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# Responses of the Azerbaijani Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Azerbaijan

## from 24 November to 6 December 2002

The Azerbaijani Government has requested the publication of these responses. The report of the CPT on its November/December 2002 visit to Azerbaijan is set out in document CPT/Inf (2004) 36.

Strasbourg, 7 December 2004

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# Interim response of the Azerbaijani Government

# Preliminary replies of the Government of the Republic of Azerbaijan concerning the CPT report on Azerbaijan

***Ministry of Internal Affairs***

The recommendations set out in the Report concerning Azerbaijan adopted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) have been examined.

As pointed out in the report, in recent years some measures have been taken by the Ministry of Internal Affairs in this line with a view to improve police activities in the field of protection of human rights and freedoms and additional action plan has been worked out and is carried out step-by-step to harmonize the police activities with relevant international standards, including the recommendations of UN Committee against Torture and International Amnesty Organization.

Follow to the state policy carried out by Azerbaijan Republic, as well as principle of that the human element is essential in the community, for the purpose of the protection of human rights and freedoms strong organizational and practical measures were carried out and are continued by the Ministry of Internal Affairs in divisions and establishments subordinated to it.

Constitutional principles of protection of human rights and freedoms as a main aim of the state set out in all laws of the state also envisaged in the regulations of MIA of Azerbaijan Republic and special attention to provide the police activities in particular on this basis are taken into consideration.

It should be noted that all necessary measures to regulate police-and-national relationship in respect of legal and ethical norms are taken; moreover, law compliance and respect to human rights and freedoms of persons brought to, and/or remanded in custody and during the administrative arrest are strictly verified.

In this respect, as early as 04/03/2000 Orders 80, 81 and 82 of MIA were issued, envisaging the strengthening of lawfulness among staff and personnel, the providing of compliance with the rights of detained persons, the improvement of their detention conditions and providing the supervision of law compliance in the said area. The same Orders also envisage the rules of maintenance of the rights of detained and arrested persons by the police.

Instruction on protection of temporary detained persons in the police temporary detention centers and their accompaniment and Internal disciplinary rules in the police temporary detention centers were drawn up and approved by the Order of 06/11/2001.

At the doorway of police stations and in the hall of on-duty police divisions it had been placed special tables reflecting the extractions from the Constitution and other relevant laws of Azerbaijan Republic, personal information (addresses and location) of lawyers with a view to provide an explanation for persons brought to custody, detained and arrested by the police of their rights and the rules of their realization.

According to the Criminal Procedure Code of Azerbaijan Republic and the Code of Administrative Offenses, each person being brought to police for suspected of a crime commitment or for the commission of administrative offence has the right to inform his/her close relatives of their situation, the right of access to a lawyer, to a doctor, to pass through medical examination and other rights as from the very outset of his/her deprivation. From this point of view, their rights shall be explained in writing and they shall sign the notification on its receiving.

According to the provisions of the Article 399 of the Code of Administrative Offenses, administrative arrest of a person who has committed an administrative offence shall not last more than 3 hours. In this case shall be formalized protocol on administrative arrest of a person and he/she shall be informed in writing on aforementioned rights.

Within the Ministry operative control mechanism were created by collaborators dealing with the law and human rights compliance. In connection with law violations and non-compliances with human rights the conduction of impartial internal investigations and use of strict measures in respect of culpable collaborators are provided.

As a result of measures taken in this line, in a period of 2002 and the last period of current year various dissuasive discipline measures were taken in respect of 186 collaborators for violation of human rights and freedoms (including 5 - for beating, 58 – for unreasonable detention, 27 – for motiveless bring to police, 7 – for unlawful search etc.) 10 man had been relieved from their duties and 27 dismissed from service. During the same period the cases of torture by police officers with a view to obtain information or to compel to confess were not displayed.

Moreover, taking into consideration the CPT view, we should inform that in a period of 2002 and the last 10 months of current year 110 criminal cases dealing with resistance were initiated against police officers, at the same period 153 police officers were bodily injured.

Community on regular basis are informed on the activities of police authorities by Press-service of the Ministry and publishing bodies of MIA such as “Mübariz keşikdя”, “Яsgяr”, “Polis” newspapers, as well as with the support of other mass-media outlets of the country with a view to provide openness in the field of combating crimes, ensuring the public order and public security. With the same end, various programs are organized by Press-service of MIA in the Azerbaijan State Tele and Radio Broadcasting Agency and private TV and radio companies such “ANS”, “Space” and Interstate TV Company “Mir”.

Instruction on protection of persons remanded in temporary detention establishments and their accompaniment, which was agreed with the Prosecutor Office and Ministry of Health of Azerbaijan Republic had been worked out.

In January – March of 2003 Ombudsman of Azerbaijan Republic visited temporary detention centers of police divisions in Shamakhi, Shaki, Jalilabad, Bilesuvar, Masalli, Lenkoran, Quba, Devechi, Siyesen, Ismayilli and Aksu regions with a view to determine the conditions of detention and maintenance of persons holding there. Additional measures have been taken to eradicate shortcomings and insufficiencies determined during the examinations. For improvement the medical, legal, social conditions and nourishment of suspects and accused persons holding in temporary detention centres 321 million manats in 2002 and 471 million manats in current year were allocated, and for reconstruction works 35 million manats in 2001, 83,5 million in 2002 and 156 million in 2003 were allocated.

At present construction of new detention centers that meet the requirements of international standards in Azizbeyov, Chatai, Narimanov, Nasimi, Yasamal and Binagadi regions of Baku city, as well as in Zagatala, Sabirabad and Lenkoran regions of the country were completed and will be put into operation as soon as possible.

Temporary detention centers (in total 20) in Ganja, Bilesuvar, Sabirabad, Imishli, Kurdamir, Ismailli, Kabala, Absheron regions, as well as temporary detention center of the Department for Combating Organized Crimes had been repaired in accordance with new standards and put into operation, and in other 17 police divisions relevant measures in these directions are carried out.

Furthermore, based on international standards the improvement of the functions of the Division for Control the Services in Temporary Detention Centres established within the structure of Main Public Security Department of MIA is provided to harmonize the activities of temporary detention centres of police divisions with international regulations, to strengthen control and attention over there.

"Human Rights" courses organized in Police Academy with a view to study in-depth the legislation concern human rights, including international regulations in this respect. Courses on Police and Human Rights which provides for 40 hours lectures were added with additional 4 hours with a view to study the requirements of the provisions of UN Convention against Torture, Inhuman or Degrading Treatment or Punishment and other legislative regulations.

Thus, all provisions of the recommendations of the CPT Report for Azerbaijan on guaranties to prevent maltreatment against persons brought to police and persons deprived their liberty are adequately set out in the relevant laws of Azerbaijan Republic, as well as in the regulations of MIA and are applied in service activities.

Ministry of Internal Affairs keeps under control the law compliance in bodies and divisions subordinated to it. Special administrative proceedings dealing with the violation of human rights are carried out and adequate measures are taken in respect of each collaborator who commits an offence.

***General Prosecutor's Office***

After the acceding to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment at the Office of Public Prosecutor was signed and immediately came into force Order 08/10 determining the obligations of prosecutors' officials.

By the same Order have been initiated necessary regulative mechanisms to ensure the protection of human rights and to prevent torture and inhuman treatment.

With this end, all prosecutors are entitled to take such measures provided for in law as may be necessary: to ensure accused persons, suspects and victims with legal defence during preliminary investigations; to provide comprehensive, full and impartial examination of any information on the use of torture or other any unlawful actions and take appropriate measures in this respect; to keep the health conditions of remanded or detained persons under control with a view to prevent such cases; to carry out, if necessary, immediate medical examination in a presence of a lawyer (defender); to reject during the estimation of evidence on criminal matters, illegally obtained evidence and proofs and to recognize them inadmissible for charge in crime; to take measures against officials involved in such action as torture, beating, use of physical and psychological violence.

Furthermore, under Order 02/47 of March 9, 2001 on strengthening the control of prosecutors over preliminary investigations and prosecution and their procedure guidance of preliminary investigations, controlling prosecutors are required to check, periodically, a lawfulness of detention of persons in temporary detention centres and to prevent their unlawful detention.

In 2002 official 216 checking were conducted by MIA for unreasonable detention, unlawful bringing to police, inhuman and degrading treatment, illegal searching, baseless ness fine impose etc.

It was clarified that in 2002 in 62 cases, including 1 case of assault and battery, 1 case of beating, 17 cases of unreasonable holding in custody, 10 cases of unlawful bringing to police, 3 cases of illegal searching, 12 cases of illegal deprivation of rights to drive a vehicle, 1 case of groundless use of arm and its unlawful application and 16 cases of violation of human rights and freedoms by police officers.

At the same year, 94 police officers, of which 40 - senior officers, 54 – the ranks; including 19 - from CA, 3 – from NM, 1 – from MCM, 3 – from investigation group, 4 – from on-duty units, 19 – from Road Police Department, 15 district inspectors – from public security services, 24 – from patrol forces, 1 deputy chief and 4 – from other divisions of police establishments were subjected to various punishments for violation of human rights and freedoms.

In 2002 dealing with the violation of human rights and freedoms 2 criminal cases, 20 cases of dismissals from duties, 7 cases of discharge from position, 9 cases of warning of ineligibility to service job, 1 case of displacement from upper rank to lower rank were initiated and other 55 discipline-dissuasive measures were applied in respect of police officers.

During the last period of 2003 dealing with the violation of human rights and freedoms by police officers 63 cases, including 1 case of deliberate battery, 1 case of beating, 14 cases of unreasonable holding in custody, 7 cases of unlawful bringing to police, 2 cases of illegal searching, 1 case of unlawful charge in criminal 18 cases of illegal deprivation of rights to drive a vehicle, 1 case of groundless use of arm and its unlawful application and 18 other cases were detected.

At the same year, 91 police officers, of which 45 - senior officers, 46 – the ranks; including 14 - from CA, 1 – from NM, 1 – from MCM, 7 – from investigation group, 4 – from on-duty units, 30 – from Road Police Department, 10 district inspectors – from public security services, 18 – from patrol forces, 2 collaborators of the Main Security Department, 1 chief and 2 deputy chiefs and 1 - from other divisions of police establishments were subjected to various punishments for violation of human rights and freedoms.

During the last period of 2003 dealing with the violation of human rights and freedoms 1 criminal case, 3 conviction cases, 7 cases of dismissals from duties, 9 cases of discharge from position, 2 cases of displacement from upper rank to lower rank were initiated and other 69 discipline-dissuasive measures were applied in respect of police officers.

The following measures shall be taken to provide the application of the recommendations set out in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT):

1. Paragraph 17 of the Report provides for that according to the Code of Administrative Offences, police can hold a person who has committed an administrative offence no more than 3 hours. In case of admission of his guilty, he may be subject to administrative arrest that lasts 15 days and that period begins to flow in temporary detention center.

Article 399.1 of the Code of Administrative Offences, provides for that the administrative arrest of a person who has committed an administrative offence, except the provisions of the Articles 399.2 and 399.3, shall not be more than 3 hours. Article 399.2 provides for that a person who has committed a violation of border control or normal regime of state border control at frontier points of Azerbaijan Republic and in respect of whom administrative proceedings are carried out, can be held in custody up to 24 hours to determine the circumstances of an offence and to identify his/her identity or where he/she does not have the identifying documents can be held in custody, by court decision, up to 3 days. Article 399.3 provides for that administrative arrest of a person in respect of whom administrative proceedings are carried out, shall not be more than 24 hours. According to Article 399.4, the period of administrative arrest of a person who has committed an administrative offence begins from the time of his/her appearance in a centre so as to draw up an administrative protocol, and of a drank person begins form the time when he/she became sober up.

According to Article 30.3 of the same Code, administrative arrest period are added to the period of administrative detention. As can be seen from the aforesaid, the law provision was misinterpreted.

2. CPT have recommended in paragraph 25 of the Report that criminal suspects brought before a judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Furthermore, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before court could have been the victim of ill-treatment, even in the absence of an express allegation of ill treatment.

According to Article 449.3.4 of the Criminal Procedure Code the accused person (criminal suspect) and his/her lawyer (defender) a victim of a crime and his/her legal representative and other persons who, during decision-making or other action, have been subjected to the violation of human rights and freedoms may file a claim on torture or inhuman and degrading treatment of detained person with body responsible for the conduction of criminal proceedings. The said claim shall be reviewed by the supervising court and that court shall pass a decision on whether the claim admissible or inadmissible.

According to the legislation, the court shall identify all evidences submitted to it before court proceedings so that to examine the procedure actions and lawfulness of the decisions of the bodies carrying out the criminal procedure. The judge have right to summon and interrogate all persons rejecting or confirming the testimonies and/or statements and also are entitled to request all necessary documents and evidence to identify the lawfulness of the claims (Articles 450.4 and 450.5).

As can be seen, as the legislation doesn't provide for the right of the court to request a forensic medical examination at the time of consideration of a claim dealing with maltreatment, the court may be limited solely by requesting of medical documents.

Article 450.5 of the Code of Criminal Procedure shall be amended as follows: "450.5 The judge have right to summon and interrogate all persons rejecting or confirming the testimonies and/or statements and also are entitled to request all necessary documents and evidence to identify the lawfulness of the claims and request a forensic medical examination" with a view to comply with the recommendation of CPT.

It should be noted that in this case the CPT recommendation are complied with partially, in other words to request a forensic medical examination as CPT recommends, is a right of the court rather than its obligation. This is meets the standards of judicial proceedings and the principle of equity. Because of that Article 25.3 of the Code of Criminal Procedure provides for that the judges should be guided by self-consciousness and sense of justice in the administration of justice and in the examination of documents and evidence submitted to them by proceedings parties. Otherwise, the functions of the court in the examination of such claims are minimized and the functions of bodies carrying out a forensic medical examination are maximized.

3. As we see it from the recommendation 31 of the CPT report the national legislation does not provide for the right to inform their close relative or a third party of their choice of their situation.

According to Article 90.7.6, criminal suspect as from the outset of his/her deprivation or as from or immediately after the notification of decision on preventive measures taken in respect of him/her has right to inform of deprivation of his/her liberty by telephone or other communication facilities his/her family, close relatives, the places where he/she lives or works (studies). Article 91.5.6 of the same Code extends the provision of this article to accused persons.

The law does not specify the meaning of the term "as from the deprivation". However, the national court practice, taking into account the practice of the European Court for Human Rights envisages this term "as from" as a factual time of deprivation of liberty of person. It should be considered that according to that practice, the formal part of the status of deprived person has no affect to legal consequences, namely even if a person concerned is a criminal suspect or accused person, the time of his/her factual detention (deprivation) considered as an outset of deprivation of his/her liberty and resulted with the application of relevant procedures (Articles 5 and 6 of the European Convention on Human Rights and Fundamental Freedoms). The circumstances to delay the submission of information are not provided for by the law. However, it is possible to provide exceptions in some cases (e.g. it is possible in cases dealing with the detention of members of terrorist groups, organized criminal groups, to delay the submission of information for defined period with a view to increase the effectiveness of preventive measures). The world practice in this respect should be taken into consideration and appropriate regulation mechanisms be provided with this end.

4. CPT have recommended in paragraph 32 of the Report that authorities shall take steps to ensure that the right of access to a lawyer for persons in police custody applies as from the very outset of their deprivation of liberty and not only when a person's deprivation of liberty is formalised in a protocol of detention. As pointed out above, according to the criminal and administrative procedures of Azerbaijan "time of deprivation" is considered as a factual time of deprivation of liberty of a person. The measures that are to be taken shall include the compliance with this provision. There is no reason to make any amendment to the legislation with this end.

***Ministry of National Security***

In response to the recommendations, in particular in respect of Recommendation 69 (concerning Investigative isolator of MNS) set out in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) the following measures has taken and has to be taken by the Ministry:

1. In order to improve activities of inmates, in particular their out-of-cell activities, sports room provided with new equipments was placed at their disposal that enables them regularly, besides daily outdoor exercise, to go in for sport. Furthermore, given part of inmates with their prior consent and in accordance with the provisions and terms of the legislation are involved in refurbishment program such as the repair of the facilities within the isolator, maintain of order and cleanliness and other works. Inmates also are provided with board games, literature, including religious and periodicals, newspapers. They have the possibility to carry out their devotions in free manner. The possibility to meet with their relatives and to get reception by investigators, lawyers, doctors and the administration staff substantially reduces the pastime of inmates in cells.

2. At present 4 exercise yards constructed in conformity with design estimate project situated in the isolator is in the use of inmates. It was found out that the one of the exercise yards can be enlarged (up to 25 $m^2$) and this question was positively resolved, in spite of the fact that the possibility of their enlargement is extremely limited.

3. The installation of radio sets in the cells of the isolator is under consideration.

4. For each inmate it has been opened individual medical file with a view to improve the quality of medical documentation. In order to ensure that medical confidentiality is respected, all medical examinations are conducted out of the sight of law enforcement officials, as Europe Committee proposed. As regards medical files of inmates, they are kept separately in other closed room.

5. During the visits international organizations had proposed to give an opportunity to inmates to have contact with the outside world. It is impossible to settle down this issue because of the fact that these rights does not provided in the legislation. We have to inform that the remanded persons are allowed immediately after detention, but not regularly to inform of deprivation of their liberty by telephone or other communication facilities their family, close relatives, the places where their live or work (study) with a view to provide the confidentiality of the preliminary investigations (Criminal Procedure Code of Azerbaijan Republic Articles 90.7.6; 153.2.4; 161.0.2.).

6. Taking into consideration the wishes of inmates, it was given a possibility for inmates to meet with their close relatives in a worthy manner.

7. Inmates have confidential access to bodies and officials (judge, prosecutor, as well as Ombudsperson) authorised in accordance with the legislation to receive complaints and such their rights are guaranteed by the isolator. However, it is not impossible to solve a problem of confidential application by remanded persons to other authorities (as well as the right to communicate with close relatives) because of the fact that it does not provided for in the legislation.

8. According to the legislation, Commissioner for Human Rights (Ombudsperson) of Azerbaijan Republic such as an authority entitled to receive regularly complaints from persons detained and, where appropriate, take relevant measures in this respect has right to enter, without prior notification, the detention establishments; meet with persons detained and talk to them tête-à-tête; examine the documents attesting the legality of their detention (the Constitutional Law of Azerbaijan Republic on Commissioner for Human Rights (Ombudsperson) of Azerbaijan Republic of December 28, 2001), and these rights are fully respected by the Investigative isolator of MNS.

9. At the isolator the separate medical staff and paramedical staff had been constituted and the vacancies will be completed as soon as possible.

10. The administration of the Ministry of National Security expresses its willingness to assist further in the realization of visits to the Investigative Isolator of the Ministry of National Security by International Committee of the Red Cross, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as other international, governmental and non-governmental organizations.

***Ministry of Justice***

First of all it should be pointed out that all issues dealing with the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) have been discussed at the meetings of the Collegiums of the Ministry with a participation of all employees concerned and within the Ministry relevant commissions has been given.

Furthermore, in 2002 (October) prior to CPT visit to Azerbaijan, informative workshop on the European Committee for the Prevention of Torture with a participation of state officials concerned, the representatives of international organizations and non-governmental organizations functioning in the field of right protection were held together with the Council of Europe in the Ministry of Justice with a view to inform of visits carrying out by the Committee, of their functions and objectives, their rules of actions and of other matters related to the competence of the Committee.

At the same time, comprehensive Plan of Action has been drawn up in order to provide the implementation of the recommendations of the European Committee for the Prevention of Torture and Decree of the President of Azerbaijan Republic on Measures concerning the implementation of the recommendations adopted by the UN Committee against Torture in its Summary after the consideration of the second periodic Report of Azerbaijan Republic related to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, of September 27, 2003. Along with the said, special brochure containing the relevant documents has been drawn up and forwarded to all penitentiary establishments and other justice bodies, law-enforcement authorities and courts with a view to improve the legal propaganda in this field and to provide in the implementation of the provisions of the international instruments and national legislation against torture with methodical assistance.

Moreover, English version of the said brochure has been edited and presented to some representatives of the international organizations to provide the awareness of the international organizations of the measures taken in this field (the brochure is attached).

Furthermore, in cooperation with international organizations, the works “Torture is prohibited” and “Are You Ready to Meet the Committee European against Torture?” of the Judge of Surakhani Region Court Mr. V.Ibayev had been published with the approval of the Scientific Council of the Legal Education Centre of the Ministry of Justice and distributed among local institutions and some international organizations.

It should be noted that concrete tasks in the meeting of the Ministry Collegium were designated after the discussions of the recommendations of the European Committee experts on the base of outcomes of the repeated estimations of the activity of Azerbaijan penitentiary system.

Concerning the CPT recommendations on respect to rights of detained persons by the staff of investigative isolators, we have to inform the Committee that the reforms conducted in the penitentiary system extended also to staff responsible for the execution of punishments. The numerical strength of the staffs is reviewed and their attestations are carried out. As a consequence, if the staff members who do not meet the requirements of new standards and who do not carry out their responsibilities in adequate manner, they are dismissed from their duties and replaced by others experienced and who are comply with the international norms of conduct in respect of treatment with detained persons.

Considerable conditions were created for employees acting in the penitentiary field by the international regulations related to the treatment with detainees, including against torture, cruel, inhuman and degrading punishment and other similar acts to acquaint them with existing standards. All establishments were provided with stands titled as “Say no to Torture” and contained the regulations which gives an opportunity to acquaint the personnel and detainees with them.

UN and European Conventions against Torture were included in training programs and extension and refresher courses of the Training Centre of the Department for Execution of Punishments of the Ministry of Justice as separate topics. Special courses such as Human Rights and International rules of treatment with detainees were included in training programs of the Centre. During the attestation of personnel special attention are taken to their knowledge in this field. Additional measures are taken, the number of hours relating to the protection of human rights, including the topics related to torture are increased.

At the same time, the provisions of UN and European Conventions against Torture were also included as a topic in training programs of the Legal Training Centre of the Ministry of justice, assigned for the judges.

In all detention centres and establishments construction and reconstruction works are carried out, as well as adequate detention conditions are created for the purposes to improve the material and life conditions of detained persons. In the penitentiary establishments new living premises were constructed, special premises, sports grounds and facilities, clubs and libraries were put into the use to provide the free leisure hours of detainees at a maximum. Worship places for detainees were assigned to provide their rights of religious freedom and necessary conditions for short and long term visits of detainees with their family members were created and visiting premises were enlarged with this end.

A possibility of the reconstruction and dislocation of the detention establishments are examining, relevant additional measures are carried out with the aim to eliminate the high density at the investigative isolators, maintain of the accused persons in compliance with international standards, allocate special places in investigative isolators to provide immediate long-term contacts, improve the holding and living conditions of condemned persons and in particular of life-term prisoners, provide their free movement, i.e. outdoor exercise, moreover, provide out-of-cell spending time, and more auspicious holding conditions for detainees as well as juvenile and woman detainees, in particular accompanying by infants and underage children that meets the requirements of international standards, develop the program of activities such as secondary education, vocational training as well as attraction to socially useful works and sport. The use of windowless cells of investigative isolators were taken out of use, “Quarantine cells” and penalty isolators were substantially renovated, some measures were taken to provide the access to natural and artificial lightening and the flowing of fresh air, material and life conditions were adequately improved, the step-by-step installation of heating systems in regime corpses are carried out to provide normal temperature of cells in winter seasons, necessary measures are taken to improve the process of feeding, they also have access to one hour outdoor exercise.

Dealing with the CPT recommendation concerning transportation of prisoners, it should be noted that the number of seats in special vehicles assigned for transferring of prisoners was reduced, the refurbishment of the said vehicles is provided for, the one-man cells were taken out of the use.

Juvenile prisoners were transferred to the investigative isolator #3 and placed in separate corps with a view to provide the adequate holding conditions for them, and special places were allocated in the relevant corps of the investigative isolator #3 and relevant conditions were established there to provide their physical training and leisure time with a view to provide their special needs in accordance with their age group. Moreover, the practice of keeping of adult prisoners together with juvenile prisoners in cells assigned especially for juveniles were put an end.

At the same time, concerning the recommendation that stipulates the confidential complaint of a prisoner or a detainee to relevant officials, including the European Court for Human Rights and President of CPT, it should be noted that such a person and his/her relatives are acquainted with their rights and of the international bodies. The libraries that are in use of prisoners were provided with legislative acts and every prisoner was provided with a "booklet of prisoner" which contain the necessary information on their rights. The aforementioned booklets were published in Azeri, Russian and English and replicated in 17 thousand copies. Newly published "Informative book of prisoner" contains all regulations, as well as international agreements concerning human rights, including rights and freedoms of prisoners, in particular thorough explanation on the rules of application to the European Court.

It would be appropriate to make some amendments to the legislation of Azerbaijan Republic allowing eradication of censorship over the communications of persons deprived of their liberty holding in penitentiary establishments, modification the conditions of the holding regime of life sentenced prisoners as enshrined in the legislation.

The measures taken are also applied to the medical services.

Patient prisoners were provided with bed facilities, their hygienic and sanitary conditions were improved, and the medical treatment establishment for prisoners suffering tuberculosis was added with new medical corps constructed with the support of and within TACIS program. Special psychiatric training courses with the participation of experienced specialists of the Ministry of Health for paramedical personnel functioning are developed in the establishments and some measures are taken in respect to fulfil vacancies for paramedical personnel.

Medical staff of the penitentiary establishments and investigative isolators are attended special refreshing courses at the Head Department for the execution of punishments of the Ministry with the participation of relevant experts. It is given a priority in such courses to the protection of accused persons and prisoners against torture, inhuman and degrading treatment, the identification and documental formalization of such cases. Medical screening of all persons entering the investigative isolators, recording in writing of it and getting first medical aid is provided. Furthermore, according to the complaints on maltreatment, the injuries suffered are recorded and forwarded to relevant authorities. It is given an opportunity to prisoners themselves and their lawyers become acquainted with these records.

It should be noted that organizational measures shall be taken to provide the independence of medical experts, as well as their subordination matters shall be reviewed because it would be appropriate to place the Health Department that is at the Head Department for the execution of punishments to the direct subordination of the Ministry of Justice.

Relevant measures are taken to provide adequate protection of rights of prisoners, improve the working methods and facilities of the penitentiary system, eliminate existing deficiencies and harmonize the activities to the legislation.

It is underlined to establish in the near future the Inspectorate carrying out control over the execution of punishments as it was provided for in the recommendations of UN Committee for Human Rights, the UN and European Committees for the Prevention of Torture, the experts of the Council of Europe on the outcomes of the activity of penitentiary system of Azerbaijan Republic.

It should be pointed out that according to the Decree of the President of Azerbaijan Republic on the implementation of the Penal Code of Azerbaijan Republic, it shall be established an Inspectorate carrying out control on the execution of punishments. Draft Regulation on Inspectorate (in final version) was drawn up by the ministry of justice and forwarded to the Presidential Office in April 2002. It is necessary to establish such Inspectorate.

In addition to the measures taken, it was created sufficient condition to visit the areas of deprivation of liberty by the representatives of international and national non-governmental organizations by developing the cooperation between the Ministry of Justice and those organizations.

The Government of Azerbaijan Republic exercising due diligence to the principles of democracy and protection of human rights signed an Agreement with International Committee of the Red Cross in 2002. According to the same Agreement the representatives of that organization have been entitled to make independent and regular visits to the places of deprivation of liberty, talk to prisoners in a manner of confidentiality, and Azerbaijan in its turn takes appropriate steps on the base of the ICRC reports in this respect. As a clear expression of the will of Azerbaijan Republic to continue such cooperation, the term of that Agreement was prolonged in accordance with the Presidential Decree of September 2003.

The Constitutional Law of Azerbaijan Republic on Ombudsperson of Azerbaijan Republic of December 28, 2001 provides for the possibility for the public to carry out more clear relationship with the penitentiary system. A Special Order was issued by the Minister so as to provide the independent visit of the ombudsperson to the investigative isolators, the places of detention and deprivation of liberty, his/her immediate receiving by the administration, tête-à-tête meeting with persons holding in such places and the examination of the documents attesting the legality of their detention. Additional measures are carried out to develop further productive cooperation with ombudsperson.

Some protocols on cooperation between the Ministry of Justice of Azerbaijan Republic and local non-governmental organizations were signed. Such documents serve as for to develop the cooperation between the Ministry of Justice and local non-governmental organizations.

It should be noted that the measures for the implementation of the recommendations of the UN and Europe Committees against Torture, as well as the Action Plan of the Ministry of Justice are currently being controlled and developed.

***Ministry of Health***

Some measures have been taken and continue to be taken in respect of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in connection with the Forensic-Psychiatric Center of the Ministry of Health.

Daily outdoor exercise for persons undergoing medical examination is provided and also they were provided with special room equipped with table and board games and periodicals. Furthermore, relevant conditions were provided for persons undergoing medical examination, allowing them to have a contact with their close relatives and friends and special register for the registration of any physical limits and isolation was created.

Some measures are taken to improve the condition of the rooms and provide most convenient and congenial environment for persons holding there.

It is planned to take appropriate measures at the first three months of the coming year with a view to eliminate the problems related to the heating and lightening of the rooms because of interruptions of electricity and gas supplies.

***Ministry of Defence***

All deficiencies concern non-adequate or poor lightening in cells of disciplinary units "hauptvacht" of Baku, Ganja and Lenkoran Garrisons, non-provision of detained servicemen with blankets, bed linens (although it does not provided in the Regulation), as well as the problems in hot water supply of the disciplinary units of Lenkoran Garrison were resolved. Relevant measures were taken within the requirements of the Regulation of Armed Forces of Azerbaijan Republic.

***State Border Service***

The following measures has been taken to provide the application of the recommendations set out in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT):

Current reconstruction works in the military temporary detention centre #2003 of State Border Service situated in Goytepe region were carried out, and the state of repair of the sanitary annexes of the military temporary detention centre #2004 of State Border Service situated in Lenkoran were improved, disinfected, and necessary toilet facilities and hygienic means were provided.

Appropriate measures are taken by State Border Service to provide artificial and natural lightening, air freshening of the disciplinary units of Goytepe and Lenkoran regions, to enlarge the their cell capacity at a standard 4 $m^2$ per person and provide at nights the detained persons with bed equipments and ensure the having a bath at least one time in a week.

Informative tables containing the information on measures provided for in the legislation in respect of temporarily detained persons and their rights in Azeri and foreign languages were installed.

It should be pointed out that no any cases of requests on measures that are to be taken in respect of asylum seekers are fixed.

# Follow-up response of the Azerbaijani Government

# Follow-up response of the authorities of the Republic of Azerbaijan on the CPT Report prepared following the visit to Azerbaijan from 25 November to 6 December 2002

## Ministry of National Security

The following measures concerning the Investigative Isolator of the Ministry of National Security have been taken:

- The Investigative Isolator was provided with a doctor position and a doctor-therapist was appointed to that position in order to organize the permanent medical surveillance;

- Detainees in the Investigative Isolator (accused persons or suspects) can listen to the radio every day;

- Detainees write to or meet their relatives, advocates, as well as officials (judge, prosecutor, Ombudsman and others) in accordance with the provisions of the existing legislation.

It should be noted that the provisions of the existing legislation do not provide for detainees' use of telephone. Therefore, solution of this issue is not possible. In accordance with Articles 90.7.6, 153.2.4 and 161.0.2 of the Criminal Procedure Code of the Republic of Azerbaijan, persons under investigation are permitted to make a call to their families, relatives, to the place of living or working (studying) immediately after the detention or arrest in order to inform them.

Moreover, there is no obstacle for relevant governmental and non-governmental organizations in carrying out surveillance and monitoring of the Investigative Isolator's work and the condition of detainees therein.

## Ministry of Internal Affairs

Most of the recommendations concerning the Ministry of Internal Affairs (MIA) given in the CPT comments on the Interim Replies are reflected substantially enough by the legislation of the Republic of Azerbaijan, as well as by the appropriate normative-legal documents of the MIA and the recommendations related to the practical work were considered and all necessary measures were taken in order to eliminate insufficiencies and shortcomings.

Moreover, the following should be noted:

- **About correspondence of a practical application of legal provisions concerning the period of detention at local law enforcement bodies:**

In accordance with Article 157.3 of the Criminal Procedure Code, a person arrested by court decision cannot be kept at the temporary detention place for more than 24 hours and should be moved to an investigative isolator within this period.

As the investigative isolators No.1, 2 and 3 of the Ministry of Justice are at the distance of about 200-300 km from the city-district police bodies, it's practically impossible to transport detained persons in 4 directions more than 3 times a month. Therefore, 10 days detention is defined in the Instructions on the rules of protection and escorting of persons detained in the temporary detention isolators of police bodies, affirmed by the order No 428 dated 06 November 2001 of the MIA, and coordinated with the Ministry of Justice, the Ministry of Health and the General Prosecutor's Office. For the solution of this situation, all measures are being taken at the governmental level.

The question of building of several additional investigative isolators of the Ministry of Justice in various regions of the Republic, which was raised before the appropriate State bodies, is pending solution.

- **About measures taken for elimination of the practice of application of administrative arrest in order to prolong the time at disposition for interrogation of persons suspected in crime:**

In accordance with Article 30 of the Code of Administrative Offences of the Republic of Azerbaijan administrative arrest can be determined and applied for up to 15 days depending on different kinds of administrative offences. This does not apply to a person suspected of committing crime. The application of administrative arrest for interrogation or for other kind of investigation of persons suspected of committing crime is inadmissible, and prosecutors carrying out procedural guidance of preliminary investigation during inquiry and interrogation, as well as courts competent for applying administrative arrest supervise this question.

- **About information on the legal assistance system of persons under arrest, and drawing up of a code of behavior during police questioning:**

The rights and duties of detention isolators' staff on exercise of the rights by detained persons, their rights to worship, as well as their medical, sanitary-hygienic and everyday provision are reflected in the "Rules on internal order in the temporary detention isolators of police bodies" approved by the order No. 428 of the MIA dated 06 November 2001 and amended by the orders No. 224 of 12 June 2002 and No. 81 of 16 February 2004 of the MIA.

Furthermore, provisions regulating activities of police officers in the protection of human rights and fundamental freedoms are reflected in the Law on Police, and Articles 293, 309 etc. of the Criminal Code determine criminal responsibility for illegal actions, like compelling to give testimony, exceeding authority and so on.

The procedure of exercising the rights of persons detained in temporary detention places was thoroughly reflected in Paragraph 5 of the above mentioned Rules, and mechanism regulating examination of petitions and complaints of these persons and proper delivery of their appeals and complaints destined to appropriate addresses was provided for.

Prosecutor offices implement supervision of compliance with legislation in the temporary detention places. Comments and suggestions of persons performing supervision are duly recorded.

A person brought to the temporary detention places, undergoes medical inspection and sanitary purification before being placed into a cell and on the day of removal. Appeals of detained persons for medical aid, as well as their denial of such aid are recorded in an appropriate registry.

The orders No. 80, 81 and 82 of the MIA issued as early as 4 March 2000 reflect measures for strengthening respect of legality among personnel, guarantee of the rights of detained persons, improvement of the rules of detention and reinforcement of the scrutiny on observance of the rule of law in the given area. At the same time, rules for ensuring rights of detained and arrested persons by police officers in accordance with international norms and requirements were determined in these orders.

In general, exercising of the rights by persons detained in temporary detention places, as well as the procedure of examination of petitions and complaints of these persons are regulated by a number of other normative documents, including the Code of Criminal Procedure of the Republic of Azerbaijan, and appropriate orders of the MIA.

It should be noted that, the rights and duties of suspected (Article 90) and accused persons (Article 91) along with other participants of proceedings, as well as the interrogation rules are thoroughly reflected in the Code of Criminal Procedure. The right of those persons not to give testimony (explanation) or refuse to give testimony (explanation) at all are also provided in the articles mentioned above.

All these provisions are fairly sufficient to guarantee the objectivity of the complaint and inspection procedures. It should be noted that in accordance with the domestic legislation persons detained as suspected or accused ones could only be interrogated by inspectors and investigators. From this point of view there is no need to an additional code of conduct for police interviews.

“Instructions on the rules of protection and accompanying of the persons detained in the temporary detention isolators of the police agencies” and “Rules on internal order in the temporary detention isolators of the police agencies” approved by the Order of the Minister of Internal Affairs No. 428 dated 06.11.2001, Orders No. 224 and 81 on additions to afore-mentioned Order dated 12.05.2002 and 16.02.2004 respectively, as well as “Instructions on the organization of the activities of reception and distribution centers for minors of the Ministry of Internal Affairs” approved by the Order 300 dated 26.07.2004, which concern the organization of the work of the police agencies in the places of temporary detention and the centers of reception and distribution for minors are intended for service use. For this reason it would be more appropriate to inform in detail the members of the CPT about these normative acts during their next visit to Azerbaijan.

- **Implementation of the recommendations on the improvement of detention conditions in the detention centers of Baku for minors, persons arrested for vagrancy and begging and persons under administrative arrest:**

In accordance with the recommendations of the international bodies with respect to the reception and distribution centers for minors, the reception and distribution centers arrested for vagrancy and begging and the centers for persons under administrative arrest, significant work has being carried out in these places.

With a view to improving further the detention conditions and guaranteeing fully the rights of detainees in these centers, the Ministry of Internal Affairs has begun the construction of a new and modern building and it intended to give it to use in a short time.

During last years as well, temporary detention places that meet international standards have been built and they began functioning in 7 city-district police bodies. Moreover, the temporary detention places of 28 police bodies were thoroughly repaired. At present, necessary funds have been allocated in order to build temporary detention places in 4 police bodies and to carry out thorough repair in 15 police bodies.

Moreover, seminars and trainings on effective protection of the rights of suspected and accused persons detained at the temporary detention places in city-district police bodies of the Republic and on good treatment of police officers with detainees are held jointly by the staff of the Ombudsman office and the MIA.

- **About notification of detainees' detention and arrest, as well as provision of the right of protection:**

In accordance with Articles 90.7.6, 153.2.1-153.2.7 of the Code of Criminal Procedure of the Republic of Azerbaijan, a suspect has the right to invite an advocate, to make a call to his/her family, relatives, to the place of living or working (studying) or to inform them in other way immediately after the detention or arrest and has the right to confidential communication without any restriction.

Article 153.2.4 of the Code ensures detainees' right to inform of their detention and obliges authorities of detention places to inform the family members of the detention of elderly and minor persons and those, who are unable to make a call for psychical reasons.

This right is provided for by "Rules on internal order in the temporary detention isolators of police bodies" approved by the order No. 428 of the MIA, as well as by paragraphs 1.3-1.4 of the Ministry's order No. 81 of 04 March 2000.

It should be noted that, in compliance with the requirements of Article 19.3 of the Code of Criminal Procedure, while interrogating a person as a witness, participation of his/her advocate as his/her representative is not prohibited.

- **About inadmissibility of maltreatment in temporary detention cells and firm struggle against it:**

In general, constitutional principles declaring protection of human rights and fundamental freedoms as the state's high purpose are reflected in normative-legal documents of the MIA and the bodies of the Ministry are functioning on this basis. At the same time, the rules on guaranteeing of rights of detained and arrested persons by the police in compliance with international norms are reflected in appropriate orders and instructions. Above-mentioned acts, as well as other normative acts prepared in this area were drawn up in accordance with provisions of the Code of Criminal Procedure that had been approved by the experts of the Council of Europe.

All necessary measures are being taken in order to regulate the police-citizen relations with regard to legal-ethic norms. The rule of law, human rights and freedoms while bringing to police, detaining or bringing to administrative responsibility are kept under observation.

- **About complaint and discipline procedures that are in use and concerning measures taken in order to provide objectivity of these procedures:**

At the Ministry, there is an operational monitoring mechanism for observation of the rule of law and human rights by police officers. Objective and principal administrative prosecutions on every fact of violation of the relevant legislation and human rights are provided and officers that found guilty are strictly brought to responsibility.

In this regard, in 2002, 96 officers on 61 cases, and in 2003, 108 officers on 72 cases have been punished for law violations such as maltreatment of citizens, unreasonable bringing to police and detention, search and beating. These include:

- bringing to criminal responsibility – 2 people in 2002; one person in 2003;
- conviction – none in 2002; 3 people in 2003;
- dismissal from the bodies of the MIA – 20 people in 2002; 10 people in 2003;
- demotion – 2 people in 2002; 9 people in 2003;
- lowering one level of special rank – 1 in 2002; 2 people in 2003;
- other disciplinary reprimand – 71 in 2002; 83 people in 2003.

During the given period, no cases of torture by police officers against persons for getting information or forcing them to confess were registered.

Significant practical-organizational activity on improvement of the work of the MIA bodies, bringing them to conformity with appropriate international standards are consistently continued by the Ministry of Internal Affairs according to relevant action plans.

## Ministry of Defense

Arrested military personnel are placed in the Baku Garrison Military Police Guardhouse with provision of 5 square meters space to each.

## Ministry of Health

At present, works for the improvement of rooms' condition for persons brought into the Forensic-Psychiatric Examination Centre of the Ministry of Health in order to undergo forensic-psychiatric examination are continued; lightening and air-conditioning of the rooms are being improved.

Persons brought for undergoing forensic-psychiatric examination have possibility to play table-games, read newspapers and magazines, listen to the radio in a designated room.

After bringing to the centre these persons get individual medical examination by a doctor, and have an interview with psychologist of the centre. If necessary, preliminary treatment is carried out dependent upon their psychic state.

A physical restriction and isolation measures for persons undergoing examination are executed very rarely and only in connection with complication of their psychic state. These measures are short-term, and they are recorded in a special registry of the center with clear indication of the reasons of such measures.

All restrictions for meeting and communication of persons undergoing examination at the centre with their relatives are eliminated.

They are also provided with opportunity to lodge complaints with other bodies on a confidential basis. They can use lawyers' assistance and make complaints after getting aware of the results of their medical examination.

## Ministry of Justice

As the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has entered into force in Azerbaijan, representatives of relevant state bodies, authoritative international organizations and human rights NGOs together with the Council of Europe held information workshop in October 2002 at the Ministry of Justice to provide information on the Convention requirements, activities of the European Committee for the Prevention of Torture (CPT), its objectives, characteristics, working methods, as well as more complete information on all visits of the CPT to Azerbaijan, and other issues. Taking into account significance of the issue, workshop results have been discussed by the Ministerial Board with the participation of appropriate staff and required tasks and adopted decision was forwarded to appropriate organizations.

Undertaken measures enabled the CPT to make unimpeded and free visits to appropriate state bodies of Azerbaijan, including confinement institutions, at its discretion and in accordance with its existing rules and procedures.

Tasks on implementation of recommendations reflected in the Committee's report on the visit to Azerbaijan and remarks of other international organizations on torture issues have been discussed at the meeting of the Ministerial Board with the participation of appropriate staff and the order implying particular tasks was issued.

The Ministerial Board repeatedly discussed the Presidential Decree on "Measures for implementation of the recommendations given in the summary survey adopted by the UN Anti-Torture Committee after consideration of the second periodic report of the Republic of Azerbaijan on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". In this connection, the Ministry has developed and approved the Comprehensive Action Plan, monitored its implementation, forwarded the necessary information to appropriate bodies and sent preliminary replies to the recommendations of the CPT.

Moreover, the recommendations of the experts of the Council of Europe on re-evaluation results of Azerbaijan penitentiary services activities, as well as their notes on more reliable protection of human rights in penitentiary system were discussed at the meeting of the Ministerial Board on 24 September 2003 where specific tasks were defined.

Taking into account the great significance of the issue, a special assignment on summarizing of measures taken by justice bodies has been included into the action plan of the Ministry on the implementation of the recommendations of the CPT. Appropriate measures have been undertaken in this direction.

To raise public awareness and to improve human rights promotion, numerous articles were published in mass media, including the Ministry's editions. A special book consisting of appropriate documents was compiled to provide methodological assistance in the implementation of the provisions of international instruments on torture prevention and respective national legislation. It was forwarded to penitentiary organizations and other justice and law enforcement bodies. The above-mentioned book has been published in English and presented to the representatives of international organizations.

During several international events, including the conference held by the Ministry of Justice jointly with the Council of Europe in Baku in September 2003 devoted to the Re-evaluation report on the penitentiary system of Azerbaijan and the conference on torture prevention held in December 2003 in Almaty, detailed information on actions undertaken in Azerbaijan in this field was provided.

Furthermore, taking into account the importance of improvement of the training process, application of new training methods and means, study of advanced experience of foreign countries and international organizations, a number of actions have been undertaken in that direction.

Taking into account the increasing importance of the European Convention for the Prevention of Torture, it had been included to the curricula of courses conducted in the Training-Education Center and the Law Education Center as a separate subject. Special courses on human rights and international rules on treatment of prisoners have been arranged and training hours on human rights protection, as well as torture issues have been increased.

A national expert in cooperation with the staff of the Law Education Center of the Ministry of Justice and international organizations prepared manuals "Torture is prohibited" and "Are you ready to meet the European Committee for the Prevention of Torture" describing human rights concept and classification, provisions of international documents on torture prevention, as well as the European Convention for the Prevention of Torture, international organizations and the main principles of anti-torture struggle in regions, the activity, purposes and working principles of the CPT and other issues. The manuals were approved by the Scientific Council of the Law Education Center, and at present are widely used in the training process.

Furthermore, while continuing cooperation with foreign countries and international organizations great importance is attached to the strengthening of training process and application of new training means. Thus, specific manuals on torture prevention sent by the UK Embassy were submitted to appropriate organizations.

It is noteworthy that "For Society without Torture" information sites consisting of various publications dedicated to torture prevention were arranged in penitentiary bodies. With a view to guaranteeing effectively the right of prisoners and convicted people to complain, these people and their relatives are informed of their rights. The libraries of confinement institutions were provided with appropriate legislation and "Prisoner's Booklet" published in Azerbaijani, Russian and English, which was also distributed among all prisoners.

The publication of "Prisoner’s Hand-Book" and "Practical Advices to Prisoners" explaining issues concerning all normative legal acts dedicated to prisoners, significant international agreements on human rights, as well as prisoners’ rights and freedoms, especially rules on addressing to the European Court of Human Rights and the CPT, is the result of the work in this sphere.

As to the CPT recommendations on observation of detained people’s rights by the staff of investigative isolators, it should be noted that in the framework of reforms implemented in the penitentiary system, their staff are reviewed and certified. The employees, who cannot work honestly and in compliance with new requirements, are dismissed and replaced by experienced employees.

To improve life conditions of prisoners in confinement institutions and investigative isolators, they are thoroughly repaired and equipped in compliance with international standards of imprisonment. New buildings have been built in penitentiary institutions. To arrange prisoners' free time efficiently, various places, sports grounds and facilities, clubs, and libraries are built. In order to ensure the exercise of religious and conscience freedom by prisoners, worship places are arranged. Rooms for long and short-term visits are enlarged to create required conditions for prisoners and their family members in compliance with international standards.

In regard to the recommendation concerning the reduction of existing density in investigative isolators, it should be noted that recent pardon decrees as the demonstration of human policy of the Head of State, as well as amnesty acts adopted on the initiative of the President of the Republic of Azerbaijan resulted in significant reduction in the number of prisoners and convicted people. This has created good conditions to provide prisoners with 4 square meters area in accordance with international documents and the Code of Enforcement of Sentences of the Republic of Azerbaijan.

Furthermore, in accordance with the recommendations in order to manage existing density in the Investigative Isolator No. 1 and to improve conditions of imprisonment for juvenile delinquents and women, these people were accommodated in separate buildings with better conditions of the Investigative Isolator No. 3 apart from other prisoners. In compliance with the recommendations of the CPT, other measures of density lessening are being continued in the Investigative Isolator No.1 on the basis of principles of regulation or reduction of the number of convicted or imprisoned persons.

In accordance with the recommendations of international organizations, as well as the CPT and as a result of justice and law reforms taking place in the country, delegation of imprisonment issues exclusively to courts, careful attitude to application of such extreme measures have sufficiently reduced the number of arrested people recently. Moreover, judicial and investigation bodies apply alternative measures rather than restriction of freedom.

Following the relevant recommendations and for the purpose of satisfying specific needs of juvenile delinquents, the Investigative Isolator No. 3 has been provided with appropriate equipment, special places were equipped to enable them to do some sports and to spend their free time efficiently. Moreover, juvenile delinquents are not kept in cells with adults any more.

At present, while considering restructuring and dislocation issues of confinement institutions, new capabilities are being searched and appropriate additional measures are taken to keep convicted people in prison in conformity with international standards, to provide rooms for long-term visits in investigative isolators, to improve life conditions of prisoners in prisons, especially for life-term prisoners, to provide freedom of movement, i.e. outside walks for prisoners, to provide opportunities to spent more time beyond the cells, to create better conditions complying with international standards for juvenile delinquents and women, especially with infants and young children, to arrange effectively their leisure time, to provide secondary and vocational education, to create better conditions for them to do sports and socially useful work.

Recently the usage of cells without windows in investigative isolators has been given up. “Quarantine cells” and punishment solitary cells were thoroughly repaired and measures have been taken in order to provide them with natural and artificial lightning and flow of fresh air. The life conditions in these cells have significantly been improved. With the purpose of providing normal temperature in the cells in winter seasons, the construction of warming system in regime corpuses is underway. The necessary works are undertaken to improve nutrition and to construct sanitary arrangements in the cells. One hour walking is ensured for prisoners.

With regard to the recommendations of the CPT on transportation of prisoners, the number of prisoners permitted to be transported in special motorcars have been decreased. Reconstruction of the above-mentioned motorcars is provided for, and existing one-man cells were abolished.

To fulfill the recommendation on real ensuring of the right of prisoners and convicted persons to get medical aid, the sanitary-hygienic condition for prisoners have been improved and ill prisoners have been fully supplied with bedding. The practice of using prisoners like servants was abolished. The continued courses for improvement of professional skill for the medical staff of penitentiary institutions and special training (including special psychiatric training) of the junior medical staff of confinement institutions and investigative isolators have been organized with the participation of experienced experts of the Ministry of Health in the framework of a special program in the Training and Education Center. During those events special attention is paid to the issues of protection against torture and ruthless treatment of convicted persons and prisoners, determination and documentation of the above-mentioned cases. Necessary measures are taken for more efficient use of medical staff in penitentiary institutions and appointment of trained and skilled personnel as medical personnel, psychiatrist, psychologist, and to other relevant vacant staff positions.

Following the recommendations, the staff has been informed of the distinctions of isolation procedures applied to ill prisoners, and special sections reflecting the application of these procedures have been included to the medical record books of such prisoners. It should be noted that the requirements of relevant orders on provision of confidentiality of prisoners’ medical record books and their proper storage are not applied solely to the medical enterprises, but also to all penitentiary institutions.

At the same time, relevant measures have been taken for medical examination of all persons entering investigative isolators, provision of necessary medical aid during their imprisonment, recording injuries according to complaints on ill-treatment and delivering information about them to the attention of authorities. Relevant conditions have been created for prisoners and their advocates to get acquainted with those records.

According to the recommendations on independence to the medical staff, the medical service have been excluded from the General Department of the Execution of Court Decisions and subordinated directly to the Minister of Justice. Currently, in view of reconstruction of medical service and provision of medical aid to the prisoners and convicted persons in accordance with modern medical criteria, necessary measures are being taken about the structure of the medical service, staff division, regulations, the status of medical staff and solving other organizational and logistical issues.

With a view to teaching to the staff of the Medical Department of the Ministry of Justice the requirements of international documents on human rights and struggle against torture, the courses were organized in June according to the specific program developed in the Legal Education Center with the participation of leading employees of the Ministry, judges, medical scientists, representatives of the International Committee of Red Cross and other international organizations.

As regards the recommendations on creation of an independent institution implementing the monitoring of the execution of sentences with the purpose of preventing torture and inhuman treatment, it must be noted that the international experience on the relevant issue has been studied by the Ministry of Justice and special joint seminar has been held with the Council of Europe.

As the Decree of the President of the Republic of Azerbaijan dated 25 August 2000 foresees the creation of such institution, the draft Regulations on above-mentioned institution have been drawn up by the Ministry and the final version of the draft Regulations has been submitted to the Executive Office of the President. Meanwhile, a special group has been established in the Ministry of Justice with the purpose of carrying out the execution of the recommendations of international organizations, and taking measures by operative analyses of the information on torture against convicted persons and other violations of rights, which will function until solving organizational issues on the establishment of the mentioned institution.

Following the recommendations, in order to carry out more efficient analyses of the data concerning the respect of human rights and torture prevention, statistic report forms on the courts' activity have been improved and they are currently being applied.

According to the amendments made by the Milli Majlis (National Parliament) to the Code of Enforcement of Sentences on 21 May 2004 in fulfillment of the recommendations, the censorship is not applied to the correspondence carried out between prisoners and advocates or legal representatives, and it is sent immediately to the address. At the same time, concrete suggestions were made on amendments to the legislation to apply censorship to the correspondence of prisoners only on the basis of a court's decision.

Moreover, on studying the need of making amendments to the legislation in accordance with recommendations, a draft law was worked out for complete adjusting of the national legislation to the requirements of international documents, especially on the sentence serving condition and regime of life sentenced prisoners. Additional information will be submitted on adoption above-mentioned law.

The existence of an independent judicial system is important in the struggle against torture. Accordingly, with the purpose of providing the independence of the judicial system and judges, three-level judicial system was established and the selection of judges was carried out on the basis of tests for the first time in the history of the country in 2000.

The judge selection process in Azerbaijan was carried out with broad public participation, observation of international institutions, and the representatives of foreign and local NGOs. All observers stated that the selections were carried out objectively, transparently and unbiased. As a result of the selections, the previously existed judge corps has been renewed up to 60 per cent, with the new corps comprising representatives from various areas of legal specialization including independent lawyers, scientists, advocates, investigators, prosecutors, employees of courts and others.

Furthermore, trainings, workshops, courses and other educational events devoted to international norms and standards, particularly requirements of legal instruments in the area of respect and protection of human rights have been organized for judges, under the auspices of the UNO, the Council of Europe, the OSCE, American Lawyers Association (ABACEELI), German Cooperation Society (GTZ) and other international organizations.

Currently, a special attention is paid to ensuring independence of courts and to improvement of judges' appointment procedures in the framework of judicial reform. Accordingly, recently created special working group took necessary measures in the framework of cooperation with the Council of Europe and other international organizations, studied international experience, prepared a package of suggestions on the improvement of court activities and ensuring independence of judges, and developed an action plan.

In March, an expert meeting relating to the issues of assessment of activities, independence and appointment of judges, was held by the Ministry of Justice with participation of the Council of Europe. The meeting resulted in adoption of an action plan on provision of the independence of courts, and its execution began. Thus, the next judge selections to be held in 2005 will be carried out on the basis of an improved new system.

In regard to the recommendation on assistance for NGOs to visit confinement institutions, it must be noted that according to the prolonged agreement between the country and the International Committee of Red Cross, the representatives of the latter regularly visit the penitentiary institutions freely, conduct confidential meetings with prisoners therein, and the Ministry on its turn takes necessary measures on reports of visits.

Furthermore, in accordance with the Code of Enforcement of Sentences, public organizations, as well as a number of human rights NGOs operating completely free in Azerbaijan, take part in the correction of prisoners, and they also carry out public control on the activities of penitentiary institutions. According to the declaration signed between the General Department of the Execution of Court Decisions of the Ministry of Justice and several human rights NGOs, there was established a Public Council, which is to assist in carrying out reforms and in monitoring of the penitentiary system. The main activities of the Public Council are directed to guaranteeing more reliably the rights of prisoners and accused persons, deepening reforms carried out in the penitentiary system, enforcement of the education of prisoners and penitentiary service employees, as well as organization of public control over the work of penitentiary institutions and investigative isolators. Moreover, the Protocol of Agreement was signed between the Ministry of Justice and local NGOs on the implementation of different programs and events, which also serves strengthening of cooperation between the Ministry and NGOs.

Taking into account the importance of ombudsman institution in this area, relations between the Ministry of Justice and this institution have been developed and with a view to providing all necessary conditions for free implementation of duties by the ombudsperson the Minister of Justice has signed an order. The ombudsperson and its representatives visited confinement institutions more than 50 times during only one year and they made recommendations on improvement of confinement places of prisoners and accused persons. Moreover, the directions of a long-term cooperation between the Ministry and the ombudsperson were determined.