

## EXECUTIVE SUMMARY

The main objective of the seventh ad hoc visit to Azerbaijan was to examine the treatment and conditions of detention of persons in the custody of law enforcement agencies and in penitentiary establishments and to review the measures taken by the Azerbaijani authorities in response to recommendations made by the Committee after previous visits.

Co-operation at the places of deprivation of liberty visited by the delegation was excellent; however, as during the CPT's previous visits, the delegation encountered a major failure by the Prosecutor General's Office. Despite repeated requests, the delegation was neither enabled to meet with the prosecutors directly in charge of investigations into cases raised by the CPT, nor to have access to the relevant investigation files. The Committee wishes to stress that such a persistent refusal to co-operate in the assessment of the effectiveness of investigations into the allegations of ill-treatment/torture is totally unacceptable.

### **Law enforcement agencies**

The delegation received numerous and very widespread allegations of severe physical ill-treatment of persons detained by the police as criminal suspects (or who had recently been in police custody), including juveniles as young as 15. The alleged police ill-treatment appeared to follow a very consistent pattern throughout the different regions visited: it was said to have occurred mostly in police establishments during initial interviews by operational police officers (in some cases, also by investigators and senior officers in charge of police establishments), with the aim to force the persons to sign a confession, provide other information or accept additional charges.

The types of ill-treatment alleged included slaps, punches, kicks, truncheon blows, blows inflicted with a wooden stick, a chair leg, a baseball bat, a plastic bottle filled with water or with a thick book, but there were also many allegations of more severe forms of ill-treatment, including torture, such as truncheon blows on the soles of the feet (often while the person was suspended) and infliction of electric shocks (including with the use of electric discharge weapons).

An additional reason for grave concern is the fact that, unlike on previous visits, the delegation has received allegations of severe ill-treatment/torture by staff of other law enforcement agencies, such as the State Customs Committee, the State Border Service and the Armed Forces.

In the report, the Committee cites a number of cases where persons made complaints to competent investigative and/or prosecutorial authorities and authorised the CPT to mention their names in the context of on-going dialogue with the Azerbaijani authorities. The Committee asks to be informed about the outcome of investigations carried out into these complaints.

As regards the legal safeguards against ill-treatment, especially notification of custody, access to a lawyer, access to a doctor and information on rights, the CPT's conclusion after the 2017 ad hoc visit is exactly the same as after the 2016 periodic visit, namely those

safeguards remain largely a dead letter and are mostly inoperative in practice.

Furthermore, medical examinations, if and when performed, continued to be mostly superficial and the confidentiality of such examinations was still never observed in temporary detention centres and frequently violated in pre-trial detention facilities (with custodial officers – and on occasion police convoy staff – being present). As previously, health-care professionals made no attempts to assess the consistency between statements made by detained persons and medical findings.

The material conditions in police establishments visited were on the whole acceptable for the 72-hour custody period. The only issue of concern was that, as previously, toilets in multi-occupancy cells in all police establishments (including those recently refurbished) were only partially partitioned.

More generally, the findings of the 2017 ad hoc visit suggest that, apart from the generally good material conditions in police detention facilities, all other long-standing recommendations concerning law enforcement agencies remain unimplemented and the situation has actually worsened.

Consequently, at its 95th meeting (5 to 9 March 2018), the CPT decided to keep the Article 10 (2) procedure open and to decide at its 96th meeting, in July 2018, whether to issue a public statement concerning Azerbaijan.

### **Penitentiary establishments**

The delegation carried out follow-up visits to pre-trial detention facilities in Baku (Zabrat), Ganja and Shuvalan. Further, for the first time, the delegation visited mixed-regime prisons in Sheki and Nakhchivan.

The delegation noted some positive results of the Executive Order by the President of the Republic of Azerbaijan “On improvement of operation of the prison system, humanisation of criminal policies and extension of application of alternative sanctions and non-custodial preventive measures”, mainly as regards reducing prison overcrowding, although the national as well as international standards of 4 m<sup>2</sup> of living space per prisoner were still not observed in pre-trial detention facilities visited, especially in Shuvalan and Ganja.

The Committee is also concerned by the lack of any progress in fighting corruption at Pre-Trial Detention Facility No. 2 in Ganja. As observed during the visit in 2016, inmates continued to be obliged to pay for a majority of basic services (such as visits, telephone calls, receiving parcels, and receiving food from the prison shop) to which they were entitled by law.

The delegation heard no allegations of ill-treatment of prisoners by staff at pre-trial detention facilities in Baku (Zabrat) and Shuvalan, and in prisons in Sheki and Nakhchivan. However, at Pre-Trial Detention Facility No. 2 in Ganja, as during the 2016 visit, the delegation received a number of allegations of deliberate physical ill-treatment by custodial staff. The ill-treatment alleged consisted mostly of punches, kicks and blows with truncheons.

Material conditions of detention were found to be generally acceptable at the pre-trial detention facility in Baku (Zabrat) and in prisons in Sheki and Nakhchivan; by contrast, conditions were extremely poor at Pre-trial Detention Facilities No. 2 in Ganja and No. 3 Shuvalan, where the cells were dilapidated, dirty, poorly lit and ventilated (in addition to being severely overcrowded). The latter two establishments should be closed as soon as possible. The CPT reiterates its long-standing recommendation that the Azerbaijani authorities take decisive steps to complete the construction of all the new prisons.

Only Nakhchivan and Sheki Prisons offered some vocational training, to limited numbers of sentenced prisoners. Despite the Committee's repeated previous recommendations, none of the other establishments visited had anything even remotely resembling a regime of activities in place. Work continued to be offered only to a small number of sentenced prisoners assigned to perform various housekeeping and maintenance tasks.

As regards access to health-care, the penitentiary establishments visited employed enough doctors but were (except in Nakhchivan) severely understaffed as regards feldshers (moreover, none of the establishments visited employed nurses), especially at Pre-trial Detention Facility No. 3 in Shuvalan.

The numbers and attendance patterns of custodial staff were also grossly inadequate in all the penitentiary establishments visited, except for Nakhchivan Prison. Further, no progress had been made to increase the number of female custodial staff.

The CPT has noted with regret that the flawed system under which the extent of a sentenced prisoner's contact with the outside world is determined by the (court-imposed) regime under which he/she serves his/her sentence continues to exist in Azerbaijan. Further, the Committee criticised the fact that short-term visits in penitentiary establishments visited (all except in Nakhchivan) continued to routinely take place under closed conditions (through glass or bars, preventing any physical contact between prisoners and their visitors).

Formal disciplinary punishments (including placements in a disciplinary punishment cell i.e. a "kartzet") were not applied excessively in the establishments visited. However, the delegation's findings suggest that a number of the previous CPT's recommendations concerning disciplinary punishment remained unimplemented. In particular, the delegation observed at Pre-trial Detention Facility No. 2 in Ganja and Nakhchivan Prison that prison doctors continued to certify that an inmate was fit for punishment prior to a decision on placement in a disciplinary punishment cell. The Committee recommended that this practice be stopped.