



CPT/Inf (2004) 36

**Report to the Azerbaijani Government  
on the visit to Azerbaijan  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
from 24 November to 6 December 2002**

The Azerbaijani Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2004) 37.

Strasbourg, 7 December 2004



**Report to the Azerbaijani Government  
on the visit to Azerbaijan  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 25 November to 6 December 2002**



**CONTENTS**

<b>Copy of the letter transmitting the CPT's report .....</b>	<b>5</b>
<b>PREFACE.....</b>	<b>7</b>
<b>I. INTRODUCTION .....</b>	<b>9</b>
<b>A. Dates of the visit and composition of the delegation .....</b>	<b>9</b>
<b>B. Establishments visited.....</b>	<b>10</b>
<b>C. Consultations held by the delegation and co-operation encountered.....</b>	<b>11</b>
<b>D. Context of the visit.....</b>	<b>12</b>
<b>E. Immediate observations under Article 8, paragraph 5, of the Convention .....</b>	<b>13</b>
<b>II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED.....</b>	<b>15</b>
<b>A. Establishments under the authority of the Ministry of Internal Affairs.....</b>	<b>15</b>
1. Preliminary remarks .....	15
2. Torture and other forms of physical ill-treatment.....	16
3. Safeguards against the ill-treatment of persons deprived of their liberty .....	21
a. introduction.....	21
b. notification of deprivation of liberty .....	21
c. access to a lawyer .....	22
d. access to a doctor.....	23
e. information on rights .....	24
f. conduct of police interviews.....	25
g. custody records .....	25
h. external inspections .....	26
4. Conditions of detention.....	27
a. introduction.....	27
b. temporary detention centres.....	27
c. cells at local police stations .....	30
d. reception and distribution centres.....	30
<b>B. Establishments under the authority of the Ministry of National Security.....</b>	<b>33</b>

<b>C.</b>	<b>Establishments under the authority of the Ministry of Justice.....</b>	<b>36</b>
1.	Preliminary remarks.....	36
2.	Ill-treatment.....	37
3.	Conditions of detention.....	38
a.	material conditions of detention.....	38
i.	<i>Investigative isolator No. 1, Bayil settlement, Baku</i> .....	38
ii.	<i>Investigative isolator No. 2, Ganja</i> .....	42
b.	activities.....	44
4.	Health-care services.....	45
a.	introduction.....	45
b.	health-care services in the investigative isolators visited.....	46
i.	<i>staff and facilities</i> .....	46
ii.	<i>medical screening on admission</i> .....	47
iii.	<i>medical files and confidentiality</i> .....	48
iv.	<i>tuberculosis</i> .....	49
c.	Specialised medical establishment No. 3 for prisoners suffering from tuberculosis, Bina settlement, Baku.....	50
d.	Central Penitentiary Hospital, Baku (psychiatric ward).....	52
5.	Other issues of relevance to the CPT's mandate.....	56
a.	staff.....	56
b.	contact with the outside world.....	57
c.	discipline.....	58
d.	complaints and inspection procedures.....	60
e.	Ministry of Internal Affairs operational staff.....	61
f.	transport of prisoners.....	62
<b>D.</b>	<b>Establishments under the authority of the Ministry of Health.....</b>	<b>63</b>
<b>E.</b>	<b>Establishments under the authority of the Ministry of Defence.....</b>	<b>65</b>
<b>F.</b>	<b>Establishments under the authority of the State Border Service.....</b>	<b>67</b>
<b>III.</b>	<b>RECAPITULATION AND CONCLUSIONS.....</b>	<b>69</b>
<b>APPENDIX I:</b>	<b>LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION.....</b>	<b>77</b>
<b>APPENDIX II:</b>	<b>LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS.....</b>	<b>93</b>

Copy of the letter transmitting the CPT's report

Strasbourg, 25 July 2003

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Azerbaijan drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Azerbaijan from 25 November to 6 December 2002. The report was adopted by the CPT at its 51<sup>st</sup> meeting, held from 1 to 4 July 2003.

I would like to draw your attention in particular to paragraph 202 of the report, in which the CPT requests the Azerbaijani authorities to provide an interim and a follow-up response on the action taken upon its report. The Committee would be grateful if it were possible, in the event of the responses forwarded being in Azerbaijani, for them to be accompanied by an English or French translation. It would also be most helpful if the Azerbaijani authorities could provide a copy of the responses in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully,

Silvia CASALE  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

**Mr Agshin MEHDIYEV**  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Azerbaijan to the Council of Europe  
15, quai Rouget-de-Lisle  
67000 Strasbourg



## PREFACE

The European Committee for the prevention of torture and inhuman or degrading treatment or punishment has deemed it appropriate to begin the first of its reports to each State by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of another Council of Europe supervisory body within the field of human rights, the European Court of Human Rights.

Unlike the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e., to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular, it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Court of Human Rights are:

- i) the Court has as its primary goal to ascertain whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Court has substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of its functions, the Court consists of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Court only intervenes after having been petitioned through applications from individuals or States. The CPT intervenes *ex officio* through periodic or ad hoc visits;
- v) the activities of the Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the Committee may issue a public statement on the matter.

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Azerbaijan from 25 November to 6 December 2002. The visit - the first to be carried out by the CPT to Azerbaijan - formed part of the Committee’s programme of periodic visits for 2002.

2. The visit was carried out by the following members of the CPT:

- Volodymyr YEVINTOV, Head of the delegation
- Antoni ALEIX CAMP
- Nikola MATOVSKI
- Marc NEVE
- Jean-Pierre RESTELLINI

and supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA
- Borys WÓDZ.

They were assisted by:

- Włodzimierz MARKIEWICZ (Lecturer at Poznan University, former Director General of the Polish Prison Administration), expert
- Catherine PAULET (Psychiatrist, Regional Medical and Psychological Service, Marseille, France), expert
- Chahla AGALAROVA (interpreter)
- Seymour BALAMMADOV (interpreter)
- Allahyar EYUBOV (interpreter)
- Nigar HUSSEYNOVA (interpreter)
- Svetlana YSSAZADE (interpreter).

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Internal Affairs

- Temporary detention centre No. 1 of the Police Directorate of the City of Baku
- Temporary detention centre No. 2 of the Police Directorate of the City of Baku
- Temporary detention centre of the Department for combating organised crime, Baku
- Special reception station of the Police Directorate of the City of Baku, Khatai District
- Reception and distribution centre of the Police Directorate of the City of Baku, Binagadi District
- Reception and distribution centre for minors of the Police Directorate of the City of Baku, Khatai District
- Police stations Nos. 5, 19, 21, 22 and 39, Baku
- Temporary detention centre of the Police Department of Ganja
- Police station of Nizami District, Ganja
- Temporary detention centre of the Police Division of Lenkoran
- Police station, Liman
- Temporary detention centre of the Police Division of Masalli

Establishments under the authority of the Ministry of National Security

- Investigative isolator of the Ministry of National Security, Baku

Establishments under the authority of the Ministry of Justice

- Investigative isolator No. 1, Bayil settlement, Baku
- Investigative isolator No. 2, Ganja
- Central Penitentiary Hospital, Baku (psychiatric ward)
- Specialised medical establishment No. 3 for prisoners suffering from tuberculosis, Bina settlement, Baku (unit for prisoners with multi-resistant tuberculosis)

Establishments under the authority of the Ministry of Health

- Centre for forensic psychiatric assessment, Psychiatric Hospital No. 1, Mashtaga settlement, Baku

Establishments under the authority of the Ministry of Defence

- Disciplinary unit (“hauptvacht”) of Baku Garrison
- Disciplinary unit (“hauptvacht”) of Ganja Garrison
- Disciplinary unit (“hauptvacht”) of Lenkoran Garrison

Establishments under the authority of the State Border Service

- Disciplinary unit (“hauptvacht”) for Border Guard servicemen and temporary detention centre for persons who have violated the border regime, Goytepe, Jalilabad region
- Disciplinary unit (“hauptvacht”) for Border Guard servicemen and temporary detention centre for persons who have violated the border regime, Lenkoran.

**C. Consultations held by the delegation and co-operation encountered**

4. In addition to meeting local officials at the establishments visited, the delegation held talks with the competent national authorities and with representatives of several international and non-governmental organisations active in areas of concern to the CPT. A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

5. The delegation’s meetings with the national authorities - both at the start and the end of the visit - took place in a spirit of close co-operation. The CPT is grateful for the time devoted to its delegation by Fikrat MAMMADOV, Minister of Justice, Ali INSANOV, Minister of Health, Aidyn GASIMOV, Deputy Minister of Justice and Head of the Main Department of Enforcement of Court Decisions, Oruj ZALOV, Deputy Minister of Internal Affairs, Zakir QARALOV, Prosecutor General, and Elmira SULEYMANOVA, Human Rights Commissioner. The delegation also welcomed the possibility to meet senior officials of the Ministries of Defence, Health, Internal Affairs, Foreign Affairs, Justice and National Security, as well as the Prosecutor’s Office and the State Border Service.

The delegation would like to put on record the efficient assistance provided to it before and during the visit by various contact persons designated by the Azerbaijani authorities, and in particular by Faig GURBANOV, Head of the Division for Human Rights at the Ministry of Justice.

6. The co-operation provided to the delegation by staff at the places of detention visited was of a very high standard. It was obvious that considerable work had gone into preparing the CPT’s visit and spreading information about the Committee and its mandate to relevant staff throughout the country. This facilitated the delegation’s work and, in particular, enabled it to have ready access to the places of deprivation of liberty visited, to move inside them without restriction and to speak in private with persons deprived of their liberty.

**D. Context of the visit**

7. The Azerbaijani authorities stated openly to the CPT's delegation that their country continued to face serious economic and social problems, many of which were related to the Nagorno-Karabakh conflict. Despite various efforts made by the authorities, these problems had negative repercussions on areas covered by the Committee's mandate. This has been borne in mind by the CPT, especially when considering material conditions of detention and activities offered to persons deprived of their liberty. Nevertheless, the Committee wishes to stress that armed conflict and economic and social problems can never justify deliberate ill-treatment.

8. The CPT's first visit to Azerbaijan took place nearly two years after the country's accession to the Council of Europe; accession had been preceded by a period of far-reaching legislative and structural changes. In particular, the transfer of responsibility for the country's prison system from the Ministry of Internal Affairs to the Ministry of Justice was completed in October 1999. Several legal texts of direct relevance to issues falling within the CPT's mandate were adopted in 1999 and 2000: new Criminal Code and Code of Criminal Procedure, as well as new Laws on the Police and on the Prosecutor's Office. Further, the appointment in July 2002 of the first Human Rights Commissioner (Ombudsperson) is an important institutional development which has the potential of reinforcing mechanisms for the protection of human rights of persons deprived of their liberty.

9. During the visit, numerous allegations were received from detained persons to the effect that they had been asked to pay money to police officers in return for release from custody, or to prison/medical staff in order to benefit from services normally provided for by law or be granted certain privileges. Discussions with police, prison and medical staff highlighted the daily difficulties experienced by them due to low remuneration and the harsh material conditions in which they work.

The CPT trusts that the Azerbaijani authorities will persevere in their efforts to combat corruption, through the adoption of specific legislation and the introduction of a global strategy based on prevention, education and the application of appropriate sanctions. **The Committee would like to be informed of steps taken to eradicate the problem of corruption in the criminal justice system and at places of deprivation of liberty (cf. also paragraphs 15 and 135).**

10. In the light of the facts found during the visit, the CPT makes a number of recommendations in this report. Some of them will not have important financial implications and could be implemented without delay. However, the implementation of others may require considerable budgetary expenditure which is most probably beyond the current financial capacity of the Azerbaijani authorities. The Committee recognises that it will be difficult to transform rapidly the current situation. Nevertheless, it must be kept in mind that the decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention.

The CPT is aware that certain initiatives have already been undertaken by various States on a bilateral basis, as well as within the framework of international organisations, with a view to assisting Azerbaijan. The Committee trusts that these efforts will be continued and intensified, and hopes that those offering assistance will take due account of the recommendations and other remarks set out in this report.

**E. Immediate observations under Article 8, paragraph 5, of the Convention**

11. At the end of its visit, the CPT's delegation held talks with representatives of the various Ministries and agencies concerned, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on three particularly urgent matters.

The first immediate observation concerned the *Temporary detention centre at Lenkoran*. Conditions of detention there amounted in the delegation's opinion to inhuman and degrading treatment: the cells were damp, cold, poorly lit, badly ventilated and rudimentarily equipped; the state of hygiene and maintenance was deplorable; the only food received by detainees was provided by their families. Some detainees had spent up to three weeks in such conditions. The delegation called upon the Azerbaijani authorities to take steps, without delay, to remedy these shortcomings.

The second immediate observation was made in respect of the disciplinary cells at *Investigative isolator No. 1 in Baku*. The cells in question were very small, rudimentarily equipped, deprived of access to natural light, and cold; they were unfit for holding persons for any length of time. The delegation therefore requested the Azerbaijani authorities to take the disciplinary cells at Investigative isolator No. 1 in Baku out of service, and to provide more suitable alternative facilities for the serving of disciplinary sanctions.

The third immediate observation concerned the *Unit for forensic psychiatric assessment at the Republican Psychiatric Hospital in Mashtaga*. At the time of the visit, persons undergoing assessment (which could last for a month or even longer) were being denied outdoor exercise. The delegation called upon the Azerbaijani authorities to take immediate steps to ensure that all persons undergoing forensic psychiatric assessment whose health condition permits are offered at least one hour of outdoor exercise on a daily basis.

12. The above-mentioned immediate observations were subsequently confirmed in a letter of 20 December 2002 from the President of the CPT. The Committee requested the Azerbaijani authorities to provide, within three months, a report on the action taken in response to those observations.

The CPT also asked to receive confirmation, within three months, that the disciplinary punishment cell at Investigative isolator No. 2 in Ganja had been fitted with a windowpane, and that the remainder of the cells in the disciplinary unit (which were said to be unused at the time of the visit) had been withdrawn from service.

Further, the delegation re-iterated its request to be provided as soon as possible with: i) a copy of Order No 428/2001 by the Minister of Internal Affairs concerning the holding of persons at temporary detention centres and their transfer; ii) precise information on the circumstances of the death of a detained person at the temporary detention centre in Lenkoran in October 2002.

13. By letters of 5 February and 2 April 2003, the Azerbaijani authorities informed the CPT of measures taken in response to the observations made at the end of the visit. Those measures will be considered later in the report. Nevertheless, the Committee would like to welcome already at this juncture the positive spirit in which the Azerbaijani authorities took note of and reacted to its delegation's observations. The speed and efficiency with which certain improvements were made – even before the delegation had left the country – are particularly noteworthy (cf. paragraph 126).



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of Internal Affairs

#### 1. Preliminary remarks

14. The detention of persons suspected of criminal offences is governed by the Code of Criminal Procedure (CCP), in force since 1 September 2000.

Pursuant to the CCP, a criminal suspect may be held by the police on their own authority for up to 48 hours. Within 24 hours of detention, a decree on the instigation of a criminal case must be issued and transmitted to the prosecutor. Within the following 24 hours, an inquiry officer or an investigator must decide whether or not to bring criminal charges. By the expiry of the 48-hour period, every person against whom charges have been brought should be presented to a judge who decides whether that person is to be remanded in custody, made subject to another preventive measure or released. Persons remanded in custody should be transferred to an investigative isolator under the Ministry of Justice or the Ministry of National Security within 24 hours of the judge's decision. Consequently, a criminal suspect may spend up to 72 hours in police custody.

15. Senior officials of the Ministry of Internal Affairs affirmed that there was no possibility in law to prolong the above-mentioned 72-hour limit. However, the delegation gathered ample evidence to the effect that criminal suspects in practice spent much longer periods in police establishments. The examination of police custody records as well as inmates' personal files at the investigative isolators visited brought to light recent stays of up to several weeks at police establishments (e.g. 36 days at the 19<sup>th</sup> police station in Nasymir District in Baku; 28 days at the temporary detention centre No. 1 of the Police Directorate of the City of Baku; 23 days at the temporary detention centre of the Department for combating organised crime in Baku).

The delegation received a variety of explanations for these prolonged stays. In some cases, a special authorisation had been issued by an investigator, a prosecutor or a senior official of the Ministry of Internal Affairs to hold the person concerned for further investigation. In others, the distance to the investigative isolator and the fact that transfers of detainees took place once every 10 days was invoked as a reason.

The practices described above would appear to be at variance with the relevant provisions of the Code of Criminal Procedure, and they certainly entail a heightened risk of ill-treatment. It should also be noted in this context that some detainees interviewed by the delegation claimed that police officers had asked for money in order to drop the charges against them and arrange their release.

**The CPT recommends that the Azerbaijani authorities take urgent steps to ensure that the legal provisions on the duration of police custody are respected in practice and that persons remanded in custody are transferred promptly to investigative isolators. The Committee also recommends that the Azerbaijani authorities deliver to police staff the clear message that abusing their position to obtain money from detained persons will be the subject of severe sanctions.**

16. The delegation was informed that, in accordance with Order No. 428/2001 by the Minister of Internal Affairs, criminal suspects who are remanded in custody may be transferred back from an investigative isolator to a temporary detention centre when necessary for the purposes of the investigation or court proceedings. Such transfers should not last for more than 10 days at a time. However, evidence was found at the temporary detention centres visited that persons had spent up to a month there after being transferred from an investigative isolator.

**The CPT would like to receive the comments of the Azerbaijani authorities on this matter.**

17. Pursuant to the Code of Administrative Offences, the police may keep for up to 3 hours persons suspected of administrative offences (e.g. violations of passport control regulations, lack of address registration, hooliganism, etc.). If found guilty, such persons may be placed under administrative arrest for up to 15 days, a period which is served in temporary detention centres run by the police.

It transpired that the 3-hour period was often used by the police to detain and question persons who in fact were suspected of criminal offences, before a protocol of detention had been drawn up (the 3 hours thus being added to the 48 hours available to the police to bring criminal charges). Further, the delegation heard allegations – and found evidence – that administrative arrest was exploited by the police in order to prolong the time available for questioning criminal suspects.

**The CPT recommends that steps be taken to stamp out the above-mentioned practices.**

## **2. Torture and other forms of physical ill-treatment**

18. In the course of the visit, the delegation received numerous allegations of physical ill-treatment of persons detained by the police. The majority of these allegations related to the time of questioning by police officers, with a view to extracting confessions or gathering other information. In some cases, ill-treatment was said to have been inflicted also at the time of apprehension.

On the other hand, hardly any allegations were received of ill-treatment by custodial staff working in temporary detention centres.

19. It is noteworthy that certain persons who stated that they were not ill-treated attributed the absence of ill-treatment in their cases to the fact that they had immediately confessed to the offences of which they were suspected. The CPT was also very concerned to note that a number of persons interviewed while in police custody were clearly reluctant to talk to its delegation or to be medically examined, apparently out of fear of the possible repercussions.

20. The types of ill-treatment alleged mainly concerned slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. In some cases, the severity of the ill-treatment alleged – such as the infliction of electric shocks, blows struck on the soles of the feet, blows to the body while the person concerned was handcuffed in a suspended position – was such that it could be considered as amounting to torture.

Further, several persons gave accounts of different forms of humiliation and threats to use physical force (including sexual violence) against them or their relatives, in order to make them confess to a crime or provide information.

21. Certain of the persons who made allegations of ill-treatment were found on examination by medical members of the delegation to display physical marks or conditions consistent with their allegations. By way of illustration, reference might be made to the following cases:

- a person interviewed by the delegation at a temporary detention centre in Baku alleged that, following his apprehension two days previously, he had been taken to a local police station and hit in the face by police officers who wanted him to confess to an offence. When the person concerned asked to see a lawyer, a policeman apparently punched him in the face. The medical examination revealed: a haematoma under the right eye, violet in colour, measuring 3 cm by 2.5 cm; a swelling around the right eye; swelling of the nose; sharp pain on palpation of the bridge of the nose. Possible diagnosis: fractured nose;
- another person interviewed by the delegation at Investigative isolator No. 1 in Baku alleged that, two months previously, he had been detained at a local police station in Baku for four days and beaten repeatedly with truncheons, kicked and punched with fists all over the body. Further, the person concerned alleged that two policemen had sat on his feet and, using a pair of pincers, had extracted the nail of the big toe of his right foot. The medical examination of the person concerned revealed that the nail of the first toe of the right foot had indeed been removed. At the time of examination, there was a new nail growth of about 4 mm. The clinical examination suggests that the person concerned had suffered a traumatic removal of the nail of the first toe of the right foot approximately two months previously;
- a person interviewed by the delegation at Investigative isolator No. 2 in Ganja alleged having been held for twelve days at a local police station two and a half months previously. There the person concerned was apparently kicked, hit with fists, lashed with a belt on the body, and hit with a truncheon on the head through a book. The person concerned also alleged having received electric shocks after having being made to lie on a wet floor. Upon medical examination, the person concerned displayed: threadlike scars on the back, stretching from the armpit upwards and inwards at an angle of 45°, which were 3.5 cm long on the right side and 7.5 cm long on the left side. These injuries are consistent with the person's allegations of having been hit with a belt on the body.

Further, it should be noted that in a number of cases, the delegation found medical evidence in the documentation kept at the investigative isolators visited which was consistent with allegations of police ill-treatment made by persons interviewed.

22. In the light of all the information at its disposal, the CPT is led to conclude that persons deprived of their liberty by the police in Azerbaijan run a significant risk of being ill-treated while in police custody (in particular when being interrogated), and that on occasion resort may be had to severe ill-treatment/torture.

23. Various steps have been taken by the Azerbaijani authorities in recent years to combat the problem of ill-treatment (e.g. the adoption of new legislation which prohibits such treatment, the introduction of the institution of the Human Rights Commissioner, etc.). Notwithstanding these efforts, senior officials met by the delegation confirmed that ill-treatment by the police continued to be a problem.

The Deputy Minister of Internal Affairs himself acknowledged that the police unfortunately committed violations in the area of human rights, and that efforts were being made to eliminate ill-treatment. These efforts included the setting up at the Ministry of a Department of Internal Investigation. The delegation was also provided with information concerning the number of criminal and disciplinary sanctions imposed on Internal Affairs staff in 2000, 2001 and the first nine months of 2002. The CPT is grateful for this information; however, it does not show the proportion of cases which relate to ill-treatment (as opposed to other forms of misconduct).

In order for the CPT to obtain a full picture of the current situation, **the Committee would like the Azerbaijani authorities to supply information, in respect of 2002 and 2003, on:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following such complaints.**

**The CPT would like to receive detailed information on complaints procedures applied in cases involving allegations of ill-treatment by the police, including the safeguards incorporated to ensure their objectivity. The Committee would also like to receive similar information on the disciplinary procedures applied in such cases.**

24. Later in this report, the CPT will recommend some strengthening of formal safeguards against the ill-treatment of persons detained by the police (cf. paragraphs 28 et seq.). However, it should be emphasised that legal and other technical safeguards - while important - will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers themselves. This implies strict selection criteria at the time of recruitment of such staff and the provision of adequate professional training. As regards the latter, the Azerbaijani authorities should seek to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects. This will prove more effective than separate courses on human rights.

Training should be pursued at all levels of the police, and should be ongoing. It should seek, inter alia, to put across and develop two points: firstly, that all forms of ill-treatment are an affront to human dignity and, as such, are incompatible with the values enshrined in the Azerbaijani Constitution as well as in many international instruments ratified by and binding upon Azerbaijan; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from a security standpoint.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, persons in police custody, i.e. interpersonal communication skills. The possession of such skills will often enable police officers to defuse situations which might otherwise become violent.

Consequently, **the CPT recommends:**

- **that a very high priority be given to professional training for police officers of all ranks and categories, including training in modern investigation techniques. Experts not belonging to the police force should be involved in this training;**
- **that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that, during their training, considerable emphasis be placed on acquiring and developing interpersonal communication skills.**

**The CPT also recommends that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.**

25. Another effective means of preventing ill-treatment by police officers lies in the diligent examination by the judicial authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect.

In this connection, the CPT greatly welcomes the fact that all persons in respect of whom the preventive measure of remand in custody is applied are physically brought before the judge who must order that measure. This provides a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the judge enables the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred.

**The CPT recommends that whenever criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.**

**It is also important that persons who are released from police custody without being brought before a judge have the right to directly request a medical examination/certificate from a doctor who has received recognised training in forensic medicine.**

26. A significant contribution to the prevention of ill-treatment by the police can also be made by prison health-care services, through the systematic recording of injuries borne by newly arrived prisoners and, when appropriate, the provision of information to the relevant authorities.

However, the observations made by the CPT's delegation suggest that the procedure as regards the recording of injuries observed upon arrival at the investigative isolators of the Ministries of Justice and National Security could be improved (cf. paragraphs 110 and 111 for a description of the procedure). Only brief entries concerning injuries observed upon arrival were being made, without any indication of statements made by the prisoner concerning the origin of the observed injury.

**The CPT recommends that the record drawn up by a prison doctor following a medical examination of a newly arrived prisoner contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made, the record should be systematically brought to the attention of the relevant authority. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer.**

**The CPT also wishes to stress that all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of law enforcement officials and other non-medical staff.**

27. Reference should also be made to a procedure introduced by the Ministry of Internal Affairs, according to which persons admitted to temporary detention centres are screened for injuries by police officers. If any injuries are found, a protocol is drawn up and attached to the detained person's file. The delegation found examples of such protocols – which contained brief, general descriptions of injuries observed – in prisoners' files at the centralised records of the investigative isolators visited.

If the procedure introduced by the Ministry of Internal Affairs is to genuinely contribute to the prevention of ill-treatment, **steps must be taken to ensure that the examination of persons admitted to temporary detention centres is performed by qualified health-care personnel and in a systematic and thorough manner.** In this context, the recommendations made in paragraph 26 are to be read as applying *mutatis mutandis*.

### **3. Safeguards against the ill-treatment of persons deprived of their liberty**

#### a. introduction

28. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with the police). These rights should be enjoyed not only by criminal suspects, but also by all other categories of persons deprived of their liberty (e.g. persons placed in administrative detention, persons detained under the Aliens' legislation, etc.).

29. Furthermore, persons detained by the police should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

#### b. notification of deprivation of liberty

30. Under section 90 (3) of the CCP, a person detained on suspicion of having committed a criminal offence has the right to notify by telephone or other means his relatives or other close persons of the fact of his detention.

The majority of the persons interviewed by the delegation indicated that they had been able to inform their family of their situation shortly after having been taken into police custody. However, it appeared that this possibility tended to be offered when the protocol of detention was drawn up rather than at the very outset of detention. Further, certain persons (including juveniles) stated that they had not been expressly informed of their right to inform a relative of their situation, and that their relatives had been notified of the fact of their detention by the police only several days after it had taken place. Moreover, a few persons claimed that they had been denied the possibility to inform a relative of their detention until their arrival at an investigative isolator.

31. The CPT fully accepts that the exercise by a person in police custody of the right to have the fact of his custody notified to a relative or other third party may have to be made subject to certain exceptions designed to protect the legitimate interests of the investigation. However, any such exceptions should be clearly defined and applied for as short a time as possible.

**The CPT therefore recommends that the Azerbaijani authorities take steps to ensure that:**

- **all persons deprived of their liberty by the police – for whatever reason – are granted the right to inform a close relative or a third party of their choice of their situation, as from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police and not only when their deprivation of liberty is formalised in a protocol of detention);**
- **any possibility exceptionally to delay the exercise of the right to have the fact of one’s custody notified to a relative or a third party is clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or of a prosecutor) and applied for as short a time as possible;**
- **the exercise of the above-mentioned right is recorded in writing.**

c. access to a lawyer

32. Access to a lawyer is guaranteed by the Azerbaijani Constitution (Article 61, sub-paragraph 3) as from “the moment of detention, remand in custody or being charged with a crime by the competent state bodies”. The Code of Criminal Procedure contains more detailed provisions on the subject, concerning in particular the right to choose one’s lawyer freely, discontinue his services or organise one’s own defence; the right to confidential meetings and correspondence with the lawyer, without any limitations on their duration or frequency; and the right to benefit from free-of-charge legal assistance. There is also an obligation on the part of the inquiry officer (*tahqiqatçı*), investigator (*müstəntiq*) or prosecutor to inform a suspect of his right to a lawyer and to ensure that this right is effectively exercised.<sup>1</sup>

The delegation heard various interpretations of the existing legal provisions. Senior prosecutors met by the delegation were adamant that the right of access to a lawyer became effective as from the outset of detention, and applied also when a person was asked to attend a police establishment as a witness. However, police and investigating officers stated that persons deprived of their liberty had no right of access to a lawyer during the first 3 hours used for “identification”.

Many persons interviewed by the delegation indicated that they were expressly informed of their right of access to a lawyer only after charges had been brought against them, and that their requests to see a lawyer prior to that stage of the procedure had been made in vain. Other persons stated that police officers had put pressure on them to sign a declaration to the effect that they did not want to use the services of a lawyer.

---

<sup>1</sup> Cf. sections 85 and 90 of the CCP.

33. The CPT wishes to stress that, in its experience, it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. This is amply borne out by the information gathered during the visit to Azerbaijan. Consequently, the possibility for persons to have effective access to a lawyer from the very outset of their custody by the police (i.e. from the moment they are obliged to remain with the police) is a fundamental safeguard against ill-treatment. The existence of this possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The person concerned should also be entitled to have a lawyer present during any questioning, whether this be before he is officially deemed a suspect or after, and whether it be conducted by bodies of the inquiry, investigating officers or prosecutors. Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives.

**In the light of these considerations, the CPT recommends that the Azerbaijani authorities take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty (and not only when a person's deprivation of liberty is formalised in a protocol of detention). The Committee also recommends that the exercise of this right be recorded in writing.**

34. Finally, if the right of access to a lawyer is to be fully effective in practice, there must be a system of legal assistance for detained persons. The delegation met a number of detained persons who had been assisted by ex officio lawyers, usually shortly before being seen by the judge responsible for deciding whether they should be remanded in custody. However, many persons indicated that they had declined the services of ex officio lawyers because the latter were not considered to be genuinely independent of the police and the prosecuting authorities.

**The CPT would like to receive details on the system of legal aid for detained persons, in particular the procedure for appointment of ex officio lawyers, their remuneration, etc.**

d. access to a doctor

35. As far as the CPT can ascertain, there is no specific legal provision guaranteeing access to a doctor for persons deprived of their liberty by the police in Azerbaijan. It is left very much to police staff in charge of a place of detention to determine whether the intervention of a doctor is necessary (cf. also paragraph 51). Police officers indicated that, in practice, they would not hesitate to summon a doctor if a detained person so requested or transfer the person concerned to a hospital in case of need; nevertheless, as matters stand, detained persons do not appear to enjoy a right to be examined by a doctor at their request.

36. **The CPT recommends that persons deprived of their liberty by the police be expressly guaranteed the right to have access to a doctor from the very outset of their deprivation of liberty.**

**The relevant provisions should make clear that:**

- **a request by a detained person to see a doctor should always be granted; police officers should not seek to vet such requests;**
- **a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);**
- **all medical examinations should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police staff;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;**
- **the confidentiality of medical data is to be strictly observed, without prejudice to the right of the person concerned to make reference to that medical data;**
- **the exercise of the above-mentioned right is to be recorded in writing.**

e. information on rights

37. Section 90 of the CCP stipulates that persons detained by the police have the right to receive information in writing about their rights. This explanation should be given by the police officer who has detained the person or the responsible inquiry officer (*tahqiqatçi*), investigator (*müstəntiq*) or prosecutor.

At some of the police establishments visited, the delegation noted the presence of a form setting out the rights of persons suspected of having committed criminal offences as well as their obligations, in accordance with section 90 (3) and (7) of the CCP. The form makes reference, *inter alia*, to the right to have a lawyer and meet with him in private, and the right to notify the family of the fact of detention.

The CPT welcomes the introduction of such a form. Some detained persons met by the delegation said that they had been shown such a form; however, nobody had received a copy of it. Further, many detained persons stated that they had not received any information whatsoever about their rights during police custody. It should be noted that not all the police establishments visited had copies of the form.

38. In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that the form setting out those rights be given systematically to all persons apprehended by the police at the very outset of their custody (and not only after the drawing up of a protocol of detention). The contents of this form should reflect, inter alia, the recommendations made in paragraphs 31, 33 and 36. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights.**

f. conduct of police interviews

39. Article 46 (3) of the Azerbaijani Constitution stipulates that “nobody may be subjected to torture, ill-treatment or punishment humiliating the dignity of human beings”. Further, according to section 5 (2) of the Law on the Police, it is inadmissible for police officers to force persons suspected of having committed a crime to give evidence or make a confession, or to threaten them or apply physical or psychological coercion to obtain evidence and/or a confession.

40. The art of questioning criminal suspects will, of course, always be based in large measure on experience. However, the CPT considers that formal guidelines should exist on a number of specific points; the existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

Consequently, **the CPT recommends that the Azerbaijani authorities supplement existing provisions by drawing up a code of conduct for police interviews.** In addition to reiterating the total prohibition of ill-treatment, the code should deal, inter alia, with the following: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the person detained may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detained person during the interview. Further, the position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

g. custody records

41. No legal safeguard against ill-treatment is more fundamental than the requirement that the fact of a person’s deprivation of liberty be recorded without delay. However, the delegation’s examination of police custody records revealed that the period spent in custody was poorly documented. A variety of registers were kept; nevertheless, the information relating to the time spent with the police was far from being complete. In particular, it was not uncommon for the dates and times of arrival and release/transfer from police custody to be omitted.

It should also be noted that some of the district police stations visited (e.g. in Liman) did not possess anything that could be described as a custody record. The registers seen at those establishments contained a mixture of entries concerning both victims of crimes and persons apprehended as potential suspects. However, it was impossible to establish how long the latter category of persons had spent with the police, and where they had been kept.

42. In this respect, the CPT considers that the fundamental safeguards offered to persons in police custody would be reinforced if a standard, single and comprehensive custody record were to be kept for all persons brought into a police station. This register should record all aspects of the custody and all the action taken in connection with it (including time of and reason(s) for the arrival at the police station; time of issuing the order of detention; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when released, etc.).

h. external inspections

43. Systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment and, more generally, of ensuring satisfactory conditions of detention.

44. In Azerbaijan, prosecutors are under an obligation to visit police detention facilities on a regular basis. The delegation was informed that, in accordance with an Order dated 9 March 2001, prosecutors are responsible for ensuring that the rights of detained persons are effectively respected. The police establishments visited had specific registers where visiting prosecutors noted their observations. Although the frequency of these entries was rather high, their actual content was usually short and standard.

**The Committee would like to stress that, to be fully effective from the standpoint of preventing ill-treatment, visits by prosecutors (as well as by other external inspecting bodies) should be unannounced and should include direct contact with detained persons, as well as an inspection of the establishments' cellular facilities. The CPT would like to receive a copy of the above-mentioned Order dated 9 March 2001 as well as any other relevant instructions concerning the prosecutors' function of inspection.**

**Further, the CPT would like to know if the Office of the Human Rights Commissioner has started to perform inspections of police detention facilities and, in the affirmative, to receive copies of recent reports drawn up following visits to such establishments.**

**Finally, the CPT invites the Azerbaijani authorities to introduce a system of independent visits to police establishments by NGOs, similar to the one applied vis-à-vis establishments under the Ministry of Justice (cf. paragraph 148).**

#### 4. Conditions of detention

##### a. introduction

45. At the outset, the CPT wishes to highlight the criteria which it applies when assessing police detention facilities.

All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (for example, a chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be able to satisfy the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (that is, something more substantial than a sandwich) every day. Persons held in custody for 24 hours or more should, as far as possible, be offered one hour of outdoor exercise every day.

##### b. temporary detention centres

46. The best conditions of detention were observed at the Temporary detention centre of the Police Department of Ganja. It was located on the ground floor of a building which had been renovated a year previously, and comprised twelve cells with an overall capacity of 32. The cells were sufficiently large for their intended occupancy (e.g. two persons in a cell of 11 m<sup>2</sup>) and appropriately equipped (beds, bedding, toilet and washbasin, as well as, in some cells, a table and bench). Access to natural light and ventilation were adequate; however, artificial lighting was meagre. Detainees had access to a shower room and could take one hour of outdoor exercise per day. The facility as a whole was clean and well-maintained. Food was provided once a day, and detainees could receive additional food from their families.

Efforts were also being made at the Temporary detention centre in Masalli to provide decent conditions of detention. The establishment had eight ground-floor cells for criminal suspects and two cells for persons under administrative arrest. Living space in the cells was less generous than in Ganja: cells designed for two persons measured some 6 m<sup>2</sup>, and those for four persons, some 9 m<sup>2</sup>. The cells had windows which had been covered with cardboard in an attempt to keep the cold out (there was no heating). As for artificial lighting and ventilation, they were satisfactory. Further, mattresses, blankets and clean bedding were provided to detainees. No problems of access to the common toilet and washing facility were reported (though there was a shortage of hot water), and outdoor exercise was offered on a daily basis. The food arrangements were the same as at Ganja.

47. Conditions of detention at the other temporary detention centres visited were unacceptable in many respects. Nevertheless, it should be noted that none of the establishments (with the exception of the centre in Lenkoran) was overcrowded.

Temporary detention centre No. 1 of the Police Directorate of the City of Baku occupied the basement of the Main Department of Baku City, a building dating back to the 1970s. It had a total of seventeen cells with a capacity of 60 places. Cells measuring some 10 m<sup>2</sup> were fitted with three beds, and those measuring some 20 m<sup>2</sup>, six beds. Further, most of the cells had no windows, and artificial lighting left a lot to be desired. As for the ventilation system, it was so noisy that staff preferred to switch it off. The cells were dilapidated and rudimentarily equipped. The same could be said of the sanitary facilities. Moreover, there was no outdoor exercise facility. An oppressive and suffocating atmosphere reigned in the establishment. As at the above-mentioned centres, detainees received only one meal a day.

Temporary detention centre No. 2 of the Police Directorate of the City of Baku, also located in a basement area, was a more recent facility (constructed in 1995). However, the cells displayed the same shortcomings as those in Temporary detention centre No. 1: they had no windows, the ventilation system was quite inadequate, and the common toilet and sanitary facilities were dirty. Further, there was no possibility for outdoor exercise.

The Temporary detention centre of the Department for combating organised crime in Baku was undergoing extensive refurbishment at the time of the visit. As a result, only a few cells (which displayed many of the same deficiencies observed at the other temporary detention centres in Baku) were in use at the time of the visit. The delegation was informed that, as part of the refurbishment, the cells windows' would be enlarged and the in-cell toilets replaced.

48. As regards in particular the Temporary detention centre of the Police Division of Lenkoran, in the delegation's opinion, conditions of detention there amounted to inhuman and degrading treatment. The cell windows were obscured by metal plates, and artificial lighting was so weak that the cells were submerged in near darkness; as to ventilation, it was non-existent. The cells were cold and damp, in a very poor state of repair and rudimentarily equipped. Further, the state of hygiene and maintenance was deplorable. There was no possibility for outdoor exercise, the very small yard obviously not being used for such purposes. Moreover, the only food received by detainees was provided by their families. In addition, many of the cells were overcrowded (e.g. four persons in a cell of 7.5 m<sup>2</sup>; six persons in a cell of 12 m<sup>2</sup>). As mentioned earlier (cf. paragraph 11), the delegation made an immediate observation, in pursuance of Article 8 (5) of the Convention, concerning conditions of detention at the Lenkoran temporary detention centre.

49. With the notable exception of the temporary detention centre in Ganja, no personal hygiene products were made available to detainees. Further, possibilities to maintain personal hygiene (e.g. access to running water, shower facilities) were extremely limited.

50. In their letter of 2 April 2003, the Azerbaijani authorities make reference to a number of steps taken to remedy the shortcomings described above. In particular, the temporary detention centres at the Department for combating organised crime in Baku and the Police Division of Lenkoran have apparently been renovated. Further, plans are going ahead for the construction of a new modern temporary detention centre in Baku, in order to replace the semi-basement facilities currently used. With a view to improving the provision of food to detained persons, the daily food allowance had been set at 3,127 Manats by decision of the Council of Ministries. The assignment of 2 billion Manats for renovation of temporary detention centres is being examined. Finally, consideration is being given to a proposal to construct investigative isolators in the regions, in order to ensure the transfer of persons remanded in custody within the time-limits provided by law.

The CPT welcomes these measures, and trusts that the Azerbaijani authorities will persevere in their efforts to improve conditions in temporary detention centres. In particular, **the Committee recommends that steps be taken to ensure that:**

- **in-cell lighting (including access to natural light) and ventilation are adequate;**
- **the state of repair and hygiene of cells and common sanitary facilities are satisfactory;**
- **detained persons are supplied with essential personal hygiene products;**
- **all detained persons are provided with a clean mattress and clean blankets at night;**
- **detained persons are offered food – sufficient in quantity and quality – at normal meal times;**
- **detained persons have access to outdoor exercise for at least one hour per day.**

51. As regards the provision of health care to detainees, only Temporary detention centre No. 1 in Baku employed a feldsher. In Masalli, a system of periodic visits by an outside doctor was in place. At the rest of the establishments visited, the delegation was informed that, in case of emergency, the on-duty officer called an ambulance and, if necessary, transferred the person concerned to a hospital. However, in case of non-urgent medical interventions, it appeared that specific permission from the responsible investigator was required in order to organise a visit by a doctor. Regardless of the arrangement in place, it became apparent that there was no systematic screening of newly arrived detainees by qualified health-care staff (on this issue, cf. paragraph 27).

c. cells at local police stations

52. Local police stations in Azerbaijan are intended for short stays, not exceeding a few hours, and are consequently not equipped with facilities appropriate for overnight detention. At all the local police stations visited (in Baku, Ganja and Liman), the delegation was informed that, following legislative changes in force since 2000, the cells previously used for holding detainees overnight had been withdrawn from service.

However, the delegation found evidence in the custody registers at the establishments visited that the reportedly unused cells could serve as overnight accommodation, sometimes for periods of days and even weeks.

53. The cells in question were totally unsuitable for use as overnight accommodation. They were in general small (e.g. 3 m<sup>2</sup> in Liman), dark, unventilated, dilapidated and dirty. Some of them were fitted with a narrow bench, while others were devoid of any equipment. It was clear that persons held overnight would not be provided with mattresses or blankets. Further, there was no budgetary provision to cover the food requirements of detained persons, and no possibility for outdoor exercise.

The local police stations visited also possessed “waiting rooms”, usually next to the on-duty officers’ area, which were equipped with benches. These facilities were apparently used for persons held by the police for periods of up to 3 hours, in accordance with the provisions of the Code of Administrative Offences.

54. In the light of the above remarks, **the CPT recommends that the Azerbaijani authorities take immediate steps to ensure that the legal provisions in force – according to which persons should not be kept overnight at local police stations – are fully respected in practice. Measures should be taken to ensure that cells at local police stations have adequate lighting, ventilation and equipment, and are maintained in a good state of repair and cleanliness.**

d. reception and distribution centres

55. The Reception and distribution centre of the Police Directorate of the City of Baku, Binagadi District, is used to hold several categories of detainees: i) foreign nationals in violation of the aliens’ registration or border control legislation (for periods in principle not exceeding 10 days); ii) foreign nationals in respect of whom an international search warrant has been issued; iii) vagrants and homeless children (for up to 3 hours); iv) criminal suspects (in accordance with the provisions of the CCP). Nobody was detained at the establishment at the time of the CPT’s visit.

There were thirteen cells with an overall capacity of 38 beds. The cells had benefited from recent redecoration and offered conditions which were in general acceptable for stays not exceeding ten days.<sup>2</sup> The cells (measuring 8 - 12 m<sup>2</sup>) were intended for two - to four - person occupancy; they had no windows, but artificial lighting and ventilation were adequate. The equipment consisted of bunk beds with bedding. The common toilet and shower room call for no particular comments.

The delegation was told that persons detained over 3 hours would receive three meals a day (there was apparently a budget of 6,500 Manats per person per day). Staff also assured the delegation that detainees could take outdoor exercise.

**The CPT trusts that the Azerbaijani authorities will continue their efforts to ensure that conditions at the Reception and distribution centre of the Police Directorate of the City of Baku, Binagadi District, correspond fully to the criteria outlined in paragraph 45 above. As regards more particularly cell occupancy rates, the aim should be to meet the standard of 4 m<sup>2</sup> per detained person.**

56. The Reception and distribution centre for minors of the Police Directorate of the City of Baku is located in a remote industrial estate. It is intended to hold children between 3 and 18 years of age who are homeless, lack parental control or have absconded from special educational institutions. Placement in the centre may last up to 30 days, with the possibility of exceptional prolongation by another 15 days. With an official capacity of 30, on the day of the visit the establishment was accommodating six children (four boys and two girls), aged from 4 to 14 years.

57. There were two dormitories located on the first floor of the building: one for girls (measuring some 15 m<sup>2</sup>), which had four beds, and another one for boys (some 30 m<sup>2</sup>), equipped with five double bunks. The dormitories could apparently be fitted with more beds in case of need. Access to natural light, artificial light and ventilation were adequate; however, the dormitories were not equipped with a heating system and were very cold (though an electric heater could apparently be provided at night). Further, the sanitary annexes adjacent to each dormitory were dirty and in a poor state of repair, and access to the showers did not appear to be sufficient. The environment as a whole was austere and impersonal.

Food was provided three times a day. However, some of the children interviewed by the delegation complained that it was not sufficient and that they felt hungry.

Children held at the centre could have up to 3 hours of outdoor exercise per day, as well as watch TV, play board games and read books in an activities room. However, no programme of schooling was envisaged.

---

<sup>2</sup> However, it appeared from the examination of the custody registers that in some cases, foreign nationals had stayed for up to a month at the establishment. This was attributed to transportation problems.

58. The centre's staff consisted of 14 police officers (including several educators with pedagogical training) and 6 civilian staff. The staff was exclusively male (except for one of the cooks). The CPT is concerned by the absence of female staff at an establishment accommodating young girls on a regular basis. In their letter of 2 April 2003, the Azerbaijani authorities informed the Committee that the recruitment of female staff at the centre will be solved in the near future.

As regards health care, the centre had a post for a feldsher which was currently vacant. As a result, the screening of newly arrived children was performed by police officers.

The regulations in force authorise placement in a disciplinary cell for up to 3 days; however, the delegation was informed that in practice this measure was never applied. The CPT welcomes that approach.

59. In the light of the above, **the CPT recommends that steps be taken at the Reception and distribution centre for minors of the Police Directorate of the City of Baku to:**

- **reduce the dormitories' capacity, aiming at a standard of 4 m<sup>2</sup> per person;**
- **ensure that the dormitories are properly furnished, well-decorated and offer appropriate visual stimuli;**
- **refurbish the sanitary annexes and keep them clean;**
- **develop the programme of activities for children held at the centre;**
- **ensure the regular presence of female staff in sufficient numbers;**
- **ensure that on their arrival at the centre, minors are screened by health-care staff. Provision should also be made for regular attendance by a paediatrician.**

Further, **the CPT would like to be provided with a copy of the Ministry of Internal Affairs Order No. 300 of 26 July 2002 governing the functioning of police centres for minors.**

60. The Special reception station of the Police Directorate of the City of Baku, Khatai District is intended for holding persons under administrative arrest for periods of up to 15 days. The establishment was undergoing refurbishment at the time of the CPT's visit, and nobody was in custody. There were six cells with an overall official capacity of 60. The delegation was told that detainees received three meals a day. As regards the regime applied at the establishment, detainees were apparently employed on various jobs during their period of detention, had access to an exercise yard, and could receive food parcels, journals and books from their families. No visits and correspondence were allowed; however, detainees could apparently make telephone calls.

**The CPT would like to receive confirmation that the refurbishment of the Special reception station of the Police Directorate of the City of Baku, Khatai District, has been completed. In this connection, the Committee would like to be informed whether all cells enjoy access to natural light and adequate heating.**

**B. Establishments under the authority of the Ministry of National Security**

61. The Isolator of the Ministry of National Security in Baku accommodates persons suspected or accused of offences investigated by the Ministry's competent services (crimes against the State, participation in illegal armed groups, serious organised and economic crime, violations of the border control regulations, etc.). It holds both persons in the custody of the investigation bodies of the Ministry (for up to 72 hours) and persons remanded in custody.

Located in the building of the Ministry, the Isolator had an official capacity of 106 places. At the time of the visit, 59 persons were held at the establishment, all of whom<sup>3</sup> were male adult detainees remanded in custody. The average length of stay was said to be a few months; however, four of the detainees had been held there for more than a year.

62. The delegation did not hear any allegations of ill-treatment of persons detained at the Isolator of the Ministry of National Security by staff working at the establishment, and did not find any other evidence of such treatment.

63. Material conditions at the Isolator were on the whole acceptable and could serve as a model for other establishments accommodating pre-trial detainees in Azerbaijan.

Inmates were accommodated in cells designed for one, two or four inmates. Single cells measured 6 to 8 m<sup>2</sup>, double 10 m<sup>2</sup> and those for four persons 18 m<sup>2</sup>. All cells were well lit and ventilated, and were maintained in an adequate state of repair and cleanliness. The furniture consisted of beds with full bedding, tables, benches or stools, lockers and shelves. The cells were also equipped with washbasins and floor-level toilets; as regards the latter, the delegation noted that not all of them were screened. However, partial screens were gradually being fitted in the context of the ongoing refurbishment of the establishment.

Detainees could take a hot shower once a week. Those without financial resources were provided with basic hygiene items (soap, towels and toilet paper). Bed sheets were changed weekly and washed in the laundry, which was a well-equipped facility.

The delegation did not hear any complaints about food, which was served three times a day. Detainees were also allowed to receive up to 5 kg of food per week from their families.

64. Inmates had the possibility to take one hour of daily outdoor exercise. However, the exercise yards, which were situated on the roof of the building, were small (9 to 12 m<sup>2</sup>), bare and of an oppressive design (high walls topped with wire netting). By virtue of their configuration and limited size, these facilities did not facilitate proper physical exertion.

---

<sup>3</sup> Except for two sentenced women who worked in the establishment's kitchen and performed maintenance tasks.

Apart from outdoor exercise and periods of interrogation, detainees spent their time locked up in their cells with virtually nothing to occupy themselves. Radio and television sets were not authorised; the only distractions consisted of playing board games or reading books and newspapers. In their letter of 2 April 2003, the Azerbaijani authorities informed the CPT that a number of inmates had been offered work in the context of the above-mentioned refurbishment programme. The Committee welcomes this initiative, which is a step in the right direction.

65. At the time of the visit, the Isolator did not employ any health-care staff. Recourse was had to the services of general practitioners and specialists working in the nearby polyclinic of the Ministry of National Security, and there seemed to be no particular problems with access to them. Distributing medicines and managing the stock of medication was the task of custodial staff with no medical training. The delegation was informed that the director's request to employ a full-time nurse had been preliminarily approved by the Ministry. Further, in their letter of 2 April 2003, the Azerbaijani authorities informed the CPT that a decision had been taken to employ a doctor at the Isolator.

The delegation was concerned about the poor quality of medical documentation: the register of medical consultations was succinct and incomplete, and there were no individual medical files. Further, confidentiality of medical data was not respected (such data being contained in detainees' administrative files) and consultations normally took place in the presence of a custodial officer.

The delegation was informed that newly arrived inmates underwent an external body check by the duty officer. A medical screening by a doctor took place at the latest on the following day. However, there was no register of medical examinations on arrival; doctors' notes about injuries or health complaints of newly arrived inmates were entered in the inmates' administrative files, and were extremely succinct.

66. The disciplinary sanction of placement in a "kartzet" cell (for up to 15 days) was applied extremely rarely. Sanctions were imposed by the director on the basis of a report by the duty officer and after an interview with the inmate concerned, and could apparently be appealed against.

Material conditions in the three "kartzet" cells were very poor. The cells (measuring between 5 and 6.5 m<sup>2</sup>) were bare, dark and insufficiently ventilated. In their letter of 2 April 2003, the Azerbaijani authorities informed the CPT that the "kartzet" cells in question had been taken out of use. The Committee welcomes this step.

67. The CPT has serious concerns as regards the possibilities for inmates to maintain contacts with the outside world. In the same way as remand prisoners held in the establishments under the authority of the Ministry of Justice (cf. paragraph 137), family visits and correspondence had to be expressly authorised by the investigator, prosecutor or court, and detainees had no access to a telephone.

68. The delegation was informed that detainees could submit complaints to the director or to other competent bodies (prosecutor, court, etc). However, complaints to outside bodies were submitted to the director in an open form and transmitted after being registered. In other words, there was no confidential access to an outside authority.

At the time of the visit, no outside body carried out inspection visits to the Isolator<sup>4</sup>.

**69. The CPT recommends that measures be taken at the Isolator of the Ministry of National Security in Baku in order to:**

- **substantially improve activities for inmates; as a first step, they should be allowed to have radio sets in their cells; further, efforts should be made to offer them an appropriate range of out-of-cell activities;**
- **enlarge the establishment's exercise yards;**
- **improve the quality of medical documentation, in particular by opening an individual medical file for each inmate, and ensure that medical confidentiality is respected;**
- **ensure that the procedure for medical screening on arrival meets the requirements set out in the recommendations made in paragraph 26;**
- **review the possibilities for persons detained in the establishment to have contact with the outside world, in order to ensure that such contact is not being unduly restricted;**
- **guarantee inmates' confidential access to the bodies authorised to receive complaints;**
- **introduce a system of regular visits by an independent body with authority to receive - and, if necessary, take action on - inmates' complaints and to visit the premises.**

**The CPT would also like to receive confirmation that a doctor and a nurse have now been employed at the Isolator.**

---

<sup>4</sup> However, representatives of the ICRC had visited the Isolator in March and in June 2003.

## C. Establishments under the authority of the Ministry of Justice

### 1. Preliminary remarks

70. The CPT's first periodic visit to Azerbaijan included comprehensive visits to two pre-trial establishments, Investigative isolator No. 1 in Baku and Investigative isolator No. 2 in Ganja. Targeted visits were also carried out to the Central Penitentiary Hospital in Baku, where the CPT's delegation focused on the psychiatric ward and related common facilities, and the unit for prisoners with multi-resistant tuberculosis at the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis, Bina settlement, Baku. The latter two establishments will be dealt with under the section "Health-care services".

71. At the outset of the visit, the Minister of Justice outlined the main directions of the reform of the penitentiary system, in the period after its transfer to his Ministry: humanisation and improvement of conditions of detention, adoption of new legislation (e.g. a new Code of the Enforcement of Sentences came into force in 2000), and opening up of prisons to NGOs and international organisations. In this connection, an order issued by the Minister of Justice in September 2002, "On additional measures to ensure human rights in the penitentiary system", calls for greater attention to the issues of protection of the rights of detained persons and inadmissibility of torture and other forms of ill-treatment, increased co-operation with NGOs and adherence to the provisions of international instruments.

The delegation observed that, despite the difficult economic climate, efforts were being made to improve material conditions in penitentiary establishments. Many prisoners and prison staff interviewed during the visit, as well as representatives of NGOs met by the delegation, referred to positive changes which had occurred in the last three years. Nevertheless, there was widespread recognition of the need for further action to improve the situation.

72. The Minister of Justice also highlighted a positive trend towards a reduction of the prison population in the last three years, due to legislative changes and a series of amnesties. At the time of the CPT's visit, the country's prison population stood at 17,000 (including some 2,000 on remand), compared to an official capacity of 18,000. The delegation was informed that the prison authorities were looking for solutions to the continuing problem of overcrowding in remand establishments, in particular through the construction of new prisons. However, the economic problems with which Azerbaijan has been confronted were hampering progress in this area.

In this connection, the CPT would like to point out that in the experience of other countries, providing additional accommodation will not always represent in itself a lasting solution to the problem of overcrowding. Indeed, a number of European countries have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, the existence of policies to limit or modulate the number of persons being sent to prison has in certain States made an important contribution to maintaining the prison population at a manageable level.

**The CPT trusts that the Azerbaijani authorities will pursue the application of a range of measures designed to combat prison overcrowding, including policies to limit or modulate the number of persons sent to prison. In this connection, the Azerbaijani authorities should take into account the principles and measures set out in Recommendation No. R (99) 22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation.**

73. The unsatisfactory employment situation for inmates was another problem evoked by the Azerbaijani prison authorities, and witnessed by the CPT's delegation at the establishments visited. The Azerbaijani Penal Enforcement Code acknowledges that the provision of appropriate work to sentenced prisoners is a fundamental part of the rehabilitation process. The Committee would stress that in the interests of their psychological well-being, remand prisoners should as far as possible also be offered work. Even in times of economic difficulty, the provision of work to prisoners should not be determined solely by market forces; an active State policy, based if necessary on incentives for the placing of orders for prison production, should be introduced. **The CPT recommends that special measures be introduced with a view to ensuring that both sentenced and remand prisoners are provided with work.**

## **2. Ill-treatment**

74. The delegation did not receive any allegations of ill-treatment of inmates by staff at Investigative isolator No. 1 in Baku, the Central Penitentiary Hospital in Baku and the Specialised medical establishment for prisoners suffering from tuberculosis in Bina. Many prisoners met by the CPT's delegation in these establishments stated that the attitude of prison officers had improved in recent years. The delegation itself observed that relations between staff and inmates were fairly relaxed.

However, some allegations of ill-treatment were heard at Investigative isolator No. 2 in Ganja. They related to kicks, punches and blows with truncheons, apparently inflicted by custodial staff on prisoners who had demonstrated insubordination or violated the internal regulations (e.g. passing messages between cells; failure to go to bed after 10 p.m., etc.). It is noteworthy that custodial staff at the establishment in question had the practice of carrying truncheons in a conspicuous manner in the prisoner accommodation areas (a practice also observed at the Central Penitentiary Hospital in Baku). Further, the delegation had the clear impression that prisoners at the Ganja isolator were afraid or reluctant to speak openly to it.

75. In response to the final statement made by the CPT's delegation at the end of the visit, the Azerbaijani authorities stated in their letter of 2 April 2003 that "in order to prevent illegal acts by personnel in contacts with accused persons, special measures such as awareness raising on the protection of human rights, international instruments concerning the treatment of detained persons, strengthening the educational work and discipline have been taken at Investigative isolator No 2. The bearing by personnel of rubber batons while serving in regime buildings was categorically prohibited."

The CPT welcomes the above-mentioned measures, **and recommends that the management of Investigative isolator No. 2 in Ganja exercise continuing vigilance and deliver to staff the clear message that ill-treatment of inmates is not acceptable.**

**The CPT would also like to know whether the approach adopted at Investigative isolator No. 2 in Ganja as regards the prohibition of the carrying of truncheons by prison staff will be applied throughout the penitentiary system.**

76. In order to obtain a nationwide view, **the CPT would like to receive the following information in respect of 2001 and 2002:**

- **the number of complaints lodged concerning ill-treatment by prison officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of the outcome of the above-mentioned proceedings (verdict, sentence/sanction imposed).**

### **3. Conditions of detention**

#### a. material conditions of detention

##### *i. Investigative isolator No. 1, Bayil settlement, Baku*

77. Investigative isolator No. 1 in Baku was constructed for the most part in the 1880s. It is the largest pre-trial facility in Azerbaijan and receives prisoners from all parts of the country, except for those near Ganja. With an official capacity of 1,250, on the first day of the visit the establishment was holding 1,009 inmates, the majority of whom were male prisoners undergoing investigation. There were also some 380 male prisoners awaiting the outcome of an appeal or transfer to other establishments (including 5 life-sentenced prisoners), and 44 sentenced working prisoners employed on various maintenance duties. Further, the establishment was holding 44 women and 41 juveniles.

78. The inmate population was housed in several blocks of different ages and configuration. Most of the adult remand prisoners were accommodated in Blocks 1 and 2, large two-storey buildings which formed part of the original prison structure. Separate accommodation was provided for women, on the second floor of Block 2 (Unit 4). Sentenced prisoners awaiting transfer were held apart, in Unit 3. Juveniles and sentenced working prisoners were also accommodated apart from other groups of prisoners (Block 6). Finally, a building referred to as Block 5, constructed in the 1920s for the purpose of holding prisoners sentenced to death, had been set aside for prisoners accused of committing serious offences (including life-sentenced prisoners awaiting transfer to other establishments), following the abolition of the death penalty in 1998.

79. Despite the buildings' advanced age, the majority of the prisoner accommodation was in a reasonable state of repair, and the delegation saw signs of ongoing refurbishment in different parts of the establishment. Another positive feature observed was the absence of shutters on cell windows: these had been removed a couple of years previously, and, as a result, the vast majority of the prisoner accommodation benefited from adequate access to natural light and ventilation. However, the delegation saw several cells (e.g. cells 6 and 7 in Block 1; cells 90 and 91 in unit 3) which, due to the configuration of the building, had no windows and were thus deprived of access to natural light and ventilation.

80. Although the establishment was operating below its official capacity, conditions of detention in the cells were cramped: in Blocks 1 and 2, cells measuring some 19 m<sup>2</sup> held ten to twelve male prisoners, and those measuring 35 m<sup>2</sup>, eighteen prisoners. On the positive side, each inmate had his own sleeping place. The cells were filled with double bunk beds, leaving little space for other furniture. In addition, there were partitioned sanitary annexes, containing a floor-level toilet and a washbasin with cold water. The state of repair and cleanliness of the facilities varied from one cell to another, but were in general acceptable. However, many of the cells were cold, as the heating had not yet been turned on.

Conditions in the three "quarantine cells" (Nos. 35 – 37 in Block 1), where prisoners spent the first few days after admission, were inferior to those observed in the remainder of the main detention blocks. In particular, the sanitary annexes were in a poor state of repair and a bucket fulfilled the functions of a toilet.

81. The poorest conditions of detention were found in Block 5. At the time of the visit, it was holding 28 prisoners accused of committing serious offences, including five life-sentenced prisoners in the process of appeal. The overcrowding observed in this block was worse than elsewhere in the establishment. Several of the cells were very small (4 m<sup>2</sup>), each holding two prisoners. Further, four prisoners shared a cell measuring 7 m<sup>2</sup>, and up to eight prisoners could be placed in a cell of 10 m<sup>2</sup>. The whole unit was in a very bad state of repair: walls damaged from damp, dilapidated furniture, broken windowpanes in some of the cells. Further, the heating was not functioning and the cells were cold; a narrow pipe running along the wall was the only source of heating inside the cells.

Life-sentenced prisoners were held one to a cell, in cells measuring 5 to 6 m<sup>2</sup>, which displayed the same deficiencies as the rest of the accommodation in Block 5.

82. The unit for women, which had benefited from a recent refurbishment, comprised eight cells measuring 17 to 19 m<sup>2</sup>. One of them was set aside for sentenced working prisoners and contained four beds, only two of which were occupied at the time of the visit; conditions in that cell were of a good standard. As for the rest of the cells, the occupancy levels varied between four, which is acceptable, and ten inmates per cell, which corresponds to significant overcrowding. The cell equipment consisted of bunk beds, a table and an occasional cupboard. However, the cells were not fitted with sanitary annexes, and the delegation heard many complaints about access to the toilet, which was restricted to three times a day; at other times, inmates had to use a bucket within their cells. Staff claimed that they would occasionally make exceptions to this rule during the day; however, at night this was considered impossible as only male members of staff were on duty in the unit.

At the time of the visit, one of the women was being held with her one-month-old baby, who had been born in custody. The afore-mentioned conditions in the cells clearly do not provide an appropriate environment for babies.

83. Juveniles were accommodated in a distinct unit which comprised nine cells of varying size and capacity. Although the actual occupancy levels were lower than the number of beds available (e.g. four juveniles in a cell equipped with six beds and measuring 15 m<sup>2</sup>; five juveniles in a cell equipped with eight beds and measuring 18 m<sup>2</sup>), conditions were cramped. The most striking characteristic of this unit was the absence of cell windows; to compensate for this deficiency, the cells had an opening in the ceiling, which let in a meagre amount of natural light. However, this did not make up for the total lack of visual stimulation, which is particularly negative for the development of young persons. The cells were austere and dilapidated, and their equipment (bunk beds, a table and benches) rudimentary. Artificial lighting and ventilation also left something to be desired.

84. Sentenced working prisoners were accommodated in three dormitories (26 to 50 m<sup>2</sup>), containing respectively 5, 8 and 29 beds. The premises were clean, attractively decorated and suitably furnished (including lockers and stools); further, inmates could have their own radio and TV sets.

85. Male prisoners could take a shower once a week; no particular complaints were received in this respect. There was a separate washing/shower facility in the women's unit, comprising 3 shower heads and a sink; although women could in theory take a shower every day, in practice this was rendered impossible by the little time allowed for personal hygiene.

The establishment provided only soap and chlorine for cleaning the cells; all other personal hygiene and cleaning products had to be purchased by the prisoners or supplied by their families. There was no laundry, and prisoners had to rely on improvised arrangements to wash their clothes and bedlinen in the cells.

86. Prisoners were provided with three meals a day; however, many of them stated that they avoided eating the prison food, which was apparently monotonous and of poor quality, and relied to a great extent on food parcels from their families. Reference should also be made to the establishment's kitchen, which was small and contained rudimentary equipment. On the positive side, the establishment had its own bakery, which guaranteed a sufficient supply of bread.

87. After the visit, the Azerbaijani authorities informed the CPT of certain measures taken in respect of Investigative isolator No. 1. In particular, the heating system in Block 5 had been repaired, and female prisoners transferred to cells equipped with sanitary facilities. As regards the overcrowding observed at the establishment, the authorities stated that the only solution would be to reduce the number of inmates to 650 - 750, which may be possible if the planned construction of a new remand facility in Baku becomes a reality.

In addition to the steps already taken by the Azerbaijani authorities, **the CPT recommends that:**

- **strenuous efforts be made to reduce the occupancy rate of the establishment's cells; the objective should be to offer a minimum of 4 m<sup>2</sup> per prisoner;**
- **the windowless cells described in paragraph 79 be withdrawn from service as prisoner accommodation;**
- **the "quarantine cells" be refurbished;**
- **steps be taken to ensure that all cells are adequately heated;**
- **a comprehensive refurbishment of the facilities in Block 5 be carried out (to include the replacement of all missing windowpanes); further, all cells measuring less than 6 m<sup>2</sup> should be withdrawn from service;**
- **appropriate arrangements be made for women prisoners accompanied by babies or young children;**
- **conditions of detention in the juveniles' unit be reviewed as a matter of urgency, with a view to rectifying the deficiencies referred to in paragraph 83;**
- **prisoners be guaranteed access to adequate quantities of essential personal hygiene products (including sanitary towels for women's monthly needs) and cleaning products for their cells;**
- **the laundry arrangements for washing prisoners' clothes and bedlinen be reviewed;**
- **further efforts be made to improve the quality of food provided to prisoners and to enlarge and re-equip the establishment's kitchen.**

**The CPT would also like to receive a detailed description of the unit to which female prisoners have been transferred.**

ii. *Investigative isolator No. 2, Ganja*

88. Investigative isolator No. 2 in Ganja was built in the 1890s as army barracks, and converted into a penitentiary establishment in the early 20<sup>th</sup> century. Situated in the centre of town, it has a maximum capacity of 700. At the time of the visit, the establishment was holding 378 inmates, the bulk of whom were adult male remand prisoners. There was also one woman and six juveniles on remand, as well as 16 sentenced inmates assigned to work in the prison's general services.

Prisoner accommodation was provided in three buildings. The largest two-storey block (containing Units 1 and 2) housed most of the adult remand population. A single-storey Unit 3 accommodated - in addition to male remand prisoners - the female prisoner and the juveniles, as well as the sentenced working prisoners. Finally, a two-storey Unit 4 housed the establishment's health-care service and cells for sick prisoners.

89. At the outset of the visit, the director informed the delegation that the establishment had not undergone any major refurbishment for years, the available finances permitting only minor, current repairs. The delegation observed for itself that most of the prisoner accommodation was in a poor state of repair. The level of cleanliness in many cells also left much to be desired.

90. Although the establishment was operating well below its official capacity, conditions in most of the cells were cramped (e.g. seven inmates in a cell of 16 m<sup>2</sup>; three in a cell of 8 m<sup>2</sup>). Moreover, the number of beds present in the cells (e.g. ten beds in a cell of some 17 m<sup>2</sup>; four beds in a cell of 8 m<sup>2</sup>) suggested that they would be very overcrowded if used at their maximum capacity.

91. In most of the cells, access to natural light, artificial lighting and ventilation were poor. The delegation observed that windows in many cells were devoid of panes, the latter sometimes being replaced with sheets of plexi-glass. Further, several of the cells seen by the delegation were damp. At the same time, due to the fact that the central heating system had not been turned on, many cells were very cold. Small electric heaters provided by the administration to sick inmates in Unit 4 only partly alleviated the problem, not the least because of the frequent power cuts affecting the establishment.

The cells' equipment consisted of bunk beds - placed closely together - and a few tables, benches and shelves. The cells were fitted with partly screened sanitary annexes (a floor-level toilet and washbasin with cold water), mostly in a poor state of repair and cleanliness. Bedding was also often in a poor state: thin, dirty mattresses, torn blankets and sheets.

92. The conditions observed in the cells housing the sentenced working prisoners were superior to those in remand prisoners' cells. The inmates concerned enjoyed generous living space (e.g. four prisoners in a cell of 50 m<sup>2</sup>) and their cells - which had apparently been redecorated recently - were well lit and ventilated, adequately heated and clean.

93. By contrast, the conditions of detention found in the three “admission cells” in Unit 3, used to accommodate new arrivals (in principle for periods not exceeding a few hours), were unacceptable. The cells were dark, poorly ventilated, cold and extremely dirty. Their only equipment consisted of low wooden platforms and unscreened floor-level toilets, which were in a very poor state of repair.

94. Prisoners were allowed to take a shower once every 8 to 10 days. The central shower facility was dilapidated (only 4 shower heads were functioning) and hot water was not always available.

The establishment did not possess its own laundry facility; consequently, prisoners had to rely on improvised arrangements or on their families to clean their clothes and bedlinen. The only personal hygiene item provided by the Isolator was soap, distributed in small quantities on shower days. As to products to clean the cells, they were not provided in sufficient quantities.

95. The delegation heard only a few complaints from prisoners about the quality and quantity of food provided by the establishment. That said, it was clear that prisoners counted to a great extent on food parcels from their families. The kitchen was an old, rudimentary and dilapidated facility, poorly ventilated and not very clean.

96. In their letter of 2 April 2003, the Azerbaijani authorities informed the CPT of certain measures taken at Investigative isolator No. 2 in Ganja since the delegation’s visit: the “admission cells” had been taken out of service; missing or broken windowpanes had been fitted/replaced with panes which can be opened by inmates; old bedding had been replaced; work on the construction of a new gas pipeline - in order to provide the establishment with central heating - was nearing completion; cleaning and refurbishment work was ongoing in the prisoner accommodation areas.

The CPT welcomes these positive developments and **recommends that the Azerbaijani authorities take further steps at Investigative isolator No. 2 in Ganja in order to:**

- **reduce occupancy rates, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner;**
- **ensure that all cells benefit from adequate access to natural light, artificial lighting and ventilation;**
- **keep the in-cell sanitary annexes reasonably clean;**
- **ensure that all prisoners can take a hot shower at least once a week;**
- **provide inmates with sufficient amounts of essential personal hygiene products and cleaning materials, and with adequate facilities for washing their clothes and bedlinen;**
- **refurbish the kitchen facility.**

b. activities

97. All prisoners were entitled to one hour of outdoor exercise every day (which, in the case of women and juveniles, could be extended to two hours). However, prisoners at both establishments alleged that, in practice, outdoor exercise usually lasted only 30 to 40 minutes. At the Ganja Isolator, taking into account the number of exercise yards available and the hours during which they were being used, it was difficult to see how each inmate could have one hour of outdoor exercise per day.

At both isolators, there were a number of exercise yards (18 at Baku and 7 at Ganja), consisting of high-walled areas topped with wire netting, sometimes fitted with a bench. By virtue of their configuration, limited size (between 12 and 36 m<sup>2</sup>) and the number of inmates taking exercise at the same time, these facilities did not allow prisoners to physically exert themselves.

At the Baku Isolator, sentenced working prisoners had access to a well-equipped indoor gym. However, no other prisoners could benefit from this facility.

98. As already indicated, a small number of sentenced inmates were assigned to work at each isolator (44 men and 2 women at Baku, 16 men at Ganja). The remainder of the inmates spent 23 hours a day, if not more, locked up in their cells with hardly anything to occupy their time. The only forms of distraction were reading books (each establishment had a library with a limited selection of mostly old books), playing board games and listening to the radio (television was not allowed).

Further, each isolator had a prayer room, but only working prisoners had access to it.

99. The regime of activities offered to juvenile prisoners at both establishments was also very poor. Outdoor exercise was the only regular out-of-cell activity and took place in the inadequate conditions already described above; in-cell activities were identical to those for adult prisoners. No provision was made for education or vocational training for the juveniles, despite the fact that some of them stayed as long as one year at the establishments.

The delegation was told that one or more adult prisoners, specially selected to give guidance and expected to have a beneficial impact on the juveniles, could be placed in their cells. At the time of the visit to Investigative isolator No. 1 in Baku, there were no adult prisoners in the juvenile unit, due to the absence of appropriate adult inmates. However, several adult prisoners were accommodated in the juveniles' cells at Investigative isolator No. 2 in Ganja. The CPT is concerned by this practice; to accommodate juveniles together with adults inevitably brings with it the possibility of domination and exploitation.

100. As already noted, there were five life-sentenced prisoners at Isolator No. 1 in Baku, awaiting the outcome of their appeal procedures. They were held in individual cells and took outdoor exercise alone. The regime applied to these prisoners was characterised by an almost total deprivation of human contact, save for very limited communication with staff and an occasional visit from health-care staff. In-cell activities were the same as those for remand prisoners.

101. The CPT recognises that the provision of organised activities in a pre-trial establishment, where there is a high turnover of inmates, poses particular challenges. However, it is not acceptable to leave prisoners to their own devices for months at a time. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells/dormitories engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. As a first step, remand prisoners, who are currently confined to their cells for most of the day, should be allowed to participate in association periods outside their cells (naturally, subject to an assessment of the security risk individual inmates may represent and to the interests of the investigation).

**102. The CPT recommends that the Azerbaijani authorities make serious efforts to develop activities for prisoners at Investigative isolators Nos. 1 and 2, in the light of the above remarks.**

**Urgent measures should be taken to ensure that juvenile inmates are offered educational and recreational activities which take into account the specific needs of their age group. Physical education should form a major part of that programme. Further, the CPT recommends that the practice of placing adult prisoners in cells for juvenile prisoners be discontinued.**

**Steps should also be taken to develop the regime applied to life-sentenced prisoners at Investigative isolator No. 1 in Baku, with a view to increasing substantially the possibilities available to such prisoners to have human contact. As a first step, life-sentenced prisoners should be allowed to take outdoor exercise together.**

**Further, the CPT recommends that steps be taken to upgrade the outdoor exercise facilities at both isolators, and to ensure that all prisoners have the possibility to take outdoor exercise for at least one hour every day.**

#### **4. Health-care services**

##### **a. introduction**

103. The provision of health care in the Azerbaijani penitentiary system is the responsibility of the Ministry of Justice's Medical Department. The Minister of Health informed the delegation that, although the issue of health care for prisoners lay outside his Ministry's remit, there was good co-operation between the Ministries of Health and Justice, in particular in the area of tuberculosis control and treatment. The delegation was also told that all important medical decisions in the penitentiary system were taken under the control of the Ministry of Health, and that prison establishments could draw on medical specialists from that Ministry for assistance in complex cases.

104. The delegation was informed that the director of the Central Penitentiary Hospital had authority over the medical director of that establishment. Such a state of affairs may give rise to conflicts between, on the one hand, health-care staff's duty to care for prisoners, and, on the other hand, considerations of prison management and security.

More generally, it was not obvious to what extent the national health authorities exercised supervision over the work of prison health-care staff.

105. In order to guarantee their professional independence and the quality of their work, the CPT considers it important that prison health-care staff be aligned as closely as possible with the mainstream of health-care provision in the community at large; moreover, the effectiveness of their work should be assessed by a qualified medical authority. In this context, the CPT believes that a greater involvement of the Ministry of Health in the provision of health care in the prison system would help to ensure optimum health care for prisoners, as well as implementation of the principle of the equivalence of health care in prison with that in the outside community. In particular, the role of this Ministry could be strengthened in such matters as hygiene control, transmissible diseases, the assessment of health care and the organisation of health care services in prisons. This approach is clearly reflected in Recommendation No. R (98) 7 of the Committee of Ministers of the Council of Europe concerning the ethical and organisational aspects of health care in prison.

**The Committee would like to receive the views of the Azerbaijani authorities on the possibility of giving increased responsibility to the Ministry of Health in relation to the provision of health care in the prison system, including as regards the recruitment of health-care staff and the supervision of their work.**

**The CPT also wishes to stress that whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority.**

b. health-care services in the investigative isolators visited

*i. staff and facilities*

106. At Investigative Isolator No. 1 in Baku, the delegation was informed that full-time health-care staff comprised a head doctor, a general practitioner, a dermatologist, a psychiatrist, a laboratory specialist and a feldsher. Further, half-time staff consisted of a pulmonary specialist, a dentist and a radiologist. The establishment also employed three civilian feldshers/nurses, who were usually on duty at night. As far as the delegation could ascertain from the official health-care staff complement, some of the nurses' posts were vacant. 24-hour medical cover was provided by rotation of the doctors and the paramedical staff. If necessary, prisoners could be referred to other specialists or transferred to a hospital.

The health-care unit, located in Block 2, comprised an infirmary (six cells measuring some 19 m<sup>2</sup> each, with a total of 24 beds), several examination rooms, a dental surgery, an X-ray room and a pharmacy. In addition, there was a medical room on each unit where the doctor/feldsher attached to the unit examined prisoners.

107. The health-care service at Investigative Isolator No. 2 in Ganja consisted of a head doctor, a pulmonary specialist, a feldsher and an X-ray technician, all working full time, as well as a part-time radiologist and a dentist. There were also posts for a psychiatrist and a nurse, which were vacant at the time of the visit. As at Investigative Isolator No. 1 in Baku, there was 24-hour medical cover.

The health-care service, located in Unit 4, comprised an infirmary (four cells with 28 beds), a number of examination rooms, an X-ray room and a well-stocked pharmacy. As in the Baku Isolator, there were also medical consultation rooms in each unit.

108. To sum up, the two investigative isolators visited can, on the whole, be considered adequately staffed with medical practitioners, and could apparently draw on outside specialists in case of need. However, both establishments suffered from a severe shortage of qualified nursing staff. Further, the absence of a psychiatrist at the Ganja isolator, and the fact that neither establishment employed psychologists, give rise to doubts as to whether prisoners can benefit from appropriate ambulatory psychiatric and psychological care. It should be added that the presence of one part-time dentist in Isolator No 1 in Baku is scarcely adequate given the number of prisoners concerned.

In view of the above, **the CPT recommends that the Azerbaijani authorities:**

- **reinforce nursing staff at both investigative isolators;**
- **fill the vacant psychiatrist's post at Investigative isolator No. 2 in Ganja and seek to employ psychologists at both investigative isolators;**
- **take steps to increase the attendance of a dentist at Investigative isolator No. 1 in Baku.**

*ii. medical screening on admission*

109. The importance of medical screening of newly arrived prisoners - especially at pre-trial establishments, which represent points of entry into the prison system - cannot be over-emphasised. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention, and ensuring the timely recording of injuries.

110. At the two investigative isolators visited, all newly arrived prisoners underwent an initial medical examination performed by the doctor on duty. As a rule, this examination took place on the day of admission; however, several prisoners met by the delegation alleged that they had been examined three to four days after their arrival at the isolator. The initial examination involved various routine procedures (e.g. measuring blood pressure and weight), chest radiological testing for tuberculosis, and blood tests for syphilis and HIV for prisoners considered to be at risk. Prisoners were also questioned concerning their medical history and, depending on the anamnesis, clinically examined.

111. The approach followed in the establishments visited as regards screening for injuries on newly arrived prisoners and their recording was not satisfactory. The delegation met a number of prisoners who alleged that they had arrived with signs of ill-treatment, but that the health-care staff member who initially examined them either did not screen their bodies for injuries or failed to put questions concerning the origin of their injuries. When asked about the incidence of injuries observed on newly arrived prisoners, the head doctors of both establishments indicated that there had been no such cases in recent years; however, one of them remarked that “prisoners stay too long in police establishments for us prison doctors to be able to observe anything”.

There was no centralised system for recording cases of injuries observed upon arrival. At Investigative isolator No. 1, such cases could in theory be recorded in the register “Reception of new arrivals”, but in practice the delegation found no entries of this type in that register. In some cases, brief entries concerning injuries observed upon arrival had been made in the prisoners’ medical cards; however, there was no indication of allegations made by the prisoner concerning the origin of the observed injury. The delegation also found in some of the prisoners’ personal files (which were kept in the centralised prison records) brief notes concerning injuries sustained before arrival.

112. As already pointed out (cf. paragraph 26), health-care services in investigative isolators can make a significant contribution to the prevention of ill-treatment by the police. In this context, **the CPT recalls the recommendation made in paragraph 26 concerning the record to be drawn up following a medical examination of a newly arrived prisoner. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.**

**The CPT also recommends that a centralised system for recording injuries observed upon arrival be introduced (e.g. a specific register kept by the prison health-care service), and that the health-care service compile periodic statistics concerning injuries observed, for the attention of the prison management, the Ministry of Justice, etc.**

*iii. medical files and confidentiality*

113. The CPT is concerned about the quality of medical documentation at the two investigative isolators visited. Only prisoners who had been sentenced and were about to be transferred to other establishments had the benefit of personal medical files. As for the rest of the inmates (i.e. the vast majority of the prison population), nothing worthy of being called a personal medical file existed. Medical information was entered on loose pieces of paper kept in alphabetical order, as well as in chronological registers of examinations kept by the medical specialists and the doctor responsible for each unit. This arrangement made it difficult to follow an individual prisoner’s medical history. At the same time, at Isolator No. 1 the delegation saw a stock of empty medical files.

**The CPT recommends that a personal and confidential medical file be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner’s state of health and of his treatment, including special examinations he has undergone. The prisoner should be able to consult his medical file, unless this is unadvisable from a therapeutic standpoint, and to request that the information it contains be made available to his family or lawyer.**

114. The delegation also noted certain shortcomings as regards the observance of the confidentiality of medical records. For example, at Isolator No. 1, the medical cards of sentenced working prisoners were kept in their personal files in the centralised prison records. Further, at Isolator No. 2, the medical files of prisoners about to be transferred to other establishments were added, in an open form, to their personal files.

It is important that medical confidentiality be observed in prisons in the same way as in the community at large. Keeping prisoners' medical files should be the doctor's responsibility. Further, in the event of transfer, the file should be forwarded in a sealed envelope to the doctors in the receiving establishment. **The CPT recommends that steps be taken to ensure that practice in Azerbaijani penitentiary establishments is brought into conformity with these requirements.**

*iv. tuberculosis*

115. Tuberculosis represents a major health problem in the Azerbaijani penitentiary system. Since 1995, the International Committee of the Red Cross (ICRC) has played an important role in assisting the Azerbaijani authorities to combat tuberculosis, through the operation of a programme for early detection of prisoners infected with TB and their treatment using the DOTS method ("Directly Observed Treatment - Short Course"), in line with the World Health Organisation (WHO) guidelines.

116. As already noted, at both investigative isolators, all newly arrived prisoners underwent a chest radiological examination upon admission. At Investigative isolator No. 1 in Baku, prisoners whose X-ray results gave cause for concern submitted sputum samples for microscopy. Those found to be BK-positive were transferred to the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis in Bina settlement, Baku. The delegation was told that there was no shortage of tuberculostatic drugs, thanks to the assistance of the ICRC.

117. However, at Investigative isolator No. 2 in Ganja, none of the prisoners who had been diagnosed with pulmonary tuberculosis as a result of the radiological examination had had sputum samples taken. The delegation was told that the microscopy of sputum samples was performed only in Baku, which apparently impeded the diagnostic process. At the time of the visit, there were eleven such prisoners, accommodated separately from other inmates in the establishment's infirmary. None of them received any treatment. Further, their conditions of detention were not satisfactory: the cells were cold and damp, with meagre lighting, and the bedding was in a poor state.

118. It is currently widely acknowledged in international medical circles that in populations with a high tuberculosis prevalence, an X-ray examination cannot constitute in itself a satisfactory initial method for detecting infectious pulmonary tuberculosis cases. In such situations, it is first of all essential to assess the clinical symptoms of the disease during the initial medical screening – in particular, persistent cough, sputum production and weight loss – and then to proceed to sputum smear microscopy for pulmonary tuberculosis suspects (regardless of whether they have undergone an X-ray examination) in order to detect the infectious cases. If necessary, this first stage could be followed by another diagnostic test.

**The CPT recommends that the Azerbaijani authorities take immediate measures at Investigative isolator No. 2 in Ganja to:**

- **introduce systematic screening of prisoners for tuberculosis, in the light of the above remarks;**
- **ensure that prisoners diagnosed as BK-positive are promptly transferred for treatment at the Specialised medical establishment No 3. for prisoners suffering from tuberculosis in Bina settlement, Baku;**
- **provide material conditions in the cells for prisoners with tuberculosis which are conducive to the improvement of their health. In particular, access to natural light, ventilation and heating should be improved as a matter of urgency. Care should also be taken to ensure that the prisoners concerned are able to maintain a standard of personal hygiene consistent with the requirements of their state of health.**

c. Specialised medical establishment No. 3 for prisoners suffering from tuberculosis, Bina settlement, Baku

119. As already indicated, the brief visit to the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis was of a targeted nature, and focused on the ward for prisoners with multi-resistant tuberculosis. Set up in 1998, the establishment receives for treatment both remand and sentenced prisoners diagnosed to be BK-positive. The treatment continues up to 9 months along the lines of the WHO-recommended DOTS strategy, in close co-operation with the ICRC. Prisoners who are non-contagious are subsequently transferred to TB-colony No. 17. At the time of the visit, the establishment had a capacity of 850 places distributed into six wards; two new wards - one for women, with 14 places, and another for men, with 88 places - had been inaugurated days before the delegation's visit. The delegation observed that the new wards were of a very high standard.

120. Prisoners with multi-resistant tuberculosis were accommodated in Ward 5, which was holding 145 inmates at the time of the visit, for an official capacity of 200. Some of them had been there since 1998. The delegation was informed that upon the expiry of their sentences, multi-resistant prisoners would be referred to specialised establishments under the Ministry of Health.

Conditions in the ward were satisfactory: the dormitories were spacious, clean, well-lit and ventilated. The standard of 5 m<sup>2</sup> of living space per prisoner was observed. Prisoners could move freely within the ward and the adjacent yard throughout the day, but were not allowed any contact with the rest of the establishment's population. Otherwise the regime applied in the ward was the same as in the rest of the establishment. Prisoners could read books, play board games and watch TV.

Visits by relatives were allowed in accordance with the type of regime to which the prisoner was sentenced, and prisoners in the terminal phase could receive unlimited visits. However, it appeared that the relatives' reluctance to pay visits was a major problem. This and the knowledge that there was no treatment for their disease had a negative effect on the prisoners' morale and behaviour.

121. At the outset of the visit, the ward's head doctor informed the delegation that multi-resistant patients received only symptomatic treatment (e.g. vitamins). The DOTS+ treatment had not yet been introduced, although the Ministry of Justice, in co-operation with the ICRC, was apparently working on this issue. However, it subsequently emerged that some 30 to 40% of the prisoners in the ward were receiving tuberculostatic medicines utilised in case of multi-resistance, which were being provided by their families. At the same time, the rest of the prisoners – who had lost contact with their families or had no financial resources – did indeed receive only symptomatic medication. Such an inequitable situation has the potential of inciting conflicts between inmates. Further, in the absence of a psychologist employed at the establishment, prisoners could not benefit from the psychological support necessary in their situation.

122. In their letter of 2 April 2003, the Azerbaijani authorities indicated that the treatment of prisoners on the basis of DOTS+ is related to the adoption of a relevant law, which is being considered by Parliament. In the meantime, the Ministry of Justice has engaged in consultations with the Ministry of Health and the ICRC on the problems that might emerge after the adoption of this law. Further, the issue of recruiting a psychologist at the establishment, with a view to providing psychological assistance to prisoners with multi-resistant tuberculosis, is being examined.

**The CPT encourages the Azerbaijani authorities to pursue their efforts to ensure that every prisoner suffering from multi-resistant tuberculosis receives appropriate treatment. Further, the CPT would like to receive information on the progress made concerning the appointment of a psychologist at the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis in Baku.**

d. Central Penitentiary Hospital, Baku (psychiatric ward)

123. The Central Penitentiary Hospital is located on extensive grounds in Baku's industrial district of Nizami. It is the only hospital for sentenced prisoners in the country, and may also receive remand prisoners in urgent or complex cases. Following its opening in 1937, the hospital has undergone numerous enlargements and modifications, the most recent dating back to 1997. It has an official capacity of 550 beds, distributed between nine wards<sup>5</sup>. The CPT's delegation paid a targeted visit to the psychiatric ward, which has a capacity of 50, and was accommodating 33 patients at the time of the visit. The average length of hospitalisation was two months, and the longest stay approximately one year.

124. As regards patients' living conditions, the psychiatric ward was in an advanced state of dilapidation. However, most of the patients' rooms were maintained in a reasonably clean condition. Living space per person was just about adequate. Patients were accommodated in rooms measuring between 11 and 42 m<sup>2</sup> and containing 3 to 10 beds each. All rooms benefited from good access to natural light, adequate artificial lighting and ventilation. However, many windowpanes were broken or missing and the central heating system was not switched on. As a result, the rooms were cold (e.g. 14° C just before noon on 30 November 2002). The equipment consisted of beds, bedding (generally in a rather poor condition and not very clean), a few lockers and, occasionally, a table. The overall impression was of an austere and impersonal environment, with only a few personal items to be seen.

The delegation did not hear any complaints from patients about access to the communal toilets; however, the latter were dilapidated and dirty. Patients could take a shower once or twice a week. The shower rooms were in a very decrepit condition, and hot water was not always available. The only hygiene items provided were small quantities of soap and washing powder. As regards bed sheets, they were washed once a week in the central laundry: a facility in a very poor state of repair, with only one washing machine in working order.

125. Patients generally did not complain about the food, although many of them seemed to rely to a great extent on food parcels from their families. The hospital's central kitchen was basic, but clean. However, the refectory of the psychiatric ward was not equipped with a sufficient number of tables and chairs; as a consequence, many patients were obliged to take their meals sitting on the floor.

126. Before departing from Azerbaijan, the delegation was invited by the Ministry of Justice to re-visit the psychiatric ward in order to witness the measures taken following the delegation's remarks made at the end of the visit to the establishment. The delegation was pleased to note that the central heating had been switched on, the missing windowpanes replaced, the toilets and showers cleaned and refurbished, and the refectory adequately equipped with tables and benches.

---

<sup>5</sup> Admission, internal diseases, surgery, infectious diseases, venerology, neurology, narcology, psychiatry, and a women's ward accommodating patients with various pathologies.

The CPT welcomes this rapid reaction. Nevertheless, further efforts can be made to improve living conditions for psychiatric patients at the Central Penitentiary Hospital in Baku. The overriding objective should be to provide a positive therapeutic environment for patients. More particularly, **the CPT recommends that steps be taken in order to:**

- **ensure that patients are provided with bedding in an adequate condition and cleaned at regular intervals (which will involve the refurbishment of the central laundry);**
- **provide patients with a range of essential personal hygiene items and ensure that all patients are able to take a hot shower at least once a week;**
- **offer more congenial and personalised surroundings for patients (e.g. by improving the decoration, in order to give patients visual stimulation).**

127. As regards health-care staff, at the time of the visit, two full-time psychiatrists were assigned to the psychiatric ward. Further, the ward was regularly attended on a contract basis by an outside consultant psychiatrist. Patients in the ward also had access to the range of other specialists employed at the hospital.

By contrast, the situation as regards nursing staff was unsatisfactory. Only two out of four nurses' posts for the ward were filled. The nurses were assisted (with tasks such as helping the patients to wash and go to the toilet, distributing food, cleaning, etc.) by two orderlies, healthy sentenced prisoners who had received some basic on-the-job training (cf. also paragraph 130).

After 4 p.m. on weekdays, as well as throughout the day on Sundays, there were no health-care staff present in the ward. Distribution of prescribed medication and responding to emergencies was the responsibility of the doctor on duty for the whole hospital.

In the light of the above remarks, **the CPT recommends that the Azerbaijani authorities take steps with respect to the psychiatric ward of the Central Penitentiary Hospital in order to:**

- **fill the vacant nurses' posts and, if possible, reinforce the ward's nursing staff resources;**
- **ensure that a nurse is always present in the ward, including at night and on Sundays.**

**The CPT also invites the Azerbaijani authorities to review the practice of employing prisoners as orderlies at the Central Penitentiary Hospital in Baku; such a measure should be seen as a last resort.**

Further, **the Committee would like to receive information on the specialised psychiatric training (initial and ongoing) for nursing staff at the Central Penitentiary Hospital in Baku and in Azerbaijan in general.**

128. The treatment provided to patients relied almost exclusively on pharmacotherapy. At the time of the visit, the supply of psychiatric medication appeared to be adequate. However, the offer of psycho-social rehabilitative activities was extremely limited, which is hardly surprising given the absence of qualified staff capable of conducting such activities. It consisted of individual psychotherapy sessions organised by the psychiatrists, and was available only to a few patients.

Patients did have access to a large outdoor exercise area (equipped with benches and decorated with plants) between 10 a.m. and 4 p.m. every day. They could also watch TV, play board games and read books from the establishment's library.

The CPT is aware that a significant improvement in the range of therapeutic and other activities offered at the hospital will have to await more favourable economic circumstances. Nevertheless, **the Committee invites the Azerbaijani authorities to seek to develop the possibilities for therapeutic and psycho-social rehabilitation activities at the psychiatric ward of the Central Penitentiary Hospital in Baku.**

129. Patients' medical files and other medical records contained frequent entries and were generally well kept. However, the confidentiality of medical data did not seem to be fully guaranteed. In their letter of 2 April 2003, the Azerbaijani authorities informed the CPT that an order concerning the keeping of medical files in a manner ensuring their confidentiality had been issued and sent to all establishments concerned. The CPT welcomes this development and **would like to receive a copy of the above-mentioned order.**

130. In any psychiatric facility, the restraint of agitated and/or violent patients may on occasion be necessary. This is a subject of particular concern to the CPT, given the potential for abuse and ill-treatment.

*Physical restraints* (which consisted of attaching the patient to a bed frame with the help of bed sheets) were rarely used in the ward. The restraint was ordered by or subject to the approval of the treating psychiatrist (or, in his absence, the doctor on duty), and was normally only applied for as long as it took for chemical restraint (i.e. sedating medication) to start producing its effect. An entry concerning the use of physical restraint was made in the patient's file; however, there was no register for the systematic recording of such events. The delegation was told that in the case of particularly violent patients, prisoner-orderlies and, occasionally, custodial staff might be asked to help restrain the patient. Health-care staff assured the delegation that in such cases orderlies and custodial staff always acted upon their instructions.

131. The delegation gained the impression that *seclusion*, which was practiced in respect of all patients at the hospital, occurred relatively frequently. Its application followed three different procedures, involving both medical and disciplinary aspects. Firstly, in the absence of the hospital's director, the on-duty officer could place an agitated patient in the isolation unit for a maximum period of 24 hours, pending the director's definitive decision on the prolongation or termination of the measure<sup>6</sup>. Secondly, after consulting the treating doctor, the director could place a patient in disciplinary isolation for a period of up to 15 days<sup>7</sup>. Finally, the director could, upon proposal of the treating doctor, place a patient in isolation for medical reasons<sup>8</sup>. There was apparently no time-limit for such placements and, although most of them seemed to last one to two days, the delegation found examples of stays of up to 30 days. In practice, the second and third procedure were applied for similar reasons (agitation, disturbing the staff or other patients, etc.). Patients placed for disciplinary reasons did not receive bedding during the day and were not allowed to have visits.

**The CPT recommends that the Azerbaijani authorities establish a clear distinction between the different procedures applied in respect of seclusion. The rules should be made known to all patients and staff at the hospital.**

132. **As regards in particular patients at the psychiatric ward, the CPT recommends that detailed instructions on the use of means of restraint (including seclusion for medical reasons) be drawn up. Such instructions should make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Means of restraint should only be used as a last resort, and removed/terminated at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment. As regards the use of seclusion, the instructions should spell out more particularly: the types of cases in which it may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact; the need for staff to be especially attentive.**

Further, the Committee wishes to stress that health-care staff must have the main responsibility for the restraint of agitated and/or violent patients. Any assistance by custodial staff in such cases should only be provided at the request of health-care staff and must conform to the instructions given by such staff. **The CPT recommends that the practice of using prisoner-orderlies to assist with the application of means of restraint be discontinued without delay.**

**The CPT also recommends that every instance of the physical restraint (including seclusion) of a patient be recorded in a specific register established for that purpose, in addition to the patient's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.**

---

<sup>6</sup> There had been 75 such placements in the period between 17 July and 25 November 2002.

<sup>7</sup> There had been 49 such placements between 14 July and 25 November 2002.

<sup>8</sup> The delegation found 46 cases of such placements between 19 July and 28 November 2002.

133. Conditions in the hospital's isolation unit were totally unacceptable. The nine cells, measuring between 5 and 11 m<sup>2</sup>, were poorly lit, dilapidated, dirty, cold, and with missing window panes. Their equipment consisted of rusty beds, dirty and torn mattresses and blankets, shelves and floor-level toilets. Patients left these cells for daily outdoor exercise of one hour in a small yard. According to staff, they also had the right to take a shower once a week; however, the decrepit shower facility shown to the delegation appeared unused. Before its departure from Azerbaijan, the delegation was invited to verify the changes made to the isolation unit. It noted that the unit had been taken out of service and that refurbishment work had begun. The CPT welcomes this development and **recommends that, in the context of the ongoing refurbishment, all seclusion rooms at the Central Penitentiary Hospital in Baku be equipped in a manner ensuring security for patients in a state of agitation (in particular, absence of sharp edges or other sharp objects).**

## 5. Other issues of relevance to the CPT's mandate

### a. staff

134. The cornerstone of a humane prison system will always be properly recruited and trained prison officers, who know how to adopt the appropriate attitude in their relations with prisoners. Consequently, particular importance must be attached to the adequate recruitment and training of prison staff.

The information gathered by the delegation suggests that the Azerbaijani Ministry of Justice is committed to improving prison staff training. The teaching of international human rights standards and inter-personal communication skills have an important place in the new curriculum of the Ministry's Educational Centre. However, it appears that an important proportion of prison staff, especially of junior ranks, have not yet been given the opportunity to follow training courses according to this new curriculum. **The CPT encourages the Azerbaijani authorities to vigorously pursue their efforts in the area of prison staff training, both initial and ongoing.**

135. As already mentioned (cf. paragraph 74), with the exception of Investigative isolator No. 2 in Ganja, relations between staff and inmates at the penitentiary establishments visited were quite relaxed. However, some prisoners interviewed by the delegation claimed that certain staff members would accept or request payments in exchange for allowing them to exercise their rights or be granted privileges.

In this context, the CPT wishes to stress that a relationship which exploits, or is widely perceived to exploit, persons who are deprived of their liberty by a public authority is clearly unacceptable. More particularly, the exercise of prisoners' rights and their earning of privileges must never depend on payments made, or improper services rendered, to staff. Such dealings amount to an abuse of authority and must be dealt with severely. **The CPT recommends that the Azerbaijani authorities deliver to both managerial and basic grade staff the clear message that receiving or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions; this message should be reiterated in an appropriate form at suitable intervals.**

b. contact with the outside world

136. It is very important for prisoners to be able to maintain reasonably good contact with the outside world. Above all, prisoners must be given the means of safeguarding their relationships with their families and close friends. The continuation of such relationships is of crucial importance for all those concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. That is the spirit underlying several recommendations in the 1987 European Prison Rules, especially Rule 43 (paragraph 1) and Rule 65 (point c).

137. Visits to remand prisoners by their relatives are subject to prior authorisation by the competent investigator or the court with jurisdiction in the case. The delegation noted that, in practice, such authorisations were extremely rare.<sup>9</sup> Inmates who were still under investigation (a period which often lasted several months) were as a rule not allowed to receive visits. This restrictive approach applied with equal force to men, juveniles and women (some of whom had not been allowed to see their young children for months on end). Further, prisoners who had been sentenced but were appealing against their sentence were also rarely authorised to have visits.

The CPT recognises that it may sometimes be necessary, in the interests of the investigation, to place certain restrictions on visits for particular remand prisoners. However, these restrictions should be strictly limited to the requirements of the case and should apply for the shortest possible period. On no account should visits between a remand prisoner and his/her family be banned for a prolonged period. If there is considered to be an ongoing risk of collusion, visits should be authorised, but under strict supervision. **The CPT recommends that the relevant regulations be amended in order to ensure that remand prisoners are entitled to receive visits as a matter of principle. Any refusal by an investigator to permit such visits should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand and be applied for a specified period of time.**

As concerns, more specifically, juvenile remand prisoners, many of them may have behavioural problems related to emotional deprivation or a lack of social skills; **their contacts with the outside world should be actively promoted.**

138. There was one room for visits by relatives at each investigative isolator. The rooms were small, with 4 places at Baku and only 1 in Ganja; this is clearly insufficient for the number of prisoners held at the establishments. Further, inmates and visitors were physically separated from each other.

**The CPT recommends that the visiting facilities at Investigative isolators No. 1 in Baku and No. 2 in Ganja be enlarged and improved. The aim should be to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule.**

---

<sup>9</sup> For example, at Investigative isolator No. 1 in Baku, out of a total of 48 visits in the period between 14 and 25 November 2002, only 5 had been granted to remand prisoners (who constituted the vast majority of inmates).

139. As regards correspondence, the delegation was told that the rule applicable was analogous to the one concerning visits, i.e. remand prisoners required an authorisation from the investigator or the court to send or receive letters. All letters were read by the administration and their main content was recorded in a special register.

In the CPT's opinion, remand prisoners should be allowed to send and receive letters without restrictions, except when expressly prohibited by the competent investigator or court, for a clearly determined period of time, in cases duly justified by the requirements of the case. It is axiomatic that remand prisoners should be allowed to correspond in confidence with their lawyers and the authorities empowered to supervise places of detention (e.g. the Human Rights Commissioner). **The CPT recommends that the relevant rules and regulations concerning remand prisoners' correspondence be amended, in the light of these remarks.**

140. Sentenced prisoners had better possibilities for maintaining contact with their families and friends. According to their detention regime, they could receive up to four short visits (2 hours) per month and one long visit (72 hours) up to four times per year. However, the investigative isolators did not possess long-term visit facilities and, as a result, sentenced working prisoners could not exercise their right to such visits. By contrast, the Central Penitentiary Hospital had long-term visit facilities which were of a good standard and enabled several families to pay visits to prisoners at a time. **The CPT invites the Azerbaijani authorities to take steps with a view to equipping Investigative isolators No. 1 in Baku and No. 2 in Ganja with long-term visit facilities.**

c. discipline

141. In investigative isolators, punishments for violations of discipline include warnings, written reprimands, restrictions on visits or parcels, and placement in a disciplinary cell. According to the information provided to the delegation, placements in a disciplinary cell ("kartzet") can last up to 5 days for female and juvenile prisoners on remand, up to 10 days for male adult remand prisoners, and up to 15 days for sentenced working prisoners.

142. Disciplinary sanctions are imposed by the establishment's director on the basis of a case file prepared by the staff, which includes a written statement by the inmate concerned. At Investigative isolator No. 1 in Baku, the delegation was told that prisoners against whom disciplinary charges were brought were heard in person by the director or his deputy. However, such a practice did not exist at the Ganja isolator.

**The CPT recommends that steps be taken to formally guarantee that all prisoners facing disciplinary charges are heard in person by the deciding authority on the subject of the offence they are alleged to have committed. The Committee would also like to receive confirmation that prisoners have the right to appeal to a higher authority against any sanctions imposed.**

143. As already indicated (cf. paragraph 11), the “kartzet” cells at Investigative isolator No. 1 in Baku were the subject of an immediate observation under Article 8 (5) of the Convention. The four “kartzet” cells for male inmates were very small (3.6 to 4.4 m<sup>2</sup>), dark, poorly ventilated, dirty and equipped with only a rudimentary means of rest and a floor-level toilet. The “kartzet” cell in the female unit was of an adequate size (10 m<sup>2</sup>), but otherwise displayed the same deficiencies.

The “kartzet” cell said to be in use at Investigative isolator No. 2 in Ganja measured some 8 m<sup>2</sup> and was equipped with a sleeping platform, a table, a washbasin and a floor-level toilet. The cell was extremely cold (9° C measured on 2 December 2002 at noon). At the end of the visit, the delegation requested the Azerbaijani authorities to confirm, within three months, that the cell in question had been fitted with a windowpane. In addition, confirmation was requested that the two other “kartzet” cells, which measured some 3.5 m<sup>2</sup> and were said to be unused at the time of the visit, had been withdrawn from service.

144. In their letter of 2 April 2003, the Azerbaijani authorities informed the CPT that the disciplinary cells at Investigative isolator No. 1 in Baku had been thoroughly refurbished, equipped with wooden floors, and their windows enlarged to allow adequate access to natural light and ventilation. Similarly, the refurbishment of the “kartzet” cell at Investigative isolator No. 2 in Ganja had been completed, and the two other “kartzet” cells taken out of service.

The CPT welcomes these measures. **However, it would like to be informed if the refurbishment undertaken at Investigative isolator No. 1 in Baku has also included the enlargement of the disciplinary cells.**

**The CPT would also like to receive confirmation that prisoners placed in disciplinary cells are provided with a mattress and blankets at night.**

145. Inmates undergoing disciplinary confinement were not offered outdoor exercise. This is not acceptable; daily outdoor exercise of at least one hour per day is a fundamental requirement for all prisoners. **The CPT recommends that the Azerbaijani authorities take the necessary measures to ensure throughout the country that all prisoners placed in disciplinary cells are offered at least one hour of outdoor exercise per day.**

d. complaints and inspection procedures

146. Effective complaints and inspection procedures are basic safeguards against ill-treatment and other types of abuse of authority in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate body.

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves "visible" to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

147. The CPT's delegation was informed that prisoners have the right to submit complaints to the establishment's director and other appropriate authorities (court, prosecutor, etc.). However, all written complaints by prisoners to an outside authority were read and registered by prison staff before being transmitted to their addressees. At Investigative isolator No. 2 in Ganja, the delegation was told that inmates could expressly request that their complaints to the prosecutor be sent in sealed envelopes; however, this seemed to happen extremely rarely. Furthermore, some of the inmates interviewed by the delegation claimed that they would not make use of this possibility because they feared retaliation from staff.

In the CPT's opinion, the present practice - which implies that the lodging of a complaint with an outside authority is systematically brought to the attention of the management of the establishment where the prisoner concerned is held - is almost certainly not conducive to prisoners developing a sense of trust in complaints procedures. This point of view was shared by the Human Rights Commissioner, who indicated her intention to install confidential complaints boxes, to which only her Office would have access, in all penitentiary establishments in the country.

**The CPT recommends that the Azerbaijani authorities take measures to ensure that prisoners can make complaints to appropriate authorities, both within and outside the prison system (including to the European Court of Human Rights and the President of the CPT), on a truly confidential basis. If necessary, the relevant rules and regulations should be changed.**

148. As regards inspection procedures, penitentiary establishments can be visited by the internal Inspectorate of the Ministry of Justice (such inspections apparently take place at least once a year), the recently created Office of the Human Rights Commissioner, and representatives of non-governmental organisations who have obtained permission from the Ministry of Justice.

The CPT welcomes the emergence of a diversified system of internal and external control of penitentiary establishments in Azerbaijan. The system has the potential of making a useful contribution to improving conditions of detention and the treatment of prisoners, and will no doubt stimulate public debate on the prison service. The CPT has noted with particular interest that the Regulations establishing the internal Inspectorate of the Ministry of Justice stipulate that, while carrying out its activities, the Inspectorate should co-operate with the Office of the Human Rights Commissioner.

**The CPT would like to receive further information on the modalities of the inspections of penitentiary establishments carried out both by the internal Inspectorate of the Ministry of Justice and the Office of the Human Rights Commissioner.**

- e. Ministry of Internal Affairs operational staff

149. The delegation noted that operational staff of the Ministry of Internal Affairs were regularly present at the two investigative isolators visited. These officers fulfilled a variety of tasks: investigation of criminal offences committed by inmates prior to imprisonment; gathering information relevant to the establishment's internal security; informing newly arrived prisoners of their rights; allocating inmates to cells; carrying out "educational" work; receiving complaints, etc. The officers in question were apparently not subordinated to the prison management and acted under the instruction of police investigators and prosecutors.

150. The continuing presence of Ministry of Internal Affairs staff at investigative isolators can be detrimental to the safeguarding of remand prisoners' rights and jeopardises the benefits of the transfer of responsibility for such establishments to the Ministry of Justice. It is also arguably contrary to Rule 58.1 of the European Prison Rules, according to which the prison administration must ensure that every institution is at all times in the full charge of the director, the deputy director or other authorised official.

**The CPT recommends that the Azerbaijani authorities take steps to review the presence of Ministry of Internal Affairs staff in investigative isolators. Internal security and custodial tasks, including the allocation of inmates to cells, should be the exclusive duty of prison management and staff.**

f. transport of prisoners

151. The transport of prisoners is the task of the Convoy Battalion of the Ministry of Justice. Transfers take place by road (for distances not exceeding 200 km), train (for journey of up to 12 hours) or plane (to and from the Naxçivan Autonomous Republic). The Convoy Battalion uses a fleet of vans and trucks and two specially equipped train carriages (only one of which was being used at the time of the visit, due to the lack of staff).

152. Conditions in the vans inspected by the delegation varied. They could be considered as satisfactory in the smaller vans (UAZ 452), which were designed to transport up to six inmates in a cabin measuring some 2.6 m<sup>2</sup>, which was adequately lit, ventilated and heated, and was equipped with two benches. However, conditions in the trucks (GAZ 53 and ZIL 130), intended for transporting up to 24 persons, were unacceptable. The truck cabins were divided into two bar-fronted cubicles, measuring 3 m<sup>2</sup> each and equipped with narrow benches, which had no access to natural light and heating, and had poor artificial lighting and ventilation. There was an additional very small cubicle (0.4 m<sup>2</sup> in the GAZ truck and 0.8 m<sup>2</sup> in the ZIL model), used to transport female prisoners or prisoners sentenced to life imprisonment; such a confined space is unsuitable for transporting a person, no matter how short the duration.

153. **The CPT recommends that conditions in the prison transport vehicles be reviewed, having regard to the remarks in paragraph 152. The review should address the conditions offered to prisoners during transport (e.g. space per prisoner, lighting, ventilation, access to sanitary facilities) and safety requirements. In particular, the CPT recommends that:**

- **the maximum permitted number of prisoners transported in the GAZ 53 and ZIL 130 trucks be significantly reduced;**
- **the very small cubicles in the GAZ 53 and ZIL 130 trucks be no longer used for transporting prisoners.**

154. Conditions in the railway carriage were on the whole satisfactory. It could transport up to 80 persons at a time, in compartments designed for three or seven prisoners. The compartments were equipped with wooden three-level platforms, had a grille to the corridor, and windows which could be opened. The delegation was informed that inmates were provided with mattresses and sheets during the journey. A separate toilet facility was also available.

**D. Establishments under the authority of the Ministry of Health**

155. The Centre for forensic psychiatric assessment<sup>10</sup> is located within a secure perimeter on the grounds of the Psychiatric Hospital No 1 in Mashtaga, some 20 km from Baku. Its function is to carry out forensic psychiatric assessment of detained persons referred to it by an investigator, prosecutor or court with a view to establishing their criminal responsibility. Such persons are committed to the centre for a period of up to one month, renewable once. The centre's capacity is 50 beds<sup>11</sup>; on the day of the visit, 15 men undergoing assessment were present.

The delegation did not hear any allegations of ill-treatment of persons admitted to the Centre for forensic psychiatric assessment by staff working at the establishment.

156. As regards living conditions at the centre, the six bar-fronted rooms which were in use measured from 14 m<sup>2</sup> to 35 m<sup>2</sup>, and accommodated between one and four persons. The rooms' equipment consisted of beds with bedding, small tables, bedside lockers and chairs. However, access to natural light was very weak, and artificial lighting and ventilation left much to be desired. Further, both the rooms themselves and their furnishings were dilapidated. It should also be noted that, due to lack of gas supply, the central heating was switched off and the accommodation areas were very cold.

The delegation did not hear any complaints about access to the communal toilet and washing facility. These facilities were in a poor state of repair but in an acceptable state of cleanliness.

157. The forensic psychiatric assessment was performed by a commission of psychiatrists appointed by the Minister of Health and composed of the Head Psychiatrist of the Ministry, the centre's two psychiatrists and, if required, another expert invited from outside. Each of the commission's members examined the person concerned, following which the commission's joint opinion was submitted to the body which had requested the assessment.

In addition to the psychiatrists, the centre's staff comprised three feldshers and three junior health-care workers (orderlies). There was also a part-time psychologist (who fulfilled exclusively assessment functions) and a social worker. In case of need, consultations could be arranged with various medical specialists employed at the hospital. At night and at weekends, health care was provided by the hospital's doctor on duty as well as by a feldsher and an orderly. Perimeter security was ensured by three officers employed by the Ministry of Internal Affairs. The delegation was told that, in urgent cases, they could enter the accommodation areas on request of the health-care staff.

---

<sup>10</sup> Since 2002, the Centre is composed of three units: centre for in-patient forensic psychiatric assessment, centre for out-patient forensic psychiatric assessment, and compulsory treatment unit. The CPT's delegation visited only the first of the above-mentioned units.

<sup>11</sup> However, at the time of the visit, one of the centre's two floors (with 25 beds) was taken out of service for refurbishment.

158. The Centre's purpose being that of observation and not treatment, persons undergoing assessment received psycho-pharmacological medication only in case of emergency. Further, they were not offered any therapeutic activities. Apart from the time spent on various medical examinations and interviews, and the meals taken together in the refectory, they remained locked in their rooms with hardly anything to occupy themselves. They were not even offered outdoor exercise. The only activities available to them consisted of listening to the radio and reading books or newspapers brought by their families.

By letter of 2 April 2003, the Azerbaijani authorities informed the CPT that all persons held at the centre whose medical condition so permits are now offered at least one hour of outdoor exercise every day. Further, a room equipped with board games and journals had been set aside for persons held at the centre. The Committee welcomes these positive steps.

159. The delegation was informed that physical restraints were rarely used at the centre. Restraints and/or seclusion were ordered by or subject to the approval of a psychiatrist. According to staff, they were never applied for prolonged periods of time. However, this was difficult to verify in the absence of a specific register for the systematic recording of such events. There were two rooms used for seclusion (measuring 7 m<sup>2</sup> and 10 m<sup>2</sup>), which were undergoing refurbishment at the time of the visit.

160. As regards contact with the outside world, as in the case of remand prisoners (cf. paragraphs 137 and 139), visits by relatives and correspondence were subject to the authorisation of the relevant investigator. It was prohibited for persons placed in the centre to make telephone calls. Further, it appeared that persons undergoing assessment had no possibility to send confidential complaints to an outside body. Finally, there was no mechanism for independent inspections of the establishment.

**161. The CPT recommends that steps be taken at the Centre for forensic psychiatric assessment in Mashtaga to:**

- **improve living conditions in the rooms and provide a more congenial and personalised environment for persons held at the centre;**
- **develop psycho-social activities for persons undergoing assessment;**
- **ensure that every instance of physical restraint and/or seclusion is recorded in a specific register established for that purpose;**
- **ensure that the possibilities for persons held at the centre to maintain contact with the outside world are not unduly restricted, and that they have the possibility to send complaints on a confidential basis to an outside authority.**

**The CPT would also like to receive confirmation that the rooms used for seclusion have been refurbished and offer satisfactory conditions in terms of lighting, ventilation and heating.**

**Finally, the CPT would like to receive information on the legal safeguards applicable to persons undergoing forensic psychiatric assessment (in particular, access to a lawyer, possibilities to appeal against the expert commission's decisions, etc.).**

**E. Establishments under the authority of the Ministry of Defence**

162. The CPT's delegation visited the disciplinary units ("hauptvacht") of Baku, Ganja and Lenkoran Garrisons. They are used for disciplinary cellular confinement for periods of up to 10 days for privates and non-commissioned officers, up to 5 days for ensigns, and up to 3 days for officers. In case of violations of the internal regulations, the detention period can be prolonged by another term by decision of the Garrison's Military Police Commander. Disciplinary decisions may be appealed to the superior officer and the military prosecutor.

163. The delegation received no allegations of physical ill-treatment of persons held at the disciplinary units visited.

164. The "hauptvacht" of Baku Garrison was located in an ancient building in the historical centre of the city. Four cells were currently in use, with a total capacity of 12 places; a number of small, windowless cells had been taken out of service.

The two cells for soldiers and sailors (measuring 8 and 22 m<sup>2</sup>) held respectively three and five persons. There were also two cells for ensigns and officers (6 and 8 m<sup>2</sup>), each designed to hold up to two persons. The cells were dimly lit (only one of them had direct access to natural light, and artificial lighting was weak). Ventilation also left something to be desired. In-cell equipment consisted of a wooden platform and a container with drinking water. Further, ensigns and officers had access to an area adjacent to their cells which was equipped with a table, stools and old magazines. The facility as a whole was clean and maintained in a reasonable state of repair.

The delegation was told that all persons undergoing disciplinary punishment were provided with mattresses, blankets and sheets at night.

The sanitary arrangements appeared to be adequate: the communal toilet was clean and there was hot water in the shower and washing facility.

165. The "hauptvacht" of Ganja Garrison was also located in an old building, dating back to the 19<sup>th</sup> century. It had three cells, located in a semi-basement area, with an overall capacity of 8 places. A number of very small (2.9 m<sup>2</sup>) and completely bare cells had apparently been taken out of service.

The cell for officers and ensigns (17 m<sup>2</sup>) had two beds. Access to natural light was practically non-existent and artificial lighting was weak; however, ventilation was adequate. In addition to beds, the equipment comprised mattresses, blankets, sheets, stools, lockers and a drinking water container.

The cells for non-commissioned officers (21 m<sup>2</sup>) and for privates (25 m<sup>2</sup>) were designed to hold three persons each. Lighting and ventilation were similar to those in the first cell. However, the cell equipment was limited to a narrow bench on which detained persons could sit during the day, and a drinking water container. At night, wooden planks (measuring 180 by 40 cm) were installed for sleeping. Detainees were not provided with any bedding at night and had to sleep on their military overcoats.

The facility was clean and in quite a good state of repair. However, the cells were cold (14°C on 4 December 2002), due to the lack of gas supply.

Access to the toilet facility did not pose particular problems. Further, a set of personal hygiene items (soap, toothpaste, shaving equipment and towel) was provided to persons undergoing disciplinary punishment.

166. The “hauptvacht” of Lenkoran Garrison was a more recent construction. It consisted of two cells: one for soldiers, which measured 12 m<sup>2</sup> and was designed to hold three persons, and another for non-commissioned officers, measuring 10 m<sup>2</sup> and intended for two persons. As at the other “hauptvacht” establishments visited, a number of cells had apparently been taken out of service.

Verification of the conditions of detention was hampered by a power cut at the time of the visit. Access to natural light was practically non-existent; as to ventilation, it did not appear to pose particular problems. The cells were equipped with a table and benches; wooden plank beds, mattresses and blankets were distributed at night. Due to the frequent power cuts, there was a problem with the supply of hot water.

167. At the three “hauptvacht” establishments visited, food was provided three times a day and was reportedly the same as for other servicemen.

168. The regime applied to servicemen held in the disciplinary units visited consisted of military training (drill, theoretical and practical instruction), work (mostly cleaning duties in the garrison) and outdoor exercise of up to four hours a day. As a result, most of the day was apparently spent outside the disciplinary cells.

169. All servicemen had to be medically examined by the garrison doctor or feldsher before admission to the “hauptvacht”. The doctor or feldsher also visited the detained servicemen on a periodic basis as well as upon request, and could recommend their transfer to a hospital.

170. As for inspection procedures, the delegation was told that the district military prosecutor, who exercises supervision over military custody, carried out periodic visits (every 10 days) to the disciplinary units. Further, inspections by the Military Police Headquarters also took place.

171. In the light of the above remarks, **the CPT recommends that steps be taken to:**

- **improve access to natural light, ventilation and artificial lighting in the cells at the disciplinary units (“hauptvacht”) in Baku, Ganja and Lenkoran;**
- **provide detained servicemen at the “hauptvacht” in Ganja with mattresses and blankets at night;**
- **review cell occupancy levels at the “hauptvacht” in Baku with a view to guaranteeing 4 m<sup>2</sup> per person;**
- **enable detained servicemen at the “hauptvacht” in Lenkoran to have a hot shower at least once a week.**

**F. Establishments under the authority of the State Border Service**

172. The CPT's delegation visited two State Border Service establishments near Azerbaijan's border with Iran: in Goytepe (Jalilabad region) and Lenkoran. Each of them had two types of detention facilities: a "hauptvacht" for Border Guard servicemen placed in disciplinary cellular confinement, and a temporary detention centre for persons who had violated the border control regulations. All the detention facilities were empty at the time of the visit.

173. The disciplinary rules applicable to Border Guard servicemen are identical to those outlined in paragraph 162 in respect of servicemen of the Ministry of Defence.

In accordance with the Code of Administrative Offences (section 399), a person who has violated the border control regulations may be detained for up to 24 hours if it is necessary to define his identity. This period may be prolonged by 3 days by a judge's decision for administrative arrest. Persons suspected of having committed criminal offences are subsequently transferred to the relevant services (police, Ministry of National Security). Further, pursuant to a bilateral agreement between Azerbaijan and Iran, Iranian nationals who have violated the border control regulations - but have not committed other offences - should be repatriated within 7 days.

174. The temporary detention centre at Goytepe had five cells. They were of a reasonable size (e.g. cells measuring 7 m<sup>2</sup> were intended for one person, and cells measuring 13 m<sup>2</sup>, for two persons). Access to natural light, artificial lighting and ventilation were also satisfactory. The cell equipment comprised beds with mattresses and blankets, and stools. However, the cells had clearly not benefited from refurbishment for a long time, and were in a bad state of repair. Similarly, the communal toilet was run down; further, there was no shower facility. The delegation was told that detained persons could have unlimited access to a large exercise yard, and were provided with food three times a day.

The disciplinary detention facility ("hauptvacht") consisted of four cells (9 to 15 m<sup>2</sup>), intended for one to three persons. The cells were situated in a basement area, and were dark: a very limited amount of natural light came through a tiny grilled aperture, and artificial light was totally inadequate. Ventilation was also deficient. Privates and non-commissioned officers undergoing disciplinary punishment were not provided with any bedding at night and slept on bare benches.

175. The temporary detention centre in Lenkoran had six cells, only three of which were being used. The cells in use measured some 8 m<sup>2</sup> and were each fitted with two beds with full bedding, a table and a stool. The cells had access to natural light, and artificial lighting and ventilation were adequate. However, the common sanitary facility was dirty and in a bad state of repair. The exercise yard, to which detainees reportedly had access, was of a reasonable size (some 30 m<sup>2</sup>).

As to the disciplinary detention facility, it had three cells intended for privates (higher rank servicemen being transferred to the another “hauptvacht”). Two of the cells, intended for double occupancy, measured a mere 3 to 4 m<sup>2</sup>. Such a cell is too small to be used as overnight accommodation for even one person, let alone two. The third cell, measuring some 9 m<sup>2</sup>, could hold up to three persons. The cells were deprived of access to natural light and were cold and humid; artificial lighting and ventilation were also extremely poor. As at Goytepe, servicemen undergoing disciplinary punishment were not provided with a mattress at night and slept on the narrow benches (some 35 to 45 cm wide), using their military overcoats as bedding.

176. **The CPT recommends that the Azerbaijani authorities take steps in order to:**

- **refurbish the temporary detention centre of the State Border Service in Goytepe;**
- **improve the state of repair and hygiene of the communal toilet facilities of the temporary detention centre in Lenkoran;**
- **improve access to natural light, ventilation and artificial lighting at the disciplinary detention facilities (“hauptvacht”) of the State Border Service in Goytepe and Lenkoran;**
- **enlarge the two small cells at the “hauptvacht” facility in Lenkoran (preferably to at least 6 m<sup>2</sup>) so as to meet the standard of 4 m<sup>2</sup> per person;**
- **ensure that servicemen held at disciplinary detention facilities of the State Border Service are provided with mattresses and blankets at night; if necessary, the relevant legal provisions should be amended;**
- **enable all detained persons to have a hot shower at least once a week.**

177. The delegation was informed that persons detained for violations of the border control regulations were entitled to the same rights as other categories of detained persons. In particular, they could have access to a lawyer and use the services of an interpreter. Further, they were medically examined by a doctor employed by the State Border Service. In order to ensure that persons detained by the State Border Service are fully informed of their legal position and rights, **the CPT recommends that such persons be systematically provided with a document explaining the procedure applicable to them and setting out their rights; this document should be available in the languages most commonly spoken by the persons concerned.**

178. The prohibition of torture and inhuman or degrading treatment or punishment encompasses the obligation not to send a person to a country where there are substantial grounds for believing that he would run a real risk of being subjected to torture or ill-treatment. In this connection, the CPT is concerned by the lack of information at the two State Border Service establishments visited as regards the procedure applicable to persons who request asylum. **The Committee would like to receive information on this procedure and, in particular, a detailed account of the precise steps taken by the Azerbaijani authorities in practice to ensure that persons are not sent to countries where they run a risk of torture or ill-treatment.**

### III. RECAPITULATION AND CONCLUSIONS

179. Azerbaijan continues to face serious economic and social problems, many of which are related to the Nagorno-Karabakh conflict. Despite various efforts made by the Azerbaijani authorities, these problems have negative repercussions on areas covered by the CPT's mandate. This has been borne in mind by the Committee, especially when considering material conditions of detention and activities offered to persons deprived of their liberty. Nevertheless, armed conflict and economic and social problems can never justify deliberate ill-treatment.

Certain initiatives have already been undertaken by various States on a bilateral basis, as well as within the framework of international organisations, with a view to assisting Azerbaijan. The CPT trusts that these efforts will be continued and intensified, and hopes that those offering assistance will take due account of the recommendations and other remarks set out in this report.

#### A. Establishments under the authority of the Ministry of Internal Affairs

180. The CPT's delegation received numerous allegations of physical ill-treatment of persons detained by the police. The majority of these allegations related to the time of questioning by police officers, with a view to extracting confessions or gathering other information. On the other hand, hardly any allegations were received of ill-treatment by custodial staff working in temporary detention centres.

The types of ill-treatment alleged mainly concerned slaps, punches, kicks and blows struck with truncheons, gun butts and other hard objects. In some cases, the severity of the ill-treatment alleged – such as the infliction of electric shocks, blows struck on the soles of the feet or blows to the body while the person concerned was handcuffed in a suspended position – was such that it could be considered as amounting to torture. Certain of the persons who made allegations of ill-treatment were found on examination by medical members of the delegation to display physical marks or conditions consistent with their allegations.

In the light of all the information at its disposal, the CPT has been led to conclude that persons deprived of their liberty by the police in Azerbaijan run a significant risk of being ill-treated while in police custody (in particular when being interrogated), and that on occasion resort may be had to severe ill-treatment/torture.

181. The risk of ill-treatment was heightened by the frequent practice of holding persons in police custody for periods significantly exceeding the 72-hour time-limit laid down by the Code of Criminal Procedure. In this context, the CPT has recommended that the Azerbaijani authorities take urgent steps to ensure that the legal provisions on the duration of police custody are respected in practice, and that persons remanded in custody are transferred promptly to an investigative isolator under the authority of the Ministry of Justice or Ministry of National Security.

182. The best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers themselves. This implies strict selection criteria at the time of recruitment and the provision of adequate professional training. As regards the latter, the Azerbaijani authorities should seek to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects. The CPT has also recommended that the relevant national authorities as well as senior police officers make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely.

183. Another effective means of preventing ill-treatment by police officers lies in the diligent examination by the judicial authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. In this connection, the CPT has recommended that whenever criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.

184. As regards safeguards against ill-treatment, the CPT has stressed the need to strengthen the existing rights of persons deprived of their liberty by the police to notify a relative of their situation and to have access to a lawyer. These rights should be guaranteed as from the very outset of a person's deprivation of liberty (and not only when it is formalised in a protocol of detention). Concerning more particularly the right to notification of custody, the CPT fully accepts that its exercise may have to be subject to certain exceptions designed to protect the legitimate interests of the investigation; however, any such exceptions should be clearly defined and applied for as short a time as possible. The CPT has also recommended that persons in police custody be expressly guaranteed the right to have access to a doctor; the granting of such access should not be at the discretion of the police.

185. Conditions of detention in the police *temporary detention centres* visited varied. The best conditions were observed at the temporary detention centre of the Police Department of Ganja. Efforts were also being made at the centre in Masalli to provide decent conditions of detention. However, conditions at the other establishments visited were unacceptable in many respects: the cells were poorly lit and ventilated, rudimentarily equipped, and there were no possibilities for outdoor exercise. Conditions of detention at the temporary detention centre of the Police Division of Lenkoran amounted, in the CPT delegation's opinion, to inhuman and degrading treatment. The CPT has welcomed measures already taken by the Azerbaijani authorities to remedy some of the shortcomings observed and has encouraged them to persevere in their efforts to improve conditions of detention in temporary detention centres. The Committee has also recommended that the systematic screening of newly arrived detainees at such centres be performed by qualified health-care personnel.

*Cells at local police stations* were totally unsuitable for use as overnight accommodation. However, the consultation of custody registers indicated that they could on occasion hold persons for periods of days and even weeks. The CPT has recommended that the Azerbaijani authorities take immediate steps to ensure that the legal provisions in force – according to which persons should not be kept overnight at local police stations – are fully respected in practice.

**B. Establishments under the authority of the Ministry of National Security**

186. The CPT's delegation did not hear any allegations of ill-treatment of persons detained at the Isolator of the Ministry of National Security in Baku by staff working at the establishment, and did not find any other evidence of such treatment.

187. Material conditions at the Isolator were on the whole acceptable and could serve as a model for other establishments accommodating pre-trial detainees in Azerbaijan. However, the CPT has recommended that measures be taken to improve substantially activities for inmates; apart from outdoor exercise and periods of interrogation, they spent months locked up in their cells with virtually nothing to occupy themselves. Other recommendations made concern the establishment's health-care service, detainees' contact with the outside world and possibilities to send complaints on a confidential basis.

**C. Establishments under the authority of the Ministry of Justice**

188. The delegation did not receive any allegations of ill-treatment of inmates by staff at Investigative isolator No. 1 in Baku, the Central Penitentiary Hospital in Baku and the Specialised medical establishment for prisoners suffering from tuberculosis in Bina settlement, Baku. Many prisoners met in these establishments stated that the attitude of prison officers had improved in recent years.

However, some allegations of ill-treatment were heard at Investigative isolator No. 2 in Ganja. They related to kicks, punches and blows with truncheons, apparently inflicted by custodial staff on prisoners who had demonstrated insubordination or violated the internal regulations. It is noteworthy that custodial staff at this establishment had the practice of carrying truncheons in a conspicuous manner in the prisoner accommodation areas.

Subsequent to the CPT's visit, the Azerbaijani authorities took certain measures at Investigative isolator No. 2, including strengthening of staff training and prohibiting the carrying of truncheons in prisoner accommodation areas. The Committee has welcomed these measures; at the same time, it has recommended that the management of Investigative isolator No. 2 exercise continuing vigilance and deliver to their staff the clear message that ill-treatment of inmates is not acceptable.

189. Despite the difficult economic climate, efforts were being made to improve material conditions of detention. Nevertheless, there was widespread recognition of the need for further action.

The majority of the prisoner accommodation at *Investigative isolator No. 1 in Baku* was in a reasonable state of repair. Another positive feature observed was the absence of shutters on cell windows, as a result of which the vast majority of the cells benefited from adequate access to natural light and ventilation. Further, each inmate had his/her own sleeping place.

However, conditions of detention were cramped and many of the cells were cold. The poorest conditions were found in Block 5, accommodating prisoners accused of committing serious offences, including life-sentenced prisoners in the process of appeal. Further, the cells in the unit for juveniles had no windows, and were austere and dilapidated.

At *Investigative isolator No. 2 in Ganja*, the bulk of the prisoner accommodation was in a poor state of repair, and the level of cleanliness left much to be desired. Although the establishment was operating well below its official capacity, conditions in the majority of the cells were cramped. Further, in most cells access to natural light, artificial lighting and ventilation were poor, and many cells were very cold.

After the visit, the Azerbaijani authorities informed the CPT of certain measures taken at both investigative isolators. The Committee has welcomed these positive developments but has also recommended that further steps be taken; in particular, cell occupancy rates should be reduced, with the objective of offering at least 4 m<sup>2</sup> of living space per prisoner.

190. As regards activities, the vast majority of inmates, including juveniles, spent 23 hours a day locked up in their cells with hardly anything to occupy their time. Inmates were entitled to one hour of outdoor exercise every day (extendable to two hours in the case of women and juveniles); however, it was alleged that, in practice, outdoor exercise usually lasted only 30 to 40 minutes.

The CPT recognises that the provision of organised activities in a pre-trial establishment, where there is a high turnover of inmates, poses particular challenges. However, it is not acceptable to leave prisoners to their own devices for months at a time. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells/dormitories engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. The CPT has made recommendations to this effect. Urgent measures must be taken to offer adequate educational and recreational activities to juvenile inmates.

191. The CPT has addressed a number of specific issues relating to prison health-care services (staff and facilities; medical screening on admission; medical files and confidentiality). In this context, the Committee has stressed that a greater involvement of the Ministry of Health in the provision of health care in the prison system would help to ensure optimum health care for prisoners, as well as implementation of the principle of the equivalence of health care in prison with that in the outside community. The Committee has also made recommendations designed to improve the screening for and recording of injuries on newly arrived prisoners.

192. Tuberculosis represents a major health problem in the Azerbaijani penitentiary system. With the assistance of the ICRC, the Azerbaijani authorities have introduced a programme for early detection of prisoners infected with TB and the WHO-recommended DOTS treatment method. However, the situation found at Investigative isolator No. 2 in Ganja as regards tuberculosis control was not satisfactory. The CPT has recommended that immediate measures be taken at that establishment to improve the screening of prisoners for tuberculosis and to ensure that, when necessary, they are promptly transferred for treatment to the Specialised medical establishment No. 3.

The delegation visited the ward for prisoners with multi-resistant tuberculosis at the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis in Bina settlement, Baku. Conditions there were, on the whole, satisfactory. However, the DOTS+ treatment had not been introduced; as a result, the majority of inmates received only symptomatic medication, while some 30-40% were being provided by their families with tuberculostatic medicines utilised in case of multi-resistance. The CPT has encouraged the Azerbaijani authorities to strive to ensure that all prisoners suffering from multi-resistant tuberculosis receive appropriate treatment.

193. A number of shortcomings were observed as regards material conditions at the psychiatric ward of the Central Penitentiary Hospital in Baku. The CPT has welcomed the remedial measures taken by the Azerbaijani authorities in response to its delegation's remarks. It has also made recommendations aimed at further improving patients' living conditions, reinforcing health-care staff, and introducing detailed instructions on the use of means of restraint, including seclusion for medical reasons.

194. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to its mandate (staff; contact with the outside world; discipline; complaints and inspection procedures; transport of prisoners). In particular, the Committee has encouraged the Azerbaijani authorities to vigorously pursue their efforts in the area of prison staff training. Indeed, the cornerstone of a humane prison system will always be properly trained prison officers, who know how to adopt the appropriate attitude in their relations with prisoners. In the same vein, it has recommended that both managerial and basic grade staff be given the clear message that receiving or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions.

#### **D. Establishments under the authority of the Ministry of Health**

195. The delegation did not hear any allegations of ill-treatment of persons admitted to the Centre for forensic psychiatric assessment in Mashtaga by staff working at the establishment.

196. As regards living conditions at the centre, the rooms were sufficiently large for their intended occupancy rate and adequately furnished. However, access to natural light was very weak, and artificial lighting and ventilation left much to be desired. Further, the rooms were dilapidated and very cold. The CPT has recommended that these shortcomings be remedied.

At the time of the visit, persons undergoing assessment were offered practically no activities. The CPT has welcomed steps subsequently taken by the Azerbaijani authorities to ensure that all persons held at the centre whose medical condition so permits are offered at least one hour of outdoor exercise every day, and to place at their disposal a room equipped with board games and journals.

**E. Establishments under the authority of the Ministry of Defence**

197. No allegations of physical ill-treatment of persons held at the disciplinary units (“hauptvacht”) of Baku, Ganja and Lenkoran Garrisons were received by the delegation.

198. As regards conditions of detention, the facilities were on the whole clean and in a reasonable state of repair. However, the cells were poorly lit and, on occasion, cold or inadequately ventilated. Further, servicemen detained at the “hauptvacht” in Ganja were not provided with any bedding at night and had to sleep on their military overcoats. The CPT has recommended that steps be taken to remedy the shortcomings observed.

**F. Establishments under the authority of the State Border Service**

199. Both State Border Service establishments visited by the CPT, in Goytepe and Lenkoran, had two types of detention facility: a “hauptvacht” for Border Guard servicemen placed in disciplinary cellular confinement, and a temporary detention centre for persons who had violated the border control regulations. All the detention facilities were empty at the time of the visit.

200. Various deficiencies were observed as regards material conditions. In particular, the cells in both disciplinary detention facilities were very poorly lit and ventilated. Further, privates and non-commissioned officers undergoing disciplinary punishment were not provided with any bedding at night and slept on narrow and bare benches. The facilities for persons who had violated the border control regulations were generally of a better standard; they were nevertheless in need of some refurbishment.

The CPT has made recommendations designed to bring about the necessary improvements. Further, it has recommended that persons detained for violations of the border control regulations be systematically provided with a document explaining the procedure applicable to them and setting out their rights; this document should be available in the languages most commonly spoken by the persons concerned.

**G. Action on the CPT's recommendations, comments and requests for information**

201. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

202. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Azerbaijani authorities:

i. to provide within **six months** an interim response giving details of how it is intended to implement the CPT's recommendations and, as the case may be, containing an account of action already taken (N.B. the Committee has indicated the urgency of certain of its recommendations);

ii. to provide within **twelve months** a follow-up response providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Azerbaijani authorities to provide, in the above-mentioned interim response, reactions to the comments formulated in this report which are listed in Appendix I as well as replies to the requests for information made.



## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **I. INTRODUCTION**

##### requests for information

- steps taken to eradicate the problem of corruption in the criminal justice system and at places of deprivation of liberty (paragraph 9).

#### **A. Establishments under the authority of the Ministry of Internal Affairs**

##### **1. Preliminary remarks**

##### recommendations

- the Azerbaijani authorities to take urgent steps to ensure that the legal provisions on the duration of police custody are respected in practice and that persons remanded in custody are transferred promptly to investigative isolators (paragraph 15);
- the Azerbaijani authorities to deliver to police staff the clear message that abusing their position to obtain money from detained persons will be the subject of severe sanctions (paragraph 15);
- steps to be taken to stamp out the practices referred to in paragraph 17 of the visit report (paragraph 17).

##### requests for information

- the comments of the Azerbaijani authorities on the issue raised in paragraph 16 of the visit report (paragraph 16).

## 2. Torture and other forms of physical ill-treatment

### recommendations

- a very high priority to be given to professional training for police officers of all ranks and categories, including training in modern investigation techniques. Experts not belonging to the police force should be involved in this training (paragraph 24);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and, during their training, considerable emphasis to be placed on acquiring and developing interpersonal communication skills (paragraph 24);
- the relevant national authorities as well as senior police officers to make it clear to police officers that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 24);
- whenever criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 25);
- persons who are released from police custody without being brought before a judge should have the right to directly request a medical examination/certificate from a doctor who has received recognised training in forensic medicine (paragraph 25);
- the record drawn up by a prison doctor following a medical examination of a newly-arrived prisoner to contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made, the record should be systematically brought to the attention of the relevant authority. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer (paragraph 26);
- all medical examinations to be conducted out the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of law enforcement officials and other non-medical staff (paragraph 26);
- steps to be taken to ensure that the examination of persons admitted to temporary detention centres is performed by qualified health-care personnel and in a systematic and thorough manner (paragraph 27).

requests for information

- information, in respect of 2002 and 2003, on:
  - the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;
  - an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 23);
- detailed information on complaints procedures applied in cases involving allegations of ill-treatment by the police, including the safeguards incorporated to ensure their objectivity (paragraph 23);
- detailed information on disciplinary procedures applied in cases involving allegations of ill-treatment by the police (paragraph 23).

**3. Safeguards against the ill-treatment of persons deprived of their liberty**

recommendations

- the Azerbaijani authorities to take steps to ensure that:
  - all persons deprived of their liberty by the police – for whatever reason – are granted the right to inform a close relative or a third party of their choice of their situation, as from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police and not only when their deprivation of liberty is formalised in a protocol of detention);
  - any possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or a third party is clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or of a prosecutor) and applied for as short a time as possible;
  - the exercise of the right to have the fact of one's custody notified to a relative or a third party is recorded in writing (paragraph 31);
- the Azerbaijani authorities to take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty (and not only when a person's deprivation of liberty is formalised in a protocol of detention). The exercise of this right should be recorded in writing (paragraph 33);

- persons deprived of their liberty by the police to be expressly guaranteed the right to have access to a doctor (including, if they so wish, one of their choice) from the very outset of their deprivation of liberty. The relevant provisions should make clear that:
  - a request by a detained person to see a doctor should always be granted; police officers should not seek to vet such requests;
  - a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);
  - all medical examinations should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police staff;
  - the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;
  - the confidentiality of medical data is to be strictly observed, without prejudice to the right of the person concerned to make reference to that medical data;
  - the exercise of the above-mentioned right is to be recorded in writing (paragraph 36);
- the form setting out the rights of persons apprehended by the police to be given systematically to all such persons at the very outset of their custody (and not only after the drawing up of a protocol of detention). The contents of this form should reflect, inter alia, the recommendations made in paragraphs 31, 33 and 36 of the visit report. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights (paragraph 38);
- the Azerbaijani authorities to supplement existing provisions by drawing up a code of conduct for police interviews (paragraph 40).

#### comments

- the fundamental safeguards offered to persons in police custody would be reinforced if a standard, single and comprehensive custody record were to be kept for all persons brought into a police station. This register should record all aspects of the custody and all the action taken in connection with it (including time of and reason(s) for the arrival at the police station; time of issuing the order of detention; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when released, etc.) (paragraph 42);

- to be fully effective from the standpoint of preventing ill-treatment, visits by prosecutors (as well as by other external inspecting bodies) to police detention facilities should be unannounced and should include direct contact with detained persons, as well as an inspection of the establishments' cellular facilities (paragraph 44);
- the Azerbaijani authorities are invited to introduce a system of independent visits to police establishments by NGOs, similar to the one applied vis-à-vis establishments under the Ministry of Justice (paragraph 44).

#### requests for information

- details on the system of legal aid for detained persons, in particular the procedure for appointment of ex officio lawyers, their remuneration, etc. (paragraph 34);
- a copy of the Order dated 9 March 2001 as well as any other relevant instructions concerning the prosecutors' function of inspection (paragraph 44);
- whether the Office of the Human Rights Commissioner has started to perform inspections of police detention facilities and, in the affirmative, copies of recent reports drawn up following visits to such establishments (paragraph 44).

#### **4. Conditions of detention**

##### recommendations

- steps to be taken at temporary detention centres to ensure that:
  - in-cell lighting (including access to natural light) and ventilation are adequate;
  - the state of repair and hygiene of cells and common sanitary facilities are satisfactory;
  - detained persons are supplied with essential personal hygiene products;
  - all detained persons are provided with a clean mattress and clean blankets at night;
  - detained persons are offered food – sufficient in quantity and quality – at normal meal times;
  - detained persons have access to outdoor exercise for at least one hour per day (paragraph 50);

- the Azerbaijani authorities to take immediate steps to ensure that the legal provisions in force – according to which persons should not be kept overnight at local police stations – are fully respected in practice. Measures should be taken to ensure that cells at local police stations have adequate lighting, ventilation and equipment, and are maintained in a good state of repair and cleanliness (paragraph 54);
- steps to be taken at the Reception and distribution centre for minors of the Police Directorate of the City of Baku to:
  - reduce the dormitories' capacity, aiming at a standard of 4 m<sup>2</sup> per person;
  - ensure that the dormitories are properly furnished, well-decorated and offer appropriate visual stimuli;
  - refurbish the sanitary annexes and keep them clean;
  - develop the programme of activities for children held at the centre;
  - ensure the regular presence of female staff in sufficient numbers;
  - ensure that on their arrival at the centre, minors are screened by health-care staff. Provision should also be made for regular attendance by a paediatrician (paragraph 59).

#### comments

- the CPT trusts that the Azerbaijani authorities will continue their efforts to ensure that conditions at the Reception and distribution centre of the Police Directorate of the City of Baku, Binagadi District, correspond fully to the criteria outlined in paragraph 45 of the visit report. As regards more particularly cell occupancy rates, the aim should be to meet the standard of 4 m<sup>2</sup> per detained person (paragraph 55).

#### requests for information

- a copy of the Ministry of Internal Affairs Order No. 300 of 26 July 2002 governing the functioning of police centres for minors (paragraph 59);
- confirmation that the refurbishment of the Special reception station of the Police Directorate of the City of Baku, Khatai District, has been completed. In this connection, the Committee would like to be informed whether all cells enjoy access to natural light and adequate heating (paragraph 60).

**B. Establishments under the authority of the Ministry of National Security**

recommendations

- measures to be taken at the Isolator of the Ministry of National Security in Baku in order to:
  - substantially improve activities for inmates; as a first step, they should be allowed to have radio sets in their cells; further, efforts should be made to offer them an appropriate range of out-of-cell activities;
  - enlarge the establishment's exercise yards;
  - improve the quality of medical documentation, in particular by opening an individual medical file for each inmate, and ensure that medical confidentiality is respected;
  - ensure that the procedure for medical screening on arrival meets the requirements set out in the recommendations made in paragraph 26 of the visit report;
  - review the possibilities for persons detained in the establishment to have contact with the outside world, in order to ensure that such contact is not being unduly restricted;
  - guarantee inmates' confidential access to the bodies authorised to receive complaints;
  - introduce a system of regular visits by an independent body with authority to receive - and, if necessary, take action on - inmates' complaints and to visit the premises (paragraph 69).

requests for information

- confirmation that a doctor and a nurse have now been employed at the Isolator of the Ministry of National Security in Baku (paragraph 69).

**C. Establishments under the authority of the Ministry of Justice**

**1. Preliminary remarks**

recommendations

- special measures to be introduced with a view to ensuring that both sentenced and remand prisoners are provided with work (paragraph 73).

comments

- the CPT trusts that the Azerbaijani authorities will pursue the application of a range of measures designed to combat prison overcrowding, including policies to limit or modulate the number of persons sent to prison. In this connection, the Azerbaijani authorities should take into account the principles and measures set out in Recommendation No. R (99) 22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation (paragraph 72).

**2. Ill-treatment**

recommendations

- the management of Investigative isolator No 2 in Ganja to exercise continuing vigilance and to deliver to staff the clear message that ill-treatment of inmates is not acceptable (paragraph 75).

requests for information

- whether the approach adopted at Investigative isolator No. 2 in Ganja as regards the prohibition of the carrying of truncheons by prison staff will be applied throughout the penitentiary system (paragraph 75);
- in respect of 2001 and 2002:
  - the number of complaints lodged concerning ill-treatment by prison officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
  - an account of the outcome of the above-mentioned proceedings (verdict, sentence/sanction imposed) (paragraph 76).

**3. Conditions of detention**

recommendations

- the Azerbaijani authorities to take the following measures at Investigative isolator No. 1 in Baku:
  - strenuous efforts to be made to reduce the occupancy rate of the establishment's cells; the objective should be to offer a minimum of 4 m<sup>2</sup> per prisoner;
  - the windowless cells described in paragraph 79 of the visit report to be withdrawn from service as prisoner accommodation;

- the “quarantine cells” to be refurbished;
  - steps to be taken to ensure that all cells are adequately heated;
  - a comprehensive refurbishment of the facilities in Block 5 to be carried out (to include the replacement of all missing windowpanes); further, all cells measuring less than 6 m<sup>2</sup> should be withdrawn from service;
  - appropriate arrangements to be made for women prisoners accompanied by babies or young children;
  - conditions of detention in the juveniles’ unit to be reviewed as a matter of urgency, with a view to rectifying the deficiencies referred to in paragraph 83 of the visit report;
  - prisoners to be guaranteed access to adequate quantities of essential personal hygiene products (including sanitary towels for women’s monthly needs) and to cleaning products for their cells;
  - the laundry arrangements for washing prisoners’ clothes and bedlinen to be reviewed;
  - further efforts to be made to improve the quality of food provided to prisoners and to enlarge and re-equip the establishment’s kitchen (paragraph 87);
- the Azerbaijani authorities to take steps at Investigative isolator No. 2 in Ganja in order to:
- reduce occupancy rates, the objective being to offer at least 4 m<sup>2</sup> of living space per prisoner;
  - ensure that all cells benefit from adequate access to natural light, artificial lighting and ventilation;
  - maintain the in-cell sanitary annexes reasonably clean;
  - ensure that all prisoners can take a hot shower at least once a week;
  - provide inmates with sufficient amounts of essential personal hygiene products and cleaning materials, and with adequate facilities for washing their clothes and bed linen;
  - refurbish the kitchen facility (paragraph 96);
- the Azerbaijani authorities to make serious efforts to develop activities for prisoners at Investigative isolators Nos. 1 and 2, in the light of the remarks in paragraph 101 of the visit report (paragraph 102);

- urgent measures to be taken to ensure that juvenile inmates are offered educational and recreational activities which take into account the specific needs of their age group. Physical education should form a major part of that programme (paragraph 102);
- the practice of placing adult prisoners in cells for juvenile prisoners to be discontinued (paragraph 102);
- steps to be taken to develop the regime applied to life-sentenced prisoners at Investigative isolator No. 1 in Baku, with a view to increasing substantially the possibilities available to such prisoners to have human contact. As a first step, life-sentenced prisoners should be allowed to take outdoor exercise together (paragraph 102);
- steps be taken to upgrade the outdoor exercise facilities at both isolators, and to ensure that all prisoners have the possibility to take outdoor exercise for at least one hour every day (paragraph 102).

requests for information

- a detailed description of the unit to which female prisoners have been transferred at Investigative isolator No. 1 in Baku (paragraph 87).

**4. Health-care services**

recommendations

- the Azerbaijani authorities to:
  - reinforce nursing staff at Investigative isolators Nos. 1 and 2;
  - fill the vacant psychiatrist's post at Investigative isolator No. 2 in Ganja and seek to employ psychologists at both investigative isolators;
  - take steps to increase the attendance of a dentist at Investigative isolator No. 1 in Baku (paragraph 108);
- the approach recommended in paragraph 26 of the visit report, concerning the record to be drawn up following a medical examination of a newly-arrived prisoner, should also be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 112);
- a centralised system for recording injuries observed upon arrival to be introduced (e.g. a specific register kept by the prison health-care service) and the health-care service to compile periodic statistics concerning injuries observed, for the attention of prison management, the Ministry of Justice, etc. (paragraph 112);

- a personal and confidential medical file to be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of his treatment, including special examinations he has undergone. The prisoner should be able to consult his medical file, unless this is inadvisable from a therapeutic standpoint, and to request that the information it contains be made available to his family or lawyer (paragraph 113);
- practice in Azerbaijani penitentiary establishments as regards observance of the confidentiality of medical records to be brought into conformity with the requirements referred to in paragraph 114 of the visit report (paragraph 114);
- the Azerbaijani authorities to take immediate measures at Investigative isolator No. 2 in Ganja to:
  - introduce systematic screening of prisoners for tuberculosis, in the light of the remarks made in paragraph 118 of the visit report;
  - ensure that prisoners diagnosed as BK-positive are promptly transferred for treatment at the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis in Bina settlement, Baku;
  - provide material conditions in the cells for prisoners with tuberculosis which are conducive to the improvement of their health. In particular, access to natural light, ventilation and heating should be improved as a matter of urgency. Care should also be taken to ensure that the prisoners concerned are able to maintain a standard of personal hygiene consistent with the requirements of their state of health (paragraph 118);
- steps to be taken at the psychiatric ward of the Central Penitentiary Hospital in Baku in order to:
  - ensure that patients are provided with bedding in an adequate condition, cleaned at regular intervals (which will involve the refurbishment of the central laundry);
  - provide patients with a range of basic personal hygiene items and ensure that all patients are able to take a hot shower at least once a week;
  - offer more congenial and personalised surroundings for patients (e.g. by improving the decoration, in order to give patients visual stimulation) (paragraph 126);
- the Azerbaijani authorities to take steps with respect to the psychiatric ward of the Central Penitentiary Hospital in Baku in order to:
  - fill the vacant nurses' posts and, if possible, reinforce the ward's nursing staff resources;
  - ensure that a nurse is always present in the ward, i.e. including at night and on Sundays (paragraph 127);

- the Azerbaijani authorities to establish a clear distinction between the different procedures applied in respect of seclusion. The rules should be made known to all patients and staff at the hospital (paragraph 131);
- detailed instructions on the use of means of restraint in respect of patients at the psychiatric ward (including seclusion for medical reasons) to be drawn up. Such instructions should make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Means of restraint should only be used as a last resort, and removed/terminated at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment. As regards the use of seclusion, the instructions should spell out more particularly: the types of cases in which it may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact; the need for staff to be especially attentive (paragraph 132);
- the practice of using prisoner-orderlies to assist with the application of means of restraint to be discontinued without delay (paragraph 132);
- every instance of the physical restraint (including seclusion) of a patient to be recorded in a specific register established for that purpose, in addition to the patient's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 132);
- in the context of the ongoing refurbishment, all seclusion rooms at the Central Penitentiary Hospital in Baku to be equipped in a manner ensuring security for patients in a state of agitation (in particular, absence of sharp edges or other sharp objects) (paragraph 133).

#### comments

- whatever institutional arrangements are made for the provision of health care in prisons, it is essential that prison doctors' clinical decisions should be governed only by medical criteria and that the quality and effectiveness of their work should be assessed by a qualified medical authority (paragraph 105);
- the CPT encourages the Azerbaijani authorities to pursue their efforts to ensure that every prisoner suffering from multi-resistant tuberculosis receives appropriate treatment (paragraph 122);
- the Azerbaijani authorities are invited to review the practice of employing prisoners as orderlies at the Central Penitentiary Hospital in Baku; such a measure should be seen as a last resort (paragraph 127);
- the Azerbaijani authorities are invited to seek to develop the possibilities for therapeutic and psycho-social rehabilitation activities at the psychiatric ward of the Central Penitentiary Hospital in Baku (paragraph 128).

requests for information

- the views of the Azerbaijani authorities on the possibility of giving increased responsibility to the Ministry of Health in relation to the provision of health care in the prison system, including as regards the recruitment of health-care staff and the supervision of their work (paragraph 105);
- information on the progress made concerning the appointment of a psychologist at the Specialised medical establishment No. 3 for prisoners suffering from tuberculosis in Baku (paragraph 122);
- information on the specialised psychiatric training (initial and ongoing) for nursing staff at the Central Penitentiary Hospital in Baku and in Azerbaijan in general (paragraph 127);
- a copy of the order concerning the keeping of patients' medical files in a manner ensuring their confidentiality (paragraph 129).

**5. Other issues of relevance to the CPT's mandate**

recommendations

- the Azerbaijani authorities to deliver to both managerial and basic grade staff the clear message that receiving or demanding undue advantages from prisoners is not acceptable and will be the subject of severe sanctions; this message should be reiterated in an appropriate form at suitable intervals (paragraph 135);
- the relevant regulations to be amended in order to ensure that remand prisoners are entitled to receive visits as a matter of principle. Any refusal by an investigator to permit such visits should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand and be applied for a specified period of time (paragraph 137);
- contacts of juvenile remand prisoners with the outside world to be actively promoted (paragraph 137);
- the visiting facilities at Investigative isolators No. 1 in Baku and No. 2 in Ganja to be enlarged and improved. The aim should be to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule (paragraph 138);
- the relevant rules and regulations concerning remand prisoners' correspondence to be amended, in the light of the remarks made in paragraph 139 of the visit report (paragraph 139);
- steps to be taken to formally guarantee that all prisoners facing disciplinary charges are heard in person by the deciding authority on the subject of the offence they are alleged to have committed (paragraph 142);

- the Azerbaijani authorities to take the necessary measures to ensure throughout the country that all prisoners placed in disciplinary cells are offered at least one hour of outdoor exercise per day (paragraph 145);
- the Azerbaijani authorities to take measures to ensure that prisoners can make complaints to appropriate authorities, both within and outside the prison system (including to the European Court of Human Rights and the President of the CPT), on a truly confidential basis. If necessary, the relevant rules and regulations should be changed (paragraph 147);
- the Azerbaijani authorities to take steps to review the presence of Ministry of Internal Affairs staff in investigative isolators. Internal security and custodial tasks, including the allocation of inmates to cells, should be the exclusive duty of prison management and staff (paragraph 150);
- conditions in the prison transport vehicles to be reviewed, having regard to the remarks in paragraph 152 of the visit report. The review should address the conditions offered to prisoners during transport (e.g. space per prisoner, lighting, ventilation, access to sanitary facilities) and safety requirements. In particular:
  - the maximum permitted number of prisoners transported in the GAZ 53 and ZIL 130 trucks should be significantly reduced;
  - the very small cubicles in the GAZ 53 and ZIL 130 trucks should be no longer used for transporting prisoners (paragraph 153).

#### comments

- the Azerbaijani authorities are encouraged to vigorously pursue their efforts in the area of prison staff training, both initial and ongoing (paragraph 134);
- the Azerbaijani authorities are invited to take steps with a view to equipping Investigative isolators No. 1 in Baku and No. 2 in Ganja with long-term visit facilities (paragraph 140).

#### requests for information

- confirmation that prisoners have the right to appeal to a higher authority against any sanctions imposed (paragraph 142);
- whether the refurbishment undertaken at Investigative isolator No. 1 in Baku has also included the enlargement of the disciplinary cells (paragraph 144);
- confirmation that prisoners placed in disciplinary cells are provided with a mattress and blankets at night (paragraph 144);
- further information on the modalities of the inspections of penitentiary establishments carried out both by the internal Inspectorate of the Ministry of Justice and the Office of the Human Rights Commissioner (paragraph 148).

**D. Establishments under the authority of the Ministry of Health**

recommendations

- steps to be taken at the Centre for forensic psychiatric assessment in Mashtaga to:
  - improve living conditions in the rooms and provide a more congenial and personalised environment for persons held at the centre;
  - develop psycho-social activities for persons undergoing assessment;
  - ensure that every instance of physical restraint and/or seclusion is recorded in a specific register established for that purpose;
  - ensure that the possibilities for persons held at the centre to maintain contact with the outside world are not unduly restricted, and that the persons concerned have the possibility to send complaints on a confidential basis to an outside authority (paragraph 161);

requests for information

- confirmation that the rooms used for seclusion at the Centre for forensic psychiatric assessment in Mashtaga have been refurbished and offer satisfactory conditions in terms of lighting, ventilation and heating (paragraph 161);
- information on the legal safeguards applicable to persons undergoing forensic psychiatric assessment (in particular, access to a lawyer, possibilities to appeal against the expert commission's decisions, etc.) (paragraph 161).

**E. Establishments under the authority of the Ministry of Defence**

recommendations

- steps to be taken to:
  - improve access to natural light, ventilation and artificial lighting in the cells at the disciplinary units ("hauptvacht") in Baku, Ganja and Lenkoran;
  - provide detained servicemen at the "hauptvacht" in Ganja with mattresses and blankets at night;
  - review cell occupancy levels at the "hauptvacht" in Baku with a view to guaranteeing 4 m<sup>2</sup> per person;
  - enable detained servicemen at the "hauptvacht" in Lenkoran to have a hot shower at least once a week (paragraph 171).

**F. Establishments under the authority of the State Border Service**

recommendations

- the Azerbaijani authorities to take steps in order to:
  - refurbish the temporary detention centre of the State Border Service in Goytepe;
  - improve the state of repair and hygiene of the common toilet facilities of the temporary detention centre in Lenkoran;
  - improve access to natural light, ventilation and artificial lighting at the disciplinary detention facilities (“hauptvacht”) of the State Border Service in Goytepe and Lenkoran;
  - enlarge the two small cells at the “hauptvacht” facility in Lenkoran (preferably to at least 6 m<sup>2</sup>) so as to meet the standard of 4 m<sup>2</sup> per person;
  - ensure that servicemen held at disciplinary detention facilities of the State Border Service are provided with mattresses and blankets at night; if necessary, the relevant legal provisions should be amended;
  - enable all detained persons to have a hot shower at least once a week (paragraph 176);
- persons detained by the State Border Service to be systematically provided with a document explaining the procedure applicable to them and setting out their rights; this document should be available in the languages most commonly spoken by the persons concerned (paragraph 177).

requests for information

- information on the procedure applicable to persons who request asylum and, in particular, a detailed account of the precise steps taken by the Azerbaijani authorities in practice to ensure that persons are not sent to countries where they run a risk of torture or ill-treatment (paragraph 178).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL  
AND INTERNATIONAL ORGANISATIONS WITH WHICH  
THE DELEGATION HELD CONSULTATIONS**

**A. National authorities**

Ministry of Justice

Mr Fikrat MAMMADOV	Minister of Justice
Mr Aidyn GASIMOV	Deputy Minister of Justice, Head of the Main Department of Enforcement of Court Decisions
Mr Chingiz KASUMOV	Head of the Organisation Analytical Department
Mr Faig GURBANOV	Head of the Division for Human Rights
Mr Djavid HUSSEYNOV	Head of the Secretariat of the Judicial-Legal Council

Ministry of Internal Affairs

Mr Oruj ZALOV	Deputy Minister of Internal Affairs
Mr Ramiz NAGIYEV	Head of the Department of Internal Research
Mr Javanshir MAMMADOV	Head of the Main Department of Public Security
Mr Abdul AHMADOV	Head of the Department of International Relations
Mr Nariman ABDURAHMANOV	Senior Inspector at the Main Department of Public Security
Mr Sadiq GOZALOV	Head of the Press Service

Ministry of Health

Mr Ali INSANOV	Minister of Health
Ms Shahnaz BAHSHALIYEVA	Head of the Medical and Preventive Department
Mr Oktay AKHUNDOV	Head of the Department of Health Information and Statistics

Ministry of National Security

Col. Isfandiyar ISMAYILOV	Director of the Investigative isolator
Col. Ramiz SAMADOV	Deputy Director of the Investigative isolator
Lt Col. Gulaga RAHIMOV	2 <sup>nd</sup> Deputy Director of the Investigative isolator

Ministry of Defence

Col. Rovshan MAHARRAMOV	Head of the Military Police
Col. Ziyadhan BAKIROV	Head of the Disciplinary Department

State Border Service

Col. Asif DJABRAYILOV	Deputy Head of State Border Service
Col. Ramiz GULIYEV	Deputy Head of the Operational Department
Col. Fahrad TAGIZADAH	Deputy Head of the Operational Department
Lt Col. Sabir ZEYNALOV	Deputy Head of the Division for Training of Forces

General Prosecutor's Office

Mr Zakir QARALOV	Prosecutor General
Mr Ramiz RAZAYEV	1 <sup>st</sup> Deputy Prosecutor General
Mr Eldar NURIYEV	Deputy Prosecutor General
Mr Ruslan HACIYEV	Head of the Division of International Relations
Mr Elnur MUSAYEV	Prosecutor, Division of International Relations

Human Rights Commissioner

Ms Elmira SULEYMANOVA	Human Rights Commissioner
-----------------------	---------------------------

**B. Non-governmental organisations**

Azerbaijan Foundation of Democracy, Development and Human Rights Protection  
Bureau of Human Rights and Law Respect  
Centre of Programmes for Development  
Committee against Torture  
Human Rights Centre of Azerbaijan  
Institute of Peace and Democracy  
Psychiatric Association of Azerbaijan  
“Sodruzhestvo” Solidarity Society of Azerbaijani Peoples  
VIZA law firm

**C. International organisations**

Delegation of the ICRC in Baku  
OSCE Office in Baku