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COMMITTEE AGAINST TORTURE
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List of issues to be considered during the examination of the third periodic report of AZERBAIJAN (CAT/C/AZE/3)

Articles 1 and 4

1. According to the State party report (paragraph 143 and 146), article 133 of the Criminal Code entitled “Torture” is in full accordance with the wording of article 1 of the Convention. However the definition of article 133 of the Criminal Code omits the references to the purposes of torture outlined in the Convention, such as “for any reasons of discrimination of any kind”. Please explain the reasons for this omission and whether the State party has taken measures to amend the definition of article 133 to fully address the definition in article 1 of the Convention, including discrimination. Please also provide information on the measures taken by the State Party to ensure that article 133 of the Criminal Code is applied in practice to acts carried out by individuals or groups of persons acting with the consent or acquiescence of state authorities.

2. With reference to paragraphs 143-145 of the State party report, please clarify the criminal provisions concerning offences such as: a) attempted acts of torture, b) order to commit torture by a person in authority, and explain the precise penalties imposed for these offences.

Article 2

3. The State party report (paragraph 3) mentions the adoption of a Plan of Action to implement the recommendations of the Committee against Torture within the Ministry of Justice. What are the main components of the Plan of Action and how is it being implemented? What are the outcomes of its implementation? In its follow up letter of 21 April 2006 the Committee recommended creation of

an independent body outside the system of law enforcement, justice and prosecution. Please clarify whether the above mentioned Plan of Action includes establishment of such body.

4. Please provide information whether the members of the civil society and human rights defenders carry out monitoring of penitentiary institutions and detention facilities in the country. What are the guarantees that they will be granted access to such establishments without prior notice?
5. Please provide information on the mandate of Ombudsperson and its compliance with the “Paris Principles” adopted on 20 December 1993. Please also indicate how many investigations into allegations of torture have been initiated by the Ombudsperson and what are the outcomes of such investigations? How are the recommendations of the Ombudsperson implemented? Please also provide data on the number of complaints on allegations of torture received by the office of Ombudsperson as well as on the number of visits to detention and remand centers carried out by the Ombudsman.
6. With reference to paragraphs 150-160 of the State party report, please elaborate how the provisions of the national legislation to provide detainees with immediate legal and medical assistance and to inform their relatives of their detention on time is applied in practice? Please give examples. How does the State party ensure the right of a detainee to request a medical doctor, whose independence is ensured? Is the right of a detainee to request and receive medical examination ensured in the absence of a request by authorities? Please provide information how such a right is guaranteed in practice. Please update the Committee on the functioning and independence of the medical service, which has been transferred from the Central Department for the Enforcement of Judicial Decisions to the Ministry of Justice.
7. Please elaborate on the implementation in practice of the article 85 of the Criminal Procedure Code, which guarantees access to a counsel from the moment of arrest. Please also provide information on measures of cooperation between the new bar association and the Ministry of Justice and Ministry of Internal Affairs to ensure that there is a sufficient number of qualified and independent attorneys to serve detainees, that detainees know and act upon their rights to obtain access to counsel, and that attorneys have unimpeded contact with their clients. Please provide specific information concerning the stage at which the counsel has been provided for detainees, and whether attorneys have access to persons during the phase of preliminary investigation. Please also update on the status of the new Law on the Bar.
8. In previous recommendations by the Committee, as well as by the Special Rapporteur on torture, it was suggested to transfer the remand center of the Ministry of National Security to Ministry of Internal Affairs or to close it. According to paragraphs 161 -168 of the State party report, the transfer would be inefficient and impede the investigation process, however the change of its status would be considered within programs of reforms of places of detention and penitentiary institutions. Please inform the Committee whether further consideration has led to any measures to change the status of the remand center of the Ministry of National Security? What is the envisaged status? Please clarify the jurisdiction of the Ministry of National Security as compared to the Ministry of Internal Affairs.

9. According to article 157.3 of the Criminal Procedure Code of Azerbaijan, a person may not be held in temporary detention facilities for more than 24 hours before being transferred to a remand center for investigation. Please provide information on how this period is respected in practice. Please also indicate covering the reporting period the total number of persons in temporary detention.
10. Please elaborate on the mandatory registration of a person at the moment of apprehension. Is a central register maintained? What are the measures taken if the rules and procedures are not followed? Has any official been disciplined or sanctioned for failure to register detainees? Are there any exceptions to the mandatory registration?
11. With reference to paragraphs 169-186 of the State party report on the judicial reform, please comment on the findings of the Human Rights Committee concerning irregularities during the selection of judges as well as lack of security of tenure of judges. Please inform how the State party addresses these issues in light of the recent reforms.
12. Please provide information on measures taken to ensure that judges are able to establish when evidence or confessions are obtained by means of torture. Please clarify whether judges may order medical examinations. If so, how often has this happened and what are the results?
13. Please provide information about the State party's efforts to prevent violence against women? What is status of the draft law on domestic violence, and how will it be implemented? Please provide data on the number of complaints on domestic violence and the results. What measures are taken to prevent domestic violence? Have there been any awareness raising campaigns?

Article 3

14. Paragraphs 190 -194 of the State Party report cover the issue of extradition of persons, where there are substantial grounds for believing that he would be in danger of being subjected to torture, but does not cover return or expulsion of persons who face the same risk. Please indicate what legal guarantees have been established to meet the requirements of article 3 of the Convention in cases of expulsion or return of foreigners. Which department of the Government is responsible for taking decisions on matters of expulsion or return? What are the procedures in place to challenge such decisions? In this regard please provide statistical data on the number of deportations and expulsions, the countries to which these persons were expelled and the number of persons who successfully challenged any expulsion or return.
15. Please provide information covering the entire reporting period on the number of asylum requests registered and granted; the number of rejected asylum seekers and undocumented migrants who are held in administrative detention.
16. Please also indicate whether Azerbaijan has sought diplomatic assurances from countries where individuals are to be extradited, returned or expelled. If so, which are these countries? What monitoring mechanisms exist to assess if the assurances have been honored? Please provide

examples. Please inform whether Azerbaijan entered into judicial cooperation agreements with other countries?

17. What steps have been taken by the State Party in relation to the case of Mr. Elif Pelit, where the Committee found a violation of both articles 3 and 22?

Articles 5, 6 and 7

18. Please provide information on domestic legislation establishing universal jurisdiction over the offence of torture and explain if such legislation complies with the requirements of the Convention.

19. What are the procedures when Azerbaijan refuses to extradite an individual to another country where a person is suspected of actions falling under the definition of article 1 and article 4 of the Convention? Which agencies review such cases? Please indicate if there has been any such case.

Article 10

20. Please provide information specifically on training of forensic doctors and medical personnel dealing with persons in detention, or with asylum seekers and refugees to detect physical and psychological signs of torture. Please inform whether the staff of detention facilities and penitentiary institutions has been trained on the contents and use of the Istanbul protocol? Has it been utilized?

Article 11

21. Please provide information on the rules and procedures concerning the interrogation methods. What are the measures in place to review such methods, rules or instructions?

22. Paragraphs 308- 312 of the State Party report mention that a “Public Committee” has been established to monitor the penitentiary institutions. What is the composition and mandate of this Committee? How are their recommendations implemented by the State party? Please give examples.

23. With reference to paragraphs 14-30 and 209 -303 of the State party report, please provide information on how many places of detention and penitentiary institutions have been renovated and have improved conditions, such as reduced occupancy rate, adequate heating and light, essential hygiene products, improved quality of food and others? According to information before the Committee, no ventilation system is installed in penitentiary institutions in Bayil and Ganja. What are the measures taken by the State Party to improve conditions of detention, especially in so far as it concerns ventilation systems in places of detention?

24. Please provide information on the conditions of detention of persons sentenced to life imprisonment, including with regard to lighting, shutters, heating, and medical care.

25. With reference to paragraph 302 of the State party report, the issue of psychological services in penitentiary institutions has been solved. Please elaborate how this matter has been solved and how many penitentiary institutions provide psychological services.

26. Please provide information on the existence of non custodial measures? Are they applied in practice?

Article 12

27. Please provide detailed information on the procedures of investigation into complaints of torture and other ill-treatment. Please give examples of such cases. Please also provide detailed information on the status, mandate and responsibilities of the Inspectorate established within the Ministry of Justice to monitor the enforcement of sentences in penitentiary institutions and detention facilities.

28. Please provide updated statistical data covering the reporting period regarding application of articles 133 (torture), 293 (coercion to testify), 308 (abuse of authority), 309 (exceeding authority) and 314 (negligence) of the Criminal Code of Azerbaijan. Further to the information contained in the State party report, please provide data on the number of people who were convicted under article 293 of the Criminal Code and how many of these persons were specifically prosecuted for the crime of torture. Please also provide information on the nature of sanctions brought against officers who were convicted of torture and the number of allegations of torture that have been submitted and investigated during the reporting period.

29. Notwithstanding the detailed information provided by the State party regarding deaths in detention, according to information before the Committee there have been several cases of torture and death in custody as a result of torture, where the investigation did not confirm torture because of alleged tampering with the results of medical and post-mortem examinations. Two such cases are the deaths of Rahimov Mahammad Ali oglu, resident of Goranboy region and Mammadov Zaur Golmammad oglu, resident of Lenkaran city, Veravul region. Please comment on these cases and allegations. What has been done to prevent such practices?

30. Please comment on the allegation, that there is a pattern of torture in remand centers under the Ministry of Internal Affairs. Please comment on what measures have been taken to examine such charges and to prevent any such practices?

Article 13

31. With reference to paragraphs 201-204, please explain the measures taken by the State authorities to ensure that the investigations into the complaints against police and prison staff misconduct are effective and impartial? Which authorities are competent to receive such complaints?

32. Please provide information regarding mechanisms to monitor the procedures which deal with complaints from inmates. Please provide statistical data on the number of complaints received,

investigated and prosecuted. As it was in its follow up letter of 21 April 2006, the Committee recommended establishment of an independent body to ensure impartiality of investigations. Please clarify whether any measures have been taken to create this body and the procedures by which the torture complaints can be received in practice.

33. Please provide information on the procedures in place to guarantee the confidentiality of complaints and to protect complainants of acts of torture from possible reprisals. Please provide information on any witness-protection programme for victims of torture and cruel, inhuman or degrading treatment.

Article 14

34. Please provide information on cases of compensation ordered by the courts and provided to victims of torture or cruel, inhuman, degrading treatment. What rehabilitation services are in place for such victims?

Article 15

35. In light of paragraph 5 of the State party report, please provide examples of any cases, where the courts have declared statements inadmissible on the grounds that they have been obtained through torture.

36. Does the criminal justice system rely on confession as evidence? How many cases have been decided solely on the confession of defendants?

Article 16

37. According to information before the Committee, tuberculosis remains a major health problem in penitentiary system of Azerbaijan. Please explain the situation and measures taken to address it?

38. Please comment on the allegations that there are consistent acts of violence against human rights defenders, journalists and other media workers by law enforcement officials or by unknown persons. Investigations allegedly are not conducted in a comprehensive manner. What measures have been taken to investigate such cases and prevent future occurrences? Has the State party conducted prompt and impartial investigations into such allegations and what are the results?

39. Please comment on the findings of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, regarding use of excessive force by the police in Azerbaijan during public protests. Please elaborate on the rules and procedures for the conduct of police officers in cases of public protests and gatherings.

40. Please comment on the absence of data on trafficking of persons, especially children and women, as well as on sexual exploitation. Please elaborate on steps taken to prevent trafficking of persons, especially children and women as well as sexual exploitation.

41. Please comment on the information that persons below 18 are often tried as adults, and held in pretrial detention for long periods and not always detained separately from adults despite the existing legislation which prohibits detaining minors with adults. What measures are being taken to prevent such practice?

42. Please comment whether the practice of corporal punishment at home is an accepted measure of discipline, although it is prohibited in schools and in the penal system. What measures to prevent child abuse have been established, such as a hotline or a duty of a schoolteacher to report signs of domestic abuse of children?

43. Please provide information on any independent inspections of psychiatric institutions and their follow-up and indicate the agencies undertaking these activities.

Other issues

44. Please provide information on the legislative, administrative and other measures the State Party has taken to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. Please describe the number and types of convictions under such legislation,

45. Azerbaijan ratified Optional Protocol to the Convention against Torture in January 2009. What measures have been taken to implement the protocol and what national prevention mechanisms have been established so far?
