

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 12 to 19 December 2022

This report is made public by the CPT as Appendix to the Public Statement concerning Azerbaijan.

Strasbourg, 3 July 2024

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

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EXECUTIVE SUMMARY

This visit was one which appeared to the CPT “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention) and its main objective was to examine the treatment of persons in police custody in the light of the recommendations made in the report on the 2020 periodic visit. For this purpose, the delegation visited the Pre-Trial Detention Establishment (located in Zabrat district) and several police establishments in Baku. Another objective of the visit was to examine the situation of female and juvenile sentenced prisoners. For this purpose, the delegation visited the new sites of the Penitentiary Establishment No. 4 (for women) and of the Correctional Establishment for Juveniles, both situated adjacent to the aforementioned Pre-Trial Detention Establishment.

Co-operation

In the course of the visit, the delegation enjoyed excellent co-operation from the management and staff of the establishments visited. However, as stated by the CPT many times in the past, the principle of co-operation between Parties to the Convention and the Committee 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 CPT’s recommendations. In this respect, the delegation was pleased to observe several major improvements in the two penitentiary establishments (as compared with the 2020 visit). By contrast, the Committee is extremely concerned by the fact that virtually none of its key long-standing recommendations regarding establishments under the responsibility of the Ministry of Internal Affairs have been implemented. In fact, the situation with respect to the treatment of persons in police custody has remained almost identical to the one described in the report on the 2020 visit. This deplorable state of affairs led the CPT to decide to open the procedure set out in Article 10, paragraph 2, of the Convention¹ in the course of the Committee’s 111th plenary meeting held from 3 to 7 July 2023.

Police

Many of the interviewed persons, who were or had recently been in police custody, stated that they had been treated correctly by the police. However, the delegation again received numerous allegations of severe physical ill-treatment/torture of persons currently or recently detained by the police as criminal suspects. The alleged ill-treatment/torture was mostly said to have occurred upon apprehension and, subsequently, during initial interviews by operational police officers. The aim of the physical ill-treatment/torture during initial interviews was reportedly to force the persons to sign a confession, provide other information or accept additional charges. The types of ill-treatment/torture alleged mainly included slaps, punches, kicks and truncheon or wooden stick blows to the person’s head and/or body, often while being handcuffed. The delegation also received a few allegations of truncheon blows on the soles of the feet (“falaka”).

Further, the delegation received allegations of threats (including of insertion of a bottle into the rectum and of electric shocks), as well as threats of reprisals against the persons’ relatives, including threats of criminal prosecution. In addition, several allegations were heard of police officers planting evidence and demanding payments in exchange for dropping or reducing charges. The alleged physical ill-treatment was reportedly routinely accompanied by verbal abuse.

The CPT has called upon the Azerbaijani authorities to make genuine efforts to break this “unholy alliance” between the continued resort to physical ill-treatment/torture by the police and the pervasive practice of threats, planting evidence, forced confessions and extortion. An unequivocal message from the highest political level is required to fundamentally change the approach by the police to its work and sanctions corresponding to the severity of the offence must be imposed systematically in all cases of ill-treatment/torture.

¹ "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

More generally, the Committee is extremely concerned by the virtual absence of progress regarding the implementation of its long-standing recommendations on the subject of the widespread resort to physical ill-treatment (including, on occasion, torture) by the police in Azerbaijan. The aforementioned decision to open the procedure set out in Article 10, paragraph 2, of the Convention reflects the depth of this concern.

The CPT also makes or reiterates detailed recommendations on the role of health-care professionals, prosecutors and judges in preventing ill-treatment, and on the conduct of police interviews and systematic electronic recording of those.

As regards the fundamental legal safeguards against ill-treatment by the police, especially notification of custody, access to a lawyer, access to a doctor and information on rights, the CPT's conclusion after the 2022 ad hoc visit was, most regrettably, exactly the same as after the 2020 periodic visit (and the preceding visits), namely those safeguards remained largely a dead letter and were mostly inoperative in practice. Worse still, they sometimes served *de facto* to protect the police against any accusations and shield them from accountability, instead of serving to protect the detained persons. This long-standing failure to effectively implement the safeguards against ill-treatment of detained persons is strongly suggestive of the lack of genuine political will within the Ministry of Internal Affairs and the Police leadership to protect detainees from ill-treatment, forced confessions and attempts of extortion/corruption.

As had been the case on recent visits to Azerbaijan, material conditions in the temporary detention centres (TDCs) visited were found to be on the whole adequate for the 72-hour police custody period. However, persons remanded in custody and administrative detainees could still be held for prolonged periods in TDCs. In this context, the CPT has stressed once again that conditions of detention in the TDCs are not suitable for such prolonged stays, primarily because of the nearly total absence of any activities. Furthermore, information gathered by the delegation in the course of the 2022 ad hoc visit suggests that persons continued to be frequently held in police establishments, in offices or in corridors, for periods of hours, including overnight (sleeping on chairs and sometimes handcuffed to objects such as radiators or to the furniture). The CPT has called upon the Azerbaijani authorities to put an end to this unacceptable practice.

Prisons

The delegation was pleased to report that it had not received a single allegation of physical ill-treatment of sentenced female or juvenile prisoners in the two establishments concerned; further, only a few allegations of verbal abuse were received. In general, staff-prisoner relations appeared to be fairly relaxed and the delegation heard many words of praise from the detained persons regarding the Director of both establishments. This is indeed an important and welcome finding by the delegation. It is also noteworthy that the transfer from the old sites has had a clearly positive impact on the general atmosphere in both establishments.

As for instances of inter-prisoner violence, they did occur occasionally, although they seemed to be of a low intensity and mainly of a verbal nature. It would appear that staff generally intervened adequately and promptly, although at the Penitentiary Establishment No. 4 the shortage of custodial staff meant that the response could sometimes be delayed.

The new facilities in Zabrat represented indeed a major improvement as compared with the old sites of the Penitentiary Establishment No. 4 and of the Correctional Establishment for Juveniles visited by the CPT in the past. The Committee wishes to congratulate the Azerbaijani authorities with this important achievement.

The delegation was also provided with an update on the prison construction programme. In addition to the recently-opened facilities in Zabrat, work was reportedly ongoing on several other new prisons. The CPT has called upon the Azerbaijani authorities to take decisive steps to complete the construction of all the new prisons, in particular in the light of the Committee's findings from the 2020 periodic visit and the 2017 ad hoc visit concerning the extremely poor conditions of detention in a number of existing establishments.

The delegation noted that efforts were made to engage prisoners in work, vocational training and general secondary education (in the case of juveniles), and to offer them a range of leisure activities. The impression was that any prisoner who wished so could participate in such activities. This was indeed very positive; nevertheless, the Committee has invited the Azerbaijani authorities to continue their efforts to involve more female detained persons in work and vocational training.

By contrast with the above generally positive findings, the delegation noted – similar to what had been observed during the 2020 visit – that there was no individualised approach to prisoners (such as individual needs and risk assessment, as well as individual sentence plans), and hardly any preparation for release. The CPT has reiterated its recommendation that the Azerbaijani authorities put in place individual risk and needs assessment and individual sentence plans at the Penitentiary Establishment No. 4 and at the Correctional Establishment for Juveniles (and, as applicable, in all the other penitentiary establishments).

The health-care services of the two penitentiary establishments visited appeared to be sufficiently staffed, equipped and supplied with medication and materials. Medical screening was duly performed within 24 hours from arrival, in conditions respecting medical confidentiality. However, health-care staff were still in need of more training in describing injuries. The delegation observed that there were no delays in access to primary medical care and that there was sufficient access to specialist care; further, the delegation noted a marked improvement with respect to psychiatric care and psychological assistance.

At the Penitentiary Establishment No. 4 the number of both custodial and other staff was grossly insufficient as was their presence in the accommodation and communal areas, as well as the range of specialties. The situation was better in this respect at the Correctional Establishment for Juveniles. The Committee has recommended that steps be taken to significantly increase the number and the presence of custodial staff at the Penitentiary Establishment No. 4. The CPT also recommends that both penitentiary establishments visited recruit social workers and other treatment staff.

Regarding contact with the outside world, the delegation observed that both female and juvenile detained persons could receive visits in accordance with the existing legal provisions. They also had access to a telephone and had recently been granted the possibility to have video meetings, which is a welcome improvement. However, the CPT has once again called upon the Azerbaijani authorities to amend the relevant legislation so as to ensure that all adult prisoners, irrespective of the category and regime, have the same possibility for contact with the outside world i.e. at least the equivalent of one hour of visiting time per week (and more frequently in the case of juveniles).

Disciplinary sanctions (including the placements in punishment cells, so-called “kartzers”) were not used excessively at the Penitentiary Establishment No. 4, and there was an individualised approach, underpinned by the principle of proportionality. Conditions in the “kartzers” cells were on the whole adequate too. However, the delegation noted with concern that, after the establishment had moved to its new site, the sanction of placement in a “kartzers” (referred to as DIZO, disciplinary isolator) had started being applied again at the Correctional Establishment for Juveniles. In this respect, the CPT has stressed that juveniles should never be punished with solitary confinement given that the potentially detrimental impact of solitary confinement on their physical and mental well-being is even greater in the case of juvenile prisoners. The Committee recommends that the sanction of placement in a DIZO be abolished in law and be taken out of practice for juveniles.

Despite long-standing recommendations by the CPT, the practice of using “kartzers” cells to place agitated prisoners persisted in both establishments visited. It is to be stressed that the aforementioned cells were clearly not adapted for such use. The Committee has reiterated its recommendation that this practice be stopped: agitated prisoners whose placement in isolation is necessary in order to prevent them from harming themselves or others should be placed in suitable safe premises and not in “kartzers” cells.

I. INTRODUCTION

A. The visit, the report and follow-up

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 carried out a visit to Azerbaijan from 12 to 19 December 2022. It was the Committee's 13th visit to Azerbaijan.²

2. The visit was one which appeared to the Committee “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention)³ and its main objective was to examine the treatment of persons in police custody in the light of the recommendations made in the report on the CPT's 2020 periodic visit.⁴

For this purpose, the delegation visited the Pre-Trial Detention Establishment in Zabrat⁵ and several police establishments in Baku namely the Temporary Detention Centre (TDC) of the Department for Combating Organized Crime, the TDCs of Narimanov, Nasimi and Sabayil District Police Departments and Police Station No. 22.

Another objective of the visit was to examine the situation of female and juvenile sentenced prisoners in the light of the recommendations made in the aforementioned CPT's report.⁶ For this purpose, the delegation visited the new sites of the Penitentiary Establishment No. 4 (for women) and of the Correctional Establishment for Juveniles, both located in Zabrat district of Baku.

3. The visit was carried out by five CPT members, Therese Rytter, 2nd Vice-President of the CPT (Head of Delegation), Mari Amos, Nico Hirsch, Ömer Müslümanoğlu and Asbjørn Rachlew. They were supported by Borys Wódz, Head of Division at the CPT's Secretariat and assisted by three interpreters, Fakhri Abbasov, Mehriban Aliyeva and Rashad Shirinov.

4. The report on the visit was adopted by the CPT at its 111th meeting, held from 3 to 7 July 2023, and transmitted to the Azerbaijani authorities on 2 August 2023. The various recommendations, comments and requests for information made by the Committee are set out in bold type in the present report. The CPT requests the Azerbaijani authorities to provide within three months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and co-operation encountered

5. The delegation held consultations with Fikrat Mammadov, Minister of Justice, and Fazil Guliyev, Deputy Minister of Internal Affairs, as well as other senior officials from the aforementioned Ministries, the Police and the Penitentiary Service. The delegation also met Elcin Mammadov, First Deputy Prosecutor General. Further, a meeting was held with Sabina Aliyeva, Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, and staff of the National Preventive Group.

A list of the national and other authorities with which the delegation held consultations is set out in Appendix I to this report.

² See <https://www.coe.int/en/web/cpt/azerbaijan>.

³ It was the CPT's 8th ad hoc visit to Azerbaijan.

⁴ See paragraphs 8 to 37 of document CPT (2021) 33.

⁵ Exclusively in order to interview recently-arrived remand prisoners and examine the relevant documentation related to their stay in police custody.

⁶ See paragraphs 44 to 80 of document CPT (2021) 33.

6. In the course of the visit, the delegation enjoyed excellent co-operation from the management and staff of the establishments visited, with quick access granted to all the premises and documents, and the possibility to have confidential interviews with detained persons. The delegation also appreciated the efficient assistance provided to it prior to and in the course of the visit by the Liaison Officer appointed by the Azerbaijani authorities, Khagani Hajiyev from the Ministry of Foreign Affairs.

7. As stated by the CPT many times in the past, the principle of co-operation between Parties to the Convention and the Committee 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 CPT's recommendations.

In this respect, the delegation was pleased to observe several major improvements in the two penitentiary establishments (as compared with the 2020 visit).⁷ This clearly demonstrated that, if genuinely resolved to bring about improvements in the treatment of persons deprived of their liberty, the Azerbaijani authorities could deliver impressive results.

By contrast, the Committee is extremely concerned by the fact that virtually none of its key long-standing recommendations regarding establishments under the responsibility of the Ministry of Internal Affairs have been implemented. In fact, the situation with respect to the treatment of persons in police custody has remained almost identical to the one described in the report on the 2020 visit.

This deplorable state of affairs led the CPT to decide to open the procedure set out in Article 10, paragraph 2, of the Convention⁸ in the course of the Committee's 111th plenary meeting held from 3 to 7 July 2023.⁹

8. As already mentioned in paragraph 1 above, the CPT has so far carried out 13 visits to Azerbaijan; out of 12 reports transmitted to the Azerbaijani authorities to date,¹⁰ 11 were published following the authorities' request. The Committee welcomes this.

Having said that, the Azerbaijani authorities have still not authorised the publication of the report on the CPT's periodic visit carried out in December 2020.¹¹ More generally, in recent years, both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have been encouraging the Organisation's Members States which have not done so to request the automatic publication of future CPT visit reports and related government responses.¹²

The Azerbaijani authorities are invited to authorise the publication of the present report and of the report on the CPT's 2020 periodic visit to Azerbaijan. Further, the authorities are invited to put in place the automatic publication procedure of all future CPT visit reports concerning Azerbaijan and related Government responses, subject to the possibility of delaying publication in a given case.

⁷ See paragraph 43 below.

⁸ "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

⁹ A letter informing the Azerbaijani authorities of this fact was sent on 4 August 2023.

¹⁰ This number excludes the present report.

¹¹ See <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-visits-azerbaij-8>.

¹² See, in particular, Parliamentary Assembly Resolution 2160 (2017) adopted on 26 April 2017, and Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301st meeting of the Ministers' Deputies of 29 November 2017. See also www.coe.int/en/web/cpt/faqs#automatic-procedure.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police

1. Preliminary remarks

9. The legal framework governing the custody of criminal suspects by the police has remained virtually unchanged since the 2020 visit.¹³ Pursuant to the Code of Criminal Procedure (CCP), criminal suspects may be held by the police on their own authority for up to 48 hours. Within 12 hours from the time of deprivation of liberty, the competent prosecutor must be notified of the fact of detention. Within 24 hours from the start of detention, an operational officer or an investigator must initiate a criminal case or release the suspect. By the expiry of the 48-hour period, criminal charges must be brought and, if a submission has been made by the prosecutor for the application of remand in custody, the suspect must be presented to a judge. The latter shall decide without delay whether the person concerned is to be remanded in custody, made subject to another (non-custodial) preventive measure (e.g. bail, house arrest, etc.) or released. Persons remanded in custody may not be held in a police detention facility for longer than 24 hours after the judge's decision and should be transferred to a pre-trial detention facility before the expiry of this period (which does not include the time spent transporting the person to the remand facility). Consequently, a criminal suspect may spend up to 72 hours in police custody.

10. Likewise, there had been no changes to the provisions concerning the detention of persons suspected of administrative offences (up to three hours), those suspected of an offence punishable by administrative arrest (up to 48 hours) and those sentenced to administrative arrest (up to 90 days).

The Committee must again express its concern about the last-mentioned provision, first of all because conditions of Temporary Detention Centres (TDC) are not adapted for such prolonged stays, *inter alia* because of the total lack of activities.¹⁴ **The CPT calls upon the Azerbaijani authorities to amend the Code of Administrative Offences in order to abolish the sanction of administrative arrest; pending this, the maximum term of administrative arrest should be shortened significantly.**

11. As in the past and despite the Committee's long-standing recommendation to abolish it,¹⁵ the delegation again observed the widespread practice of frequently returning remand prisoners to police custody for investigative purposes, for periods of up to 10 days in a given month (and on occasion longer).¹⁶ While in the hands of the police, persons concerned were exposed to the risk of renewed ill-treatment.

The CPT has repeatedly criticised this practice in the past and recommended that the return of remand prisoners to police establishments is sought and authorised only very exceptionally (as required by law), for specific reasons and for the shortest possible time. More specifically, the Committee had recommended that steps be taken to end completely the practice of returning remand prisoners to police establishments for further questioning (which should only take place in pre-trial detention facilities run by the Ministry of Justice). It is most regrettable that this negative practice continues.

¹³ The only recent development was the issue of the Ministerial Order (Rules for Police Officers on the Treatment of Detained or Arrested Persons) in December 2021. However, the Order did not create any new substantive provisions but merely reiterated already existing ones and consolidated them in one act.

¹⁴ See paragraph 36 below.

¹⁵ See e.g. paragraph 9 of document CPT (2021) 33.

¹⁶ For example, 14 out of the 19 persons held at the TDC of Narimanov District Police Department in Baku at the time of the delegation's visit had been brought back from pre-trial detention facilities (remand prisons), and some of them had returned to the TDC on several occasions, each time for up to 10 days. As for the TDC of Nasimi District Police Department in Baku, the analysis of the custody records revealed that approximately 30% of all the persons brought there in the course of the year 2022 (until 14 December) had been remand prisoners.

The CPT once again calls upon the Azerbaijani authorities to take resolute action to implement the aforementioned long-standing recommendations by the Committee to put an end to the practice of returning remand prisoners to police custody for investigative purposes. There can be no justification for returning remand prisoners to police facilities solely for the purpose of questioning them.

2. Torture and other forms of ill-treatment

12. Many of the interviewed persons, who were or had recently been in police custody, stated that they had been treated correctly by the police. However, the delegation again received numerous allegations of severe physical ill-treatment of persons currently or recently detained by the police as criminal suspects, including juveniles.¹⁷ The ill-treatment alleged was in several cases of such a severity that it could well be considered as amounting to torture.

The ill-treatment/torture had reportedly mostly occurred upon apprehension and, subsequently, during initial interviews by operational police officers (in some cases, also by senior officers in charge of police establishments and, more specifically, officers from the Main Drug Control Department). The aim of the physical ill-treatment/torture during initial interviews was reportedly to force the persons to sign a confession,¹⁸ provide other information or accept additional charges; in fact, those persons who told the delegation that they had not been ill-treated had reportedly immediately acceded to the demands made by police officers. This appeared to the delegation to reflect a general perception in the society as regards the behaviour of the police.¹⁹

The types of ill-treatment/torture alleged mainly included slaps, punches, kicks and truncheon or wooden stick blows to the person's head and/or body, often while being handcuffed. The delegation also received a few allegations of truncheon blows on the soles of the feet ("falaka").

13. The allegations of physical ill-treatment (including torture) received by the delegation were made independently by persons who did not have the possibility to consult each other, were detailed and consistent. Moreover, some of them were supported by medical evidence directly observed by the delegation's forensic doctor and/or were corroborated by entries in the relevant documentation examined in the establishments visited.²⁰

14. In a number of instances, the interviewed persons who alleged ill-treatment/torture had made complaints to competent authorities and expressly authorised the CPT to mention their names in the context of ongoing dialogue with the Azerbaijani authorities (including in the present report).

By way of illustration, the following cases may be cited:

- *Mr A*, interviewed by the delegation at the Pre-Trial Detention Establishment in Zabrat on 13 December 2022, alleged having been subjected to punches, kicks (on his head and abdomen) and "falaka" during approximately an hour by a group of over a dozen plainclothes operational officers of the Main Drug Control Department and of the Department for Combating Organised Crime, following his apprehension in Yevlakh on 17 November 2022. He stated that he had been handcuffed to a chair while being

¹⁷ It is noteworthy that, as in the past, no ill-treatment allegations were received concerning the custodial staff working in the TDCs visited.

¹⁸ Which, at least in some of the cases, the detained persons would reportedly be made to repeat during a subsequent, video-recorded statement (see paragraphs 14 and 19 below).

¹⁹ That is, that it was "normal" to expect being ill-treated while in police custody unless one co-operated with the police by immediately confessing or providing other statement or information.

²⁰ E.g. registers of traumatic injuries (see, however, paragraphs 17 and 50 below), individual medical records and reports sent to competent prosecutors by Directors of penitentiary establishments. In respect of the latter, at the Pre-Trial Detention Establishment in Zabrat, the delegation was informed that there had been 423 newly-arrived remand prisoners in the course of the month of November 2022. Out of this number, the Director had sent 78 reports to competent prosecutors regarding injuries observed by the establishment's doctors on the prisoners concerned upon admission; 46 of those prisoners had alleged that their injuries had been inflicted upon them while in police custody (in three of those cases, injuries described by doctors of the Pre-Trial Detention Establishment were suggestive of "falaka").

subjected to the aforementioned ill-treatment/torture, the purpose of which had reportedly been to force him to confess. The official document (“Act”) drawn up by the duty officer at the TDC of Narimanov District Police Department in Baku (where he had been brought on 18 November 2022) stated that Mr A had injuries on his left upper back, upper right and left hand, right hip and under both feet. On 21 November 2022, upon the initial medical examination at the Pre-Trial Detention Establishment in Baku, the prison doctor wrote that Mr A had injuries on his right shoulder, on the back of the left shoulder, on the back side of the right hip, on the right ankle, on the soles of both feet and on the toes of his right foot. According to the delegation’s forensic medical doctor, these injuries were consistent with Mr A’s allegations.

- *Mr B*, interviewed by the delegation at the Pre-Trial Detention Establishment in Zabrat on 13 December 2022, alleged that he had been punched, kicked and struck with truncheons (including on the soles of his feet) by a group of approximately ten plainclothes officers from the Main Drug Control Department. The ill-treatment/torture reportedly took place at the time of his apprehension on 18 November 2022, whilst lying on the floor, handcuffed behind his back and gagged with sellotape. At the police station, officers allegedly threatened that they would continue ill-treating/torturing him (and would plant drugs on his relatives) unless he agreed to sign the confession; reportedly, they also put a large quantity of drugs in front of him and pressed a gun to his head. He stated that, as a result of the aforementioned ill-treatment/torture, he had had pain in his kidneys and on his back, had had trouble standing on his feet and had had swollen hands due to prolonged and excessively tight handcuffing. Upon Mr B’s arrival at the Pre-Trial Detention Establishment in Baku, on 22 November 2022, the prison doctor documented that the detained person had numerous injuries on both side of his head (zygomatic area), right and left shoulder, back, right and left hip, both legs and left heel. According to the delegation’s forensic medical doctor, these injuries were consistent with Mr B’s allegations.
- *Mr C*, interviewed by the delegation at the Pre-Trial Detention Establishment in Zabrat on 13 December 2022, alleged having been repeatedly struck with truncheons (during approximately 1,5 hours) by eight plainclothes officers from the Main Drug Control Department following his apprehension at his home on 18 November 2022. The ill-treatment reportedly continued at the police establishment and included “falaka”, with Mr C being handcuffed and forced to lie on the floor. As he continued to refuse to confess, he was reportedly punched, kicked and struck with a truncheon and a wooden stick taken from a floor scraper. After he had finally agreed to sign, the police reportedly brought in drugs and made a video recording of him, instructing him what to say, including that the injuries (from the beatings) had been sustained in the woods as a result of a fall where he had hit his face against the trees.²¹ Upon his arrival at the Pre-Trial Detention Establishment in Zabrat, on 22 November 2022, Mr C was found to display injuries on his right shoulder, the left side of his back, the right leg, both knees and under the left eye. According to the delegation’s forensic medical doctor, these injuries were consistent with Mr C’s allegations.
- *Mr D*,²² interviewed at the Pre-Trial Detention Establishment in Zabrat on 13 December 2022, alleged that he had been apprehended at home (in the presence of his brother²³ and his children) by approximately 20 plainclothes police officers from Salyan Police Department on 12 November 2022. He acknowledged having initially resisted his arrest, which had reportedly resulted in police officers throwing him on the floor and (after he had ceased resisting and had been brought under control) punching him and striking him with truncheons over his head and torso, kicking him over his body and head, and putting a gun to his temple and threatening him with the use of firearms. Mr D was then reportedly handcuffed behind his back, painfully lifted by the handcuffs and dragged to the police vehicle, where his leg was reportedly injured by the police slamming a car door on it. Upon arrival at Salyan Police Department, bleeding and in blood-stained clothes, he was

²¹ See also paragraph 19 below.

²² See also paragraphs 19 and 21 below, referring to his video-recorded police interview.

²³ His brother had been apprehended at the same time, as a suspect in the same criminal case.

reportedly asked to sign a statement/confession, which he refused. The Department's Head then reportedly struck him with a truncheon in the corridor, as a result of which Mr D allegedly sustained further injuries including a broken tooth. Truncheon blows, administered by plainclothes operational officers, reportedly continued until he finally agreed to sign the confession. Following this he reportedly lost consciousness, the police called an ambulance, and the doctor gave him a painkiller injection. Upon Mr D's arrival at the Pre-Trial Detention Establishment in Zabrat (on 16 November 2022), a full medical examination, including an X-ray, was performed by the prison doctor, and Mr D's statement that the observed injuries had been inflicted upon arrest was recorded. A report on this subject was sent by the Director of the Pre-Trial Detention Establishment to the Prison Service and the Prosecutor's Office on the same day. When interviewed by the delegation (almost a month after his arrival at the Pre-Trial Establishment), Mr D still displayed several brownish marks on his face, forehead and lower part of his left leg, which in the opinion of the delegation's forensic medical doctor were consistent with his allegations. Mr D also showed to the delegation his trousers with old blood stains on the lower part of the trouser leg.

The Committee wishes to be informed about the outcome of investigations (both criminal and administrative) carried out into the above-mentioned cases. This should include information about the concrete investigative steps taken²⁴ and copies of all procedural decisions and forensic medical reports (together with relevant appendices such as photographs, "body charts", etc.) drawn up in the context of these cases. Further, the CPT wishes to be provided with a copy of the record made by the ambulance doctor after having examined Mr D.

15. The delegation also received allegations of threats (including of insertion of a bottle into the rectum and of electric shocks), as well as threats of reprisals against the persons' relatives, including threats of criminal prosecution.

Further, several allegations were heard of police officers planting evidence (usually drugs in a small but nevertheless criminally punishable amount, which were reportedly often "found" on detained persons during video recorded searches/interrogations carried out at a police establishment, a certain time after apprehension²⁵) and demanding payments in exchange for dropping or reducing charges.

The alleged physical ill-treatment was reportedly routinely accompanied by verbal abuse.

The CPT calls upon the Azerbaijani authorities to make genuine efforts to break this "unholy alliance" between the continued resort to physical ill-treatment/torture by the police and the pervasive practice of threats, planting evidence, forced confessions and extortion. An unequivocal message from the highest political level is required to fundamentally change the approach by the police to its work and sanctions corresponding to the severity of the offence must be imposed systematically in all cases of ill-treatment/torture.

16. More generally, the Committee is extremely concerned by the virtual absence of progress regarding the implementation of its long-standing recommendations on the subject of the widespread resort to physical ill-treatment (including, on occasion, torture) by the police in Azerbaijan. The aforementioned decision to open the procedure set out in Article 10, paragraph 2, of the Convention²⁶ reflects the depth of this concern.

The CPT expects that, in the course of its dialogue with the Azerbaijani authorities in the context of the procedure pursuant to Article 10, paragraph 2, of the Convention, the authorities will convincingly demonstrate their determination to put an end to this unacceptable state of affairs. Pending this, **the Committee once again calls upon the authorities to implement its long-standing recommendations.**²⁷

²⁴ E.g. whether and when exactly the complainants were interviewed, whether and when exactly any third parties who could shed light on the veracity of the complaints were questioned, etc.

²⁵ See e.g. the cases of Mr B and Mr C (paragraph 14 above) as well as the footage of Mr D's police interview (see paragraph 19 below).

²⁶ See paragraph 7 above.

²⁷ The texts of those recommendations are reproduced in Appendix II to this report.

17. On numerous previous occasions, the CPT has stressed the important contribution which health-care professionals working in temporary detention centres and penitentiary establishments can and should make to combating ill-treatment of detained persons, notably through a thorough examination of detained persons, methodical recording of injuries and the provision of information to prosecutorial authorities.

Unfortunately, the information gathered during the 2022 ad hoc visit shows that there had been very little improvement in this area. Medical examinations, if and when performed,²⁸ continued to be mostly superficial²⁹ and the confidentiality of such examinations was still rarely observed in temporary detention centres.³⁰

Furthermore, the delegation again observed that the medical documentation³¹ was generally far from being satisfactory; it was most often incomplete, with the description of injuries being frequently scant³² and on occasion inaccurate (e.g. as regards the location, dimensions, age and types of injuries directly observed by the delegation's forensic doctor).

As previously, health-care professionals generally did not assess the consistency between statements made by detained persons and medical findings. In short, the medical documentation seen in temporary detention centres and penitentiary establishments visited continued to be to a great extent unreliable and insufficient for forensic purposes. The only positive change as compared with the 2020 visit was that doctors working in penitentiary establishments now made much more frequent use of "body charts" for marking traumatic injuries.

As concerns the reporting of injuries to competent prosecutorial authorities, this was indeed done systematically; however, as could be seen on the example of the cases referred to in paragraph 14 above (and also in the light of the statistical information provided to the delegation, referred to in paragraph 23 below); such reports almost never resulted in any criminal sanctions.

18. In the light of the above, **the Committee calls upon the Azerbaijani authorities to finally implement its long-standing recommendations on the recording and reporting of injuries and on the relevant training for health-care staff, as set out in paragraphs 31, 34 and 35 of the report on the 2016 periodic visit.**³³ The CPT must also reiterate its recommendations regarding access to forensic medical expertise.³⁴

More generally, given the obvious absence of any real progress in this area since the previous visit, **the CPT again calls upon the Azerbaijani authorities to place health-care staff working in TDCs under the authority of the Ministry of Health. Regarding the health-care staff working in penitentiary establishments, reference is made to the comments in paragraph 50 below.**

²⁸ See paragraph 31 below.

²⁹ Persons were merely asked whether they had a health-related problem or were just requested to remove the upper clothes without fully undressing.

³⁰ Premises used for medical examinations were frequently covered by CCTV and non-medical staff had access to medical documentation.

³¹ Including the journals kept at temporary detention centres, detained persons' individual medical records at penitentiary establishments and administrative "acts" drawn up upon arrival to the latter, describing any injuries observed by health-care staff.

³² Limited to mentioning the type of injury (e.g. "bruise", "haematoma", "scratch", "swelling") but with no further detail as to the precise location, size and colour, and without the inclusion of any photographs of the injuries.

³³ See Appendix II to this report. Reference is also made to the 2022 edition of the Istanbul Protocol (https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol_Rev2_EN.pdf).

³⁴ See paragraph 36 of CPT (2016) 59. Persons who are, or have been, detained, or their lawyers, must be formally entitled to directly obtain an examination by a recognised forensic medical expert and to be issued with a certificate which has legal value in court. Naturally, the recommendation concerning the need to ensure confidentiality of medical examinations applies *a fortiori* to forensic medical examinations.

19. At the end of the visit, the delegation requested that the CPT be provided with full copies of two video-recorded police interviews, including the one of Mr D.³⁵ This was because, in his conversation with the delegation, Mr D had *inter alia* alleged having been made to repeat his forcibly extracted confession in front of video-recording devices, and to make a statement relieving the police from any responsibility for his visible injuries. The Azerbaijani authorities provided those recordings on 3 February 2023, as well as excerpts from the written transcripts of the interviews (on 6 January 2023).

The recording of Mr D's interview lends credibility to his allegation that evidence (drugs) had been planted on him by the police: the scene of Mr D removing drugs from his pocket had been filmed inside the premises of Salyan Police Department, several hours after his apprehension at home. It seems highly unlikely that Mr D would not have been searched on a number of occasions (upon apprehension at home, when taken to the police vehicle and when brought to the building of Salyan Police Department) prior to his video-taped interview. The failure to do so would represent a grave violation of standard operating procedures by the police, and could also (potentially) be highly dangerous for everyone concerned.

Furthermore, it was clearly visible on the footage that Mr D bore injuries on his face while he was interrogated (as also reported by him when interviewed by the CPT's delegation almost a month later).³⁶ In his video-recorded statement, Mr D responded to the investigator's leading questions regarding the origin of his injuries ("Did you hit [your face] while being detained?" and "Did you do it to yourself") by stating that he had inflicted these injuries upon himself prior to arrest; he followed by providing (in a short interval) two contradictory explanations as to how he had sustained his injuries ("I hit my head against the wall" and "I hit my head when falling on the ground"). The interviewing police officer did not attempt to clarify this obvious contradiction, which might suggest that he was in fact not interested in establishing the actual origin of Mr D's injuries, the only purpose of the interrogation being that of ensuring that Mr D made a video-recorded self-incriminating statement. The clear impression was that of a staged interview.

In the light of the above-mentioned elements, **the Committee refers to its request for information in paragraph 14 above and the recommendations in paragraph 20 and 21 below.**

More generally, **the CPT recommends that steps be taken to ensure that police interviews be systematically electronically recorded³⁷ in a professional and ethical manner using audio-visual equipment (with the marked date and time of the start and the end of the interview, as well as the running/elapsed time), showing continuously the entire interview room and with a mention of the names and ranks/positions of all the persons present (who should all be visible on the recording), and that they be saved in a dedicated official professional database.³⁸** This does not seem to be the case at present, as illustrated by the video footage transmitted to the Committee which was recorded on hand-held devices (likely officers' private mobile phones) and which only showed alternatively the interviewing police officers and the interviewed detained persons. It is to be added that the purpose of the aforementioned recommendation is to ensure that the electronic recording of police interviews provides an accurate and verifiable account of the whole interview process, guaranteeing transparency and enabling a thorough and lawful review.

³⁵ See paragraph 14 above.

³⁶ See paragraph 14 above.

³⁷ "Electronically recorded" means recorded with the use of audio and/or video technology, with the digital recording being authentic, accurate, unaltered and covering the interview in its entirety (i.e. starting with the responsible interviewing officer's advice of the detained person's legal rights and ending when the interview has been fully completed).

³⁸ Reference is also made to footnote 79 of the Méndez Principles on Principles on Effective Interviewing for Investigations and Information Gathering (<https://interviewingprinciples.com>): "Audio-visual recording should include both the interviewer(s) and interviewee in the video frame. A focus only on the interviewee distorts the perceptions of those who may subsequently view the video (e.g., judges or juries)."

20. The CPT has stated many times in the past that questioning of criminal suspects is a specialist task which calls for specific training if it is to be performed in a satisfactory manner. First and foremost, the precise aim of such questioning must be made crystal clear: that aim should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to obtain a confession from someone already presumed, in the eyes of the interviewing officers, to be guilty.

From the video recordings and written transcripts referred to in the paragraph above, it appeared that the interviewing investigators at Salyan Police Department had not received any training in professional interview techniques and, in particular, in investigative interviewing (or, at least, had not made use of such techniques). Instead, they seemed to focus on asking leading questions aiming at confirming the version of events assumed by the police. Such an approach would, in the Committee's view, be both unethical and ineffective (upon the understanding that collecting elements permitting to discover the truth about a criminal offence is the purpose of police work).

The delegation also spoke with investigators in police establishments visited and inquired about the interview techniques they had learned at the Police Academy. From their replies it appeared that one of the techniques was based on "lie detection" methodologies,³⁹ which are generally considered to be outdated and unreliable.

If any change is to be brought to the current, totally unsatisfactory situation (as described in paragraph 19 and above in this paragraph), provision of training in appropriate interview techniques to police officers (both those already in service and those still undergoing initial training) is absolutely indispensable. **The Committee calls upon the Azerbaijani authorities to reform the training of police officers in interviewing criminal suspects. In this context, reference is made to the 2018 Council of Europe's document "A brief introduction to investigative interviewing. A practitioner's guide"⁴⁰ and to the aforementioned Méndez Principles.⁴¹ The CPT would also like to be provided with details of the present Police Academy curriculum concerning police interviews of victims, witnesses and suspects.**

21. The Committee has stressed on several occasions that electronic (i.e. audio and/or video) recording of interviews represents an important additional safeguard against the ill-treatment of detainees.⁴²

Based on the information gathered during the 2022 ad hoc visit (interviews with detained persons,⁴³ police officers, prosecutors and senior officials of the Ministry of Internal Affairs, as well as the analysis of the two video-recorded interviews communicated to the CPT by the Azerbaijani authorities), the Committee concludes that, at least in some cases, video recording of police interviews in Azerbaijan would appear to be construed so as to serve the purpose which is exactly opposite to that mentioned above. Following physical ill-treatment (sometimes amounting to torture), threats and/or attempts of extortion, the police obliges detained persons to make false video-

³⁹ Including Paul Ekman's theory of "micro expressions" (see <https://www.paulekman.com/resources/micro-expressions/> and the technique of Neuro Linguistic Programming (NLP, a pseudoscientific approach to communication, personal development and psychotherapy, that first appeared in Richard Bandler and John Grinder's 1975 book "The Structure of Magic". NLP asserts that there is a connection between neurological processes (neuro-), language (linguistic) and acquired behavioural patterns (programming), and that these can be changed to achieve specific goals in life. There is no scientific evidence supporting the claims made by NLP advocates). It is important to stress that, when these methodologies are tested in scientific studies, none of them offer a score of correct answers above 50 percent; see e.g. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6158306/>, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3394779/> and <https://psycnet.apa.org/record/2012-27182-007>.

⁴⁰ See <https://rm.coe.int/guide-to-investigative-interviewing/16808ea8f9>.

⁴¹ See footnote 38 above.

⁴² Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated and of law enforcement officials confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of interviews also reduces the opportunity for defendants to later falsely deny that they have made certain statements.

⁴³ See paragraph 14 above.

recorded confessions, instructing them what crimes to confess to and how to explain the origins of their injuries, which have in fact been inflicted on them by the police. Such video recordings then serve as a means to document those coerced and false confessions, while at the same time shielding the police from accountability for ill-treatment. In other words, video recordings are instruments that, in these cases, lead to miscarriages of justice and facilitate impunity for the perpetrators of ill-treatment within the police.

In the light of the above, **the CPT calls upon the Azerbaijani authorities to introduce systematic full, unaltered electronic recording of all interviews (including initial questioning by operative officers), which should be used exclusively for the purpose of properly documenting all of the interviews and safeguarding persons in police custody from being ill-treated/tortured. Recorded statements must be preserved as part of the criminal case files and made available to appropriate persons (including the prosecution authorities, the courts, the detained person and/or his/her lawyer as well as those responsible for monitoring the police) according to established rules regarding access to police case files. Reference is also made to the recommendation and comments in paragraph 19 above and to paragraph 81 of the CPT's 28th General Report.**⁴⁴

22. Generally speaking, prosecutors and judges may play an important role in the prevention of police ill-treatment. Oftentimes, they are the first authorities, independent of the police, that get to see arrested persons, and in many cases shortly after their apprehension. However, from the interviews with detained persons (and also from the analysis of available documents, including reports sent to the Prosecutor's Office by the Director of the Pre-Trial Detention Facility in Zabrat regarding injuries observed on newly-arrived remand prisoners⁴⁵), it appeared that prosecutors and judges took no effective action in those few cases where the detainees dared to speak of forced confession and/or physical ill-treatment by the police.

The CPT calls upon the Azerbaijani authorities to remind the prosecutors that they have a legal obligation to take relevant action (including appropriate protective measures) whenever they have reason to believe that a person has been subjected to ill-treatment. Even in the absence of an express allegation of ill-treatment, they should initiate an *ex officio* investigation and request a forensic medical examination whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that a criminal suspect brought before them has been ill-treated. Under no circumstances should they authorise the return of a criminal suspect to police custody if there is reason to believe that the latter have ill-treated the person in question.⁴⁶

The Committee also calls upon the Azerbaijani authorities to remind judges in Azerbaijan, by the highest judicial authorities, that they should take appropriate action whenever a person brought before them alleges that he or she has been subjected to ill-treatment by the police. Even in the absence of an express allegation of ill-treatment, the judge should ensure that the relevant investigative authority is notified and, as appropriate, a forensic medical examination is promptly carried out whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred.

⁴⁴ See document CPT/Inf(2019)9-part (<https://rm.coe.int/1680942329>). Paragraph 81 of the said General Report states as follows: "The CPT has also stressed the importance of accurate recording of all police interviews (including the start and end times and the names of all persons present during the interview). The electronic recording of police interviews (with audio/video-recording equipment) has also become an effective means of preventing ill-treatment during police interviews whilst presenting significant advantages for the police officers involved. Electronic recordings should be kept securely for a reasonable period, be made available to the detained persons concerned, and/or their lawyers, and be accessible to representatives of international and national monitoring bodies (including NPMs), as well as to any officials responsible for investigating allegations or reports of police ill-treatment."

⁴⁵ See also paragraph 14 above.

⁴⁶ See also the remarks and the recommendation in paragraph 11 above.

Further, **the CPT recommends that prosecutors and judges be reminded of the need to ensure full implementation in practice of the exclusionary rule set out in Section 125 (2) (2) of the CCP.**⁴⁷ In this context, reference is also made to paragraphs 218 and 219 of the Méndez Principles.⁴⁸

23. As the CPT has stressed many times in the past, the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. During its visits to all Member States of the Council of Europe, the Committee routinely assesses the activities of the authorities empowered to conduct official investigations and bring criminal and/or disciplinary charges in cases involving allegations of ill-treatment/torture. Taking into account the findings of the 2022 ad hoc visit, the CPT deeply regrets to conclude that in Azerbaijan such activities have remained completely ineffective.

According to the information provided by senior officials from the Ministry of Internal Affairs and from the Prosecutor General's Office, there had been 1121 complaints against police officers in 2021 (for all types of misconduct, not only ill-treatment of detained persons) and 670 in first half of 2022. 525 police officers had been punished disciplinarily in the last 5 years (since 2017) and three criminal investigations had been initiated but none had resulted in any criminal sanction. In the same period, not a single indictment had been made pursuant to Section 293 of the Criminal Code (the crime of torture). The striking discrepancy between the significant number of credible allegations of police ill-treatment received, time and again, by the Committee and the complete absence of any indictment concerning the crime of torture leaves the Committee with the clear impression that effective investigations are not undertaken.

It is also noteworthy that any complaints of police ill-treatment (unless they were sent directly to the competent prosecutor) were first of all examined by the Internal Investigation Department of the Ministry of Internal Affairs, and only those cases where – according to the said Department – there was *prima facie* evidence of crime were forwarded to the Prosecutor's Office. Needless to add, the existing system amounted to the Ministry of Internal Affairs filtering complaints concerning the misconduct of its own officials.

The CPT once again calls upon the Azerbaijani authorities to take long overdue effective measures to combat impunity amongst the police, taking into account the criteria which an investigation into cases of possible ill-treatment/torture must meet in order to be qualified as “effective”, established through an abundant case-law of the European Court of Human Rights and highlighted in the CPT's 14th General Report.⁴⁹

⁴⁷ Section 125 of the CCP states as follows:

“125.1. Information, documents and other items can be accepted as evidence if there are no doubts about the authenticity, origin and circumstances of their acquisition.

125.2. Information, documents and other items obtained in the following cases are not allowed to be accepted as evidence in a criminal case:

125.2.1. In case of violation of the constitutional rights and freedoms of people and citizens, or other requirements of this Code, by depriving the participants of the criminal process of their rights guaranteed by the law or by limiting them, the authenticity of these items of evidence will be affected or may be shown in any way;

125.2.2. by using violence, intimidation, deception, torture and other cruel, inhuman or degrading actions.” Other provisions of the Azerbaijani law relevant in this context include Sections 16, 18 and 22 (3) of the Law on ensuring the rights and freedoms of individuals held in detention facilities on remand (LRFIDF).

⁴⁸ The Principles on Effective Interviewing for Investigations and Information Gathering, <https://interviewingprinciples.com>.

⁴⁹ See paragraphs 25 to 42 of CPT/Inf (2004) 28, <https://rm.coe.int/1680696a80>. In particular, the investigation should be thorough and comprehensive, it should be conducted in a prompt and expeditious manner, and the persons responsible for carrying out the investigation should be independent of those implicated in the events. Further, there should be a sufficient element of public scrutiny of the investigation or its results, including the involvement of the alleged victims in the procedures and the provision of information to the public on the status of ongoing investigations, to secure accountability in practice as well as in theory. In this regard, it is well-established through the case-law of the European Court of Human Rights that whenever a person was injured while in the hands of public officials, there is a strong presumption that the person concerned was ill-treated and the authorities' duty is to provide a satisfactory and convincing explanation of how the injuries were caused.

The Committee also recommends that the relevant provisions be amended so as to ensure that all complaints of police ill-treatment (including those received by the police and other organs of the Ministry of Internal Affairs) are automatically and immediately forwarded to the Prosecutor's Office.

3. Safeguards against ill-treatment

24. As regards the fundamental legal safeguards against ill-treatment by the police, especially notification of custody, access to a lawyer, access to a doctor and information on rights, the CPT's conclusion after the 2022 ad hoc visit was, most regrettably, exactly the same as after the 2020 periodic visit (and the preceding visits), namely those safeguards remained largely a dead letter and were mostly inoperative in practice. Worse still, they sometimes served *de facto* to protect the police against any accusations and shield them from accountability, instead of serving to protect the detained persons.

This long-standing failure to effectively implement the safeguards against ill-treatment of detained persons is strongly suggestive of the lack of genuine political will within the Ministry of Internal Affairs and the Police leadership to protect detainees from ill-treatment, forced confessions and attempts of extortion/corruption.

25. Notification of custody continued to be routinely delayed, sometimes until the first court hearing and occasionally even longer, until the person's arrival at a pre-trial detention facility; in the vast majority of cases, detained persons interviewed by the delegation stated that they had not been able to inform their relative (or another person of their choice) about their detention until after they had been interviewed and signed a statement/confession. In some cases, the families were aware of the apprehension as it had taken place at home, but family members had allegedly received no information about the place where the detained person was subsequently deprived of his/her liberty after the arrest.

It is clear that the lack of implementation of this safeguard by the police is not simply an omission. Instead, in a number of cases it appears that the lack of notification was a conscious decision by the police so as to enable them to question and ill-treat the detainee during the first hours of police custody without any interference.

The Committee calls upon the Azerbaijani authorities to take steps to end the routine failure of prompt notification of custody. In this context, the CPT once again calls upon the Azerbaijani authorities to ensure that persons deprived of their liberty by the police be accorded the right to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty (that is from the moment when they are obliged to remain with the police). The exercise of this right should always be recorded in writing, with an indication of the exact time of notification and the identity of the person who has been contacted. A waiver of the right to notify a relative or a third party should be systematically signed by the detained person if he/she does not wish to exercise that right.

Furthermore, as in the past, many detained persons interviewed by the delegation were not sure whether their relatives had been notified at all of their deprivation of liberty. **The Committee calls upon the Azerbaijani authorities to take steps to ensure that detained persons are systematically provided with feedback on whether it has been possible to notify a close relative or another person of their choice of the fact of their detention; the fact of having provided the detained person with such feedback should be recorded in writing.**

26. Access to a lawyer (almost always an *ex officio* lawyer) was again systematically delayed until after the person had confessed; in this context, the lawyer's presence would appear to amount to a mere formality aimed at providing legitimacy for the – allegedly often coerced – confession (by having the lawyer sign under the detained person's statement).⁵⁰ It is also noteworthy that, similar to what had been observed in the past, many detained persons stated that they had only been able to

⁵⁰ It is evocative in this context that many detained persons with whom the delegation spoke could not even remember the name (never mind the telephone number) of "their" *ex officio* lawyer.

meet their lawyer for the first (and frequently last) time at the court hearing on the issue of remand in custody.

This highly regrettable state of affairs, which is clearly contrary to the Azerbaijani law and international standards, becomes even more of concern when seen in the context of the allegations of torture and other forms of ill-treatment referred to in paragraphs 12 to 15 above.

The CPT again calls upon the Azerbaijani authorities to ensure that the right of access to a lawyer is effectively guaranteed to all persons as from the very outset of their deprivation of liberty.

27. As on previous visits, the delegation received numerous complaints about the role and attitude of *ex officio* lawyers; apparently, the lawyers mostly remained silent during the proceedings (both on police premises and in court) and sometimes would not even speak to the detained persons or would try to dissuade them from making any complaints. In this context, the CPT was struck by the attitude of the *ex officio* lawyer present during the video-recorded interview of Mr D (see paragraph 19 above). Indeed, the lawyer (even after having been invited by the investigator to do so) refrained from asking any questions regarding Mr D's contradictory explanations (especially about the origin of his visible injuries) and self-incriminating statements.

Clearly, the Azerbaijani system of *ex officio* legal aid to persons deprived of their liberty continues to fail to operate as a safeguard against ill-treatment by the police. **The Committee again calls upon the Azerbaijani authorities to carry out a comprehensive review of the system of *ex officio* legal assistance,⁵¹ in co-operation with the Azerbaijani Bar Association. *Ex officio* lawyers should be reminded of their key role in the prevention of ill-treatment, by attending and intervening from the outset of the deprivation of liberty, representing to the best of their ability the interests of the persons to whom they are assigned and, more specifically, taking appropriate action whenever there are indications that such persons are being (or may have been) ill-treated by the police. Steps should also be taken to promote, in the context of the initial and ongoing training of lawyers, a culture where it is regarded as unethical and unprofessional not to pursue allegations of police ill-treatment.⁵²**

28. Several detained persons alleged that the police had prevented them from contacting their own lawyer, forcing them to accept an *ex officio* lawyer chosen by the police.

While recognising in principle that, in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him or her, the CPT has serious concerns about this alleged practice in the light of the aforementioned findings concerning the role and attitude of *ex officio* lawyers. In the specific context of Azerbaijan, denying or significantly delaying a detained person's access to his/her own lawyer may *de facto* amount to a denial of effective legal assistance and depriving the person from protection against ill-treatment or even torture.

Consequently, **the Committee reiterates its recommendation that clear instructions be issued to police officers that they should never deny access of detained persons to their own lawyers; if access is delayed, specific reasons for such delay must be recorded in detail and access to another, independent, lawyer who can be trusted not to jeopardise the legitimate interests of the investigation must be arranged without delay.**

⁵¹ Taking into account aspects such as the time of appointment of *ex officio* lawyer compared with the time of apprehension, time of the lawyer's arrival at the police establishment, time of any confidential meetings with the client, legal advice provided, presence and role during the interrogation.

⁵² See also the judgment of the European Court of Human Rights of 13 May 1980 in case *Artico v. Italy*, <https://hudoc.echr.coe.int/app/conversion/docx/?library=ECHR&id=001-57424&filename=CASE%20OF%20ARTICO%20v.%20ITALY.docx&logEvent=False>.

29. Many detained persons alleged that, while in police custody, they had not been able to meet their lawyer in private; furthermore, in a few cases such meetings had reportedly taken place in the presence of the very officers who had ill-treated the detained persons concerned. The delegation also noted that rooms set aside for meetings with lawyers in some of the police establishments visited did not guarantee confidentiality of such meetings.⁵³ **The CPT reiterates its recommendation that the confidentiality of all client-lawyer consultations be ensured in all police establishments in Azerbaijan.**

30. As regards access to a doctor, despite the Committee's numerous and repeated recommendations in the past, the existing practice continued to be primarily aimed at protecting police officers against allegations of ill-treatment, rather than serving as a fundamental right of the person detained. Consequently, **the CPT reiterates once again its long-standing recommendation that persons deprived of their liberty by the police be expressly guaranteed the right of access to a doctor from the very outset of their deprivation of liberty.** The legal obligation upon police officers to provide access to medical assistance to detained persons who require it does not remove the need for such a right for the detained person.

The relevant provisions should make clear that:

- **a request by a detained person to see a doctor should always be granted; it is not for police officers, nor for any other authority, to filter such requests;**
- **a person taken into police custody has the right to be examined, if he/she so wishes, by a doctor of his/her own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense);**
- **the exercise of the right of access to a doctor is to be recorded systematically in the custody records.**

31. Bodily checks upon arrival to TDCs, usually performed by medically untrained duty officers (except at the TDC of the Department for Combating Organised Crime which employed its own medical staff) were extremely superficial and invariably ended with a note that the injuries had been sustained "prior to arrest" (which was often contradicted by the detained persons when screened for injuries upon arrival to the pre-trial detention establishment)⁵⁴. Sometimes (if injuries or other health-related issues appeared too serious in the eyes of duty officers in TDCs) detained persons would be taken to a general hospital but those examinations were almost never confidential and, with very few exceptions, the medical certificates described detained persons as "practically healthy". In this context, **reference is made to the comments and recommendations in paragraphs 17 and 18 above.**

32. As had been the case in the past, information on rights was still as a rule provided only by the investigators at the moment when the protocol of detention was drawn up, which frequently happened hours after the actual apprehension. Some persons interviewed by the delegation stated that they had not been expressly informed of their rights at any time while in police custody, as distinct from being told to sign a procedural document, enclosed with the criminal case file, which reproduced Section 90 of the CPC and which referred to some of those rights,⁵⁵ but which they had had no time to read. Others had reportedly been informed about their rights only after they had made a statement/confession or only after they had been brought to a TDC.

The Committee once again calls upon the Azerbaijani authorities to ensure that persons detained by the police are fully informed of their rights as from the very outset of their deprivation of liberty. This should be ensured by the provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (i.e. immediately upon entry into the police premises) by the provision of a written form setting out the detained person's rights in a straightforward manner. This form should be available in an appropriate range of languages. The persons concerned must be asked to sign a statement attesting that

⁵³ It was e.g. still technically possible to video and audio record lawyer-client conversations at the TDC of the Main Department for Combating Organised Crime in Baku.

⁵⁴ See e.g. the case of Mr D (paragraph 14 above).

⁵⁵ In particular, notification of custody and access to a lawyer.

they have been informed of their rights (with the indication of the precise time of arrest and of the time when information on rights was provided) and be allowed to keep a copy of the information sheet. If necessary, the absence of a signature should be duly accounted for. Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.

33. Similar to the situation observed during previous visits to Azerbaijan, the delegation received several allegations from detained juveniles, according to which they had been interviewed and made to sign documents (confessions or other statements) without the presence of a lawyer and/or another trusted person, despite the legal requirement. This was of particular concern given that some of the juveniles had alleged having been subjected to physical ill-treatment in the course of the interviews (see paragraph 12 above).

The CPT once again calls upon the Azerbaijani authorities to ensure that detained juveniles are not questioned and, in particular, do not make any statements or sign any documents related to the offence in connection with which they have been apprehended without the benefit of a lawyer and, in principle, of another trusted adult person being present and assisting the juvenile; the option “does not wish to see a lawyer” should not apply to juveniles.

The Committee also reiterates its recommendation that a specific information form, setting out the particular position of detained juveniles and including a reference to the presence of a lawyer/a trusted adult, be developed in an appropriate range of languages and given to all such persons taken into custody. Special care should be taken to explain the information carefully to ensure comprehension⁵⁶.

34. The CPT has stressed in the past that the requirement to properly record the fact of a person’s deprivation of liberty is one of the most fundamental legal safeguards against ill-treatment. In this context, the delegation observed that the quality of the various custody records in the police establishments visited was on the whole quite satisfactory, at least in the sense that they did seem to reflect the reality of the time detained persons had spent in the establishments visited (hence confirming e.g. the persistent practice of frequently holding persons for prolonged periods, including overnight, in police establishments not equipped for this purpose, see paragraph 37 below).

However, the Committee considers that the fundamental safeguards for persons in police custody would be reinforced if a *single and comprehensive custody record* were to be kept for each of these persons. In this record would be entered all aspects of custody and all measures taken in connection with it (when and for what reason(s) the custodial measure was taken; when the person arrived on police premises; when he/she was informed of his/her rights ; whether he/she showed signs of injuries, health problems, mental disorder, etc.; in which cell(s) he/she was placed; when offered food; when questioned; when he/she had contacts with and/or visits from close relatives, a lawyer, a doctor or a representative of the consular services; when transferred; when brought before a prosecutor or the relevant judge; when remanded or released, etc.). **The CPT recommends that steps be taken by the Azerbaijani authorities to put in place such single and comprehensive custody records (if possible in electronic format) in all police establishments.**

⁵⁶ Reference is made in this regard to the Recommendation Rec(2003)20 of the Council of Europe’s Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice. See also paragraph 98 of document CPT/Inf(2015)1-part rev1, “Juveniles deprived of their liberty under criminal legislation. Extract from the 24th General Report of the CPT, published in 2015” (<https://rm.coe.int/16806ccb96>).

4. Conditions of detention

35. As had been the case on recent visits to Azerbaijan, material conditions in the temporary detention centres (TDCs) visited were found to be on the whole adequate for the 72-hour police custody period, the main persisting flaw being that toilets in multi-occupancy cells were only partially partitioned (even in the recently refurbished TDCs). **The Committee reiterates its long-standing recommendation that this design flaw be eliminated.**

36. As already mentioned,⁵⁷ persons remanded in custody and administrative detainees could still be held for prolonged periods in temporary detention centres. In this context, the CPT wishes to stress once again that conditions of detention in the TDCs are not suitable for such prolonged stays, primarily because of the nearly total absence of any activities.

Regarding the practice of returning remand prisoners to police establishments, **reference is made to the recommendation in paragraph 11 above.** As regards administrative detainees, **the Committee calls upon the Azerbaijani authorities to take long overdue steps to ensure that they are accommodated in establishments specifically designed for this category of persons deprived of their liberty.**

37. Information gathered by the delegation in the course of the 2022 ad hoc visit suggests that persons continued to be frequently held in police establishments, in offices or in corridors, for periods of hours, including overnight (sleeping on chairs and sometimes handcuffed to objects such as radiators or to the furniture).

The CPT calls upon the Azerbaijani authorities to ensure that offices or corridors are not used as a substitute for proper detention facilities. Persons in police custody should never be held anywhere but on premises specifically designed and legally defined to serve this purpose.

Further, **the Committee recommends that the Azerbaijani authorities put an immediate end to the practice of handcuffing detained persons to fixed objects, such as radiators or furniture.**

⁵⁷ See paragraphs 10 and 11 above.

B. Prisons

1. Preliminary remarks

38. As already mentioned in paragraph 2 above, the delegation carried out follow-up visits to the Penitentiary Establishment No. 4 (for women)⁵⁸ and the Correctional Establishment for Juveniles in Baku.⁵⁹ However, this was the first time the CPT has visited the new sites of both establishments, opened in the Zabrat settlement in March 2022 after many years of construction.

Both establishments were adjacent (sharing a common main entrance)⁶⁰ and each was composed of administrative buildings, accommodation buildings (3 floors each), separate admission (“quarantine”) units, kitchens and canteens, buildings reserved for work, vocational training and education, visiting areas, health-care premises (with in-patient beds), spacious outdoor yards (fitted with modern sports equipment) and indoor gyms; the Penitentiary Establishment No. 4 also had a mother-and-baby unit located in a separate building. At the time of the visit, the aforementioned establishment (capacity 550) was accommodating 518 adult sentenced female prisoners⁶¹ while the Correctional Establishment for Juveniles (capacity 150) was accommodating 17 juveniles (boys aged 17 to 18⁶²).⁶³

Further, as mentioned in paragraph 2 above, the delegation went to Baku Pre-Trial Detention Facility (located in the Zabrat settlement, across the street from the two aforementioned establishments) albeit exclusively in order to speak with newly-arrived remand prisoners about their treatment while in police custody.⁶⁴

39. At the outset of the visit, the delegation was informed by senior officials from the Penitentiary Service that the total capacity of the prison system (calculated on the basis of the national legal norm of 4 m² of living space per prisoner) was 24.284 and the total prisoner population was 23.910, amounting to an overall occupancy rate of 98%.

Prison overcrowding⁶⁵ particularly affected the remand prisoner population, with 4.350 places in pre-trial establishments and 4.847 remand prisoners at the time of the visit (i.e. the occupancy rate of 114%). It is noteworthy that the Pre-Trial Detention Establishment in Zabrat (capacity 2.500) was accommodating 3.017 prisoners when the delegation visited the establishment (i.e. the occupancy rate of 121%). Although, reportedly, every prisoner had his/her own bed, there could be as little as 2 m² per prisoner in some of the cells and, according to the detained persons interviewed by the delegation, there had been periods in the recent past when prisoners had to share beds and sleep in shifts.

The delegation’s interlocutors expressed the view that this was mainly the result of the Covid-19 pandemic (with the court system having functioned at a lower rhythm due to sanitary restrictions in the course of 2020 and 2021 but having picked up speed since, which reportedly had resulted in a bigger number of persons being remanded in custody and awaiting trials on the merits of their cases) and hoped that it would be a temporary phenomenon.

⁵⁸ Previously visited in 2016 (see paragraphs 72, 73 and 98 – 101 of document CPT/Inf (2018) 35, <http://rm.coe.int/16808c5e43>) and 2020 (see paragraphs 41, 50 – 53 and 55 of document CPT (2021) 33).

⁵⁹ Previously visited in 2015 (see paragraphs 25 and 32 of document CPT/Inf (2018) 33, <http://rm.coe.int/16808c5e40>) and 2020 (see paragraphs 42, 50 – 53 and 55 of document CPT (2021) 33).

⁶⁰ And the same Director.

⁶¹ I.e. 94.2% occupancy rate.

⁶² The establishment could, legally speaking, accommodate juveniles aged from 14 to 20 (those older than 18 could benefit from a provision allowing detained persons to remain, upon their request and with the authorisation by the court, in a juvenile establishment up to the age of 20, on condition of good behaviour).

⁶³ Only one of the floors of the main accommodation building (11 cells) was in use.

⁶⁴ See paragraph 14 above.

⁶⁵ It should be recalled that Azerbaijan has the 3rd highest incarceration rate in Europe (217 inmates per 100.000 inhabitants, as of 31 January 2022). See https://wp.unil.ch/space/files/2023/06/230626_Key-Findings-SPACE-I_Prisons-and-Prisoners-in-Europe-2022.pdf.

At the same time, efforts were being made to increase the resort to non-custodial sanctions and measures (mainly electronic monitoring, introduced in 2018, with approximately 3.500 persons subjected to the measure at the time of the 2022 ad hoc visit), and to develop the Probation Service (set up in 2017, with approximately 12.000 persons on probation at the time of the visit).

The Committee calls upon the Azerbaijani authorities to pursue their efforts to reduce the prison population⁶⁶ and to ensure that the norm of 4 m² of living space per prisoner (in multi-occupancy cells, not counting the space taken by the sanitary annexe) and 6 m² in single cells is always respected in all penitentiary establishments. Further, the CPT recommends that efforts be continued to increase the resort to non-custodial measures and to develop the Probation Service.⁶⁷

Regarding, more specifically, the Correctional Establishment for Juveniles, given that it operates well below its official capacity (see paragraph 38 above), **the Committee invites the Azerbaijani authorities to give serious consideration to transferring the juveniles on remand at Baku Pre-Trial Detention Facility to the Correctional Establishment for Juveniles** (to a separate floor, in a manner ensuring separation with sentenced juveniles).

40. The delegation was also provided with an update on the prison construction programme. In addition to the recently-opened facilities in Zabrat (see paragraph 38 above), which was a welcome development, work was reportedly ongoing on several other new prisons. In particular, the construction of the new high security establishment in Umbaki, meant to replace the existing establishment in Gobustan,⁶⁸ was reportedly very advanced (some 90% of the work had already been accomplished) and it was expected that it could enter into service by the end of 2023. Work was also ongoing on the sites of the new prisons in Lenkoran (with approximately 80% of the work done) and Ganja (with about a half of the work done so far).

The CPT calls upon the Azerbaijani authorities to take decisive steps to complete the construction of all the new prisons, in particular in the light of the Committee's findings from the 2020 periodic visit and the 2017 ad hoc visit concerning the extremely poor conditions of detention in a number of existing establishments.⁶⁹ The CPT would like to be provided with updated information on the advancement of the prison construction programme in the authorities' response to this report.

The Committee also recommends that an absolute upper limit for the number of inmates (*numerus clausus*) be set for every new penitentiary establishment (as well as every existent and operational one) in order to guarantee the minimum standard in terms of living space.⁷⁰

⁶⁶ See also the Council of Europe Committee of Ministers Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2003)22 on conditional release (parole), Recommendation CM/Rec(2010)1 on the Council of Europe probation rules and Recommendation CM/Rec(2017)3 on the European Rules on community sanctions and measures. Reference is also made here to the White Paper on Prison Overcrowding, the Council of Europe's Committee on Crime Problems (CDPC), PC-CP (2015) 6 rev 7. Further, see document "Combating prison overcrowding. Extract from the 31st General Report of the CPT published on 21 April 2022", document CPT/Inf (2022) 5 – part, <https://rm.coe.int/cpt-standard-combating-prison-overcrowding/1680a64461>.

⁶⁷ See also Recommendation CM/Rec(2010)1 of the Committee of Ministers to Member States on the Council of Europe Probation Rules.

⁶⁸ Criticised by the CPT many times in the past, see e.g. paragraphs 50 and 51 of the report on the 2020 visit (document CPT (2021) 33).

⁶⁹ Especially Gobustan Prison and Pre-Trial Detention Facility No. 2 in Ganja (see paragraph 58 of the report on the 2017 ad hoc visit, document CPT/Inf (2018) 37, <http://rm.coe.int/16808c5e46>) which were both in the state of advanced dilapidation.

⁷⁰ See also paragraph 102 of the CPT's 31st General Report (document CPT/Inf (2022) 5 – part, <https://rm.coe.int/cpt-standard-combating-prison-overcrowding/1680a64461>).

2. Ill-treatment

41. The delegation was pleased to report that it had not received a single allegation of physical ill-treatment of sentenced female or juvenile prisoners in the two establishments concerned; further, only a few allegations of verbal abuse were received.⁷¹ In general, staff-prisoner relations appeared to be fairly relaxed and the delegation heard many words of praise from the detained persons regarding the Director of both establishments. This is indeed an important and welcome finding by the delegation. It is also noteworthy that the transfer from the old sites has had a clearly positive impact on the general atmosphere in both establishments.

Having said that, **the CPT recommends that the Azerbaijani authorities ensure that staff at the Penitentiary Establishment No. 4 and the Correctional Establishment for Juveniles be reminded that any form of ill-treatment of prisoners, including verbal abuse, is unprofessional, unacceptable and will be punished accordingly.**

42. As for instances of inter-prisoner violence, they did occur occasionally,⁷² although they seemed to be of a low intensity and mainly of a verbal nature. It would appear that staff generally intervened adequately and promptly, although at the Penitentiary Establishment No. 4 the shortage of custodial staff⁷³ meant that the response could sometimes be delayed.

As already stressed many times in the past, tackling the problem of inter-prisoner violence will be impossible unless the staffing levels are sufficient (including at night-time) to enable prison officers to supervise adequately the activities of prisoners and support each other effectively in the exercise of their tasks. On this issue, **reference is made to the comments and recommendations in paragraph 54 below.**

3. Conditions of detention

a. material conditions

43. The new facilities in Zabrat represented indeed a major improvement as compared with the old sites of the Penitentiary Establishment No. 4 and of the Correctional Establishment for Juveniles visited by the CPT in the past.⁷⁴

Both establishments now offered adequate living space e.g. at the Penitentiary Establishment No. 4, cells measured from 12 to 50 m² (not counting the sanitary annexe) and were accommodating three to eight female detained persons, and at the Correctional Establishment for Juveniles, cells measured approximately 20 m² (excluding the sanitary annexe) and were accommodating two to four juveniles each.

The prisoner accommodation areas were on the whole bright, airy, clean, adequately furnished (cells equipped with bunk beds with full bedding, chests, drawers, shelves, tables, chairs, fully screened sanitary annexes including a shower and a call system) and – especially at the Penitentiary Establishment No. 4 – pleasantly decorated with pictures, carpets and plants. Communal facilities were also of a good standard.

The Committee wishes to congratulate the Azerbaijani authorities on this important achievement.

⁷¹ One concerned a female custodial officer who had already been reprimanded by the Director for having addressed a female prisoner at the Penitentiary Establishment No. 4 in a disrespectful manner; another concerned a verbal altercation at the Correctional Establishment for Juveniles, in the course of which reportedly both the custodial officer and the juvenile prisoner had traded insults. The Director told the delegation that the staff member concerned had received a warning following that altercation.

⁷² As documented in the disciplinary registers and acknowledged by staff.

⁷³ See paragraph 54 below.

⁷⁴ See paragraphs 50 – 53 and 55 of the report on the 2020 visit (document CPT (2021) 33).

44. The only exceptions to the aforementioned positive impression were the “quarantine” (capacity 14) and the (otherwise excellent) mother-and-baby unit (capacity 4) at the Penitentiary Establishment No. 4, which were affected by humidity and mould.⁷⁵ The delegation was informed by the Director that they were on the top of his priority list for refurbishment; following the visit, the CPT received confirmation that such refurbishment had indeed taken place. The Committee welcomes this.

45. In both establishments visited, the delegation noted that prisoners were expected to purchase personal hygiene items (such as soap, washing powder, toothpaste, etc.) using their or their families’ financial resources, unless they were destitute and with no one to support them financially (in which case there was some possibility to receive those items for free, albeit not on a frequent or regular basis). The same was the case with diapers, baby food and clothes in the mother-and-baby unit at the Penitentiary Establishment No. 4. The Director clearly did what he could to help; nevertheless, **the Committee recommends that steps (including, as required, of legislative and/or regulatory nature) be taken to ensure that all prisoners at the Penitentiary Establishment No. 4 and at the Correctional Establishment for Juveniles (and in the other penitentiary establishments in Azerbaijan, as applicable) are provided with the aforementioned items free of charge.**⁷⁶

b. regime

46. There was an open-door regime in both penitentiary establishments visited, with detained persons being allowed to move freely across most of the territory between 7 a.m. and 9 p.m., and having access to spacious well-equipped yards (including sports grounds, fitness equipment and sheltered seating areas). Prisoners in the “quarantine” and mother-and-baby units (at the Penitentiary Establishment No. 4) as well as those placed in “kartzler” cells⁷⁷ had unrestricted access to separate small yards which were on the whole adequate; that said, the delegation observed that the yard in the mother-and-baby unit was covered from the top with a dense metallic grille, which created an unnecessarily oppressive atmosphere.

At the end of the visit to the establishment, the Director informed the delegation that the aforementioned grille had been removed. The CPT welcomes this swift response to its delegation’s observations.

47. The delegation noted that efforts were made to engage prisoners in work,⁷⁸ vocational training⁷⁹ and general secondary education (in the case of juveniles⁸⁰), and to offer them a range of

⁷⁵ There was also a “quarantine” unit at the Correctional Establishment for Juveniles (measuring approximately 36 m² and containing three single beds and other furniture such as a chest, a table, chairs and a fully screened sanitary annexe); conditions in that unit did not call for any particular comment.

⁷⁶ See also Rules 19 (5) and 19 (7) of the European Prison Rules (<https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>), Rule 64.4 of the European Rules for Juvenile Offenders (CM/Rec(2008)11, www.refworld.org/pdfid/4a7058c02.pdf), paragraph 73 of the CPT’s 30th General Report (document CPT/Inf(2021)5-part, <https://rm.coe.int/1680a3e6a3>) and <https://www.coe.int/en/web/cpt/women-in-prison>.

⁷⁷ See also paragraph 59 below.

⁷⁸ Approximately 130 female prisoners (some 25%) had a paid job (in the carpet, textile and knitting workshops, as well as in general services such as the kitchen, the bakery, the laundry and cleaning services, and the hairdresser’s and beauty salon). Juveniles were in principle not expected to work although voluntary help (maximum 8 hours per month according to the law) with maintaining order and cleanliness in the common areas (corridors, canteen, school and yard) and with distributing meals was both encouraged and rewarded.

⁷⁹ Approximately 160 female prisoners (some 30%) attended vocational training (carpet weaving, tailoring, sewing, cooking, hairdressing, accounting, IT and English) and all the juveniles did so (learning to become car mechanics, engine operators, locksmiths or barbers).

⁸⁰ All the juveniles present at the time of the visit were attending the secondary school, with tuition offered by teachers (coming from outside and employed by the Ministry of Education) on an individual basis (with subjects such as literature, history, geography, mathematics, chemistry, art, computer skills and Russian and English languages).

leisure activities (including sports,⁸¹ art, theatre, music, concerts, movie screenings, board and computer games, books, once-yearly open door/family days and – for juvenile prisoners only – accompanied group excursions to the city). The impression was that any prisoner who wished so could participate in such activities.⁸² This was indeed very positive; nevertheless, **the Committee invites the Azerbaijani authorities to continue their efforts to involve more female detained persons in work and vocational training.**

48. By contrast with the above generally positive findings, the delegation noted – similar to what had been observed during the 2020 visit⁸³ – that there was no individualised approach to prisoners (such as individual needs and risk assessment,⁸⁴ as well as individual sentence plans), and hardly any preparation for release.⁸⁵

The CPT reiterates its recommendation that the Azerbaijani authorities put in place individual risk and needs assessment and individual sentence plans at the Penitentiary Establishment No. 4 and at the Correctional Establishment for Juveniles (and, as applicable, in all the other penitentiary establishments). Prisoners should, to the extent possible, be involved in the drafting and reviewing the plans, so as to secure their commitment to the implementation of the plans and to their social reintegration. In the process of carrying out such assessment and drawing up such plans, the Penitentiary Service should co-operate with the Probation Service and relevant social services in the community at large.

4. Health-care services

49. The health-care services of the two penitentiary establishments visited appeared to be sufficiently staffed⁸⁶ (and it was reportedly planned to recruit a feldsher at the Penitentiary Establishment No. 4⁸⁷), equipped and supplied with medication and materials, the only major issue of concern being the absence of emergency equipment (Ambu bags, oxygen tubes and masks). That said, the delegation noted that oxygen was purchased and delivered before the end of the visit. The Committee welcomes this.

⁸¹ Using the indoor gyms (to play basketball, volleyball or badminton, and to practice yoga, aerobic for the women, and boxing, wrestling and weightlifting for the boys) and outdoor sports pitches (e.g. to play football).

⁸² Having said that, some of the female prisoners were engaged in both work and educational activities so the overall percentage of female prisoners involved in organised activities was somewhat lower than the simple addition of the aforementioned percentages would suggest; according to the establishment's management it was slightly below 50%.

⁸³ See paragraph 56 of document CPT (2021) 33.

⁸⁴ See e.g. United Nations Office on Drugs and Crime (UNODC) Handbook on the Classification of Prisoners (https://www.unodc.org/documents/dohadecclaration/Prisons/HandBookPrisonerClassification/20-01921_Classification_of_Prisoners_Ebook.pdf), page 7, as well as Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners, <https://pjp-eu.coe.int/documents/41781569/42171329/CMRec+%282003%29+23+on+the+management+of+life+sentence+and+other+long+term+prisoners.pdf/bb16b837-7a88-4b12-b9e8-803c734a6117> (points 12 to 17).

⁸⁵ It is noteworthy that several female prisoners interviewed by the delegation were clearly concerned about their forthcoming release, fearing that they would find no accommodation and no work, and in general would have problems reintegrating the outside community after several years of imprisonment.

⁸⁶ The Penitentiary Establishment No. 4 (population 518) had three full-time doctors (a head doctor who was a neurologist by training, a general practitioner/internist and a paediatrician) and three full-time nurses. As for the Correctional Establishment for Juveniles (population 17), the health-care team could actually be considered as being generous (at least with the current population which had reportedly never exceeded 50 since the last CPT's visit in 2020): a full-time general practitioner and a full-time feldsher. Neither of the establishments had health-care staff present at night (after 6 p.m.) and on Sundays, but a doctor and a nurse (or a feldsher) would reportedly always be on call. Further, in case of need both establishments could rely on the assistance by doctors from the Pre-Trial Detention Establishment (located across the street).

⁸⁷ After the visit the Azerbaijani authorities confirmed that the feldsher had indeed been recruited.

Further, the CPT reiterates its long-standing recommendation to ensure that someone qualified to provide first aid (which should include being trained in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator) is always present at every penitentiary establishment in Azerbaijan, including at night and on weekends.

50. Medical screening was duly performed within 24 hours from arrival (in conditions respecting medical confidentiality) and “body charts” filled in. The screening also comprised testing for tuberculosis and other transmissible diseases. Further, the TB treatment provided to prisoners continued to be fully in accordance with the relevant WHO recommendations (DOTS and DOTS+). Prisoners found to be HIV-positive were offered counselling and antiretroviral therapy.

However, health-care staff were still in need of more training in describing injuries. In this respect (and more generally, regarding the role of prison health-care staff in preventing ill-treatment and the recording and reporting of injuries observed on prisoners), **reference is made to the comments and recommendations in paragraphs 17 and 18 above. These recommendations also apply, *mutatis mutandis*, to recording and reporting any injuries resulting from inter-prisoner violence.**

51. As required by the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules, Rule 6) and the CPT standards, the initial medical assessment upon admission to women’s prisons should allow for the detection of gender-specific needs and vulnerabilities, including a history of sexual abuse and other gender-based violence (SGBV). This is essential as violence experienced before entering prison may have a direct correlation with the woman’s behaviour, and even offending behaviour.

The outcome of such gender-sensitive screening should inform the care plan drawn up for the woman so as to ensure appropriate care (e.g. psychological support or counselling) and avoid re-traumatisation. As far as the delegation could ascertain (from interviews with female prisoners and staff), no such gender-sensitive screening was performed at the Penitentiary Establishment No. 4 at the time of the 2022 ad hoc visit. **The Committee recommends that a systematic gender-sensitive screening upon admission be put in place at the Penitentiary Establishment No. 4, allowing the health care staff to detect any SGBV suffered prior to admission as well as post-traumatic stress disorder and any risk of self-harm or suicide. The findings hereof should inform the female prisoners’ individual care plans.**

While it may not be appropriate for such screening to be carried out immediately upon admission to prison out of concerns to avoid re-traumatisation, it should be factored into the admission process and take place within the first few weeks following admission.

As for the Correctional Establishment for Juveniles, the medical screening on admission did not appear to include systematic identification of victims of sexual abuse or other forms of violence.⁸⁸ **The CPT recommends that the Azerbaijani authorities take steps to ensure that there is a systematic screening of all juveniles for sexual abuse or other forms of violence (including childhood and adolescent abuse) sustained prior to admission to the Correctional Establishment for Juveniles, and that the findings hereof be taken into account in their care plans.⁸⁹ In this context, efforts should be made to create an atmosphere of trust so as to enable the juveniles to speak freely about their experience of abuse/violence.**

⁸⁸ According to the Director, most of the juvenile prisoners were reluctant to disclose any information about their childhood and any adolescent abuse.

⁸⁹ See the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), <https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf>.

52. The delegation observed that there were no delays in access to primary medical care and that there was sufficient access to specialist care, including gynaecological⁹⁰ and dental care;⁹¹ further, the delegation noted a marked improvement with respect to psychiatric care⁹² and psychological assistance.⁹³ This was particularly important given the presence of many detained persons with mental health issues (especially at the Penitentiary Establishment No. 4).

That said, the delegation was told that a project (financed by the Global Fund) consisting of offering psychological assistance to female prisoners, especially prior to release, had been discontinued. Given that there was an apparent need for such an intervention, **the Committee would like to be informed whether there are plans to restart (or replace) this project.**

53. Both establishments visited (especially the Penitentiary Establishment No. 4) accommodated detained persons with a known substance use problem, and some dedicated psychological assistance was offered to them.⁹⁴ Further, prisoners attended lectures and watched videos aimed at making them aware of the dangers represented by substance use.

Other than that, the situation in this respect had hardly changed since the CPT's previous visits, namely the approach was mostly repression-oriented, with efforts focussed on detecting drugs and other intoxicating substances entering the establishments. It was still prohibited to use methadone inside the prison system (unlike in the outside community) and prisoners who had received methadone prior to incarceration had this therapy interrupted upon arrival, which was very regrettable.⁹⁵ Further, there were still no harm-reduction measures.

The CPT again calls upon the Azerbaijani authorities to review their current policy and practice vis-à-vis prisoners with substance use problems, taking duly into account the above remarks and those set out in the Committee's previous reports.⁹⁶

⁹⁰ Female detained persons at the Penitentiary Establishment No. 4 had access to a visiting gynaecologist upon the GP's referral. In addition, both pre-natal and post-natal care were available at the establishment.

⁹¹ A dentist held surgeries twice a week at the Penitentiary Establishment No. 4 and also twice a week at the Correctional Establishment for Juveniles.

⁹² Two psychiatrists visited the Penitentiary Establishment No. 4 (one on Mondays and Fridays, another on Tuesdays and Saturdays). A psychiatrist visited the Correctional Establishment for Juveniles twice a week.

⁹³ There were three psychologists working at the Penitentiary Establishment No. 4: one working full time (every working day), another working part-time (present twice a week) and a third one who normally worked at the nearby Pre-Trial Establishment but could come to the Penitentiary Establishment No. 4 on Saturdays (if needed). As for the Correctional Establishment for Juveniles, it employed a full-time psychologist and was also visited by a second psychologist (mainly specialised in addictions, see paragraph 53 below) once a week.

⁹⁴ One of the three psychologists at the Penitentiary Establishment No. 4 had undergone training in addictology financed by the Global Fund; as for the Correctional Establishment for Juveniles, see the footnote above.

⁹⁵ See, in this context the judgment of the European Court of Human Rights in *Wenner v. Germany* (<https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-165758%22%5D%7D>) in which the Court considered that an interruption of methadone substitution therapy followed by a prisoner prior to his incarceration was a violation of Article 3 of the European Convention of Human Rights.

⁹⁶ See e.g. paragraph 63 of the report on the 2020 visit (document CPT (2021) 33): "The Committee must reiterate its view that the management of prisoners with drug dependence must be varied – eliminating the supply of drugs into prisons, dealing with drug use through identifying and engaging drug users, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on drug issues, and the provision of staff training and development – and linked to a proper national prevention policy. This policy should also highlight the risks of HIV or hepatitis B/C infection through drug use and address methods of transmission and means of protection. It goes without saying that the multi-disciplinary task of drawing up, implementing and monitoring the programmes concerned must be performed by prison staff in close co-operation with health-care personnel and other (psycho-socio-educational) staff involved. See also "Drug Dependence Treatment: Interventions for Drug Users in Prison", UN Office on Drugs and Crime, www.unodc.org/docs/treatment/111_PRISON.pdf."

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

54. At the Penitentiary Establishment No. 4 the number of both custodial and other staff was grossly insufficient (the total custodial staff complement was 51, including 20 junior guards, for a prisoner population of 518; approximately 90% of the custodial staff were female) as was their presence in the accommodation and communal areas (there was one officer and four junior guards per shift) as well as the range of specialities.⁹⁷ The situation was better in this respect at the Correctional Establishment for Juveniles (also thanks to the very low occupancy rate at the time of the 2022 ad hoc visit): it employed 16 custodial officers and three educators but, as in the case of the Penitentiary Establishment No. 4, no social worker and no other treatment staff.

The Committee recommends that steps be taken to significantly increase the number and the presence of custodial staff at the Penitentiary Establishment No. 4. The CPT also recommends that both penitentiary establishments visited recruit social workers and other treatment staff. As regards the social workers, it is important to employ them in prisons because they can perform a vital role in addressing complex social and emotional needs of prisoners, offering support, fostering positive behavioural changes and facilitating successful reintegration into society upon release.⁹⁸

55. According to the information provided to the delegation, the training that the custodial staff working at the Penitentiary Establishment No. 4 had received at the Justice Academy⁹⁹ was generic, with no particular instruction in the gender-specific needs and human rights of women. **The CPT recommends that all staff who are assigned to work with female prisoners receive training relating to the gender-specific needs and human rights of women prisoners, including in relation to women's health and their special social reintegration requirements.**¹⁰⁰

56. Also at the Correctional Establishment for Juveniles the delegation was told that custodial staff working there had not received any training on the specificities of working with juvenile prisoners.

The Committee must stress that the custody and care of juvenile prisoners is a particularly challenging task. Staff working with juveniles should be carefully selected for their personal maturity and ability to cope with the challenges of working with – and safeguarding the welfare of – this age group. More particularly they should be committed to working with young people and be capable of guiding and motivating the juveniles in their charge.

All such staff, including those with purely custodial duties, should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties. **The CPT recommends that steps be taken to provide such specific training, support and supervision to staff working at the Correctional Establishment for Juveniles.**¹⁰¹

⁹⁷ In particular, there was not a single social worker and no other treatment staff.

⁹⁸ See the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty#:~:text=Juveniles%20deprived%20of%20their%20liberty%20shall%20not%20for%20any%20reason,with%20the%20deprivation%20of%20liberty>), especially Rule 81.

⁹⁹ And the ensuing 6 months of in-service mentoring and on-the-job training.

¹⁰⁰ See also Rule 81 of the European Prison Rules. Further, as regards the role and the training of female prison staff (including in management positions), reference is made to Bangkok Rules 29 and 33 (The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, adopted by the United Nations General Assembly on 22 December 2010).

¹⁰¹ See also Rules 82 and 85 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty#:~:text=Juveniles%20deprived%20of%20their%20liberty%20shall%20not%20for%20any%20reason,with%20the%20deprivation%20of%20liberty>).

57. Regarding contact with the outside world, the delegation observed that both female and juvenile detained persons could receive short-term and long-term visits in accordance with the existing legal provisions.¹⁰² They also had access to a telephone¹⁰³ and had recently been granted the possibility to have video meetings,¹⁰⁴ which is a welcome improvement.

However, despite repeated calls from the Committee, a flawed system under which the extent of a sentenced prisoner's contact with the outside world was determined by the (court-imposed) regime under which he/she serves his/her sentence continued to exist in Azerbaijan. **The CPT once again calls upon the Azerbaijani authorities to amend the relevant legislation so that the regimes under which detained persons serve their sentences are determined by the prison administration (and not by the sentencing court) and are subjected to periodic review based on individual risk and needs assessment. Further, all adult prisoners, irrespective of the category and regime, should have the same possibility for contact with the outside world i.e. at least the equivalent of one hour of visiting time per week.**

As concerns juvenile inmates, the Committee wishes to stress that the active promotion of good contact with the outside world can be especially beneficial for them given that many juveniles deprived of their liberty may have behavioural problems related to emotional deprivation or a lack of social skills; consequently, their visiting entitlement should be more generous than for adult prisoners (i.e. in any case, more than one hour every week).

Further, **the CPT reiterates its recommendation that consideration be given to adopting a flexible approach as regards visits to the Penitentiary Establishment No. 4 and the Correctional Establishment for Juveniles and, in particular, to providing the possibility for combining visit entitlements into one or two longer sessions.** In this context, reference is made to the United Nations Bangkok Rule 26: "Women prisoners' contact with their families, including their children, [...] shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes."¹⁰⁵

The Committee also invites the Azerbaijani authorities to consider introducing the possibility of granting home leave to female prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.¹⁰⁶ A similar approach should be adopted vis-à-vis juvenile prisoners.¹⁰⁷

¹⁰² The visiting entitlement had not changed since the 2020 visit: female prisoners could, depending on the regime, receive between one and four short-term (4 hours maximum) visits per month, and between two and four long-term (up to 72 hours) visits per year. Juvenile prisoners could, depending on the regime, receive between two and four short-term visits per month, and between three and eight long-term visits per year. In both cases the Director could authorise additional visits as reward for good behaviour.

¹⁰³ At least two calls of 15 minutes maximum per week. Calls were free of charge if a fixed number was called; if a mobile number was called there was the call-back option (which was not for free but the amount to pay was reportedly very small).

¹⁰⁴ Twice per week.

¹⁰⁵ See <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial>.

¹⁰⁶ See also Bangkok Rule 45.

¹⁰⁷ See Rule 59 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty#:~:text=Deprivation%20of%20the%20liberty%20of,his%20or%20her%20early%20release>.

58. The Committee is concerned by the fact that short-term visits in penitentiary establishments visited continued to routinely take place under closed conditions (through glass), unlike in the case of long-term visits. The CPT accepts that, in certain cases and for a certain amount of time, it may be justified, for security-related reasons or in order to prevent the spread of transmissible diseases, to prevent physical contact between prisoners and their visitors. However, open visits (e.g. with prisoners and their visitors sitting around a table) should be the rule and closed visits the exception, for all legal categories of prisoners.

The Committee once again calls upon the Azerbaijani authorities to implement its long-standing recommendation that conditions in the visiting facilities of all penitentiary establishments in Azerbaijan be reviewed so as to ensure that, as a rule, short-term visits take place under open conditions.

59. Disciplinary sanctions (including placements in punishment cells, so-called “kartzers”) were not used excessively at the Penitentiary Establishment No. 4,¹⁰⁸ and there was an individualised approach, underpinned by the principle of proportionality.¹⁰⁹ Conditions in the “kartzers” cells were on the whole adequate too.¹¹⁰

However, the delegation noted with concern that, after the establishment had moved to its new site, the sanction of placement in a “kartzers” (referred to as DIZO, disciplinary isolator) had started being applied again at the Correctional Establishment for Juveniles.¹¹¹ In this respect, the CPT wishes to stress that juveniles should never be punished with solitary confinement¹¹² given that the potentially detrimental impact of solitary confinement on their physical and mental well-being is even greater in the case of juvenile prisoners. **The Committee recommends that the sanction of placement in a DIZO be abolished in law and that, meanwhile, the recourse to this sanction be stopped in practice.**¹¹³

60. Further, the delegation observed that there were still insufficient safeguards in place in the context of the disciplinary procedure: there was no systematic oral hearing of the prisoner, no information on the right to appeal, no possibility to call witnesses or obtain legal assistance, and prisoners were not given a copy of the disciplinary decision or were only given such a copy briefly, without sufficient time to read it. **The CPT recommends that the above-mentioned procedural safeguards be introduced and applied systematically in the two penitentiary establishments visited and, *mutatis mutandis*, in all the other prisons in Azerbaijan.** In addition, **the Committee reiterates its recommendation that the Azerbaijani authorities review the disciplinary procedure in order to ensure that the prisoners concerned (i) are informed in writing of the charges against them, (ii) are given reasonable time to prepare their defence, and (iii) have the right to cross-examine evidence given against them.**

¹⁰⁸ There had been 32 placements in a “kartzers” at the Penitentiary Establishment No. 4 between 1 January and 15 December 2022, most of them for 2 to 5 days (the maximum period permitted by law being 10 days).

¹⁰⁹ As a rule, detained persons would first receive a warning, then a reprimand and only if their behaviour would not change, the sanction of placement in a “kartzers” would be resorted to.

¹¹⁰ The “kartzers” at the Penitentiary Establishment No. 4 measured approximately 16 m² (not counting the fully-screened sanitary annexe), was clean, well-lit and ventilated and equipped with 2 bunk beds with bedding, a table and chairs. The DIZO cell at the Correctional Establishment for Juveniles measured some 30 m² and contained a single bed (with bedding), a table and a chair, and a fully-screened sanitary annexe (including a shower). Disciplinary cells in both establishments had adjoining small yards to which detained persons placed in the cells had unrestricted access during the day.

¹¹¹ Following an interruption since 2018 (after CPT had criticised the practice in its report on the 2015 ad hoc visit, see paragraphs 8 and 62 of document CPT/Inf (2018) 33, <http://rm.coe.int/16808c5e40>), there had been 5 placements between 1 January and 15 December 2022, only one of which had been for 7 days (the legal maximum) and the remaining four for 3 to 5 days.

¹¹² See also the European Prison Rules (Rule 60.6.a) and UN Standard Minimum Rules on the Treatment of Prisoners (Rule 45 (2)).

¹¹³ See also Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty#:~:text=Deprivation%20of%20the%20liberty%20of,his%20or%20her%20early%20release>.

61. Some of the female prisoners interviewed by the delegation at the Penitentiary Establishment No. 4 alleged that they had not been allowed visits and telephone calls while serving their disciplinary sanction of placement in a “kartzler” cell. Were this to be true, such a practice would be unacceptable.

The CPT wishes to stress that a disciplinary punishment should never involve a total prohibition on contact with the outside world. Further, under no circumstances should visits between a prisoner and his/her family be withdrawn for a prolonged period. **The Committee recommends that steps be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition of family contacts¹¹⁴ and that any restrictions on family contacts as a form of punishment are used only where the offence relates to such contacts.**

62. According to the information gathered by the delegation at the Penitentiary Establishment No. 4 and the Correctional Establishment for Juveniles, prisoners placed in the “kartzler” (or DIZO) cell would not be seen by health care staff, either immediately after their placement or at any time during their stay in the aforementioned cell. The Director told the delegation that doctors or nurses (or the feldsher) would sometimes see the prisoner through the hatch in the cell door. **The CPT recommends that the Azerbaijani authorities ensure that a member of the health-care staff visits a prisoner immediately after placement in a “kartzler” and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. Seeing prisoners through a hatch in the door is not acceptable.**

63. Despite long-standing recommendations by the CPT,¹¹⁵ the practice of using “kartzler” cells to place agitated prisoners persisted in both establishments visited. It is to be stressed that the aforementioned cells were clearly not adapted for such use (e.g. due to the presence of sharp edges and breakable furniture). **The Committee reiterates its recommendation that this practice be stopped: agitated prisoners whose placement in isolation is necessary in order to prevent them from harming themselves or others should be placed in suitable safe premises and not in “kartzler” cells.**

Further, as already stressed in the past,¹¹⁶ every placement of agitated prisoners in suitable safe premises (and not “kartzler” cells) should receive prior authorisation from a doctor or be immediately brought to the attention of the doctor in order to seek his/her approval. Placement should last only until the prisoner concerned has calmed down (i.e. no more than a few hours, save in very exceptional circumstances). Any prisoner who remains in the state of agitation in excess of a few hours should be medically reviewed with a view to transferring him/her to an appropriate health-care facility.

64. A few of the juveniles interviewed by the delegation alleged that detained persons who committed disciplinary offences could receive an (informal) punishment of having to clean the yard. **The CPT would like to receive the Azerbaijani authorities’ observations on this subject.¹¹⁷**

65. As regards security, the delegation was pleased to note that “special means” (e.g. truncheons, handcuffs and pepper spray) were never used in the two establishments. However, the delegation was concerned that newly-arrived juveniles were routinely strip-searched in a manner contrary to the Committee’s standards which stipulate that strip searches should only be carried out based on an individual risk assessment, that prisoners should (as a rule) not be required to remove all their clothes at the same time (they should be allowed to remove clothing above the waist and redress before removing further clothing) and that a request to squat during a strip search should also be exceptional and based on an individual assessment. **The CPT recommends that steps be taken to modify the procedure regarding strip searches accordingly.**

¹¹⁴ See also Rule 60(4) of the European Prison Rules.

¹¹⁵ See e.g. paragraph 73 of the report on the 2020 visit (document CPT (2021) 33).

¹¹⁶ See paragraph 129 of the report on the 2016 visit, document CPT/Inf (2018) 35, <http://rm.coe.int/16808c5e43>.

¹¹⁷ See also Rule 70 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty#:~:text=Deprivation%20of%20the%20liberty%20of,his%20or%20her%20early%20release>.

66. Turning to the complaints procedures, there had been no change since the previous visits: prisoners were, in principle, entitled to submit complaints *inter alia* to the prison Director, the Penitentiary Service, the Ministry of Justice, the prosecutor and the Commissioner for Human Rights (Ombudsperson). Information on this subject was posted on the walls inside communal areas; however, prisoners were not given this information in a form of a brochure. **The Committee reiterates its recommendation that an information brochure be supplied to all prisoners upon their arrival, describing in a straightforward manner the main features of the prison's regime, prisoners' rights and duties, complaints procedures, basic legal information, etc. This brochure should be translated into an appropriate range of foreign languages.**

67. Monitoring visits to penitentiary establishments continued to be carried out by staff of the National Preventive Mechanism Department of the Office of the Commissioner for Human Rights (hereafter referred to as the NPM). Further, penitentiary establishments were visited on a regular basis by representatives of the International Committee of the Red Cross.

However, the delegation was informed that no written feedback was provided to the management of establishments visited by the NPM unless some violation was found by the monitors. **The CPT invites the Azerbaijani authorities to encourage the NPM to provide such written feedback to the management after every visit to a penitentiary establishment.**

**APPENDIX I:
LIST OF THE NATIONAL AND OTHER AUTHORITIES
WITH WHICH THE DELEGATION HELD CONSULTATIONS**

Ministry of Justice

Fikrat Mammadov	Minister
Elchin Gasimov	Head, Strategic Planning and Monitoring Department
Aynur Sabitova	Head, Human Rights and Communication Department
Adil Abilov	Head, International Cooperation Department
Rafail Mehdiyev	Acting Head, Medical Department
Iftikhar Gurbanov	Deputy Head, Medical Department
Malik Alakbarov	Head, Inspectorate for Supervision over Execution of Punishments
Vugar Aghayev	Deputy Head, Inspectorate for Supervision over Execution of Punishments
Orkhan Gasimov	Deputy Head, Penitentiary Service
Vugar Abishov	Head, Organisational-Supervision Department, Penitentiary Service
Mirsalah Seyidov	Head, Operational-Regime Department, Penitentiary Service
Mehman Sadygov	Head, Public Relations Department, Penitentiary Service

Ministry of Internal Affairs

Fazil Guliyev	Deputy Minister
Oktay Karimov	Deputy Minister
Arzu Dashdamirov	Head, Main Criminal Investigation Department
Nurullah Mammadkhanli	Head, Main Guarding Department
Zaur Hasanov	Head, Public Relations Department

Prosecutor General's Office

Elcin Mammadov	First Deputy Prosecutor General
Huseyaga Alikhanov	Head, International Legal Co-operation Department
Natiq Abdullayev	Head, Department for the Control of Implementation of Laws in the Investigative and Operational-Search Activities in Internal Affairs Bodies
Fazil Hasanaliyev	Head, Investigation Control Department
Nemet Avazov	Head, Investigation Department
Yasin Mammadov	Senior Investigator for Particularly Important Cases, Investigation Department

Office of the Commissioner for Human Rights (Ombudsman)

Sabina Aliyeva	Commissioner for Human Rights
Aydin Safikhanli	Head of the Ombudsman's Office
Rashid Rumzada	Deputy Head of the Ombudsman's Office, head of National Preventive Group (NPG)
Vugar Heydarov	Head of the Department for Prevention of Torture, member of NPG
Raida Amirbayova	Head of the Monitoring Unit, Department for Prevention of Torture, member of NPG
Aflatun Bakhishov	Senior Adviser, Monitoring Unit, Department for Prevention of Torture, doctor, member of NPG
Ulkar Hasanova	Lead Advisor, psychologist, member of NPG

**APPENDIX II:
CPT'S LONG-STANDING RECOMMENDATIONS REGARDING ILL-TREATMENT OF
PERSONS IN POLICE CUSTODY**

Paragraph 23 of the report on the 2016 visit:¹¹⁸

“The CPT calls upon the Azerbaijani authorities to ensure that the Ministry of Internal Affairs and other relevant structures (e.g. the State Security Service, the State Border Service and the Prosecutor’s Office) adopt detailed instructions from the most senior level reiterating to all staff, in particular operational officers and investigators, of their obligations in relation to the treatment of persons in their custody. These instructions must be guided inter alia by the general principles enshrined in the European Code of Police Ethics.”¹¹⁹

In particular, it should be made clear to all law enforcement officials that:

- i) they will be held accountable for having inflicted, instigated or tolerated any act of torture or other form of ill-treatment, irrespective of the circumstances and including when the ill-treatment is ordered by a superior. Every law enforcement official should have a clear understanding that deliberate physical ill-treatment of detained persons, whatever its severity, is a criminal offence.***

Where appropriate,¹²⁰ ***a public declaration should be adopted at the highest political level, namely at the level of the President of the Republic of Azerbaijan;***

- ii) they should ensure that any person coming under their responsibility is subjected to a forensic medical examination whenever there are grounds (e.g. visible injuries) to believe that ill-treatment may have occurred;***
- iii) treating persons in custody in a correct manner and reporting any information indicative of ill-treatment by colleagues to the appropriate authorities is their duty and will be positively recognised.***

In this context, the Committee reiterates its recommendation to adopt “whistle-blower” protective measures. This implies the development of a clear reporting line to a distinct authority outside of the directorate or agency concerned as well as a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice.

The CPT also reiterates its long-standing recommendation that the Azerbaijani authorities deliver to police staff and other law enforcement officials the clear message that abusing their position in order to obtain money from detained persons will be the subject of severe sanctions.”

Paragraph 25 of the report on the 2016 visit:

“The Committee strongly reiterates its recommendation to place more emphasis on a physical evidence-based approach, notably through initial and in-service training of operational officers and investigators. In particular, training in the seizure, retention, packaging, handling and evaluation of forensic exhibits and continuity issues pertaining thereto should be further developed. Investments should also be made to ensure ready access to evidence collection tools, such as DNA technology and automated fingerprint identification systems.

¹¹⁸ Document CPT/Inf (2018) 35, <http://rm.coe.int/16808c5e43>.

¹¹⁹ Recommendation Rec (2001) 10 of 19 September 2001 of the Committee of Ministers of the Council of Europe.

¹²⁰ For instance, when a particularly serious case of ill-treatment by police or other law enforcement officials comes to light.

The Committee also recommends that the Azerbaijani authorities take steps to: i) end the practice of operational officers seeking “voluntary” (self-)incriminating statements prior to questioning by investigators; ii) deliver the clear message that the fabrication of evidence is a serious offence and will be punished accordingly; iii) ensure that interviews are as a rule conducted by no more than two interviewers, in rooms specifically equipped and designed for the purpose, for no more than two hours at a time; iv) ensure an accurate recording of all interviews (including any interviews with potential criminal suspects before a protocol of detention is drawn up), which should be conducted with electronic recording equipment (audio- and video recording);¹²¹ v) implement a system of ongoing monitoring and systematic review of interviewing standards and procedures.”

Reference is also made here to the document CPT/Inf (2019) 9-part, “Preventing police torture and other forms of ill-treatment – reflections on good practices and emerging approaches” (Extract from the 28th General Report of the CPT, published in 2019).¹²²

Paragraph 31 of the report on the 2016 visit:

“The Committee must reiterate its view that a clear distinction must be made between, on the one hand, the administrative procedures followed when detained persons are handed over to the custody of a temporary detention centre or a pre-trial detention facility and, on the other hand, the thorough medical examinations which should follow.

It is essential that, during the above-mentioned administrative procedures, health-care staff are as a rule not directly involved in the initial procedure of handover of custody and that detained persons found to display injuries on admission are not immediately questioned about the origin of those injuries. Nevertheless, any injuries observed during the procedure of handover should be recorded by the receiving officer and the record immediately brought to the attention of the health-care professionals, together with any photographs of injuries taken.

Consequently, the CPT calls upon the Azerbaijani authorities to take steps to ensure that:

- **health-care professionals are as a rule¹²³ not directly involved in the administrative procedure of handover of custody of detained persons to a temporary detention centre or pre-trial detention facility;**
- **persons found to display injuries on their admission are not questioned by anyone about the origin of those injuries during the above-mentioned handover procedure;**
- **the record made by the receiving officer, and any photographs taken, of injuries during the handover-of-custody procedures are forwarded without delay to health-care professionals;**
- **all persons admitted to temporary detention centres and pre-trial detention facilities are properly interviewed and thoroughly examined by qualified health-care staff as soon as possible, and no later than 24 hours after their admission;¹²⁴**

¹²¹ See also paragraph 32 below.

¹²² Available on the CPT’s website (<https://www.coe.int/en/web/cpt/preventing-police-torture>).

¹²³ Naturally, a health-care professional should be consulted immediately whenever a newly-arrived detained person requires urgent medical assistance or if there are doubts as to whether the state of health of the person concerned is compatible with admission to a temporary detention centre or a pre-trial detention facility.

¹²⁴ In the case of temporary detention centres without on-site health-care staff, this requirement could be met by having recourse to medical emergency services.

- *the same approach is adopted each time a person returns to a temporary detention centre or pre-trial detention facility after having been taken back to the custody of a law enforcement agency for investigative purposes (even for a short period of time);¹²⁵*
- *all medical examinations (whether they are carried out in temporary detention centres or pre-trial detention facilities) are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of staff not carrying out health-care duties.”*

Paragraph 34 of the report on the 2016 visit:

“The Committee calls upon the Azerbaijani authorities to take further action to ensure that:

- *the record drawn up following the medical examination of a detained person in a temporary detention centre and pre-trial detention facility contains: (i) an account of statements made by the person in question which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination; (iii) the health-care professional’s observations in the light of i) and ii), indicating the consistency between any statements made and the objective medical findings; this record should take fully into account any attestation of injuries observed upon admission during the procedure of handover of custody;*
- *the record also contains the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;*
- *the recording of the medical examination in cases of traumatic injuries is made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, all injuries should be photographed in detail and the photographs kept, together with “body charts” for marking traumatic injuries, in the detained person’s individual medical file. This should take place in addition to the recording of injuries in the special trauma register;*
- *the results of every examination, including the above-mentioned statements and the health-care professional’s conclusions, are made available to the prisoner and his/her lawyer;*
- *special training is provided to health-care professionals working in pre-trial detention facilities (and, whenever relevant, temporary detention centres). In addition to developing the necessary competence in the documentation and interpretation of injuries as well as ensuring full knowledge of reporting obligations and procedures, that training should cover the technique of interviewing persons who may have been ill-treated;*
- *law enforcement and custodial staff having no health-care duties only have access to medical information strictly on a need-to-know basis, with any information provided being limited to that necessary to prevent a serious risk for the detained person or other persons. There is no justification for giving staff having no health-care duties access to information concerning the diagnoses made or statements concerning the cause of injuries.”*

¹²⁵ This obligation (concerning pre-trial detention facilities) is already set out in law but frequently ignored in practice.

Paragraph 35 of the report on the 2016 visit:

“The Committee recommends that health-care professionals be instructed to inform detained persons of the existence of the reporting obligation, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the relevant authority is not a substitute for the lodging of a complaint in a proper form.

It would also be advisable for the health-care professionals concerned to receive, at regular intervals, feedback on the measures taken by the prosecutorial authorities following the forwarding of their reports. This could help to sensitise them to specific points in relation to which their documenting and reporting skills can be improved and, more generally, will serve as a reminder of the importance of this particular aspect of their work.”