



Response

of the Azerbaijani Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Azerbaijan

from 13 to 20 December 2012

The Azerbaijani Government has requested the publication of this response. The CPT's report on the December 2012 visit to Azerbaijan is set out in document CPT/Inf (2018) 29.

Strasbourg, 18 July 2018

Note: In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

The comments of the Government of the Republic of Azerbaijan on the report of visit of the CPT to Azerbaijan which took place on 13 - 20 December 2012

The proposals and recommendations of the CPT have been given due consideration by the Government of Azerbaijan and all relevant necessary organizational measures will be taken to implement them.

The Government of the Republic of Azerbaijan appreciates the positive reflections by the CPT about the measures being realized by the Government of Azerbaijan aimed at strengthening the legal framework for security measures preventing ill treatment of detained persons and improving the quality of registration of the related complaints, as well as the fact of adoption of Law on "*Protection of the Rights and Freedoms of Persons in Detention Places*" on May 22, 2012, as highlighted in the very report.

Item 8:

Special attention is being paid to the execution of the Law on ensuring the rights and freedoms of individuals held in detention facilities (hereinafter - the Law), dated 22 May 2012, which was adopted by taking into account the progressive foreign practice and recommendations of various local and international organizations, as well as to the Presidential decree on its implementation, dated 6 July 2012.

In accordance with Article 15.2.6 of the Law, for the purpose of ensuring telephone privileges to the detained persons 30 phones were installed in the Baku pre-trial detention facility, 13 in the pre-trial detention facility No. 2, 16 in the pre-trial detention facility No. 3, and 1 each in the Medical facility and the Specialized Medical facility. In total 61 phones were installed. This ensures up to 15 minutes of telephone use to the detained persons, twice a week.

Based on Article 15.2.7 of the Law, in order to ensure the right of prisoners to view television programs, television sets were installed in 67 cells of the pre-trial detention facility No. 2 and in 110 cells of the pre-trial detention facility No. 3. The installment of 600 TV sets provided for the Baku pre-trial detention facility is almost finished. TV sets were installed for use in 35 cells of the pre-trial detention facility of the Shaki penitentiary and in 24 wards of the treatment building for detained persons held in the Specialized Medical Facility.

For the purpose of providing the right for walking, additional walking areas were organized in pre-trial detention facilities Nos. 2 and 3. New meeting areas were arranged in these facilities, in order to allow meetings between prisoners and their close relatives or other persons (for up to 4 hours, 4 times a month). In the Baku pre-trial detention facility for the purpose of providing this right, it is planned to establish a building during the period of 2014-2015 and financial funds have been set aside in this regard.

In accordance with the Law, new and improved food and welfare standards for detained and arrested persons, as well as medical and psychological assistance provided to them and the procedure of their maintenance in the medical facilities were approved by order of the Cabinet of Ministers number 22, dated 18 February 2013 and number 67, dated 18 April 2013, accordingly.

Items 10, 11, 12:

Subject to Sections 148.4 and 150.3 of the Code of Criminal Procedure of the Republic of Azerbaijan, the person suspected of committing a criminal offence is held in temporary detention place for 48 hours, according to the Detention Minutes Warrant drawn by the criminal procedure body.

According to court decision on the Coercive Measure, i.e. Court Arrest Warrant, the same person shall be transferred to the Investigational Remand House of the Ministry of Justice within 24 hours.

Subject to Section 8.1 of the *Protection of the Rights and Freedoms of Persons in Detention Places Act 2012*, in places distant from residence areas, when it is necessary to ensure conducting of investigation activities or participation at the court hearing, or daily transfer is impossible, the arrested person can be transferred from the investigation isolator to the places of temporary detention on the basis of substantiated court decision during the period of the court hearing, or for the whole period of the court proceedings, and during the investigation proceedings for the period not exceeding 10 days within 1 month. During the court proceeding in the exceptional cases and because of the complicity of the criminal case or based on the motion of the arrested person the said period can be prolonged by the court decision until the end of the court proceeding.

Item 13, 19.

“The Rules of Internal Discipline in detention facilities” project was drafted and agreed upon with the relevant authorities; it was passed through legal expertise and presented to the Cabinet of Ministers for adoption. After adoption the document will be sent to the Committee. Also, it is planned to be distributed to detention facility officials and the arrested persons.

Item 16

The Freedom of Assembly Act 1998 was passed on the 13 November 1998. *The Freedom of Assembly (Amendment) Act 2008* was passed to incorporate the recommendations of the Venice Commission in the aforementioned act. The Venice Commission, in its final report, noted that *the Freedom of Assembly Act 1998*, along with the amendments and addenda, meets the European standards.

The mentioned Act defines the principles and rules of the exercising the freedom of assembly. The relevant provisions of the *International Covenant on Civil and Political Rights 1961* and the *Convention for the Protection of Human Rights and Fundamental Freedoms 1960*, as well as principles of the Case Law of the European Court on Human Rights were incorporated in the Act,

There is no record of interference, by state bodies, in the assemblies organized and run according to the provisions of this Act.

According to Section 7 of the Act, no restrictions shall be placed on the exercise of the right to freedom of assembly other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others, also in the form of amendment of the venue and time of the assembly and the route of the rally.

So far, on many occasion, the organizers of assemblies had issued Notices on running their assemblies in one location and attempted to run them in another, or failed to notify the local executive authorities of the assemblies in line with the requirement of Section 5 of the *Freedom of Assembly Act 1998*. In these circumstances, according to the principles of reasonableness and proportionality, the interference with such assemblies was exerted. A number of persons were held to account for failure to comply with the lawful demands of police.

On 5th October 2012, at noon, around 200 radical religious persons attempted to assemble in front of the Ministry of Education from different locations without prior agreement with the local executive authorities, as required by Section 5 of the *Freedom of Assembly Act 1998*.

The participants of the illegal event proceeded with their unlawful actions aimed at explicit violation of law, despite the warning issued by the police. As a result of their aggressive behaviour, demonstrating explicit disregard to the society, as well as aimed at destruction of the private property, damage was inflicted upon a private vehicle and highway traffic was disrupted for about 40 minutes.

The participants of this event defied the repeated warnings and demands of the representatives of the authorities to cease the unlawful behaviour. They used wooden sticks with nails protruding out of them and truncheons, prepared in advance, as weapons to exert power dangerous to life and health in order to defy the authorities. As a result, 38 police officers sustained bodily injuries of various degrees.

Public order protection forces took decisive measures to suppress gross violation of public order and detained 36 persons.

The Baku Metropolitan Prosecutor's Office launched criminal investigations into the allegations of defiance of and application of violence to the authorities, as well as organizing and active involvement in the actions violating public order, subject to Sections 315.2 and 233 of the Penal Code of the Republic of Azerbaijan.

Upon the completion of the criminal investigation, the case was heard at Narimanov district court in Baku, which convicted the perpetrators.

Item 17 sub-item a

The Internal Investigations Department of the Ministry of Internal Affairs launched an inquiry into the allegations of beating of the detainee at the 25th Police State on the 4th May 2012. The inquiry revealed that the Investigation Unit of the Narimanov District Police launched criminal investigation into complaint by Mrs. R. M., which alleged being subject to an attack and robbery in front of her apartment on the 4th March 2012, subject to Section 180.2.4 (robbery) of the Penal Code of the Republic of Azerbaijan. R. J. was detained on suspicion by the police officers of the 25th Police Station and surrendered to the investigation officer.

R. J. was detained as a suspected perpetrator and interrogated in the presence of lawyer of the 6th Bar Office M. M. R. J. was later charged under Section 180.2.4 of the Penal Code and arrested by Nizami district court on the 6th March 2012.

Earlier, on the 4th March 2012, at the moment of surrender to the investigation officer, bodily injuries were discerned on the body of R. J. These circumstances were documented and referred to Nizami district prosecutor's office for examination. The prosecutorial enquiry did not confirm the allegations of beatings by the police officers at the time of apprehension. On the basis of the compiled materials, the prosecutor took the decision to refuse instituting criminal case, subject to Section 39.1.1 of the Code of Criminal Procedure.

The inquiry conducted by the Inquirers of the Ministry of Internal Affairs did not find unlawful actions in the behaviour of police officers.

Nevertheless, the Prosecutor's Office took note of the recommendations of the European Committee and quashed the decision of Nizami district prosecutor to refuse instituting criminal case, the examination continues.

Sub-item b

The MIA has looked into the allegations of torture of two persons held in the 23rd Police station of Nizami District Police on the 5-6th March 2012. Thus, on the 6th March 2012, G. A. was brought to Khatai District Police Department on the suspicion of perpetrating a criminal offence and surrendered to the temporary detention facility of the Police Department. The examination of G. A. at the time of surrender revealed injuries in various parts of the body of the latter. This fact was reflected in the minutes (protocol) and included in the personal file of the detainee. In the course of investigation, G. A. explained that the injuries originated at the time preceding his apprehension by police.

Nizami district prosecutor's office conducted an inquiry into the allegations by G. A., that he was first beaten by the police officers and later they planted drugs on him and apprehended illegally. In the outcome, the prosecutor decided to refuse institution of a criminal case subject to Sections 39.1.2 and 212 of the Code of Criminal Procedure. Yet again, this decision of Nizami district prosecutor was quashed in view of the recommendations issued by the European Committee, examination continues.

Sub-item c

On the 3rd April 2012, only two persons, R. A. and R. H., were transferred from Yasamal district Police Department to Baku Investigational Remand House.

R. A., who has a criminal record of double conviction for theft crimes, conspired with his acquaintance R. H. in order to steal 850 Manats (= €779.8) from the apartment belonging to I. M. on the 25th October 2011, jewellery worth 350 Manats (=€334.3) from the apartment belonging to S. H. on the 29th March 2012.

R. A. and R. H. were detained as suspects on the 29th March 2012. Investigator of the Yasamal District Police Department charged them with theft through penetration to private premises with previous conspiracy by a group of persons, subject to Sections 177.2.1 and 177.2.3 of the Penal Code. Subsequently Yasamal District Court warranted their arrest. On the 30th June 2012, the investigation came to an end with subsequent referral of the case to trial in Baku Serious Crimes Court. The mentioned persons did not file complaints about physical violence throughout the entire course of the investigation.

Sub-item d

Only one person was held in Temporary Detention Facility of Sabail District Police, i.e. Z. A. were held under charges of theft subject to Section 177.3.2 of the Penal Code on the 27th June 2012. Preliminary examination did not reveal any injuries on his body. He was surrendered to Baku Investigation Remand House on the 28th June 2012. No-one else was held in the Temporary Detention Facility of Sabail District Police on the 28-31st June 2012.

Sub-item e

D. V. was among the participants of unauthorised assembly of radical religious group of persons that violated public order in a gross manner and defied legitimate requirements of the representatives of the authorities by applying violence to them in front of the Ministry of Education, located in Narimanov district of Baku on the 5th October 2012.

He was subsequently charged with the commission of a criminal offences and provided access to lawyer. Lawyer F. N. filed a written complaint to Baku Metropolitan Prosecutor's Office, alleging application of violence to his client at the time of detaining and in the course of the criminal investigation.

The thorough inquiry into these allegations revealed that D. V. sustained injuries to his knees when he stumbled and fell on his knees, while running away from the police. D. V. confirmed these findings and stated that he never mentioned to his lawyer being subject to violence. He also stated that he had not been subject to unlawful actions in the course of the criminal investigation. He stated that he had sustained these injuries when he felt at the time of assembly. The mentioned circumstances were reflected in the Deed drawn at the Temporary Detention Facility of Narimanov District Police.

Based on the materials compiled during the inquiry Baku Metropolitan Prosecutor decided to refuse institution of a criminal case subject to Section 39.1.1 and 212 of the Criminal Procedure Coode.

Sub-item f

With regards to the dates mentioned in the report, we would like to emphasize that Y. C. conspired with A. M. to commit intentional murder of G. U., taking benefit of his helpless condition, on the 28th November 2012. Khatai district prosecutor's office charged these persons and obtained court warrant for their arrest. Bill of the Indictment along with the criminal case were referred to Baku Serious Crimes Court for trial. The complaint about beating of Y. C. and A. M. by police officers were attached to the criminal case files and submitted to court for examination. The trial continues presently.

Items 20, 21, 22, 26, 31, 32, 33, 40, 41, 42

The Cabinet of Ministers endorsed, with its decision 67 of 18th April 2013 *Rules for Medical and Psychological Aid to Detained and Arrested Persons and their Keeping in the Medical Facilities* in the course of implementation of the provisions of the *Protection of the Rights and Freedoms of Persons in Detention Places Act 2012*.

According to paragraph 2 of the Rules, the medical officers of the detention facility are bound to examine detained or arrested person within 24 hours from the moment of his detention or arrest and to open Medical Records File for each person received at the temporary detention facility. If the detention facility does not have medical personnel, a doctor of the local medical facility shall be called in. Irrespective of the time of infliction, any injury detected at the time of preliminary examination shall be reflected in the Medical Record File in details.

If the medical examination reveals injuries believed to be inflicted as a result of torture or inhuman or degrading treatment, the appropriate records shall be made in the Medical Record File to describe date and time of the examination, as well as circumstances related to sustaining of injures. The File shall be signed by the doctor and detained person.

When the detained or arrested person sustains illness or injury, the doctor carries out his medical examination, records the results and presents his findings to the detained person and, if requested, to his lawyer. If necessary, medical examination of the detained person is run by the experts of another medical facility of their choice, subject to the decision of a person administering criminal process, upon the motion of the detained person or his lawyer.

The Ministry of Internal Affairs announced the *Rules* endorsed by the Cabinet of Ministers' Decision 67 of 18th April 2013, by means of Ministerial decree No. 319-001-13 of 3rd May 2013. Presently, the Ministry takes all necessary measures to handle matters emanating from the implementation of the Rules, including preparation of the Medical record Files, their transportation to the territorial institutions, determination of the doctors from among the medical personnel of local state medical facilities with a view to conduct medical examinations, etc.

Complaints related to torture and inhuman and degrading treatment, as well as written reports on injuries believed to be inflicted as a result of torture or inhuman or degrading treatment are referred immediately to the prosecutor who administers procedural management of preliminary investigation.

Item 22:

During transfer from relevant detention facilities of the Ministry of Internal Affairs to the pre-trial detention facilities of the Penitentiary service, irrelevant of their wishes all prisoners are admitted with participation of medical staff and a representative of the prison management, at which point they undergo medical examination as well. The results of the medical examination are documented and the act on any observed injuries is drawn up and recorded. If for any objective reason a medical expert is not able to participate, such act is drawn up by the officials of the pre-trial detention facility. In such cases, the copy of the act is presented to the medical expert in order to carry out relevant registration procedure.

In accordance with the Law, the detention facility management informs the Penitentiary Service and other relevant authorities of the Ministry of Justice of any injuries borne by the prisoners (irrelevant of receipt of complaint from the prisoner), also special information is presented to the Prosecution authorities to carry out relevant investigation.

As of 22 May 2013, in total 49 prisoners were admitted bearing various injuries, 6 of those were admitted to the Baku pre-trial detention facility, 9 to the pre-trial detention facility No. 2, and 34 to the pre-trial detention facility No. 3. Related information on all of them was presented to relevant authorities.

Item 23:

It should be noted that, sometimes light injuries observed during the arrest at the temporary detention facility are not observed after the primary examination at the pre-trial detention facility.

As mentioned above, acts on displayed injuries which are drawn up without the participation of a medical expert are later forwarded to the medical service of the facility for further medical and other measures to be taken. The arrested person undergoes a medical examination and injuries mentioned in the act are accordingly recorded in his or her medical booklet.

In relation to the comprehensive medical examination of the admitted persons, it should be noted that, the medical examination of prisoners, the received treatment, provision of proper hygiene and psychological help is regulated by the decision of the Cabinet of Ministers dated 18 April 2013.

Detained or arrested person undergoes medical examination by the medical staff of the facility within 24 hours from the moment of arrest; a medical booklet is drawn up for every admitted person. Irrelevant from time of its origin, every injury observed during the primary medical examination is described in detail and recorded in the medical booklet. The arrested person also undergoes medical examination during transfer from the pre-trial detention facility to the temporary detention facility and upon return. The medical expert carries out medical examination without presence of other persons (except when there is a threat).

In case of observance of injuries which are believed to be a result of torture or other cruel, inhuman or degrading treatment, the medical expert informs the prison director and the relevant medical service about such injuries in writing.

In this regard, various topics have been included in the curriculum of education programs for legal training courses of employees at the Justice Academy. At the same time, for the purpose of teaching the staff of the medical services about the detailed description of injuries as a result of torture or other cruel, inhuman or degrading treatment, the experts of the Forensic and Pathological anatomy union of the Ministry of Healthcare carry out courses.

Item 25:

The Internal Investigations Department of the Ministry of Internal Affairs looked into allegations of physical violence in respect of defendant K. B., submitted by his parents. The inquiry revealed no illegal acts by the police officers.

The prison director was informed of all the injuries on K. B. thoroughly recorded upon his arrival to the Baku pre-trial detention facility on 16 November. The pre-trial detention facility forwarded the information about injuries and the copy of the medical booklet to the Internal Investigations Department of the Ministry of Internal Affairs.

At the same time, Mr. B.'s complaint of ill-treatment by the Sabunchu District Police Department officials was sent to the Sabunchu District Prosecutor's Office together with the attached letter of the Baku pre-trial detention facility, dated 11 December 2012.

Thus, on the 14th November 2012, police officers of the 15th Police Station were deployed to deal with the call to the emergency centre 102 of the MIA to the effect that K. B. is threatening to kill his brother-in-law, named F., living in Pirshagi Settlement of Sabunchu District. K. B. objected to the police's summons to the police station by injuring himself through breaking the glass window with his bare hand and further shooting himself in the head with a pneumatic weapon.

Following the information on drug storage and usage by K. B., police searched his apartment and discovered 23,92 grams of dried marijuana, which were seized in the appropriate manner. The relatives of K. B. confirmed the aforementioned, as well as the fact that the police officers did not commit any illegal action in his regard.

K. B. was taken to the Clinical Hospital No.3, where he was diagnosed with 'penetrating wound and alien object in the right temple of the skull and cutting wound in the external part of the left hand'. After the appropriate medical intervention he was surrendered to the Investigation Unit. On the 15th November 2012, criminal case was launched subject to Section 234.1 of the Penal Code of the Republic of Azerbaijan, K. B. was detained as a suspect. On the 17th November 2012, he was formally charged with possession of narcotic drugs under Section 234.1 of the Penal Code, stood before Sabunchu district judge and arrested subject to court warrant.

Sabunchu district prosecutor's office conducted its own inquiry of the complaint submitted by K. B. As the allegations were not confirmed, the district prosecutor refused to institute criminal case subject to Sections 39.1.2 and 212 of the Criminal Procedure Code.

Item 26:

Provision on obligation to promptly inform the Prosecutor's Office about injuries displayed on persons admitted to places of detention is included in the draft project of "Rules of Internal Discipline of Pre-trial Detention Facilities".

Item 27:

Based on Paragraph 5.9 of Rules of Internal Discipline of Pre-trial Detention Facilities, a medical expert of the medical unit carries out the external examination of newly admitted persons, as well as persons being transferred from and to the detention facility for investigation proceedings, the results of such examination are then appropriately recorded in their medical booklet.

Written information about the injuries indicative of torture or other cruel, inhuman or degrading treatment is immediately presented to the prison director to be forwarded to the Prosecutor responsible for primary investigation.

Item 28:

In accordance with Paragraph 27.3 of the Rules of Internal Discipline of Pre-trial Detention Facilities claims of torture or other cruel, inhuman or degrading treatment and information on bodily injuries indicative of such treatment are immediately forwarded by the prison director to the Prosecutor responsible for primary investigation.

Items 31 and 32:

It is included in the draft project of Rules of Internal Discipline of places of temporary detention that the detained persons shall undergo medical examination by the medical expert within 24 hours of admittance to the places of temporary detention, and the results of such examination are appropriately recorded.

It is also included in the project that claims of torture or other cruel, inhuman or degrading treatment made by the detained person and information regarding injuries indicative of such treatment is immediately presented to the relevant Prosecutor's Office performing investigative proceedings.

In accordance with Paragraph 3.2 of the Rules on medical and psychological assistance to the detained or arrested persons, an emergency medical unit is called for medical assistance.

Items 36, 37, 38, 39, 43

According to the MIA Instructions No. 31 issued on the 21st April 2006 and *Protection of the Rights and Freedoms of Persons in Detention Places Act 2012*, the police is bound to inform the person brought to a detention place about the grounds and reasons of his detention, as well as other ensuing issues, as well as to communicate information on his detention to his family, relatives or third persons.

The police is bound to inform the detained foreigners about their right to communicate with their respective diplomatic representations, facilitate this communication and, if necessary, to provide an interpreter.

Paragraph 5.8 of the current *Internal Order Rules for Temporary Detention Places* endorsed by the MIA Order No.428 of the 6th November 2011 sets forth the rules for access to lawyer.

A person held in temporary detention place is granted access to lawyer from the moment of his detention without any limit as to number and duration of meetings; there are special rooms where a detained person can meet his lawyer.

New draft of the *Internal Order Rules for Temporary Detention Places*, which is about to be endorsed, mirrors the provisions of the *Protection of the Rights and Freedoms of Persons in Detention Places Act 2012*, which require communicating by phone of information on detention to relatives or third persons, communicating with whom bears legal interest to the detained person, immediately after surrender of the person to the temporary detention place; arranging of private *viz-a-viz* meetings with a lawyer or legal representative right from the moment of detention or announcement of arrest warrant, without any limit as to number of duration of the meetings; and securing of confidentiality of such communication, etc.

The boards with the list of lawyers with contact phone information are displayed at visible spots in the quarters of all city and district police units.

Similarly displayed are the boards containing information on the rights of the persons held in temporary detention places in Azerbaijani, Russian and English Languages.

A proposal was made to include digital storage video-surveillance to the *Norms of Equipping Police Quarters of the Republic of Azerbaijan*, which have been endorsed by the appropriate decision of the Cabinet of Ministers of the Republic of Azerbaijan.

Item 37:

In accordance with Article 19.7 of the Law, after being transferred to a pre-trial detention facility people who have been arrested shall be immediately informed about their right to contact their relatives or other persons of legal interest regarding the place of detention and given the opportunity to make a telephone call for this purpose.

Item 38:

According to Article 19.2 of the law if detained or arrested person requires legal assistance he shall not be interrogated until he receives legal aid or his interrogation shall not be continued without participation of his lawyer.

In addition, Article 19.4.1 of the Code of Criminal Procedure provides that from the moment a suspect is detained, arrested, before he is interrogated or accused prosecuting authority is obliged to ensure his right to have a lawyer.

Item 39:

In accordance with Article 19.1 of the law, immediately after the announcement of the decision on selection of an arrest as a measure of restraint the prison administration provides relevant conditions for arrested person to meet alone and to keep the communication confidential with a legal representative or lawyer without any limitation of number and duration of meetings. These meetings are not included in the number of short-term meetings with close relatives of the arrested persons. Meetings with lawyers or legal representatives with arrested persons are ensured by the administration of pre-trial detention facility and no complaints regarding this issue were filed.

Item 40:

According to paragraph 2.1 of the "Rules on provision of medical and psychological assistance to detained or arrested persons, as well as their maintenance at medical institutions" a detained person shall be medically examined within 24 hours from the moment of arrest by the medical staff. This is also reflected in the draft "Internal discipline rules of places of temporary detention".

Item 43:

Arrested persons newly admitted to a pre-trial detention facility are duly informed of the Law on ensuring the rights and freedoms of individuals held in detention facilities, as well as their rights and duties by the administration of the facility. For this purpose, the law has been distributed to all pre-trial detention facilities and made available for arrested persons and staff.

It should be noted that within the "Justice reforms support program" jointly implemented with the European Commission, the legislative database on execution of punishments (5000 units) dedicated to the treatment of prisoners, including UN and European conventions on Prevention of Torture and the scientific-practical commentary on the Code of Execution of Punishments (3000 copies) was published and presented for wide application at penitentiary institutions, including the pre-trial detention facilities.

Item 44:

It should be noted that Plenum of the Supreme Court on March 10, 2000 passed a resolution on "Courts activity in the field of protection of human rights and fundamental freedoms during administration of justice". It has been explained in paragraph 3 of the resolution that exposure of citizens to torture, inhuman and degrading treatment and punishment by officials during the periods of inquest and preliminary investigation, as well as while serving punishment constitutes a criminal act, must be criminally punished and, in this context the court must express its opinion in all cases. At the time of the hearing if the information in this context is received, the person shall be examined, his personal case to be raised and considered, witnesses be heard, if there are legal grounds a criminal case to be started or the matter be brought to the attention of a prosecutor in the manner prescribed by law.

It should be noted that at the training courses of the Academy of Justice organized for justice servants, judges, judge candidates, defence lawyers and other lawyers lectures are taught on United Nations and European conventions against torture and other cruel, inhuman or degrading treatment or punishment, their essence and obligations of member states.

At the same time, Republic of Azerbaijan participates in various programs and projects of the Council of Europe in this field, including Human Rights Education for Legal Professionals Programme (HELP Programme) and the European Network for the exchange of information between individuals and organizations (Lisbon Network) which is responsible for the training of judges and prosecutors. Our country is represented in these institutions by the Deputy Minister of Justice.

Improvement of the teaching process at the Academy of Justice is carried out through with the support of HELP program, link of the program website has been put at the website of the ministry. Judges and other lawyers get familiarized with the decisions of the European Court of Human Rights some of which have been translated into Azerbaijani and placed at the court's database site to apply them in their activity.

Item 45:

The questions on rights and freedoms of persons and citizens have been included extensively in the test examinations foreseen for recruitment to police service. These issues have also been reflected in the curriculum of the MIA Police Academy in the form of specific modules.

Special books were prepared to familiarize the police officers with the requirements and provisions of the Universal Declaration on Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms 1960, Code for Lawful Conduct of Public Official, the International Covenant on Civil and Political Rights 1961, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations Convention against Torture, Fiftieth Anniversary of Universal Declaration of Human Rights, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The volume of the Human Rights Module in curricula has been extended from 44 hours to 54 hours.

Furthermore, polite treatment of citizens and strict adherence to the statutory requirements in the conduct with citizens have been reflected in the Code of Ethic Conduct of the MIA Officer and Disciplinary Statute.

According to the requirements of the *Instruction on the Protection and Observation of Persons held in Temporary Detention Places of Police Bodies* endorsed by the MIA Order No.QI-001-13 of the 14th January 2013, the Ministry of Internal Affairs conducts inquiries into the instances of death and flight occurring in the temporary detention places.

In addition to that, the inquiry into breaches of internal disciplinary rules by the persons held in temporary detention places shall be subject to inquiry within 10 days by the deputy chief police officer (if there is no such position, then by the Public Order Chief). Upon the completion of the inquiry, the Chief of Police shall approve the inquiry report and submit it, within 5 days, to the MIA Chief Public Order Department.

According to MIA Order No.80 of the 4th March 2000, the MIA Officers deployed to the field examination shall examine the situation with upholding of the rights of the persons brought, held and detained in temporary detention places and in case if he detects any violation of law then he shall undertake impartial internal inquiry, whether the detained persons submits the complaint or not.

Items 46, 47, 48:

In 2008 (154), 2009 (253), 2010 (278), 2011 (287), 2012 (268) and the first quarter of 2013 (87), 1,327 police officers were subject to various disciplinary punishments for complaints not related to torture, such as cruel treatment, groundless bringing to the police, detention, institution of criminal proceedings, illegal search, other violations against participants of the criminal process, and violation of human rights and freedoms, as follows:

- 19 persons were subject to criminal liability;
- 100 persons were dismissed from police service;
- 99 persons lost their positions;
- 9 persons had seen their special police ranks diminished by one grade;
- 1100 were subject to other disciplinary punishment.

Please be informed that observers from state and non-governmental organizations, representatives of the National Prevention Mechanism Group near the Ombudsman have been visiting the temporary detention places without limitation for years now.

OSCE (43), International Committee of Red Cross (17), Azerbaijani Committee against Torture (650), Ombudsman (649), General Prosecutor's Office and other organizations (21) have conducted 1,380 monitoring sessions in 2010-2012 and 5 months of 2013.

All the temporary detention places have been equipped with the centralized video-surveillance equipment.

The measures taken in the appropriate direction, the outstanding shortcomings and existing tasks are regularly discussed with the appropriate Area Managers of the MIA and other officers and the adequate decisions are submitted for execution accordingly.

As a result of the described and other targeted measures, the number of complaints about police officers fell by 26% (-526), including human rights violations-related reports, which dropped by 45% (-143), and the complaints to the office of the Ombudsman diminished two folds (from 172 to 82).

It should be noted that according to the Order of the General Prosecutor's Office 08/10 dated 14 February 2003 "On duties before the prosecuting organs on Azerbaijan's joining European Convention against torture and other cruel, inhuman or degrading treatment or punishment", each information entering from citizens or organizations are worked out on the case by case basis and prosecuting of these issues were taken under control. Complete and comprehensive review was conducted in the regional prosecutors' offices and they were tasked with ensuring objective decisions.

Besides, registration of such applications or information in regional (city) prosecutors' offices was made in separate books and the review process was strictly conducted.

General Prosecutor's Office took steps to ensure the realization of protection of human rights and freedoms, raising efficiency of prosecuting process, the rights of criminal proceeding sides and their legal interests as well as freedom and immunity, besides, fair judicial review in the course of criminal prosecution in conformity with the Convention for the Protection of Human rights and fundamental freedoms".

Moreover, to create qualified expert groups for precise application of the provisions of essential international and European Conventions, the Order 10/102 dated 12 November 2010 "On Measures aimed at fulfilment of the duties of prosecuting bodies arising from international conventions which Azerbaijan is a party to" was signed.

To carry out the above mentioned order, in the General Prosecutor's Office by an injunction 10/104 dated 18 November 2011, an expert group consisting of the representatives of several structural bodies of the General Prosecutor's Office was established under the international agreements on preventing torture as well as other cruel and inhuman treatment.

This group operating regularly worked on the reviews conducted in district prosecutor offices related to the applications and information about torture and other cruel, inhuman or degrading treatment or punishment.

Conforming to the recommendations of the delegation from European Committee against torture, in 20 December 2012 a comprehensive directive was sent to regional prosecutors' offices to conduct thorough revision and ensure objective decisions on applications or information related to torture and other cruel, inhuman or degrading treatment/punishment.

Complying to the laws and directive requirements on the applications and information mentioned above, necessary investigation was held and work about this issues is underway.

According to the Article 22.3 of the Law of Azerbaijan Republic adopted in 22 May 2012 on "Rights and Freedoms of Individuals kept in Detention Facilities", grievances on torture and other cruel, inhuman treatment as well as written information on the injuries implied as a result of torture and other cruel, inhuman treatment in physical examination shall instantly be sent to the prosecutor conducting primary investigation by the authority of detention facility.

In order to accomplish the duties given under this law to prosecuting authorities, control over the fulfilment of the laws in detention facilities (places of temporary detention, remands) in the framework of law and circumstances was assigned to certain people in the regional prosecutors' offices according to the Order of the General Prosecutor's Office of Azerbaijan Republic 10/117 dated 21 December 2012. Following measures were taken related to the issues raised in the report of European Committee for the Prevention of Torture:

1. F. J. had applied to several leading organizations of Azerbaijan on ineffective conduct of the investigation about his son, R. J. in investigation department of Nizami District Police Station and battery by police officers against his son. It was identified that a case of R. J. was launched and investigated under the Article 180.2.4 of the Criminal Code of Azerbaijan Republic in the Investigation Department of Nizami District Police Station. During the process the materials on the battery against R. J. by police officers while being brought to and in the 25th police office of Nizami District Police Station was sent to the Nizami District Prosecutor's Office on 9 March 2012 and an investigation was held. The fact of battery against R. J. by police officers was not confirmed and the opening of a case under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected according to the decision dated 2 April 2012. Taking into account the recommendations in the report of the European Committee for Preventing Torture, the decision rejecting the case on the materials to be opened was repealed by public prosecutor of Nizami District on 31 May 2013 and supplementary investigation on the information is underway at the moment.

2. The investigation conducted in Garadagh District Prosecutor's Office according to the application on battery by police officers of the 10th Section of Garadagh Police Station against M. H. who was kept in Baku remand of the Penitentiary Service of the Ministry of Justice didn't confirmed the fact and the opening of a case on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected in the decision dated 22 May 2012.

Taking into account the recommendations in the report of the European Committee for Preventing Torture, the decision rejecting opening of the case on the materials was repealed by public prosecutor of Baku Garadagh District on 31 May 2013 and supplementary investigation on the information is underway at the moment.

3. While complaint on the judgment of Khatai District Court about the extension of detention period of U. I. who was charged under the Article 234.4.3 of the Criminal Code of Azerbaijan Republic and was investigated in the criminal case number 120080059 by Inquiry and Investigation Department of the Main Police Station of Baku City was reviewed in the Court of Appeal, an investigation was conducted in the Nizami District Public Prosecutor's Office about the information given by M. A., his advocate which stated that U. I. faced torture, intimidation by police officers of the 23rd Police Office of Nizami District Police station, the heads of the Office against drugs and Criminal Investigation Department, as a result he had to confess his offence declared in the conviction.

The fact of the use of violence against U. I. by police officers of the 23rd Police Office of Nizami District Police Station was not approved in the held investigation and according to the judgement dated 15 October 2012, opening of a criminal case based on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected.

The judgment was repealed by Public Prosecutor of Nizami District on 17 December 2012, the material was returned by the order for the second examination and the launch of a criminal case based on the materials was renounced in the judgment dated 09 January 2013 on the same grounds.

Taking into account the recommendations in the report of the European Committee for Preventing Torture, the decision rejecting the case on the materials to be opened was repealed by Public Prosecutor of Nizami District on 31 May 2013 and supplementary investigation on the information is underway at the moment.

4. An investigation was held in the Nizami District Public Prosecutor's Office based on the application stating that G. A. had faced battery by police officers of the 23rd Police Office of Nizami District Police Station, been planted drugs and kept illicitly.

According to the examination, the matters envisaged in the application were not confirmed and opening of a criminal case based on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected in the judgment dated 01 May 2012.

Taking into account the recommendations in the report of the European Committee for Preventing Torture, the decision rejecting the case on the materials to be opened was repealed by Public Prosecutor of Nizami District on 31 May 2013 and supplementary investigation on the information is underway at the moment.

5. A case was opened and investigation held under the Article 274 of Criminal Code of Azerbaijan Republic in the Investigation Department of Ministry of National Security of Nakhchivan Autonomous Republic on the fact of collection and transmission of the data by a group of people harming sovereignty, territorial integrity, national security and military power of Azerbaijan Republic on the task by foreign special service authorities on 9 August 2012.

T. Z. was detained as a suspect on the mentioned case for the committed offences on 24 August 2011, was accused under the Article 274 of the Criminal Code of Azerbaijan Republic on 26 August 2011. Julfa District Court sentenced him to imprisonment and for detention he was sent to the Detention Centre of the Penitentiary Service of the Ministry of Justice of Nakhchivan Autonomous Republic.

When T. Z. was brought from the Detention Centre to the Ministry of National Security of Nakhchivan Autonomous Republic for necessary investigative steps on 28 August 2011, as his health worsened on the way an ambulance was called from emergency station of Nakhchivan City. After the first aid he was sent to the Diagnostic Centre of Nakhchivan, but despite the medical care of the doctors T. Z. died.

In the investigation conducted in Nakhchivan City Prosecutor's Office over this fact showed that T. Z. had been suffering from skin cancer and he had been treated in various treatment centers in Baku and Islamic Republic of Iran for the ailment, and had several operations on the body tumors.

According to the Forensic medical report dated 5 September 2011, during the examination no injuries or signs of torture were identified on the corpse and the reason of the death had been thromboembolic pulmonary disease.

The opening of a criminal case based on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected in the judgment dated 9 September 2011.

Taking into account the recommendations in the report of the European Committee for preventing Torture, the respective letter for repeal of the judgment and supplementary examination of the materials was sent to the Public Prosecutor's Office of Nakhchivan Autonomous Republic.

It was identified that F. N., the advocate of D. V. who was charged under the Articles 233 and 315.2 of the Criminal Code of Azerbaijan Republic solicited on 24 October 2012 and stated that physical violence was used and injuries were inflicted while D. V., a person imprisoned for taking active part in disturbing the social order, revolt using life-health threatening violence against a state agent while fulfilling their duties, was detained in Narimanov District Police Station and during the interrogation.

In the course of the investigation held in the Public Prosecutor's Office of Baku D. V. stated in his explanation that he had heard the news of organization of a rally on 05 October 2012 at 12.00 on the support of hijab in front of the Ministry of Education of Azerbaijan Republic from unknown people's conversation on 03 October 2012. On the day at 11.46 he had gone to the Ministry of Education and after nearly 10 minutes while the participants of the rally with the posters in hands came from Haydar Aliyev Avenue, he saw and ran in that direction, then fell down and injured his left elbow and both knees. While moving towards the ministry together with the ralliers, he had seen a police officer beating a man and tried to separate them. Then together with others he was brought to the Narimanov District Police Station. When a number of people watched camera records of the rally, they saw him among the ralliers and one of them came up to him and punched him on a side, and slapped him in the face.

D. V. also noted in his explanation that he had not told F. N., his new advocate, anything related to any physical violence against him during the inquiry. So, it means that no violence was observed in the course of investigation. While being interrogated with the participation of G. J., the first advocate, he had seen a man with well-built body who was going about in the hall and looking at him ironically and he considered if he had not given confessional statement, he would have faced violence. D. V. himself came to this conclusion and no pressure was exerted on him physically or orally by investigator or other persons. He had signed his first statement without reading it properly.

Y. M., an investigator in the Investigation Department of Narimanov District Police Station, P. Z., head of the detention centre, M. X., P. A., and F. H., officers on duty and guardians noted in their statement that D. V. had been detained, questioned as a suspect and charged with an advocate ensured; no physical or mental violence was used against him during inquiry; he had signed the statement after reading with the participation of his advocate. An act had been made with his injuries (scratches on his both knees) indicated and D. V. himself had stated them to be the result of his falling during the rally.

In the act dated 06 October 2012 made in the Detention Centre of Narimanov District Police Station it is obvious that during the examination D. V. who had been brought to the Detention Centre on the same date, the scratches on his knees were detected.

As the facts put forward by F. N., the advocate were not confirmed in the investigation conducted in the Public Prosecutor's Office of Baku the opening of a criminal case based on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected in the judgment dated 08 November 2012.

The application of K. B. who was detained in the Detention centre of the Penitentiary Service of the Ministry of Justice of Azerbaijan and charged under the Article 234.1 of the Code of Criminal Procedure of Azerbaijan Republic on battery by the police officers of 15th police office and being forced to confess the offence he had not committed, was revised.

In the course of investigation K. B. stated in his explanation that while he and M. R., his unofficial wife were in Pirshaghi, K. B.'s mother-in-law's house, as the latter had complained to the 15th Police Office because of the conflict the police officers came to the place. At that moment, K. B. taking a knife and intimidating with stabbing himself, he refused to go to the Police Office. So, police officers left the house. About 40 minutes later, 10-15 officers rushed the place and shackling him hit and tried to take K. B. to the Police Office, but he freed himself and took pneumatic weapon and stated he would kill himself. As the police didn't pay attention to his words, he shot 5 times in his head and fainted. When he came to himself, he had already been in the 15th Police office. Mr. A., Head of the Department of the Sabunchu District Police Station demanded to tell where he had gained drugs putting paper in front of him. When he refused to do it, A. and I., head of the 15th Police Office cuffed his legs and beat him with the club and the foot of the chair. All day long till the morning he was physically and mentally forced to sign the paper written by them about his committing the crime.

In her explanation to the District Prosecutor's Office M. R. declared that Police officers who came to their house on 14 November 2012 had not used any violence against him, he shot himself with the pistol which he carried with him, cut his hand as a result of the breaking of the window, and the police had found boxes of drugs while a search in his house.

A. R. confirmed the facts given by M. R. in her explanation.

A. A., head of the Criminal Search Office of Sabunchu District Police Station, I. A., head of the 15th Police office, S. G., V. A. and H. A., operation attorneys in criminal search of the police office, Y. A., District Chief, B. A., District Inspector, P. E. and S. H., the witnesses in their explanation notified that no violence had been used against him and he had been imprisoned just because of the drugs found in his own house in the course of search.

K. B. had confessed his guilt in his statement during the prosecution started in the Investigation Department of the District Police Station under the Article 234.1 of the Criminal Code of Azerbaijan Republic based on the fact of detection of marijuana in amount of 23.93 g in his cottage situated in H. Aliyev street, Pirshaghi Village, Sabunchu District.

The review of forensic medical report on the materials 435 dated 29 March 2013 says that he had had dented right temple and cut wounds on the back of his left hand. A blunt instrument had caused dented right temple and cut wounds were the results of the acts with an edge tool. The time of the wounds. He had been wounded on 14 November 2012 and is of the character of causing minor harms to health.

As the facts in the application of K. B. were not confirmed in the examination, the opening of a criminal case based on the collected materials under the Articles 39.1.1 and 212 of the Code of Criminal Procedure of Azerbaijan Republic was rejected in the judgment dated 08 April 2013.

It was also specified that Y. C. and A. M. had been imprisoned under the Articles 120.2.1, 120.2.9, 133.2.3, 133.2.4 of the Criminal Code of Azerbaijan Republic by Baku City Khatai District Prosecutor's Office for deliberate murder of U. G. on 28 November 2012 taking advantage of his helpless condition and other offences and Khatai District Court had passed judgment on their imprisonment.

The bill of indictment had been approved by Public Prosecutor's Office of Baku on 2 February 2013 and forwarded to the Baku Court of Grave Crimes.

As the proceeding over the criminal case was under way the information on the bodily injuries of Y. C. and A. M. when entered Baku Pretrial Detention Centre as proceeding over the criminal case was under way and the latter's application on the torture he faced while being testified which entered general Prosecutor's Office of Azerbaijan Republic were appended to the case and were forwarded to the Baku Court of Grave Crimes.

At the moment judicial review in underway.

The recommendations and conclusions in the reports and the meetings held in the framework of the visits of the delegation of the European Committee for Preventing Torture to Azerbaijan are always carefully examined and are taken into account in daily activity of the prosecution organs of the republic.

**Annex: Instruction of the General Prosecutor's Office of the Republic of
Azerbaijan of 20 December 2012**

To All Public Prosecutor's Offices in Baku, Nakhchivan AR and other regions

Enhancing the efforts in legal state building and protection of human rights are determined as the main directions in the national policy of our country.

In the course of years after gaining independence Azerbaijan Republic expanded the cooperation with the leading international organizations engaged in the protection of human rights, had been party to various instruments and reached significant achievements in the implementation of the outcoming obligations.

Azerbaijan Republic being party to the UN Convention "Against torture and other cruel, inhuman or degrading treatment or punishment" and "European Convention for the Protection of Human Rights and Fundamental Freedoms" had obligation on taking legislative and other measures related to the prevention of torture and other cruel, inhuman or degrading treatment or behavior and effectual steps were taken and institutional reforms implemented.

The Constitution of the Republic of Azerbaijan which is based on international principles implies certain essential provisions regarded to the protection of human rights and freedoms.

As it is shown in the Article 12 of the Constitution of Azerbaijan Republic, providing human and citizens' rights and freedoms to the citizens of the republic and proper life standard to them is the main purpose of the government. The human and citizens' rights and freedoms enumerated in the Constitution are applied according to the international agreements Azerbaijan is party to. In the Article 71 of the Basic Law it is implied that protection and ensuring of the human and citizens' rights and freedoms envisaged in the Constitution are the duties of Legislative, executive and judicial bodies. In the second section of the Article 148 it is shown that the international agreements which Azerbaijan is party to take essential place in the legislative system of Azerbaijan Republic.

The laws and regulations in force for the implementation of the provisions of the Constitution define certain obligations for law enforcement bodies.

According to the Article 8 of the Code of Criminal Procedure of Azerbaijan Republic the duties of the criminal proceedings are to protect an individual, society and government from criminal attempts, abuse of position related to the real or alleged crimes, handle the case in a short period of time, to examine the cases completely, objectively and thoroughly related to the prosecution, expose criminals and prosecute them, administrate justice in order to punish offenders defining their guilt or acquit the innocents. The Article 10 of the same code says that the Judiciary and participants of the proceedings should conform to the provisions of the Constitution of Azerbaijan Republic, this Code, other Laws and the international agreements that Azerbaijan is party to. The Article 12 of the Code of Criminal Procedure of Azerbaijan says the authorities conducting criminal procedure should ensure human and citizens' rights and freedoms envisaged in the Constitution.

Conforming to the provisions of the "European Convention for the Protection of Human rights and Fundamental Freedoms", an inseparable part of our legislation, learning the experience of the European Court of Human Rights, taking into account the precedents of the court during the criminal proceedings are designated to be the priorities in the activities of the Prosecutor's Office.

The precedents defined by European Court of Human Rights are the main principles prosecutors take into consideration and allude in their daily activity and it plays significant role in our legal activity.

It should be specially noted that the executive order of the president of Azerbaijan Republic # 1938 dated 27 December 2011 "National Activity Program for raising efficiency of the protection human rights and freedoms in the Republic of Azerbaijan" was issued.

The Program is an event of great importance for the protection of human rights and fulfilment of the measures in this field in more organized manner.

National Activity Program improving the concept of the activities for the protection of human rights defines several directions of the implementation of complex measures, their realization, coordination, monitoring and evaluation mechanisms and outcoming goals.

The instrument for enhancing the efforts in legal state building and protection of human rights during the period of progress of Azerbaijan tasked the General Prosecutor's Office with the investigation of the cases relating to the violation of the requirement of the legislation and human rights, maltreatment, abuse of power etc. during detention, arrest, in the temporary or pre-trial detention centers and taking the measures reflected in the legislation.

In order to ensure implementation of the obligations arising from the program, the General Prosecutor's Office confirmed the Action plan on 09 February 2012 consisting of 7 Sections and was forwarded for the realization.

Certain mechanisms have been designated for promotion of human rights and freedoms and prevention of torture and other cruel, inhuman or degrading treatment in jails.

In accordance with law of the Republic of Azerbaijan # 405- IVQD "On Amendments to the Criminal Code of the Republic of Azerbaijan" dated 29 June 2012 Article 133.3 of that Code was abolished, article 293 of the Criminal Code was renamed to "Torture and Cruel, Inhuman or Degrading Treatment or Punishment not considered as Torture".

Cruel, inhuman or degrading treatment or punishment by an official person of state authority or any other person acting in name of him or any other acting on his incitement or to be informed or torture by an official person of state authority or any other person acting in name of him or any other acting on his incitement or to be informed is a punishable act according to the Article.

The Law of Azerbaijan Republic "On ensuring Human Rights and Freedoms of the Individuals kept in Detention Facilities" was adopted on 22 May 2012 and is very important in regulating the relations related to the ensuring human rights and freedoms of the detained or arrested individuals in detention places.

In accordance with the Article 14.1 of the very Law, detained or arrested individuals enjoy human rights and freedoms and have obligations under the Constitution, Code of Criminal Procedure of Azerbaijan Republic and other laws.

The Article 15 says that the detained or arrested persons after being brought to detention facilities have rights to be provided an opportunity to give information to relatives, legally interesting people, to be detained with the personal security ensured, not to be subject to torture and other cruel, inhuman or degrading treatment or punishment, to have meeting with his advocate or legal representative, take part in civil legal relationships, to enjoy notarial service and others.

According to the 27 Article of the Law detained or arrested individuals should not suffer from torture and other cruel, inhuman or degrading treatment or punishment. They should not be kept in a degrading condition.

The Article 22.3 says that grievances on torture, inhuman or degrading treatment or punishment as well as written information about the bodily harms allegedly inflicted as a result of torture, inhuman or degrading treatment are to be instantly forwarded to the prosecutor conducting the primary investigation.

In order to fairly apply the provisions of the significant international instruments on human rights and freedom our country is party to in the activities of the prosecutor's office a command # 10/102 by the General Prosecutor of the Republic of Azerbaijan "On the Measures for Ensuring More Effective Fulfilment of the Duties Before Prosecution Bodies Arising from the International Agreements Azerbaijan is party to" was issued on 12 November 2010.

An expert group on the international agreements against torture and other cruel, inhuman treatment had been established which consisted of the employees from different structural institutions according to this Command on 18 November 2011 under the Order # 10/104.

General Prosecutor demands in his Orders: 1) # 08/10 dated 14 February 2003 "On the duties of Prosecution organs which arose from Azerbaijan's being party to the European Convention Against torture and other cruel, inhuman or degrading treatment or punishment"; 2) # 09/84 dated 01 December 2006 "On taking into account in prosecution bodies the provisions of the Convention for Human Rights and Freedoms and precedent right of the European Court of Human Rights ; 3) # 10/100 dated 01 November 2010 "On Raising Efficiency of Review of the Applications and Citizen Reception in the Prosecutors' Offices of Azerbaijan Republic and # 10/70 dated 28 June 2010 "On Promoting the procedural leadership of a prosecutor in primary investigation, supervision over the prosecution and promotion of the activities in this sphere" that effective examination of the applications or information on torture and other cruel, inhuman or degrading treatment or behavior, or applications on the use of illegal investigation means should be held and measures taken as envisaged in law.

However, the present experience shows that superficial and unproductive investigations are in several cases held on the applications on torture and other cruel, inhuman or degrading treatment in detention centers and remands and information received from courts or detention facilities, no forensic examination is conducted to substantiate the given facts, no necessary documents are appended to the materials and other required steps are not taken, collected evidence is not legally appreciated properly, unjustified injunctions are issued on the applications or information. Such cases lead citizens repeatedly to appeal to several instances.

Moreover, in the decisions related to the review of the grievances of citizens of not only our country, but also other states in the European Court of Human Rights it is shown that in the course of review on the appeals about torture, inhuman or degrading treatment some shortcomings had been observed, the collection of evidence approving or denying the facts had been insufficient. It is also reflected that analysis of conditions in the case had been inadequate and the result had not been substantiated.

Therefore I demand to examine the cases given below while the investigation on the citizens' appeals related to torture, inhuman or degrading treatment and the information received from different organizations:

- Validity of the detention, arrest and bringing of citizens to the Police station, department or office;
- To ensure the provisions of Criminal Procedure Law on not keeping the individuals brought to police station, department or office for more than 48 hours;
- Explanation of the reasons why the person is suspected and his right to advocacy, providing him with a lawyer and preparing the document for that purpose and handling it to him;
- Providing the suspect with the list of the advocates working in the advocacy body in respective area, ensuring his free choice of his own lawyer, opportunities to meet him and have confidential interview.
- Registering the arrival of the person in the regional police bodies, the period of his detention, responsible officer of the case, any information about physical or mental violence against him and the date of release(the books should be reviewed in every case and the relevant papers copied and added to the data);
- In case of a complaint about battery or physical violence against the person in temporary or pre-trial detention centres, a forensic expert should be invited and the examination held and the documents to be prepared in this regard.
- While the analysis of the applications and information, though the person had been examined by forensic examination, he should be once more be examined with the participation of his lawyer, the questioned should be raised before the expert related to the character, date, severity of the wounds and reasons (result of battery, inflicted by himself or falling, physical violence used against him to break down his resistance etc.) of the bodily injuries;

- If necessary, ensuring respective examination to find out the damages of violence character on his clothes and if the damages coincide with the injuries on his body;
- If necessary, review of the tapes of the cameras set in the entrance of the detention centers or remand or duty police office, appending the relevant documents and the necessary acts should be performed in this regard;
- To identify in what condition the person is kept in detention centers or remands, whether the persons are in the same cell with the individuals who are not permitted to be with other persons in the same cell because of their age, illness or other reasons and ensure the juveniles to be kept separately from others.
- Let them to get in touch with his family members and other persons of interest instantly as brought to the detention centers or remands, advice the prosecutor leading the case and the head of the regional police body about detention of the person.
- While being testified or interrogated, let him to inform freely about physical and mental violence he faced and ask questions in this regard.
- While the matter of imprisonment is reviewed in a court, the person should be inquired whether he had faced torture, inhuman or degrading treatment, if the person had not informed about it to the investigation body or the court, the reasons should be found out.
- To move him to the remand from temporary detention facility after imprisonment sentence as envisaged in law.
- To introduce the code of conduct as entered the remand; make him to sign respective documents; move him to temporary detention center because of the ongoing prosecution; the date, number of his meetings with his relatives and to follow the rules of the process, to know who, by which transport he had been brought to the remand from temporary detention center and when would be returned back.
- Sending the application of the person about torture, inhuman or degrading treatment according to the dates determined under the law to the prosecutor conducting the primary investigation by the authority of prison he is kept.
- The persons kept in the same camera with the person complaining about torture, inhuman or degrading treatment should give explanations and they should be legally assessed

- Thorough analysis of the evidences collected in the passed injunctions and to assess them legally and correctly for the objectivity of the conclusions.
- To know whether the collected evidence is sufficient to confirm or deny the torture, inhuman or degrading treatment the person faced;
- To reply thoroughly on the conclusions of the investigation according to the respective norms of the law to the organization or person that had given the information;

Besides, the applications of the persons and information received from organizations on torture, inhuman or degrading treatment should be separately registered. Written notification on the received applications or information and references about the consequences of the held investigation should be submitted to the Department of Control over the Investigation of the General Prosecutor's Office of Azerbaijan Republic.

State Justice Counselor of the 2nd Degree (signed)

Rustam Usubov