilities were the responsibility of the Ministries of Health, and Labor and Social Welfare.¹⁰⁸

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that those who disclose mental illness "will face many difficulties in accessing or maintaining employment" despite non-discrimination provisions included in the legislation.¹⁰⁹

6. Availability of mental health care

6.1 Availability of appropriate mental health care

In February 2013 the initial report submitted by the government to the *UN Committee on the Rights of Persons with Disabilities (CRPD)* regarding the implementation of the Convention on the Rights of Persons with Disabilities stated that the Regional Information Centers in Ganja and Nakhchivan city are equipped with video game rooms for mentally impaired people to aid mental development.¹¹⁰

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that psychiatrists' offices in out-patient clinics, psychiatric departments in hospitals, out-patient psychiatric facilities and specific psychiatric hospitals form the basis of mental health care provision and that there had been recent efforts to develop primary mental health care,

"The principal mental health care providers are psychiatrists' offices in out-patient clinics (in each administrative district of the country), psychiatric departments within general hospitals -2, out-patient psychiatric facilities -8, and psychiatric hospitals -11. Some of psychiatric hospitals have day-care units. Along with the named governmental facilities there are several private centers providing mental health care. Recently great efforts have been undertaken to develop mental health care at primary healthcare level" ¹¹¹

6.1.1 Availability in the capital and other urban centres

In June 2010 the *Commissioner for Human Rights of the Council of Europe* stated that the psychiatric hospital in Nakhchivan City, "appeared in general to be in a satisfactory state of repair and cleanliness" and could accommodate a total of 170 patients with separate wards for men and women with "mental disorders", a ward for drug addicts and a ward for outpatients. Patients spent the majority of their time in their rooms, equipped with basic beds and chairs, but could also use a room a television. The Commissioner recommended therapeutic activities and outdoor exercise be offered to patients.¹¹²

¹⁰⁸ US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012, Azerbaijan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> accessed 21 January 2014

¹⁰⁹ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹¹⁰ UN Committee on the Rights of Persons with Disabilities (CRPD), Implementation of the Convention on the Rights of Persons with Disabilities : initial reports submitted by States parties under article 35 of the Convention : Azerbaijan, 7 February 2013, CRPD/C/AZE/1, available at: <http://www.refworld.org/docid/52402e064.html>, accessed 28 January 2014

¹¹¹ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹¹² Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010, <https://wcd.coe.int/ViewDoc.jsp?id=1642017>, accessed 12 February 2014

In June 2013 the *International Organisation for Migration* stated that both general and specialised hospitals, including psychiatric hospitals, exist throughout the country in all big cities and most regions, although most are in Baku with others in Ganja and Sumgayit. Each regional centre has a general and a specialised hospital, all of which are public with services provided as part of the integrated system.¹¹³

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that psychiatric hospitals and psychiatric out-patient facilities were located in urban areas, including Baku and other cities throughout the country,

"Psychiatric hospitals and psychiatric out-patient facilities are located in urban areas. Two hospitals, one psychiatric department in general hospital and one out-patient mental health center are located in Baku while the other facilities are available in the other cities of the country. Modern community services are in the process of development"¹¹⁴

6.1.2 Availability in rural areas

In April 2012 the *Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC)* stated that there was often a lack of appropriate and accessible healthcare for IDPs in rural areas,

"Distance is also a factor affecting IDPs' access to medical services. Medical centres are not always located within the reach of IDPs living in rural areas, and with inadequate public transport infrastructure where they live, these IDPs have to pay for taxis to the nearest medical clinic or hospital, sometimes up to 20 kilometres away. In cases where medical centres are within reach, they do not always have the appropriate specialist or supplies. IDPs with complicated disorders must therefore travel further to access treatment. Since IDPs cannot always afford to visit the appropriate medical facility or buy all the medicines prescribed by their doctors, conditions and illnesses often go untreated.

[] there have been important new reforms to the health sector, new medical facilities have been constructed in some IDP settlements, incentives have been put in place to attract qualified medical staff to rural areas."¹¹⁵

In June 2013 the *International Organisation for Migration* stated that lack of health services in rural areas, particularly in remote villages in mountainous areas remained "a major problem", although most villages have intermediate hospitals or doctors nearby. Health facilities were described as under staffed and "over-capacity" throughout the system in both urban and rural areas.¹¹⁶

In its June 2013 concluding observations, the *UN Committee on Economic, Social and Cultural Rights (CESCR)* stated that it remained concerned by "inequalities in the enjoyment of the right to health in rural and urban areas and the absence of guaranteed medical coverage for all". *CESCR* also expressed concern over reported corruption in health care, in particular the practice the

¹¹³ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MILO-DB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_aserbajdschandl_en.pdf?__blob=publicationFile accessed 21 January 2014

¹¹⁴ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹¹⁵ Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) for consideration at the 49th session of the Committee on Economic, Social and Cultural Rights (21-25 May 2012) (Pre-Sessional Working Group) : Azerbaijan, 2 April 2012, available at: <http://www.refworld.org/docid/52d543f54.html> accessed 28 January 2014

¹¹⁶ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MILO-DB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_aserbajdschandl_en.pdf?__blob=publicationFile accessed 21 January 2014

practice of patients paying “non-official fees”, and the lack of monitoring of mental health services and recommended the State monitor mental health centres and services to ensure compliance with international standards and increase efforts to ensure health care for all.¹¹⁷

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that psychiatrist’s offices in district out-patient centers provide mental health services in rural areas.¹¹⁸

6.2 Costs and accessibility of treatment (both public and private)

In April 2012 the *Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC)* stated that despite recent measures, lack of finances still impedes access to health care for IDPs as they are often made to pay for treatment,

“Lack of finances is a key obstacle to accessing health services for the poor in Azerbaijan, where out-of-pocket expenditures constitute 73 per cent of total spending on health care. While IDPs are legally exempt from paying fees for treatment and most medicines, they are nevertheless often made to pay for them in practice. This discrepancy between the law and practice unduly burdens IDPs, although it should be noted that all citizens, whether displaced or not, are subject to informal fees in seeking health care.”¹¹⁹

In April 2012 the *Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC)* stated that the government had made efforts to improve IDPs’ access to health care,

“Article 10 of the May 1999 law On social protection of forcibly displaced persons and persons equated to them states that people with FDP status are entitled to medical services and some medications free of charge, while according to Article 6 of the 1999 law On status of refugees and forcibly displaced (persons displaced within the country) persons, certain categories of IDPs, such as the elderly, children, low-income individuals and families who have lost their main wage-earner are entitled to free medical treatment and medication. IDPs are also free to use any medical centre or hospital in the country.”¹²⁰

In June 2013 the *International Organisation for Migration* stated that the pharmaceutical department of Ministry of Health purchases and distributes drugs to hospitals and is also responsible for their quality control. Drugs are available free for in-patients but not for out-patient treatment, “except for cancer and some psychiatric diseases”. Drugs were reported to be comparatively expensive and the annual drug supply to only be sufficient for a 2–3 week period with some being completely unavailable. Patients can self refer or be referred by a member of staff in a primary medical care facility. It is not always possible for patients to choose their physician.

¹¹⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the 3rd periodic report of Azerbaijan, adopted by the Committee at its 50th session, 29 April-17 May 2013 : Committee on Economic, Social and Cultural Rights , 5 June 2013, E/C.12/AZE/CO/3, available at: <http://www.refworld.org/docid/52d541624.html> , accessed 28 January 2014

¹¹⁸ CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014

¹¹⁹ Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) for consideration at the 49th session of the Committee on Economic, Social and Cultural Rights (21-25 May 2012) (Pre-Sessional Working Group) : Azerbaijan, 2 April 2012, available at <http://www.refworld.org/docid/52d543f54.html> accessed 28 January 2014

¹²⁰ Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) for consideration at the 49th session of the Committee on Economic, Social and Cultural Rights (21-25 May 2012) (Pre-Sessional Working Group) : Azerbaijan, 2 April 2012, available at <http://www.refworld.org/docid/52d543f54.html> accessed 28 January 2014

Personal identity documents and a prescription are needed in both public and private clinics to access medical treatment.¹²¹

In an interview with CORI in March 2014 *Professor Fuad Ismayilov*, Director of the National Mental Health Center of the Ministry of Health in Baku reported that state facilities are free and accessible for all users, although there may be charges for some additional services. Treatment in private centers is covered by health insurance or paid for by the patient.¹²²

¹²¹ International Organisation for Migration, Country Fact Sheet Azerbaijan, June 2013, http://www.bamf.de/SharedDocs/MILO-DB/EN/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs_aserbaidischandl_en.pdf?__blob=publicationFile accessed 21 January 2014

¹²² CORI Interview with Professor Fuad Ismayilov, conducted via written correspondence in response to written questions, 18 March 2014