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Report

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

from 15 to 22 June 2015

The Azerbaijani Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2018) 34.

Strasbourg, 18 July 2018

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Copy of the letter transmitting the CPT's report

Mr Emin Eyyubov
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Azerbaijan
to the Council of Europe
2, rue Westercamp
67000 Strasbourg

Strasbourg, 25 November 2015

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Azerbaijani Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Azerbaijan from 15 to 22 June 2015. The report was adopted by the CPT at its 88th meeting, held from 2 to 6 November 2015.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the Azerbaijani authorities to provide **within three months** a response giving a full account of action taken to implement them.

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

The CPT would ask, in the event of the response being forwarded in the Azerbaijani language, that it be accompanied by an English or French translation.

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

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Copy: Mr Faig Gurbanov, Head of Human Rights and Public Relations Department,
Ministry of Justice of Azerbaijan

EXECUTIVE SUMMARY

The main objective of the ad hoc visit to Azerbaijan was to review the situation of sentenced prisoners. To this end, the delegation visited prisons No. 6 and 14 as well as the Correctional Establishment for Juveniles in Baku.

The delegation received hardly any allegations of deliberate physical ill-treatment of inmates by staff at penitentiary establishments visited. However, the CPT is concerned by what appears to be a practice of punitive use of truncheons and recommends that it be stopped immediately. Furthermore, the CPT recommends that steps be taken to upgrade the skills of custodial staff in handling problematic situations without using unnecessary force, and in reporting on instances of use of “special means”.

In the course of the visit, the delegation enquired about the circumstances of the death of prisoner A.¹ at Prison No. 14 on 22 December 2014. Unfortunately, the delegation was not able to meet with the prosecutor directly in charge of the investigation. The CPT requests to be provided, in due course, with full information on the outcome of the investigation.

Similar to the situation observed on the previous visits to Azerbaijan, the delegation was struck by the very low custodial staffing levels at Prisons No.6 and 14, which lead to relying on certain prisoners to maintain good order and control. Such a practice greatly increases the risk of inter-prisoner violence and intimidation (as was confirmed during the visit) and is unacceptable. The CPT recommends taking steps to increase significantly custodial staffing levels and to ensure that no prisoner is put in a position to exercise power over other prisoners. Furthermore, the Committee recommends that all custodial staff be instructed to use all appropriate means to prevent and combat inter-prisoner violence and intimidation.

As regards material conditions, Prisons No.6 and 14 were both overcrowded, accommodating prisoners in dilapidated large-capacity dormitories. The prisons’ communal sanitary facilities were invariably in a rundown condition, dirty and smelly. The CPT recommends that the Azerbaijani authorities take necessary steps to decrease the occupancy levels and to ensure adequate standards of accommodation.

As concerns the Correctional Establishment for Juveniles, the delegation took note of the fact that it was to be relocated to a new facility in Kurdakhani in the beginning of 2016.

While juveniles at the Correctional Establishment for Juveniles were offered a range of activities, the majority of inmates at Prisons No.6 and 14 were left to spend their time without any purposeful organised activities. The CPT recommends making efforts to increase the number of prisoners engaged in such activities.

¹ In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name has been deleted.

In both prisons visited, the health-care services were grossly understaffed and insufficient to meet the needs of the prisoners; the situation at the Correctional Establishment for Juveniles was better. The CPT recommends reinforcing the health-care teams in the Prisons No.6 and 14. Other recommendations regarding the health care include that a person qualified in first-aid always be present in prisons including at night and on weekends; a medical screening be carried out systematically within 24 hours of admission of a newly arrived prisoner; all medical examinations of prisoners be conducted and all medical documentation kept in the manner respectful of medical confidentiality. The Committee also recommends to the Azerbaijani authorities that they improve the provision of psychiatric care to prisoners and develop the role of prison psychologists.

As regards the role of the prison health-care services in the prevention of ill-treatment, the CPT recommends that the Azerbaijani authorities take immediate steps to ensure that prison health-care staff receive appropriate training and clear instructions on the drawing-up of medical records. Furthermore, the existing procedures should be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities, regardless of the wishes of the prisoner.

The delegation was concerned by the excessive recourse to placements in punishment cells (“kartzet”) at Prisons No. 6 and 14. Furthermore, in both prisons visited, there were inmates who had been subjected to consecutive placements in a “kartzet” with only a day of interruption. As previously, placement in a “kartzet” was accompanied by bans on visits and telephone calls. The CPT recommends reviewing the practice of segregation on disciplinary grounds as well as amending the relevant provisions in line with the European Prison Rules and relevant CPT standards. Moreover, the Committee is concerned by the fact that self-harm continues to be considered as a disciplinary offence and punished accordingly; this is not a correct approach.

Regarding the disciplinary punishment of juveniles, the CPT reiterates its recommendation that the Azerbaijani authorities reduce to 3 days the maximum possible period of confinement in a disciplinary cell in respect of juvenile prisoners. Preferably, such placements should last no longer than a few hours.

As concerns contact with the outside world, the CPT reiterates its view that a system under which the extent of such a contact is determined by the regime under which a prisoner serves his/her sentence (as imposed by court) is fundamentally flawed. In principle, all prisoners, irrespective of the regime, should have the same possibility for contact with the outside world.

Finally, the Committee calls upon the Azerbaijani authorities to take all necessary steps to ensure that the right of prisoners to lodge confidential complaints is fully respected in practice and that complainants are free from any pressure and reprisals.

I. INTRODUCTION

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Azerbaijan from 15 to 22 June 2015. The visit was one which appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention) and was the CPT's ninth visit to Azerbaijan.²

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

- Maïté DE RUE, 1st Vice-President of the CPT (Head of delegation)
- Djordje ALEMPIJEVIĆ
- James McMANUS
- Alexander MINCHEV.

They were supported by Borys WÓDZ, Head of Division at the CPT's Secretariat and assisted by:

- Mehriban ALIYEVA (interpreter)
- Mahammad GULUZADEH (interpreter)
- Rashad SHIRINOV (interpreter).

3. The objective of the visit was to examine the situation of sentenced prisoners. To this end, the delegation visited Penitentiary Establishment (Prison) No. 6 in Baku, Prison No. 14 in Qizildash, as well as the Correctional Establishment for Juveniles in Baku.

4. In the course of the visit, the delegation had consultations with Fikrat MAMMADOV, Minister of Justice, and senior officials from the Ministry of Justice, the Penitentiary Service and the Prosecutor General's Office. It also met Elmira SULEYMANOVA, Commissioner for Human Rights (Ombudsperson), and staff of the National Preventive Mechanism department of her Office.

² The CPT has so far carried out three periodic visits to Azerbaijan: in November/December 2002, November 2006 and December 2011. Further, the Committee has carried out five visits of an ad hoc nature: in January 2004, May 2005, December 2008, December 2012 and November 2013. To date, only the reports on the 2002 and 2008 visits, together with the responses of the authorities, have been made public (at the request of the Azerbaijani authorities); they can be found at <http://www.cpt.coe.int>.

5. From the outset, the CPT wishes to thank the Azerbaijani authorities for the co-operation received by its delegation during the visit, which is particularly appreciated given that the visit coincided with the 1st European Games which, as the Committee is well aware, presented an important logistical and organisational challenge for the authorities. Despite this, the delegation was offered necessary assistance which greatly facilitated its work under these circumstances. Particular words of gratitude go to the CPT's long-standing Liaison Officer, Mr Faig GURBANOV, and to members of his staff.

6. In the establishments visited, the delegation enjoyed speedy and unrestricted access to all the premises and was able to speak in private with prisoners and consult rapidly – albeit with one exception – all the relevant documentation. The exception concerns the report on the incident of 26 December 2014 at Prison No. 14,³ which took more than 24 hours to be provided to the delegation.

Further, despite numerous and repeated requests made by the CPT as from the very first time the visit to Azerbaijan was notified to the authorities, the delegation was not able to meet with the prosecutor in charge of investigation into the death of prisoner A. at Prison No. 14 on 22 December 2014,⁴ and the authorities did not state any precise reason as to why such a meeting has not been possible. This is indeed highly regrettable as it prevented the delegation from obtaining full information about the above-mentioned investigation.

7. At Prison No. 6, some of the information provided initially to the delegation turned out not to be entirely correct; further, the delegation gained the clear impression that certain inmates did not feel free to speak openly with its members. Albeit to a lesser extent, the same was observed at Prison No. 14. The Committee trusts that no prisoner will be subjected to any form of reprisals because of having spoken with the CPT's delegation, as such a practice would indeed be a gross violation of the principle of co-operation between the Committee and States-Parties to the Convention.

8. At the end of its visit, the CPT's delegation met the Minister of Justice in order to acquaint him with the main facts found during the visit. On this occasion, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, and requested the Azerbaijani authorities to provide, within one month, confirmation that the “quarantine” and punishment (“kartzler”) cells at the Correctional Establishment for Juveniles have been taken out of service as prisoner accommodation. Conditions in the above-mentioned cells were totally unacceptable, the cells being dilapidated, dark, humid and stuffy. Further, there was no proper exercise yard for inmates placed in these cells.

The above-mentioned immediate observation was subsequently confirmed by the CPT in a letter of 26 June 2015. By letter of 21 August 2015, the Azerbaijani authorities informed the Committee that the “quarantine” and punishment (“kartzler”) cells at the Correctional Establishment for Juveniles have been taken out service. The Committee welcomes this positive step.

³ See paragraph 12 below.

⁴ See paragraphs 16 to 18 below.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

1. Preliminary remarks

9. At the end of the visit and in their letter of 21 August 2015, the Azerbaijani authorities informed the CPT of their ongoing efforts to modernise the prison system. These efforts include draft amendments to the Code of Execution of Punishment (concerning *inter alia* conditional and early release, compassionate release, discipline and isolation, contact with the outside world, etc.), an ambitious prison construction programme (new prisons recently opened in Ganja, Lenkoran, Kurdemir and Sheki), efforts to improve the offer of purposeful activities and the quality of prison health-care services (staffing, access to specialists including dentists and psychiatrists), as well as to recruit more prison (custodial) staff.

In the light of the situation observed in the establishments visited (see paragraphs 23 to 72 below), the CPT cannot but encourage the Azerbaijani authorities to pursue their efforts in this area.

10. According to the Criminal Code of Azerbaijan⁵, the decision as to the type of regime to be applied to a given prisoner is taken by the sentencing court, on the basis of the seriousness of the crime committed and the person's previous convictions.

As already stressed in the past, the CPT has misgivings about this approach to managing imprisonment. The Committee recalls that "imprisonment is by the deprivation of liberty a punishment in itself and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment."⁶ Moreover, in the CPT's view, although it is for the courts to determine the appropriate length of sentence for a given offence, prison authorities should be responsible for determining security and regime requirements, based on professionally agreed criteria and individual assessments of prisoners. This should not, however, exclude the possibility for prisoners to appeal to an authority that is independent of the penitentiary administration (e.g. a judge) against the decision to be placed under a specific type of regime. **The CPT recommends that the Azerbaijani authorities review the relevant legislation, in the light of the above remarks.**

2. Ill-treatment and inter-prisoner violence

11. The delegation received no allegations of deliberate physical ill-treatment of inmates by staff at Prison No. 6. Further, no credible and recent allegations of physical ill-treatment by staff were heard at Prison No. 14, and only one allegation (referring to the punitive use of truncheons) was received at the Correctional Establishment for Juveniles.

It would thus appear that deliberate physical ill-treatment of prisoners by staff is not a widespread phenomenon in the three penitentiary establishments visited in 2015. Naturally, this is to be welcomed.

⁵ Section 56.

⁶ See Rule 102.2 of the European Prison Rules.

12. That said, the CPT is concerned by what appears to be a practice of punitive use of truncheons (applied on buttocks) in at least two of the establishments. At Prison No. 14, staff resorted to such measures in the context of the incident(s) of 22/26 December 2014.⁷ Further, one credible and recent allegation of a similar practice (truncheon blows on the buttocks administered as informal punishment for the inmate having committed an act of self-injury) was received at the Correctional Establishment for Juveniles.⁸

In this context, the Committee must stress that there can be no justification for applying truncheons in this manner vis-à-vis inmates who are already brought under control, all the more so when the inmate concerned is a juvenile. Truncheons can only be applied when – and to the extent – strictly necessary to maintain security and good order, and never as a form of punishment and thus never on the buttocks. The above-mentioned practice of using “special means” to inflict corporal punishment on prisoners can certainly be considered as amounting to inhuman and degrading treatment; **the CPT recommends that it be stopped immediately.**

13. As regards the use of “special means” (including truncheons and handcuffs) in general, the resort to them did not appear to be frequent in the establishments visited according to the relevant registers.⁹ Truncheons were not carried routinely by custodial staff (and were stored in a dedicated and locked room). However, as already illustrated by the practice described above, when resorted to, truncheons could at times be applied in a disproportionate or even abusive manner. By means of an example, on one occasion early in 2015, staff struck several inmates merely because they had refused to undergo a search. In the CPT’s view, it is unacceptable to use a truncheon to secure compliance with an order, unless there is an immediate risk to the safety of the staff, the inmate concerned or other person(s). Properly trained custodial staff should be able to handle such situations without resorting to truncheons, for example by applying control and restraint techniques if it is necessary to move a prisoner to another location. **The CPT recommends that steps be taken to upgrade the skills of custodial staff in handling problematic situations without using unnecessary force, in particular by providing training in ways of averting crises and defusing tension.**

⁷ On 22 December 2014, a group of approximately 50 prisoners (reportedly incited by inmates belonging to the informal prisoner hierarchy) staged a protest action upon learning of the death of prisoner A. (see paragraph 16). The inmates, who had damaged the prison’s duty station including CCTV control room, agreed to disperse after having met the Director. A more serious incident occurred four days later (on 26 December 2014), after a general search of the establishment had begun (according to some inmates interviewed by the delegation, with the participation of members of the special intervention team of the Penitentiary Service wearing helmets and shields – a version denied by the Director and not confirmed in the relevant documentation). In the course of that second incident, truncheons were used and 15 prisoners received injuries including blunt force trauma on their buttocks (as well as sharp injuries on their hands, arms and head, reportedly due to grabbing or falling on razor wire). It is noteworthy that, as recorded in the register of traumatic lesions of Prison No. 14, several prisoners had sustained injuries on their buttocks during previous incidents, in September 2012 and in July 2013 (in the latter case, after arrival of the special intervention team).

⁸ The juvenile concerned had reportedly complained about this to the Director, who had promised that such ill-treatment would never occur again.

⁹ For example, “special means” had been used three times during the 3 years preceding the visit at the Correctional Establishment for Juveniles, five times between 7 April 2014 and 13 December 2014 at Prison No. 14, and twice between 1 January and 15 June 2015 at Prison No. 6.

14. The delegation was informed that teargas (of the “cheremukha” type) was authorised and available, although never used in practice, in the establishments visited. Nevertheless, the Committee wishes to stress that teargas is potentially dangerous and should not be used in confined spaces. Further, if exceptionally it needs to be used in open spaces, there should be clearly defined safeguards in place. For example, persons exposed to it should be granted immediate access to a doctor and should be supplied immediately with means to reverse the effects effectively and rapidly. It should never be deployed against a prisoner who has already been brought under control, and it should not form part of the standard equipment of a prison officer.

The CPT recommends that the Azerbaijani authorities draw up detailed regulations governing the use of teargas, which should include, as a minimum:

- **clear instructions as to when teargas may be used, which should state explicitly that teargas should not be used in a confined area;**
- **the right of prisoners exposed to teargas to be granted immediate access to a doctor and to be offered measures of relief;**
- **information regarding the qualifications, training and skills of staff members authorised to use teargas;**
- **an adequate reporting and inspection mechanism with respect to the use of teargas.**

15. The Committee also has concerns about the poor quality of reports on instances of use of “special means”,¹⁰ including as regards medical data.¹¹ It is clear that incident handling and reporting are not subjects on which prison staff have had adequate training. **The CPT recommends that urgent steps be taken to address this problem. In this context, consideration should also be given to video recording of all planned interventions such as the one on 26 December 2014 at Prison No. 14.**

In addition, prison staff including members of special intervention teams should wear at all times some means of identification e.g. a badge, an ID number or a distinctive sign on the uniform. This will facilitate the investigation into any complaints of ill-treatment, especially in the context of incidents similar to those referred to in paragraphs 12 and 20. **The CPT recommends that the Azerbaijani authorities take the necessary measures in the light of these remarks.**

¹⁰ For example, the very succinct report on the above-mentioned incident of September 2012 at Prison No. 14 stated: “On 2 September 2012 a group of prisoners staged a protest and made unlawful demands until 3.30 p.m. In order to prevent these unlawful actions, Unit PX6500 entered the territory of the penitentiary establishment with the participation of its staff. As a result, 23 prisoners were isolated. After this, order was restored. The protest aimed to obtain unlawful benefits and put pressure on the Administration.”

¹¹ See paragraph 47 below.

16. In the course of the visit, the delegation enquired about the circumstances of the death of prisoner A. at Prison No. 14 on 22 December 2014. The delegation spoke about it with the establishment's Director and the doctor working in the prison, and consulted the relevant (medical and other) documentation.

According to the Director, on 13 December 2014 Mr A. attempted to cross – without authorisation – from the prison's accommodation to the non-residential zone. Custodial staff prevented him from doing so but – since he initially resisted, verbally abused and threatened the staff and broke some items at the control post – truncheons and handcuffs were used reportedly to overcome his resistance. The Director ordered that he be brought to his office and, once the prisoner arrived there, told the staff to remove his handcuffs. The Director stated that Mr A. immediately tried to assault him and the two custodial officers present resorted to truncheons, striking the prisoner 3 – 4 times on his buttocks (in the Director's presence), and handcuffed him again. Following that, Mr A. was placed in the punishment cell ("kartzer") for 15 days. He was seen by the doctor shortly after the placement and a medical certificate describing his injuries was drawn up, mentioning superficial scratches on the neck and throat and referring to the treatment administered, which included applying a compress on his buttocks.¹²

On 22 December 2014, at about 7 a.m., the Director received a call from the Prison, informing him that Mr A. was found dead in his cell in the punishment block.¹³ The Director stressed that Mr A. had made no complaints about his health between 13 December and the day of his death (and was visited by the doctor every day), that he was walking, eating and drinking normally, and that nothing suspect could be found on the CCTV footage of the corridor in the punishment block. An ambulance was called which arrived at 7.40 a.m. and the doctor declared Mr A. dead, with the estimated time of death of 6.50 a.m. and the cause being marked as "unknown".

17. In Baku, the delegation met senior prosecutors supervising the investigation into Mr A.'s death. Unfortunately, as already mentioned in paragraph 6, despite repeated requests the delegation was not able to meet the prosecutor directly in charge of the investigation, which prevented the delegation from obtaining the most complete picture of the situation. In particular, the delegation's interlocutors did not have the full investigation file with them and were thus not in a position to provide answers to several detailed questions regarding the circumstances of Mr A.'s death and the investigative steps taken so far.¹⁴

Nevertheless, the above-mentioned senior prosecutors informed the delegation that the prosecutor's office had been immediately informed of Mr A.'s death and a prosecutor and a team of investigators went to the prison without delay. The inmate's body was still in the cell when the prosecutor arrived¹⁵ and a forensic medical examination was ordered on the same day. Based on preliminary conclusions of that examination, which revealed the presence of lesions on Mr A.'s body,¹⁶ a decision was taken on 10 January 2015 to open an investigation under Section 309 (1) of the Criminal Code (exceeding official powers).

¹² A treatment that indicated that the inmate's injuries on his buttocks must have been rather serious.

¹³ It is noteworthy that he was not alone – there were two other cellmates in the cell. However, the documentation consulted by the delegation makes no reference to the circumstances under which the body was found and by whom.

¹⁴ See paragraph 18 below.

¹⁵ The delegation's interlocutors were not able to tell at what time the prosecutor arrived at Prison No. 14.

¹⁶ Scratches and hematomas on his back and his arms.

The final conclusion of the forensic medical examination (autopsy), dated 21 January 2015, referred to heart failure as the cause of death, explaining the lesions as being the result of the use of “special means” on 13 December 2014. However, following the recommendation of four experts appointed by the prosecutor’s office,¹⁷ the prosecutor in charge of the case decided to request another forensic medical examination on 21 May 2015, which necessitated an exhumation. The delegation was informed that the second autopsy report had just been received by the prosecutor’s office and that the conclusion was the same as that of the first examination, even though the second report stated that it was impossible to establish precisely the origin of the lesions on Mr A.’s body (while the first report had stated that the lesions had been caused by truncheon blows and the use of handcuffs).

As regards the other investigative steps taken, they included – according to the delegation’s interlocutors – the interrogation of the Director of Prison No. 14 and of the custodial staff who had signed the report on the use of “special means”, as well as the two cellmates of Mr A..¹⁸ The conclusion reached was that force had indeed been used vis-à-vis Mr A., but that it had been justified and proportionate given his aggressive behaviour and past history of similar actions. Further investigative steps planned by the prosecutor included a thorough analysis of the second autopsy report and interrogating the forensic medical experts.

18. The information provided to the delegation suggests that the competent authorities could certainly not be accused of inaction in this case: an investigation was indeed opened speedily, two forensic medical examinations (autopsies) were carried out and several persons interrogated.

That said, the delegation’s interlocutors were not in a position to provide more detailed information, such as the exact time of arrival of the prosecutor and his investigative team to the prison; the exact location of Mr A.’s body on the moment it was found, at the time of arrival of the ambulance and of the prosecutor; the exact time when the first forensic examination was requested; and on any investigative acts performed between 13 December 2014 and 10 January 2015, including the precise dates and times when the persons mentioned in the above paragraph were interrogated. Further, the delegation was not able to obtain an answer to some important questions, such as whether Mr A.’s body was moved before the prosecutor arrived. The CPT also has some reservations as regards the quality of the first forensic medical examination: in particular, it would appear that insufficient attention was paid to investigating a possible link between the injuries on the prisoner’s buttocks and his death.¹⁹

The CPT requests to be provided, in due course, with full information on the outcome of the investigation into the death of Mr A., including full copies of reports on both post-mortem examinations (with results of laboratory investigations), good-quality colour copies of the photographs taken and reports on the on-scene investigations. The Committee would also like to be provided with all the other detailed information referred to above.

¹⁷ A forensic pathologist, an allergologist, a cardiologist and a forensic science expert.

¹⁸ According to the verbal information received from the two senior prosecutors, both inmates were interrogated twice, before and after release from prison, and both confirmed that Mr A. had not been subjected to ill-treatment while in the “kartzler”, that he used to hit his head into the wall of the cell, and that they had found him dead when they woke up in the morning.

¹⁹ According to the delegation’s members who are forensic doctors, there is *inter alia* a high percentage of probability that Mr A. died of fat embolism caused by soft tissue compression after blunt force trauma on the buttocks. In order to identify fat embolism histologically, specimens would have to be obtained from the lungs in the course of the autopsy – something that was not done.

19. Similar to what had been observed during the previous visits to Azerbaijan, the delegation was struck by the very low custodial staffing levels at Prisons No. 6 and 14.²⁰ This led to an environment that was unsafe for both the staff and the inmates. A direct corollary of the staff-shortage problem was the practice of relying on certain prisoners to maintain good order and control. In both prisons, a number of prisoners²¹ were given the task of maintaining order and reporting relevant information to custodial (and especially operational) staff; such prisoners would also make proposals to staff for the imposition of disciplinary sanctions.²²

This partial abrogation of the responsibility for order and security – which properly falls within the ambit of custodial staff – is unacceptable. It exposes weaker prisoners to the risk of being exploited by their fellow inmates. It is also contrary to the European Prison Rules, according to which no prisoner should be employed, in the service of the institution, in any disciplinary capacity.²³ **The CPT recommends that the Azerbaijani authorities take steps to ensure that no prisoner is put in a position to exercise power over other prisoners.**

20. The above-mentioned practice may lead to the emergence or reinforcement of informal prisoner power structures and greatly increases the risk of inter-prisoner violence and intimidation, the existence of which was confirmed by relevant (including medical) documentation in Prisons No. 6 and 14.

One illustration was the incident of 8 November 2014 at Prison No. 6. According to the incident report, at approximately 9 p.m. five prisoners attacked seven other prisoners and resisted staff when the latter tried to stop the fight. “Special means” (truncheons and handcuffs) were applied to all the inmates (who sustained injuries as a result of both the inter-prisoner violence and the use of “special means”²⁴) and the whole group was placed in the “kartzet”; subsequently, a criminal case was opened in respect of the five attackers who were transferred to another establishment. At the time of the visit, the investigation was still ongoing; **the Committee would like to be informed, in due course, of its outcome.**

21. More generally, the CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates.

²⁰ See paragraph 59 below.

²¹ Referred to by other inmates as “commanders” or “brigadiers”.

²² Although this was not formally acknowledged by the staff, such was the generalised perception and understanding of the system among the prisoners interviewed by the delegation.

²³ Rule 62.

²⁴ The lesions included lacerations and abrasions to the face, forehead and neck, and blunt trauma and contusions to the head, ears, cheeks and back. One inmate sustained stab wounds on the back under right scapula – he was transferred to the Central Prison Hospital. The others received ambulatory treatment on the spot.

Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

Management must be prepared fully to support staff in the exercise of their authority; this should include reviewing the placement of individual prisoners. Addressing effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment of prisoners.

In the light of the above comments, the Committee recommends that the management and staff of all the penitentiary establishments in Azerbaijan be instructed to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-prisoner violence and intimidation. This should include ongoing monitoring of prisoner behaviour (including the identification of likely perpetrators and victims), proper recording and reporting of confirmed and suspected cases of inter-prisoner intimidation/violence, and thorough investigation of all incidents.

Steps must also be taken to protect the actual or potential victims against the actual or potential perpetrators (e.g. by transferring them to different establishments or otherwise preventing them from having any contact with each other).

22. Naturally, tackling the problem of inter-prisoner violence will be impossible unless the staffing levels are sufficient (including at night-time) to enable prison officers to supervise adequately the activities of prisoners and support each other effectively in the exercise of their tasks. On this issue, **reference is made to the comments and recommendations in paragraph 59 below.**

3. Conditions of detention in the establishments visited

a. introduction

23. Prison No. 6 is located in the Nizami district of Baku. It was set up in 1939 as a penal colony for inmates sentenced for grave crimes and at present operates as an establishment for adult men serving their sentences (of up to 12 years) under general and strict regime.²⁵ With an official capacity of 1,200,²⁶ the prison was accommodating 1,305 prisoners at the time of the visit. It was thus officially overcrowded, and the Director explained that this was a temporary situation due to the fact that some prisoners from Lenkoran and Sheki had to be transferred to Baku for the time when their respective prisons underwent refurbishment. **The CPT would like to receive information on how long this situation is expected to last.**

24. Prison No. 14 is situated near the small town of Qizildash, in a windy and sandy desert close to a stone quarry, some 30 km from downtown Baku. Opened in 1978 as a military disciplinary facility, it became a penitentiary establishment in 1988. Currently, it serves as a general regime establishment for adult men sentenced for less grave crimes (sentences up to 7 years) who are not considered to represent a big public security risk. At the time of the visit, the prison was accommodating 855 inmates for an official capacity of 1,050.

25. The Correctional Establishment for Juveniles is a relatively compact facility situated in downtown Baku, adjoining to Prison No. 4 (for women) and surrounded by high-rise apartment blocks. It is Azerbaijan's only establishment for sentenced male juveniles.²⁷ Set up in 1933 as a part of the female prison, it later became separated from it and transformed into a juvenile establishment in 2007. With an official capacity of 200, on the first day of the visit the establishment was accommodating 43 juveniles aged from 15 to 19.²⁸ Most were 17 – 18 years old and the average stay was approximately one year (though some inmates would later continue serving their sentences in prisons for adults).

From the outset, the Director informed the delegation that his establishment was to be relocated to a new facility which was under construction in the town of Kurdakhani near Baku (close to Baku Investigative Isolator in Zabrat). It was planned to transfer all juveniles to the new premises (the official capacity of which was to be the same i.e. 200, but reportedly on much more spacious grounds) towards the beginning of 2016. **The CPT would like to receive confirmation that the relocation has indeed taken place, and receive more detailed information about the new facility.**

²⁵ The main difference between the regimes is the visiting entitlement, see paragraph 71 below.

²⁶ Calculated, according to the Director, on the basis of the norm of 4 m² of living space per prisoner.

²⁷ Female juveniles are accommodated at Prison No. 4.

²⁸ Two inmates were older than 18, benefiting from a provision under Azerbaijani law which allows inmates to remain in a juvenile establishment up to the age of 20, on condition of good behaviour.

b. material conditions

26. *Prisons No. 6 and 14* were both overcrowded and the national norm of 4 m² of living space per inmate was far from being observed. Prisoners lived in large-capacity dormitories (measuring from approximately 30 to 130 m² at Prison No. 6 and from 60 to 300 m², with up to 160 beds, at Prison No. 14) which, although generally clean, well lit and ventilated²⁹ and acceptably furnished³⁰, were dilapidated to varying extents (especially at Prison No. 14).

In both prisons, the “quarantine” units (intended for holding prisoners for up to 15 days after arrival) offered even more cramped conditions. The situation was particularly poor at Prison No. 14, where 28 beds were squeezed into a hot³¹ and stuffy dormitory measuring some 65 m², with no space for anything other than tightly packed beds.

27. The establishments’ communal sanitary facilities i.e. toilets and washrooms – to which inmates had unrestricted access at day and night – were invariably in a rundown condition, dirty and smelly. Further, there was insufficient privacy (semi-partitioned toilets).

At Prison No. 6, inmates could use the central bathroom at least once a week (it was also an occasion for them to wash their clothes). The bathroom was quite dilapidated (except for some recently refurbished shower cabins) but clean, and there was no shortage of hot water. By contrast, the delegation noted serious problems with the supply of water at Prison No. 14, which meant that the weekly shower was not always guaranteed. In their letter of 21 August 2015, the Azerbaijani authorities ensured the Committee that these problems have now been solved. While welcoming this positive news, **the CPT would like to be informed in more detail on how this was achieved.**

As regards personal hygiene products, both prisons provided inmates with soap, detergent, toilet paper and towels. Bed linen was washed, in principle once a week, in the establishments’ laundries.³²

28. The delegation did not hear any complaints about the food provided to prisoners. That said, it was clear that most inmates relied to a large extent on the food sent by their families (up to 30 kg twice a month), which they were cooking themselves. In both prisons, the kitchens were modestly equipped and quite dilapidated, though in working order. However, the areas where inmates stored and prepared their own food were run down and unhygienic. The canteen at Prison No. 6 would also benefit from refurbishment.

29. In the light of the above remarks, **the CPT recommends that efforts be made to decrease the occupancy levels at Prisons No. 6 and 14. As already stressed in the past, the aim should be to provide a minimum living space of 4 m² per prisoner in all multi-occupancy cells/dormitories (not counting the area taken up by any in-cell toilet facility).**

²⁹ Ventilation was a problem in some dormitories.

³⁰ Bunk and/or single beds put closely together (with full bedding), lockers (usually one shared by two inmates), table, stools, shelves.

³¹ The temperature measured at the time of the visit was 29.8 °C.

³² The above-mentioned water supply issue rendered this objective difficult to attain in practice at Prison No. 14.

The CPT also recommends that steps be taken at both above-mentioned prisons to:

- **refurbish the accommodation blocks, paying particular attention to ventilation;**
- **refurbish the toilet, washing and bathing facilities (including providing toilets with full partitions); as regards access to a shower, the Azerbaijani authorities should consider the possibility of increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules;**
- **refurbish kitchens, canteens and premises in which inmates may store and prepare food received from home, and make sure they are maintained in a clean condition.**

30. As the CPT has stressed in the past, large-capacity dormitories inevitably imply a lack of privacy for prisoners in their everyday lives. Moreover, the risk of intimidation and violence is high.³³ Such accommodation arrangements are prone to foster the development of offender subcultures and to facilitate the maintenance of the cohesion of criminal organisations. They can also render proper staff control extremely difficult, if not impossible; more specifically, in case of prison disturbances, outside interventions involving the use of considerable force are difficult to avoid. With such accommodation, the appropriate allocation of individual prisoners, based on a case by case risk and needs assessment, also becomes an almost impossible exercise. **The Committee recommends that the above considerations be taken duly into account while refurbishing accommodation areas in both prisons visited (by dividing large-capacity dormitories into smaller cell-type accommodation), as well as in the context of the ongoing prison reconstruction efforts in Azerbaijan.**

31. At both prisons (but especially at Prison No. 6), the delegation came across certain dormitories which offered strikingly better conditions of detention than those found in other prisoner accommodation areas. These dormitories generally held fewer inmates and were freshly redecorated, fitted with new floors and new furniture. Further, the range of personal possessions tended to be wider than on normal location. Staff in the two prisons visited was not able to provide the delegation with any clear explanation of this situation. Consequently, **the CPT would welcome clarification from the Azerbaijani authorities as to the criteria used to allocate prisoners to such accommodation.**

32. As for the Correctional Establishment for Juveniles, the CPT will not go into detail about the material conditions, given the plans to relocate the establishment to new premises (see paragraph 25 above). Suffice it to say that the conditions were rather poor (austere and quite overcrowded dormitories measuring 18 to 50 m² each, with 8 to 14 beds, lack of privacy in communal toilets, association areas affected by humidity and mould, etc.).

Nevertheless, it must be stressed that conditions in the establishment's "quarantine" cell were totally unacceptable, the cell being dilapidated, dark, humid and stuffy. Further, there was no proper exercise yard for inmates placed in that cell.

³³ See paragraph 20 above.

In this respect, as already mentioned in paragraph 8 above, the delegation invoked Article 8, paragraph 5, of the Convention and requested the Azerbaijani authorities to confirm, within one month, that the above-mentioned cell had been taken out of service as prisoner accommodation. The authorities provided such a confirmation in their letter of 21 August 2015, which is welcome.

c. activities

33. The delegation was concerned to note that few inmates (less than a quarter at *Prison No. 6* and approximately 10% at *Prison No. 14*) had access to work,³⁴ and there was very little vocational training available at the two prisons visited.³⁵

As a result, the bulk of inmate population were left to spend their time without any purposeful organised activities³⁶ and with only some distractions (watching TV in the “club”, listening to the radio, playing sports³⁷ and board and computer games, and reading books³⁸). This situation only reinforced the potential for tensions and conflicts between inmates, and compromised their prospects for social rehabilitation.

The CPT recommends that the Azerbaijani authorities strive to increase the number of prisoners at Prisons No. 6 and 14 engaged in purposeful activities. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their dormitories or cells, engaged in purposeful activities of a varied nature (work, education, vocational training, sport, etc.).

34. The situation with respect to activities was particularly unsatisfactory in the “quarantine” units in both prisons – inmates at the “quarantine” unit at Prison No. 14 were not even allowed to watch TV or listen to the radio. They spent the day lingering around small exercise areas (e.g. some 60 m² at Prison No. 6), and the one at Prison No. 14 had no means of rest and no shelter against inclement weather. **The Committee recommends that steps be taken to enlarge the exercise yard in the “quarantine” unit at Prison No. 6 and provide the outdoor area in the “quarantine” unit of Prison No. 14 with some seating and shelter against inclement weather.**

Further, inmates at the latter unit should be offered some distractions (including access to TV/radio and reading matter).

³⁴ The production area at Prison No. 6 was clearly underused and run down, with many broken machines. Up to approximately 150 inmates had intermittent employment in the workshops (furniture, producing plastic bags, metalwork, souvenirs). Further, approximately 100 prisoners were employed in the prison’s general services (maintenance, cleaning, small repairs, bakery, kitchen). There was no production area at Prison No. 14 (apart from a small handicraft workshop, employing up to 13 inmates) and approximately 100 prisoners were employed in the general services.

³⁵ The vocational school at Prison No. 6 had 60 inmates enrolled to classes for 2 hours per day (welders, electricians, furniture makers, fitters). The one at No. 14 had 98 inmates attending carpenter, plumber and PC classes.

³⁶ Admittedly, prisoners spent the day outside their dormitories, in both outdoor and indoor association areas.

³⁷ At Prison No. 6, there were two outdoor pitches (to play football and volleyball), a big indoor gym, some basic workout machines, table tennis and billiards. The situation was similar at Prison No. 14 except that there was only one outdoor pitch (with artificial grass).

³⁸ Both prisons had libraries with approximately 6,000 – 7,000 volumes (mostly old books).

35. The offer of activities was much better at the *Correctional Establishment for Juveniles*: it included a general secondary school,³⁹ a vocational school (for future plumbers and locksmiths), sports,⁴⁰ lectures on various topics by the educators and the psychologist, chess tournaments, occasional excursions to town, access to the “club” with TV/DVD/radio and computers (on weekends), reading books from the library, etc.

Further, in their free time, juveniles had access to a pleasantly arranged outdoor area with trees, plants and sitting corners, with benches and shelters against inclement weather. In addition, four inmates (the two adults and two juveniles who had a written permission from their parents) were allowed to help in the kitchen and with the cleaning.

However, more efforts are needed to engage the juveniles during school holiday periods,⁴¹ and consideration might be given to staging the teachers’ holidays; **the CPT invites the Azerbaijani authorities to take steps accordingly.**

36. At Prison No. 6, the delegation observed that an *individual education record* had been opened for each prisoner. It contained an analysis of the prisoner’s social, criminal, educational and employment history and an outline sentence plan for each individual. Each meeting with the psychologist and educator was recorded as were all disciplinary hearings and their outcome. The records were generally well kept and demonstrated an awareness of what could be done within the prison.

The Committee recommends that staff at Prison No. 6 be encouraged to build on these records and develop a full-blown sentence planning system, with organised group interventions on the most commonly occurring identified needs. The same approach should be put in place in other establishments for sentenced prisoners.

³⁹ Ten teachers coming from the outside provided courses every afternoon on working days.

⁴⁰ Football and volleyball in an outdoor pitch, access to a small indoor gym three times a week, table tennis.

⁴¹ Summer holidays were exceptionally long in 2015 (from 25 May to 15 September) because, due to the European Games, the Government had decided to end the school year earlier than usual.

4. Health-care services

a. staff and facilities

37. In both prisons visited, the health-care services were grossly understaffed and insufficient to meet the needs of their respective prison populations.

Prison No. 6 (population 1,305) employed two full-time doctors (a GP and a narcologist,⁴² who mainly focussed on compulsory drug treatment⁴³), a full-time feldsher and a dentist who held surgeries three times a week; there were two more posts for feldshers but one was vacant at the time of the visit and the other feldsher had been seconded to work at the Central Prison Hospital. The health-care unit also employed a prisoner orderly.

Prison No. 14 (population 855) had a full-time GP (working from Monday to Saturday), a narcologist (working essentially with the inmates subjected to compulsory drug treatment), a feldsher (who had recently been seconded to a nearby military unit and was thus absent in the prison at the time of the visit) and a dentist. One of the doctors was on call every Sunday. One more GP was formally employed at the prison but in fact seconded to the Central Prison Hospital. As in Prison No. 6, a prisoner orderly assisted the doctors in their daily work.

Despite the genuine efforts of general practitioners employed in both prisons (who were praised by many prisoners), the above situation had an unavoidable negative impact on the quality of health-care provided and, especially, on the speed of its delivery. Consequently, **the CPT recommends that steps be taken to reinforce the health-care teams in the prisons visited. In particular, another full-time GP should be recruited at Prison No. 6 and the seconded GP returned to Prison No. 14. Further, both prisons should urgently receive a substantial increase in full-time posts for feldshers and/or qualified nurses; as a first step, feldshers seconded to work elsewhere should return to their respective prisons and the vacant post at Prison No. 6 should be filled as a matter of high priority.**

38. The situation observed at the *Correctional Establishment for Juveniles* was better: the staffing and hours of presence of health-care staff (a full-time GP, a full-time feldsher and a dentist coming once a week) were sufficient for the current inmate population (i.e. 43 juveniles), and the delegation noted that access to the doctor was not a problem. That said, **were the establishment to operate at its full capacity, a reinforcement of the health-care team (especially as regards feldshers/nurses) would be necessary.**

39. It is noteworthy that there was no 24-hour presence of medically-trained staff in any of the establishments visited, and no health-care staff presence on weekends (except for Saturdays at Prison No. 14). **The Committee recommends that steps be taken to ensure that someone competent to provide first aid is always present in every prison establishment, including at night and on weekends; preferably, this person should be a qualified nurse, in particular in establishments which have an in-patient infirmary (which was the case in the two prisons visited).**

⁴² I.e. a substance abuse specialist.

⁴³ See paragraph 57 below.

40. As regards, more specifically, the role of prisoner orderlies at Prisons No. 6 and 14, the CPT is of the view that health-care services should be provided exclusively by medically trained personnel. **The Committee recommends that the Azerbaijani authorities put an end to the practice of using prisoners in health-care units as medical orderlies.**

41. As regards dental care, the delegation has noted a rather low number of dental consultations in the two prisons visited.⁴⁴ On the positive side, some conservative dental treatment was available free of charge (in addition to emergency interventions).

The dental equipment was adequate at Prisons No. 6 and 14. By contrast, the dental surgery at the Correctional Establishment for Juveniles was totally unacceptable – dilapidated and dirty, with the equipment used being antiquated and allowing only extractions. At the end of the visit, the delegation expressed the view that these arrangements represented a health risk for the juveniles and urged the Azerbaijani authorities to stop using the existing facilities immediately and, pending the establishment's relocation, rely on the state-of-the-art dental surgery at the adjoining (women's) Prison No. 4. In their letter of 21 August 2015, the authorities confirmed that this had been done. The CPT welcomes this positive response to its delegation's concerns.

42. Access to outside specialists was a problem in the three establishments visited (see also paragraph 55 below, which was also linked with the cumbersome procedure for such access: any inmate requiring specialised treatment outside the prison had to be first transferred to the Central Prison Hospital, and only if appropriate treatment was not available there, a further transfer to a civilian hospital or an external consultation could be arranged. In this context, it was noteworthy that the number of external referrals had been diminishing at Prison No. 6⁴⁵ and a similar tendency was also observed at Prison No. 14.⁴⁶ As for the Correctional Establishment for Juveniles, there had been only 7 referrals to an outside health-care establishment in the course of 2014 (including one for psychiatric treatment). In the light of the above, **the CPT recommends that steps be taken by the Azerbaijani authorities to considerably facilitate prisoners' access to outside specialist medical care. One way to achieve this could be to allow penitentiary establishments to sign agreements with civilian hospitals for this purpose.**

43. The health-care facilities (including for in-patients) were overall acceptable, clean and sufficiently equipped at Prisons No. 6 and 14. There was no infirmary at the Correctional Establishment for Juveniles (if necessary, inmates were taken to the Central Prison Hospital) but the delegation was told that there would be one in the new establishment. **The Committee would like to receive confirmation of these plans.**

⁴⁴ At Prison No. 6, the dentist saw one to four patients on each day of his attendance (there had been an increase to two to nine patients in May and June 2015); the figure was almost the same at Prison No. 14.

⁴⁵ 379 in 2012, 353 in 2013, 296 in 2014, and 120 from January to June 2015.

⁴⁶ 487 in 2012, 376 in 2013, 182 in 2014 and 71 from January to June 2015.

b. medical screening on admission

44. In both prisons visited, the medical screening of newly-arrived prisoners was neither systematic nor timely. At Prison No. 6 it was usually performed the day after arrival but on occasion could be delayed for up to 6 days. The situation was even worse at Prison No. 14, where the medical screening was often delayed (up to 3 days) or even “optional”, as observed by the delegation during the visit (inmates interviewed in the “quarantine” unit told the delegation that they had been offered to undergo a medical screening if they so wished, and only approximately half of them had done so). In the light of this, **the CPT recommends that steps be taken at Prisons No. 6 and 14 to ensure that the medical screening of newly arrived prisoners is carried out systematically and within 24 hours from arrival. In the absence of a doctor, such a medical screening could be performed by a feldsher or a full-qualified nurse reporting to a doctor.**

When performed, the medical screening included a questionnaire, a clinical exam (including checking for injuries, see below), checking blood pressure and body temperature, and testing for TB (including fluorography) and sexually transmissible diseases.⁴⁷ That said, a number of prisoners interviewed in both prisons told the delegation that the medical screening had been quite superficial; in particular, they had reportedly only been asked to lift their T-shirt or to roll up their sleeves (and not to undress). **The Committee recommends that steps be taken to ensure that the medical screening at Prisons No. 6 and 14 is always performed in a thorough manner.**

By contrast with the above, at the Correctional Establishment for Juveniles, medical screening upon arrival was performed duly and timely. This is to be welcomed.

45. The CPT has already stressed in previous visit reports the role which prison health-care services can play in the prevention of ill-treatment against prisoners, through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities. The delegation’s observations from the 2015 ad hoc visit suggest that the approach followed in this respect remains unsatisfactory.

46. First, the confidentiality of medical examinations was not respected, custodial officers being systematically present while such examinations took place. **The Committee calls upon the Azerbaijani authorities to take steps to ensure that all medical examinations of prisoners (including, in particular, the screening for injuries) are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of prison officers.**

47. Second, the registers of traumatic lesions kept by the health-care services of the two prisons visited contained only very succinct descriptions, in most cases with no mention of the alleged origin of the injuries⁴⁸ and no conclusions by the doctor on the consistency of these injuries with any statements made by prisoners.

⁴⁷ HIV testing was also offered on a voluntary basis, see paragraph 54 below.

⁴⁸ In a minority of cases, there was a brief mention of the explanation provided by the inmate (e.g. “a fight”, “an accident”, “use of special means”) but no attempt was made to assess its credibility, even if the injury could obviously not have been sustained in the way explained by the prisoner.

This could be seen in particular on the example of the descriptions of injuries of 12 inmates involved in the 8 November 2014 incident at Prison No. 6,⁴⁹ and the incidents of 22 and 26 December 2014 at Prison No. 14.⁵⁰ Reference is also made here to paragraphs 20 and 12 above.

The CPT calls upon the Azerbaijani authorities to take immediate steps to ensure that prison health-care staff receive appropriate training and clear instructions on the drawing-up of medical records. In particular, such records should contain: (i) a detailed account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of any additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register.

Health-care staff may only inform custodial officers about the state of health of a detained person if such information is necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents to additional information being given.

The results of the examination and copies of any photographs taken should also be made available to the prisoner concerned and his or her lawyer.

48. Third, there was no procedure in place for systematically reporting the registered injuries to the competent authorities. **The Committee calls upon the Azerbaijani authorities to review the existing procedures in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities (e.g. the prosecutor), regardless of the wishes of the prisoner.**

⁴⁹ E.g. "special means – abrasions on left cheek and left side of the nose"; "contusion on the right lower eyelid and abrasions on the nose"; "contusions on the right eyelid, abrasions on the upper lip and contusion on the occipital region on the head"; "contusions on the right shoulder"; "contusions on the right cheek and oedema on the right side on the upper lip"; "contusions on the right eyelid"; "laceration on the left eyebrow"; "abrasions on the left lower eyelid and abrasions on the nose"; "contusion on the left ear"; "special means – abrasions on the occipital region on the head and contusion on the right lower eyelid-ambulatory treatment".

⁵⁰ 17 inmates received injuries (apart from Mr A. see paragraph 16 above), including two on 22 December and the rest on 26 December. One inmate was seen twice and received an additional lesion on the second occasion; there was a note that he had been "injured during incident" but no further explanation. Some of the prisoners examined by the GP on 26 December had large/multiple injuries including lacerations on top of the head (possibly inflicted by truncheons). It is also noteworthy that some inmates had been struck after they had committed self-injury, as mentioned in the relevant register (the description of their injuries included fresh cuts on wrists and large bruises on buttocks). See also paragraph 12 above and 69 below.

c. medical records and confidentiality

49. There were individual medical files for prisoners in both prisons visited but they were generally poorly kept, with information often missing⁵¹ or very succinct. The standard of recording was a little better at the Correctional Establishment for Juveniles. **The CPT recommends that health-care staff in the establishments visited – and especially at Prisons No. 6 and 14 – be reminded of the importance of keeping good and detailed medical records, including prisoners’ individual medical files.**

50. Further, as in the past, medical confidentiality was not respected as the files and other medical documentation were accessible to non-medical custodial staff. Furthermore, medical consultations and examinations generally continued to take place in the presence of custodial officers; this was of particular concern as regards the medical screening on arrival and the recording of injuries (see paragraph 47 above). **The CPT calls upon the Azerbaijani authorities to take steps to ensure full confidentiality of medical files and other medical documentation in the establishments visited. Concerning medical examinations, reference is made to the recommendation in paragraph 46 above.**

51. The delegation observed other practices contrary to the principle of medical confidentiality: collective medical examinations and consultations (especially at Prison No. 14), inmates being obliged to explain to custodial staff the reasons for their request to see a doctor (and custodial officers being in a position to filter these requests), and medication (including prescription drugs) being distributed to prisoners by non-medical staff. **All these practices should be abolished.**

d. transmissible diseases

52. As already mentioned, the procedure for medical screening on arrival to the establishments visited included TB screening,⁵² which was in principle performed shortly after arrival⁵³ and subsequently at regular intervals.⁵⁴ Further, the TB treatment provided to prisoners was in accordance with the WHO recommendations (DOTS and DOTS+). If required, inmates were swiftly transferred to the specialised TB establishment for prisoners in Bina.⁵⁵ The CPT welcomes this.

53. Newly-arrived prisoners were also tested, on a voluntary basis, for the presence of hepatitis B and C virus but there was no treatment available. **The Committee would like to be informed whether there are any plans to introduce such a treatment (and, if yes, which treatment).**

⁵¹ E.g. long interruptions in recording or unexplainable differences in the number of recorded consultations (and more generally, the number and level of detail of entries) between consecutive months.

⁵² Including filling in the initial questionnaire and, if required, a further sputum smear test and a chest X-ray.

⁵³ See, however, paragraph 44 above.

⁵⁴ E.g. twice a year at Prison No. 14 and once a year at the Correctional Establishment for Juveniles.

⁵⁵ Visited by the CPT in 2002. E.g. there had been 18 such transfers from Prison No. 14 in the course of 2014.

54. Voluntary screening for HIV was also available in the prisons visited, and those found to be seropositive were offered counselling⁵⁶ and antiretroviral therapy (there were 13 such prisoners at Prison No. 6).

e. psychiatric care and psychological assistance

55. The situation as regards the provision of psychiatric care to prisoners remains unsatisfactory. Despite the fact that the establishments visited accommodated a number of inmates clearly in need of such care,⁵⁷ there were no psychiatrists in any of them and visits by outside consultants appeared to be sporadic at best (and virtually non-existent at the Correctional Establishment for Juveniles). **The CPT recommends that the Azerbaijani authorities improve the provision of psychiatric care to prisoners, in particular by securing regular visits by psychiatrists to the establishments visited; Prisons No. 6 and 14 should be visited 3 times per week.**

If the psychiatric condition of a prisoner worsened significantly, it was possible to transfer him for treatment to the psychiatric unit of the Central Prison Hospital; however, once the inmate returned to his establishment, his treatment with psychiatric medication was interrupted because using such medicines in prisons was prohibited. **The Committee recommends that the relevant legislation be amended so as to ensure that pharmacotherapy for prisoners is never stopped for other than therapeutic reasons.**

56. As regards psychological assistance, each establishment visited employed a psychologist, which represents a positive development. The psychologists were involved in the risk assessment of prisoners and also played a key role in the management of inmates presenting a suicide risk or on hunger strike.

That said, **the CPT invites the Azerbaijani authorities to reinforce the provision of psychological care in prison and to develop the role of prison psychologists, in particular as regards therapeutic clinical work with various categories of potentially vulnerable inmates.**

57. The Directors of establishments visited (especially the prisons for adults) acknowledged that addiction to illicit drugs and other intoxicating substances (such as alcohol) continues to be a problem affecting a significant proportion of the prisoner population. Both prisons accommodated many inmates with a known drug problem, and a number of them were subjected to compulsory drug treatment by court order.⁵⁸ The delegation was told that the use of methadone was not permitted in the prison system (unlike in the outside community). Further, as far as the delegation could ascertain there were no harm-reduction measures (e.g. substitution therapy, syringe and needle exchange programmes, provision of disinfectant and information about how to sterilise needles) and only some specific psycho-socio-educational assistance (offered by psychologists employed in the framework of a project financed by the Global Fund).⁵⁹

⁵⁶ Provided by an NGO in the framework of a project financed by the Global Fund.

⁵⁷ For example, there were two inmates at Prison No. 6 diagnosed with psychosis.

⁵⁸ Approximately 100 prisoners at Prison No. 6 and some 180 at Prison No. 14.

⁵⁹ At Prison No. 14, the psychologist saw inmates subjected to compulsory drug treatment three times a week from 10 a.m. to 3 p.m.

58. The CPT wishes to stress that the management of drug-addicted prisoners must be varied – combining detoxification, psychological support, socio-educational programmes, rehabilitation and substitution programmes – and linked to a real prevention policy. This policy should highlight the risks of HIV or hepatitis B/C infection through drug use and address methods of transmission and means of protection. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the programmes concerned and co-operate closely with the other (psycho-socio-educational) staff involved.⁶⁰ **The CPT recommends that the Azerbaijani authorities take duly into account the above remarks and review their current practice vis-à-vis prisoners with drug-related problems.**

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

a. prison staff

59. As already mentioned in paragraph 19 above, the number of custodial staff working in prisoner accommodation areas at Prisons No. 6 and 14 was very low. For example, at Prison No. 6, there could be as little as ten custodial staff on duty for the population of over 1,300 prisoners.⁶¹ At Prison No. 14 (population 855), there were only eight custodial officers on each day shift and five or six at night.⁶² In both prisons, there was no permanent presence of custodial staff inside the prisoner accommodation areas at night.

This shortage of staff put at risk the security of both staff and prisoners. It was clear that effective control by staff was impossible in these circumstances; accordingly, as already mentioned in paragraph 19, staff relied to a great extent on prisoners to assist them in performing certain custodial tasks.

The CPT calls upon the Azerbaijani authorities to take urgent steps to increase significantly custodial staffing levels and presence in accommodation areas of the prisons visited.

As for the practice of relying on prisoners to assist staff in certain custodial tasks, **reference is made to the comments and recommendation in paragraph 19 above.** Concerning prison staff training, see **paragraph 21.**

⁶⁰ See also “Drug Dependence Treatment: Interventions for Drug Users in Prison”, UN Office on Drugs and Crime, www.unodc.org/docs/treatment/111_PRISON.pdf.

⁶¹ There were 37 custodial staff and eight educators (present during the day on working days), to which one could add the management, administrative, production, regime and operative staff (five officers). In total, 37 junior uniformed staff, 38 officers (this number including the health-care service) and 12 civilians. There was one vacant post (for one of deputy Directors).

⁶² The total staff complement was 31 officers, 34 junior uniformed staff and five civilians. There were no vacancies among the custodial staff but two vacant deputy Director posts, as well as a vacant post in the human resources and two posts for educators.

60. As regards the Correctional Establishment for Juveniles, staffing levels were acceptable for the current population (approximately 50 juveniles)⁶³; however, **they would need to be increased significantly if the establishment were to operate at its full capacity of 200.**

61. The delegation noted that female custodial staff worked only at the Correctional Establishment for Juveniles (two officers and two junior staff). In view of the potential benefits of mixed-sex staffing for the general atmosphere prevailing within prisons, **the CPT recommends that the Azerbaijani authorities adopt measures to favour the deployment of female staff throughout the Azerbaijani prison system (not only in the establishments for women and juveniles).**

b. discipline and segregation

62. The delegation was struck by the excessive recourse to placements in punishment cells (“kartzet”) ⁶⁴ at Prisons No. 6⁶⁵ and 14⁶⁶, for what appeared to be relatively minor violations of prison regulations.⁶⁷ **The Committee recommends that the practice of segregation on disciplinary grounds at Prisons No. 6 and 14 be reviewed, in order to ensure that the sanction imposed is always proportionate to the offence.**

By contrast, the sanction of placement in a “kartzet” was applied infrequently at the Correctional Establishment for Juveniles,⁶⁸ which is to be welcomed given the already described unacceptable conditions in the “kartzet” cells.⁶⁹ That said, the Committee must again emphasise that it has very strong reservations as concerns any form of solitary confinement of juveniles. For this age group, the placement in conditions resembling solitary confinement can easily compromise their physical and/or mental integrity; consequently, resort to the sanction of placement in a disciplinary cell vis-à-vis juveniles should be regarded as a highly exceptional measure.

The CPT reiterates its recommendation that the Azerbaijani authorities reduce to 3 days the maximum possible period of confinement in a disciplinary cell in respect of juvenile prisoners. Preferably, such placements should last no longer than a few hours.⁷⁰

⁶³ There were 12 officers (including the Director) and 15 junior custodial staff. Four posts for officers were vacant, including two posts of deputy Directors, and there was one vacancy among the junior custodial staff. Four junior custodial staff were present on each day shift, and three at night.

⁶⁴ Adult sentenced prisoners may be placed in a “kartzet” for up to 15 days at a time (with a maximum of 60 days in any calendar year) and juveniles for up to 7 days. In addition, adult inmates who had received three or more sanctions of “kartzet” may be placed in administrative segregation (KTO) for up to 3 months.

⁶⁵ There had been 182 placements in a “kartzet” and 15 in KTO between 1 January and 15 June 2015. At the time of the visit there were nine prisoners in a “kartzet” and six in KTO.

⁶⁶ There had been 301 placements in a “kartzet” and 49 in KTO between 1 January and 18 June 2015. At the time of the visit, seven inmates were in “kartzet” and 17 in KTO.

⁶⁷ Such as being late for roll call, arguing with another prisoner, being rude to staff and playing cards or dominos.

⁶⁸ There had been 7 placements between 6 March 2014 and 20 June 2015, for periods of 3 to 7 days.

⁶⁹ See paragraph 8.

⁷⁰ See the 18th General Report on the CPT’s activities – CPT/Inf (2008) 25, paragraph 26.

63. The formal disciplinary procedure seemed to be duly observed in the establishments visited and prisoners with whom the delegation spoke confirmed having been heard by the Director or deputy prior to the imposition of the disciplinary sanction. However, in none of the establishments were inmates given a copy of the decision and informed of the avenues of appeal available and of the right to legal assistance. **The Committee recommends that steps be taken to ensure that prisoners subject to a disciplinary sanction are always given a copy of the decision and provided with the above-mentioned information.**

In addition, **the Committee recommends that the Azerbaijani authorities review the disciplinary procedure in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given reasonable time to prepare their defence, and (iii) have the right to call witnesses on their own behalf and to cross-examine evidence given against them.**

64. As already mentioned in paragraph 19 above, in both prisons visited there were certain inmates (referred to by other prisoners as “commanders” or “brigadiers”) whose tasks included de facto proposing disciplinary sanctions against fellow inmates to the prisons’ management.⁷¹ On this issue, **reference is made to the observations and recommendation in paragraph 19 above.**

65. The delegation observed at the Correctional Establishment for Juveniles, unlike in the other prisons visited, that the doctor continued to deliver “fit-for-punishment” certificates prior to the placement in a “kartzet”.

In this respect, the CPT wishes to stress once again that health-care staff should never participate in any part of the decision-making process resulting in disciplinary confinement or administrative segregation, except where a measure of segregation is applied for medical reasons.⁷² Consequently, health-care staff should not be required to conclude whether a prisoner is fit to undergo disciplinary confinement as a punishment (or any other type of confinement imposed against the prisoner’s wishes).

Of course, health-care staff should be informed of every such placement and should visit the prisoner immediately after placement and thereafter on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They must report to the establishment’s management whenever a prisoner’s health is being put seriously at risk by being held in such conditions. In this context, the delegation was pleased to note that doctors in the three establishments did indeed visit inmates placed in “kartzet” and KTO cells every day.

The Committee recommends that the role of the doctor in relation to disciplinary matters be reviewed at the Correctional Establishment for Juveniles, in the light of the above remarks.

⁷¹ Or at least such was the understanding of their role among prisoners interviewed by the delegation.

⁷² See also the European Prison Rules (in particular, Rule 43) and the comments made by the CPT in its 15th General Report (paragraph 53 of CPT/Inf (2005) 17).

66. The delegation was also concerned to note that in both prisons visited, some inmates had been subjected to consecutive placements in a “kartzler” with only a day of interruption. **The CPT recommends that the relevant provisions be amended so as to ensure that whenever a prisoner has been placed in a “kartzler” for a total of more than 15 days in relation to two or more offences, there should be an interruption of several days in the disciplinary confinement at the 15-day stage.**

Further, as already stressed in the past, if a prisoner persists in committing disciplinary offences despite having been punished, the appropriate response should be to place him on administrative segregation (e.g. in KTO), rather than continuing to impose the sanction of “kartzler”.

67. As previously, placement in a “kartzler” was accompanied – in the case of adult prisoners – by bans on visits and telephone calls. In this connection, it should be recalled that, according to the Commentary to the European Prison Rules and the relevant CPT standard, any restrictions on family contact should be imposed only where the disciplinary offence relates to such contact.⁷³ **The Committee recommends that the Azerbaijani authorities review the relevant regulations accordingly.**

68. The material conditions in the “kartzler”/KTO unit were acceptable at Prison No. 6⁷⁴ but poor at Prison No. 14 (cells being too small for their intended occupancy⁷⁵, with insufficient access to natural light, artificial lighting and ventilation, and with only partially screened toilets).⁷⁶ **The CPT recommends that steps be taken to remedy these deficiencies and to provide all “kartzler” and KTO cells in both prisons with fully partitioned sanitary annexes. The 9 m² “kartzler” cells at Prison No. 14 should never accommodate more than two inmates each.**

As for activities available to inmates in disciplinary isolation/segregation, prisoners placed in “kartzler” cells had access to reading matter, and those in the KTO were also in principle allowed to work (that said, work was not available at the time of the visit) and play board games inside their cells. Further, inmates placed in a “kartzler” could take one hour of outdoor exercise per day (two hours for those in KTO). However, the outdoor exercise yards were very small (approximately 18 m² at Prison No. 6 and a mere 6 m² at Prison No. 14) and oppressive; they did not allow prisoners to exert themselves physically. **The Committee recommends that the outdoor exercise facilities for prisoners placed in “kartzler” and KTO cells be enlarged and upgraded in both prisons visited. Further, the CPT recommends that efforts be made to provide prisoners placed in KTO with the possibility to work.**

As already stated in paragraph 8 above, the conditions in the two “kartzler” cells at the Correctional Establishment for Juveniles were unacceptable and the Committee welcomes the fact that these cells have been taken out of service. **The CPT would like to be informed which premises are now being used for disciplinary segregation of juveniles.**

⁷³ See also the CPT’s 21st General Report (CPT/Inf (2011) 28), paragraph 61(b).

⁷⁴ Recently refurbished cells measuring approximately 12 m², intended for up to three persons, well lit and ventilated and equipped with bunk/single beds, a table, shelves, a washbasin and a partially screened toilet, as well as a call bell.

⁷⁵ E.g. cells for four inmates measuring approximately 9 m², sanitary annexe included.

⁷⁶ The temperature measured inside one of the cells on the day of the delegation’s visit was 28,6°C.

69. The Committee is concerned by the fact that self-harm continues to be considered as a disciplinary offence and punished accordingly (including with truncheon blows, see paragraph 11). In the CPT's view, this is not a correct approach; acts of self-harm may frequently reflect problems and conditions of a psychological or psychiatric nature, and should be approached from a therapeutic rather than repression-oriented standpoint. **The Committee recommends that the Azerbaijani authorities develop a policy on the treatment of persons having committed acts of self-harm, having regard to the above remarks.**

Regarding the punitive use of truncheons, **see paragraph 12.**

70. At the Correctional Establishment for Juveniles, the "kartzet" cells were also used for segregating juveniles for their own protection (up to 30 days at a time).⁷⁷ Since both the "kartzet" and the "quarantine" cells have now been taken out of service, **the CPT would like to be informed which premises are being used currently for this purpose and whether appropriate facilities will be set aside in the new establishment.** In this context, it is essential that juveniles segregated for their own protection are not subjected to conditions akin to solitary confinement and are offered an appropriate regime and organised activities.

c. contact with the outside world

71. As regards sentenced prisoners' contact with the outside world, the situation (in terms of visiting entitlement⁷⁸ and facilities⁷⁹, as well as access to a telephone⁸⁰) was generally satisfactory at Prison No. 6. By contrast, at Prison No. 14, the long-term visiting facilities were of a poor standard⁸¹ and the geographical isolation of the establishment prevented many inmates from receiving visits from relatives. **The Committee recommends that steps be taken to refurbish and upgrade the long-term visiting facilities at Prison No. 14. Consideration should also be given to adopting a flexible approach as regards visits to the above-mentioned establishment and, in particular, to providing the possibility for combining visit entitlements into one or two longer sessions.**

⁷⁷ There had been 7 such placements in the period between 6 March 2014 and 20 June 2015. During the placement, juveniles were visited on a daily basis by the psychologist and received individual tuition by the teachers.

⁷⁸ For prisoners serving their sentences under general regime, the entitlement was a short-term visit (maximum 4 hours) once a week and a long-term visit (maximum 72 hours) four times a year. Those under strict regime could receive a short-term visit twice a month and a long-term visit three times a year. Working prisoners were allowed more visits and the Director could grant additional visits as a reward for good behaviour.

⁷⁹ There were open arrangements for short-term visits and recently refurbished premises for long-term visits, which were of a high standard.

⁸⁰ Following the October 2012 amendment to the Code of Enforcement of Punishments, the entitlement to telephone calls has been unified for all sentenced prisoners (irrespective of the regime) and is now of at least one 15-minute call per week. Juveniles may call at least twice a week. All local calls are free and for those that are not (intercity and international), inmates may use the collect call procedure.

⁸¹ Unlike the short-term visit premises, which were acceptable.

The delegation was also concerned by the absence of long-term visiting facilities⁸² at the Correctional Establishment for Juveniles (despite such a right being foreseen in the law). In this context, the CPT takes note of the assurances provided by the establishment's Director that such premises will be set up in the new facility due to be brought into service in the beginning of 2016. **The Committee would like to receive, in due course, confirmation that this has indeed happened.**

72. More generally, the CPT wishes to reiterate its view that a system under which the extent of a prisoner's contact with the outside world is determined by the regime under which he/she serves his/her sentence (as imposed by court) is fundamentally flawed. In principle, all prisoners, irrespective of the regime, should have the same possibility for contact with the outside world; inmates (including those in "quarantine" cells) should preferably have a visit entitlement equivalent to that currently offered to prisoners serving their sentence under general regime. **The Committee calls upon the Azerbaijani authorities to amend the relevant legislation in the light of these remarks.**

d. complaints and inspection procedures

73. Prisoners were, in principle, entitled to submit complaints to the prison Director, the Ministry of Justice and the Ombudperson's Office. However, there was a lack of information on complaints procedures in the establishments visited⁸³ and a generalised reluctance to make complaints, apparently out of fear of reprisals and possibly also due to the influence of informal prisoner hierarchy which was expected to "solve all the problems between the inmates themselves".⁸⁴ **The CPT calls upon the Azerbaijani authorities to take all necessary steps to ensure that the right of prisoners to lodge confidential complaints is fully respected in practice (this includes the provision of accurate written information to inmates about the complaints procedures), and that complainants are free from any pressure and reprisals.**

Further, **the Committee recommends that an information brochure be supplied to all prisoners upon their arrival, describing in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, basic legal information, etc. This brochure should be translated into an appropriate range of foreign languages.**

74. From the information gathered during the visit, it transpired that the National Preventive Mechanism (NPM) carried out regular monitoring visits to prison establishments.⁸⁵ For example, Prison No. 6 had last been visited by NPM representatives a month before the delegation's visit, Prison No. 14 in the end of 2014 and the Correctional Establishment for Juveniles received frequent visits (at least once a month).

⁸² Short-term visits took place under adequate conditions. It is noteworthy that the visit entitlement for juveniles was a short-term visit (4 hours, but in practice frequently more) once a week, and a long-term visit once a month.

⁸³ Several inmates interviewed at Prison No. 6 appeared unaware of them.

⁸⁴ Not surprisingly, there were virtually no complaints about conditions of detention and/or treatment by staff recorded at any of the establishments visited.

⁸⁵ There had been 306 visits by the NPM to penitentiary establishments in the years 2012 to 2014.

While this is undoubtedly a positive fact, the delegation was told by several prisoners that NPM staff would generally limit their interaction with the inmates to collective interviews (allegedly, at least sometimes, in the presence of the prison management and staff) and to speaking in private only with those prisoners who had expressly requested to meet them (prior to or during the collective interview). Were this to be true, such working methods would not offer prisoners sufficient protection against potential pressure and intimidation by the administration and fellow inmates. **The CPT would welcome the observations by the Azerbaijani authorities on this subject.**

Further, it appeared that Directors of the establishments visited did not receive any direct feedback from the NPM teams after the visit (other than *ex post* orders issued by the Penitentiary Service in case of any violation of the rules and regulations). **The Committee invites the Azerbaijani authorities to reflect upon the possibility of changing this practice.**