

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

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."

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.

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 “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. 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 “kartzler” cells.