



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

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

Azerbaijan

**Follow-up responses of Azerbaijan to the concluding
observations of the Committee against Torture
(CAT/C/AZE/CO/3)***

[18 November 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Information provided by Azerbaijan on the implementation of paragraphs 9, 11, 12 and 26 of the concluding observations of the Committee against Torture on the State party's third periodic report (CAT/C/AZE/3) under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Information relating to paragraph 9 of the Committee's concluding observations

1. In respect of the Committee's recommendation on bringing article 133 of the Criminal Code into line with the requirements of article 1 of the Convention, the Procurator-General's Office has submitted a proposal on the matter to Parliament, taking the definition of torture given in the relevant article fully into account.
2. Appropriate reference has been made to the purposes of torture outlined in the Convention as "for any reason based on discrimination of any kind" and the necessary amendments have been introduced to specify the perpetrator of the crime, that is, a public official or other person acting with the consent or acquiescence of a public official.
3. The Ministry of Justice Prison Service received 336 complaints related to torture or mistreatment during the period 2005–2010. Urgent and impartial investigations were carried out in respect of all the complaints, of which all but four (two concerning ill-treatment and two concerning conditions of detention) were found to be unsubstantiated.
4. During a visit by representatives of the Baku office of the International Committee of the Red Cross to remand centre No. 1 on 6 November 2007, convicted prisoner R. Mirzoev was subjected to ill-treatment by Lieutenant-Colonel of Justice Agamamed Mamedov, deputy head of the centre for security, control and protection. The incident was investigated and, given that this was the first such case in Lieutenant-Colonel Mamedov's service with the agencies of the justice ministry, he was issued a reprimand. Mr. Mirzoev was released from correctional facility No. 5 on 15 March 2008 at the end of his sentence.
5. During a visit by representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Gobustan prison, Kamran Muslimov, a convicted prisoner serving a life sentence, was subjected to harsh treatment by Major of Justice Babek Guseinov, senior inspector of the training activities section (squadron leader). An immediate inquiry was conducted and Major Guseinov was reprimanded. Mr. Muslimov is currently serving his sentence in prison.
6. On his arrival in correctional facility No. 12 on 6 July 2009, convicted prisoner V. Bairamov was held for 10 days in the punishment cells, by decision of the head of the prison, under article 107 of the Code of Penal Procedure, for misconduct and for hindering a search of his person. Mr. Bairamov submitted a complaint to the head of the Prison Service that the penalty imposed did not fully meet legal requirements. After an inquiry under article 109.2 of the Code, and on the basis of paragraph 20.15 of the Prison Service Regulations, on 10 July 2010, the head of the Prison Service reversed the decision to place him in the punishment cells. Mr. Bairamov is currently serving his sentence in open prison No. 1. Mr. N. Veliev, who is serving a life sentence, did not agree with the reprimand issued to him on 18 March 2010 and appealed to the authority of the Prison Service to have the punishment overturned. The inquiry showed that, when convicted prisoner N. Veliev was reprimanded, the requirements of article 109 of the Code were not fully respected. On the basis of that article and in line with paragraph 20.15 of the Prison Service Regulations, on 21 May 2010, the head of the Prison Service reversed the decision of the head of the prison concerning a reprimand to convicted prisoner N. Veliev, who is currently still serving his sentence.

7. To ensure a rapid response to complaints concerning violations of the rights of convicted prisoners, in 2006 a hotline was set up in the Ministry of Justice, information stands were placed at the entrance to prisons for members of the public visiting prisoners, giving the contact details (address, telephone number and e-mail address) of the Ministry and the Prison Service to which complaints may be sent concerning violations of convicted prisoners' rights.

8. Furthermore, post boxes for complaints have been placed in meeting rooms in penal establishments. All prisons have stands giving information on when members of the public, convicts and remand prisoners can contact the administration: opening hours and days (inside the prison for convicted and remand prisoners; outside the prison entrance for members of the public). Moreover, the head of the Prison Service, his deputies and other officials have visited prisons and interviewed prisoners according to an approved schedule; they have then taken measures as provided for in legislation on the basis of the complaints made.

9. The Ministry of Internal Affairs' department of internal investigation also investigates complaints of torture, ill-treatment and violations of rights and freedoms urgently and objectively. Where violations of the requirements of the Police Act, the Code on Ethical Behaviour of the Internal Affairs Staff and other laws and regulations are found to have taken place, strict disciplinary measures are taken against guilty members of staff. If there is circumstantial evidence of criminal acts by staff members, the material collected is sent, in accordance with legislation, to the investigating agencies.

Information relating to paragraph 11 of the Committee's concluding observations

10. Article 15.2.1 of the Code of Criminal Procedure of 14 July 2000 prohibits the use of torture and physical and psychological force, including the use of medication, forced starvation, hypnosis, withholding of medical assistance, or the use of any other cruel, inhuman or degrading treatment or punishment during criminal investigations of individuals suspected or accused of a crime.

11. Under the provisions of the country's criminal procedure law, suspects and accused persons receive written notice of their rights and obligations, and also an explanation of their right to appeal to the procurator with procedural responsibility for the conduct of the preliminary investigation, and to the court overseeing the actions of the investigator.

12. In accordance with the law, detainees are entitled to send and receive letters and to have meetings with relatives and, with a view to keeping them informed and helping them to keep records, they are given a copy of the transmittal letter accompanying their applications, petitions or complaints. Detainees have the right to send confidential letters to the officials specified in the law (judges and procurators, and also the Commissioner for Human Rights of the Republic of Azerbaijan, or Ombudsman).

13. The prison administration grants convicted and remand prisoners, on their written request or the request of close relatives or legal representatives, the right to meet in private, without restriction as to the number and duration of such meetings, with legal counsel and with persons who have the right to provide legal assistance.

14. The practice of human rights defenders and representatives of non-governmental organizations providing free legal aid to convicts is widespread in the country's prisons. Since 2009, members of the Public Committee have also organized legal aid days in places of detention.

15. In implementation of the State Poverty Alleviation and Sustainable Development Programme (2008–2015), the Ministry of Justice has set up 15 legal consultation service centres in the regions. Measures have been taken to recruit qualified lawyers and provide the necessary equipment and legislative documents.

16. In recent years, measures have been taken in police temporary detention centres to ensure that conditions meet international norms and standards and fully guarantee the rights of detainees.

17. The new version of the Internal Disciplinary Rules for Correctional Facilities, which was drawn up taking account of the recommendations of the European Prison Rules, CPT and the International Committee of the Red Cross, includes a number of provisions aimed at the better observance of the rights and safety of prisoners. It states that the Ombudsman, members of the Public Committee and representatives of other non-governmental structures, in line with their mandates, may have individual meetings with the prisoners.

18. In accordance with the CPT recommendations, amendments have also been made to the register of prison inmates, making it possible to enter data such as the legal counsel's forename and family name, signature, number of identity document and place of work, the date and time of meetings with the counsel, and the personal information (forename, family name, patronymic) and signature of medical staff examining the detainee's state of health, and the date of examination.

19. Since 2002, details of all convicted and remand prisoners held in prisons are immediately entered in the register of the Prison Service Registration Department. All information about such individuals is entered into the Arbai centralized analytical system. The network can provide general information on who is held in prisons, for what acts, for how long, the punishment imposed and by whom they were convicted. By the end of 2010, when a new program has been developed, the convicted and remand prisoners registration network will become operational.

20. Under article 10 of the Code on the Enforcement of Sentences, convicted prisoners have the right to receive both outpatient and inpatient medical care, including primary care; to be informed of their rights and responsibilities and of the procedure and conditions for enforcement of the sentence handed down by the court; to express their opinion on decisions taken in respect of the enforcement and serving of the sentence, or to complain about them; and to receive legal and psychological assistance.

21. It should be noted in this respect that the convicted prisoners Emin Abdullaev (correctional facility No. 5), Adnan Hajizade (correctional facility No. 14) and Kamil Sadreddinov (prison) are fully guaranteed their legal rights.

22. Given the Committee's concerns about the refusal to provide medical care to some prisoners, it should be noted that convicted prisoner Mahir Mustafaev was registered with the prison's medical section because of his illness (epilepsy) and his state of health was constantly monitored by doctors. On 3 December 2006, during an epileptic fit, he dropped a cigarette on his bed, causing a fire. Diagnosed with "first-to-second degree thermal burns over the whole body", he was transferred from prison to the Ministry's treatment facility. Although he was given intensive and emergency care both in prison and in the treatment facility, he died the same day from "acute cardiovascular insufficiency, against a background of increasing toxemia as a result of thermal burns covering 80–85% of his body". An urgent inquiry and a forensic examination were carried out. The Karadag district procurator's office in Baku issued a decision on 26 April 2007 not to open a criminal case on grounds of lack of evidence that a crime had been committed.

23. Convicted prisoner Novruzali Mammadov was under constant medical observation during his prison detention, and was provided with both outpatient and inpatient treatment, had consultations with a cardiologist, a surgeon, a neurologist and other specialists, underwent various tests and analyses as necessary, and was treated by highly qualified doctors from the Ministry of Health system, including some from the leading specialized clinics in the country. The Human Rights Committee's Special Rapporteurs were provided with exhaustive information on the case.

24. In line with the Temporary Regulations on Detention in Remand Centres and the Internal Disciplinary Rules for Correctional Facilities, a prisoner's identity is established on entry to a remand centre or correctional facility, a personal search is conducted and the prisoner's belongings are inspected.

25. Furthermore, as soon as they enter prison, all persons undergo a medical examination, and an individual medical record is drawn up and registered with the Ministry of Justice Central Medical Department. The medical record includes any evidence of torture or ill-treatment based on questioning of and complaints from persons entering remand centres, and on observation. Where bodily injuries are detected or declared, a report is immediately drawn up, appropriate notes are made in the medical record and the relevant agencies are immediately informed.

26. As mentioned above, all inmates are entitled to a medical examination at any time while serving their sentence. In addition, medical staff of the correctional facility conduct periodic examinations of the prisoners. If a chronic disease is detected, the prisoner is registered with the clinic and receives periodic examinations thereafter, depending on his or her condition.

27. A special team of physicians regularly conducts mass medical examinations of inmates in prisons, on a voluntary basis. The team includes a general practitioner, a surgeon, a neurologist, a psychiatrist, a tuberculosis specialist, an ophthalmologist, a urologist and other physicians.

28. A bill on the protection of the rights and freedoms of persons held in preventive detention facilities, now in its third reading in Parliament, includes issues related to the legal and medical care mentioned in paragraph 11 of the concluding observations.

29. Current legislation (article 93 of the Code on the Enforcement of Sentences) also provides for medical examinations of convicted prisoners in medical establishments outside of the correctional facility and, for that purpose, the participation of medical staff from the civilian sector. Similar provisions apply to persons held on remand. A bill guaranteeing the rights and freedoms of persons held on remand thus states that medical examinations may be conducted not only by medical staff of the detention centre but also, at the request of the suspect or accused, or of his or her counsel, by a State or a private medical establishment.

30. Over 10 months of 2010, 25 convicted and remand prisoners applied to medical establishments offering paid services for consultation and treatment. It is important to note that respect for human rights is constantly monitored by the country's law enforcement agencies. A supplementary plan of measures to improve the activities of the internal affairs agencies in respecting human rights has been adopted to reinforce and further enhance their effectiveness in this area.

31. Furthermore, all persons brought to the police have the opportunity to find out about their rights and freedoms under the Constitution, and the rights and responsibilities of the police under international agreements and Ministry of Internal Affairs regulations, through stands displayed in the police administrative buildings.

Information relating to paragraph 12 of the Committee's concluding observations

32. In line with the rules on public involvement in reform work for convicted prisoners and public monitoring of the work of correctional facilities, the Public Committee makes visits to prisons in accordance with the prison Internal Disciplinary Rules. Over the four years that the Committee has been working, its members have, without hindrance, made about 260 monitoring visits of various correctional facilities of their choice, during which convicted prisoners were provided with legal assistance on various issues. Thus, over 10 months in 2010, more than 100 convicted prisoners received free legal assistance. There is

currently no procedure whatsoever concerning advance notice of visits by the Public Committee.

33. To ensure that they have unhindered access to correctional facilities, all members of the Committee are given special passes signed by the Minister of Justice. In 2006, the regulations governing admittance to fixed-sentence and life-sentence correctional facilities were amended to include Committee members on the list of individuals allowed access. Favourable conditions were thus created for active participation by representatives of other, non-member, non-governmental organizations and companies in the Public Committee's monitoring visits.

34. It should be noted that the one-year mandates of members of the Public Committee do not prevent them making further use of the experience acquired from the monitoring visits. There is no restriction on Committee members being reappointed. The Special Selection Commission that establishes the Committee makes quite frequent use of this possibility and thus more than half of the human rights defenders on the Committee have been reselected several times already. The members' mandates were set at one year with the intention of strengthening the Committee's flexible and competitive environment, making its activities more effective and involving as many human rights defenders as possible in its work.

35. Public monitoring of detention and remand centres has been enshrined in the bill guaranteeing the rights and freedoms of persons held on remand.

36. In line with international obligations and domestic legislation, the Ministry of National Security remand centre fully observes the rights of the Ombudsman, of local and international non-governmental organizations working in the area, and of international intergovernmental organizations to regularly receive complaints from prisoners; their right to visit the remand centre without hindrance and without notice; their right to meet with prisoners and speak with them in privacy; and their right to have access to documents confirming the legality of the detention.

37. Thus, during the period 2009–2010, 30 such visits were conducted, including:

- (a) 3 by the Ombudsman;
- (b) 20 by the chair of the Azerbaijan Committee against Torture;
- (c) 2 by the head of the Rule of Law and Human Rights Unit of the Office of the Organization for Security and Cooperation in Europe in Baku;
- (d) 5 by representatives of the International Committee of the Red Cross.

38. These organizations found no cases of torture or other cruel, inhuman or degrading treatment of suspects or accused persons.

Information relating to paragraph 26 of the Committee's concluding observations

39. The Committee's view on the alleged occurrence of *dedovshchina* (hazing or bullying) in the Armed Forces is the result of misinformation and does not give an objective picture of the real situation in the country's Armed Forces.

40. Furthermore, it should be noted that, where such incidents are detected in the Armed Forces, the Ministry of Defence carries out thorough official investigations and, if undesirable incidents are found to have occurred, measures are taken against the guilty parties in line with domestic legislation.