



## **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 19 to 26 November 2013**

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) 32.

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, 20 March 2014

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 19 to 26 November 2013. The report was adopted by the CPT at its 83rd meeting, held from 3 to 7 March 2014.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, having regard to Article 10 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 faithfully,

Lətif Hüseynov  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

copy: Mr Faig Gurbanov, Director of Human Rights and Public Relations Department,  
Ministry of Justice of Azerbaijan

## I. INTRODUCTION

### A. Dates and context of the visit and composition of the delegation

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 19 to 26 November 2013<sup>1</sup>. The visit was one which appeared to the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention).

2. In the report on the 2011 visit, the CPT made several recommendations concerning the treatment and living conditions of persons accommodated in psychiatric hospitals and social care homes. The extremely limited information provided in the response of the Azerbaijani authorities as regards psychiatric hospitals, as well as the findings of the delegation as regards Göygöl Psychoneurological Boarding Home No. 8 in Qırıqlı did not alleviate the Committee’s concerns about the above-mentioned issues and certain other problems highlighted in the report on the 2011 visit. In addition, the Committee had received information regarding the situation in other psychiatric hospitals and social care homes, which gave rise to the CPT’s concern. The Committee therefore decided to visit Azerbaijan in order to examine on the spot the steps taken by the authorities to implement the relevant recommendations of the Committee contained in the reports on previous visits, and in particular to examine the current treatment and living conditions of persons held in psychiatric hospitals and social care homes in Azerbaijan.

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

- Mykola GNATOVSKYY, 2nd Vice-President of the CPT, Head of delegation
- Vytautas RAŠKAUSKAS
- Olivera VULIĆ.

They were supported by Fabrice KELLENS, Deputy Executive Secretary of the CPT and Isabelle SERVOZ-GALLUCCI from the CPT’s Secretariat, and assisted by:

- Clive MEUX, forensic psychiatrist, Oxford, United Kingdom, (expert)
- Fakhri ABBASOV (interpreter)
- Kamran AKHMEDOV (interpreter)
- Mahammad GULUZADE (interpreter)
- Rashad SHIRINOV (interpreter).

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<sup>1</sup> The CPT has previously carried out three periodic visits (in November/December 2002, in November 2006 and in December 2011) and four ad hoc visits (in January 2004, in May 2005, in December 2008 and in December 2012) to Azerbaijan. 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>

**B. Establishments visited**

4. The delegation visited the following places of deprivation of liberty:

Establishments under the authority of the Ministry of Health

- Ganja Psychiatric Hospital
- Salyan Interregional Psychiatric Hospital, Şorsulu

Establishments under the authority of the Ministry of Labour and Social Protection of Population

- Göygöl Psychoneurological Boarding Home No. 8, Qırıqlı
- Psychoneurological Boarding Home No. 1, Şamaxı.

**C. Consultations held by the delegation and co-operation encountered**

5. From the outset, the CPT wishes to express its appreciation for the excellent and efficient assistance provided to its delegation before, during and after the visit, by the contact persons provided by the Azerbaijani authorities, namely Jalal MIRZAYEV, Deputy Permanent Representative of Azerbaijan to the Council of Europe (Ministry of Foreign Affairs), Elnur SULTANOV, Chief of Social Protection Policy Department (Ministry of Labour and Social Protection of Population), and Garay GARAYBAYLI, Chief Psychiatrist of Azerbaijan (Ministry of Health).

6. In the course of the visit, the CPT's delegation held consultations with Salim MUSLUMOV, Minister of Labour and Social Protection of Population, and Ogtay SHIRALIYEV, Minister of Health, as well as with other senior officials from these ministries.

The delegation enjoyed very good co-operation and gained rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to speak. In particular, the CPT would like to put on record the excellent level of co-operation it received from the Ministry of Labour and Social Protection of Population, characterised by its highly professional and pro-active attitude in implementing the CPT's recommendations contained in the report on the visit carried out in 2011, and in responding to the delegation's observations during the 2013 visit.

However, in two cases, the delegation noted a lack of understanding of the purpose of CPT visits and of its mandate. Firstly, in Ganja Psychiatric Hospital the delegation witnessed some staff attempting to warn patients not to make any complaints to the delegation; staff even threatened some patients that it would not be in their interest to continue speaking with the delegation. Secondly, at Şamaxı Psychoneurological Boarding Home No. 1, residents had apparently initially been instructed to make only positive comments to the delegation. Such actions are incompatible with the principle of co-operation, which lies at the heart of the Convention, as well as with the principle of confidentiality that applies, by virtue of the Convention, to the Committee's interviews with persons deprived of their liberty.

The principle of co-operation also encompasses the obligation of the national authorities to provide accurate information to managers and staff of establishments at the local level on the Committee's mandate, working methods and objectives. In addition, any kind of intimidating or retaliatory action against a person before or after he/she has spoken to a CPT delegation would be totally unacceptable.

**The CPT urges the Azerbaijani authorities to take all necessary measures to prevent any kind of intimidating or retaliatory action against persons deprived of their liberty, before or after they have spoken to a CPT delegation.**

7. Further, it appeared during the visit to Ganja Psychiatric Hospital that the staff were not familiar with the pertinent extracts of the CPT's report on the 2011 visit to Azerbaijan. The delegation was told that a copy of the report had been transmitted to the director<sup>2</sup> of the establishment, who reportedly provided only a superficial account of the findings to the senior staff. The Azerbaijani authorities stated that the reason was "not to shock the staff". The CPT is very concerned by this approach which is not consistent with the principle of co-operation. Perhaps unsurprisingly in the light of this and a lack of evidence, such as a detailed written action plan with timescales and identified responsible individuals, monitored by the authorities, outlining the efforts made to try and rectify the issues raised by the CPT, the situation observed in Ganja Psychiatric Hospital during the 2013 visit was, in many ways, very similar to the one observed during the CPT's previous visit some two years before.

**In this context, the CPT would like to underline the importance of Parties bringing the contents of the report drawn up by the Committee after a visit to the attention of all the relevant authorities and staff, in an appropriate form and developing appropriate action plans. It would also be desirable to make use of the reports on CPT visits during the training of different categories of staff working with persons deprived of their liberty.**

8. As the Committee stressed after previous visits to Azerbaijan, the principle of co-operation between State Parties and the CPT is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations, and that the CPT be duly informed of that action. In this respect, the Committee is pleased to note that no allegations of deliberate physical ill-treatment of patients by staff were received at Ganja Psychiatric Hospital, contrary to the situation observed in 2011. However, little action had been taken to implement a number of the CPT's important recommendations concerning patients' living conditions, treatment and safeguards for patients in psychiatric hospitals. The Committee will return to these issues later in the report. **The CPT calls upon the Azerbaijani authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.**

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<sup>2</sup> The director was on sick leave at the time of the CPT's visit in 2013 and had been replaced on an interim basis, since August 2013, by the head doctor of one of the hospital's wards.

9. It should be recalled that the CPT has carried out eight visits to Azerbaijan (see footnote 1 above). However, 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. As mentioned in its 23<sup>rd</sup> General Report (see paragraph 32), the CPT hopes that the clear message given by the Committee of Ministers in February 2002, encouraging “all Parties to the Convention to authorise publication, at the earliest opportunity, of all CPT visit reports and of their responses” will be heeded by the Azerbaijani authorities. Publication of the report on the Committee’s most recent periodic visit to Azerbaijan, in December 2011, on the ad hoc visit in December 2012, and of the present report, would be a very positive step in this respect. In the light of the above, **the CPT invites the Azerbaijani authorities to seriously consider the possibility of authorising the publication of at least the three above-mentioned reports and responses.**

#### **D. Urgent requests**

10. At the end of the visit, the CPT’s delegation met the Minister of Health and the Minister of Labour and Social Protection of Population in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made two urgent requests regarding Göygöl Psychoneurological Boarding Home No. 8 in Qırıqlı.

The first one concerned the well-known case of a resident<sup>3</sup>, A.<sup>4</sup>, who died in that institution on 7 March 2012, and more specifically the request to receive a copy of her autopsy report and of the medical file opened at Ganja General Hospital, as well as any other subsequent relevant medical documents. Furthermore, in view of the grave and consistent allegations received during the 2013 visit regarding the behaviour of the former Director of Boarding Home No. 8 in Qırıqlı during the weeks prior to Ms A.’s admission to Ganja General Hospital, the delegation considered that an effective investigation into the circumstances surrounding her death should be carried out.

The second request concerned information on the fate of four women formally still registered as residents at Boarding Home No. 8 on 20 November 2013 and who were absent from the establishment and allegedly forced to work at the former Director’s house (and her family’s house).

By letter of 9 January 2014, the Azerbaijani authorities provided information in this respect, which will be assessed later in the report.

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<sup>3</sup> This resident was met by the CPT’s delegation during the visit carried out in December 2011 and was directly related to some of the CPT’s concerns at that time (see paragraphs 130, 131 and 147 of CPT/Inf (2018) 9).

<sup>4</sup> 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.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of Health

#### 1. Preliminary remarks

11. The CPT's delegation carried out a follow-up visit to the Psychiatric Hospital in Ganja and visited, for the first time, the Salyan interregional psychiatric hospital in Şorsulu ("Salyan Psychiatric Hospital").

The Psychiatric Hospital in Ganja had previously been visited by the CPT in 2011<sup>5</sup>. The establishment, with an official capacity of 200, was accommodating 158 adult patients<sup>6</sup> in four wards (three for men and one for women) in two buildings, at the time of the visit. Despite the increase in the official capacity, no change had been made to the organisation/functioning of the hospital since the 2011 visit, when the hospital was overcrowded<sup>7</sup>. Six patients were formally subject to involuntary hospitalisation.

A completely new facility for the Salyan interregional psychiatric hospital in the small town of Şorsulu had been inaugurated four days before the CPT's visit to the establishment. Located next to the old and dilapidated previous facility<sup>8</sup>, it consisted of a two-storey building surrounded by a walking area with green grounds and a 2.5-meter-high metal fence. On the day of the visit, with an official capacity of 100 beds, the establishment was accommodating 120 adult patients in two wards (one for men and one for women). None of the patients were formally subject to involuntary hospitalisation. The hospital catchment area was Salyan district and seven adjacent districts.

12. The patient population in both hospitals consisted of a mixture of patients diagnosed with mental illnesses and patients suffering from learning disabilities of various degrees. Further, many patients had been in the hospitals for long periods, some for many years. Nearly all the patients were considered as voluntary but were held in locked wards. This issue will be discussed later in the report (see paragraphs 36 to 38 below).

13. At the outset of the visit, senior officials from the Ministry of Health told the delegation that a re-organisation of psychiatric care in Azerbaijan (with the aim of reducing the number of beds in psychiatric hospitals and psychoneurological dispensaries), and the opening of small psychiatric wards in general hospitals, had inter alia permitted the closure of a psychoneurological dispensary in Mingachevir, and the opening of an out-patient psychiatric clinic, as well as of a new psychiatric department, in Baku General Hospital. The delegation understood that the re-organisation process would continue in the future. Considering the findings of the delegation during the 2013 visit (see in particular paragraphs 12 above and 30 below), **the CPT encourages the Azerbaijani authorities to seek to develop a process of de-institutionalisation aimed at reducing in-patient capacities while increasing the possibilities for community care**; if properly organised, this should improve the quality of life of service users.

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<sup>5</sup> See paragraphs 94 to 127 of CPT/Inf (2018) 9 for a detailed description of Ganja Psychiatric Hospital.

<sup>6</sup> There were 126 patients for an official capacity of 135 in 2011 (see paragraph 94 of CPT/Inf (2018) 9).

<sup>7</sup> See paragraph 104 of CPT/Inf (2018) 9.

<sup>8</sup> The old facility was composed of several one-storey-buildings originally dating back to 1946-48.

## 2. Ill-treatment

14. It should be emphasised from the outset that the delegation did not receive any allegations of deliberate physical ill-treatment of patients by staff at Ganja Psychiatric Hospital, representing a positive change from the situation found in 2011. Having said that, the delegation observed that ward-based staff could, at times, be hostile, verbally abusive and threatening towards patients.

As regards Salyan Psychiatric Hospital, the delegation received no allegations, nor did it gather any evidence, of the deliberate physical ill-treatment of patients by staff in the female ward. However, in the male ward, it heard a few allegations of deliberate physical ill-treatment of patients by staff, mainly consisting of slaps. Some patients also alleged that staff could occasionally be verbally abusive and the delegation perceived the atmosphere in the male ward as rather tense; patients there were uncomfortable talking to the delegation.

Furthermore, the delegation received allegations concerning a patient who had attempted to escape just before the transfer to the new facility (i.e. some five days before the visit) and who, when brought back to the hospital some hours thereafter, had been chained by one ankle to the metal frame of his bed. This patient was reportedly particularly challenging, prone to absconding and was said to have been chained in the same way several times in the past. The patient was also allegedly beaten by staff each time he was forcibly brought back to the hospital following episodes of absconding. Further, when met by medical members of the delegation, the patient, who was terrified to speak to the delegation, displayed a 5 cm laceration on the upper right parietal region, and a large part of his head was covered with dried blood. Only after he met the delegation, did staff remove the blood and clean the wound. When asked about the origin of the wound, staff initially stated that he had slipped in the shower, but later declared that he had been hit with a wooden stick by a relative during the escape.

**The CPT recommends that at Ganja and Salyan Psychiatric Hospitals the management exercise vigilance and regularly remind staff that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly.** Reference is also made to the recommendation contained in paragraph 6 above. Further, **metal chains should never be used to restrain patients in psychiatric hospitals.**

15. Inter-patient violence did not appear to be a significant problem in either hospital. That said, a few allegations of inter-patient aggression were received in the male wards 2 and 3 of Ganja Psychiatric Hospital. In addition, the delegation was told by both patients and the staff at the female ward at Salyan Psychiatric Hospital that one particular female patient could sometimes be aggressive towards other patients and staff.

The CPT would like to recall that the duty of care which is owed by staff in a psychiatric establishment to those in their charge includes the responsibility to protect them from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by patients. **The CPT trusts that appropriate action will be taken at Ganja and Salyan Psychiatric Hospitals to remedy the problem in the light of the above remarks.**

### 3. Patients' living conditions

16. Some minor improvements had been made to the living conditions at Ganja Psychiatric Hospital since the 2011 visit: most beds had been replaced in all the wards, the floor of ward 1 had been repaired, and most windows in the two accommodation blocks had been replaced. Further, some wards were freshly painted, the paint still being wet. Despite these improvements, patients' living conditions remained, on the whole, unacceptable.

Dormitories in the older building were overcrowded<sup>9</sup> (some patients in the female ward 4 being obliged to sleep in beds placed in the corridors), insufficiently lit, and certain dormitories in the two wards (1 and 4) of the older building still had no access to natural light. As regards the newer building (i.e. the one in which wards 2 and 3 were located), the situation was even worse as eight patients did not have their own bed and were sharing beds with other patients in the male ward 2. The furniture in the dormitories was essentially limited to beds, and patients continued to live in an austere and impersonal environment. The whole facility remained in a poor state of repair and was unhygienic. All the wards were infested with lice and cockroaches. Mattresses and bedding were dirty, and not all the patients had been provided with full bedding.

Central heating had been installed in the newer building but was not always functioning, as noted by the delegation and confirmed by staff. In the older building, small electric heaters had been placed in some dormitories. However, the above-mentioned arrangements remained grossly insufficient to heat the wards in both buildings; dormitories were cold and patients still had to sleep in overcoats and hats.

17. The sanitary facilities in the newer building had not been refurbished, and were still not heated. Further, they were, in all the wards, filthy and malodorous. On a positive note, showers were now accessible without limitations.

The personal hygiene of certain patients, such as those who were learning disabled and incontinent, was inadequate. Basic personal hygiene products were lacking, including female hygiene products, which was an issue also raised by the establishment's doctors.

18. The delegation was informed that the budget for food had been increased four-fold<sup>10</sup> since the last visit. However, patients in all the wards, although admitting that the situation was somewhat better than in 2011, still complained of hunger. The examination of weekly menus revealed that the food was lacking in variety and quantity, and that certain products (meat, eggs, fish, and fruit) were rarely present on the menu, or missing altogether. The available dairy products consisted merely of butter and some cottage cheese. There was no indication of the number of calories or of the protein content provided to patients. Further, the delegation witnessed for itself that not all the patients had cutlery when eating.

19. In sum, despite some minor improvements, the living conditions in Ganja Psychiatric Hospital remain unacceptable and do not befit a health-care institution. The vast majority of the recommendations made in the report on the visit carried out to that establishment in December 2011 have not been actioned.

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<sup>9</sup> Ten patients in a dormitory measuring some 28 m<sup>2</sup>, 16 patients in some 47 m<sup>2</sup> in the female ward.

<sup>10</sup> Reportedly 3 AZN/patient/day.

The CPT reiterates the recommendations made in the report on its 2011 visit, namely that the Azerbaijani authorities take the following urgent measures in respect of Ganja Psychiatric Hospital:

- improve food provision to patients based on appropriate calorific norms, and introduce a system for monitoring their nutritional status, including weighing patients on admission and thereafter on a regular basis;
- ensure that all patients' rooms are adequately heated;
- refurbish the toilets, washing and bathing facilities in the newer building and maintain them, including those in the older building, in a clean condition; furthermore, ensure that they are adequately heated;
- ensure that all patients are given full bedding (mattresses, blankets, sheets and pillows), which are cleaned at regular intervals.

Further, the CPT recommends that steps be taken to reduce the occupancy levels in the dormitories and improve artificial lighting. Areas with no access to natural light should not be used as dormitories. The CPT also recommends that each patient be provided with basic personal hygiene items (soap, toothbrush and toothpaste, towel, sanitary towels, etc.). De-infestation of the premises should be carried out on a regular basis.

As regards Ganja Psychiatric Hospital, the delegation was informed at the end of the visit that every patient would soon be provided with their own bed. **The CPT would like to receive confirmation that this has indeed happened.**

In addition, **efforts should be made to offer more congenial and personalised surroundings for patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings.**

At the time of the last visit, the delegation was informed that reconstruction of the hospital was about to start imminently. During this visit, the delegation was told that a new facility was to be constructed. However, there is still no clarity as to when works are to begin. **The CPT would like to receive detailed information on the intended plans, including the time-schedule for their implementation.** In this perspective, **consideration should be given to designing a facility with smaller patients' rooms instead of large-capacity dormitories.**

20. As already mentioned in paragraph 11, patients at Salyan Psychiatric Hospital were moved to a completely new facility, which had been inaugurated just before the CPT delegation's visit. On the whole, it offered very good living conditions. Patients were accommodated on two floors<sup>11</sup>, in rooms for two (measuring some 17.5 m<sup>2</sup>), and for three to six patients (measuring some 29 m<sup>2</sup>).

All the rooms were clean, had very good access to natural light and artificial lighting, and were well ventilated. Each patient had their own bed, and all were provided with full bedding. Rooms were equipped with beds, bed-side tables, and a few had cupboards, but they were very bare.

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<sup>11</sup> 69 men in the male ward on the ground floor, and 51 women in the female ward on the first floor.

Further, patients had nothing other than that which they were provided with to move to the newly-built facility, i.e. new pyjamas, bathrobes and plastic flip-flops. The delegation was told by the management of the hospital that all patients' personal belongings were about to be transferred from the old facility (where they had been left under the surveillance of one staff member assisted by a patient). However, it was clear from interviews with patients that the vast majority of them had not understood that their personal belongings would soon be returned to them; this caused deep distress to some of the patients.

**The CPT would like to receive confirmation that all the personal belongings, which remained in the old premises, have now been made available to the patients at Salyan Psychiatric Hospital. As a matter of priority, patients should be provided with appropriate clothing and footwear. Further, efforts should be made to provide patients with more visual stimulation and personalisation in their dormitories.**

21. Each ward/floor was equipped with one room with three semi-partitioned toilets, three washbasins and one shower room (with two showers). As with the rest of the facility, these rooms were new, clean, bright and well ventilated. Access to the showers was upon request and did not seem to pose any problem.

22. The central heating was functioning in the hospital, but it appeared that two rooms in the male ward were not heated. The delegation was informed that a technician had been called and that it would be repaired shortly. **The CPT would like to receive confirmation that proper heating is now operative in all the rooms at Salyan Psychiatric Hospital.**

23. Despite no complaints being received regarding the food, the delegation was concerned to note that the new facility did not have any kitchen or a food storage area and that it was resorting to using the kitchen and food storage of the old facility which was in an advanced state of dilapidation and was unhygienic. The delegation was informed that a new kitchen complying with all hygienic standards would be constructed. **The CPT would like to receive confirmation that this has occurred.**

#### **4. Staff and treatment**

24. Despite the increase in official capacity and the number of patients at Ganja Psychiatric Hospital, the staffing situation was less favourable than in 2011, with six psychiatrists (plus three vacant posts<sup>12</sup>) and fewer nurses (the number had decreased from 33 to 26, and no vacant posts). On a positive note, the hospital now had a general practitioner (GP). There were still 96 orderlies.

At Salyan Psychiatric Hospital, there were three psychiatrists (plus one psychiatrist on maternity leave and one vacant post), 30 nurses, and 50 orderlies, all full-time; the hospital also employed a dentist.

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<sup>12</sup> One psychiatrist had retired, two had died.

None of the hospitals visited employed any psychologists, occupational therapists or social workers. In the view of the CPT, the limited input of psychiatrists at Salyan Psychiatric Hospital and the absence of staff qualified to provide therapeutic activities at Ganja and Salyan psychiatric hospitals clearly precluded the emergence of a therapeutic milieu based on a multidisciplinary approach offering a full range of bio-psycho-social treatments.

25. At both hospitals, treatment was essentially based on pharmacotherapy. The supply of basic psychiatric medication to the two hospitals visited was in principle ensured. That said, apart from Clozapine, the drugs used at both hospitals were a small range of older-generation neuroleptics.

In addition, the delegation was concerned to learn that there were no formal instructions as regards carrying out regular blood tests whenever Clozapine was administered to patients. Clozapine can have as a side-effect a potentially lethal reduction of white blood cells (granulocytopenia); therefore, regular blood tests should be mandatory. In addition, at Salyan Psychiatric Hospital, it was indicated that supplies of anti-epileptic drugs were sometimes interrupted.

The medical records and information obtained by the delegation from interviews with patients and staff at both hospitals did not reveal any evidence of overmedication. That said, the quality of patients' files at both hospitals left much to be desired: clinical records were poor, lacking in detail and not always accurate or up-to-date. Further, at Salyan Psychiatric Hospital, it transpired that there was no proper somatic screening of patients upon admission and that no arrangements were in place to ensure regular consultations by a general practitioner<sup>13</sup>.

26. Resort to non-pharmacotherapeutic treatments and rehabilitative activities remained very limited at Ganja Psychiatric Hospital, with only some ten of the 158 patients having access to an art club and a music club once or twice a week. No such activities were organised at Salyan Psychiatric Hospital. Leisure activities were limited to watching TV in the communal space on each floor at the latter hospital; only two wards had a functioning TV at Ganja Psychiatric Hospital.

27. There were no individual treatment plans at either hospital. As already mentioned in paragraph 24, there was no evidence of a multi-disciplinary clinical team approach.

28. Access to outdoor exercise at Ganja Psychiatric Hospital appeared still not to be provided to many patients for months and in some cases years on end. The situation was also concerning at Salyan Psychiatric Hospital, where patients had not been granted access to outdoor exercise since they had moved into the new facility (four days previously), despite the existence of large secure grounds around the building, equipped with two areas with benches and shelters. **The CPT calls upon the Azerbaijani authorities to take immediate steps to ensure that all patients at Ganja and Salyan psychiatric hospitals benefit from access to outdoor exercise at least one hour a day unless there are medical reasons to restrict such access. In this respect, patients from both hospitals should be provided with appropriate clothes and shoes.**

To sum up, almost all the patients at Ganja and Salyan Psychiatric Hospitals were left with very little to do all day, for months if not years on end.

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<sup>13</sup> A GP was reportedly called in from the neighbouring Salyan General Hospital, but the delegation could not find any record of this in the medical documentation.

29. **The CPT recommends that the Azerbaijani authorities take urgent steps to:**
- **fill the vacant posts of psychiatrists at Salyan and Ganja psychiatric hospitals, ensuring that the persons recruited are fully qualified psychiatrists;**
  - **ensure that the supply of medication is guaranteed at all times at Ganja and Salyan psychiatric hospitals; furthermore, efforts should be made to ensure the availability of newer generation of anti-psychotic and anti-depressant medication and a wider variety of psychotropic medication more generally;**
  - **render regular blood tests mandatory at both hospitals (and, as appropriate, in all other psychiatric facilities in Azerbaijan) whenever Clozapine is used; staff should be trained to recognise the early signs of the potentially lethal side effects of Clozapine;**
  - **ensure that adequate somatic care is provided to patients hospitalised at Salyan Psychiatric Hospital, including a proper somatic examination by a doctor within 24 hours of their admission; such somatic screening should be repeated at regular intervals;**
  - **develop, at both hospitals, a range of therapeutic options and involve patients in rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image. It is axiomatic that this will require the recruitment of specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers) in the two hospitals;**
  - **draw up an individual treatment plan for each patient (taking into account the special needs of acute and long-term patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress;**
  - **improve the quality of clinical record-keeping at both hospitals, including details of prescriptions (all medication and dosage), and any medication/treatment administered;**
  - **enable all patients at both hospitals to engage in a range of recreational activities.**

30. It became apparent that the mental status of a number of patients, at both hospitals, should be re-assessed as a matter of priority with a view to ensuring that they receive adequate treatment in a care facility adapted to their needs. This issue was brought to the attention of the managements of the two establishments visited as well as to the Minister of Health, with whom the delegation met at the end of the visit. **The CPT would like to be informed of steps taken in this respect.**

In addition, the CPT has serious misgivings about the practice of mixing mentally-ill patients with learning disabled patients in the same dormitories, as observed at both hospitals.

**The CPT recommends that steps be taken, at both hospitals, to ensure a better allocation of patients, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment.**

31. There had been four deaths during 2013 at Ganja Psychiatric Hospital and none at Salyan Psychiatric Hospital in the preceding four years. The delegation was informed that autopsies were generally not carried out due to opposition of families.

At Ganja Psychiatric Hospital, a death certificate was found in only one patient file, and in the other cases, the cause of death was either not indicated, or it was not even recorded that the patient had died<sup>14</sup>. The examination of the information received after the visit revealed several deficiencies: descriptions of a somatic condition based only on physical examination (without resorting to any other examinations, e.g. blood tests, X-rays, ECG); somatic treatments consisting mainly of providing vitamins; no resuscitation, failure to call the emergency services in a critical situation, and failure to consider whether the cause of death could have been related to the lack of somatic care provided to the persons concerned prior to their deaths.

In the CPT's opinion, an autopsy should be carried out in all cases where a patient dies in a psychiatric hospital, unless a clear diagnosis of a fatal disease has been established prior to death<sup>15</sup>. In addition, a record of the clinical causes of patients' deaths should be kept at the establishment. **The Committee recommends that this approach be adopted and rigorously applied in all psychiatric establishments in Azerbaijan. More generally, the CPT recommends that the Azerbaijani authorities institute a practice of carrying out a thorough inquiry into every unexpected death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures. Further, the CPT recommends that inquests be carried out into the four above-mentioned deaths at Ganja Psychiatric Hospital.**

## 5. Means of restraint and seclusion

32. The procedure and safeguards surrounding resort to means of restraint remained as described in the reports on the visits carried out in 2006 and 2011<sup>16</sup>.

None of the two hospitals visited had any written guidelines on the use of restraint.

At Ganja Psychiatric Hospital, the delegation noted that recording of instances of resort to means of restraint (by means of soft cotton ties or sheets) had been introduced. According to the relevant registers on each ward (indicating the name of the patient, diagnosis, reason for use of means of restraint, duration of the measure, and the signature of the doctor authorising the measure), there had been 22 cases of fixation in 2012 and 20 in 2013. The fixation usually lasted for periods of 10 to 40 minutes, and, in two cases, up to 2.5 and 4.5 hours and the register on ward 3 also indicated at what point during the fixation the medication was injected.

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<sup>14</sup> At the request of the delegation, information on the four deaths was provided on 15 January 2014.

<sup>15</sup> See also Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

<sup>16</sup> See paragraphs 133 of document CPT/Inf (2017) 12 and 115 of CPT/Inf (2018) 9.

As regards Salyan Psychiatric Hospital, in the absence of any recording system, it was not possible for the delegation to assess the extent of the use of restraint. As mentioned in paragraph 14 above, the delegation received an allegation about one patient who was said to have been subjected to fixation with chains to his bed in the previous facility on several occasions.

Further, from interviews with staff and patients, it appeared that patients could be administered forced injections and fixated to beds with sheets for the time necessary for the medication to take effect. Doctors confirmed that injections could be initiated by nurses without prior consultation with a doctor.

Further, at both hospitals, patients could be restrained to their beds, in full view of other patients, and patients could be asked to help ward-based staff apply such measures to other patients.

33. Seclusion had been introduced at Ganja Psychiatric Hospital, with the setting up of one seclusion room (“isolator”) on each ward. As no policy, guidelines or recording of such episodes were in place, the delegation was not in a position to assess the extent of its use. One male patient was placed in the “isolator” of ward 2 at the time of the visit, apparently because he was aggressive, and one female patient was in the isolator on ward 4, reportedly for her own protection. No regular or specific monitoring was being carried out in respect of these two patients, and it was not even possible to determine when they had been placed in these rooms.

The material conditions in the four “isolators” varied from one ward to the other, but only the one on ward 2 offered acceptable conditions: it was equipped with a bed, a mattress and bedding; it was heated, and access to natural light was adequate; that said, the artificial lighting was out of order. The isolators on wards 3 and 4 were too small for human accommodation (measuring some 2 m<sup>2</sup> to less than 4 m<sup>2</sup>). In addition, the “isolator” on ward 3 had no access to natural light and ventilation, and the one on ward 1 was totally bare. Further, the “isolators” on wards 1, 3 and 4 were unheated. **The CPT recommends that the “isolators” on wards 3 and 4 of Ganja Psychiatric Hospital be either enlarged or taken out of service. The shortcomings identified as regards the “isolator” on ward 1 should be remedied. If the isolator on ward 3 is enlarged, it should have proper access to natural light and ventilation.**

Every ward at Salyan Psychiatric Hospital had a seclusion room, for up to two patients each. They were of the same design as the other double-occupancy rooms in the hospital, but additionally comprised a sanitary annexe with a shower and a toilet in the male ward, and a partially partitioned toilet in the female ward. None of the seclusion rooms had been used yet and no written policy/guidelines were in place regarding their use.

34. The CPT has stressed many times in the past that the use of physical restraint measures should be the subject of a comprehensive, carefully developed, policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should specify which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. Further, if resort is had to sedative chemical restraint, they should be subjected to the same safeguards as mechanical restraints.

In this context, guidelines on the use of restraint<sup>17</sup> should include the following points:

- regarding their appropriate use, means of restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk; they should never be used as a punishment or to compensate for shortages of trained staff;
- any resort to means of restraint should always be either expressly ordered by a doctor or immediately brought to the attention of a doctor;
- staff must be trained in the use of restraint. Such training should not only focus on instructing staff as to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient;
- the duration of the application of means of restraint should be for the shortest possible time. The prolongation of mechanical restraint should be exceptional and warrant a further review by a doctor;
- a patient subject to mechanical restraint should not be exposed to other patients unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient;
- as regards supervision, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Such assistance may include escorting the patient to a toilet facility or helping him/her to drink/consume food;
- every instance of the use of means of restraint – whether physical or chemical – of a patient must be recorded in a specific register established for that purpose, in addition to the individual's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence;
- once means of restraint have been removed, a debriefing of the patient should take place. This will provide an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as restoring the clinician-patient relationship. It also gives the patient an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

**The CPT recommends that the above-mentioned principles as regards resort to restraint be applied at Ganja and Salyan psychiatric hospitals as well as in other psychiatric establishments in Azerbaijan.**

**The adoption of the guidelines described above should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.**

Further, as regards Salyan Psychiatric Hospital, and as mentioned in paragraph 14, **metal chains should never be used to restrain patients in psychiatric hospitals.**

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<sup>17</sup> Restraint measures include: mechanical restraint, physical restraint, seclusion and pharmaceutical restraint.

## 6. Safeguards

35. The legal framework governing civil involuntary placement in psychiatric hospitals in Azerbaijan has remained unchanged since the last visit; it was described in the previous CPT report dealing with the issue (see paragraphs 119 to 123 of CPT/Inf (2018) 9).

36. At Ganja Psychiatric Hospital, no consistent use was made of the standard admission form. In many cases, there was either no trace of the patients' consent to placement, or a doctor had written a letter consenting to placement on behalf of the patient who had then signed it. In addition, in various files, applications for placement of a patient by a relative were found, and relatives had signed the consent form. Practically all the patients were considered to be "voluntary".

At Salyan Psychiatric Hospital, all patients were considered as voluntary, and the examination of the files revealed that many patients had been hospitalised through requests from relatives, referrals from an out-patient psychiatric facility, or referral by the police.

As mentioned in paragraph 12 above, these "voluntary" patients, in both hospitals, were kept in locked wards and the overwhelming majority of those with whom the delegation spoke declared that they were being kept in the hospital against their will.

37. As regards the formally involuntary patients at Ganja Psychiatric Hospital, the examination of the patients' files revealed that they had usually not been present at the court hearing, and had not been assisted by a lawyer, either at the stage of the initial decision of placement or in the context of the periodic review of hospitalisation. Instead, it transpired that patients could be represented by a relative or even a doctor from the hospital at the court hearings. In addition, it appeared that the periodic review of hospitalisation<sup>18</sup> was not systematically carried out.

38. The CPT is concerned that, despite the existence of legal provisions pertaining to civil involuntary placement, the management of the two psychiatric hospitals visited had extremely limited understanding, if any, of the legal procedures applying in this respect.

It should be explained clearly to all the individuals involved that a written request for hospitalisation by a relative cannot in itself substitute for informed consent to hospitalisation by the patient him/herself, unless the person has been deprived of his/her legal capacity by a court decision and the relative in question has been appointed the patient's legal guardian. It is of particular concern that the senior management of the hospitals visited did not seem to realise that the overwhelming majority of patients placed under their responsibility were de facto deprived of their liberty without benefiting from the safeguards provided for by law.<sup>19</sup>

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<sup>18</sup> Every three months after the initial six-month period of hospitalisation according to the Law on Psychiatric Assistance.

<sup>19</sup> Reference is also made to Article 5 of the European Convention on Human Rights in this respect.

The CPT calls upon the Azerbaijani authorities to take steps to ensure that the provisions of the Law on Psychiatric Assistance (LPA) on civil hospitalisation are fully implemented in practice. The Azerbaijani authorities must also ensure that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in Azerbaijan.

In particular, the following urgent steps should be taken:

- persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently;
- patients whose admission to a psychiatric hospital on an involuntary basis is sought should always be heard in person by the competent judge before a decision on involuntary placement is taken and this safeguard should also apply when the placement is reviewed;
- patients concerned should receive a copy of any court decision on involuntary placement in a psychiatric hospital and be informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal;
- involuntary psychiatric patients should have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge.

As regards more specifically Ganja and Salyan psychiatric hospitals, the CPT recommends that the legal status of all patients currently considered as voluntary be urgently reviewed.

In addition, and making reference to paragraph 30 above, the CPT invites the Azerbaijani authorities to carry out, as a matter of priority, a re-assessment of the mental status of the patients held at Ganja and Salyan psychiatric hospitals with a view to ensuring that such placement is still required or to discharge them and/or transfer them to a care facility adapted to their needs.

39. Turning to consent to treatment, it became clear during the visit that psychiatric patients were still generally not informed upon admission about their diagnosis and the nature of their treatment, and that there was no reliable procedure for obtaining their informed consent to treatment, despite legal provisions to this effect<sup>20</sup>.

Many patients at both establishments stated that they had not understood what they were agreeing to at the time of admission. At Salyan Psychiatric Hospital, a few patients' files revealed that their relatives had been informed by the head doctor that the patients had refused treatment and should be taken home; in those cases, it appeared that patients had actually remained at the hospital and were still receiving treatment.

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<sup>20</sup> Section 23 (4) of the LPA provides that every patient should be informed upon admission about the nature of his/her disease, the reasons for hospitalisation, the treatment methods chosen and the therapeutic objectives. A note to this effect should be made in the relevant medical documentation. Further, Section 10 provides that a patient has the right to refuse treatment at any moment.

The CPT calls upon the Azerbaijani authorities to ensure that all patients (and, if they are legally incompetent, their legal representatives) are provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. This could be done by means of a special form for informed consent to treatment, signed by the patient or (if he/she is legally incompetent) by his/her legal representative. Relevant information should also be provided to patients and their legal representatives during treatment.

Further, the Committee remains particularly concerned by an amendment made to the LPA in 2011 pursuant to which, in the case of involuntary hospitalisation, the treatment of psychiatric patients can be provided without the patient's informed consent. The CPT must stress once again that any derogation from the fundamental principle of informed consent to treatment should not only be based upon the law but also relate to clearly and strictly defined exceptional circumstances. **The CPT reiterates its recommendation that the law be amended so as to define clearly the exceptional circumstances in which treatment can be provided without the patient's consent and the safeguards surrounding the implementation of such treatment.**

40. Neither of the two psychiatric establishments visited had any formal complaints system, nor provided on admission any brochure setting out the hospital's routine and patients' rights, including information about complaints bodies and procedures. **The CPT reiterates its recommendation that a brochure on patients' rights (including information about complaints bodies and procedures, and access to legal assistance) be drawn up and systematically provided to patients and their families on admission to all psychiatric establishments in Azerbaijan. Any patients unable to understand such a brochure should receive appropriate assistance.**

41. At Ganja and Salyan psychiatric hospitals, patients could receive visitors. However, as regards access to a telephone, patients at both hospitals complained that this was extremely limited. **The CPT urges the Azerbaijani authorities to facilitate psychiatric patients' access to a phone and under conditions allowing privacy, unless there is a lawful and reasoned doctor's order to the contrary.**

42. As regards external supervision, the delegation noted that the two establishments had been visited by representatives from the Ombudsman's Office and from the National Preventive Mechanism. Considering the CPT's findings in the two psychiatric establishments visited, **the CPT recommends that psychiatric establishments in Azerbaijan be regularly visited – including on an unannounced basis – by bodies which are independent of the health-care authorities and adequately staffed, with a view to assessing the level of care provided to patients in such establishments.**

**B. Establishments under the authority of the Ministry of Labour and Social Protection of Population**

**1. Preliminary remarks**

43. The CPT's delegation carried out a follow-up visit to Psychoneurological Boarding Home No. 8 in Qırıqlı (Göygöl district) for adult women with learning disabilities and visited, for the first time, Psychoneurological Boarding Home No. 1 for adults in Şamaxı.

Psychoneurological Boarding Home No. 8 in Qırıqlı (“Qırıqlı Boarding Home”) had been visited by the CPT in 2011 (see paragraphs 128 to 155 of CPT/Inf (2018) 9). A new director, a psychologist by training, with a great deal of experience in running social care institutions, had been appointed on 6 November 2013 to replace the former director, whose contract had been terminated the day before. The new director had spent four months (from December 2012 to March 2013) at the Home during the period of suspension of the former director (see paragraph 47 below). On the day of the visit, the Home accommodated 130<sup>21</sup> residents, aged from 21 to 71, with an official capacity of 126.

Psychoneurological Boarding Home No. 1 (“Şamaxı Boarding Home”), located in the town of Şamaxı, was opened in 1954, but the current buildings date back to 1975. It consists of a three-storey building with the two upper floors serving as accommodation for the residents and the ground floor reserved for the administration and clinical staff rooms. There is also an adjacent building for the kitchen and the dining hall, as well as a separate building for the laundry and storage of clothes/bedding. With 103 formally registered adult male (89) and female (14) residents aged from 19 to 82 years, the Home was operating at full capacity<sup>22</sup>.

44. During the visit, the delegation was informed by senior officials from the Ministry of Labour and Social Protection of Population that various initiatives had followed the adoption of the State Programme on De-Institutionalisation and Alternative Care (elaborated with significant involvement from NGOs), and that the new Law on Social Services (reorganising the social protection system) had entered into force in March 2012. Further, a new financial system had been put in place and a campaign had been launched at the end of 2013 (together with UNICEF), aimed at developing alternative care with the building of smaller social care facilities, including group homes. In addition, six psychoneurological boarding homes had been earmarked to undergo major refurbishment in the course of 2014 (including the Qırıqlı and Şamaxı Boarding Homes).

**The CPT encourages the Azerbaijani authorities to pursue their de-institutionalisation policy, reducing institutional capacities while increasing the possibilities for community care.** As mentioned in paragraph 13 above, if properly organised, this should improve the quality of life of service users.

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<sup>21</sup> The new director had ordered a re-assessment of all the residents’ diagnoses and, at the time of the visit, five residents were in the process of being either released back to their families or transferred to a social care institution more adapted to their needs; they actually left the Home on the second day of the visit.

<sup>22</sup> 86 residents were actually present on the day of the visit as eight were on home leave, eight were receiving treatment in outside medical facilities, and one was under arrest.

In this respect, **the CPT would like to receive more information on plans to reorganise the system of homes for persons with learning disabilities and, in particular, to set up facilities enabling the de-institutionalisation of such persons and to build new facilities for mentally and physically disabled persons.** Further, **the Committee would like to receive more details on the new system for financing social care homes.**

## **2. Ill-treatment**

45. The delegation heard no allegations of ill-treatment, whether physical or verbal, at Qırıqlı Boarding Home, in sharp contrast with the serious situation found in 2011. On the contrary, residents highly praised the recently appointed director, and the delegation observed for itself a complete change in the atmosphere of the Home, which now appeared to be relaxed and positive. The CPT welcomes the decision to appoint a competent, dedicated and experienced person in the field of social care of disabled persons to be in charge of Qırıqlı Boarding Home.

As regards Şamaxı Boarding Home, a few allegations of deliberate physical ill-treatment of residents by staff (slapping and pushing) were received. In addition, the delegation heard that staff occasionally threatened to hit residents with a wooden stick; it is noteworthy in this respect, that the delegation found sticks matching the description given by residents in one staff office. **The CPT recommends that staff at Şamaxı Psychoneurological Boarding Home No. 1 be regularly reminded that any form of ill-treatment of residents, whether verbal or physical, is totally unacceptable and will be punished accordingly.** Further, **objects such as the sticks found in a staff office should be removed immediately.**

46. Inter-resident violence no longer appeared to be an issue at Qırıqlı Boarding Home. The delegation noted that staff were trying to control the most disturbed residents in an appropriate way.

As regards Şamaxı Boarding Home, the delegation received some allegations of aggression amongst residents, and witnessed a few episodes when residents pushed and tried to control other residents. This situation was hardly surprising considering the very limited number of staff present in the accommodation areas, resulting in relying on two of the more able residents to maintain order and control the others, on occasion using sticks. The delegation found sticks matching the description given by residents in a resident's room on the third floor of the establishment. **The CPT recommends that urgent steps be taken at Şamaxı Psychoneurological Boarding Home No. 1 to protect residents from other residents who might cause them harm. This requires not only an adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by patients.** Reference should also be made, in this context, to the recommendation in paragraph 62 below. In addition, **the CPT recommends that the practice of entrusting particular residents with the task of maintaining order and controlling the other residents be stopped immediately.** Further, **objects such as the sticks found in a resident's room should be removed immediately.**

47. As regards Psychoneurological Boarding Home No. 8 in Qırıqlı, the CPT is particularly concerned about the death, on 7 March 2012, of the resident, A., whose case was described in detail in the report on the visit carried out in 2011 (see paragraphs 130, 131 and 147 of document CPT/Inf (2018) 9).

During the 2013 visit, the CPT's delegation was informed that this 21-year-old female resident had been transferred to Ganja General Hospital on 4 March 2012 and had died there on 7 March 2012 from bronchopneumonia. As mentioned in paragraph 10 above, the CPT's delegation requested, at the end of the 2013 visit and by letter of 2 December 2013, to receive a copy of the autopsy report concerning this resident, as well as of the medical file (and any other subsequent relevant medical documents) that had been opened on her admission to Ganja General Hospital.

Further, in view of the grave and consistent allegations received during the 2013 visit regarding the behaviour of the former director of Boarding Home No. 8 in Qırıqlı during the weeks prior to the resident's admission to Ganja General Hospital, the delegation considered that an effective investigation into the circumstances surrounding the resident's death should be carried out. It was particularly alleged that during the period of three months following the departure of the CPT's delegation in 2011, the former director "no longer dared" to put A. under restraint. That said, she reportedly exerted psychological pressure on all residents who challenged her, and especially A., by threatening them with injections. Some of the most challenging residents had apparently their heads shaved and were administered injections, notably A.. In addition, she was reportedly confined to her room, only allowed out to go to the toilet, and apart from injections, received no other treatment or attention. On the day prior to her transfer to Ganja General Hospital, A. allegedly fainted several times, and the emergency services were finally called the next day, i.e. on 4 March 2012. She was transferred to Ganja General Hospital, where she died on 7 March 2012.

As mentioned in paragraph 10, at the end of the visit the CPT delegation had requested to be provided with a copy of the autopsy report and of the medical file opened at Ganja General Hospital, as well as any other subsequent relevant medical documents. This request was confirmed to the Azerbaijani authorities by letter of 2 December 2013. A copy of the medical file opened at Ganja City Hospital has been provided – in Azerbaijani – by the authorities on 26 February 2014, including a brief summary of the concluding remarks following an autopsy<sup>23</sup> carried out on 7 March 2012. The translation of these documents will take some time as it is exclusively handwritten and in parts virtually illegible. In addition, no copy of the full autopsy report has been provided. The extreme scantiness of the medical documentation kept at Qırıqlı Boarding Home concerning A. did not allow the delegation to assess her condition at the time of her transfer to Ganja City Hospital.

The CPT is very concerned by the fact that this 21-year-old woman, a particularly well-known case of a resident who had been previously seriously ill-treated, subsequently experienced a severe deterioration in her condition at Qırıqlı Boarding Home, so that, by the time she was transferred to Ganja City Hospital, she was in such a desperate condition that she could not be saved and died three days later.

Taking into consideration the above, **the CPT recommends that the Azerbaijani authorities carry out an effective investigation into the circumstances of the death of A. including, if appropriate, a criminal investigation, if there appears to be, for example, wilful neglect. The CPT would like to receive information on the outcome of the above-mentioned investigation(s).**

Further, **the CPT reiterates its request to receive a full copy of the autopsy report on the autopsy carried out on 7 March 2012, including the results of the subsequent histological examinations.**

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<sup>23</sup> The cause of death was given as "purulent-haemorrhagic bronchopneumonia spread in lungs".

48. The delegation also came across the case of four female residents, formally registered at Qırıqlı Boarding Home<sup>24</sup> – but who were not present at the Home during the 2013 visit – who were allegedly held at the former director’s private house (and at her family’s house) and forced to work there. Furthermore, the delegation received credible and consistent allegations according to which, for many years, the more physically able residents had been residing and made to work there. This is unacceptable. As mentioned in paragraph 10 above, this issue has been raised by the delegation directly with the Minister of Labour and Social Protection of Population and a letter officially requesting information on the fate of these four women had been addressed by the CPT’s delegation to the Azerbaijani authorities after the visit.

By letter of 9 January 2014, the Minister of Labour and Social Protection of Population informed the CPT that an investigation carried out into this matter had confirmed the Committee’s findings; three of the four female residents had been returned to Qırıqlı Boarding Home, whilst the fourth woman had been discharged and was now residing with her family. **The CPT would like to know what action has been taken, including any criminal investigation, following the confirmation of these facts.**

It also appeared during the 2013 visit that, despite the official termination of her contract, the former director was still visiting the Home, at night time, which caused much fear and anxiety amongst the residents and staff. This unacceptable state of affairs should be stopped immediately; at the end of the visit, the delegation was reassured by the Minister of Labour and Social Protection of Population that steps would be taken to put an end to such visits by the former director.

The CPT welcomes the rapid and efficient intervention of the Minister on the above-mentioned serious matters, and **trusts that a high level of vigilance will be maintained as regards the safety and care of residents at Qırıqlı Boarding Home.**

### **3. Residents’ living conditions**

49. The CPT’s delegation was pleased to note that at Qırıqlı Boarding Home, the central heating had been repaired and was now functioning in the entire facility. This allowed a better use of the entire accommodation block on three floors instead of the previous two. Ramps had also been built to facilitate the access of less able residents to the garden and grounds of the establishment.

The residents’ rooms accommodated from two to eight persons each and measured from 10 to 32 m<sup>2</sup>. They were clean, had adequate lighting, heating and ventilation, and were also appropriately equipped (beds, bed-side tables, lockable cupboards, carpets, and decoration on the walls)<sup>25</sup>. Further, efforts were being made to strengthen the residents’ sense of independence: for example, a lot of them had keys to their bedrooms and personal lockers.

The level of hygiene had also improved. There were two toilets and a shower facility on each floor with a boiler and residents could take a shower twice a week. That said, some of the bathtubs were in need of repair, the ceiling and walls of the shower facility on the third floor were damaged because of water leaking from the upper floor; further, the shower on the fourth floor was not functioning properly. The outside shower and laundry facility seen in 2011 was out of use. **The Committee recommends that shower facilities on each accommodation floor be maintained in an appropriate state of repair.**

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<sup>24</sup> The delegation found out that two of them did not appear on the residents’ list on the day of the visit, and that they had not formally been discharged.

<sup>25</sup> For a detailed description of the situation observed in 2011, see paragraphs 133 and 134 of CPT/Inf (2018) 9.

50. The kitchen and the dining hall were well maintained and two new fridges had just been received. Residents stated that the food had much improved in terms of quality and quantity since the arrival of the new director.<sup>26</sup> For example, residents now regularly received eggs, meat and fruit. A bakery within the facility was about to open to provide bread for the Home.

51. The CPT would like to commend the impressive efforts of the new director to improve the living conditions at Qırıqlı Boarding Home in a very short period of time, and can but encourage her to continue in this direction. The CPT understands that there are plans for a complete overhaul of the establishment in 2014, and **would like to receive full details of those plans.**

52. Şamaxı Boarding Home was an old and dilapidated facility in need of major refurbishment. The situation had worsened after the roof of the establishment had been heavily damaged by a hailstorm in 2011, causing further deterioration to the building. The delegation was informed that the establishment was to be fully reconstructed as of 2014.

The CPT will therefore refrain from making detailed comments on the material conditions observed at the time of the visit. Suffice to say that the residents' rooms were not overcrowded<sup>27</sup>, but could benefit from more personalisation and attention to residents' privacy. The central heating was functioning but the temperature was rather low in many rooms.

In addition, both the general hygiene and the residents' personal hygiene were acceptable. Residents could take a warm shower up to twice a week. However, the toilets were dirty, and at the time of the visit, there was no running water on the third floor. Further, at the time of the visit, the washing machines were not functioning.

No complaints were received as regards the food. The kitchen and dining area, located in the adjacent building, were clean and well maintained.

**The CPT would like to receive detailed information on the new facility to be built (in particular, living conditions, sanitary arrangements, availability of premises for social interaction), the envisaged staffing arrangements (numbers and qualifications) and the envisaged programmes for constructive socio-therapeutic activities and recreation (see paragraph 54 below). The Committee would also like to know what arrangements will be made to accommodate the residents during the works.**

Pending the completion of the new facility, **the CPT recommends that urgent steps be taken at Şamaxı Psychoneurological Boarding Home No. 1 to improve the heating in the rooms, ensure access to water in the sanitary facilities of the third floor and maintain the sanitary facilities on the two accommodation floors in a good and clean condition, and ensure that clothes are washed regularly. In addition, efforts should be made to provide all residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their rooms.**

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<sup>26</sup> Many residents stated that during the previous visits they had been instructed not to complain about living conditions, including the food.

<sup>27</sup> E.g.: rooms for five residents measured some 26 m<sup>2</sup>, and single occupancy rooms measured some 8.5 m<sup>2</sup>.

53. The wards at Şamaxı Boarding Home were mixed-sex, although men and women were accommodated in separate rooms<sup>28</sup>. In the CPT's view, particular precautions are required to ensure that residents are not subjected to inappropriate interaction with other residents which threaten their privacy; residents of each sex should have their own protected bedrooms and sanitary areas. **The CPT recommends that the Azerbaijani authorities take steps in the light of the above remarks concerning both the existing facility and the one to be built.**

#### 4. Care of residents

54. At Qırıqlı Boarding Home, the majority of residents were engaged in various activities (handicraft, paintings, drawing, and computer work) which had been put in place since the new director had been appointed. In addition, the delegation was informed that six residents were soon to be employed at the new bakery. Further, common rooms and areas had been set up on each accommodation floor, each equipped with a TV set, a sofa, tables and chairs, books and board games. The outdoor grounds of the establishment were freely accessible during the day. A beauty salon had also been opened. The CPT welcomes all the above-mentioned efforts and trusts that this will also be reflected in the drafting of detailed care plans for each resident.

By contrast, there were no educational activities (and no common rooms), no periodic assessment of residents' needs and no individual care plans at Şamaxı Boarding Home. The establishment had a library with books, magazines and newspapers, but residents were not encouraged to use it. On a more positive note, residents had free access to the outdoor grounds of the institution, which were equipped with benches and a shelter. To sum up, apart from watching TV for those residents who possessed one, almost all of the residents were left in complete idleness.

The CPT has long stressed that the care of persons with learning disabilities should involve a wide range of therapeutic, rehabilitative and recreational activities, occupational therapy, group and individual therapy, art, drama, music and sports. Residents should have regular access to suitably-equipped recreation rooms. It is also desirable for them to be offered education and suitable work, the aim being to prepare residents for independent or at least more autonomous living.

While supporting the re-assessment process which had started at Qırıqlı Boarding Home, **the CPT recommends that, at both homes visited, a systematic and regular evaluation of the residents' individual needs be carried out with a view to offering them adapted psycho-social rehabilitative activities, improving their quality of life, as well as offering them resocialisation programmes preparing those who have the potential to live in the community for discharge. An individual care and rehabilitation plan should be drawn up in respect of each resident, including its goals, the psychological therapy and the social intervention needed. In this context, the employment of specialised staff (e.g. psychologists, educators, social workers) should be envisaged** (see also paragraph 62).

55. Most of the residents at Qırıqlı Boarding Home suffered from learning disabilities of various degrees, and a few from mental illnesses. As regards Şamaxı Boarding Home, the majority of the residents were learning disabled, and about a third were mentally ill. At both establishments, a number of residents had no psychoneurological disorders at all, and were said to belong more to a category of "social cases". The fact that the re-assessment process was on-going at Qırıqlı Boarding Home was encouraging in this respect. **The CPT would like to be informed of the outcome of this re-assessment.**

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<sup>28</sup> Some female residents had a key to their rooms.

As mentioned in paragraph 30 above, the CPT has serious misgivings about the practice of mixing mentally ill residents with learning disabled residents. Such a shared accommodation of residents with different needs could result in the failure to provide appropriate care and develop suitable therapeutic programmes for residents. **The CPT recommends that the policy of accommodating together mentally ill residents with learning disabled residents be reviewed at Şamaxı Boarding Home in the light of the above remarks.**

56. It became apparent that nurses could administer psychotropic medication to residents without proper recourse to the psychiatrist (at Qırıqlı Boarding Home), or to the consulting general practitioner (at Şamaxı Boarding Home). In the absence of appropriate recording regarding the prescription and administration of medication (see also paragraph 58 below), the delegation was unable to assess the full extent to which this was occurring. In some cases at Şamaxı Boarding Home, such prescriptions had been initiated when the resident had been sent for treatment to a psychiatric hospital, and was thereafter continued<sup>29</sup> without any apparent local medical review once the resident had returned to the Home; in other cases, the origin of the prescription was impossible to establish. In addition, on the few occasions when medication issues were recorded, there was no indication of dosage, or sometimes even to whom it had been administered. Further, it was clear that residents were not always consenting to being medicated.

As regards more specifically the use in the boarding homes of “as required” prescriptions made by treating doctors for medication not administered immediately or on an ongoing basis, but rather whenever nurses believe it to be necessary, such an approach may on occasion be clinically appropriate. However, such an arrangement must only be for selected residents; must be recorded clearly and specifically on an individual basis; the dosage range, frequency, indications for administration and review date must be defined in writing. In the CPT’s view, the generalised use of “as required” prescriptions without systematic control by medical staff opens the door to potential misuse or even abuse of medication by staff. As with any drug treatment, clinical effects should be carefully monitored at sufficiently frequent intervals. If medication is administered on an involuntary basis, it should be surrounded by appropriate safeguards.

**The CPT reiterates its recommendation that the approach towards the prescription and administration of medication be reviewed in the light of these remarks. In particular, every resort to psychotropic medication must be specifically authorised by a doctor beforehand, and administration properly recorded.**

In addition, **the CPT reiterates its recommendation that all residents (and, if they are incompetent, their legal representatives) be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the resident’s informed consent to treatment prior to its commencement. This could be done by means of a special form for informed consent to treatment, signed by the resident or (if he/she is incompetent) by his/her legal representative. Every resident should be given the possibility to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Relevant information should also be provided to residents (and their legal representatives) during and following treatment.** At present, none of the above is taking place at either of the two Homes visited.

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<sup>29</sup> In such cases, discharge letters contained recommendations on the use of medication, but without indicating the dosage.

57. Regular blood tests were not performed in the two Homes visited whenever Clozapine was administered to residents. As explained in paragraph 25 above, considering that a side-effect of taking Clozapine can be a potentially lethal reduction of white blood cells (granulocytopenia), regular blood tests should be mandatory. In this respect, **the CPT recommends that the Azerbaijani authorities take immediate measures to ensure that when recourse is had to Clozapine, regular blood tests be mandatory at Psychoneurological Boarding Homes No. 1 and No. 8 (and, as appropriate, in all similar establishments in Azerbaijan). It is axiomatic that such medication should only be prescribed and administered under the supervision of a psychiatrist.**

58. Record-keeping had improved at Qırıqlı Boarding Home since the 2011 visit, with the introduction of individual medical files for each resident<sup>30</sup>. That said, further efforts are needed to ensure that all treatment and care interventions are properly recorded and updated in the clinical documentation.

The individual record-keeping of medical data at Şamaxı Boarding Home left much to be desired: entries in medical files were brief, infrequent and unsystematic. The use of psychotropic medication was recorded in one logbook containing no information on which resident received what medication and in what dosage; no record was made of any incidents.

In the Committee's view, each resident should have a personal file containing diagnostic information (including the results of any special examinations which the resident has undergone), as well as an ongoing record of the resident's mental and somatic state of health and treatment. **The CPT recommends that the necessary steps be taken to ensure that logbooks, registers and residents' files are rigorously maintained at both Şamaxı and Qırıqlı psychoneurological boarding homes.**

59. Turning to somatic care, the delegation was informed that external specialists would visit both Homes in case of need, or residents would be sent for consultations at external facilities. As mentioned above, the incomplete records at both establishments did not allow a proper assessment to be made in this respect. That said, somatic (including dental) care seemed to be limited to emergencies.

Şamaxı Boarding Home experienced problems with its supply of medication. Further, at this establishment, the CPT's delegation was concerned to learn that no medical examination on admission was performed.<sup>31</sup> By contrast, at Qırıqlı Boarding Home, the medical examination upon admission included a blood test and an X-ray chest examination.

**The CPT recommends that urgent action be taken to:**

- **ensure that every resident is subject to a medical examination promptly upon admission at Şamaxı Psychoneurological Boarding Home No. 1;**
- **improve arrangements for somatic (including dental) care for residents at Şamaxı and Qırıqlı Psychoneurological Boarding Homes, as well as basic somatic medication and related materials.**

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<sup>30</sup> They were put in place by the new director during her four-month interim stay at the Home.

<sup>31</sup> That said, fluorography was reportedly mandatory twice a year for both residents and staff.

Further, **the somatic status of every resident at Şamaxı and Qırıqlı Psychoneurological Boarding Homes, as well as in all other social care institutions in Azerbaijan, should be monitored at regular intervals.**

60. The number of deaths had drastically decreased at Qırıqlı Boarding Home since the 2011 visit, with six cases in 2012 and none in 2013.<sup>32</sup> This renders the high number of deaths recorded at Qırıqlı Boarding Home in 2010 and 2011<sup>33</sup> all the more of concern to the Committee. The CPT regrets that no detailed explanation had been provided despite repeated requests on this matter. In the light of the above and taking into consideration paragraph 47, **the CPT urges the Azerbaijani authorities to carry out an investigation into the incidents of deaths at Qırıqlı Boarding Home from 2010 to 2012 to establish whether there were any themes of concern relating to the quality of care that had been provided.**

As regards Şamaxı Boarding Home, there had been six deaths in 2012, and six in 2013.<sup>34</sup>

The examination of the available documentation at both establishments revealed that an autopsy was not always carried out after a resident died<sup>35</sup>. Death certificates were not always available and information on the cause of death was often missing.

In the CPT's opinion, an autopsy should be carried out in all cases where a resident dies in a social care facility, unless a clear diagnosis of a fatal disease has been established prior to death<sup>36</sup>. In addition, a record of the clinical causes of residents' deaths should be kept at the establishment. **The Committee recommends that this approach be adopted at all social care establishments in Azerbaijan.** More generally, **the CPT recommends that the Azerbaijani authorities institute a practice of carrying out a thorough inquiry into every unexpected death of a resident, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.**

## 5. Staff

61. At Qırıqlı Boarding Home, the clinical staff complement had remained as in 2011 and consisted of one part-time psychiatrist, two nurses (and three vacant posts, for one feldsher and two nurses), and 23 orderlies (with no vacant posts). The part-time post of general practitioner (GP) had been vacant since October 2013. On a positive note, the recently appointed director was a psychologist by training, and there was now one educator working at the Home. Further, efforts had been made to increase the presence of ward-based staff during the day, and the presence of a nurse was ensured on a 24-hour basis. That said, clinical staffing levels remained grossly insufficient to provide adequate care and treatment for 125 residents.

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<sup>32</sup> until the end of November 2013 when the delegation visited the establishment.

<sup>33</sup> At least 15 in 2010, and 9 in 2011 until 7 October (see paragraph 141 of CPT/Inf (2018) 9).

<sup>34</sup> There had been five cases in 2011 and four in 2010.

<sup>35</sup> By way of example, at Shamaxı Boarding Home no autopsy had been performed in 2012, and five in 2013. As regards Qırıqlı, one autopsy was reportedly carried out in the case of A., who died at the hospital (see paragraph 47).

<sup>36</sup> See also Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

The situation gave even more cause for concern at Şamaxı Boarding Home, where the clinical staff consisted of a part-time GP (with one vacant post), a feldsher, a nurse (with one vacant post)<sup>37</sup> and 11 orderlies (with one vacant post). There were no other multi-disciplinary staff. The CPT's delegation was unable to establish when a psychiatrist had last visited the establishment.

62. Taking into consideration paragraphs 54, 59 and 61, **the CPT recommends that urgent steps be taken to:**

- **fill the vacant part-time post of general practitioner at Qırıqlı Psychoneurological Boarding Home No. 8;**
- **ensure that Şamaxı Psychoneurological Boarding Home No. 1 is visited at least once a week by a psychiatrist;**
- **recruit sufficient other qualified staff to provide appropriate care for the day and night residents' needs (e.g. orderlies, psychologists, educators, work therapists, and social workers) at Qırıqlı and Şamaxı Psychoneurological Boarding Homes.**

63. The CPT was pleased to note that efforts had been made at Qırıqlı Boarding Home to ensure close supervision of the work of orderlies by qualified health-care personnel. However, much remains to be done in this respect at Şamaxı Boarding Home. Given the challenging nature of their job, it is essential that orderlies be carefully selected and given suitable training before taking up their duties, as well as ongoing training. While carrying out their duties, such staff should also be closely supervised by – and placed under the authority and responsibility of – qualified health-care staff. **The CPT recommends that steps be taken at Qırıqlı and Şamaxı Psychoneurological Boarding Homes, in the light of these remarks.**

## **6. Means of restraint/seclusion**

64. It should be recalled that, in Azerbaijan, restraint and seclusion, by law, cannot be applied in social care homes. In cases when such a measure is deemed necessary, residents must be transferred to a psychiatric facility.

Seclusion was still not resorted to at Qırıqlı Boarding Home, and the delegation noted with satisfaction that restraint was no longer used there.

Restraint was not used at Şamaxı Boarding Home. As regards seclusion, despite assurances to the contrary, the delegation received consistent allegations that one particularly challenging resident, suffering from chronic schizophrenia, had recently been secluded in a bare and unheated room. In addition, the delegation received contradictory information as to the purpose of that specific room, located at the end of the third floor corridor. The delegation received assurances from the director that this room would no longer be used in future. **The CPT would like to receive confirmation that this is indeed the case. Further, the CPT recommends that this room be either properly equipped for human accommodation, or taken out of service.**

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<sup>37</sup> The GP visits from 2 to 5 p.m. six days a week, and the nurse and feldsher ensure a 24-hour presence six days a week; on Sundays the nurse/feldsher reportedly visits to distribute medicines.

**The CPT also recommends that the Azerbaijani authorities take all necessary steps to ensure that the rule that seclusion of a resident is only allowed in a psychiatric facility is enforced at Şamaxı Psychoneurological Boarding Home No. 1, as well as in other social care homes in the country.**

## **7. Safeguards**

65. The delegation was informed at the outset of the visit that the provisions concerning the placement in a social care institution for learning disabled persons had remained unchanged since the visit carried out in 2011, i.e. such a placement requires a medical examination by medical experts and the issuance of a certified diagnosis, following which the relevant medico-social expertise centre makes an assessment of the disability status to be granted. That status is reportedly reviewed on an annual basis. The most severe disability status implies permanent care or assistance, i.e. placement in a social care home adapted to their needs. Such placement is reviewed on an annual basis by the relevant medico-social expertise centre.

As mentioned in paragraphs 43 and 55 above, the delegation was pleased to note that a re-assessment of all residents accommodated at Qırıqlı Boarding Home was being undertaken at the time of the visit, which had already resulted in transferring some of the residents to social care facilities adapted to their needs or allowing them to return to their families.

As regards Şamaxı Boarding Home, the examination of residents' personal files revealed that the initial placement procedure was not always applied, and review of placement was usually not carried out.

The CPT has repeatedly stressed in the past that ex officio placement by the public authorities<sup>38</sup> in social care institutions should always be surrounded by appropriate safeguards. In particular, the procedure by which ex officio placement is decided should offer guarantees of independence and impartiality as well as being based on objective medical, psycho-social and educational expertise. The CPT considers that persons involuntarily placed in an institution must have the right to bring proceedings by which the lawfulness of their placement is speedily decided by a court. It is also crucial that the need for placement be regularly reviewed and that this review afford the same guarantees as those surrounding the placement procedure.<sup>39</sup> **The CPT recommends that the Azerbaijani authorities take steps to ensure that the procedure for placement of persons with learning disabilities in social care institutions complies with the above requirements. In particular, such persons should enjoy the effective right to apply to a court for a prompt ruling on the legality of their placement and enjoy appropriate legal safeguards (i.e. right to a lawyer, possibility of being heard by a judge, etc.).**

**Further, in addition to an annual review of placement by the relevant medico-social expertise centre, residents themselves should be able to request at reasonable intervals that the necessity for continued placement be considered by a judicial authority.**

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<sup>38</sup> Or placement decisions by public authorities following a formal request by a family member or legal representative.

<sup>39</sup> Reference is also made to Article 5 of the European Convention on Human Rights in this respect.

66. The legal framework surrounding guardianship of severely disabled persons has remained unchanged since the 2011 visit.<sup>40</sup> In particular, persons accommodated in a social care home with the most severe disability status must be placed under guardianship by a court decision. In this respect, the delegation did not find any copies of court decisions in the residents' files at either boarding home. **The CPT recommends that the legislation pertaining to guardianship be strictly applied in respect of severely disabled persons at Qırıqlı and Şamaxı Boarding Homes.**

Further, it appeared that, the director of the social care home where a resident is placed can still be appointed as his/her guardian. The CPT must stress again that one aspect of the role of a guardian is to defend, if necessary, the rights of incapacitated persons vis-à-vis the hosting institution. Obviously, granting guardianship to the staff of the very same institution may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **The CPT reiterates its recommendation that the Azerbaijan authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.** Further, **the Azerbaijani authorities should ensure that deprivation of legal capacity is always decided by a court.**

67. At both Homes, there were no restrictions on visits and some residents could go on home leave. Residents at Şamaxı Boarding Home had access to a public telephone located at the entrance of the building, and some were allowed to keep their mobile phones. At Qırıqlı Boarding Home residents could make and receive phone calls from an office or from one of the staff's mobiles; in addition, with the arrival of the new director, residents could now keep and use their mobile phones. That said, the delegation was informed that only a small number of residents maintained contact with their families. Further, as regards Qırıqlı Boarding Home, the remote location of the establishment is problematic. **The CPT invites the Azerbaijani authorities to pursue their efforts to encourage residents' contacts with the outside world (e.g. by means of inviting voluntary visitors, NGOs, etc.).**

68. No formal complaints system was in place at either of the boarding homes visited. This could partly be explained by the absence of any written information on complaints procedures. In this context, the CPT considers that a brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – should be issued to each resident, as well as to their families, upon admission to the establishment. Any residents unable to understand this brochure should receive appropriate assistance.

**The CPT reiterates its recommendation that such a formal complaints system, meeting the above-mentioned requirements, be set up at Şamaxı and Qırıqlı psychoneurological boarding homes and, as appropriate, in all other social care establishments in Azerbaijan. Further, the above-mentioned information brochure should be drawn up and systematically provided to residents and their families on admission to all social care establishments in Azerbaijan.**

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<sup>40</sup> See paragraph 151 of CPT/Inf (2018) 9.

69. The CPT has already emphasised the importance of inspections of social care homes by an independent outside body empowered to visit the premises, talk privately with residents, make any necessary recommendations to the authorities on ways to improve the care and conditions afforded to residents and receive complaints from residents or their families. This constitutes an important safeguard for residents in social care institutions.

From the information received by the CPT's delegation, Şamaxı Boarding Home had not yet been visited by the Ombudsman or National Preventive Mechanism. By contrast, Qırıqlı Boarding Home had been visited by representatives of the Ombudsman in the past (before the CPT's 2011 visit). Inspections were also being carried out at both establishments by the Ministry of Labour and Social Protection of Population.

Taking into consideration the above remarks, **the CPT recommends that the Azerbaijani authorities take measures to ensure that Şamaxı and Qırıqlı Psychoneurological Boarding Homes and, as appropriate, other social care homes in Azerbaijan, are regularly visited – including on an unannounced basis – by bodies which are independent of the social care authorities and adequately staffed, with a view to assessing the level of care provided to residents in such establishments.**<sup>41</sup>

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<sup>41</sup> As provided for in Article 16 (3) of the UN Convention on the Rights of Persons with Disabilities.

## **APPENDIX**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Consultations held by the delegation and co-operation encountered**

##### recommendations

- the Azerbaijani authorities to take all necessary measures to prevent any kind of intimidating or retaliatory action against persons deprived of their liberty, before or after they have spoken to a CPT delegation (paragraph 6);
- the Azerbaijani authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 8).

##### comments

- the CPT would like to underline the importance of Parties bringing the contents of the report drawn up by the Committee after a visit to the attention of all the relevant authorities and staff, in an appropriate form and developing appropriate action plans. It would also be desirable to make use of the reports on CPT visits during the training of the different categories of staff working with persons deprived of their liberty (paragraph 7);
- the CPT invites the Azerbaijani authorities to seriously consider the possibility of authorising the publication of at least the three reports and responses mentioned in paragraph 9 (paragraph 9).

#### **Establishments under the authority of the Ministry of Health**

##### **Preliminary remarks**

##### comment

- the CPT encourages the Azerbaijani authorities to seek to develop a process of de-institutionalisation aimed at reducing in-patient capacities while increasing the possibilities for community care (paragraph 13).

##### **Ill-treatment**

##### recommendations

- the management at Ganja and Salyan Psychiatric Hospitals to exercise vigilance and regularly remind staff that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly (paragraph 14);
- metal chains never to be used to restrain patients in psychiatric hospitals (paragraph 14)

comment

- the CPT trusts that appropriate action will be taken at Ganja and Salyan Psychiatric Hospitals to remedy the problem of inter-patient violence in the light of the remarks made in paragraph 15 (paragraph 15).

**Patients' living conditions**

recommendation

- the Azerbaijani authorities to take the following urgent measures in respect of Ganja Psychiatric Hospital:
  - improve food provision to patients based on appropriate calorific norms, and introduce a system for monitoring their nutritional status, including weighing patients on admission and thereafter on a regular basis;
  - ensure that all patients' rooms are adequately heated;
  - refurbish the toilets, washing and bathing facilities in the newer building and maintain them, including those in the older building, in a clean condition; furthermore, ensure that they are adequately heated;
  - ensure that all patients are given full bedding (mattresses, blankets, sheets and pillows), which are cleaned at regular intervals.(paragraph 19);
- steps to be taken to reduce the occupancy levels in the dormitories and improve artificial lighting. Areas with no access to natural light should not be used as dormitories (paragraph 19);
- each patient to be provided with basic personal hygiene items (soap, toothbrush and toothpaste, towel, sanitary towels, etc.). De-infestation of the premises should be carried out on a regular basis (paragraph 19);

comments

- efforts should be made at Ganja Psychiatric Hospital to offer more congenial and personalised surroundings for patients, in particular by providing them with lockable space and allowing a reasonable number of personal belongings (paragraph 19);
- consideration should be given to designing a facility with smaller patients' rooms instead of large-capacity dormitories as regards Ganja Psychiatric Hospital (paragraph 19);
- patients at Salyan Psychiatric Hospital to be provided with appropriate clothing and footwear (paragraph 20).
- efforts should be made at Salyan Psychiatric Hospital to provide patients with more visual stimulation and personalisation in their dormitories (paragraph 20).

requests for information

- confirmation that every patient at Ganja Psychiatric Hospital has been provided with their own bed (paragraph 19);
- detailed information on the intended plans to reconstruct Ganja Psychiatric Hospital, including the time-schedule for their implementation (paragraph 19);
- confirmation that all the personal belongings, which remained in the old premises, have now been made available to the patients at Salyan Psychiatric Hospital (paragraph 20);
- confirmation that proper heating is now operative in all the rooms at Salyan Psychiatric Hospital (paragraph 22);
- confirmation that a new kitchen complying with all hygienic standards has been constructed at Salyan Psychiatric Hospital (paragraph 23).

**Staff and treatment**

recommendations

- the Azerbaijani authorities to take immediate steps to ensure that all patients at Ganja and Salyan psychiatric hospitals benefit from access to outdoor exercise at least one hour a day unless there are medical reasons to restrict such access. In this respect, patients from both hospitals should be provided with appropriate clothes and shoes (paragraph 28);
- the Azerbaijani authorities to take urgent steps to:
  - fill the vacant posts of psychiatrists at Salyan and Ganja psychiatric hospitals, ensuring that the persons recruited are fully qualified psychiatrists;
  - ensure that the supply of medication is guaranteed at all times at Ganja and Salyan psychiatric hospitals; furthermore, efforts should be made to ensure the availability of newer generation of anti-psychotic and anti-depressant medication and a wider variety of psychotropic medication more generally;
  - render regular blood tests mandatory at both hospitals (and, as appropriate, in all other psychiatric facilities in Azerbaijan) whenever Clozapine is used; staff should be trained to recognise the early signs of the potentially lethal side effects of Clozapine;
  - ensure that adequate somatic care is provided to patients hospitalised at Salyan Psychiatric Hospital, including a proper somatic examination by a doctor within 24 hours of their admission; such somatic screening should be repeated at regular intervals;
  - develop, at both hospitals, a range of therapeutic options and involve patients in rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image. It is axiomatic that this will require the recruitment of specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers) in the two hospitals;

- draw up an individual treatment plan for each patient (taking into account the special needs of acute and long-term patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress;
- improve the quality of clinical record-keeping at both hospitals, including details of prescriptions (all medication and dosage), and any medication/treatment administered;
- enable all patients at both hospitals to engage in a range of recreational activities.

(paragraph 29);

- steps to be taken, at Ganja and Salyan psychiatric hospitals, to ensure a better allocation of patients, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment (paragraph 30);
- the approach regarding autopsies as described in paragraph 31 to be adopted and rigorously applied in all psychiatric establishments in Azerbaijan. More generally, the CPT recommends that the Azerbaijani authorities institute a practice of carrying out a thorough inquiry into every unexpected death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 31);
- inquests to be carried out into the four deaths at Ganja Psychiatric Hospital that occurred in 2013 (paragraph 31).

#### request for information

- information on the steps taken as regards the issue of re-assessing the mental status of patients at Ganja and Salyan psychiatric hospitals (paragraph 30).

### **Means of restraint and seclusion**

#### recommendations

- the seclusion rooms (“isolators”) on wards 3 and 4 at Ganja Psychiatric Hospital to be either enlarged or taken out of service. The shortcomings identified as regards the “isolator” on ward 1 should be remedied. If the isolator on ward 3 is enlarged, it should have proper access to natural light and ventilation (paragraph 33);
- the principles listed in paragraph 34 as regards resort to restraint to be applied at Ganja and Salyan psychiatric hospitals as well as in other psychiatric establishments in Azerbaijan (paragraph 34);
- the adoption of guidelines related to the use of restraint to be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated (paragraph 34);
- metal chains never to be used to restrain patients in psychiatric hospitals (paragraph 34).

## **Safeguards**

### recommendations

- the Azerbaijani authorities to take steps to ensure that the provisions of the Law on Psychiatric Assistance (LPA) on civil hospitalisation are fully implemented in practice. The Azerbaijani authorities must also ensure that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in Azerbaijan (paragraph 38);
- the following urgent steps to be taken:
  - persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently;
  - patients whose admission to a psychiatric hospital on an involuntary basis is sought should always be heard in person by the competent judge before a decision on involuntary placement is taken and this safeguard should also apply when the placement is reviewed;
  - patients concerned should receive a copy of any court decision on involuntary placement in a psychiatric hospital and be informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal;
  - involuntary psychiatric patients should have effective access to legal assistance (independent of the admitting hospital), if necessary free of charge.(paragraph 38);
- as regards Ganja and Salyan psychiatric hospitals, the legal status of all patients currently considered as voluntary to be urgently reviewed (paragraph 38);
- the Azerbaijani authorities to ensure that all patients (and, if they are legally incompetent, their legal representatives) are provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. This could be done by means of a special form for informed consent to treatment, signed by the patient or (if he/she is legally incompetent) by his/her legal representative. Relevant information should also be provided to patients and their legal representatives during treatment (paragraph 39);
- the law to be amended so as to define clearly the exceptional circumstances in which treatment can be provided without the patient's consent and the safeguards surrounding that (paragraph 39);
- a brochure on patients' rights (including information about complaints bodies and procedures, and access to legal assistance) to be drawn up and systematically provided to patients and their families on admission to all psychiatric establishments in Azerbaijan. Any patients unable to understand such a brochure should receive appropriate assistance (paragraph 40);
- the Azerbaijani authorities to facilitate psychiatric patients' access to a phone and under conditions allowing privacy, unless there is a lawful and reasoned doctor's order to the contrary (paragraph 41);

- psychiatric establishments in Azerbaijan to be regularly visited – including on an unannounced basis – by bodies which are independent of the health-care authorities and adequately staffed, with a view to assessing the level of care provided to patients in such establishments (paragraph 42).

comment

- the CPT invites the Azerbaijani authorities to carry out, as a matter of priority, a re-assessment of the mental status of the patients held at Ganja and Salyan psychiatric hospitals with a view to ensuring that such placement is still required or to discharge them and/or transfer them to a care facility adapted to their needs (paragraph 38).

**Establishments under the authority of the Ministry of Labour and Social Protection of Population**

**Preliminary remarks**

comment

- the CPT encourages the Azerbaijani authorities to pursue their de-institutionalisation policy, reducing institutional capacities while increasing the possibilities for community care (paragraph 44).

requests for information

- more information on plans to reorganise the system of homes for persons with learning disabilities and, in particular, to set up facilities enabling the de-institutionalisation of such persons and to build new facilities for mentally and physically disabled persons (paragraph 44);
- more details on the new system for financing social care homes (paragraph 44).

**Ill-treatment**

recommendations

- staff at Şamaxı Psychoneurological Boarding Home No. 1 to be regularly reminded that any form of ill-treatment of residents, whether verbal or physical, is totally unacceptable and will be punished accordingly. Further, objects such as the sticks found in a staff office should be removed immediately (paragraph 45);
- urgent steps to be taken at Şamaxı Psychoneurological Boarding Home No. 1 to protect residents from other residents who might cause them harm. This requires not only an adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by patients (paragraph 46);

- the practice of entrusting particular residents with the task of maintaining order and controlling the other residents to be stopped immediately (paragraph 46);
- objects such as the sticks found in a resident's room should be removed immediately (paragraph 46);
- the Azerbaijani authorities to carry out an effective investigation into the circumstances of the death of A. including, if appropriate, a criminal investigation, if there appears to be, for example, wilful neglect. The CPT would like to receive information on the outcome of the above-mentioned investigation(s) (paragraph 47).

comment

- the CPT trusts that a high level of vigilance will be maintained as regards the safety and care of residents at Qırıqlı Boarding Home (paragraph 48).

requests for information

- a full copy of the autopsy report on the autopsy carried out on 7 March 2012, including the results of the subsequent histological examinations (paragraph 47);
- the action taken, including any criminal investigation, following the confirmation of the facts described in paragraph 48 (paragraph 48).

**Residents' living conditions**

recommendations

- shower facilities on each accommodation floor to be maintained in an appropriate state of repair at Qırıqlı Boarding Home (paragraph 49);
- urgent steps to be taken at Şamaxı Psychoneurological Boarding Home No. 1 to improve the heating in the rooms, ensure access to water in the sanitary facilities of the third floor and maintain the sanitary facilities on the two accommodation floors in a good and clean condition, and ensure that clothes are washed regularly (paragraph 52);
- the Azerbaijani authorities to take steps in the light of the remarks made in paragraph 53 concerning both the existing facility of Şamaxı Boarding Home and the one to be built (paragraph 53).

comment

- efforts should be made to provide all residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their rooms (paragraph 52).

requests for information

- full details of the plans for a complete overhaul of Qırıqlı Boarding Home in 2014 (paragraph 51);

- detailed information on the planned refurbishments of Şamaxı Psychoneurological Boarding Home (in particular, living conditions, sanitary arrangements, availability of premises for social interaction), the envisaged staffing arrangements (numbers and qualifications) and the envisaged programmes for constructive socio-therapeutic activities and recreation (paragraph 52).
- the arrangements made to accommodate the residents of Şamaxı Psychoneurological Boarding Home during the works (paragraph 52).

### **Care of residents**

#### recommendations

- a systematic and regular evaluation of the residents' individual needs at Qırıqlı and Şamaxı boarding homes to be carried out with a view to offering them adapted psycho-social rehabilitative activities, improving their quality of life, as well as offering them resocialisation programmes preparing those who have the potential to live in the community for discharge. An individual care and rehabilitation plan should be drawn up in respect of each resident, including its goals, the psychological therapy and the social intervention needed. In this context, the employment of specialised staff (e.g. psychologists, educators, social workers) should be envisaged (paragraph 54);
- the policy of accommodating together mentally ill residents with learning disabled residents to be reviewed at Şamaxı Boarding Home in the light of the remarks made in paragraph 55 (paragraph 55);
- the approach towards the prescription and administration of medication to be reviewed in the light of the remarks made in paragraph 56. In particular, every resort to psychotropic medication must be specifically authorised by a doctor beforehand, and administration properly recorded (paragraph 56);
- all residents (and, if they are incompetent, their legal representatives) to be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the resident's informed consent to treatment prior to its commencement. This could be done by means of a special form for informed consent to treatment, signed by the resident or (if he/she is incompetent) by his/her legal representative. Every resident should be given the possibility to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Relevant information should also be provided to residents (and their legal representatives) during and following treatment (paragraph 56);
- the Azerbaijani authorities to take immediate measures to ensure that when recourse is had to Clozapine, regular blood tests be mandatory at Psychoneurological Boarding Homes No. 1 and No. 8 (and, as appropriate, in all similar establishments in Azerbaijan). It is axiomatic that such medication should only be prescribed and administered under the supervision of a psychiatrist (paragraph 57);
- the necessary steps to be taken to ensure that logbooks, registers and residents' files are rigorously maintained at both Şamaxı and Qırıqlı psychoneurological boarding homes (paragraph 58);

- urgent action to be taken to:
  - ensure that every resident is subject to a medical examination promptly upon admission at Şamaxı Psychoneurological Boarding Home No. 1;
  - improve arrangements for somatic (including dental) care for residents at Şamaxı and Qırıqlı Psychoneurological Boarding Homes, as well as basic somatic medication and related materials (paragraph 59);
- the somatic status of every resident at Şamaxı and Qırıqlı Psychoneurological Boarding Homes, as well as in all other social care institutions in Azerbaijan, to be monitored at regular intervals (paragraph 59);
- the Azerbaijani authorities to carry out an investigation into the deaths from 2010 to 2012 to establish whether there were any themes of concern relating to the quality of care that had been provided (paragraph 60);
- the approach regarding autopsies as described in paragraph 60 to be adopted at all social care establishments in Azerbaijan (paragraph 60);
- the Azerbaijani authorities to institute a practice of carrying out a thorough inquiry into every unexpected death of a resident, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 60).

#### request for information

- information on the outcome of the re-assessment of the mental status of each resident at Qırıqlı Boarding Home (paragraph 55).

### **Staff**

#### recommendations

- urgent steps to be taken to:
  - fill the vacant part-time post of general practitioner at Qırıqlı Psychoneurological Boarding Home No. 8;
  - ensure that Şamaxı Psychoneurological Boarding Home No. 1 is visited at least once a week by a psychiatrist;
  - recruit other qualified staff to provide appropriate care for the day and night residents' needs (e.g. orderlies, psychologists, educators, work therapists, and social workers) at Qırıqlı and Şamaxı Psychoneurological Boarding Homes (paragraph 62);
- steps to be taken at Qırıqlı and Şamaxı Psychoneurological Boarding Homes, in the light of the remarks made in paragraph 63 (paragraph 63).

### **Means of restraint**

#### recommendations

- the bare and unheated room found at Şamaxı Psychoneurological Boarding Home to be either properly equipped for human accommodation, or taken out of service (paragraph 64);

- the Azerbaijani authorities to take all necessary steps to ensure that the rule that seclusion of a resident is only allowed in a psychiatric facility is enforced at Şamaxı Psychoneurological Boarding Home No. 1, as well as in other social care homes in the country (paragraph 64).

request for information

- the confirmation that the bare and unheated room found at Şamaxı Psychoneurological Boarding Home would never be used for human accommodation (paragraph 64).

**Safeguards**

recommendations

- the Azerbaijani authorities to take steps to ensure that the procedure for placement of persons with learning disabilities in social care institutions complies with the requirements described in paragraph 65. In particular, such persons should enjoy the effective right to apply to a court for a prompt ruling on the legality of their placement and enjoy appropriate legal safeguards (i.e. right to a lawyer, possibility of being heard by a judge, etc.) (paragraph 65);
- in addition to an annual review of placement by the relevant medico-social expertise centre, the residents themselves to be able to request at reasonable intervals that the necessity for continued placement be considered by a judicial authority (paragraph 65);
- the legislation pertaining to guardianship to be strictly applied in respect of severely disabled persons at Qırıqlı and Şamaxı boarding homes (paragraph 66);
- the Azerbaijan authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians. Further, the Azerbaijani authorities should ensure that deprivation of legal capacity is always decided by a court (paragraph 66);
- a formal complaints system, meeting the requirements mentioned in paragraph 68, be set up at Şamaxı and Qırıqlı psychoneurological boarding homes and, as appropriate, in all other social care establishments in Azerbaijan. Further, an information brochure should be drawn up and systematically provided to residents and their families on admission to all social care establishments in Azerbaijan (paragraph 68);
- the Azerbaijani authorities to take measures to ensure that Şamaxı and Qırıqlı Psychoneurological Boarding Homes and, as appropriate, other social care homes in Azerbaijan, are regularly visited – including on an unannounced basis – by bodies which are independent of the social care authorities and adequately staffed, with a view to assessing the level of care provided to residents in such establishments (paragraph 69).

comment

- the CPT invites the Azerbaijani authorities to pursue their efforts to encourage residents' contacts with the outside world (e.g. by means of inviting voluntary visitors, NGOs, etc.) (paragraph 67).