

**ANSWERS TO THE QUESTIONARY FOR THE PREPARATION OF
THE CCPE OPINION NO. 15(2020)
THE ROLE OF PROSECUTORS IN EMERGENCY SITUATIONS**

1. - No state of emergency has been declared in the Republic of Azerbaijan in connection with the COVID-19 pandemic. According to our Constitution, the declaration of a state of emergency falls within the competence of the President of the Republic of Azerbaijan.

In order to prevent the threat of coronavirus disease in the territory of Azerbaijan, and implement preventive and urgent measures, the Task Force consisting of heads of relevant government agencies and institutions has been established under the Cabinet of Ministers. Although the decisions taken by this headquarters cover the entire territory of the republic and most of the restrictions imposed during the special quarantine period have been removed, some of them are still in place.

Since 24th March 2020 starting from 00:00 a.m. special quarantine has been declared in accordance with Article 25 of the Law of the Republic of Azerbaijan on Sanitary and Epidemiological Safety in order to combat Covid-19, protect the health of the population, prevent the spread of coronavirus infection and its possible consequences in the country. The duration of this regime is determined in accordance with the epidemiological situation, COVID-19 infection rate in the whole country.

2,3. During the special quarantine period, decisions were made calling people, especially those over 65 years of age, to leave their places only in cases of urgency and not to attend gatherings of more than 10 people. Although the decision restricted these persons' rights to move freely, it did not deprive them of this right. During the quarantine period, in case of emergencies, they were able to get permission for meeting their vital needs, or receive medical treatment or examination.

In addition, considering the pardon appeals of prisoners over the age of 65 and their families who are in need of special care due to their age and health condition in connection with the spread of COVID-19 infection in the world, taking into account the state of health of convicts, their behavior during their imprisonment and based on the principles of humanism, by the order of the President dated 6th April 2020, 176 people sentenced to imprisonment of the relevant category were released from the unserved part of their personal sentences.

All these temporary restrictions of rights are due to that individuals can be exposed to a contagious disease, namely COVID-19, which can lead to fatal results. It should be

noted that without protection of health, safety and security, people cannot enjoy many of the personal and economic freedoms.

4. No information has been received related to discrimination, hatred, racism, xenophobia, attacks on refugees and asylum seekers and their forced return, ill-treatment of foreigners and migrants, sexual and gender-based violence by certain groups in the country.

5. In accordance with the rules established by the Task Force under the Cabinet of Ministers, at the end of March and April 2020, the operational staff not exceeding 50 percent performed their duties with restrictions in shifts. Relevant schedules were set up taking into account the number of employees in the whole prosecutor's office, and a limited number of employees came to work according to these schedules.

Urgent internal events as well as the interaction with the complainants were held via videoconferencing during this period.

6. During the special quarantine period, criminal and civil proceedings in the courts were suspended, and this restriction did not apply to the imposing a restrictive measure and the extension of this kind of measure. During this period, detainees were prosecuted on a general basis, as at other times. The suspects were provided with all the rights provided by law, if charges were brought against them, a restrictive measure had been imposed. The requirements of the criminal and criminal procedure laws were observed.

7. As some suspicions aroused in the commission of embezzlement of social funds belonging to executive powers of several cities, forgery, corruption and abuse of power by respective officials during the special quarantine regime, prompt investigative actions were carried out by prosecuting bodies.

8. After the establishment of the Task Force under the Cabinet of Ministers, a Working Group was created in the Prosecutor General's Office on 14 March, 2020 for effective implementation of legal responsibility measures aimed at combating COVID-19.

9. According to the decision of the Task Force established under the Cabinet of Ministers of the Republic of Azerbaijan from March 14, 2020 at 00:00 in connection with the implementation of social isolation measures in the country, business trips abroad, as well as travel to foreign countries and within the country, reception of citizens accompanied by mass gatherings, as well as large-scale meetings and conferences were required to be suspended. Prosecutors were instructed to use protective masks, carry out strict disinfection measures in the administrative buildings of structural units and provide them with the necessary equipment during the relevant criminal proceedings.

10. The Working Group established by the Prosecutor General's Office Order No. 10/29 of March 14, 2020, together with other law enforcement agencies, carried out some measures to prevent the spread of the pandemic and its consequences in the country.

11. During the special quarantine period, as in ordinary cases, procedural supervision over the investigations conducted in the relevant law-enforcement bodies has been carried out in accordance with the law.

12. In the course of the special quarantine regime there were cases when the courts had chosen restrictive measures not related to detention to avoid overcrowding in detention facilities.

13. A decision was issued on 23 April 2020 at the next meeting of the Plenum of the Supreme Court of the Republic of Azerbaijan "On necessary measures to be taken in courts to prevent possible spread of coronavirus (COVID-19) in Azerbaijan Republic".

In the decision it was recommended to temporarily postpone consideration of other cases in the proceedings except for cases to be considered urgently or do not require court hearings (selection, extension, change, repeal of restrictive measures, cases of administrative detention, appeals in the execution of a judgment or other final decision of the court when necessary, taking measures to secure the claim, order proceedings, simplified proceedings on minor claims, special proceedings on some categories, etc.)

It was also recommended to use the opportunities to consider cases in administrative judicial proceedings without conducting an oral judicial hearing (oral hearings) taking into account the requirements of Article 16 of the Administrative Procedure Code of the Republic of Azerbaijan and to conduct court proceedings on civil cases and commercial disputes via the "Electronic court" information system in line with the requirements of the Code of Civil Procedure of the Republic of Azerbaijan.

The above-mentioned decision has been in force from 23 April 2020 until 4 May 2020.

According to the information of the Supreme Court of the Republic of Azerbaijan dated 2 May 2020 on the measures necessary to be taken in the courts to prevent the spread of coronavirus (COVID-19) infection in the Republic of Azerbaijan, the acceptance and consideration of cases in the courts of the republic and those in Nakhchivan Autonomous Republic, except for Baku, Sumgayit, Ganja, Lankaran cities and Absheron region was restored, it was suggested to conduct judicial activity in accordance with the necessary social behavior and sanitary-epidemiological rules established by the Task Force under the Cabinet of Ministers of the Republic of Azerbaijan as well as to take into account that it was prohibited to gather in groups more than 10 people together in courtrooms and inside administrative buildings during court proceedings.

The information of the Supreme Court of the Republic of Azerbaijan dated 15 May 2020 noted that all courts situated in Baku, Sumgayit, Ganja, Lankaran cities and Absheron region fully restored the acceptance and consideration of cases from 18 May 2020 and it was recommended to take into account the requirements enshrined in the communiqué dated 02 May 2020.

Obviously, the prosecutors representing public accusation participated in the court hearings in which their participation was considered obligatory according to the legislation while the courts operated partially temporarily and when their operation was fully restored.

14. Press Service of the Prosecutor General's Office of the Republic of Azerbaijan has regularly monitored media, and in case of detection of any false information related to the epidemic situation in the country, comprehensive information had been presented to public together with press services of respective state bodies.

15, 17, 18. Restrictions on the movement of citizens in the territory of the republic during the special quarantine period caused a number of problems in their appearance before the investigative bodies. This feature affected the criminal proceedings (there were cases of suspension, extension of the investigation period), and some investigative actions were postponed. These measures have been taken in accordance with law taking into account the current situation

One of the ways to overcome some of challenges has been videoconferencing, which is a useful practice at international level.

16. It should be noted that the number of cases to be considered before the court considerably rose since the operation of courts was suspended partially. As the courts have started to operate fully since 18 May 2020, the cases are being considered at the moment accordingly.

**Prosecutor General's Office
of the Republic of Azerbaijan**