



**The Commissioner for Human Rights  
(Ombudsman) of the Republic of Azerbaijan**

**2022 REPORT**

**on the National Preventive Mechanism Activities  
against Torture**

**Baku - 2023**

The report provides information on the activity, proposed recommendations and proposals made by the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, carrying out national preventive mechanism, derived from the United Nations (UN) Convention against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment (*hereinafter* the Torture Convention) for the period of 2022 year.

While functioning the national preventive mechanism activities of the Commissioner the recommendations and proposals made by the Committee for the Prevention of Torture (CAT), the Subcommittee on Prevention of Torture (SPT), European Committee for the Prevention of Torture (CPT), the Committee on the Elimination of All Forms of Discrimination (CEDAW), the Committee on the Rights of the Child (CRC), the Committee on the Rights of the Child (CRPD), and recommendations to the periodic reports of the State of Azerbaijan made by the UN Human Rights Council Universal Periodic Review (UPR) Working Group have been considered.

The information, prepared on the basis of the analyses of the findings of the visits, statistical data, as well as the Optional Protocol to the Torture Convention were attached as Annex to the Report.

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## FOREWORD

The ratification of the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (*hereinafter OPCAT or OP*) and establishment of the national preventive mechanism (NPM) specified in that Protocol in the Republic of Azerbaijan aim to support international standards that contribute to ensuring human rights at the highest level by the state.

The Commissioner for Human Rights (Ombudsman) of the Azerbaijan Republic has been entrusted with a great deal of responsibility by designating the institution carrying out the Ombudsman's NPM functions. The implementation of the new responsibilities driven from the new functions that are logical continuation of legal reforms carried out in the frame of the building of legal state in the state has become one of the main activities of the Ombudsman.

As in every year, also in 2022, when the twenty's anniversary of the Ombudsman Institution in Azerbaijan was marked, the Ombudsman ensured the improvement, establishment and development of its NPM activities at the highest level.

Building successful cooperation with other state institutions, civil society organizations, mass media, international organizations, as well as ombudspersons of other countries contributed to successfulness of its NPM activities from the very beginning and building constructive dialogues made possible to have necessary support, fruitful discussions, trainings, and exchange of experiences.

According to the purposes of the OPCAT, based on the findings of the 2022 year, the Ombudsman prepares its report, which includes its Azerbaijani NPM activities in that year, undertaken measures, preventive visits and their outcomes, made recommendations and proposals, their status of implementation, as well as the other activity directions of the NPM.

I believe that the present report will make input to the different activity directions on the basis of our recommendations and proposals.

We thank you in advance for your recommendations regarding this report.

**Sabina Aliyeva**

*The Commissioner for Human Rights  
of the Republic of Azerbaijan  
(Ombudsman)*

## LIST OF USED DEFINITIONS AND ACRONYMS

- AR** – The Azerbaijan Republic
- BPDF** – Baku Pre-Trial Detention Facility
- BPTD**- Baku Pre-trial Detention Facility
- CAO**- Code of Administrative Offences of the Republic of Azerbaijan
- CAT**- United Nations Committee against Torture
- CC**-Criminal Code of the Republic of Azerbaijan
- CDPO**-City District Police Office
- Constitutional Law**- the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- Convention against torture** – Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- CPT**- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- DCAAP**- Detention Center for Administratively Arrested Persons
- Detainee** –person deprived of his/her liberty
- Deprivation of liberty**– any form of detention or imprisonment or the placement of a person in a public or private custodial setting, which that person is not permitted to leave on his/her will by order of any judicial, administrative or other authority
- DPD**- District Police Department
- DPO**- District Police Office
- ECtHR** – European Court of Human Rights
- II**-Investigation Isolator
- MIA** – Ministry of Internal Affairs of the Republic of Azerbaijan
- MLSPP** – Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan
- MM**- Mass media
- NPG**- National Preventive Group of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- NPM**-National Preventive Mechanism against Torture, specified under the OPCAT
- Office** – Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- Ombudsman**- the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
- OPCAT/OP** – Optional Protocol to the Convention against torture, and other cruel or degrading treatment or punishment
- OSCE** – Organization for Security and Cooperation in Europe
- PI** – Penitentiary institution
- Place of deprivation of liberty** – any place where a person is not permitted to leave at own will or can be detained
- PS** – Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan
- SSS** – State Security Service of the Republic of Azerbaijan
- SPT** – United Nations Subcommittee on Prevention of Torture and Inhuman or Degrading Treatment and Punishment
- TDP**- Temporary detention place / Place of temporary detention
- Torture**- torture and other cruel, inhuman or degrading treatment or punishment
- UN** – United Nations

## **CHAPTER 1.**

### **LEGAL BASIS OF THE NATIONAL PREVENTIVE MECHANISM MANDATE**

#### **1.1. The OPCAT Requirements**

In 2022, the Commissioner for Human Rights (Ombudsman) of the Azerbaijan Republic successfully continued its work as an institution implementing the functions of the national preventive mechanism (NPM) as specified in the OP.

As is well-known, the purpose of the OP is to develop an implementation mechanism for conducting visits to places of deprivation of liberty by independent international and national institutions to prevent torture. The OP underlines the significance of constructive dialogue and specifies a preventive-avoidance attitude rather than a reactive approach to regulated attitudes. The innovativeness of the OP is also evident in the fact that it does not reflect any new right or standard or the restoration of violated rights, but rather the prevention of violations of an existing standard, namely the right to freedom from torture.

The main idea of the noted document is to develop a system of independent and regular visits to monitor the treatment standards and detention conditions of all those who are held in places of deprivation of liberty as the most convenient method of preventing torture. According to the OP, international and national institutions, having a preventive mandate, which include the Sub-Committee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) are set up. The SPT is a new treaty body in the UN system.

In compliance with Article 17 of the OP, the NPM, which shall be maintained, designated, or established by each State Party at the latest one year after the entry into force of the present Protocol or of its ratification or accession under the respective norm, conducts regular visits to places where persons are deprived of their liberty at the national level to monitor the treatment issues and detention conditions.

The NPM mandate covers, at a minimum, the following:

- to regularly examine the issues related to the detainees;
- to make recommendations to the relevant authorities in a view to improving the treatment and detention conditions of detainees and preventing torture, taking into account the relevant UN norms;
- to make recommendations and observations concerning existing or draft legislation;

The guarantee of the functional independence of the NPMs as well as the independence of their personnel is the main precondition to fulfill the mandate.

The OP grants the NPMs the following main powers:

- to access to all information concerning the number, treatment, and condition of persons deprived of their liberty in places of detention, as well as the number of places and their location;
- to access to all places of detention and their installations and facilities;
- to have private interviews with the people deprived of their liberty without witnesses, as well as with any other person who may supply relevant information;
- to choose the places they want to visit and the persons they want to interview without any hindrance;
- to have contacts with the SPT, to send it information, and to meet with it.

#### **1.2. National Legislative Framework**

The Republic of Azerbaijan signed the OP on September 15, 2005, and ratified it by Law dated December 2, 2008.

Since the relevant law has been officially published, that is, since January 15, 2009, the OP has entered into force in relation to Azerbaijan.

By the relevant Presidential Order of the Republic of Azerbaijan, the Commissioner for Human Rights (Ombudsman) was designated as an organization responsible for carrying out the national preventive mechanism functions as stated in the OP.

By making additions and amendments to the Constitutional Law, the scope of the power of the Ombudsman, as well as its independence were brought into conformity with NPM standards as stated in the OP; also, the transparent procedures for the establishment of the NPG, and the requirements for its candidates were also identified, along with matters on guarantees for their rights and impunity.

According to the Constitutional Law, the Ombudsman and NPG have the right to access to any state and municipal body, military units, police stations, temporary detention places, investigation isolators (pre-trial detention facilities), penitentiary institutions, military guardhouses, psychiatric institutions and other places, which detained persons cannot leave on their own will; to meet privately or when deemed necessary with participation of an expert or interpreter and interview in private detained persons, and any other persons who may provide relevant information; to get acquainted with and obtain copies of the documents confirming the lawfulness of detention and providing information on treatment and conditions of detention of persons mentioned above; to prepare acts and document the process and the results of the actions undertaken without hindrance and prior notification. The power of the Commissioner to provide relevant recommendations to the competent authorities and to receive responses to these recommendations within the identified time limits is also proclaimed by the abovementioned law.

In the last period, the legislative acts were improved, and the powers mentioned above, which were granted to the Commissioner and the NPG were also identified in the legal and normative acts in a timely manner with a view to effectively organizing their work.

Under the OP, the Commissioner has considered the recommendations made by the UN Human Rights Council UPR Working Group to Azerbaijan's periodic reports, as well as the recommendations and suggestions of the CAT, SPT, and CPT to organize the NPM work effectively.

### 1.3. NPM Activity Directions

The activity of the Azerbaijani NPM encapsulates the following four main directions:

- **Preventive visits** – refer to visits carried out in a regular, scheduled, and unscheduled manner and without prior notice to places where persons cannot leave on their own will;
- **Legal analysis** – refers to theoretical and practical analyses of the relevant work, information, recommendations, and suggestions, the existing and draft legislative acts; summing up the results and producing the relevant recommendations;
- **Legal education** – is the process of organizing legal education operations for the HRCA staff, NPG members, employees of the places, where persons cannot leave on their own will, persons held in those places and student-attendants of the relevant education institutions and academies as well as preparing and dispensing visual materials to promote activities for the prevention of torture;
- **Public affairs and international cooperation** – refer to the exchange of information with national, regional, and international organizations, as well as with NPMs of other countries, mutual participation at events, the organization of joint events, and the promotion of NPM activities in the media.

## **CHAPTER 2.**

### **NPM ACTIVITY AND PREVENTIVE VISITS**

#### **2.1. Organization of Preventive Visits**

According to Article 20 paragraph (a) of the OP, to enable the national preventive mechanisms to fulfill their mandate, the States Parties undertake to provide information on the number of persons deprived of their liberty in places of detention, as well as the number of places and their location, as stated in Article 4 of the OP.

Such information is obtained from the relevant public institutions based on the Ombudsman's request, and based on those requests, the annual work plan is drafted and the visits are conducted accordingly.

If it is deemed necessary at the end of the year, the information for the next year is updated by making clarifications with the relevant authorities.

The preventive visits, which may be divided into two groups: scheduled and ad-hoc visits, are carried out without prior notice.

##### **2.1.1. Scheduled visits**

The scheduled visits are conducted in line with the annual plan approved by the Commissioner. The draft of the annual plan for the upcoming year is discussed by the NPG members at the end of each year, the outcomes are recorded, and the approved plan is presented to the Commissioner for approval. The confidentiality of the annual work plan is critical for the effectiveness of the visits. Therefore, confidentiality is ensured by the NPG members.

The sequence of inclusion of this or another facility into the work plan and the repeated visits there are carried out on the basis of the specificity of the type of that particular facility, records of its general condition and treatment in previous years, its territorial compatibility, as well as the information taken from analyses of the complaints received by the Commissioner.

The length of visits depends on the size of the institution, the number of persons in the place of deprivation of liberty, the type of facility visited and other specificities, as well as the number of NPG members.

##### **2.1.2. Ad-hoc visits**

The ad-hoc visits are mainly conducted to follow-up on the implementation status of previously given recommendations, to prevent persecution of those who provide information to NPG members in one form or another, as well as analyses of the information given by the persons about the place of detention, where s/he was previously held, and complaints received by the Commissioner or hotline (Call Center), to investigate the information reported to the NPG members, to check on site the information spread through media and other issues interesting to the preventive group members, and also in other cases when the Commissioner is deemed necessary.

#### **2.2. Conducting visits**

The effectiveness of the visits mainly requires three phases. So that, taking account of that, the NPM of Azerbaijan conducts its visits at the three-stage mentioned below:

- **First phase**-preparation;
- **Second phase**-conducting a visit;

- **Third phase** - post visit (follow-up) phase

The preparation phase usually takes two working days, including collecting the necessary information, identifying the objectives of the visit, and the personnel of monitoring delegation members.

During this phase, in the process of collecting necessary data, the information received during previous visits or taken from other sources, the applications received by the Ombudsman, the sources spread through media and social networks, as well as the national legal and normative framework regulating the activity of the institution to be visited, and international standards are analyzed.

The objectives of a visit are determined on the basis of the general assessment of detention conditions and treatment standards, the study of specific cases related to detention conditions and treatment (e.g., the institution of disciplinary measures, the quality of health services etc.), follow-up activities, such as checking the status of removal or failure to remove the findings of previous visits and the implementation of the recommendations previously made, and the definition of the scope of the questions of special importance and other issues.

While preparing for the preventive visit, the composition of the monitoring delegation is determined based on factors such as the number of members, their specialization, sex, etc. and other factors, depending on the objective of the preventive visit, the list of facilities to be visited and questionnaires, templates for the interview records with prisoners, questionnaire templates, and others are prepared.

Conducting a visit encompasses a number of stages:

First, an initial talk is held with the administration of the facility, during such a conversation, group members introduce themselves, and explain the purpose of the visit. Afterwards, some general information about the facility is obtained.

After the initial talk with the administration of the facility, group members monitor the area of the facility. In the course of this, conditions of detention in the facility, including the condition, size, capacity (occupancy), actual location, lightening, ventilation, and furniture supply of its building, individual cells or rooms, personal hygienic and sanitary conditions, nutrition issues, the access to medical care, etc., are evaluated.

Later, the documentation is reviewed, and interviews with the persons deprived of their liberty are held in a collective, private, or confidential manner. Such interviews mainly depend on the objective of the visit. Taking account of the situation, the NPG members can determine the technique of the questioning or can make corrections to the preliminary agreement on the spot.

A talk with the facility staff is also an essential part of a visit. The NPG members organize interviews with the staff members in charge in order to evaluate their approach to treating persons deprived of their liberty. In some cases, the NPG also uses special questionnaires prepared for the facility personnel along with the interviews.

At the end of the visit, the NPG members held a final talk with the chief of the monitored facility to alert him of the findings. The administration is also informed about the issues that can be fixed locally, and relevant recommendations are given. Furthermore, the administration is informed that the findings will be reported to the higher instance authority.

According to the international experience, measures implemented after the visit are more important than the visit itself. The objective of the NPM is not only to conduct a visit to places of deprivation of liberty but also to take measures for improving the treatment and detention conditions of persons held there. That is the reason why the NPM of Azerbaijan takes the view that the post-visit phase is more critical than the visit itself.

Therefore, after the visit, a final report on the findings is prepared, and the relevant bodies are given recommendations on how to improve treatment standards and detention conditions.

Typically, when deemed necessary by the NPG members, a repeat visit is appointed and conducted to the facility shortly after the previous one to follow-up on the implementation of recommendations previously given.

### **2.2.1. Institutions of the Ministry of Internal Affairs**

In 2022, within the Ombudsman's NPM mandate, 36 scheduled and ad-hoc visits were conducted to temporary detention places (TDP), police offices (PO) and departments (PD) under the Ministry of Internal Affairs (hereinafter MIA).

During visits, treatment issues, detention conditions and documentation were monitored; in order to ensure the rights of persons detained in these institutions, including the right to be free from torture and cruel treatment, the right to appeal, the right to legal counsel, etc., as well as to prevent the occurrence of cruel treatment in the future, legal awareness talks were held with the management and staff of the institution.

In 2022, the MIA was appealed with letters regarding some deficiencies and shortcomings found during visits and submitted the facts and required to take appropriate measures, to prevent the indicated cases, to instruct the police authorities and requested to send information about the results of the works done. According to the letter of response received by the Ombudsman, it was determined that some shortcomings found were eliminated and the chiefs of the territorial police authorities were instructed to keep the situation in the TDPs under control.

*Visits to the Nasimi District Police Office (DPO), and the Police Department No. 19 of that PO and the Police Unit (PU) No. 20 were conducted.*

10 detainees held in the TDP of the PO were privately interviewed to investigate the treatment issues and their appeals to the Ombudsman were accepted.

Some shortcomings were identified regarding the detention conditions in the Nasimi DPO TDP, where administratively detained persons have been held together with the accused ones, which constitutes a violation of the requirement to separate suspected or accused individuals from those who were administratively detained, as stipulated in the internal regulations of TDPs.

It was found that detainees held in the TDP were not provided with hygienic means and the bedding was not changed when it was necessary.

The proper organization of medical screening in the TDP, opening a medical record book for every detainee, and taking the necessary notes in the registry book for conducting medical examination and medical aid are very important in terms of fulfilment of the requirement to ensure initial medical screening of the arrested or detained persons within 24 hours as stipulated in the "TDP Internal Discipline Regulations".

During the visits, it was recommended to provide detainees with good quality food 3 times a day in accordance with national and international standards related to nutrition of detainees. Thus, in align with international standards, the detainees should be provided with the sufficient caloric, good quality, well-cooked and proper food. According to Article 20 of the Law on "Ensuring Rights and Freedoms of Persons Held in Places of Detention" of Azerbaijan, arrested or detained persons are provided with quality food 3 times a day free of charge, which meets modern hygienic requirements and food standards in accordance with the dietary and household standards established by the relevant executive authority.

It was observed that there were no informative information boards on the rights of the detainees in the TDP and cells.

In the General Duties Police Section in the Nasimi DPO, there were some shortcomings in the documentation and the registration process was in need to be improved. According to the CPT General Observations, the registration of every person arrested and a common and comprehensive record about all aspects of detention and all measures taken regarding the detainee strengthen the main safeguards of those people.

*The PD No. 19 of the Nasimi DPO:* During the visit, it was determined that there were shortcomings regarding the registration in the “Registry Book for Persons under Custody in City, District and Railroad Police Authorities.”

Furthermore, it was determined that people administratively detained were held over time in the department due to the delays in the COVID-19 test results. Here, there were also shortcomings regarding the registration.

At the end of the visit, the management of the facilities were informed about the shortcomings and deficiencies identified and provided with recommendations and proposals on how to overcome them.

*Visits were conducted to the **Sabunchu DPO and the PD No. 12 and the PB No. 15.***

In the course of the visit, 15 people detained in the TDP of the police office were received in a confidential manner, and their appeals were listened to.

It was observed that there were no informative information boards on the rights of the detainees in the TDP and cells.

It was determined that repeat and first-time offenders were held together in the TDP. This constitutes a violation of the Law on “Ensuring Rights and Freedoms of Persons Held in Places of Detention” of Azerbaijan.

Some registry books in the TDP were not sealed, and plus, there was no a registry book regarding the administratively detained persons. However, there were 3 administratively detained people in the TDP.

Nevertheless, it was observed that the TDP was repaired and prayer room was separated in according to the recommendations previously given.

Numerous shortcomings were identified while reviewing the relevant registry books during the visit to the 12<sup>th</sup> PD of the Sabunchu DPO.

For instance, despite the fact that the “Registry Book for Persons under Custody in City, District and Railroad Police Authorities”, the admission of A.S. to the custody was recorded as on 02.03.2022, however, on 11.03.2022 during the meeting with the members of the NPG held in Baku Pre-Trial Detention Facility, the detainee, himself, reported to us that he was arrested on 01.03.2022.

*The relevant registry books in the 15<sup>th</sup> PU of the Sabunchu DPO also contained shortcomings.*

*Visits were implemented to the **Khazar DPO TDP and PU No. 1, 2 and 3.***

17 people held in the TDP of the police office were interviewed and their appeals were listened to.

During the visit to the departments of the Khazar DPO, while the review of the “Registry Book for Persons under Custody in City, District and Railroad Police Authorities”, and other documents, some shortcomings were found.

It is necessary for police office and subordinate departments to increase attention to the proper preparation of records of arrest in conformity with the legislation and to seal them as provided by the procedural norms. Bad keeping records of all procedural actions, inaccurate records of hours may cause to detention of individuals over 48 hours, as a result of which their right to liberty would be unlawfully violated.

At the end of the visits, recommendations to improve the custody conditions, treatment and documentation were made to the TDP and departments.

The Members of the NPG conducted a scheduled visit to the **Khatai DPO and its PD No. 36.**

The purpose of the visit organized in line with the requirements of the OP and the Constitutional Law was to investigate custody conditions of detainees, treatment, situation regarding ensuring their rights, the relevant documentation, as well as incoming appeals and calls.

During the visit, it was found that the custody conditions in the TDP are in conformity with appropriate detention standards, cells were clean and a sport device was placed in the walking area of the TDP, which was considered as a positive development.

However, it was determined that a first-time offender, who was suspected in felony charge was held together with the repeat offender. This is breach of Article 35.2.3. of the Law on “Ensuring Rights and Freedoms of Persons Held in Places of Detention” of Azerbaijan.

Confidential meetings were held with 14 detainees in total in the Khatai DPO TDP. The interviewed detainees had no complaints about custody conditions and treatment in the TDP. Each interviewed and listened detainee was explained the requirements of the legislation, the Ombudsman’s competences, and was legally consulted regarding the raised issues. Some appeals were addressed on the spot.

The registry books regarding the detained persons, medical records books, and other relevant documentation were examined in the TDP; recommendations were made on how to further improve custody conditions and documentation processing. At the end of the visit, a meeting was held with the management of office and departments, where the Members of the NPG put forward their relevant recommendation.

*Scheduled visits were carried out to **the TDP of the Nizami DPO and PD No. 24 and 25 of that PO.***

The purpose of the visit was to examine custody conditions, treatment, the situation regarding ensuring the rights of detainees, and documentation processing.

During the visit held to the TDP, the documents confirming the lawfulness of detention of detained persons, and documents contained treatment of them and custody conditions were investigated; cells were monitored, daily log (about nutrition, medical aid, walking area, visitation, phone calls, release form the cell) were checked; the existing needs were learned.

During the visits, all persons under custody in the TDP were interviewed in private in order to investigate detention conditions and treatment; their appeals were listened to and each of them was explained the Ombudsman’s competences and legally consulted; the written appeals of some to the Ombudsman were accepted; numerous appeals were investigated on the spot and addressed.

During the interview, the detainees held in the TDP did not complain about the custody conditions and treatment.

Furthermore, the investigation revealed that some shortcomings do exist. The problems included the fully enclosed walking area and the absence of chairs in that area, which create impediments to fully exercising of the right to have a walk and an outdoor exercise.

It was observed there are no written information boards displaying rights and duties of the detainees in the cells; some cells were cold and did not enjoy natural light.

In the course of the visit, it was determined that the first-time offender and recidivist were held together.

It was found that there were some shortcomings regarding documentation in the facility, including some registry books were not bound in a Coptic style; the registry book for conducting medical examination and medical aid contained incomplete notes in the TDP.

At the end of the visit, the issues related to the documentation processing, improving custody conditions, and addressing the appeals were discussed with the management of the facility; a legal awareness-raising talk based on the national and international legislation was held for the staff and relevant recommendations were made.

**In the PD No. 24 and 25 of the Nizami DPO,** it was observed that the condition of the cells was not satisfactory, lighting in some cells was weak, the heating system was not operating, there was a lack of a table and chair there. These issues were discussed with the management of the facility and provided with recommendations for elimination of those shortcomings.

The Members of the NPG conducted visits to the **Sabail DPO TDP and PU No. 8, 9, and 39.**

The objective of the visits was to ensure detention conditions and treatment, situation regarding ensuring the rights of detainees and proper processing of documentation.

5 detainees held in the TDP were interviewed in order to assess custody conditions and treatment. The interviewees did not complain about treatment and detention conditions.

It was determined the walking area in the TDP did not meet requirements and was fully enclosed that violates the international standards related to the right of detained persons to have outdoor exercises.

The CPT states that all persons held in the places of detention without exception should be offered the possibility to take outdoor exercise per day. The weakness of the natural lighting in the walking area, which does not meet international standards should be noted.

It was found that first-time offenders were held with the repeat offender together in one cell. This is contradicted to the Law on "Ensuring Rights and Freedoms of Persons Held in Places of Detention" of Azerbaijan.

*The conditions in both detention places in the PU No. 9 of the Sabail DPO were satisfactory.*

The absence of an artificial lighting in the TDP in **the PU No. 39 of the Sabail DPO** should be accepted as a problem. There were some shortcomings in the documentation such as some entries in the "Registry Book for Persons under Custody in City, District and Railroad Police Authorities," were found to lack dates or modified. Some entries were found to lack any notes at all.

No artificial lighting was found in one *TDP in the PU No. 8 of the Sabail DPO*. The "Registry Book for Juveniles Taken to Police Custody", some shortcomings were found regarding the admission dates and hours.

At the end of the visit, recommendations were given with regard to the improvement of custody conditions, treatment and documentation.

The Members of the NPG carried out a visit to the **Pirallahi DPD**. During the inspection, it was found that the requirement to keep 1/3 (one-third) part of the walking area was not followed.

The lack of hygiene items in the TDP, the lack of personal hygiene items (such as soap and toothbrushes), and the absence of soap in the cell No. 5 make it difficult for detainees to maintain personal hygiene and protect their health.

It was observed that the relevant registry book was not fully completed by the doctor, as the person's father's name and date of birth were not recorded. Furthermore, during a confidential meeting, the detainee said that he was not undergone a medical examination.

It has been reported that the prayer room was not considered in the project, and conditions were created in the suspect identification room for detainees to perform worship. During an inspection of that room, it was observed that gym equipment was placed there.

At the end of the visit, recommendations were given regarding the improvement of detention conditions, treatment, and documentation.

The Members of the NPG conducted a scheduled visit to the **Absheron DPO TDP**.

The purpose of the visit was to monitor the custody standards, treatment, situation of ensuring human rights of persons detained in accordance with the law, as well as the processing the documentation.

During the visit to the TDP, it was determined that there was a total of 24 individuals, including 16 administrative detainees, 3 arrested persons, and 5 suspects.

During the visit, the Members of the NPG conducted inspections of all cells, walking areas, and medical rooms in the TDP to investigate detention conditions and treatment. They examined documents confirming the legality of detention of detainees, also reviewed documents related to their treatment and detention conditions, and interviewed all detainees. Their appeals were listened to, the Ombudsman's competences were explained to them, and legal advice was provided.

As part of the investigation into treatment issues and detention conditions, the detained individuals were received here and confidential conversations were conducted with them. They complained about not being able to exercise their right to visitation and phone calls while at the detention center.

The detainees said that they are served the same meals every day and that the quantity is insufficient. Some detainees have complained about insufficient heating in the cells.

Conditions should be created for the detainees to use the bathroom in a timely manner, clothing and bedding sets should be changed frequently, and attention should be increased to providing hygiene kits.

It was found that detainees did not undergo initial medical screening upon admission by the institution and during their detention, and some of them were not provided with immediate medical assistance despite their requests.

It was observed that in some cells of the facility, the floor is partially or fully collapsed, walls were corroded due to dampness, the number of seats was fewer than the number of detainees, lighting was insufficient in one cell, and there are no written information boards displaying rights and duties in the cells.

The shortcomings also included the lack of covering for 1/3 (one-third) of the walking area, absence of chairs, and provision of only 15 minutes of walking time throughout the day.

It was determined that a room designated as a medical room is also used for other purposes (such as placing a monitor to watch surveillance cameras (CCTV), storing police staff uniforms in the wardrobe, etc.). In addition, there are no necessary facilities for taking showers in the bathroom, as well as a lack of hot water.

In the course of the visit, some shortcomings regarding documentation were found.

At the end of the visit, legal awareness-raising talks were held with the managerial staff of the relevant department and TDP of the Absheron DPO. Recommendations were provided for addressing identified shortcomings in sending applications, processing of documentation, and registration.

During the visit to the ***TDP of the Main Police Department of Ganja city***, it was found that the telephone device was not functioning. Furthermore, it was determined that in cell No. 1 of the TDP, a repeat offender K.A., who is accused under Article 177.1 of the Criminal Code of the Republic of Azerbaijan, and a first-time offender A.A., who is accused of a crime under Article 335.3 of the Criminal Code, were held together in violation of Clause 2.31.3 of the "Internal Regulations for Temporary Detention Places," approved by the Cabinet of Ministers Decision No. 63 dated February 26, 2014.

The registration in the "Registry Book for Release from Cell" and other registry books was found to not comply with the requirements of the Internal Regulations.

During the visit to ***the Ganja City Police Department***, it was found that the "Registry Books for Persons under Custody in City, District and Railroad Police Authorities," in the duty section were not sealed and bound in a Coptic style in accordance with legislation. It was also revealed that measures taken regarding many people brought to the custody in the department, as well as records of release dates and times, were not recorded.

A relevant act was drawn up in the presence of the acting head of the department in connection with the identified facts.

During the visit to the PD No. 2 of Ganja city, it was found that the "Registry Book for Juveniles, Parents and Provocateurs Taken to Police Custody" and the "Registry Books for Persons under Custody in City, District and Railroad Police Authorities," books were not sealed and bound.

There were some shortcomings in the registration in the **Aghstafa DPO** as well found during the visit there. It was found that the "Registry Book for Juveniles, Parents and Provocateurs Taken to Police Custody," has been established since 01 January 2021 and kept in the duty section, was not sealed and bound in a Coptic style, and that entries in the registry books were not made in compliance with legislation. The "Registry Book for Persons under Custody in City, District and Railroad Police Authorities" was found to lack to provide measures taken, such as the date and time of release of persons taken into custody. Consequently, a relevant protocol was drawn up.

A visit was carried out to the **Tovuz DPD**. During the visit, in the medical room was found 4 boxes of expired "Dibazol" medicine and there were no essential medical supplies in the medical aid box. Furthermore, it was observed that a shaving kit was stored in the medication storage area, and hygiene regulations were failed to comply with.

Hygiene items such as soap, toothbrushes, toothpaste, and hand towels are not available in the cells. However, Article 22 of the Law on "Ensuring the Rights and Freedoms of Persons Held in Places of Detention" requires conducting medical examinations, treatment and prevention, sanitation and hygiene measures, and anti-epidemic measures in places of deprivation of liberty, and establishes it as a responsibility within the mandate of state authorities to which detention facilities are subordinate.

Since there is no phone call center, detainees use mobiles to call.

The NPG Members carried out a visit to the **Shamkir DPD**.

It was determined that the "Registry Book for Conducting Medical Examination and Medical Aid" of the TDP was not sealed and not bound, and there was not a "Registry Book for Release from the Cell". Furthermore, no telephone booth was found in the TDP to ensure phone conversations of detainees, and that entries in the designated book for phone conversations were not properly made. It was found that no call request form is prepared by investigators when detainees are brought for meetings. The hygiene conditions in TDP cells were found to be non-compliant, and the bedding was dirty.

It was found S.S. detained based on the record of arrest, was not brought to court on time despite the expiry of the custody, and only in the final moment, the detainee was told by the investigator N.T. that he would be brought to court.

The members of the NPG conducted visit to the **TDP of the Goygol DPD**.

During the visit, several shortcomings in documentation were identified. Specifically, it was revealed that some entries related to sending to the pre-trial detention facility were missing the corresponding dates and times.

During the visit carried out to the temporary detention at the **Yevlakh DPD**, inspections were conducted in the TDP cells, medical room, and other areas.

It should be noted that the relevant entries were not made in the "Registry Book for Phone Conversations of Detainees."

At the end, the facility management were provided with recommendations regarding certain identified shortcomings that can be addressed on the spot. Legal awareness talks were conducted with the institution's management and staff.

The CPT also emphasis on the training of personnel and notes in its recommendations that properly-trained police or prison officers is the best guarantee against cruel treatment of individuals deprived or restricted of liberty.

The Member of the NPG conducted ad-hoc visit to the **TDP of the Main Department on Combating Human Trafficking** of the Ministry of Internal Affairs.

During the visit conducted by the NPG to the TDP, which was implemented with the participation of medical doctor and psychologist members, the cells, medical, visitation, and kitchens and walking areas were inspected in the facility.

It was observed that all cells of TDP were repaired, and the medical room was equipped with necessary inventories and medical supplies to provide healthcare services to detainees.

At the end of the visit, an awareness talk was held with the management and staff of the institution, and recommendations were made on how to improve detention conditions and documentation processes.

### **2.2.2. Institutions of the Ministry of Justice Penitentiary Service**

In 2022, in the framework of the Ombudsman's NPM activities, preventive visits and measures were carried out in the institutions of the Penitentiary Service of the Ministry of Justice to ensure the rights of detainees.

Throughout the year, a total of 82 both scheduled and ad hoc preventive visits were carried out in pre-trial detention and penitentiary institutions of the Penitentiary Service (PS). All visits were conducted without prior notice and appropriate conditions were provided to the Members of the NPG.

During the visit, confidential interviews were conducted with accused and detainees who were randomly selected or who contacted the Ombudsman, focusing on their detention conditions, their rights protection, and prevention of related to torture and ill-treatment.

The Ombudsman and Members of the NPG conducted scheduled and ad hoc visits to the ***Baku Pre-trial Detention Facility*** without prior notice.

The purpose of the visits carried in compliance with the OPCAT and the requirements of the Constitutional Law on the Ombudsman of Azerbaijan, was to investigate the conditions of detention, treatment, as well as incoming complaints of detainees.

During visits conducted with the participation of specialized medical and psychologist Members of the NPG, interviewed detainees mainly complained about non-objective conduct of pending investigations into criminal cases against them, as well as with court decisions and judgments in criminal cases. Some also requested an objective approach to ongoing court proceedings.

However, they did not have any complaints about the conditions of detention and treatment in the Baku Pre-trial Detention Facility.

Each interviewed detainee was provided with legal advice regarding the requirements of legislation, the Ombudsman's mandates, and regarding issues raised. Some requests were solved on the spot.

At the end of the visit, a meeting was held with the management of the facility, and recommendations were provided on how to improve detention conditions.

During the inspections conducted at the Baku Pre-trial Detention Facility, Armenian-origin individuals who are accused of committing public security offenses in the liberated territories of Azerbaijan following the cessation of military operations as per the trilateral Statement dated November 10, 2020, were also received.

During the confidential meetings, each accused person was interviewed about their telephone conversations, correspondence, contact with family members, access to external information (television, publications), the quality of medical services provided, and other matters and they had no complaints. It was observed that international legal norms were adhered to in their treatment without any discrimination, and their rights were ensured along with necessary medical and psychological services.

***The Pre-trial Detention Facility No. 2*** based in Ganja city was carried out a scheduled visit. All facilities of the facility, including dormitories, kitchen, visitation rooms and walking areas, as well as the disciplinary cell and the medical-sanitary unit were inspected.

It was determined that no registration regarding the transfer of and release from several accused persons to the disciplinary cell was made. The head of the facility accepted this as a shortage and took steps to overcome it.

Another significant concern in the time of all visits conducted to this facility was overcrowding. This issue remains a major challenge in terms of treatment, health, and safety for the those detained at the facility.

The detention conditions in the facility do not comply with standards, as there are moisture and wear in most areas. It was also observed problems such as faulty water taps and ineffective sanitary fittings in the cells, as well as continuous water leakage due to malfunction. In violation of the 3.2 clause of the Pre-trial Detention Internal Regulations, approved by the Cabinet of Ministers' Decision No. 63 of Azerbaijan dated February 26, 2014, the floors of the cells are covered with concrete instead of wood or metal plates.

Despite the hot weather, inadequate ventilation measures were observed in the living quarters of the pre-trial facility, with some rooms having permanently closed vents while others remain open. This situation is considered as discriminatory and that detention conditions are inadequate. The condition of blankets and bedding was also not found satisfactory.

During confidential talks with the detainees, they said that some food items (potatoes, onions, and sugar) were not allowed to bring to the facility along with the parcels. As a result, they had to purchase them at a higher price from the facility's trade kiosk. They also added that the quality of the bread was poor, therefore, it was not consumed it.

During the inspection, it was also found that a juvenile offender was detained together with adults. Legislations require that juvenile accused persons should be separated from adults. Similar incidents were observed during previous visits implemented to the facility. Upon inquiry into the rationale of the management of the facility for detaining the juvenile with adults, it was said that it was taken to ensure that juvenile's protection from harmful influences when he was alone. However, as a result of the investigation by NPG Members, it was revealed that the other detainees held in the same cell with that juvenile were either previously convicted or accused of serious crimes. This shows that the rationale provided by the management of the facility regarding the safety of the juvenile is unfounded.

Furthermore, it was found that first-time accused of committing crimes are detained together with individuals who have previously convicted. Both domestic and international standards require the separation of such individuals.

During the visit to the medical-sanitary unit of the facility, it was determined that preferential conditions are created for some detainees. The number of detainees registered here and the actual number did not match.

In the cells of the medical-sanitary unit, expired drugs were found.

Antisanitary conditions in the medical rooms were found. In the dentist's office, essential items such as anti-shock tools were missing, hygiene rules were not followed after medical services, used disposable syringes were found in the open without proper disposal.

In the medical-sanitary unit, it was revealed that the existing medical registry books were not properly recorded, personal medical files were left blank, and there were no records of personal files for the past 6 months except records regarding only anti-COVID-19 measures in some cases.

The problems included creating obstacles to sending to the PS Medical Institution, lack of responsiveness in medical examination and treatment leading to complications in

some cases, lack of individual approaches towards inmates who refuses meal intake (hunger strikers), those who are held in disciplinary cell, and those, against whom special means of force were used, cause additional concerns.

The CPT recommends that detainees should have the access of requesting a medical doctor at any time, regardless of the detention regime. Medical services should be organized in such a way that medical consultations and confidential consultations can be provided without undue delays.<sup>1</sup>

Non-fulfillment of the previous recommendations made by either Ombudsman or the CPT by the facility remains relevant. Thereby, the Ombudsman stressed the importance of accelerating the construction works for the relocation of Pre-trial Detention Facility No. 2, which is located in a very old building, to a new facility.

During the ad-hoc visit implemented by the Members of the NPG to (high-security) ***Penitentiary Institution No. 1 of the Penitentiary Service***, without prior notification, various facilities of the institution, including the punishment cell and the medical-sanitary unit were monitored; 18 inmates were interviewed during the visit.

During the visit, the head of the institution reported that 935 inmates, with 14 inmates in the punishment cell of the penitentiary facility with an overall capacity of 1200 inmates.

In the course of the inspection of the punishment cell by NPG Members, it was determined that inmate A.N. was being held there without any decision. The head of the institution stated that the inmate was placed in the punishment cell on the day of the visit, a relevant investigation was conducted, and a final decision had not been made.

It was observed that the bedding in some cells in the facility were dirty, a number of chairs were less than the number of inmates, floors in some cells have damaged, and that in general, the punishment cell was in need of repairs.

Confidential meetings were held with some inmates at the facility to investigate the conditions of detention and based on complaints received by the Ombudsman. According to the information provided it was indicated that in some cases, inmates were prevented from maintaining contact with their families, and that they are not informed about decisions regarding their transfer to the punishment cell.

Each inmate was informed about the requirements of the legislation, including the Ombudsman's competences, and legal advice was provided regarding the issues raised. Some complaints were solved on the spot.

The inmate P.A., who was detained in the medical-sanitary unit of the facility, was confidentially interviewed. It was observed that he was allocated a separate ward due to his hunger strike, and that he was under daily medical supervision. During the conversation with him, he expressed dissatisfaction with the court decisions regarding the criminal case against him in the first and appellate instances, and that would like his pending case to be fairly reviewed by the Supreme Court.

At the end of the visit, a final meeting was held with the head of the institution, during which the observations, including the opinions of the inmates interviewed, were discussed; recommendations were made to eliminate the shortcomings, improve the detention conditions and treatment, ensure the continued medical supervision of P.A., and maintain daily medical monitoring.

A scheduled visit was conducted at the ***Female Penitentiary Institution No. 4 of the Penitentiary Service***. The main purpose of the visit, organized in accordance with the OPCAT and the Constitutional Law on the Ombudsman, was to assess the situation regarding protection of the rights of inmates with disabilities, including the rights of female

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<sup>1</sup> 2nd General Report on the CPT's activities, CPT/INF (92)3

inmates with children under 3, and investigate the detention conditions and treatment within the institution.

During the visit, meetings were held with inmates, including those with disabilities, children, and staff of the institution; the punishment cell, the bakery, and the mother and child room in the facility.

It was reported that the institution, with a capacity limit of 350, currently accommodate 414 inmates, including 19 with disabilities, and that three children are residing with their mothers in the facility.

During the visit, 27 inmates, including 19 with disabilities, were interviewed and their concerns were heard. They were informed about the requirements of the relevant legislation, and their appeals were accepted. The main concern of the inmates was the cessation of disability benefits and issues related to medication supply.

At the end of the visit, a meeting was held with the head of the institution to discuss identified issues and their solutions, and some recommendations were provided. The chief stated that measures would be taken to ensure the rights of persons with disabilities, and legislative changes are expected in the current year regarding the provision of diapers and other hygiene items, and that the issue will be addressed. The chief linked the low temperature in the mother-child room to the need for repairs in the facility, also adding that the facility would be relocated to a new building soon.

Noteworthy that the female penitentiary institution No. 4 have been relocated to a new building in March/April in 2022. The Ombudsman participated in the public inauguration of this facility constructed in Baku. It should be noted that the conditions created in the facility meet modern standards required in the European Prison and other standards.

The Members of the Ombudsman NPG conducted unannounced visits to the ***Penitentiary Institution No. 11 of the Penitentiary Service.***

The objective of the visits was to monitor the conditions of detention, the treatment, and the protection of their rights and follow up on the implementation of previously given recommendations and investigate incoming applications.

During the visits, the solitary confinement and the medical-sanitary unit were inspected; inmates were interviewed.

While monitoring the solitary confinement, the NPG Members found that previously given recommendations regarding the solitary confinement (installation of sanitary locks and washing basins on all cells, as well as cosmetic repairs and painting of cell walls) was implemented.

Afterward, a confidential meeting was held with some inmates detained in the institution.

During the interview with an inmate A.S., the latter said that the institution's kitchen was renovated and put into use after the NPG previous visit and therefore, he thanked the Ombudsman for the attention given to the inmates.

The Members of the NPG also heard the other inmates interviewed; each inmate was informed about the requirements of the legislation, including the Ombudsman's mandate, and legal advice was provided regarding the issues they raised. Some of their appeals were accepted.

At the end of the visit, a final meeting was held with the head of the institution and the latter was given recommendations based on the shortcomings identified during the visit and feedback from the inmates on how to address them, improve detention conditions, and treatment standards as provided by the law. The chief promised that the mentioned issues would be thoroughly investigated and the problems and shortcomings would be eliminated.

Some inmates have been held in solitary confinement for extended periods due to security reasons. Overall, it was found that the disciplinary measures applied to inmates in

this facility are long-term, and there is a high number of inmates who are transferred to a prison regime.

Confidential interviews were conducted with some inmates to assess detention conditions and treatment. They reported difficulties created in submitting their applications to relevant authorities, providing necessary healthcare services, and accessing certain prescribed medications recommended by the psychiatrist.

The Penitentiary Service was requested with a letter regarding the findings of the monitoring in the Penitentiary Institution No. 11.

The NPG Members conducted a scheduled and unannounced visit to the ***Penitentiary Institution No. 9 of the Penitentiary Service*** without prior notice.

The objective of the visit was to investigate the detention conditions, treatment, and the overall situation regarding the protection of rights of inmates and furthermore, incoming applications.

During the visit, the head of the institution provided general information about the facility. He noted that currently there 280 inmates in the facility with a total capacity of 350.

While monitoring the punishment cell in penitentiary facility, no detainee was found there. Following the instructions given by the NPG, during the visit it was found that doors were installed in all WC in the cells.

Then, several areas of the institutions, including the medical-sanitary unit, quarantine room, dining room, recreational rooms, and other areas, were examined. In total, 25 inmates were interviewed.

During the monitoring in the medical-sanitary unit, it was observed that some medications had expired, and there was a lack of first aid kit.

During a random check of medical records of two inmates, it was revealed that no entries were made about them for a long time. Furthermore, it was observed that the weekly menu in the facility was not changed for a long time, and the same type of food was regularly served and was recommended to diversify the menu and increase the variety of dishes offered.

The NPG Members explained the inmates interviewed their rights, legal requirements, as well as the competences of the Ombudsman.

The NPG Members conducted a scheduled visit to the ***Medical Institution of the Penitentiary Service***.

The main purpose of the visit, implemented in line with the requirements of the OPCAT and the Constitutional Law on the Ombudsman, was to investigate the rights of inmates with disabilities, including juveniles.

During the visit, first, a meeting was held with the head of the institution and the chief physician to collect information about persons with disabilities and existing problems. It was said on the day of the visit, there were 529 inmates in the institution, including 14 women, 39 persons with disabilities, and 2 minors. The chief physician of the institution highlighted the suspension of disability pensions and benefits, as well as the need for a reassessment of disabilities as the main problems of this category of people.

During the visit, 27 inmates, including 23 persons with disabilities, 2 juveniles, and one parent of one inmate, were received and their requests were heard. All of them were informed about the requirements of relevant legislation and the Ombudsman's mandate. Their applications were accepted. During interviews, the inmates did not complain about their conditions of detention and treatment. Their main concerns were about suspension of disability benefits, ineffective medical treatment, and problems related to medication supply.

At the end of the visit, a meeting was held with the head of the institution to discuss identified problems and their solutions. The discussion was focused on ensuring the rights

of persons with disabilities and recommendations were given regarding the right to healthcare, in particular.

The Ombudsman's NPG Members conducted scheduled visit to the *Prison of the Penitentiary Service* without prior notice.

The purpose of the visit was to monitor the conditions of detention and treatment of inmates, including life-sentenced prisoners, investigate incoming applications, and assess the situation regarding the protection of the prisoners' rights, including inmates with disabilities. Based on the mentioned, during the visit, private meetings were held with 33 inmates, in total.

First, a meeting was held with the head of the institution to collect general information about the facility. He reported that there are a total of 539 prisoners in the prison facility, including 261 life-sentenced inmates, 1 inmate in solitary confinement, and 14 inmates in quarantine. The head of the institution said that several improvements were done in the conditions of detention, including substantial renovations in the medical-sanitary unit and cosmetic repairs in the solitary confinement. He also added that the institution would be relocated to a new building by the end of the year. In addition, there was one psychologist working in the prison; however, it was found that rehabilitation was not implemented at all.

Afterward, confidential interviews with inmates held in the facility. During an interview with an inmate V.E.<sup>2</sup>, the latter said that he underwent medical examinations, provided with meal 3 times a day, maintained phone contacts with his family, had access to books in his native language, and did not have any complaints. Then, NPG Members monitored his cell and found that the necessary conditions were created.

During the visit, 19 written applications (mostly related to healthcare rights, pardoning, and extradition) were interviewed. Each prisoner was informed about the requirements of the law, including the Ombudsman's mandate, and legal advice was provided regarding issues raised by them. At the end of the visit, a final meeting was held with the head of the prison institution, who were given recommendations for eliminating the identified shortcomings and further improving the conditions of detention.

The scheduled visit was implemented to the *Penitentiary Institution No. 17 of the Penitentiary Service* without prior notice.

The purpose of the visit was to investigate the conditions of detention, the treatment of prisoners, and incoming applications and calls, as well as to assess the overall situation regarding the protection of prisoners' rights. Based on these considerations, confidential interviews were conducted with 40 inmates during the visit.

The management of the institution was informed about identified shortcomings, and some of them were addressed on-site. In general, it was said that the Penitentiary Institution No. 17 will be repaired.

The documentation processing was investigated; the new head of the institution highlighted that there were deficiencies in the documentation process under the previous leadership, and emphasized that the work is reprocessing in full compliance with regulations.

Also, during the visit, confidential meetings were held with several inmates held at the institution.

One of the inmates reported that he was not provided with the necessary medicines by the doctor of institution and requested assistance in resolving the issue. A discussion in the presence of the inmate was then held with the chief medical officer of the institution, and appropriate recommendations were made to address the issue.

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<sup>2</sup> He holds dual citizenship of Armenia and Lebanon; convicted under Articles 114, Article 214, and other articles of the Criminal Code of Azerbaijan, and sentenced to a 20-year imprisonment.

Other inmates did not complain about their conditions of detention or treatment, but one inmate with a foreign citizenship requested assistance in extradition him to his home country to serve the remainder of his sentence there.

Each inmate interviewed and heard, was explained the requirements of the legislation, the Ombudsman's competences, and legal advice was provided regarding the issues they raised.

At the end of the visit, a final meeting was held with the chief of the institution and the latter was informed about the observations, including the opinions of the inmates interviewed and provided with recommendations on how to eliminate the identified shortcomings and improve the conditions of detention.

The NPG held a scheduled visit to the ***Penitentiary Institution No. 12 of the Penitentiary Service under the Ministry of Justice***.

Initially, during the visit, a meeting was held with the chief of the institution. It was reported that on the day of the visit, 941 inmates, including 9 in the punishment cell, 11 in the medical-sanitary unit, and 14 in quarantine, were held in the institution with a capacity of 1200.

The chief said that in the institution, ongoing maintenance works are being carried out and that the prayer room was newly repaired. It was also noted that a bakery (a place where a bread is made) is operating in the facility.

During the monitoring, confidential meetings were held with up to 30 detainees. The inmates were surveyed regarding their detention conditions, treatment, health, nutrition, access to phone contact, visitation, and other rights. During private and confidential interviews, inmates were informed about their rights, the Ombudsman's mandate, and the requirements of the relevant legislation.

Furthermore, written applications addressed to the Ombudsman were accepted for investigation.

While inspecting the punishment cell, it was observed the need for repair in this area and that the absence of information boards displaying the rights and duties in the cells.

At the end of the visit, the management of the institution was recommended on how to improve detention conditions and treatment.

### **2.2.3. Institutions of the Ministry of Health**

In 2022, the Ombudsman's NPG conducted 12 visits to the institutions of the Ministry of Health under the national preventive mechanism mandate.

The purpose of the visits organized in accordance with the requirements of the OPCAT and the Constitutional Law on the Ombudsman of Azerbaijan, was to investigate the conditions related to the treatment of patients, detention conditions, the organization of medical care, and the examining documents confirming the legality of detention, as well as the follow up on the implementation of the previously given recommendations.

During the visit to the ***Republican Psychiatric Hospital No. 1***, the implementation status of previously given recommendations followed up. It was observed that the General Regime Compulsory Treatment (GRCT) department was underwent cosmetic repairs, and the room where psychotropic drugs are stored in the pharmacy was equipped with a special additional iron door.

However, it was found that the repairs carried out in the GRCT department are inadequate, and that the building requires overhaul, as well as that sanitary standards in sanitary facilities were poor. While some rooms in that department had TVs and air conditioners, others do not; furthermore, there were privileged conditions in the solitary confinement rooms created. It was also observed that in some rooms CCTV were fixed as such the cameras show the ceiling. During the visit, it was noted that responsible staff members provided inaccurate information regarding the use of these rooms. Before the

inspection despite the chief and other employees in the Strengthened and Intensive Supervision Compulsory Medical Treatment (SI'SCMT) department stating that the mentioned rooms were not in use, during the inspection it was observed that there were patients there. This shortcoming can be considered a violation of the principle of equality in ensuring the rights of patients.

During confidential meetings with randomly selected patients in the same department, it was determined that only some of them were created opportunity to have meetings with their close relatives, and the responsible physicians of the department give verbal instructions in this regard, and that the patients are dissatisfied with this case.

During conversations with the small medical team of the GRCT, they reported implementing physical restraint measures based on the doctors' instructions, but during the review of the "Journal for Patient Restraint and Seclusion", it was found that relevant entries were not made in it; furthermore, it was found that according to the rules in the medical documents, the number of pages and the date of establishment were not recorded.

During the monitoring of the second floor of the same department, it was observed that R.M., a person with a 1st-degree disability (lower parts amputated and can only move with a wheelchair) receiving inpatient there, was not provided reasonable accommodation to carry out his life activities independently. In addition, it was determined that due to his placement in the ward located on the second floor and the absence of ramps, unlike other patients receiving inpatient treatment in the department, he had no access to go for walks.

These circumstances are considered a violation of the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, which Azerbaijan has ratified, as well as the Law "On the Rights of Persons with Disabilities" of Azerbaijan. According to Article 9 of the CRPD and Article 14 of the Law "On the Rights of Persons with Disabilities" require to take measures for the identification and elimination of obstacles and barriers to accessibility in infrastructure facilities, especially in medical institutions, to enable persons with disabilities to live independently.

During the monitoring of the medication storage in the SI'SCMT intensive and specialized case units, it was found that the drugs like "*Aminazine*," "*Adrenaline*" (No. 10, ampoules), "*Platifillin*," "*Vikasol*," "*Sodium chloride*," and "*Valocordin*" expired.

As a result of conversations with the chief and other staff of the unit, as well as the patients receiving treatment in the intensive and specialized care units, it was determined that patients were only allowed to use the corridor for walks and were not generally taken outdoors. Furthermore, it was observed that patients' living areas in various units of the department in question lack sanitary facilities, and patients were only allowed to use shared sanitary facilities according to a schedule and on a rotating basis.

During the monitoring of the wards in the Infectious Diseases Department, although records were kept of the use of special tools and bands, no information about their duration, as well as the reasonably justified decisions made by the department's attending physician, was found. This constitutes a violation of Article 24.2 of the "Law on Psychiatric Care" of Azerbaijan.

During the monitoring of the medication storage room in the Adolescent Ward of the hospital, expired medical drugs were found there. Furthermore, it was observed that social-psychological rehabilitation measures were implemented weakly in that department, and the treatment was limited only to pharmacotherapy. For instance, according to the chief physician of the Adolescent Ward only 3 from 26 children receiving treatment in the ward, were undergoing psychotherapy, highlighting that due to lack of staffing, it is not possible to therapy all children at the same time. Also, it was noted that therapy for other children would be possible in a few weeks.

In the Adolescent Ward, there was a seclusion room, and although the ward staff reported occasional use of this room, upon review of the "Journal for Patient Restraint and Seclusion", it was found that the journal lacks appropriate records. This violates Articles 24 (2) and 37(4) of the Law "On Psychiatric Care."

During the inspection of the institution's Day Care Ward, it was observed that there were a large number of expired medical drugs in the manipulation and medication rooms, and appropriate seals restricting their sale were not affixed. It was also noted that the clinical protocols for anaphylactic shock were not followed. For example, medications such as "Lamictal" (lamotrigine) (expired in December 2021), "Amitriptyline," "Novocain," "Calcium gluconate," "Cocarbonylase Hydrochloride," "Glucose," and "Panthenol" were found to have expired.

During the conversation with a randomly selected patient, the latter said to the NPG members that he was occasionally involved into labor in wards in exchange of which he was given sweets. However, according to Article 23(5) of the "Law on Psychiatric Care" of Azerbaijan, a mentally-ill person is considered unable to work throughout his/her inpatient treatment, and he/she is entitled to receive benefits or pension based on legislation or general principles. The previously identified violation still persists.

The fire alarm system in the center is kept under constant surveillance, nevertheless, it has been observed that some fire extinguishers are nearing the critical "red" range and their gauge have decreased.

When inspecting the treatment plans of patients receiving treatment in child, adolescent, and other wards, it has been observed that the treatment goals and therapy methods are not specified. According to the CPT standards, the drawing up a treatment plan for each patient should be based on an individualized approach. In addition, under Article 15 (0) (8) of the Law "On Psychiatric Care" of Azerbaijan, treatment-production institutions and special production areas with mild work conditions shall be created for mentally ill persons with the aim of their work therapy, retraining for new professions, and employment.

During the monitoring visit to the ***Gazakh District Psychiatric Hospital***, the chief physician of the medical facility emphasized the need for repairs in the wards, as well as highlighting shortage in medical staff and the necessity for capacity-building trainings for the personnel.

While monitoring of the overall area and medical examination rooms of the facility, it was observed that all areas were unclean and in anti-sanitary conditions, and the facility was in need of urgent overhaul.

It has been observed that the living areas are not organized in line with existing standards (insufficient distance between beds or no distance at all). According to the Regulations on sanitary and epidemiological requirements in healthcare institutions, the minimum living space in wards should not be less than 6 square meters per capita. Most beds were old and unusable, lacking beddings.

In some wards, it was determined that the sanitary facilities were not functional, there were problems with water supply, and water was stored by patients in used plastic containers.

It was found that there was no record of the duration of use of special tools and tapes in the institution, and there was also no related substantiated decision made by the treatment physician. Furthermore, the "Journal for Patient Restraint and Seclusion" had missing pages, dates, and was not maintained according to legislation. In addition, there was no "Journal for Patient Restraint or Seclusion" available in the departments for the treatment and rehabilitation of men and women.

During confidential conversations, patients have expressed concerns about dangerous pests (such as lice, bedbugs, and other insects) present at the facility.

In this institution, it was also discovered several expired and unknown origin medications. The hospital had no appropriate conditions to preserve the quality of medications that need special storage. For instance, it was revealed that there was no refrigerator designated to store drugs ("Actrapid") that require storage temperatures of 2-

8°C, as indicated on the packaging and medicine information leaflets.

The rooms where psychotropic substances are stored should have iron-clad doors and windows with iron frames; however, the institution does not generally comply with these regulations. Additionally, during monitoring, it was observed that patients were being injected with syringes in the room where medications are stored.

During random checks, the usage period of several psychotropic drugs was examined, and it was discovered that the quantity of "Relanium" medication manipulated. Furthermore, discrepancies were found in the official registration documents of the medication, along with proof of whitewashing and subsequent corrections.

During the monitoring visit to the **Ganja City Psychiatric Hospital**, some shortcomings were identified.

It was found that in several rooms of the facility put into use in 2020, sanitary facilities and mixer taps were not operating.

During the monitoring of the wards in the 5 departments of the facility, it was observed that in violation of Article 24(2) of the "Law on Psychiatric Care" of Azerbaijan, there was no documentation and the relevant Journal for "Physical restraint or isolation measures".

Patients were interviewed confidentially to investigate their detention conditions and treatment issues. During the conversations with them, patients voiced their concerns about restrictions on visitations and phone calls, as well as poor food. Adding to that, there are shortcomings found in the recording of dates in the registration sheets in the pediatric ward and in the registration of psychotropic drugs.

Here, it has been also observed that there are no appropriate conditions, such as refrigerators for medications that require special storage conditions, such as keeping between 2-8°C. This fact is not only jeopardizing the health of patients but also constitutes a serious violation of legislation.

The Ministry of Health was requested regarding the findings in all three psychiatric institutions, requesting to take appropriate measures.

The Ombudsman's NPG members conducted an ad-hoc visit to the **Sheki District Psychiatric Hospital**.

The purpose of the visit was to investigate the detention conditions and treatment and assess the documentation procedures at the institution.

The chief physician of the hospital covering the districts of Sheki, Oghuz, Gabala, Ismayilli, Gakh, Zaqatala, and Balakan has said that there are lacks of medical staff and the absence of dental equipment, however, adding that there is no problem with the supply of medication.

During the visit, the hospital's wards, pharmacy, production unit, kitchen, dining halls, meeting room, food storage, walking areas, and sports fields have been monitored.

In some areas of the hospital, including the lower parts of the walls, there were bumps, and some parts of the sanitary facilities and the ceiling of the corridor were found to be in a deteriorated condition.

While monitoring, it was observed that despite the fact of availability of ultrasound examination (USM), electrocardiogram (ECG), electroencephalogram (EEG), and X-ray equipment, there was no dental equipment in the facility. However, a doctor-dentist works in the institution.

At the end of the monitoring, a final meeting was held with the director of the institution, and recommendations were given to address the shortcomings found.

A scheduled visit was conducted at the **Lankaran Interdistrict Psychiatric Hospital**.

The purpose of the monitoring was to assess the detention conditions, treatment issues, nutrition, as well as to investigate the received complaints, the situation regarding ensuring patients' rights, and examining the documentation process.

During the visit, it was observed that the shortcomings identified during previous visits had been eliminated.

During the monitoring, conversations were held with detainees in the women's and men's departments, they were informed about their rights, and conditions of detention, treatment issues, as well as food and medication supply were assessed, along with investigating any presence of complaints about medical assistance.

In the course of the visit, while investigating the organization of healthcare services, the chief physician reported that out of 10 psychiatrist staff units allocated at the Lankaran Interdistrict Psychiatric Hospital, only 3 psychiatrists were currently working, and that there is a lack of staffing. This situation raises concerns about the quality of healthcare provided to patients there.

During the inspection, relevant documents were checked; and appropriate recommendations for the compliance of processing the documentation with legislation were given. When the food storage was inspected, it was observed a shortage of food supplies. The facility's supply-production manager explained that this shortage was caused due to the end of the month, and assured that the institution would be fully supplied with food next week.

The facility's supply-production manager also added that the allocated funds for food supply were insufficient, and it was necessary to increase the bread norm allocated for patients.

It should be noted that the Ganja Children's Home, which is under the Ministry of Health and regularly visited within the framework of the Ombudsman's activities as a NPM, has been functioning due to the renovation since 2021. Over half a year since the facility was closed, there is no information available regarding when renovation works will commence.

The director of the institution has added that the children have been temporarily relocated to Baku City Children's Home No. 1.

Considering the challenges in providing social services to minors, who have lost or deprived of parental care or those under age of three from the Ganja and nearby districts, expediting the construction of a new, modern building for the institution would be appropriate.

#### **2.2.4. Institutions of the Ministry of Science and Education**

In 2022, within the framework of the Ombudsman's NPM activities, 42 monitoring visits have been conducted to institutions under the Ministry of Science and Education without prior notice.

The objective of these preventive visits was to investigate the compliance of detention conditions and treatment in educational institutions, ensuring the rights of children receiving education, the quality of nutrition, proper documentation, and to follow up on the implementation of the previous recommendations.

The members of the NPG carried out a scheduled visit at the ***Republic Special Boarding School No. 6 for children with limited health opportunities (disabilities)*** named after E. Mirzayev.

During the visit, the whole premises of the school, including classrooms, dormitories, medical rooms, kitchen, and other areas was inspected; the situation regarding ensuring the health, development, and educational rights of the children, including the organization of speech therapy and psychological support and documentation were investigated.

During the meeting with the director, an institution's regulations, curriculum, and children's individual works were reviewed. The school's regulations were approved in 2005. The director justified the remaining the regulations unrenewed to the unsuccessful request made to the Ministry of Science and Education.

During the review of the randomly selected individual works of the students, it was observed that the documents were complied with established guidelines.

There are one psychologist and four speech therapists in the institution. Also, the institution has speech therapy cabinets equipped with tools and didactic materials for consultations and corrective measures. However, it has been observed that the room for psychological services was not equipped with the necessary tools and didactic materials. During discussions, the school's psychologist said that he obtained didactic materials by himself, which are insufficient.

Upon reviewing documents, no individual development plans for children were found. According to the UNICEF's Country Office, in 2019, staff of several boarding schools, including Special Boarding School No. 6, were trained about child development, children's rights, child and adolescent psychology, and violence against children. Those trainings also covered topics related to preparing, implementing, and monitoring Individual Development Plans (IDPs) for children. However, we concluded that IDPs are not used, and such forms are not available.

During monitoring speech therapy cabinets, it was observed that speech maps were developed, nevertheless, there was almost no information available regarding the actual speech therapy conducted with the children (IDPs were not developed). It was also seen that there were no sterilizers for disinfecting speech therapy tools like speech therapy probes, and tongue depressors. The school director was advised to pay attention to these issues.

During the monitoring of the dormitory, it was found that the rooms were clean, orderly, and well-maintained, and that the institution followed to sanitary-hygienic standards.

In the course of the visit, 31 children were interviewed and that they were generally excited about going to school and thought well of their teachers.

During the conversation with the children, they were informed about their rights, the Ombudsman's activities, and the "916" Call Center.

At the end of the monitoring, a discussion was held with the institution's director, explaining him the requirements of legislation regarding the elimination of identified deficiencies. Recommendations were also given regarding organizing the education process in compliance with national and international standards, as well as addressing issues that can be resolved on-site.

The NPG Members conducted a scheduled visit to the ***Special Boarding School No. 5 for children with limited health opportunities*** (disabilities) without prior notice.

The objective of the monitoring visit implemented in compliance with the norms of the OPCAT, and the Constitutional Law on the Ombudsman was to follow up the implementation of the previous recommendations and investigate the situation regarding elimination of found shortcomings. Furthermore, this visit was aimed at discussing the "Support for the Protection of the Rights of Persons with Visual Impairments" project, and assess the general situation on the provision of rights for students in the boarding school, living conditions, treatment, the quality of food, and compliance of the documentation processing.

In the course of the visit, the classrooms, kitchen, dormitory, and other areas of the boarding school were monitored.

Initially, a meeting was held with the institution's director to obtain information about progress made in addressing the last shortcomings found. Subsequently, a discussion was held with regarding the implementation of the project " Support for the Protection of the Rights of Persons with Visual Impairments" and strategies to enhance its

effectiveness. During this conversation, current issues and potential solutions were also discussed.

It should be noted that during the previous visit, the children expressed dissatisfaction with the cook's performance, as well as the quantity and quality of the food provided. However, during this visit, they reported that a new cook had been hired and their concerns regarding nutrition had been addressed. Therefore, they expressed gratitude for this improvement.

The school director has reported that efforts are underway to address the issue of textbooks printed in Braille for visually impaired students in X, XI, and XII grades, adding that the printing process has been accelerated and the issues is taken under supervision. It was noted that the reason for the delay was because other textbooks had already been printed before the textbooks were printed in Braille and distributed.

Such a delay creates challenges to ensure equal rights and opportunities for children with disabilities.

The director also noted that due to the absence of "transcriptions" (printed in Braille) in the school, the children cannot be provided with English language classes.

During the pandemic, the social area was temporarily used as a classroom, but it has been reported that it will be used for its intended purpose in the next academic year.

During the inspection of the dormitory, the lighting was found in compliance with standards, although the beds were covered with cellophane. Adding to that, it was found that the storeroom is needed repairs and the school director has informed that repair works will be carried out.

At the end of the monitoring, a talk was held with the institution's management, where they were explained the legal requirements for eliminating identified shortcomings and provided recommendations on how to address the issues that can be solved immediately.

On the International Day of Sign Languages, the NPG Members carried out a scheduled visit without prior notice to the **Republic Special Boarding School No. 3 for children with limited health facilities (disabilities)**.

The purpose of the visit organized in compliance with the norms of OPCAT and the Constitutional Law on the Ombudsman, was to follow up the implementing of previous recommendations, and assess the progress in overcoming previously found shortcomings, as well as to evaluate the situation regarding the rights of children receiving education at the boarding school, conditions of detention in the institution, treatment, quality of nutrition, and the processing of relevant documentation.

In the course of the visit, there was an initial meeting with the acting deputy director, with whom the developments in addressing the issues identified previous shortcomings was discussed. The director said that some of the shortcomings had been resolved expediently, while others were brought to the attention of the Ministry of Science and Education.

During the visit, various areas of the school, including classrooms, a medical room, a kitchen, dormitory, and other places, were inspected. It was observed that the institution requires overhaul. Moreover, about two-thirds of the school were occupied by the families of displaced persons, leading to overcrowding. For instance, the dormitories were crowded, and with inadequate lighting, also where some electrical outlets pose life-threatening hazards for children.

In addition, no window screens to keep pests out, and in some rooms, there were no curtains (blinds). The shower facilities in the sanitary facilities were found to be unusable, and the dormitories on the first floor, where a large number of students stay overnight, were damp and in disrepair.

The institution currently has only one doctor and one nurse working during the first shift (until 3:00 PM). Considering the high number of children and their limited health

capabilities (disabilities), there is a significant need for medical services to be organized during the second shift as well.

In conclusion, the director of the facility was informed about an e-book prepared on the basis of the UN CRC and translated into a sign language on the initiative of the Ombudsman Office and the "916" Call Center of the Ombudsman, as well as provided with recommendations on how to address the shortcomings found.

A scheduled visit was conducted to the **General Secondary Boarding School No. 2 for Children Deprived of Parental Care.**

The purpose of the visit, organized based on the OPCAT and the Constitutional Law on the Ombudsman, was to assess the situation regarding the ensuring the rights of resident children at the boarding school, treatment, quality of food, and the processing of the relevant documentation.

During the visit, the entire school premises, including classrooms, dormitories, dining hall, kitchen, storage area, and other premises have been thoroughly inspected. The current situation regarding the protection, health, education, and development rights of children, including the organization of speech therapy and psychological work, as well as the documentation have been investigated.

The institution was found to comply with sanitary-hygiene requirements; in the dormitory area, the rooms were clean, orderly, and well-maintained; but there was humidity noted in the food storage area.

The school psychologist emphasized the importance of organizing capacity-building training and specialization programs, given his prolonged hiatus from such activities.

During the visit, a meeting was held with randomly selected children to assess treatment in the facility. In the course of the conversations, children reported that the night supervisor has assigned a 9th-grade student to monitor, because he physically not able to monitor all rooms.

In the conversation with the institution's director regarding treatment, he said that he seriously approaches this issue, highlighting that, educators and night shift personnel warned in written for their anti-educational actions against children in violation of discipline and order.

At the end, a talk with the facility's management was held to address identified shortcomings, where inadmissibility of any form of violence against children was emphasized that, and necessary recommendations were provided. Subsequently, the management was informed about the necessity of the facility's regulations to be updated, and appropriate measures are to be taken to address shortcomings.

The Ombudsman's NPG Members carried out a scheduled visit to the **Sanatorium-type boarding school No. 8.**

The aim of the visits was to follow up the implementation of the last recommendations and investigate the situation regarding addressing shortcomings identified during the previous visit, ensuring the rights of children at the boarding school, assess the conditions of their accommodation, and treatment, organization of healthcare services and psychological support, and the quality of food.

During the monitoring, the school's classrooms, a kitchen, a dormitory, and other areas were inspected; several shortcomings were found. A meeting was held with the institution's director, during which information was obtained about the actions taken to address the identified issues since the previous visit. It was noted that since the previous monitoring, the Ministry of Science and Education was requested and repair works were carried out in the institution.

While inspecting the detention conditions, it was found that artificial lighting in the bedrooms and dressing rooms, corridor, and sanitary facilities did not meet the norms. This issue had been identified during the previous monitoring as well and the institution's management was reported about. Adding to that, it was found that the bedrooms were

kept at a low temperature, and the use of curtains (blinds) was ineffective, and that certain heating systems were not operating correctly.

The child-lockers in the dressing rooms needed renovation or changing.

During the subsequent visit, it was found that artificial lighting had been improved, curtains had been installed, and rooms were cleaned.

The Ministry of Science and Education was requested regarding findings from the last visit and recommendations for their solutions were submitted.

The Ombudsman's NPG Members conducted a scheduled visit to the ***Integration Training Boarding School No. 11*** without prior notice.

The purpose of the visit was to ensure that shortcomings have been eliminated, child rights in the facility have been well-protected; detention conditions and treatment have been well-ensured, medical and psychological support have been efficiently organized, the qualified food has been ensured.

During the visit, the classrooms, a kitchen, and other facilities in the school were inspected, and some shortcomings were identified.

The institution's food provision is handled by a catering company.

The institution employs two nurses and one medical-doctor (0.5 full-time staffing).

There is a vacant position for a 0.5 full-time for a medical-doctor. The medical staff has indicated that they need medical equipment such as scales and height measuring devices.

During the document review, it was found that children's attendance is not recorded during class and training hours; rather a single teacher keeps a class attendance tracking journal based on personal initiative. It was also noted that the institution's regulations, approved in 2002 have not been updated.

A discussion was held with the institution's management during which the later was informed about requirements as prescribed by law on how to address the identified shortcomings; recommendations were provided regarding issues that can be eliminated on-site.

The NPG Members of the Ombudsman conducted a scheduled visit to the ***Sheki City Integrated Training Boarding School***.

The purpose of the visit was to investigate the living conditions and ensuring the rights of children of various age groups who receive education and reside in this institution. Furthermore, the NPG members focused to assess the documentation.

During the monitoring, the Ombudsman's NPG Members inspected the medical, psychological, speech therapy, classroom, and recreation rooms of the gymnasium, as well as a dormitory, a kitchen, a dining hall, a food storage area, a bathroom, a laundry room, and a sports hall. In the course of the monitoring, it was found that the gymnasium had been repaired, the menu was displayed in a readable place in the dining hall, the storage conditions in the food storage area were satisfactory, the dormitories, classrooms, and laundry room were clean and tidy. However, there was a problem with the sewage system in the sanitary facility located in the gymnasium's courtyard.

Acting director of the gymnasium reported to that the Ministry of Science and Education was informed about the failure in the process of an official handover of the major renovation carried out by the contracting company, which had not been completed since April 2022, also leading to the suspension of gas supply.

It was also found that there were shortages in the students' evening attendance tracking journal and, in the documentation, related to the treatment of sick students in the gymnasium, and that necessary entries were not made on time.

During the monitoring visit coinciding with the "Child Rights Month-Long Campaign" declared by the Ombudsman, meetings were held with the students. They were informed about the CRC provisions, norms of the "Law on the Rights of the Child" of Azerbaijan, and the Ombudsman's activities in the protection of child rights.

At the end of the visit, a final meeting was held with the institution's management during which recommendations were given to address the shortcomings, improve living conditions, and enhance the overall welfare of the students.

The Ombudsman's NPG Members held a monitoring visit to the ***Siyazan City Integrated Boarding School Gymnasium***.

The objective of the monitoring, implemented in conformity with the requirements of the OPCAT and the Constitutional Law on Ombudsman, was to assess the living conditions, treatment and organization of their training and recreational activities in the institution, and the adequacy of documentation processing.

During the visit, the NPG Members monitored the dormitories, classrooms, a sports hall, a library, a kitchen, and administrative rooms of the institution. They also investigated the organization of recreational time, nutrition and drink provision including hot and cold-water supply, and documentation processing.

It was found that although some previously identified problems had been overcome, the classrooms and dormitories of the gymnasium were not adequately heated, there was a lack of consistently provided hot and cold water, and some food items in the kitchen and food storage area were kept despite that they have already expired.

The NPG Members held confidential interviews with five children residing there to investigate treatment and the situation regarding the upholding their rights and documentation have been checked.

At the end, a legal awareness talk was held with the institution's management and authorized staff. The management of the facility was informed about various aspects of the child rights, including national and international legal requirements, were discussed. The identified shortcomings were also brought to the attention of them, and appropriate recommendations were made.

The NPG implemented a scheduled visit to the ***Ganja City Special School No. 45***.

The purpose of the visit, which was organized during the Child Rights Month-Long Campaign declared by the Ombudsman, Sabina Aliyeva, was to investigate the living conditions and treatment in the institution, and situation regarding ensuring the rights of children with limited health opportunities (disabilities).

During the monitoring, the school's classrooms, library, medical, psychological, and speech therapy rooms, boiler room, sports hall, and courtyard were examined, and it was observed that the rooms were well-maintained and tidy, and the sports hall was equipped with sports facilities.

During the visit, it was observed that the school building is equipped with fire alarm systems that are both visible and audible, along with fire extinguishing balloons.

Taking into account the school's characteristics, it has been noted that although it was essential to equip the school with specially designed teaching materials based on a simplified program, only textbooks for Math and Azerbaijani language are provided for first-grade students, and it has been observed that students in other grades and subjects are not provided with teaching materials prepared based on a simplified program.

Members of the Ombudsman's NPG conducted a scheduled visit to the ***Guba City Full Boarding School for Children Deprived of Parental Care***.

The visit was organized based on the OPCAT and the Constitutional Law on the Ombudsman. The purpose of this visit was to assess the living conditions and treatment with children, organizing their leisure times, as well as evaluating the documentation procedures within the institution.

During the monitoring visit, in order to evaluate the living conditions in the institution, its dormitories, medical room, classrooms, kitchen, and other administrative rooms were inspected. In addition, organization of recreational activities, nutrition, hot and cold drinking water supply, and documentation procedures were investigated.

To investigate treatment, the NPG Members interviewed the residents in a confidential manner at the institution, examining the adequacy of their rights protection.

Legal talks were conducted with the institution's management and authorized employees during which the requirements of national and international legislation on child rights were emphasized.

A scheduled visit was carried out to the ***Integrated Training Boarding Gymnasium named after R. Agakishiyev*** located in Goranboy district.

The purpose of the scheduled visit implemented during the "Child Rights Month" Long Campaign initiative declared by the Ombudsman of Azerbaijan was to investigate the living conditions and treatment in the institution, the overall situation regarding the rights of children residing and studying there, were monitored.

During the initial conversation with the director, he said that the building of the gymnasium is in poor condition and emphasized the need for a new building, stating also that he requested the Ministry of Science and Education regarding this matter.

During the visit, the gymnasium's educational building, classrooms, dormitory, a dining hall, a food storage, a library, medical and psychological rooms, a bathroom, and football yard were inspected, and confidential conversations were held with the residents.

Several shortcomings were identified during the monitoring visit to the gymnasium. It was observed that the institution lacks adequate financial resources in the educational and dormitory buildings, a library, sports hall, a dining hall, a kitchen, and food storage areas, highlighting the urgent need for overhaul.

During the visit to the gymnasium's medical room, it was found that there are problems with the supply of essential medical equipment and that the medical staff position is vacant.

While it is important for specially enrolled students to be equipped with specially prepared teaching materials based on a simplified program, it was found that there are shortcomings in such teaching materials.

It was found that the windows in the gymnasium's classrooms are broken, and the desks, and chairs in these rooms, as well as with the wardrobes in the dormitories were old.

According to the paragraph 11 of the Regulations for organizing education in integrated education, approved by the Cabinet of Ministers' Decision No. 87 dated 29 May 2002, institutions stipulate that speech therapy services in these institutions are provided by a speech therapist. However, during the visit, it was determined that the gymnasium did not consider the speech therapist position.

Although under Article 14 of the regulations for organizing education in integrated education institutions, envisages the inclusion of speech therapy rooms, correction and rehabilitation classrooms, along with several other classrooms, in the material-technical base of these institutions, it was found that there are not such classrooms in the gymnasium.

During the visit, it was found that the gymnasium did not have a transportation mean allocated for children's excursions, cultural events, and other activities, as well as for transporting food and inventory to boarding schools in violation of Article 71 of the Model Charter for General Education Boarding Schools, approved by the Cabinet of Ministers' Decree No. 176 dated May 5, 1994, that require providing transportation such as buses or trucks for similar activities.

During the monitoring visit, individual and group discussions were held with students, and they did not complaint regarding their living conditions and treatment.

During the scheduled visit, a legal awareness event on "Protection of Children's Rights" was organized with the participation of the teaching staff and students of the gymnasium.

The Ombudsman's NPG carried out a scheduled visit to the ***Integration Training Boarding School Gymnasium named after martyr Orxan Cabbarov*** in the Govlar city of Tovuz district.

In the course of the visit implemented during the "Child Rights Month-Long Campaign," the purpose was to investigate the living conditions and the treatment of residing and educating children, including their rights to education, and to monitor the overall situation at the institution.

During the visit, inspections were made to the gymnasium's teaching building, a dormitory, a dining hall, a food storage, a library, medical and psychological rooms, football yard, a bathroom, and classrooms. Conversations were held with the students, and no complaints were reported regarding the conditions of accommodation, well-being, food quality, or any other related issues

During the inspection of the gymnasium's psychology room, it was observed that the room is equipped with necessary inventory and practical tools, enabling the proper organization of psychological support activities. The room facilitates the recording of individual psychological maps for students, allowing for effective psychological assistance.

During the monitoring, some shortcomings were identified. According to Article 50 of the "Model Charter of General Education Boarding Schools" approved by the Cabinet of Ministers' Decision No. 176 dated May 5, 1994, the rights and duties of all categories of employees of general education boarding schools, internal regulations, and work rules should be in specified in and in line with this Charter. Each general education boarding school should have its own regulation approved by the Ministry of Science and Education. However, it was found that the regulation governing the activities of the gymnasium, as required by the Charter, has not been yet approved by the Ministry of Science and Education. This creates difficulties in managing the institution and implementing other necessary activities in accordance with legal regulations.

During the visit, it was found that despite the low temperature outside, the classrooms, a dormitory, and other facilities of the gymnasium were not heated. Although a modern heating system was available, it was reported that it would only be put into use after 15 November according to the seasonal limits.

During the visit to the medical room, it was observed that despite those daily medical records were kept, the facility stored the expired medications, and there was a lack of a scale and height measurement device.

The students enrolled in special education at the gymnasium were not provided with teaching materials prepared based on a simplified program, and only the 1<sup>st</sup> grade students had such materials.

According to the Model Charter of General Education Boarding Schools, students should be provided with transportation vehicles such as buses or trucks for excursions, trips, shows, and cultural-mass events, as well as for the transportation of supplies, inventory, and equipment. However, it has been observed that the gymnasium has an old bus from the Soviet era that frequently breaks down and lacks necessary spare parts, negatively impacting the continuity of transportation for students who need to be transported to the gymnasium.

The Ombudsman's NPG conducted a scheduled visit to the ***Ganja City Boarding Gymnasium of International Languages***.

The aim of the visit organized during the "Child Rights Month-Long Campaign" was to investigate the living conditions and issues related to students' treatment in the institution, and learn the overall situation regarding ensuring the rights of children who reside and study there.

During the inspection of the medical room, it was found essential medical equipment and medications for examinations are available. However, the registration of daily medical assistance was not recorded properly.

The residents did not complain about their living conditions, treatment and nutrition during private and group discussions.

During the monitoring, it was determined that the gymnasium is equipped with necessary equipment for fire safety and surveillance cameras (CCTVs).

Meanwhile, in the course of the legal talks with children, NPG Members informed them about the CRC, relevant provisions of the Law on Child Rights of Azerbaijan, and the Ombudsman's activities in the field of protection of children's rights. Their questions were answered during these talks. Subsequently, institution's management and staff in-charge were made recommendations for compliance with national and international legislation related to safety conditions, medical services, and documentation.

The NPG Members conducted a scheduled visit to the ***Ganja City Integrated Education Boarding Gymnasium***.

The purpose of this visit was to investigate the conditions of detention and issues related to the rights of children receiving education in the institution.

It was found that the position of a speech therapist has been vacant for a long time, and there was a need for a speech therapist for the development of children enrolled in special education.

During the visit, all facilities of the institution, including classrooms, IT rooms, a dormitory, a library, a dining hall and a kitchen, as well as the medical and psychology rooms, were examined, which were provided with new furniture and necessary equipment.

During the monitoring of the psychology room, it was determined that the room was well-equipped with necessary inventory and practical tools, facilitating the proper organization of psychological assistance. It was also noted that individual psychological profiles of students are recorded.

In order to assess treatment in the facility, private talks were held with randomly selected students and teaching staff, as well as teachers, educators, and medical workers, and the current situation was assessed. It was reported by the gymnasium administration and students that no incidents related to treatment had occurred, and there has always been a sensitive approach to education in the school.

Nevertheless, several shortcomings were identified during the visit.

According to the 11<sup>th</sup> paragraph of the Rules for the organization of education in Integration Training Institutions, approved by the Cabinet of Ministers' Decision No. 87 dated May 29, 2002, speech therapy in such institutions is carried out by the speech therapist. Furthermore, in accordance with Article 14.1 of the Law on the Education of Individuals with Limited Health Opportunities (Disabilities) (Special education), speech therapy services are provided to students with speech defects in general and secondary education institutions to assist them.

During the visit, although the existing teaching and infrastructure conditions of the gymnasium are found satisfactory, it was determined that the speech therapist position is vacant for the essential service of students enrolled in special education.

It is well-known that the role of speech therapy services is crucial in terms of analyzing the stages, forms, phonetic characteristics, overall articulation, examination of the articulation apparatus, corrective, psychological-pedagogical impact, and analysis of the child's speech within the family. However, the absence of the speech therapist in the institution hinders the execution of these tasks.

Under Article 20.1 of the Law on the Education of Individuals with Limited Health Opportunities (Disabilities) (Special education), the state standards for special education for those with physical disabilities, intellectual, and/or mental impairments are determined by the relevant executive authority. According to Article 26.2 of the same law, the preparation of textbooks, teaching supplementary materials, and scientific-methodical tools for special education is carried out by the respective executive authority.

However, during the inspection, it was found that students enrolled in special education at the gymnasium (with the exception of first grade) were not equipped with specialized teaching aids prepared based on a simplified program. This lack of appropriate teaching materials has created difficulties for these students in grasping the lessons being taught.

A scheduled visit was carried out to the ***Special Boarding School No. 12 for children with limited health opportunities (disabilities)*** without prior notice.

As part of the investigation into treatment issues, conversations were held with the institution's management, staff, and children.

During the monitoring, a comprehensive inspection was conducted across the entire area of the gymnasium, including classrooms, recreational areas, a storage, a laundry, a kitchen, bedrooms, medical rooms, and other areas. Issues regarding the provision of children's rights to development, protection, health, and education were studied, including the current situation and documentation related to speech therapy and psychological work. A number of shortcomings were identified.

It has been reported that there is one psychologist and five speech therapists working at the institution working for rehabilitation and psychological work. During the inspection of the speech therapy cabinet, a lack of relevant equipment and didactic materials was found.

There is a need to create reasonable accommodation (installing special ramps) for people with mobility impairments to move freely at the institution.

A scheduled monitoring visit was implemented to the ***Republican Boarding Gymnasium for Humanities named after A.S. Makarenko*** without prior notice.

During the monitoring process, the entire area of the gymnasium was inspected.

During the visit, it was reported that the institution's regulations had been repealed but new one was not developed yet. It was observed the absence of soap in sanitary facilities, electrical switch covers were poorly maintained, the lighting was inadequate, and that the walls in the dormitory showing signs of wear due to dampness. The recreational room was in need of inventory.

At the end of the monitoring visit, the institution's management and authorized staff were provided with recommendations regarding detention conditions, medical services, and documentation in accordance with national legislation and international standards. They were also presented posters with the Ombudsman's contact information and educational booklets about the NPM activities.

### **2.2.5. Institutions of the Labor and Social Protection of Population**

The Ombudsman and NPG Members conducted six monitoring visits to institutions under the Ministry of Labor and Social Protection of the Population (MLSP) in 2022.

These visits were carried out based on recommendations from various sources, including the Constitutional Law on the Ombudsman, international standards, CPT and SPT Recommendations, the CRPD, Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, UN Body Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the International Plan of Action on Aging.

Ad hoc visits were carried out to the ***Shelter and Social Rehabilitation Institution for Vulnerable Groups of People*** by the Social Services Agency under the Ministry of Labor and Social Protection of the Population.

The objective of the first unannounced visit was to investigate the situation regarding five children about whom through social networks and the media spread information that they were found to be in careless and socially precarious conditions in the Second Chayli village of Shamakhi district mass media, and who later placed in the institution.<sup>3</sup>

The Ombudsman met with the children to learn about their detention conditions, health, psychological state, as well as the asses the protection of their education and other

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<sup>3</sup> <https://azerbaijan-news.az/az/posts/detail/ombudsman-samaxi-rayonunun-ikinci-cayli-kendinde-sosial-tehlukeli-veziiyetde-olan-ve-sosial-xidmet-muessisesine-yerlesdirilen-usaqlarla-gorusub-1642447374>

rights. The Ombudsman also conducted private and group meetings with women and children affected by domestic violence who were placed in the social rehabilitation department of the institution and inspected the premises of the facility.

The NPG Members conducted a scheduled monitoring visit to the **Neurological Social Service Institution No.1** of the Social Services Agency to the MLSPP without prior notice.

The objective of a scheduled monitoring visit, organized in line with the OPCAT and the Constitutional Law on the Ombudsman, was to assess the protection of the rights of individuals detained in the institution, and the detention conditions and treatment.

The whole premises of the institution, including dormitories, designated areas for recreational activities, a dining hall, a kitchen, were conducted.

During the inspection of the bedrooms, it was observed that the rooms were clean and tidy.

The NPG Members conducted private conversations with residents to investigate the situation regarding the protection of their rights.

At the end of the visit, a legal awareness-raising talk was held with the facility management. They were recommended to improve the implementation, lobbying, and promoting the rights for PWDs. The management was presented a poster reflecting the contact details of the Ombudsman's "916 Call Center" to be hanged on a visible place.

The NPG members conducted a scheduled visit at the **Social Service Agency's Facility for Limited-Health Children (disabilities)** without prior notice.

The aim of the visit was to assess the living conditions of children from various age groups residing in the facility and to review the issues related to treatment provided by the facility staff, with a focus on addressing any shortcomings identified during previous visits.

During the visit, all areas of the facility, including bedrooms, room for recreational activities, medical rooms, a dining hall, a kitchen, rehabilitation rooms, and other spaces, were inspected.

Although in the institution's regulations, the maximum age limit for admission mentioned is as 18, it has been determined that there are 52 people above the age of 18 residing here. The director of the institution explained this by noting the principle of prioritizing placement in psychoneurological social service institutions designated for adults.

During a conversation with the institution's psychologist, it was noted that there is an insufficient number of standardized registration forms for psychological work with children, including didactic materials.

During the review of individual development plans filled out by the social worker for the children, it was observed that some plans were partially or not filled out at all, and they were not regularly updated.

It was found that there are for workshops and various activities, but they are not used; the pool designated for children's rehabilitation is under repair; and due to the absence of physical training teacher, the sports hall remains closed.

It was also determined that the children were not engaged in activities according to the daily schedules provided to them.

During the next monitoring of the institution, it was found that the shortcomings related to living conditions were not addressed. Beds were placed quite closely in the bedrooms, whereas in some room's beds were adjoined. Only in certain rooms, there were air conditioners, lighting was weak and inadequate, the ventilation system was not functioning, and there was an unpleasant odor throughout the entire facility. It was also observed that the sanitary conditions in the sanitary facilities were severely violated, and in some sanitary facilities designated for PWDs, grab bars were not installed.

During the inspection of children's personal files, it was determined that the documents were incomplete, and the "Journal of Psychotropic Drug Prescriptions" was not properly organized according to the guidelines.

At the end of the visit, a legal awareness-raising talk was held with the management, during which recommendations were given to strengthen the implementation, promotion, and provision of children's rights. Specifically, suggestions were made to take measures to prevent future violence against children, including the development and implementation of appropriate measures such as a code of conduct, the addition of vacant positions for child development specialists to the staff schedule, and the promotion of communication with their families.

The NPG Members conducted a scheduled visit to the *Social Service Agency's Facility for Elderly Persons* without prior notice.

The purpose of the monitoring visit, implemented in line with the OPCAT and Constitutional Law on the Ombudsman, Family Code of Azerbaijan, the Law on Social Services of Azerbaijan, the standards outlined in the revised European Social Charter, was to investigate the living conditions and treatment, as well as the social and psychological situations of the elderly with special needs in order to ensure their rights.

Based on the information provided, during the visit, both buildings consisting of individual rooms, as well as a dining hall, a storage, a medical room, a laundry room, a security part, and other facilities were inspected. The current conditions regarding living standards, nutrition, water and heating supply, recreational activities, visitations, as well as the organization of medical assistance were investigated, and interviews were conducted with both the staff and the residents of the facility.

During the visit, it was found that certain problems identified during previous monitoring activities still remain. The overall condition of the institution is not satisfactory, and there was a need for substantial repairs to the bedroom and dining hall buildings, as well as for the renewal of equipment and better lighting in the rooms.

While the medical part of the institution is satisfactory, it was determined that there is a shortage of medication supplies in the storage and that there is a lack of medication provision for the current year, as reported by the management.

The condition of the bedrooms was unsatisfactory, the air conditioning system was not functioning, the absence of signal buttons, some rooms were untidy, and the artificial lighting did not meet the established technical standards.

During the inspection of the laundry room, it was found that there is a lack of modern equipment and that the existing equipment is in need of repair.

The NPG Members conducted interviews with several residents of the institution to investigate treatment. Some of them said that some staff members were indifferent to them but generally expressed satisfaction with the care they receive.

The NPG Members also met with a resident of the institution who had appealed to the Ombudsman Office. They noted that the previously existing problems had been resolved and expressed satisfaction with their living conditions.

Finally, a concluding discussion was held with the director of the institution, where identified shortcomings were brought to their attention, and recommendations were provided for their resolution.

#### **2.2.6. Institutions of the Local Executive Authorities**

In 2022, the NPG Members conducted scheduled monitoring visits to the Children's Homes No. 1, 2, and 3 under the Baku City Executive Authority without prior notice.

The purpose of these visits was to ensure the rights of children from various age groups, to follow up on the addressing shortcomings identified, and the implementation of previously given recommendations, as well as to organize legal awareness-raising events due to the "Child Rights Month-Long Campaign" announced by the Ombudsman, covering the period from October 20 to November 20.

During the visits, the entire premises of the mentioned institutions, and the current situation and documentation related to the organization of social services were investigated. Private interviews were conducted with the management, staff of the institutions, and resident children to assess treatment in these facilities.

It was found that there was overcrowding in all three institutions, children were not grouped according to standard age categories, beds are placed quite closely together, and there is a need for repairs in certain parts of the institutions.

It has been observed that the shortcomings in medical services at Children's Home No. 2 have been addressed. For instance, the dentist reported that the previous recommendations were taken into account, and children were engaged in orthodontic treatment. Furthermore, it was found that there was one psychologist and two speech therapists working in the institution for conducting psychological work with children. Moreover, specialists from Türkiye were invited with the support of the Heydar Aliyev Foundation.

The director of Children's Home No. 3 reported that individual development plans for children have been generated, taking into account the recommendations from previous monitoring visits.

The sanitary facilities have been repaired, and appropriate measures have been taken to ensure the clean storage of children's personal hygiene items. The number of lockers for storing children's personal belongings has been increased, taking into account the recommendations from previous visits.

During the monitoring visits, information was provided to children, as well as psychologists and educators, about existing normative legal acts related to children's rights and legal protection tools. Training sessions were conducted with the participation of children, psychologists, and educators, covering topics such as non-discrimination and methods to combat it, child abuse, neglect, early marriage, child labor, and protection against harmful influences.

During the visit, the management and responsible employees of the institutions were recommendations for conditions of detention, medical services, and documentation were provided in accordance with national legislation and international standards.

A scheduled visit was conducted by the NPG to the ***Sheki Mixed-Type Children's Home***.

The aim of the monitoring visit was to assess the conditions of stay and address issues related to children who have lost their parents and are deprived of parental care.

During the visit, the institution's director informed that there is a vacancy for a 0.5 position of a medical therapist due to low salary, as nobody wants to work under these conditions.

During the inspection of the institution's medical, recreational room, bedroom, work, playrooms, library, food storage, kitchen, dining hall, gym, and laundry facilities, it was observed that all places were clean, and there was no need for repair or restoration work.

However, it was noted that the ventilation system was not functioning, as observed during previous visits. The institution's director said that due to a limited allocation of electrical energy, it was not possible to keep the ventilation system running continuously.

During the visit, meetings were held where information about the CRC, provisions of the "Law on the Rights of the Child" of Azerbaijan, and the Ombudsman's activities in child rights protection were shared. Also, confidential and one-on-one discussions were conducted with several children and staff members of the children's home to investigate treatment. The children selected at random reported no grievances.

Furthermore, legal education discussions were held with the institution's management and authorized staff, where recommendations were provided regarding compliance with national and international legislation, healthcare services, and documentation.

### **2.2.7. An Institution under the Ministry of Economy**

The NPG Members, in accordance with the Ombudsman's directive, conducted a monitoring visit to the ***TDP of the State Tax Service's Main Department for Preliminary Investigation*** under the Ministry of Economy of Azerbaijan.

During the visit, it was observed that the institution's administrative building had undergone recent renovations, and the cells and other rooms were in compliance with standards.

During the monitoring visit, no detainee was found in the TDP, and according to the information provided by the institution's leadership, there had been no detainees in that administrative building yet since the very beginning.

No information boards about the rights of detainees were hanged on at the entrance of the facility, and the registration logs were not sealed. Although there were no detainees in the institution at the time of the visit, the management was informed about requirements for improving the facility's operations and ensuring effective functioning in the future.

In general, the conditions for detention at the TDP can be considered satisfactory.

### **2.2.8. An Institution under the State Migration Service**

Within the framework of the Ombudsman's NPM activities, preventive visits are also conducted to the Immigration Detention Centers for Irregular Migrants under the State Migration Service.

In 2022, NPG Members carried out a monitoring visit to the ***Baku City Immigration Detention Center for Irregular Migrants*** under the State Migration Service.

The objective of the visit conducted based on the OPCAT and the Constitution Law on the Ombudsman was to investigate incoming complaints, detention conditions, and issues related to torture or ill-treatment, as well as to ensure the rights of involuntary and voluntary detained migrants to be protected in accordance with internal disciplinary regulations and international standards.

In order to get familiar with the activities of the facility and assess the overall situation, the residential rooms, as well as other facilities used by foreigners and stateless persons were inspected. Discussions were held with the institution's management, the medical staff, and the detainees during which they did not express any dissatisfaction with the detention conditions or treatment.

The institution's management and responsible employees held legal awareness-raising discussions, during which appropriate recommendations were provided to address shortcomings related to detention conditions, medical services, documentation, and telephone communications in accordance with national and international legal frameworks, as well as standards of the SPT and the CPT.

## CHAPTER III

### LEGAL ANALYSIS

One of the activities carried out by the Ombudsman within the framework of the NPM activity is the legal analysis of the information obtained during preventive visits and legal awareness events.

In addition to the written appeals addressed to the Ombudsman during receptions held in places that people cannot leave at their own will within the framework of the visits carried out by the Ombudsman and NPG Members, the essence of the calls to the 916 Call Center, which operates 24 hours a day, was also important for the analysis.

Proposals and recommendations developed as a result of the legal analysis of norms affecting individuals' interests in one way or another are sent by the Ombudsman to the relevant state bodies and basically find their positive solution.

The Ombudsman positively evaluates the reforms carried out in the system of internal affairs bodies of the country, the work done in the direction of improving the activity and recommends strengthening the oversight of work needed in this direction and eliminating difficulties.

During the visits to the TDPs of the police stations, some shortcomings related to treatment were revealed. There were also appeals to the Ombudsman's Call Center about the alleged ill-treatment by law enforcement bodies' officers.

Regarding those complaints, appeals were immediately made to relevant bodies, necessary investigations were conducted, and legal measures were taken.

The applicant filed a complaint with the Ombudsman and stated that he was detained while engaged in street trading and taken to the 34<sup>th</sup> Police Department of the Khatai DPD, that he was subjected to cruel treatment, and asked for assistance in taking legal measures.

Although it was stated in the response to the inquiry addressed to the MIA of Azerbaijan regarding the complaint that the specifics of the treatment were not confirmed, it was noted that the relevant police officer was given a serious warning and the place of service was changed due to the circumstances that gave rise to the complaint.

Another applicant lodged a file with the Ombudsman and reported that his children were treated rudely and insulted by the staff of the Goytepe Police Unit of the Jalilabad DPD and asked for undertaking legal measures. In response to the inquiry addressed to the MIA of Azerbaijan regarding the complaint, it was stated that the manga commander of the post-patrol service unit of that PD and a policeman were brought to disciplinary responsibility by the appropriate order of the head of the department for violating the requirements of the ethical code of conduct of the staff of the internal affairs bodies and allowing rudeness and impoliteness in communication.

One of the shortcomings observed in the institutions under the MIA jurisdiction is keeping people from different categories together. This is one of the important issues that we have observed during the visits.

Both international standards and national legislation require different categories of arrested or detained persons to be kept separately in cells. Under the Law on Ensuring the Rights and Freedoms of Persons Kept in the Places of Detention, first-time offenders are kept separately from repeat offenders in places of deprivation of liberty, at the same time, except for the cases provided for in the Code of Execution of Punishments, detained or arrested suspects or accused persons are kept separately from convicts against whom a sentence has entered into force.

In recent times, although the repair work carried out in the temporary storage areas of police departments and departments has allowed for the improvement of the storage conditions in these places, it has been observed that the requirements related to walking areas are not observed in some cases.

In 2022, it was revealed that the walking area in Nizami, Sabail, Pirallahi and Absheron DPDs was not organized according to standards. Thus, the absence of seats in the walking area in some institutions where visits were paid to, the fact that the top in those places are completely closed, and they are open in general in some places, creates difficulties in meeting the requirements regarding the right of detained persons to exercise outdoors.

Considering that detainees spend most of their time indoors with limited access to natural light and fresh air, everyone should be provided with the opportunity to engage in outdoor physical activities for at least one hour. Walking outdoors, in the sunlight with other detainees or alone, and being physically active is very important to their mental and physical well-being.

Norms related to the organization of walking area, both in the legislation on the execution of punishments and in the internal disciplinary rules of places of arrest, cannot be considered satisfactory for the implementation of the obligation to provide opportunities for physical activities in the open air. From this standpoint, it is expedient to clearly reflect the requirements related to walking areas in those normative documents by adapting them to the requirements of international standards.

One of the issues that need to be improved in institutions under the MIA jurisdiction is the organization of work related to documentation. During the visits, certain defects were found in various registration books in such institutions, whether such books were returned or not sealed, all measures taken regarding detainees, including the date and time of release, were not recorded.

In this regard, this should be noted that the CPT takes the view that a comprehensive single register where every arrested person is registered, reflecting all aspects of detention and all measures taken against those arrested, would strengthen the basic guarantees for persons detained by the police and in turn would make the work of police officers much easier.

As one of the ways to prevent cases of ill-treatment, the Ombudsman recommends strengthening the monitoring of the provision of the 3 basic rights of persons deprived of liberty by the police, to which CAT gives special importance.

These are the rights of a person to inform a third person about his arrest, to meet with a lawyer and a doctor (in addition to the medical examination performed by a doctor called by police bodies, the right to be examined by a doctor of his choice based on the request of the arrested person).

During the visits, it was determined that in some institutions the phone device was malfunctioning, in some there were no telephone booths at all, and the police officers used mobile phones to communicate with the detained persons.

This is considered as a point that makes it difficult to make a phone call and can lead to negative situations.

The Ombudsman recommends the installation of phone devices in all places, and improved registration of telephone conversations.

At the same time, in the context of the right to health of the persons detained in TDPs, this is important to provide them with quality medicines in case when needed.

In some cases, expired medicines are still found in TDPs.

With the aim to effectively ensure the various rights of detained persons, it is appropriate to inform these persons about their rights. Therefore, one of the issues monitored during the visits is the presence of signboards showing the rights of arrested or detained persons. The Ombudsman recommends that such signboards be posted where all detainees can clearly and easily read them.

The problem of overcrowding in the institutions under the jurisdiction of the Ministry of Justice Penitentiary Service is mainly observed in detention centers.

Thus, during one visit in the Baku Pre-Trial Detention Center, which was designed for 2,500 people, this was revealed that more than 3,300 people were detained and more

than 3,500 during another visit, at the same time, it was determined that 800 people were detained in the Investigation Detention Center No. 2 (Ganja) intended for 700 people, and that more than 1,400 people were detained in the 1,050-person Pre-Trial Detention Center No. 3 (Shuvelan). There was overcrowding in Female Penitentiary Institution No. 4, however, with the transfer of the enterprise to a new and modern building in early 2022, this problem has been eliminated.

It was observed that the determined excessive number of convicts were detained in the Penitentiary Institution No. 17. It was found that 6-7 people were kept in the penalty rooms intended for 5 people in the Penitentiary Institution No. 11.

In addition to being a very serious problem, overcrowding is the source of a number of serious additional problems in the treatment, health, safety and rehabilitation of detainees.

The CPT also notes in its General Recommendations that if the number of detained persons is more than intended, this can negatively affect all services and activities within that facility and cause a significant decrease in the overall quality of life in the institution<sup>4</sup>.

Considering the above noted, the requirements of the legislation and international standards should be observed during the placement of persons in penitentiary institutions.

Although there has been a decrease in the number of transfers to penal isolator in recent years, this type of punishment is still preferred in some institutions.

On the day of the visit, there were 14 people were in penal isolator in Penitentiary Institution No. 1, where 935 persons were detained, 37 people were in penal isolator in Penitentiary Institution No. 11, where 1077 people were detained, and 34 people were in penal isolator in Penitentiary Institution No. 17, where 1088 people were detained; and this shows that among the disciplinary measures applied to persons who violate the internal disciplinary rules, placement in a penal institution is preferred and, in its turn, this indicates that the effectiveness of correctional works in those institutions is not at a satisfactory level.

During the monitoring, it was found that the decision to transfer the convict to the penal detention center was not announced to the convicts, that the convicts were kept in the penal isolators for 6-7 months due to their safety, and that the punishment measures taken were long-term.

Based on international experience and using the opportunities provided by the legislation, in order to reduce cases of regime violations, there is a need to implement complex measures that serve to reform and reintegrate criminals into society. By strengthening correctional work, it is possible to achieve the goals set by early parole or transfer to a lighter institution. During the monitoring, it was observed that number of institutions subordinated to the Penitentiary Service need major or current repairs. It is necessary to speed up the transfer of Pre-Trial Detention Centers No. 2 and 3, Prison of the Penitentiary Service from the buildings that have ended their operational period to new ones, and to carry out major repair works in some institutions (penal isolation cells of Penitentiary Institutions No. 1 and 17).

Detention of different categories of persons is also observed in institutions under the jurisdiction of the Penitentiary Service. For example, in all visits to Pretrial Detention Center No. 2, it was determined that a minor was detained together with others. Article 35 of the Law of the Republic of Azerbaijan on ensuring the rights and freedoms of persons detained in the places of arrest requires that minors be kept separately from adults. According to rule 11 of the European Prison Rules, juveniles must be kept in conditions that protect them as much as possible from harmful influences and consider their age-specific needs.

The analysis of the results of the visits, as well as the appeals addressed to the Ombudsman, suggests that problems related to access to medical care remain. In this area,

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<sup>4</sup> CPT, GR2, 46

there are relatively many requests for transfer to the Treatment Facility of the Penitentiary Service. As a result of the measures taken on such appeals, it was ensured that the examination and treatment of the needy persons was continued in that institution. Appeals were also received regarding the non-provision of necessary medicines and the quality of treatment.

In some cases, persons reported that they were not provided with the necessary medicines. Treatment was not of high quality and that they were not sent to the Treatment Facility of the Penitentiary Service despite their requests.

There are cases in which the daily monitoring of the health of the persons detained in the penitentiary institutions by the medical personnel is of a formal nature, corrections are made in the records made in the relevant journals, or such records are not kept in a proper manner.

Also, it was observed that the lack of promptness in sending to the Treatment Institution, examination and treatment caused complications, and inappropriate approaches were also observed in relation to prisoners who refused to receive food at the Treatment Institution and were transferred to the penal isolation facility.

The analysis of the visits gives reason to conclude that there are deficiencies in psychological assistance in penitentiary institutions. Despite the formation of the legal basis for the provision of psychological services at the expense of the state with the adoption of the Law on Psychological Assistance, there is a serious need to provide quality and adequate assistance to persons who are kept in closed institutions and who may have a potential threat to their mental health.

During the visits, it was determined that there are a number of systematic deficiencies in the state children's institutions.

Thus, it was determined that in boarding schools of various types where children with disabilities are educated, there are almost no state standards for special education, educational programs (curriculums), textbooks for some boarding schools except elementary school textbooks, and methodical tools for parents and teachers, also that in some special boarding schools there is no appropriate educational and material base for the organization of vocational training, graduates of special vocational educational institutions are not given a certificate of vocational education with a degree, along with an appropriate educational document, and in addition, there are no state standards and educational programs for special vocational education.

In some cases, it was found that despite the change of the name and designation of the enterprise, this was not recorded in the documents, and in the charters, the words "deaf", "orphan", "defective" and other similar derogatory words were used, it was also revealed that there is a lack of necessary medicaments and vacant positions of doctors, expired medicines are not removed from use, medical cards are not filled, there are deficiencies in the supply of drinking water, as well as a number of boarding schools are in need of major repairs and the conditions there are found to be non-compliant with regulations.

It was determined that the implementation status of the activities stipulated in the Law on Psychological Assistance and specified in the "Rules for the Organization of Psychological Services in Educational Facilities" approved by the Cabinet of Ministers' Decision dated 30 April 2020 is not satisfactory, the position of a psychologist is vacant in some institutions, and didactic materials designed for conducting psychological and speech therapy work are lacking.

During the visits carried out as part of the NPM, it was observed that the position of a psychologist is vacant in a number of institutions where children are kept, and the psychological work with children is not satisfactory in the institutions where a psychologist works.

According to the Cabinet of Ministers' Decisions "About the exemplary staff of the management staff, administrative-household, teaching-assistant and service staff of

boarding schools, boarding-type lyceums and gymnasiums” and “About the exemplary staff of managers, administrative-household, teaching-assistant and service staff of boarding-type special general education schools for children with mental and physical disabilities” in boarding schools, boarding-type high schools, gymnasiums and other facilities, the number of psychologists is determined by one person, regardless of the number of classes (students).

Taking into account that those studying in the above-mentioned institutions are children of low-income families without necessary social and household conditions, children who have lost their parents and are deprived of parental care, and some of them are also children with limited health capacities, this is necessary to increase the number of psychologists, to attract psychologists to vacant positions without delay for the mental health and development of children.

During the visits, it was found that in some boarding schools, older children are involved as supervisors over younger children. During the meetings with the directors of the boarding schools regarding the issue, they mentioned that they are facing such problems due to the very small number of staff units of night shift nurse.

According to the above-mentioned decisions of the Cabinet of Ministers, in boarding-type institutions, 2 position of night shift nurses are assigned to each bed block, 2 positions of night shift nurses are assigned to every 150 children educated in boarding schools with dormitories for more than 150 people. If this ratio is increased, we believe that some existing problems in ensuring children's rights will be eliminated.

During the monitoring carried out as part of the NPM, it was observed that due to the lack of qualified personnel in some dormitories where children with limited physical capacities spend the night, medicines are given by employees who do not have the appropriate knowledge and skills.

In order to increase the number of “nurse” staff units, medical staff should work on the night shift in institutions where children with limited health facilities stay overnight. It is expedient to make appropriate changes in the Decision No. 6 of the Cabinet of Ministers dated 9 January 1992, “On exemplary staff of managers, administrative-household, teaching-assistant and service staff of boarding-type special general education schools for children with mental and physical disabilities”.

During visits to institutions under the Ministry of Health, it was found that treatment in psychiatric hospitals is limited to pharmacotherapy, and psycho-social measures are not organized according to modern standards, that the relevant journals were not drawn up in accordance with the legislation, and the registration regarding the use of special tools and rope (band) was not improved, there were no medically justified decisions of the attending physician in this regard, and the dates were not indicated in the available records, although there are positive changes related to the implementation of the recommendations given during the previous visits, the buildings where some enterprises are located need to be overhauled, there are medicines that have expired, and some enterprises do not have special refrigerators for storing medicines.

During the visits to the Boarding house No. 1, it was found that psychological work with children is not carried out, and the menu does not meet modern standards, the presented products do not meet the energy and nutritional needs of minors, the operation of the Ganja Boarding house was suspended for the purpose of carrying out major repair works from 2021, and the repair works have not been started until today.

During the visit to the social service institution for children with limited health capacities No.1 of the MLSPP it was determined that there is a need to improve social work and social rehabilitation measures in the institution, there is overcrowding in the institution, and existing obstacles for persons with disabilities to lead an independent lifestyle in some parts of the housing complex have not been removed.

## CHAPTER IV

### LEGAL EDUCATION

Organization of legal education work is one of the main directions of the Commissioner's activity as MPM. Taking into account the contribution of legal education of law enforcement officers and NGOs to more effective protection of human rights, regular holding of such events and meetings assumes high importance.

In accordance with paragraph 4.1 of the National Action Program in the field of increasing the efficiency of the protection of human rights and freedoms in the Republic of Azerbaijan, the study of the requirements of OPCAT by employees of law enforcement agencies, other relevant institutions, as well as lawyers and representatives of non-governmental organizations specializing in the field of law was organized, in this regard, extensive discussions were held in the academies of law enforcement agencies, including the Police and Justice Academies.

The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan Sabina Aliyeva participated in the international scientific-practical conference dedicated to the 74<sup>th</sup> anniversary of the UDHR at the Police Academy of the MIA called "Actual problems of human rights in the modern era". Touching on the importance of the adoption of the UDHR by the UN General Assembly, S. Aliyeva said that as an Ombudsman institution, events and competitions are held on the eve of December 10 - International Human Rights Day.

It was emphasized in the speech the improvement of the national legislative framework in accordance with the requirements of the modern era, adoption of new state programs and reconstruction of the system of institutional mechanisms as a result of large-scale legal reforms carried out in order to effectively ensure human rights in our country, the provision of human and civil rights and freedoms, as well as the provision of a decent standard of living to citizens, is established as the highest goal of the state in the Constitution of the Republic of Azerbaijan.

S. Aliyeva informed the participants of the conference in detail about the multifaceted activity of the Ombudsman institution, the importance of the project on amending the Constitutional Law "On Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan" adopted by the Milli Majlis, and the new requirements for the NPM.

At the conference, the participants were presented with the teaching-methodical material "Practicum on the subject of human rights" prepared with the joint participation of the Ombudsman Office and Police Academy staff and the general editing of Dr.Ph.L. S. Aliyeva. Staff members of the Office of the Ombudsman, NPG members also participated in the conference, and at the end, certificates were given to the participants.

Within the framework of the cooperation of the Ombudsman Office, the State Migration Service and the ICMPD in our country, the training entitled "Current international and national legal framework in the field of protection of the rights of migrants: monitoring mechanisms, procedures for the detention of unregulated migrants" was held. The training organized for the employees of the State Migration Service, the MIA and the State Border Service took place in the Regional Migration Training Center of the State Migration Service within the framework of the project "Support for the implementation of the Partnership on Migration with Azerbaijan (MOBILAZE 2)".

Speaking, the Ombudsman Sabina Aliyeva gave information about the reforms implemented in the field of human rights in our country, the establishment of Human Rights Day in Azerbaijan and the mandate of the Ombudsman. She gave information about the activities of the Ombudsman institution, the 20<sup>th</sup> anniversary of which was celebrated, in the field of protection of migrants' rights, and stated that international cooperation relations, bilateral and multilateral relations have been expanded in this direction. The Ombudsman also noted that a number of important steps have been taken in the field of

exchange of experience in the field of migration, regulation of migration processes, and prevention of irregular migration.

During the speech, the Ombudsman expressed her gratitude to the State Migration Service and the ICMPD for the effective cooperation that has been ongoing for many years. She also pointed out that a number of projects have been successfully implemented within the framework of cooperation between the EU and the Office of the Ombudsman.

The presentations of the representatives of the Ombudsman Office were also received with interest in the training. The head of the Torture Prevention Department of the Ombudsman Office, a member of the NPG, made a presentation entitled "The Ombudsman's mandate and activity as a NPM: preventive visits to detention centers for irregular migrants."

The second day of the mentioned training was continued in Yevlakh, a meeting was held with the aim of increasing the knowledge and skills of the employees of the Yevlakh Regional Migration Office and the Center for the Detention of Irregular Migrants in relation to the protection of the rights of migrants, detailed information was provided on the activity of the Ombudsman in the field of protection of the rights of migrants, including within the NPM mandate.

Effective cooperation relations between the Office of the Ombudsman and the Police Academy of the MIA in the promotion of human rights have been continued.

Within the framework of mutual cooperation, the Police Academy conducts lectures on various aspects of human rights, including "Ombudsman's NPM Activity", and organizes theoretical knowledge to practice.

In 2022, the lecture addressed to the leadership staff of district-city police departments and departments of the MIA was on the topic of "Combating corruption and requirements of national and international legislative acts in this field". The participants of the lecture were informed in detail about the work done in the field of combating corruption in the country, the activities carried out by the Ombudsman in this direction, based on the presentations by the NPM head and one member.

In the lecture, information was provided about the "National Action Plan for strengthening the fight against corruption for 2022-2026", approved by the Decree of the President of the country dated April 4, 2022.

It was noted that the Human Rights Commissioner (Ombudsman) institution, along with other institutions, operates in the direction of the implementation of the National Action Plan adopted in order to further increase transparency in the activities of state institutions, prevent situations that create conditions for corruption, further strengthening the accountability of state bodies to the public, further improvement and electronification of services provided by state bodies to the population, as well as ensure the continuity of the measures taken in the fight against corruption.

Following the topic of the lecture, information was given on the activities carried out and planned by the Ombudsman in the field of protection of human rights and freedoms, and numerous questions of interest to the listeners were answered in detail.

As well as educational and other necessary measures, including online measures, were carried out in order to ensure the effective performance of the functions of the national preventive mechanism in accordance with OPCAT on the basis of clause 4.2 of the National Action Program in the field of the protection of human rights and freedoms in the Republic of Azerbaijan, as well as appeals were made to the relevant institutions.

In 2022, the legal awareness work was successfully organized for the persons detained in the institutions that persons cannot leave on their own will and the service employees who work with them.

The topic on NPM mandate of the Ombudsman and prevention of torture were taught to judicial candidates, judicial officers and experts admitted to the Academy of Justice.

## CHAPTER V

### Public Affairs and International Cooperation

The Ombudsman effectively collaborates with local, regional, and international organizations in its activities. In this regard, the organization of public relations and international cooperation is one of the directions of the activity of Azerbaijan's NPM.

Information exchange with state and local self-government bodies, civil society, mass media, regional and international organizations, as well as conducting joint events and ensuring participation in various activities, has been successfully continued.

In 2022, both the national and international public regularly published information about the activities of Azerbaijan's NPM. Throughout the year, a total of 48 news press were released, including 30 related to monitoring visits and 18 related to media statements and other events.

Media statements, press releases, as well as reports on the activities of the NPM, information about its composition, and relevant normative acts have been placed in a special column on Ombudsman's official website in Azerbaijani and English languages. The reports, along with placement on the website, they have also been sent to relevant state institutions and international organizations.

**International cooperation.** During 2022, the expansion of international cooperation and the exchange of experiences and ideas have opened wide doors for the effective implementation of the NPM activities.

Within the framework of the NPM, the Ombudsman collaborates closely with international organizations such as the UN and its Treaty Bodies, as well as the ICC, ICJ, CAT, Council of Europe, European Union, OSCE, Association for the Prevention of Torture (APT), and other international organizations, as well as the NPMs of various countries, including associations of Ombudsmen.

International relations within the framework of the Ombudsman's NPM cover organizing various meetings on combating torture, implementing joint activities, participation of the Ombudsman and NPG Members in international events, and engaging in mutual exchange of experiences.

Throughout 2022, the Ombudsman and NPG Members participated in meetings with representatives of international organizations, international experts, and foreign counterparts, as well as attended a range of international events.

Following to the Memorandum of Understanding signed between the Human Rights and Equality Institute of Türkiye (TIHEK) and the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan activities were continued in the direction of expansion of mutual cooperation relations, effective organization of experience exchange in the field of protection of human rights and freedoms. For this purpose, the TIHEK delegation visited Azerbaijan.

Within the framework of the visit, together with the members of the NPG of the Ombudsman of Azerbaijan, a monitoring of the Detention Center for Irregular Migrants of the State Migration Service of the Republic of Azerbaijan was organized. The members of the delegation were informed in detail about the legislation of the Republic of Azerbaijan in the field of management and regulation of migration processes, the activities of the SMS and the measures implemented in cooperation with the Ombudsman institution, including the protection of the rights of migrants at the domestic and international level, the repatriation of foreigners, and the work done by the Commissioner in other areas. The guests became closely acquainted with the activities of the Ombudsman of Azerbaijan as a National Preventive Mechanism.

Within the framework of the review, opinions and experiences were exchanged, questions of interest to the guests were answered in detail.

Within the framework of the visit, the delegation consisting of the members of TIHEK and its NPG members also visited the Correctional Facility of the Ministry of Justice of the Republic of Azerbaijan and the Penitentiary Institution No. 4.

Within the framework of mutual cooperation between the two institutions, Ombudsman Sabina Aliyeva and a group of staff members from the NPG of the Ombudsman's Office paid an official visit to the Republic of Türkiye at the invitation of TIHEK. The ombudsman and delegation visited the cities of Mardin, Midyat and Diyarbakir with representatives of TIHEK.

The purpose of the visit, which was carried out following the MoU signed between the two institutions in 2021, is to exchange the experiences gained by the Azerbaijan Ombudsman institution and TIHEK as NPM, and further develop cooperation.

Sabina Aliyeva, who met with the governor of Mardin and members of TIHEK, which operates as Türkiye's National Preventive Mechanism against Torture (NPM), expressed her satisfaction with the continuous development of existing cooperation relations between the two fraternal countries in various directions, as well as in the field of protection of human rights and freedoms. S. Aliyeva provided detailed information about the activity of the Azerbaijan Ombudsman institution in the field of protection of human rights and freedoms, the visits carried out as NPM based on the requirements of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the UN.

At the same time, it was reported that within the framework of judicial law reforms implemented in Azerbaijan, new institutions for female convicts and child offenders that meet international standards were built, production areas were organized for convicts to engage in useful work, in both institutions, the necessary infrastructure was created for prisoners to acquire sports fields, education and professional qualifications in order to spend their free time effectively.

Within the framework of the visit, the staff members of the Azerbaijan Ombudsman institution and TIHEK made joint visits to the penitentiary institutions located in Mardin, Midyat and Diyarbakir, including the correctional facility for juveniles, the state of ensuring the rights and freedoms of the convicts established in international documents was monitored, and it was observed that the Turkish state implemented reforms in accordance with international standards in the field of execution of punishments.

On December 12-19, 2022, CPT made an ad-hoc visit to our country. In the meeting, which was also attended by NPG members, information was provided about the work underdone in the relevant field, and consultations were held.

On September 7-9, 2022, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) held regional trainings on "Strengthening control mechanisms for organizing visits in the field of combating gender-based and sexual violence in prisons" in Warsaw, the capital of the Republic of Poland. In the mentioned training attended by 31 representatives from 25 countries, an employee of the Ombudsman Office, who is a member of the NPG, participated as a representative from Azerbaijan.

Within the framework of the training, positive experiences related to the organization of monitoring work on the prevention of gender-based and sexual violence and presentations on the use of new mechanisms in the implementation of visits in this field were brought to the attention of the participants.

In the discussions organized within the sessions, the representative of Azerbaijan provided information about positive experiences related to the monitoring activities carried out within the framework of the NPM in our country.

Also, a training trip to the Office of the Ombudsman of the Republic of Poland was organized for the participants, and information was presented on the practices of organization and implementation of visits by the institution during the relevant period.

The Ombudsman and the staff of the Office participated in the training held in Strasbourg, France, with the support of the EU and the CoE organization within the

framework of the Regional Project “Strengthening access to justice through extrajudicial mechanisms for the protection of the rights of victims of discrimination and hate crimes in Eastern Partnership countries”.

In the meetings held with the heads of various departments and units of the CoE, staff members of the Ombudsman Office who are NPG members provided comprehensive information about the activities carried out in the country in the field of MPM.

A delegation consisting of in-charge staff members of the Commissioner for Human Rights (Ombudsman) Office of the Republic of Azerbaijan visited Copenhagen, the capital of the Kingdom of Denmark, within the framework of international cooperation.

The head of NPG and two group members also participated in the visit with the Danish Institute of Human Rights for the purpose of exchange of experience, information was given about the activities of the Ombudsman under the mandate of NPG and the visits paid.

## CHAPTER VI

### RECOMMENDATION AND SUGGESTIONS

Analysis of the results of the Ombudsman's activities within the NPM during the last year gives us a reason to say that it was effective. This can be confirmed primarily by the logical results of legal reforms carried out in the country and the effectiveness of the work done by the NPM, including preventive visits and legal awareness-raising activities.

During the implemented activities, as a result of the proposing numerous suggestions and recommendations, there has been a positive shift in the attitude of law enforcement, judicial bodies, and other state institutions towards the nature and protection of human rights. Legal thinking has evolved into a new paradigm, and steps have been taken towards improving governance.

The Ombudsman also aligns its activities in this direction with the "Paris Principles" as follows:

- Promoting the alignment and implementation of national legislative acts and practices with legally binding international treaties on human rights to which the state is a party;
- The Ombudsman also promotes the state's adherence to international documents and encourages the implementation of international standards in national legislation, as well as the execution of relevant measures:
- Assisting the state in preparing submissions to UN bodies and regional institutions regarding activities carried out under international conventions, expressing its opinion independently in accordance with the principle of independence, and submitting additional reports.

Taking into account the results of the Ombudsman's activities as an NPM in 2022, the following proposals are suggested for the effective protection of detainees' rights.

#### **For the improvement of the legal framework**

- (1) To grant additional right to phone call for the individuals sentenced to imprisonment for a certain period and those sentenced to life imprisonment, along with their right to contact by phone as already specified by the legislation, in order to ensure their contact with the Ombudsman's Call Center for the purpose of more accessibility to the Ombudsman and providing more reliable protection of their rights within the mandate given by the Constitutional Law (**Parliament**);
- (2) To ensure that intercity telephone calls made by convicts and accused persons held in pre-trial detention facilities are funded at state expense, rather at their own expense (**Cabinet of Ministers**);
- (3) To further clarify the requirements for the organization of outdoor exercise areas in institutions which detained persons cannot leave at their own will, as stipulated in the legislation on the execution of sentences and in the internal disciplinary regulations of places of deprivation of liberty, to align them with international standards (**Parliament and Cabinet of Ministers**);

- (4) To include the "social worker" position to the Standard Staffing Structure of Management, Pedagogical, Administrative, Teaching Assistant, and Service Staff of Children's homes, approved by Decision No. 172 of the Cabinet of Ministers of the Republic of Azerbaijan dated 13 July 2006 (**Cabinet of Ministers**);
- (5) To amend the Standard Staffing Structure of Budget-Funded Preschool Educational Institutions, approved by Decision No. 61 of the Cabinet of Ministers of the of the Republic of Azerbaijan dated 29 May 1996, to establish positions of "child psychologist" and "early development specialist" in children's homes and kindergartens (**Cabinet of Ministers**);
- (6) To increase the number of positions for "psychologist" and "night nurse" in the exemplary Staff Table of boarding schools, boarding-type high schools, and gymnasiums, approved by the Cabinet of Ministers' Decree No. 157 of the of the Republic of Azerbaijan, dated 23 June 2006 (**Cabinet of Ministers**);
- (7) To increase the number of "psychologist," "nurse," and "night nurse" in the Standard Staffing Structure of Special General Education Boarding Schools for Children with Mental and Physical Disabilities, approved by Decision No. 6 of the Cabinet of Ministers of the Republic of Azerbaijan dated 9 January 1992, and to introduce the necessary amendments to ensure the provision of medical services during night shifts (**Cabinet of Ministers**);
- (8) To revise and re-adopt the "Rules for the Medical Certification of Prisoners Suffering from Severe Illnesses Preventing Serving of Sentences," approved by Decision No. 4-N of the Collegium of the Ministry of Justice dated 29 November 2011, in order to ensure the appropriate placement of such individuals suffering from mental illnesses or experiencing significant changes in their mental health during their imprisonment, in psychiatric institutions, where necessary (**Cabinet of Ministers**);
- (9) To align the Rules "On the Application of Food Norms for Children in Kindergartens, Boarding Institutions for Minors, and Children's Homes," annexed as a Supplement No. 3 regarding "Food standards for children in kindergartens, hospitals, and other public institutions under social institutions" to Decision No. 103 of the Cabinet of Ministers dated 9 March 1994, with modern standards, in order to ensure that the needs of infants for energy and essential nutrients are adequately met in children's homes;

#### **Suggestions to the Ministry of Internal Affairs**

- (1) To ensure compliance with international standards in the organization of outdoor exercise areas in temporary detention places, including by aligning existing facilities with such standards;
- (2) To ensure the proper implementation of national legislation and international standards concerning the separation of detainees of different categories in temporary detention places;
- (3) To improve the provision of financial, material, and hygiene supplies to detainees in temporary detention places at the state's expense, in accordance with legislation;
- (4) To promote the wide dissemination among police officers of the Law on "Protection of the Rights and Freedoms of Persons Kept in Places of Detention" and the internal regulations of temporary detention places;
- (5) To strengthen oversight of the installation of telephone booths in all temporary

detention places to ensure the right to telephone contact as a fundamental safeguard for detainees, to ensure the repair of non-functioning telephone devices, and to guarantee the comprehensive registration of telephone calls;

(6) To improve the maintenance of relevant registers and documentation in police offices, departments, units, and temporary detention places, to address identified shortcomings, and to strengthen oversight of documentation and the initial detention process;

(7) To strengthen measures to prevent the storage and use of expired medications in detention facilities;

(8) To continue efforts to improve detention conditions in temporary detention places.

### **Suggestions to the Ministry of Justice**

- (1) To strengthen measures to address the ongoing overcrowding in pre-trial detention centers and penitentiary institutions under the Penitentiary Service;
- (2) To expedite the construction of penitentiary facilities currently under construction and to take appropriate measures to renovate facilities requiring repair.
- (3) To implement comprehensive measures to reduce instances of disciplinary violations by inmates, and to enhance the rehabilitation process, with a view to ensure successful reintegration into society;
- (4) To apply alternative, more lenient administrative disciplinary measures (such as warnings, reprimands) proportionate to the severity of the offense, instead of transferring prisoners to a penal detention center for regime violations, in accordance with the legislation and international best practices within the framework of correctional work;
- (5) To ensure prompt registration by the management of penitentiary institutions of applications concerning refusal of food intake and to strengthen daily medical supervision for persons undertaking a hunger strike;
- (6) To ensure the provision of adequate and high-quality psychological assistance to persons detained in penitentiary institutions and whose mental health may be at risk, in accordance with the Law of the Republic of Azerbaijan "On Psychological Assistance";
- (7) To adopt a program on "Rehabilitation and Adaptation of Prisoners Serving Sentences in Penitentiary Institutions" aimed at promoting personal development, reform, and to reintegrate into society after release;
- (8) To relocate Prison, and Pre-Trial Detention Facilities No. 2 and 3 of the Penitentiary Service to new premises.

### **Suggestions to the Ministry of Health**

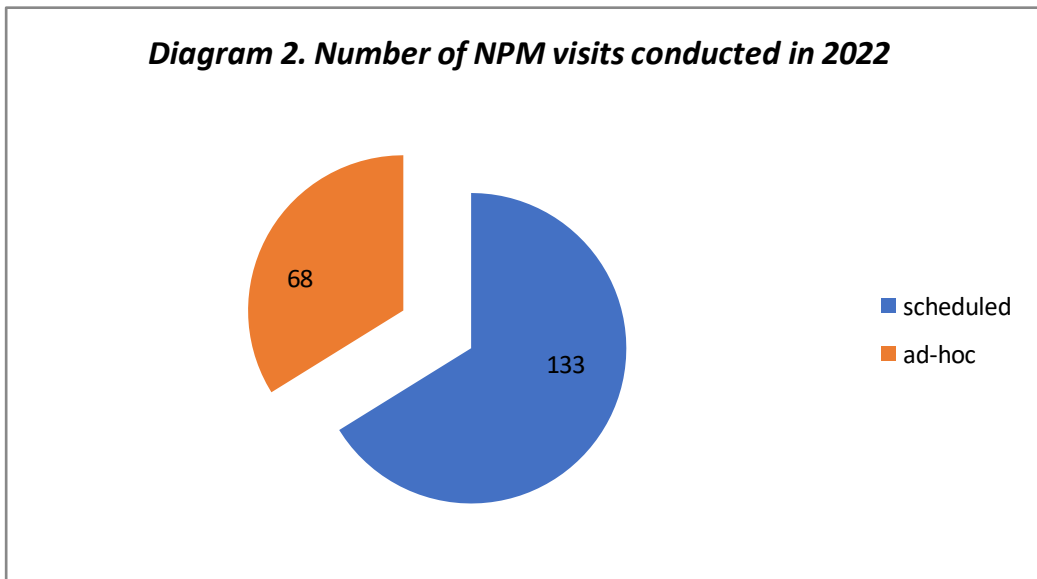
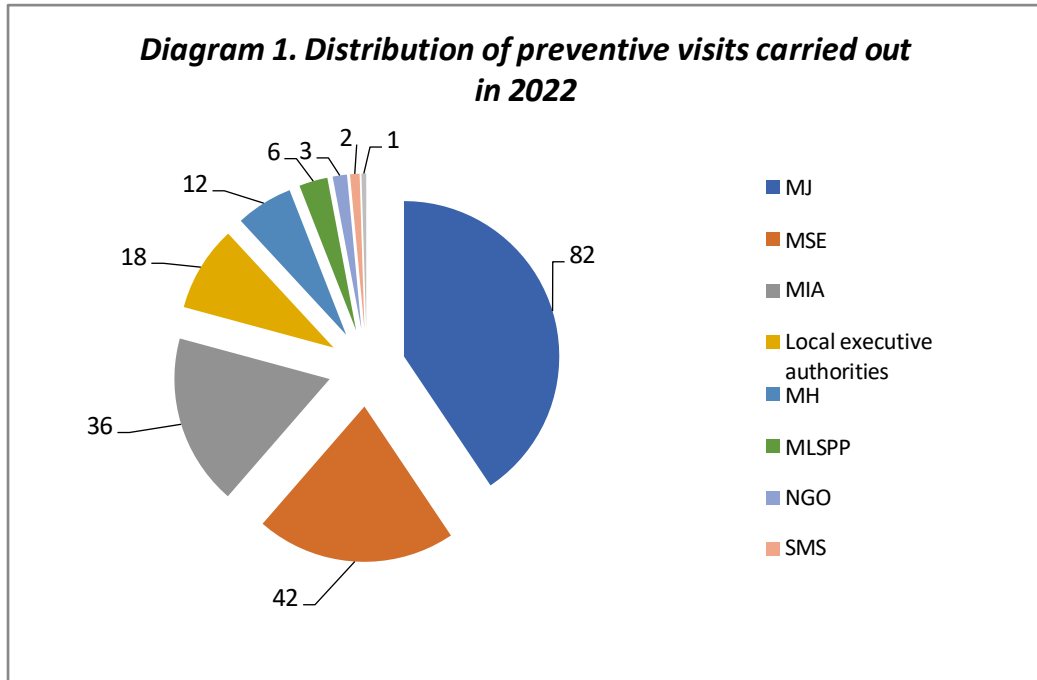
- (1). To address staff shortages in order to ensure that individuals receiving treatment in psychiatric institutions can participate in therapy in a timely manner;
- (2) To strengthen measures to prevent the storage and use of expired medications in facilities under the jurisdiction of the Ministry of Health, and to ensure appropriate conditions for maintaining the quality of medications requiring special storage;
- (3) To ensure that treatment in psychiatric institutions is not limited to pharmacotherapy, to align psychosocial rehabilitation measures with modern standards, to support patient participation in developing treatment plans, and to develop an individual treatment plan for each patient, reflecting treatment goals, therapy methods, and the names of the staff responsible for care.
- (4) To improve documentation procedures in psychiatric institutions.

### **Suggestions to the Ministry of Science and Education**

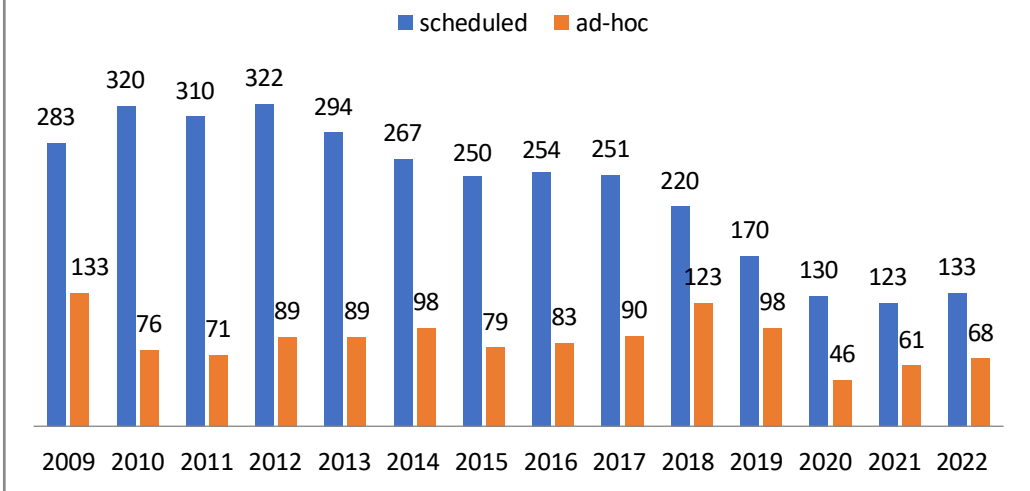
- (1). To introduce specialized training programs for "penitentiary psychologists" within higher education institutions that provide psychology education, in order to enhance the provision of psychological assistance in penitentiary institutions and address the need for qualified psychologists capable of working with persons deprived of liberty;
- (2) To ensure the organization of effective capacity-building seminars in speech therapy and to facilitate the participation of relevant specialists working in special boarding schools for children with limited health opportunities (disabilities) with a view to enhancing their professional skills;
- (4) To ensure the regular participation of psychologists working in institutions under the Ministry in training sessions and specialization programs;
- (5) To address the shortage of Braille textbooks for children with special needs, to expedite their printing, and to ensure their distribution simultaneously with other textbooks;
- (6). To resolve challenges in organizing English language classes due to the absence of transcripts in some schools;
- (7) To ensure that heating equipment in schools, especially those accommodating children overnight, is provided according to weather conditions rather than a fixed schedule;
- (8). To increase oversight in the provision of specialized medical staff and necessary medical supplies, including medications, in institutions;

### **Suggestions to the Ministry of Labor and Social Protection of Population**

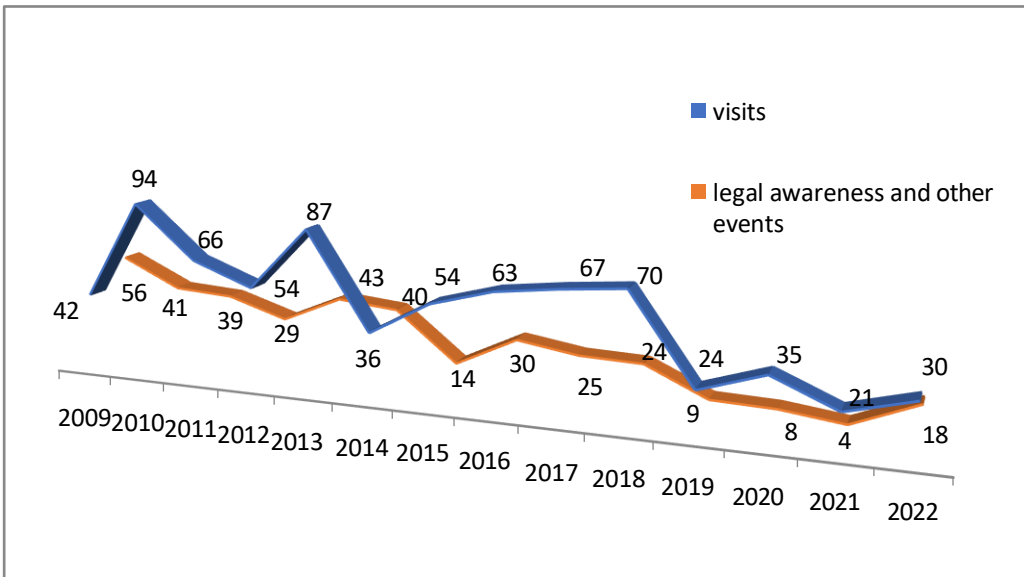
- (1). To develop a mechanism for transferring patients who have completed their treatment in psychiatric hospitals and drug treatment dispensaries (centers), but do not have a place to live, to social service institutions, as well as to increase the quota (number of places) in social service institutions;
- (2) To implement complex programs for the rehabilitation and social adaptation of the persons released from penitentiary institutions and improve social services for the purpose of reintegration and social adaptation of the released individuals into society.
- (3) To establish social adaptation and rehabilitation institutions for individuals released from penitentiary institutions in Gobustan settlement in other regions and districts of the country.



**Diagram 3. Number of NPM visits by years**



**Diagram 4. Number of NPM press releases (by years)**



**Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**

**Preamble**

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the 1993 World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

**Part I**

**General Principles**

***Article 1***

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people

are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

### ***Article 2***

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

### ***Article 3***

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

### ***Article 4***

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.
2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

## **Part II**

### **Subcommittee on Prevention**

### ***Article 5***

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee on Prevention may be nationals of the same State.

6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

### ***Article 6***

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.

2.

(a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.

3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

### ***Article 7***

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

### ***Article 8***

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

### ***Article 9***

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected" at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 ( d).

### ***Article 10***

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.

2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:

- (a) Half the members plus one shall constitute a quorum;
  - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
  - (c) The Subcommittee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

### **Part III**

#### **Mandate of the Subcommittee on Prevention**

##### ***Article 11***

1. The Subcommittee on Prevention shall:
- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
  - (b) In regard to the national preventive mechanisms:
    - (i) Advise and assist States Parties, when necessary, in their establishment;
    - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
    - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
    - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
  - (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

##### ***Article 12***

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;

(b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;

(d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

### ***Article 13***

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

### ***Article 14***

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

#### ***Article 15***

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

#### ***Article 16***

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

### **Part IV**

#### **NATIONAL PREVENTIVE MECHANISMS**

#### ***Article 17***

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

### ***Article 18***

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

### ***Article 19***

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

### ***Article 20***

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

#### ***Article 21***

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

#### ***Article 22***

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

#### ***Article 23***

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

### **Part V**

#### **DECLARATION**

#### ***Article 24***

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

### **PART VI**

#### **FINANCIAL PROVISIONS**

#### ***Article 25***

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

### ***Article 26***

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

## **PART VII**

### **FINAL PROVISIONS**

### ***Article 27***

1. The present Protocol is open for signature by any State that has signed the Convention.

2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

### ***Article 28***

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

### ***Article 29***

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

### ***Article 30***

No reservations shall be made to the present Protocol.

### ***Article 31***

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

### ***Article 32***

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

### ***Article 33***

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

### ***Article 34***

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

***Article 35***

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

***Article 36***

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

***Article 37***

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.