



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

REPORT

**ON THE ACTIVITY OF
THE NATIONAL PREVENTIVE MECHANISM
AGAINST TORTURE**

(2016)

Baku 2017

This report describes the relevant work of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan functioning in a capacity of the National Preventive Mechanism (NPM) as endorsed in the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN OPCAT), as well as the recommendations and proposals put forward in 2016.

The recommendations and proposals have been made by the UN Committee Against Torture (CAT), the Subcommittee on Prevention of Torture (SPT) and the European Committee for the Torture and Inhuman or Degrading Treatment or Punishment (CPT), also those have been made to periodic reports of the Republic of Azerbaijan by the Working Group on Universal Periodic Review (UPR) of the UN Human Rights Council (HRC) during the process of carrying out the NPM functions by the Commissioner were considered generally in this report.

The information, statistical data developed basing on the analysis as a result of visits, as well as the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are attached to the report.

ISBN: 978-9952-9554-8-5

CONTENTS

<i>Foreword</i>	4
Definitions and Abbreviations Used in the Text	5
CHAPTER 1. MANDATE OF THE NATIONAL PREVENTIVE MECHANISM BASED ON THE OPCAT	7
1.1. <i>Requirements of the OPCAT</i>	7
1.2. <i>National legislation</i>	8
1.3. <i>Directions of the activity of the NPM</i>	10
CHAPTER 2. ACTIVITY OF THE NPM AND PREVENTIVE VISITS	12
2.1. Organization of preventive visits.....	12
2.1.1. <i>Scheduled visits</i>	12
2.1.2. <i>Ad-hoc visits</i>	13
2.2. Conducting visits.....	13
2.2.1. <i>Institutions of the Ministry of Internal Affairs</i>	16
2.2.2. <i>Institutions of the Ministry of Justice Penitentiary Service</i>	32
2.2.3. <i>Institutions of the State Security Service</i>	47
2.2.4. <i>Institutions of the Ministry of Defence</i>	48
2.2.5. <i>Institutions of the State Migration Service</i>	49
2.2.6. <i>Institutions of the Ministry of Health</i>	49
2.2.7. <i>Institutions of the Ministry of Education</i>	57
2.2.8. <i>Institutions of the Ministry of Labor and Social Protection of Population</i>	61
2.2.9. <i>Institutions of the local executive powers</i>	62
CHAPTER 3. Legal Analysis	64
CHAPTER 4. Legal Awareness	71
CHAPTER 5. Public affairs and International Cooperation	76
CHAPTER 6. Outcomes and Recommendations	82
<i>Appendix 1. Statistical data</i>	88
<i>Appendix 2. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>	91

FOREWORD

As it is known, the Republic of Azerbaijan ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on December 2, 2008, by the Decree No.112 of the country President dated January 13, 2009, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was determined as an institution fulfilling the functions of the National Preventive Mechanism envisaged by the Protocol.

Fulfilling of the tasks following from these new functions which are logical continuation of legal reforms conducted within the frames of the legal statehood building in the country became one of the directions of the Commissioner's activity.

Mutual cooperation of the Commissioner with relevant state authorities, civil society organizations, mass media, international organizations and National Human Rights Institutions of foreign countries, local and international experts, ensured improvement of her activity as an NPM, building of efficient and constructive cooperation, conduction of fruitful discussions, training and exchange of experience.

We do not deny any initiatives and contributions for improving the existing activity from the standpoint of practical approaches in the frames of our activity as the NPM against torture or other cruel, inhuman or degrading treatment or punishment, putting forward proposals and recommendations to the legislation, as well as from the organizational point of view.

Independent, impartial and special attention paid by the Commissioner to organization of preventive measures, conduction of awareness activities once again affirms it as a National Human Rights Institution with "A" Status in compliance with the Paris Principles.

The present Report covers the activity of the Azerbaijani NPM for 2016 and envisages the conducted measures, preventive visits and their results, submitted proposals and recommendations, their implementation status, also legal awareness and other activity realized by the NPM.

We hope that the issues raised, recommendations and proposals in this report will give their contributions to the improvement of various directions in the relevant activity in compliance with the Optional Protocol's demands.

We thank you for the proposals to be sent to the report in beforehand.

Professor Elmira SULEYMANOVA
The Commissioner for Human Rights
(Ombudsman) of the Republic of Azerbaijan

DEFINITIONS AND ABBREVIATIONS USED IN THE TEXT

AIDS –Acquired Immunodeficiency Syndrome

CAT – The UN Committee Against Torture

CC – The Criminal Code of the Republic of Azerbaijan

CEP – The Code on Execution of Punishments of the Republic of Azerbaijan

Constitutional Law – The Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

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

Convention – The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CDPO – City district polis office

CPD – City police department

CPO – City police office

CPT – Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Department – The Department for the Prevention of Torture of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

DPD – District police department

DPO – District police office

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 at will by order of any judicial, administrative or other authority

Detainee – a person deprived of his/her liberty

DS - Detention Station for Administratively Arrested persons

HIV – Human Immunodeficiency Virus

IDR – Internal Disciplinary Rules of Penitentiary Institutions

II – Investigation Isolator

MD –Ministry of Defense of the Republic of Azerbaijan

ME – Ministry of Education of the Republic of Azerbaijan

MH – Ministry of Health of the Republic of Azerbaijan

MIA –Ministry of Internal Affairs of the Republic of Azerbaijan

MJ –Ministry of Justice of the Republic of Azerbaijan

MI –Medical Institution of the Penitentiary Service

MLSP –Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan

MPO – The Military Prosecutor's Office of the Republic of Azerbaijan

MSEC - Medical Social Expert Commission of the Ministry of Labor and Social Protection of Population

MSU – Medical Sanitary Unit

NPG –The National Preventive Group for the Prevention of Torture under the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

NPM –National preventive mechanism provided by the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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

OPCAT – The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

OSCE –Organization for Security and Co-operation in Europe

PCS –penal colony settlement of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

PI – penitentiary institution

Place of detention – any place where a person is detained or may be detained without permission to leave at will

PS –penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

PU – police unit

SMS – The State Migration Service of the Republic of Azerbaijan

SMI – Specialized Medical Institution of the Penitentiary Service of the Ministry of Justice of the Republic of Azerbaijan

SSS –the State Security Service of the Republic of Azerbaijan

Subcommittee – A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture

TDP – Temporary Detention Place

Torture – torture and other cruel, inhuman or degrading treatment or punishment

UN – United Nations

CHAPTER 1.

MANDATE OF THE NATIONAL PREVENTIVE MECHANISM BASED ON THE OPCAT

1.1. Requirements of the OPCAT

In 2016, the Commissioner continued the relevant work as an institution, designated to function as a national preventive mechanism (NPM) provided by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

This is known that the main objective of the OPCAT¹ is to establish a system of regular visits undertaken by independent International and national bodies to places where people are deprived of their liberty², in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The OPCAT emphasizes taking preventive measures from the standpoint of importance of the constructive dialogue and giving reaction to regulating relations. The innovativeness of the OPCAT also appears in envisaging no new rights or standards or the restoration of violated rights but the prevention of the violation of the existing standard – the right to not be subjected to torture.

The establishment of independent and regular visits system as of the most advantageous way for prevention of torture with the aim to monitor the treatment of people detained in all places of deprivation of liberty and detention conditions is the principle idea mentioned in this document. In accordance with the OPCAT, international and national bodies with a torture prevention mandate – the Subcommittee and the National Preventive Mechanisms (NPMs) – are set up. The Subcommittee of the UN against Torture established at the international level is a new generation treaty body of the UN.

Pursuant to requirements of the Article 17 of the OPCAT, each State Party shall maintain, designate or establish, at the latest one year after its entry into force or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. The NPM's mandate consists of at the very least the following:

¹ The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly Resolution No. 57/199 dated December 18, 2002, and entered into force after being ratified by 20 States on June 22, 2006.

² According to the paragraph 2 of the Article 4 of the OPCAT 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.

- to regularly examine the treatment of the persons deprived of their liberty in places of detention;
- 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, taking into consideration the relevant norms of the United Nations;
- to submit proposals and observations concerning existing and draft legislation.³

In order to enable the national preventive mechanisms to efficiently fulfill their mandate, the State Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.⁴

The OPCAT also recognizes the following rights for the NPMs:

- Access to all information concerning the number of persons deprived of their liberty in places of detention, treatment of those persons as well as their conditions of detention, the number of places and their location;
- Access to all places of detention;
- The opportunity to have private interviews with the persons deprived of their liberty without witnesses, as well as with any other person who may supply relevant information;
- The liberty to choose the places they want to visit and the persons they want to interview;
- The right to have contacts with the Subcommittee on Prevention, to send information and to meet with its representatives.⁵

1.2. National legislation

The OPCAT was acceded by the Republic of Azerbaijan on 15 September 2005 and ratified by the Law of 2 December 2008.⁶ The OPCAT entered into force in the Republic of Azerbaijan by the publication of the aforementioned law on 15 January 2009. On the same date the President of the Republic of Azerbaijan issued a Decree designating the Commissioner as the institution to perform the functions of the NPM according to the OPCAT⁷.

³ OPCAT, Article 19;

⁴ OPCAT, Article 18(1);

⁵ OPCAT, Article 20;

⁶The Law of the Republic of Azerbaijan on Approval of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (02.12.2008, № 724-IIIQD);

⁷ Law of the Republic of Azerbaijan on Ensuring the Implementation of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (13.01.2009, № 112);

New and quite serious responsibilities undertaken by the Commissioner specified more efficient and higher quality activities which resulted in the expansion of her mandate, as well as staff's competence. By making additions and amendments to the Constitutional Law⁸ the Commissioner's powers and independence have been complied with the level of the authority of the NPM as provided for by the OPCAT, also the National Preventive Group (NPG) has been created, as well as obligations, rights and guarantees of the NPG members have been enacted to ensure the Commissioner's activities as the NPM, based on the principles of transparency.

According to the Constitutional Law, the Commissioner in fulfillment the duties as the NPM, has the right to have access, at anytime, without hindrance and prior notification, to police stations, temporary detention places (TDPs), investigation isolators (II), penitentiary facilities, military detention places, psychiatric institutions and other places where detainees are not permitted to leave at will, meet and interview detained person, as well as any other persons who may provide relevant information, in private or when deemed necessary with participation of a specialist or interpreter; get acquainted with and obtain copies of all documents confirming the legality of detention, as well as relating to treatment of them or detention conditions; draw up acts, and minutes to document the flow and results of undertaken actions.⁹ The Commissioner's right to make recommendations to relevant authorities and receive responses to those recommendations within the specified time limit has also been stipulated in the aforementioned law.¹⁰

Within previous period, the legislative acts were improved, as well as the provisions specifying the Commissioner's and NPG's aforementioned powers were incorporated into the relevant normative legal acts to ensure the NPM's efficient operation.¹¹

⁸ The Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, (24.06.2011, № 163-IVKQD)

⁹ The Constitutional Law, Article 12.2.1; 18-1.2.1

¹⁰ The Constitutional Law, Article 12.2.1

¹¹ Law of the Republic of Azerbaijan on Making Amendments to the Execution Punishment Code (20.04.2012, № 324-IVQD); the Law of the Republic of Azerbaijan on Making amendments to the Law on Psychiatric Care (20.04.2012, № 325-IVQD); The Law on Making Amendments to Annex 4 of the Regulations of the Garrisons and Guard Services of the Armed Forces of the Republic of Azerbaijan which was confirmed by Law No 886 of 23 September 1994. (20.04. 2012); № 326-IVQD); The Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Making Amendments to "The Sample Regulations of Open and Closed Special Correctional Institutions approved by Decision No 65 of the Cabinet of Ministers dated 13 May 2003" (04.07.2012, № 148); The Decision of the Plenary Board of the Ministry of Justice of the Republic of Azerbaijan on "Making Amendments to the Internal Disciplinary Rules of Penitentiary Institutions approved by Decision No. 7 of 29 December 2011 of the Plenary Board of the Ministry of Justice" (13.07.2012, № 3-N); The Law of the Republic of Azerbaijan on the rights and freedoms of

Under the Article 18-1.1 of the Constitutional Law, the members of NPG were formed for the period of 3 years for the first time on 26.12.2013 and due to the expiry of the term, for the second time on 26.12.2016, basing on transparent procedures.

The recommendations and proposals made to the periodic reports of the Azerbaijani Government under the review process by the UN Human Rights Council Universal Periodic Review (UPR) Working Group, as well as by CAT, SPT, CPT were considered to ensure efficient activity of the Ombudsman as the NPM as specified by the OPCAT.¹²

1.3. Directions of the activity of the NPM

The Azerbaijani NPM performs its activities in the following four directions:

- **Preventive visits** – regular, scheduled or *ad-hoc* visits without prior notification to the places which detained persons cannot leave on their own will;

- **Legal analysis** – the theoretical and practical analysis of the performed activities, as well as information collected during the course of these activities, relevant proposals and recommendations received, and effective or draft, and compilation of conclusions and preparation of corresponding proposals;

- **Legal awareness** – with the purpose of promoting the prevention of torture, organization of legal awareness work for the staff of the Office, members of the NPG, personnel of places which detained persons cannot leave on their own will, as well as persons detained in those places, students of relevant educational institutions and academies, preparation and distribution of related manuals;

- **Public relations and international cooperation** – the arrangement of exchange of information with local, regional and international organizations and foreign NPMs, mutual participation at events and organization of joint events, and the dissemination of information on the NPM's activity in the mass media.

Alongside with the abovementioned, it should be noted that the Azerbaijani NPM's activity has been interlinked with the Commissioner's mandate to receive complaints. Thus, information collected during the examination of the applications received by the Commissioner and the

individuals kept in detention facilities (22.05.2012, № 352-IVQ); The Decision of the Ministry of Internal Affairs on "The Rules for Safeguarding and Escorting Persons Detained in Temporary Detention Places of Police Bodies" (14.01.2013, № Q1-001-13);

¹²The UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, 5 July 2013, A/HRC/24/13 (para.103.31).

special weight of complaints by each agency and entity were used as a driving force in the planning of preventive visits.

The results of the Commissioner's activities in the mentioned spheres, achievements reached, initiatives, forwarded proposals and recommendations are reflected in the special reports on the activity as the NPM. The reports of the previous years were translated and published in both the Azerbaijani and English languages. Up to two hundred proposals and recommendations aimed at improving the legislation, as well as institutional issues have been enumerated in the reports submitted so far and more than half of them were forwarded for implementation.

The activity of the Commissioner as the NPM is not limited only with condemning torture and cases causing to ill – treatment, but it also gives relevant recommendations regarding measures to be undertaken to corresponding institutions for strengthening prevention of such cases and keeps under the attention these issues and preventive approaches in collaboration with governmental bodies, civil society institutions, the Public Committee and other bodies.

CHAPTER 2.

ACTIVITY OF THE NPM AND PREVENTIVE VISITS

2.1. The Organization of Preventive Visits

Evidently, conduction of regular preventive visits to places which detained persons cannot leave on their own will is the key direction of the NPM's activity. Defining its priorities on performing duties the Azerbaijani NPM also considers the OPCAT objectives¹³.

Thus, pursuant to the paragraph (a) of the Article 20 of the OPCAT in order to enable the national preventive mechanisms to fulfill their mandate, the State parties to the Protocol undertake to grant them with 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.

Such information is received on the basis of motions of the Commissioner to the related bodies and visits are conducted in accordance with the annual plan prepared based on the information submitted by those relevant bodies. If it is deemed necessary, at the end of the year, the information is updated for the upcoming year through verification with the corresponding bodies.

Within the activity of the NPM, all preventive visits undertaken are conducted without making prior notice, which may be divided into two groups: scheduled visits and *ad-hoc* visits.

2.1.1. Scheduled visits

The scheduled visits are conducted according to the annual schedule approved by the Commissioner. The draft of the annual schedule is discussed at the meeting attended by the NPG members, the outcomes are drawn up to a report and accepted schedule is submitted to the Commissioner for approval. Non-disclosure of a schedule is necessary for effectiveness of the visits. Therefore, its confidentiality is ensured by the NPG members.

The decision upon the succession of this or another institution included in the visit, as well as on revisiting is made with consideration of such factors as the specifications of the given institution, prior cases reported on the detention conditions and treatment in the mentioned institution in previous years, its location, as well as the information submitted to the NPG as a result of an analysis of the complaints addressed to the Commissioner.

¹³ OPCAT, Article 20 ;

The time allocated for a visit varies depending on the size and specifications of the institution, the number of the persons detained there, as well as the number of NPG members involved in that particular visit.

2.1.2. Ad-hoc visits

The *ad-hoc* visits are mainly undertaken for checking the state of the implementation of the recommendations given at previous visits, preventing prosecution against the persons who have communicated some information to the NPM in this or another form, as well as investigating information given by interviewed detainees about the establishments they were previously held at and the information submitted to the NPG from the analysis of complaints addressed to the Commissioner, checking on the spot the information reported by mass media and that the NPG is interested in, and also at the Commissioner's own initiative.

2.2. Conducting visits

Ensuring the effectiveness of visits requires encompassing the three main stages. Thus the visits of the Azerbaijani NPM are conducted through the following stages:

- Preparation for the visit;
- Conducting the visit;
- Post-visit activities.

Preparation for the visit usually lasts up to two working days and covers collecting necessary information, defining the purpose of the visit and organization of a visiting group.

During the preparation process, collection of necessary information, including those obtained at the previous visits, as well as the information received from other sources, complaints addressed to the Commissioner, and the information obtained from mass media are analyzed, and the legal framework regulating the operation of the institution, and the relevant international standards are reviewed.

The purposes of the visit are defined encompassing such issues as a general assessment of the condition and treatment, investigation of certain issues on condition and treatment (for example, execution of disciplinary punishments, quality of medical treatment etc.), checking the cases revealed during the previous visits, the state of implementation of forwarded proposals and recommendations, defining the issues to pay special attention to and other activities.

During the establishing a visiting group the composition of the group is formed considering number, profession, gender etc. The questionnaires for visit and interviews, templates for taking minutes of conversations with

convicts, the process of measures to be taken and their results, surveys etc. are prepared.

Conduction of the visit encompasses a number of stages:

At first, preliminary talk is held with the administration of the institution. During such a conversation the group members introduce themselves and provide information on the purpose of the visit, and later get general information about the institution.

After the preliminary talk with the administration, the buildings of the institution are visited. During this the material condition of the institution, including size, capacity and the condition of building, cells and rooms, actual placement, light, ventilation, furniture supply, personal hygiene and sanitary conditions, and food is assessed, rendering of medical treatment, existing documentation is investigated.

After that, the documents are reviewed and detainees are collectively or individually and confidentially interviewed. Conduction of such collective talks mainly depends on the aim of the visit. The NPG members on spot decide the form of conduction of interview depending on the circumstances, or make changes to the preliminary agreement.

Talks with the staff of the institution are also one of the necessary issues of a visit. During the conduction of the visit, in order to assess the treatment by persons responsible for the detainees, the NPG members organize interviews with the personnel. In some cases special surveys are used for relevant staff together with the mentioned talks.

At the end of the visit a final talk is held with the administration of the institution and information is provided on the findings of the NPG. The matters could be solved on spot are brought to the attention of the administration and relevant recommendations are given. Simultaneously, it is informed that the administration of the relevant authority will be urged regarding the results.

Post – visit activities. The objective of the NPM is not only conducting visits to relevant places, organization of the measures aimed at the improvement of the treatment of and conditions for the people detained in different institutions is also a part of this process.

That is the very reason that after undertaking the visit a report on the outcomes is prepared and the recommendations to improvement of the treatment and conditions are prepared and submitted to the relevant bodies.

In general, if this is considered necessary by the NPG the repeated visit is appointed and conducted to the institution shortly after the previous one with the aim to investigate on the spot the status of implementation of the given recommendations.

In 2016, the NPG members conducted 337 visits to the places which detained persons cannot leave on their own will, out of which 254 were scheduled and 83 were *ad-hoc* visits.

Thus, accordingly, 204 visits were carried out to the institutions of the MIA, 65 to the institutions of the MJ, 4 to the institutions of the SSS, 1 to the institutions of the MD, 2 to the institutions of the SMS, 23 to the institutions of the MH, 6 to the institutions of the MLSP, 27 to the institutions of the ME, and 5 to the institutions of local executive authorities.

In general, legal awareness talks were held individually with more than 2000 detainees in places which persons cannot leave on their own will, as well as with up to 500 staff members of those institutions.

Within the frames of the NPM activity the preventive visits to the places which detained persons cannot leave on their own will are conducted regularly, in *scheduled* or *ad-hoc* manners and in all cases without any prior notification.

As in previous years, relevant recommendations and proposals were submitted to the administrations of the institutions concerned and to the relevant ministries to eliminate the shortcomings revealed during visits conducted in the reviewed year and to improve general detention conditions. Accordingly, the Commissioner who realizes the functions of the NPM was informed about the results of measures carried out by those bodies according to the each submitted recommendation.

The numerous detainees were received, private and confidential meetings were held with numerous urged persons, the applications are received and investigated on the spot during the visits paid each year in *scheduled* and *ad-hoc* manners to the places which detained persons cannot leave on their own will. Considering the appeals received by the NPG, relevant measures have been carried out, legal advice was given, and the reception of the appeals for execution was ensured.

Numerous persons were received by the Commissioner and investigations were conducted over the appeals addressed to her by detainees, their family members and lawyers, human rights defenders, also received through hot-line services, as well as by NGOs, the International Committee of the Red Cross.

The relevant investigations were conducted with regard the received applications, the Prosecutor General, Minister of Internal Affairs and the Minister of Justice and other related state bodies were urged to for investigation when necessary. In all cases the applied persons were replied on-time officially in written with regard the investigation.

2.2.1. Institutions of the Ministry of Internal Affairs

In 2016, 204 scheduled and *ad-hoc* visits were conducted to the temporary detention places and police units (PU) within the frames of the activity of the Ombudsman as the NPM. During these visits private conversations were held with 691 detainees; their detention conditions were assessed, the possibility of their subjection or not to ill-treatment during the period of detention or arrest were investigated.

Wide-scaled public hearings were conducted in 57 cities and raions of the republic for monitoring the fulfillment, promotion and implementation of the tasks enshrined in the National Program for Action to Raise the Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan, approved by the Order of the country President with participation of the local state bodies and civil society organizations. During these public hearings the Commissioner held meetings with the administration of raion (city) police bodies and the personnel, conducted legal awareness work with them, brought to the attention the importance of special care to ensuring human rights and freedoms, discussed the cooperation issues in this direction, presented the legal publications, manuals of the Office, recommended learning of these editions, their using during advertising trainings, seminars and also in practice. Alongside with this, the advertisements with the hotline telephone numbers of the Ombudsman were monitored and the posters regarding the hot-line service were installed in the places where they have not been before and their accessibility was ensured.

During the visits conducted to the TDPs, subjection or not to any ill treatment of persons brought to the police bodies was the subject of investigation and the confidentiality of information regarding those persons was ensured.

It was observed that the measures on more efficient protection of human rights, bettering the existing detention conditions in compliance with modern standards, re-construction and improvement of material-technical basis were being continued. Alongside with this it was also observed that the attitude towards the detainees was improved, the relevant actions were undertaken for elimination of revealed shortcomings and circumstances causing them, the control over the work of TDPs.

During 2016, it has been observed as well that with the purpose to create the conditions in the TDPs of police bodies in the republic that would meet international norms and standards the new TDPs were built in Gedebey, Gazakh, Balaken, Hajigabul, Yardimli, Masalli city-raion police bodies, the repair or reconstruction works were being continued in TDPs of police bodies in Sabirabad, Sheki and Gabala.

Alongside with this, the practical application of several norms of the legislation basing on the international standards was achieved. Thus, according to the Rules on rendering of medical and psychological care to detained or arrested persons, as well as their detention in medical facilities affirmed by the Decision No. 67 of the Cabinet of Ministers dated April 18, 2013, medical staff performs medical examination without participation of others. In exceptional circumstances, such examination is conducted with participation of a police officer to ensure security of physician and to avoid that the detainee causes harm to himself.

With regard to this question, according to the response letters by the MIA, revealed drawbacks were eliminated; all regional police bodies were supplied with books on medical records; also separate team of physicians was allocated to regional health institutions to take preliminary medical examination; furthermore, the necessary measures were undertaken jointly by the MIA and Ministry of Health (MH).

According to the legislation, before placement in TDPs, the detained and arrested persons are subjected to medical examination and personal hygiene treatment; as well as information about refusal from medical requests or aid is officially recorded. According to the medical certificate, the detainees, whose custody conditions are not considered advisable, are sent under the escort to the health institutions of MH for medical treatment.

The important issues like strict adherence to rule of law and ensuring human rights and freedoms in the process of bringing in, detention and application of disciplinary measures in police custody were kept under the control by MIA based on the recommendations and proposals of the NPM.

Consequently, it was detected that as it was mentioned above in most TDPs the detention conditions were brought into compliance with international standards; new detention places were constructed; the number of claims of cruel treatment during preliminary detention decreased; relevant normative legal acts were improved from human rights standpoint; the control and care over detention places were strengthened; as well as other positive developments have been achieved.

Regarding the revealed delinquencies, the motions to MIA by Commissioner as the NPM, have been focused attention on; the delinquencies were eliminated; guilty persons were punished under the legislation and the police bodies were informed accordingly, which is a contribution to an efficient cooperation.

The NPG members held visit without prior notification to **Absheron DPO TPD** in compliance with the OPCAT demands. During this visit all cells of the TDP were monitored, the detainees were received individually, as well as relevant documentation and registration journals were revised.

The detainees received privately made no complaints on the treatment towards them by the TDP staff and detention conditions.

During the visits it was revealed that there is a need in installation of boards enshrining in written the rights and duties of administratively arrested persons, as well as prisoners, improving provision of detainees with personal hygienic means and towels, bringing the quantity of stools in compliance with the number of detainees, closing of a part of walking place and improving the documentation. The issues were brought to the attention of TDP and DPO administration, discussions on their elimination were held and relevant recommendations were forwarded.

The mentioned shortcomings are based on demands of the national legislation, also of several international documents. Thus, “if the persons deprived of liberty are unaware of their rights, the police should inform the arrested person about their rights with no delay and in understandable language. For provision of this, the police should systematically provide the arrested persons with the written forms enshrining properly their rights at the beginning of arrest.”¹⁴ From this standpoint absence of written boards enshrining the detainees’ rights and duties is a matter of concern.

At the same time, according to the relevant standards on detention conditions, cell should be totally provided with leisure means (chair or benches fastened to floor), the persons have to spend a night under arrest should be provided with clean mattresses and cover.¹⁵

The purpose of the *scheduled* and *ad-hoc* visits held in ***Khatai DPO TDP*** was to investigate the detention conditions and treatment, ensuring rights of detainees in compliance with the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons detained in the places of arrest” and Internal Disciplinary Rules in Temporary Detention Places, as well as monitoring the conduction of documentation.

During the visits the detainees in the TDPs were held conversations individually by the NPG members, their applications were received and replied to, their rights and competences of the Ombudsman were explained; legal advices were given. Alongside with this, the documents confirming the legality of detention of those persons, also relating to the treatment and detention conditions were investigated, the TDP cells were visited, the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned as well.

The detainees made no complaints on the treatment of the TDP staff towards them and on detention conditions.

¹⁴The 2nd General Report on the CPT, CPT/Inf 2002, § 44.

¹⁵The 12th General Report on the CPT, CPT/Inf 2002, § 47.

Alongside with the abovementioned, it was observed that many of the recommendations given within the activity of the Ombudsman as the NPM during the previous visits to the institution, such as *separate detention of smoking and non-smoking persons, organization of keeping medicaments in a separate closet considered for first aid and observation of the utilization time, making of relevant notes to the medical books and medical journals on time and properly* were implemented.

But it was also observed that *the part of the walking places of detainees in the TDP that should be closed was not closed, due to limited numbers of service rooms one room was used for several purposes.*

According to the international standards, the persons kept in the police stations for 24 hours and more should be offered physical activities on fresh air as within the capacities. From this standpoint existence of walking place meeting the relevant standards and its repairing is of special importance.

At the end of the visit the NPG members gave relevant recommendations to the head of the TDP regarding elimination of the abovementioned shortcomings, as well as improving the detention conditions and treatment matters.

Within the frames of the visit held in **Sabunchu DPO TDP** the documents confirming the legality of custody of the detention persons, as well as related to treatment of those persons and their detention conditions were investigated, all cells of the TDP were visited, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; the needs were learned.

During the visit the individual conversation was held by the NPG members with the foreign citizen detained in the TDP – T. M. B., he was explained his rights, the competences of the Ombudsman and was given legal advice. He made no complaints on the detention conditions and treatment.

At final, the TDP administration was given relevant recommendations on improving of registration journals and conduction of medical documentation *in compliance with the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in detention places” and Internal Disciplinary Rules in Temporary Detention Places.*

The members of the National Preventive Group (NPG) of the Ombudsman paid an unannounced visit to **Surakhani DPO TDP**. The purpose of the visit held upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of detention

conditions and treatment, ensuring the rights of detainees, as well as the situation with conduction of documentation.

During the visit the NPG members received individually the persons detained in the TDP, their rights as well as the competences of the Ombudsman were explained to them, the legal advice was given. Detainees made no complaints on the detention conditions and treatment.

It was observed that the recommendations given during the previous visits within the frames of the activity of the Ombudsman as the NPM on more efficient ensuring the rights of detainees have been implemented in this facility as well, *the condition in TDP cells meet modern standards, however, there was a need in increasing attention to improving hygienic situation in sanitarian cleaning room.*

At the end of the visit, the administrations of Surakhani DPO and TDP were given relevant recommendations on improving of detention conditions and treatment issues basing on the national and international standards in compliance with the CPT recommendations, the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in the places of detention” and Internal Disciplinary Rules in Temporary Detention Places.

A visit without prior notification was held in **Narimanov DPO TDP** and the visit was conducted upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

Within the frames of the visit, the NPG members held individual reception of detainees in the TPD, their applications were replied to, they were explained their rights and the Ombudsman’s competences; legal advice was given as well. The detainees did not express dissatisfaction on the detention conditions and treatment by the staff of the facility.

The legal awareness work was also carried out by the NPG members for the TDP staff. At final, the TDP administration was given recommendations on *organization of keeping medicaments in a separate closet considered for first aid and observation of the utilization time* in compliance with the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in the detention places” and Internal Disciplinary Rules in Temporary Detention Places.

The members of the National Preventive Group (NPG) of the Ombudsman held unannounced visit to **Sabail DPO TDP**.

Within the frames of the visit the documents confirming the legality of custody of detainees, also relating to the treatment and detention conditions were investigated, all cells of the TDP were visited, the documentation on

nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned as well.

During the visit the individual conversations were held by the NPG members with the persons detained in the TDP – A. R. and M. Sh. Their applications were replied to. They were also explained their rights, the competences of the Ombudsman and were given legal advice. The detained persons didn't expressed dissatisfaction on the conditions in the institution and treatment by the staff.

As the construction of the administrative building of the DPO impedes natural lightening of TDP cells, basing on the recommendations enshrined in the 2nd General Report on the CPT, the relevant recommendations were given on creating possibility for detainees on spending more time in the walking area and on improving the conduction of documentation.

Within the frames of the visit, the TDP administration was given relevant recommendations regarding observation of the mentioned issues, as well as the legal awareness work targeted at staff members was conducted basing on the national and international standards.

The unannounced visit was held by the NPG members to ***Sabail DPO PU No. 41.***

The purpose of the visit was investigation of ensuring the rights of persons detained in the unit, treatment matters, as well as conduction of relevant documentation.

As the administrative building of the unit was put into exploitation recently, the monitoring revealed that the conditions in the detention cells are normal; no detained person was there on the time of visit.

In order to check the conduction of documentation, "the journals of registration of persons brought to the police bodies, as well as of juveniles" in PUs were investigated. During this, it was observed that in certain parts of the journal there were roughs and the unit administration was given recommendations on elimination of such cases; the legal awareness conversations were held with the staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

The visits were held in ***PU No. 4 and No.6 of Binagadi DPO*** without prior notification.

During the visits held upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan it was observed that no detainees were in the PUs, and service rooms of the staff.

Within the frames of the visits the administrations of the both PUs were given relevant recommendations on improving the conditions in rooms, on

efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

The visits without prior notification were held in ***PU***s No.26, 27, 28 and No.29 of ***Yasamal DPO***.

During the visits held upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan it was observed that no detainees were in the PUs, and service rooms of the staff were visited.

The purpose of the visit was investigation of detention conditions and treatment, ensuring the rights of detainees, as well as the revise of conduction the relevant documentation. The temporary detention places were visited for investigation of detention conditions, the documentation upon “the journals of registration of persons brought to the police bodies, as well as of juveniles” in PUs was investigated.

It was also observed that there were not rooms for investigation in the PUs No. 26 and No. 28, the detention place in the PU No. 29 didn't meet the standards, despite newly construction of administrative building of the PU No. 27, there was a need in improving the conditions in the detention place.

At the end of the visit, the administration of the abovementioned police units were given recommendations on elimination in compliance with the relevant legislation of revealed shortcomings, as well as insufficiencies in documentation, the legal awareness work targeted at the staff members of the institution was carried out basing on the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The NPG members conducted a visit without prior notification to ***the PU*** No. 25 of ***Nizami DPO***.

The purpose of the visit was the investigation of ensuring the detainees' rights in the unit, treatment, as well as conduction of relevant documentation.

As the administrative building of the unit was put into exploitation newly, the conditions in the cells of detention for investigation were normal; it was revealed that there was no detained person at the time of visit.

For investigation of the situation with conduction of the documentation “the journals of registration of persons brought to the police bodies, as well as of juveniles” were revised. During this, *it was observed that in certain parts of the journal there were roughs* and the unit administration was given recommendations on elimination of shortcomings; the legal awareness

conversations were held with the service staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

The implementation status of the application on violation of the child rights in the education facility addressed to the Ombudsman and to these police units due to area belonging was investigated within the frames of the visit.

It was revealed that the application of the citizen I. A. was registered in a due manner, the expertise was appointed upon his complaint and the investigation in a proper way was carried out.

The members of the National Preventive Group of the Ombudsman held a visit without prior notification in ***Sumgayit City Police Office TPD***.

The aim of the visits organized upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the detention conditions and treatment of detainees, learning the situation with ensuring the rights of detainees, as well as conduction of the documentation.

During the visits the NPG members held individual meetings with the detainees in the TDP, their applications were received and replied to, their rights, as well as the competences of the Ombudsman were explained to them, the legal advice was given.

Alongside with this, the documents confirming the legality of detention of those persons, also relating to the treatment and detention conditions were investigated, all cells of the TDP were visited, the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned as well.

Detainees made no complaints on the detention conditions in the institution and treatment by the TDP staff members.

Alongside with the abovementioned, it was revealed that recommendations given within the frames of the activity of the Ombudsman as the NPM during the previous visits such as *regarding to detention conditions, making on time and properly the relevant notes in the registration journal, medical books* have been implemented.

Howeverover crowding was observed in the institution and the cause of this is location of the first instance courts and the court of appeals, office of military prosecutor in the city, detention for a while of persons to the TDP related to the execution of their cases. If to consider that the administratively arrested persons are also kept here, the existence of overcrowding issue for a long time comes to the surface.

At the end of the visit, basing on the national and international standards, the legal awareness conversations were conducted with the DPO and TDP administrations regarding treatment of detainees, remedies, focusing on the matter of ensuring the accessibility of lawyers, as well as relevant recommendations were put forward on solution of the abovementioned cases, elimination of insufficiencies in the documentation and its improvement.

The members of the National Preventive Group of the Ombudsman held an *ad-hoc* visit without prior notification in ***Sumgayit City Police Office PU No. 1***.

The purpose of the visit was investigation of the information spread in the internet resources on detention of A.R. by the PU No.1 of Sumgayit City Police Office, his subjection to ill-treatment and of the video-records¹⁶.

In the disseminated video the damages in the body of A.R. were shown, and it was stated that those damages were made by the Chief and staff members of Sumgayit CPO PU No.1, as well as by the Chief of the Criminal Investigation Department.

Within the frames of the visit, the situation with ensuring the detainee's rights, treatment matters, as well as conduction of the relevant documentation were monitored.

While reviewing the book of registration of persons brought to Sumgayit City Police Office PU No. 1 it was observed that at 11.35 am. on March 23, 2016, A.R. (in the disseminated video he stated that he was brought to the Police Unit at 7 am.), and other four persons were brought to Sumgayit CPO PU No. 1 regarding the occurred criminal case, their explanations were taken from them and they were let out at 2.10 pm., however it was observed that the corrections were made into that book on bringing and discharging hours.

The Commissioner immediately urged to the Office of the Prosecutor General regarding conduction of urgent investigation with appointment of relevant expertise upon the results of the conducted investigation and gathered materials.

In order to check the status of conduction of the documentation, "the journals of registration of persons brought to the police bodies, as well as of juveniles" were investigated. During this, *it was observed that in certain parts of the journal there were roughs* and the unit administration was given recommendations on elimination of such cases; the legal awareness conversations were held with the staff members on efficient ensuring the rights of citizens when inviting to the unit, also as suspected persons.

¹⁶ http://www.bbc.com/azeri/azerbaijan/2016/03/160329_beaten_by_police

The visit was conducted in the *Detention Station for the administratively arrested persons of the Ministry of Internal Affairs*.

The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was to investigate the detention conditions and treatment of the detainees, ensuring their rights, as well as the status of the conduction of the documentation.

During the visit, the persons detained in the institution were received individually by the NPG members, their appeals were replied to, they were explained their rights and the competences of the Ombudsman, the documents confirming the legality of detention of those persons, as well as treatment of them and detention conditions were inspected. The cells of the Detention Station were visited, documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and parcels was inspected; existing needs were learned as well.

During the visit the NPG members met with approximately 15 administratively arrested persons kept in the Detention Station, including J. O., S.A regarding the appeal addressed to the Ombudsman, treatment of them and detention conditions were investigated.¹⁷

During the visit overcrowding in the mentioned institution was observed by the NPG members. Thus, despite the limit of the institution is for 58 persons, on that day it was observed that 82 persons were detained there. Although according to the international standards all police cells should be clean and quite wide considering the quantity of persons detained there, have adequate lightening.¹⁸ The administration of the institution explained the overcrowding with the small quantity of cells, and noted that after prolongation of administratively arrest period in the legislation such cases of overcrowding have been observed for several times.

At the end of the visit the NPG members gave relevant recommendations to the Head of the institution on improvement of the detention conditions and treatment issues, the Ombudsman urged to the Prosecutor General and Minister of Internal Affairs respectively regarding the solution of the abovementioned cases and received applications.

The visit without prior notification was held in the temporary detention place of ***Gakh District Police Department***.

The aim of the visit conducted within the frames of the activity of the Ombudsman as the NPM upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the treatment of detainees and their detention conditions.

¹⁷ <http://news.milli.az/society/54188.html>

¹⁸ The 12th general report on the CPT, CPT/Inf 2002, § 47.

For this purpose the cells of the TDP were visited, the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out of cell and reception of parcels was inspected; the documents on daily prosecutor's control, as well as treatment issues were investigated.

The detainees didn't express dissatisfaction with the detention conditions and treatment. *During the visit it was revealed that the building of Gakh DPD and TDP needs repair and improvement.*

At the end of the visit the Head of the institution was given relevant recommendations by the Ombudsman and NPG members on improving the detention conditions and treatment issues, the discussions over the solution of the mentioned cases were conducted.

Within the frames of the activity of the Ombudsman as the NPM the visit was conducted to the TDP of *Ismayilli DPD*.¹⁹ The investigation, identification, meeting, doctor's and worship rooms were visited, the legality of relevant documents was inspected, the conversations with the detainees was conducted, their rights were explained to them.

During the visit it was revealed that there was a need in improving the conditions in the TDP cells, the Head of the institution was given by the Ombudsman the relevant recommendations on improvement of the detention conditions and treatment issues; the discussions over the solution of the mentioned cases was conducted.

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The visit without prior notification was held in the temporary detention place of *Imishli District Police Department*.

The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the treatment of detainees and their detention conditions.

During the visit held with participation of the Ombudsman and conducted as an integral part of her activity as the National Preventive Mechanism the documents confirming the legality of custody of the detainees and their detention conditions, as well as treatment matters were investigated. The TDP cells were visited, the documentation on nutrition, medical aid, walking, meetings and phone conversations was inspected.

19 <http://www.ombudsman.gov.az/en/view/news/343/public-hearings-in-ismayilli-and-shamakhi-regions>

During the visit it was revealed that the TDP building required re-construction, there was a need in improvement the conditions in the cells. The Ombudsman gave relevant recommendations to the Head of the Institution regarding improvement of the detention conditions and treatment issues; the discussions over the solution of the mentioned cases were conducted.

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The visit was organized to *Saatli DPD TDP* upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; the treatment of detainees and their detention conditions were investigated.

As the TDP of Sabirabad DPD TDP was closed for repairing, the persons brought for investigation and court are also detained here that cause to overcrowding, it was revealed that there was a need in re-construction of the TDP building, improving the conditions in the cells. The Ombudsman gave relevant recommendations to the Head of the institution regarding improvement of the detention conditions and treatment issues; the discussions over the solution of the mentioned cases were conducted.

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Within the frames of the activity of the Ombudsman as the NPM the visit without prior notification was held in *Agsu DPD TDP*. The aim of the visit was investigation of the treatment of detainees and their detention conditions.

During the visit held with participation of the Ombudsman the documents confirming the legality of custody of the detainess and their detention conditions, as well as treatment matters were investigated. The TDP cells were visited, the documentation on nutrition, medical aid, walking, meetings and phone conversations was inspected.

During the visit the Ombudsman gave recommendations on closing a part of walking area of the TDP for protection from rain and other factors, as well as on improvement of the detention conditions and treatment issues. Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the

demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The visit without prior notification was held in the temporary detention place of ***Aghjabedi DPD***.

During the visit held with participation of the Ombudsman the documents confirming the legality of custody of the detainees and their detention conditions, as well as treatment matters were investigated. The TDP cells were visited, the documentation on nutrition, medical aid, walking, meetings and phone conversations was inspected.

During the visit it was revealed that the TDP building was old, however was repaired, there was a lack of service rooms.

The administration of the institution was given relevant recommendations in order to eliminate the abovementioned issues and shortcomings in the documentation.

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it.

Within the frames of the activity of the Ombudsman as the NPM the visit without prior notification was held in the temporary detention place of ***Neftchala District Police Department***. The aim of the visit was investigation of the treatment of the detainees and their detention conditions.

During the visit conducted as an integral part of the activity of the Ombudsman as the National Preventive Mechanism the relevant documents, detention conditions, as well as treatment matters were investigated. The TDP cells, walking places were visited, the documentation on nutrition, medical aid, walking, meetings and phone conversations was inspected. The detainees received individually didn't express dissatisfaction with the detention conditions and treatment.

During the visit it was revealed that the TDP building was old and there was a need in its reconstruction in compliance with the standards, improving the conditions in the cells. The Ombudsman gave relevant recommendations to the head of the institution regarding improvement of the detention conditions, treatment issues, the discussions on the solution of the mentioned issues was conducted.

The NPG members carried out scheduled visit without prior notification ***to Astara DPD TDP***. The aim of the visit conducted upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the

Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the custody conditions of detainees, treatment of them and ensuring the detainees' rights, as well as conduction of the documentation.

The detainees received individually didn't express dissatisfaction with the detention conditions and treatment.

At the end of the visit, basing on the national and international standards, the legal awareness conversations were conducted with the DPO and TDP administrations regarding treatment of detainees, remedies, focusing on the matter of ensuring the accessibility of lawyers, as well as relevant recommendations were put forward on elimination of insufficiencies in the documentation and its improvement.

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism the unannounced visit was held in **Agstafa DPD** temporary detention place.

During the visit held with participation of the Ombudsman as the National Preventive Mechanism the relevant documents, as well as the matters of treatment of detainees were investigated. The TDP cells, the walking area were visited, the documentation on nutrition and medical aid was inspected. The persons received individually didn't express dissatisfaction with the detention conditions and treatment.

During the revising the registration journal it was revealed that revenant notes were made incorrectly, insufficiencies were allowed.

It was also revealed that the building of the TDP was old; there was a need in its reconstruction in compliance with the standards, improving the conditions in cells. The Ombudsman gave relevant recommendations to the head of the institution on improving the detention conditions and treatment matters; the discussion upon the raised matters was conducted.

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The unannounced visit was held in **Khizi DPD TDP**.

The aim of the visit conducted within the frames of the activity of the Ombudsman as the NPM upon the demands of the OPCAT and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the treatment of detainees and their detention conditions.

For this purpose the cells of the TDP were visited, the documentation on nutrition, medical aid, walking, meetings, phone conversations, carrying out

of cell and reception of parcels was inspected; the documents on daily prosecutor's control, as well as treatment issues were investigated.

The detainees didn't express dissatisfaction with the detention conditions. *During the visit it was revealed that the building of Khizi District Police Department (DPD) and TDP was old and was in need of repair and improving.*

Within the frames of the visit the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it.

At the end of the visit the head of the institution was given recommendations by the Ombudsman and the NPG members regarding improvement of the detention conditions and treatment issues, the discussions were conducted upon the mentioned matters.

The Ombudsman and the National Preventive Group members conducted on different times scheduled and *ad-hoc* visits without prior notifications to the temporary detention place of ***Tovuz District Police Department.***

The aim of the visits conducted upon the demands of the Optional Protocol to the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was investigation of the detention conditions and treatment, ensuring the rights of detainees, as well as the situation with conduction of documentation.

The detainees received within the frames of the visits didn't express dissatisfaction with the detention conditions and treatment.

During the visits the condition of documentation was also revised and it was revealed that relevant notes were made incorrectly and insufficiencies were allowed. From this standpoint the head of the institution was given recommendations by the Ombudsman regarding improvement of the detention conditions and treatment issues, the discussions were conducted upon the mentioned matters.

Within the frames of the visits the legal awareness conversations were conducted with the staff members of the police department basing on the demands of the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it.

The shortcomings revealed during the visits conducted by the Ombudsman and her NPG members within the frames of the activity of the Commissioner as the NPM were solved on the spot by the preventive

measures or as a result of urging by the Commissioner to the MIA, the successful approach was displayed.

Within the frames of this cooperation upon our appeals the replies were received on improving current detention conditions in temporary detention places in compliance with modern standards, continuation of measures on improving material – technical basis, bettering the treatment of detainees, conduction of documentation in relevant registration journals, carrying out of appropriate measures for elimination of revealed shortcomings in the first medical examination and aid and of cases causing them, strengthening the control over the work of temporary detention places.

During the visit conducted by the NPG members to Yasamal DPO TDP in 2015, it was revealed that the building of the temporary detention place was in emergency condition; deep cracks in main bearing beams, subsidence of the cells and corridor were observed. In this regard the Commissioner urged to the Minister of Internal Affairs and upon this the exploitation of that building was stopped. That TDP closed for repairing was given into exploitation in 2016 after conclusion of reconstruction works.

A group of police staff of the internal affairs bodies were brought to an administrative responsibility for allowing insufficiencies in their service. Thus, the deputy head of Binagadi DPO PU No.5 E. Azizov, district police officer F. Alekperov and officer of the criminal investigation department G. Nasirov brought the citizen A.R. to Binagadi District Police Office in the absence of necessity with regard the criminal case and permitted impolite behavior in intercourse with him, were drawn to administrative responsibility.

The service investigation was conducted with regard the slight self-injuring by the citizen P. Aliyev detained in Binagadi DPO TDP with razor on his throat and right hand part who used being without control in the TDP. As a result relevant staff members of Binagadi DPO TDP were brought to administrative responsibility for irresponsible attitude while implementation of service duties. Such examples can be also shown more.

However, in general, as it is envisaged in the CPT reports, this is important that the police have powers to detain, temporarily arrest and interrogate the persons suspected in committing crime. But these powers should not have a threat of frightening, ill treatment. This is a matter of crucial importance that the police should decrease to absolute minimum this threat while executing his/her duties.

The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and

*reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.).*²⁰

2.2.2. The institutions of the Ministry of Justice Penitentiary Service.

Preventive visits and measures towards ensuring the rights of detainees in the penitentiary institutions were progressed within the activity of the Commissioner as the National Preventive Mechanism. In general, in 2016, 65 scheduled and *ad-hoc* visits were conducted in the investigation isolators and penitentiary institutions under the Ministry of Justice of the Republic of Azerbaijan. The complete environment was created for conduction of visits to these institutions by the Commissioner within the frames of her activity as the NPM.

During the visits, private meetings were held with 497 inmates and their detention condition, access to health care, upholding of honor and dignity, the prevention of torture and ill-treatment were the issues of focus of attention. The prisoners' rights to social security, to health, to appeal, to receive legal aid and others in the places of arrest and penitentiary institutions were also subjects of the investigation.

As a result of carried out visits it was observed that the works on improving the detention conditions of imprisoned and arrested persons in compliance with the national legislation and international standards were continued; the roofs of penitentiary institutions and investigation isolators as well as sanitarian units were renovated; the condition in dormitories and penal isolators were improved and the heating systems were installed; rooms for phone conversations, visiting rooms, classes, investigation and lawyer's rooms, clubs, canteens, walking areas, medical sanitary units and drug storages were repaired.

According to the response letters to the Commissioner's requests to take measures for improving the condition, it was stated that final constructional works were being carried out in the new penitentiary institutions, penitentiary complexes in Ganja and Lenkaran cities, in female prison located in Zabrat settlement of Baku, juvenile correctional institutions, in prison located in Umbaki settlement according to the project-estimates documents.

Within the frames of the activity as the NPM on time appeals were sent to the Penitentiary Service with the recommendations on ventilation of penitentiary institutions and investigation isolators' dormitories and cells with regard the difficulties may occur in detention of prisoners in winter and

²⁰ CPT, GR 2, paragraph 40

summer months, keeping under the focus of attention the drinking water supply of prisoners.

Considering the recommendations relevant preventive measures have been undertaken in this direction, the measures on improving the detention conditions have been included into the plan of actions, as well as the temporary difficulties have been eliminated by corresponding service areas.

The information on supposed subjection to ill-treatment or violence and received on this regard were investigated on the spot, the doctor –member of the NPG also participated in these visits, the Office of the Prosecutor General was urged immediately upon the gathered materials and it was recommended the efficient investigation taking the raised matter under the control.

The proposals and recommendations put forward by the NPG members within the frames of the activity of the Commissioner as the NPM in compliance with the OPCAT and the Constitutional Law, are linked to the national legislation and based on the reports of the CAT, SPT, CPT, European Penitentiary Rules, Istanbul Protocol and other international standards.

In 2016, the National Preventive Group members of the Ombudsman (NPG) conducted several scheduled and *ad-hoc* visits without prior notification to ***Baku Investigation Isolator***.

The purpose of these visits was to investigate the detention conditions and treatment, as well as the appeals addressed to the Commissioner, the situation with ensuring the accused persons' rights, conduction of relevant documentation.

Within the frames of the visit conducted with the participation of doctor – member of the NPG, the arrested persons from different object of the institution were received, the works carried out on treatment matters, detention conditions with regard the switch to a summer regime, ventilation, nutrition, water supply, medical aid, as well as the status of implementation of recommendations put forward during the previous visits were investigation on the spot.

Within the frames of the visits the persons urged to the Commissioner, including several other persons upon their request were received tête-à-tête, their applications were heard and investigated on the spot.

For investigation of appeals, the documents confirming the legality of detention of the arrested persons, medical books were inspected. During investigation of appeals on treatment matters, the notes in relevant journals on passing the preliminary medical examination of those persons when being brought to the investigation isolator and after this examination, the compiled acts, the matters of creating environment for meeting with relatives and lawyers, as well as phone connections were the subject of the

investigation. Basing on the gathered materials the Office of the Prosecutor General or the Ministry of Justice upon related matters were urged immediately, the efficient investigation of raised issues keeping them under control was recommended and other relevant measures were carried out. Basing on the received responses, each urged person was given official written reply.

At the same time the staff members of law-enforcement bodies permitted shortcomings during the preliminary investigation and inquiry process, as well as the staff members of the Penitentiary Service and other state bodies permitted shortcomings in their work were punished.

Alongside, the appeals of detainees on medical examination and treatment that could be solved on the spot were brought to the attention of the chief physician of the Medical-Sanitary Unit, the Ministry of Justice and the Head Medical Department were urged with regard the other appeals and all those were solved.

The received persons expressed no dissatisfaction with the treatment by institutions staff, several issues on detention conditions raised by them, the appeals regarding the overcrowding in cells, improvement of conditions, hot-cold water supply, bettering sanitarian infrastructure, meetings and other issues were investigated on the spot, several were solved instantly, the other were solved after urging to the Ministry of Justice and the Penitentiary Service.

This institution was recommended decreasing the number of persons committed internal discipline violation and against whom the reproach measure as placing to penal isolator was chosen and preferring educational conversations within the frames of legislation. Positive changes were achieved in this direction; as a result the number of persons placed to penal isolator for violating the internal discipline was decreased to minimum.

In all cases the arrested persons were explained their rights, the demands of relevant legislation, legal advice was given to each of them upon the raised matters, the appeals to the Commissioner were received.

At the end of the visit, the administrations of the investigation isolator was given relevant recommendations on improving of detention conditions, the medical service and documentation basing on the national and international standards, the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons detained in the detention places” and Internal Disciplinary Rules in Investigation Isolators, legal awareness measures targeted at the service staff were conducted.

The scheduled and *ad-hoc* visits were held by the NPG members *in Investigation Isolator No.2* basing on the OPCAT requirements. The aim of the visits was investigation of received appeals, also detention conditions

and treatment, ensuring the rights of detainees, as well as the situation with conduction of relevant documentation.

During the visits the dormitories, MSU, penal isolators, kitchen, meeting rooms and other objects of the investigation isolator were visited, the documentation on nutrition, drinking water, cold and hot water supply, rendering of medical aid, walking, meeting, parcels and phone conversations was inspected, existing situation was investigated as well.

Despite the persons received during the visits made no complaints regarding detention conditions, treatment and medical aid rendered to them, *the overcrowding was observed in the institution, during the visit to cells and other objects it was revealed that the building of the investigation isolator was old and there was need in reconstruction works.* In this regard the Commissioner urged to the M.J. In the received response it was informed that the construction of new penitentiary complex in Ganja city was going on and this shortcoming would be eliminated.

Within the frames of the visits, the administrations of the institution were given relevant recommendations on further improving of detention conditions, the medical service and documentation basing on the national and international standards, as well as the Internal Disciplinary Rules in Investigation Isolators.

Within the frames of the activity of the Ombudsman as the NPM the visit was held in ***Investigation Isolator No.3.***

The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the detainees' rights, the conduction of the documentation.

During the visits the detention conditions, nutrition, foods supply were inspected, for this aim the cells, canteen of this institution were visited, as well as the situation with ensuring the rights to medical aid, walking, phone conversations, legal aid and others was investigated.

In order to investigate the treatment matters tête-à-tête meetings were carried out with the detainees in the visited cells, their appeals were heard, legal advice on the raised issues, the competences of the Ombudsman and legislation demands were explained to each of them.

During the conversations with individually received detainees many of them complained on choosing the arrest measure against them and the investigation of the initiated criminal case, some of them stated that their cases are under the court execution and submitted written appeals to the Ombudsman for sending request to relevant court. Corresponding enquiries were sent to relevant bodies and each application was replied in written.

Despite the persons received during the visits made no complaints regarding detention conditions in the institution, treatment and medical aid rendered to them, *the overcrowding was observed in the institution, during the visit to cells and other objects it was revealed that the building of the investigation isolator was old and there was need in reconstruction works.*

The NPG members positively appraised conclusions of repair works in the penal isolator, new quarantine rooms for improving the detention conditions basing on recommendations given during the previous visits and on appeals, as well as the measures on improving the conditions.

At the end of the visit, the administration of the investigation isolator was given relevant recommendations on further improving of detention conditions, the medical service and documentation basing on the national and international standards, the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in detention places” and Internal Disciplinary Rules in Investigation Isolators, legal awareness measures targeted at the service staff were conducted.

Within the frames of the activity of the Ombudsman as the NPM the visit was held in ***Penitentiary Institution No.1.***

The aim of the visit conducted upon the demands of the OPCAT and the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was the investigation of the treatment of detainees and their detention conditions, ensuring the prisoners’ rights, as well we the conduction of the documentation.

The aim of ad-hoc visits was investigation of appeals addressed to the Ombudsman, as well as received by the Hot-line, also the investigation of detention conditions, treatment matters and situation with implementation of forwarded recommendations.

During the investigation the NPG members visited dormitories, MSU and penal cells of the institution, received the prisoners urged to the Commissioner and with numerous prisoners urging from different objects of the institution.

The appeals on and matters of detention conditions and rendered medical aid raised by the persons received during the visit were ensured on the spot. However, several shortcomings were observed during the investigation, such as absence of written board enshrining detainees’ rights and duties in the cells of penal isolator, the need in bettering the condition of sleeping mattress, bringing the number of stools in cells in compliance with the number of detainees.

The revealed shortcoming were brought to the attention of the Head of the institution, relevant recommendations were put forward on improvement of documentation and detention conditions, immediate elimination of mentioned insufficiencies at the institutional level.

The prisoners urged to the Ombudsman and wanted to meet with the NPG members were received individually, the confidential conversations were conducted with them.

At the end of the visit the administration of the institution was given some recommendations on detention conditions and treatment in compliance with the national and international legislation, including the Internal Discipline Rules in Penitentiary Institutions.

The aim of the visit held by the National Preventive Group members of the Ombudsman in *Penitentiary Institution No.2* is investigation of received appeals, detention conditions and treatment, ensuring the detainees' rights in compliance with the international standards and internal disciplinary rules in the penitentiary institutions, also conduction of the documentation.

During the visit the NPG members visited MSU, quarantine room, penal isolator, meeting place and other objects of the institution, existing situation with and the documentation on detention conditions, nutrition, drinking, hot and cold water supply, medical aid, parcels, walking and phone conversations, as well as the measures undertaken for implementation of recommendations given during the previous visits were investigated.

Within the frames of the visit numerous prisoners in this institution were received individually, also several persons were received tête-à-tête upon their requests; their applications were investigated on the spot. In general, the received convicts made no complaints on detention conditions and treatment. During the reception the prisoners were explained their rights, demands of relevant legislation, the competences of the Ombudsman, legal advices were given to each of them upon the raised matters.

During the conversations the convicts urged for assistance in replacing long-term meetings provided by law with short-term meetings, expressed their dissatisfaction on court decisions on them. The prisoners were given legal advices upon all raised matters.

At the end of the visit the discussions were carried out with the head of the institution on further improvement of detention conditions, medical service, nutrition quality, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

Within the frames of the activity of the Ombudsman as the NPM the National Preventive Group members conducted *ad-hoc* visit to *Penitentiary Institution No.4*.

Two members of the National Preventive Group of the Ombudsman of Portugal selected as a partner-institution within the Twinning Project

supported by the Commissioner targeted at improvement of the Azerbaijani NPM activity, also participated at this visit as experts.

The aim of the visit was investigation of the detention conditions and treatment matters. Within the frames of the visit held with participation of the NPG doctor-member the prisoners from different object of the institution were individually received, the conversations were carried out on treatment matters, the dormitories, nutrition, medical aid were inspected for detention conditions, as well as the measures on implementation of recommendations given at previous visits were investigated on the spot.

Within the frames of the visits the persons appealed to the Commissioner, as well as several persons were received individually upon their request, they were heard and their applications were investigated on the spot.

Besides these, as the appeals of detainees regarding medical examination and treatment were possible to be satisfied on the spot this was achieved with bringing to the attention of the chief physician of the MSU.

The received persons didn't express dissatisfaction with the treatment by institution staff, several raised matters with regard the detention conditions, also overcrowding, improving sanitarian infrastructure and other issues were investigated on the spot. Considering that the detention conditions in the institution's building need improvement the Commissioner urged to the MJ. In the reply received it was stated that the new penitentiary institution for women was under construction and with conclusion of repair works the mentioned shortcoming would be eliminated.

It was also observed that the number of persons against whom the provided by legislation reprimand measure of moving to penal isolator for committing internal rules violation was decreased and the preference was more given to educational conversations.

In all cases the prisoners were given legal advice regarding their rights, demands of relevant legislation, each raised matter, their application addressed to the Commissioner were received.

The aim of the visit held by the members of the Ombudsman's National Preventive Group in **Penitentiary Institution No.6** was investigation of detention conditions and treatment matters, ensuring of detainees' rights in compliance with the international standards and internal disciplinary rules of PI.

For members of the National Preventive Group of the Ombudsman of Greece selected as a partner-institution within the Twinning Project supported by the Commissioner targeted at improvement of the Azerbaijani NPM activity, also participated at this visit as experts.

The monitorings held in the PI by the Azerbaijani NPM within the frames of the visit were observed by the foreign colleagues and exchange of experience was carried out.

For this aim, in compliance with the OPCAT demands all objects of the institution, including penal isolator, MSU, quarantine room, canteen meeting, worship places were visited, randomly selected numerous prisoners were individually received, necessary documents and registration book was revised.

During the visit all wards of MSU, dentist's, manipulation rooms, the room for keeping medications, cells of the penal isolator were visited, relevant registration journals and documentation were revised.

In general, during the visit numerous prisoners, those kept in the penal isolators, MSU were received in a confidential manner, their documents were revised; their rights and the Ombudsman's competences were explained to them. Prisoners didn't express dissatisfaction with detention conditions, treatment by the staff of the institution, nutrition and medical care rendered to them.

The conclusion of the visit was discussed with participation of the administration of the institution and experts, *the revealed shortcomings in the relevant registration journals of penal isolator and MSU were brought to the attention for their elimination, the recommendations were put forward on detention conditions and treatment matters in compliance with the national and international legislation, as well as with the Internal Discipline Rules in Penitentiary Institutions.*

The aim of the visit held by the members of the Ombudsman's National Preventive Group in ***Penitentiary Institution No.10*** was investigation of detention conditions and treatment matters, ensuring of detainees' rights in compliance with the international standards and internal disciplinary rules of PIs, also conduction of relevant documentation.

During the visit the NPG members visited living area, MSU, quarantine room, penal isolator, meeting places and other objects of the institution, monitored current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, medical aid, receiving of parcels, walking, meeting and phone conversations, investigated on the spot the measures carried out for implementation of recommendations put forward during the previous visits.

Within the frames of the visit numerous prisoners, as well as several urged persons were received individually, their appeals were investigated on the spot. The received prisoners made no complaints on detention conditions and treatment.

The prisoners were explained their rights, the demands of relevant legislation, the competences of the Ombudsman, legal advice was given to them upon each raised matter.

The NPG members individually received and held confidential conversations with prisoners regarding the appeal addressed to the Ombudsman, they complained on court decision on their cases, they were explained the Ombudsman's competences and given legal advices. Those who urged on assisting in pardoning were advised to address the written application.

At the end of the visit the discussions were carried out with the head of the institution on improvement of detention conditions, medical service, nutrition quality, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

The aim of the visit held by the members of the National Preventive Group within the frames of the Ombudsman's activity as the National Preventive Mechanism in *Penitentiary Institution No.11* was investigation of detention conditions and treatment matters, ensuring of detainees' rights in compliance with the international standards and internal disciplinary rules of PIs.

During the visit the NPG members visited living area, MSU, quarantine room, penal isolator, meeting places and other objects of the institution, monitored current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, medical aid, receiving of parcels, walking, meeting and phone conversations, investigated on the spot the measures carried out for implementation of recommendations put forward during the previous visits.

Within the frames of the visit numerous prisoners, as well as several urged persons were received individually, their appeals were investigated on the spot. However in generally, the received prisoners made no complaints on detention conditions and treatment.

The received persons expressed dissatisfaction mainly on the court decision upon their cases. Thus, during the confidential conversation with a prisoner E.A. he expressed his dissatisfaction with the court decision upon his case, asked for assistance in restoration of relevant term in order to urge to the court of appeal.

The other prisoners urged with similar requests were given legal advice and explained the Ombudsman's competences, the relevant measures for ensuring their rights were carried out.

At the end of the visit the administration of the institution was given several recommendations on detention conditions and treatment matters in

compliance with the national and international legislation, including the Internal Disciplinary Rules in the PIs.

The members of the National Preventive Group within the frames of the Ombudsman's activity as the National Preventive Mechanism held *ad-hoc* visit in ***Penitentiary Institution No.12***. The aim of the visit was investigation of applications addressed to the Ombudsman, treatment, nutrition, conduction of documentation, access to medical service and detention conditions.

After the meeting with the administration of the institution, the NPG members visited PI's penal isolator and met with persons detained there. *During this visit it was revealed that the heating in some of the cells was not satisfactory, in some cells the water taps did not work.*

The persons received during the visit noted that the face problems in sending letters from the institution, meals were prepared poorly. Later the meeting was conducted with 15 persons detained in the penal isolator *and during the tête-à-tête conversation the prisoner A.B. stated that he was not moved to a living area for a long time, the prisoner A.E. stated that he was subjected to pressure by the head of operational affairs.*

During the visit the majority of prisoners expressed their dissatisfaction with the quality of food, however during the monitoring in the kitchen and canteen it was revealed that the conditions there were satisfactory and the notes in the registration journal of canteen were made properly. It was also observed that the condition in walking places and sport hall were normal and a sufficient number of prisoners were involved to the sports. This also should be mentioned that 8 numbers are allocated for phone conversations and provision of prisoners with phone conversations is organized properly as well.

The visit was held in the MSU of the institution, the matter of accessibility of medical service was inspected. The matter of medication supply, medical examination and treatment of persons with disabilities, those suffering from diabetes, HIV and other diseases was investigated. It was noted that in order to detect the persons suffering from tuberculosis, the prisoners passed fluorography check-up, as well as according to the agreement with "Monolit D" company, the sanitarian – epidemiology situation in the institution was kept under control, prophylactic works were conducted once a week, at the same time the medications supply is satisfactory, and at present the ill persons are sent from this institution to Medical Institution of the Penitentiary Service and Specialized Medical Institution for undergoing treatment.

During the visit the NPG members monitored the living area, quarantine room, meeting places and other objects of the institution, inspected current situation with and documentation on the detention conditions, nutrition,

drinking, hot and cold water supply, phone conversations, also the measures carried out for implementation of the recommendations put forward during the previous visits.

At the end of the visit the administration of the institution was given several recommendations by the NPG members regarding the detention conditions and treatment, some of the mentioned shortcomings were eliminated by the administration on the spot

The members of the NPG of the Ombudsman conducted *ad-hoc* visit to ***Penitentiary Institution No.13.***

The aim of the visit was investigation of received applications, also detention conditions of prisoners and treatment of them, ensuring the detainees' rights in compliance with the international standards and internal disciplinary rules of PIs, as well as learning the situation with conduction of documentation in a relevant manner.²¹ During the investigation cells of penal isolator and MSU of the institution were visited, the persons detained there were received.

Within the frames of the investigation held with participation of NPG doctor-member, the prisoners received in the confidential manner informed that they were placed to the penal isolator in connection with the conflict on a domestic ground among prisoners in the living area of Penitentiary Institution No.13, also that they were not subjected to any physical pressure or violence by the staff members, had no complaints on the detention conditions and treatment in the penal isolator, as well as that they passed physician examination everyday, no additional special military units were brought to the institution, the information about this was groundless and affirmed their expressions in relevant acts.

H.N. and H.E. received in the medical – sanitarian unit informed that during the conflict they were injured as a result of stab on head from back, they didn't see how and who injured them, as well as stated their satisfaction with medical care rendered to them and detention conditions in the medical-sanitarian unit.

The administration of the institution stated that the criminal case was initiated in the prosecutor's office upon this fact and court-medical expertise was appointed and necessary documents were delivered for investigation.

During the conversation with the other received person he stated that the newly appointed administration of the institution carried out works for improvement of detention conditions there, also he didn't express dissatisfaction with treatment.

At the end of the visit the administration of the institution was given several recommendations on detention conditions and treatment matters,

²¹<http://www.telegraf.az/index.php/xeber4/9272-13-c%C3%BC-%E2%80%9Cz%C3%9Dda-n%C9%99-ba%C5%9F-verib.html>

improvement of rendering medical care and of conduction the documentation in compliance with the national and international legislation, including the Internal Disciplinary Rules in the PIs.

The Commissioner urged to the Prosecutor General regarding the control of the investigation of initiated in the Garadag District Prosecutor's Office criminal case with regard the incident took place in PI No.13, its thorough investigation, also informing the Ombudsman about the achieved results.²²

The aim of the visit held in *Penitentiary Institution No.15* was investigation of received applications, detention conditions and treatment, ensuring the rights of detainees in compliance with the international standards and internal discipline rules of penitentiary institutions, as well as the situation with conduction of documentation.

During the visit the NPG members visited MSU, quarantine room, penal isolator, meeting rooms and other objects of the institution, inspected on the spot the current situation with and documentation on the detention conditions, nutrition, drinking, hot and cold water supply, phone conversations, also the measures carried out for implementation of the recommendations put forward during the previous visits.

Within the frames of the visit numerous prisoners, as well as several urged persons were received individually, their appeals were investigated on the spot. In general, the received prisoners made no complaints on detention conditions and treatment.

During the reception of prisoners their rights, the demands of relevant legislation, the competences of the Ombudsman were explained to them, they were given legal advice on each raised matter.

At the end of the visit the discussions were carried out with the administration of the institution on further improvement of detention conditions, medical service, conduction of documentation in compliance with the national and international standards, as well as Internal Discipline Rules of Penitentiary Institutions, the recommendations were put forward regarding increasing the number of legal awareness events for service staff.

Within the frames of the Ombudsman's activity as the National Preventive Mechanism the National Preventive Group members held *ad-hoc* visit in *Penitentiary Institution No.16*. The aim of the visit was investigation of applications addressed to the Ombudsman, treatment of prisoners in the institution, nutrition, conduction of documentation, access to medical service and ensuring the rights of detainees in compliance with the Internal Disciplinary Rules in the PIs.

During the visit penal isolator, quarantine room and other objects of the institution were visited, the current situation with and documentation on the

²²<http://www.olke.az/hadise-5/13-sayli-cezacekme-muessisesinde-mehkumlar-arasinda-munaqise-bas-verib-69950>

detention conditions, nutrition, medical aid, reception of parcels, phone conversations, also the measures carried out for implementation of the recommendations put forward during the previous visits were inspected on the spot.

Within the frames of the visit the persons appealed to the Commissioner, as well as several persons were received individually upon their request, they were heard and some applications on detention conditions were investigated on the spot and solved. Generally, received prisoners made no complaints on detention conditions and treatment.

At the end of the visit the administration of the institution was given several recommendations on further improvement of the detention conditions and treatment, rendering medical care and of conduction the documentation in compliance with the national and international legislation, including the Internal Disciplinary Rules in the PIs.

The *ad-hoc* visit was conducted in ***Correctional Institution*** by the NPG members within the frames of the activity of the Ombudsman as the NPM. Two members of the National Preventive Group of the Ombudsman of Portugal, selected as a partner-institution within the Twinning Project supported by the Commissioner targeted at improvement of the Azerbaijani NPM activity, also participated at this visit as experts.

The aim of the visits was investigation of the custody conditions of juveniles detained there and treatment matters. Within the frames of the NPG with participation of the doctor-member of the group, different objects of the institution were visited, the interviews were conducted regarding the treatment matters, dormitories were visited for inspection of detention conditions, as well as nutrition, medical care and the measures undertaken for implementation of the recommendations given during the previous visits were investigated.

Alongside, as the applications of detainees regarding medical examination and treatment were possible to be provided on the spot, they were brought to the attention of the chief physician of the MSU and solved.

The received persons didn't express dissatisfaction with the treatment by the institution staff. *Considering that the building of this institution is very old and there is a need in improvement of detention conditions, the Commissioner urged to the MJ.* In the received reply it was informed that the construction of new penitentiary institution for juveniles was continued and with conclusion of constructional works this shortcoming would be eliminated.

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism the NPG members conducted *ad-hoc* visits in ***Medical Institution of the Penitentiary Service***. The visits were aimed at

investigation of applications addressed to the Ombudsman, inspection of detention conditions and accessibility of medical service.

During the visits the treatment wards were visited and private conversations were conducted with the treated persons.

During the conversation with the prisoner V.M. received in the treatment ward he said that he faced preconceived relation of the administration in Penitentiary Institution No.11 and Specialized Medical Institution, was subjected to pressures, preconceived references were submitted to the court regarding his moving to prison regime, falsified documents contrary to relevant registration journal were presented to the court and as a result the court decision on moving to the prison regime was issued three consecutively. Also he urged for assistance in unbiased investigation of his case, restoration of violated rights. The mentioned matter was investigated and the Ombudsman urged with a relevant letter to the MJ.

One of the received prisoners told that he suffer from cancer and had passed treatment of his disease in the Medical Institution of the Penitentiary Service during 7 months and would be sent after several days to the National Oncology Center for treatment and urged to assist him in his pardoning. With regard the request he was recommended to send a written to the Ombudsman personally or by close relatives.

The prisoner J.I. told that he was determined a disability degree by the Medical Social Expert Commission (MSEC) and he got relevant pension, however necessary documents (Form 88) for regular examination were not sent to MSEC and asked for assistance in this regard. The NPG members conducted investigation on this case and relevant documents required to be submitted to MSEC were gathered upon the recommendations of the chief physician, the application of the prisoner on conclusion of the following stationary treatment course was satisfied.

During the conversation with the prisoner E.B. received upon his request in the penal ward of the Institution, he stated that he started hunger strike in Investigation Isolator No.2 as a protest to the court judgment on his case issued by Ganja Grave Crimes Court and because of this he was moved to Medical Institution, he asked for assistance in restoration of the missed term in order to appeal to the High Court and submitted written application. He was explained by the NPG members the Ombudsman's competences, also was given legal advices, the administration of the institution was recommended to keep under control his health status and his request was ensured.

The aim of another visit held in the Medical Institution was inspection of health status of the prisoner H.M. injured during unrest among prisoners in the Penitentiary Institution No.13 and to find out the reasons of it.²³

For this reason the NPG members met with the prisoner H.M. and during the conversation he told that when he was going to mosque for namaz praying in Penitentiary Institution No.13 he got injured as a result of conflict took place among prisoners on a domestic basis, when he came to his sense he was in medical unit of the institution, later he was placed to the Medical Institution. During the conversation he told that he served his sentence as a prisoner for 8 months and during this period he was in normal relations with the staff and prisoners of the Penitentiary Institution No.13 where he was detained. H.M. noted that he has no dissatisfaction with the detention conditions, treatment and medical treatment. During the conversation with his therapist he stated that the health status of the prisoner was satisfactory, however the possibility of aggravating of craniocerebral trauma and existence of continuous examination and treatment was revealed.

The other received persons didn't express dissatisfaction with the treatment by the staff of the Medical Institution and with detention conditions.

Several issues raised with regard the treatment process were investigated on the spot and the physician was given relevant recommendations.

The members of the National Preventive Group of the Ombudsman held *ad-hoc* visit to ***Specialized Medical Institution of the Penitentiary Service***. The aim of the visit was the investigation of detention conditions and treatment, received applications, as well as of the information spread in the press about subjection to violence of prisoners escorted to this Institution from the Penitentiary Institution No.13.²⁴

During the investigation the penal isolator cells of the institution were visited, the persons detained there were received individually.

The prisoners moved to this institution from PI No.13 of the PS were individually received during the investigation and their applications were received.

Upon the gathered materials and received applications the Prosecutor General was urged to regarding the full and comprehensive investigation of criminal case initiated by the Garadag District Prosecutor's Office in connection with the incident took place in Penitentiary Institution No.13,

²³<https://www.azadliq.info/160080.html>

²⁴http://www.sherg.az/site/id20820/H%C3%BCquq_m%C3%BCdafi%C9%99%C3%A7il%C9%99ri__d%C9%99_m%C9%99lummat_al%C4%B1b#.WGJBcVOLScw

keeping the case under control, as well as sending the information about the results to the Ombudsman.²⁵

At the end of the visit the administration of the institution was given some recommendations on further improvement of the detention conditions, medical service and conduction of the documentation in compliance with the national and international legislation, including the Internal Discipline Rules in Penitentiary Institutions.

In general, the shortcomings revealed during the visits conducted by the NPG members within the frames of the activity of the Commissioner as the NPM were solved as a result of preventive measures, urging of the Commissioner to the Ministry of Justice, the cooperation and efficient approach was displayed by the Penitentiary Service and Head Medical Department.

In the motions made for the preventive measures purposes it was recommended to ensure the improvement of detention conditions of prisoners, bringing them in compliance with the standards, ensuring the prisoners' right to health, to obtain necessary medical aid in compliance with the UN Basic Principles for the Treatment of Prisoners, UN Minimum Standard Rules for the Treatment of Prisoners, European Prison Rules, the Code of the Execution of Punishments and Internally Disciplinary Rules of the Penitentiary Institutions of the Republic of Azerbaijan, European Prison Rules, COE Committee of Ministers' Recommendation No. R (98)7 concerning the Ethical and Organizational Aspects of Health Care in Prisons.

2.2.3. The institutions of the State Security Service

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism 4 visits were conducted with participation of the Commissioner and members of her NPG in the Temporary Detention Place and Investigation Isolator of the State Security Service.

The aim of the visits were investigation of applications addressed to the Ombudsman, treatment of detainees of the institution, nutrition, conduction of the documentation, access to medical service and learn the situation with ensuring the rights of the detainees in compliance with the Law of the Republic of Azerbaijan on "Ensuring the rights and freedoms of persons kept in detention places". The relevant environment was provided in the institution for efficient conduction of the visits.

During the visits the detention conditions, food supply was inspected, for this aim the cells, kitchen and food depot were visited, as well as the

²⁵<http://www.olke.az/hadise-5/13-sayli-cezacekme-muessisesinde-mehkumlar-arasinda-munaqise-bas-verib-69950>

situation with rendering medical aid, walking, phone conversations, ensuring of legal aid and other rights was investigated.

Tête-à-tête meetings were conducted with the persons detained in the visited cells for investigation of treatment issues, their applications were heard and legal advice was given to each of them upon raised issues, the competences of the Ombudsman and legislation demands were explained to them as well.

The received persons made no complaints on the treatment by the staff of the Temporary Detention Place and Investigation Isolator and detention conditions in the institution, expressed their consent with qualitative food, walking and medical service.

This should be mentioned that considering the recommendations of the Commissioner the medical care and detention conditions in the Temporary Detention Place and Investigation Isolator were brought in compliance with the modern standards, the cells were provided with TV sets and necessary equipment. The psychology staff was added to the staff unit of the institution as an integral part of realized reforms basing on the recommendations.

At the end of the conducted visits the discussions were held with the administration of the institution was given some recommendations on further improvement of the detention conditions, medical service and conduction of the documentation in compliance with the national and international legislation, the relevant recommendations were put forward²⁶.

2.2.4. The institutions of the Ministry of Defence

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism the NPG members carried out 1 visit to the institution of the MD which a detained person can not leave on his own will.

The visit was conducted with participation of the NPG members to the ***Guardroom of the Military Police of Baku Military Garrison*** within the frames of the Ombudsman's activity as the National Preventive Mechanism.

During the visit the detention conditions and treatment matters were investigated, ensuring the rights of detained military servants was inspected.

Within the frames of the visit relevant documentation, including all object of the guardroom were inspected for learning the detention conditions, also cells, administrative rooms, canteen, bath-rooms were visited, the situation with nutrition, drinking, hot, cold water supply, medical aid, walking was investigated.

It was observed that necessary conditions were created for military servants detained in the guardroom.

²⁶<http://www.gununesi.info/ombudsmanin-%C9%99m%C9%99kdaslari-dtx-nin-istintaq-t%C9%99cridxanasinda-olublar/>

Military servants detained in the guardroom were received individually by the NPG members; the later didn't express dissatisfaction with the detention conditions here and treatment by the institution staff. Legal awareness work targeted at them was carried out. They were explained the competences of the Commissioner.

At the end of the visit, the legal awareness conversations basing on the national and international legislation, including the Constitutional Law on the Ombudsman was conducted with the administration of the military unit and military servants of the guardroom, relevant recommendations were given.

2.2.5. The institutions of the State Migration Service

Under the jurisdiction of the NPM of the Ombudsman, there are two institutions under the State Migration Service, which person cannot leave on his own will and NPG members held 2 visits to those institutions under the OPCAT requirements in a year.

The NPG members held visit in the ***Yevlakh District Detention Center for Illegal Migrants***.

The aim of the visit was learning the treatment of persons detained in the institution, detention conditions, nutrition, conduction of the documentation, accessibility of medical service, ensuring the rights of detainees in compliance with the Migration Code of the Republic of Azerbaijan, as well as international legislation. Relevant environment was created in the institution for efficient conduction of the visit.

During the visit the administrative building of the institution, two-floored temporary detention building of voluntarily detainees, temporary detention isolator were visited, the conversations were conducted with head of the institution and staff. During the visit there were no detainees in the institution.

It was observed that there was not relevant phone conversations point for realization of the right of foreigners and stateless persons placed in the Yevlakh District Detention Center for Illegal Migrants to use phone conversation as provided by the Article 87.1.20 of the Migration Code of the Republic of Azerbaijan. The staff of the Center informed that in the case of need to phone conversation, the foreigners and stateless persons use under control the persons mobile devices, in the case of absence of personal mobile phones they use personal mobile phones of the staff members.

At the end of the visit the administration of the institution was given recommendations basing on the national and international standards.

2.2.6. The institutions of the Ministry of Health

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism, the NPG members carried out 23 visits upon the

OPCAT demands to the institutions of the MH that are under the jurisdiction of the NPM.

The visits were held on the basis of the national legislation, the Law of the Republic of Azerbaijan “On Psychiatric Assistance”, as well as international standards, including the provisions enshrined in the Mental Health Declaration of Human Rights, UN Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care and SPT rules, CPT’s 3rd General Report (*CPT/INF (93) 12, para. 30-77*).

The aim of the conducted visits was investigation of the treatment of detainees, detention conditions, medical aid conditions and the documents confirming the legality of the detention, assessment of the detention conditions; the administration of the institution were given recommendations with regard the revealed issues possible to be solved on the spot, as well as there were carried out legal awareness conversations targeted at the head and staff of the institution for protection of the rights of persons detained in the psychiatric institutions, for prevention of any ill – treatment towards them may occur in future.

The status of implementation of recommendations given during the previous visits was investigated; it was observed that new buildings in the Republic Psychiatric Hospital No.1 were under construction, work-places were created and the greens were planted. It was also observed that the conditions in the Sumqayit City Psychiatric Hospital and Salyan Inter-Regional Psychiatric Hospital were noticeably improved.

The visit was held in ***Republic Psychiatric Hospital No.1***.

During the visit the treatment of persons detained in the institution, detention conditions, the condition of medical care, the documentation confirming the legality of detention were investigated. On the visit day 640 from 2062 persons detained in the institution were women, 1422 – men.

During the visit it was observed that the possibilities were created for the patients to complain or to apply, for this aim the relevant boxes were installed in the territory of the hospital, the medications, food, water, natural gas supply and heating were in normal conditions. The administration of the institution informed that the means of restraint were applied rarely and towards aggressive patients, it was refused to apply placing to the seclusion room as well.

During the visit the overcrowding in the institution was observed and such situation was explained by the chief physician of the institution with placing there of patients from the other psychiatric hospitals of the republic where repair works were conducted. The lack in number of medical staff and auxiliary personnel, as well as of personnel in relation to juveniles and young people was also observed.

It was also revealed that the patients of the Psychiatric Hospital were involved into labor activities, pottery, weaving, painting experience were also used for rehabilitation purposes.

At the end of the visit the discussions were held with the administration of the institution, relevant recommendations were given with regard the improvement of documentation work.

The NPG members carried out a visit upon the OPCAT demands in ***Ganja City Psychiatric Hospital***. On the visit day it was revealed that 91 male – patients were in the institution, however women department of the hospital terminated its functioning and female patients were placed in the Gazakh Regional Psychiatric Hospital.

During the visit the area, building, canteen and kitchen of the hospital were visited, the conditions in wards and doctors' rooms located in both of two floors of the hospital were investigated.

It was revealed that the sanitarian unit and bathroom in the second floor of the men's department required capital repairing. Despite the applications and complaints boxes were installed in corridors of the both floors, the information about the rights of patients were installed not in the corridor for patients to get acquainted with but in the rooms of the heads of departments. In its turn, this can be evaluated as violation of demands of the Article 12 of the UN Principles for Protection of Persons with Mental Illness and the Improvement of Mental Health Care, of the principle "a patient...shall be informed of all his or her rights in accordance with these Principles and under domestic law". The administration of the institution was recommended to install the informational boards about the rights of the patients in corridors where later could get acquainted with them. At the same time it was revealed that due to overloading with work of institution's doctors, there was a need in provision of the hospital with additional doctors and in increasing the means allocated for medication supply.

During the visit to the 2nd and 3rd departments of the hospital strong smell, unsanitary condition in sanitarian unit and bathroom of those departments, absence of TV set for leisure of patients were observed, it was also revealed that the wards require capital repairing, the beds in wards were not provided with threadbare, some were not provided with bedding sets, clothes of some patients were dirty.

Despite the general condition in the hospital kitchen was evaluated as normal, it was mentioned that the *meal ration was repeating and menu was not being changed. According to relevant standards on detention conditions of patients in psychiatric institutions European Committee on Prevention of Torture, Patients' food is another aspect of their living conditions. CPT is of the opinion the food must be not only adequate from the standpoints of quantity and quality, but also provided to patients under satisfactory*

conditions.²⁷ Considering that this should be mentioned that there is a need in ensuring eating arrangements.

During the visit it was revealed that the “care room” is used for seclusion (i.e. confinement alone in a room) of “unmanageable” patients. *This should be noted that seclusion is being phased out in many countries. For so long as seclusion remains in use, it should be the subject of a detailed policy spelling out, in particular: the types of cases in which it may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact. The seclusions should never be used as a punishment.*²⁸ From this standpoint the administration of the institution was recommended to put an end to use the experience of seclusion of patients in the room called “care room”.

It was revealed that due to overloading with work of doctors in the Ganja City Psychiatric Hospital, there was a need in increasing the number of medical staff and auxiliary personnel and in increasing the means allocated for medication supply

The Commissioner send an appeal to the Minister of Health with regard the mentioned shortcomings and stressed the importance of speeding up the construction of new building for the hospital in Ganja city.

During the visit to **Gazakh Inter-Regional Psychiatric Hospital** treatment of persons detained in the institution, the condition of medical care and documentation confirming the legality of detention were investigated.

There is a need in construction of new building for Gazakh Inter-Regional Psychiatric Hospital meeting new modern standards considering that the present building of the institution was constructed more than a century ago, and as a result of humidity and other natural erosion current repair works come out of order quickly.

It was determined during the visit that there is a need in creation of worship room, phone boxes, library in the hospital, as well as that laundry and sanitarian unit did not meet existing standards.

According to the information up to the visit day 2 persons died in the hospital in 2016, the body of deceased persons was transferred to his relatives for burying; the body of lonely woman was buried by the administration of the institution.

During the meeting with patients the treatment of staff was the matter of topic and there were no complaints in this regard.

Replying to the question about application of means of restraint, the chief physician told that due absence of special means in required cases with

²⁷<https://rm.coe.int/16806cd43e> p.3.

²⁸<https://rm.coe.int/16806cd43e> p.6.

the doctor's decision fastening with a bed sheet is applied until the patient calmed (approximately 10 minutes) and relevant notes were made to the registration book regarding restraint measures. Alongside the mentioned journal, the National Preventive Group members also revised the other registration books.

This should be especially emphasized that several shortcomings revealed by the NPG during the previous visits were eliminated. *Thus, the devastated part without repair in the second floor and canteen of the hospital were repaired.* Corresponding measures were carried out for ensuring the rights of patients. After the previous visit to the hospital applications and complaints box was installed there, the informational papers about the patients' rights were installed in a special manner on the walls. *These demands are based on the provisions of the UN Principles for Protection of Persons with Mental Illness and the Improvement of Mental Health Care. If and for so long as a patient is unable to understand such information, the rights of the patient shall be communicated to the personal representative, if any and if appropriate, and to the person or persons best able to represent the patient's interests and willing to do so. The recommendations of CPT on the rights of patients detained in the psychiatric institutions stress that an introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance. In such kind of institution the patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends.*²⁹

It was revealed that the general condition in the kitchen is normal, hygienic rules were observed; the diversity in daily meal ration and menu was ensured.

The main shortcoming and fault revealed during the visit to be eliminated with no delay was necessity of capital repair of sanitary units. According to relevant standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on detention conditions of patients in psychiatric institutions, relevant conditions should be created for complying their needs of nature. Thus, the conditions should be created for patients for complying their needs of nature separately from the other patients. The needs of elderly and/or handicapped patients should be taken into consideration. Thus, existence of sanitarian unit of proper construction for them is important, special

29 <https://rm.coe.int/16806cd43e> p.7.

*lavatories of a design which do allow the user to sit should be in the institutions for these groups of patients.*³⁰

At the end of the visit the administration of the hospital was given recommendations on further improvement of detention conditions, observing the diversity in menu for nutrition of patients. The Commissioner urged to the Minister of Health with regard the elimination of the abovementioned shortcomings.

On the day of visit carried out in ***Sheki Inter-Regional Psychiatric Hospital*** there were 88 patients under treatment (56 of them were men and 32 - women).

The overcrowding was observed in the institution; the number of rooms were insufficient, there were not a particular heating system in wards, the heaters were installed only in corridors, it was also observed that the institution was without repair and unfit for carrying out the treatment. From this standpoint, there is a need in speeding up the construction of new building of Sheki Inter-Regional Psychiatric Hospital.

It was also observed that necessary conditions were created for realization of the patients' rights to complain or to apply and for this aim special boxes for applications and complaints were installed there.

The administration of the institution informed that the use of force or other means of restraint were minimal, if required short-term fixation was applied and registration was made in relevant journals, placing into seclusion room or other disciplinary measures were not applied.

The situation with provision of patients in the institution with personal hygienic means and clothes in compliance with season can be assessed as satisfactory. There are 4 shower places in working condition in the bathroom. The hygienic situation in the bathroom is satisfactory as well. The regularity of bathing of persons is once or twice a week.

The voluntarily employment of patients is provided in farm works in the institution.

The condition in the canteen is sufficient and the hygiene condition in the kitchen is satisfactory. The condition of meeting rooms in the institution is good; there are no limits in regularity of meetings.

According to the demands of the CPT regarding the detention of patients in the psychiatric establishments each patient should be provided with sufficient living space, there should not be overcrowding. In psychiatric institutions of some countries the experience of placing patients in many-placed wards is being refused and this should be assessed as a positive

³⁰<https://rm.coe.int/16806cd43e> p.3.

*experience. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity. The approach increasingly being adopted in the practice of some countries of allowing patients who so wish to have access to their room during the day are welcomed. In such circumstances the patient is no longer being obliged to remain assembled together with other patients in communal areas.*³¹

At the end of the visit the administration of the hospital was given recommendations on further improvement of detention conditions, observing the diversity in menu for nutrition of patients. The Commissioner urged to the Minister of Health with regard the elimination of the abovementioned shortcomings.

The NPG members held visit in ***Salyan Inter-Regional Psychiatric Hospital***. The aim of the visit was evaluation of detention conditions, treatment, monitoring the status of implementation of recommendations put forward during the previous visits.

The new building of the Salyan Inter-Regional Psychiatric Hospital was put into exploitation in 2013. It is two-floored and consists of one building. Male and female patients are kept in different floors. On the day of the visit 111 persons were kept in the institution, 57 of them were men and 54 – women.

During the reviewed year no death or suicide cases occurred. The “Complaint Box of Patients” is installed in the entrance of the institution for the patients to enjoy their relevant rights.

It was revealed that there was no natural gas supply of the institution, and there were problems in heating system provision, the wards were heated with pauses and only at night-times. These were linked by the administration of the institution with lack of diesel fuel for proper functioning of the heating engines, insufficient provision with means allocated for buying that fuel.

It was also found out the insufficiencies in food and medication supply in the institution, during the visit the lack of adequate lighting, ventilation, the dirty condition of mattresses, pillow covers and sheets were witnessed.

The water supply of the institution is normal. For using the water reserves, the water is given from source to cleaning reservoir and after to underground clean water reservoir. Straitjacket is used as a mean of force or other restraint measure against patients. The experience of placing in the seclusion room is applied.

Vegetables and other garden plants are cultivated in a 1ha of land area belonging to the Psychiatric institution and these products are used in nutrition of patients. The employment is voluntarily here. The condition of

³¹ <https://rm.coe.int/16806cd43ep.3>.

the kitchen located in 500 meters distance from the main building of the hospital is in compliance with standards. Hygienic rules are observed. The nutrition rule is trice per day and menu is changeable and various.

During the visit to the kitchen it was revealed that no control is exercised over the quality of meals and there was no relevant registration journal to fix the results of inspection. The chief physician of the institution was recommended to immediately eliminate this insufficiency.

Several shortcomings were revealed in the men's department of the institution. Thus, lighting lamps did not work in some wards, dirty condition of mattresses, pillows coverings and sheets of some beds were witnessed. According to the CPT standards each patient should be provided with adequate lighting. The decoration of both patients' rooms and recreation areas should be on a sufficient level in order to give patients visual stimulation.³² Provision of hygiene and sanitary in the hospital should be displayed as one of the most important demands.

At the end of the visit the administration of the hospital was given recommendations on further improvement of detention conditions, observing the diversity in menu for nutrition of patients. The Commissioner urged to the Minister of Health with regard the elimination of the abovementioned shortcomings

During the visit carried out in ***Guba Inter-Regional Psycho-Neurological Rehabilitation Center*** the area, departments, observation rooms, wards, doctor's room, leisure and meeting rooms, kitchen, canteen, bathroom, sanitarian unit, stocks, boiling – house and administrative building of the institutions were visited.

During the visit it was revealed that the capital repair of the institution was concluded, however due to some technical problems the admission of ill persons was not carried out.

From this standpoint this is a matter of importance to improve on – time provision of the institution with necessary food and medications, elimination of shortcomings found out after repair works as soon as possible and bringing in compliance with sanitarian norms, to return the ill persons moved to the other hospitals in order to eliminate the overcrowding in them.

At the end of the visit the administration of the institution was given relevant recommendations, the Commissioner urged to the Minister of Health for elimination of the abovementioned shortcomings.

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism the Commissioner and NPG members conducted visit upon the OPCAT demands to ***Sumgayit City Psychiatric Hospital***. The

³² <https://rm.coe.int/16806cd43e> p.3

main aim of the visit was monitoring the status of implementation the recommendation given previously by the Commissioner within the frames of her activity as the NPM. Alongside with this investigation of the general condition of the hospital, nutrition of patients, ensuring their rights was among the purposes of the conducted visit.

This should be noted that after the previous visits and recommendations the general condition and situation in the hospital was considerably improved.

The provision with hygienic means, compliance of clothes to season and cleanness in the institution were assessed as satisfactory. Existence of looking after trees and flowers seeding in the yard of the hospital, as well as employment of women in a form of making decoration and other accessories were observed.

Patients have the right to meet with their family members and relatives in meeting-rooms everyday from 5pm to 7 pm. The condition of meeting rooms is good. This should be said that good conditions are created for leisure of patients. The library in a good condition, the TV sets in each leisure room were observed as well.

According to the UN Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care each patient detained in the psychiatric institutions has the freedom of religious belief (Principle 13). From this standpoint the administration of the institution was recommended to organize the worship place.

2.2.7. The Institutions of the Ministry of Education

In 2016, within the frames of the activity of the Ombudsman as the National Preventive Mechanism the NPG members held 27 scheduled and *ad-hoc* visits in the institutions under the jurisdiction of the Ministry of Education which persons cannot leave on their own will.

During the visit to **Guba Special Vocational School** dormitories, class rooms, training rooms and lounges, library, kitchen, canteen, bathroom, administrative rooms and the facility area were monitored; living conditions, treatment of children, the state of education and the organization of the leisure time were inspected.

Children residing in the institution were received privately; individual conversations were conducted with them; treatment, guarantees and living conditions were investigated and also they were explained their rights. Children did not complain about the treatment by the institution staff members.

During the visit it was revealed that the building of this closed type educational – training institution considered for indocile children was built in the beginning of last century, it was not provided with central heating

system, the bathroom and sanitarian unit were with no conditions and the building required capital repair.

At present there is a need in regulating the activity of the Guba Special Vocational School that is under the jurisdiction of the ME at modern level as provided by the legislation, in improvement of the detention conditions there in compliance with the international standards and interests of juveniles. The proposals and recommendations on these matters were included into the Annual Report of the Commissioner and submitted to relevant authorities

At the end of the visit, on the basis of national legislation and international standards, including the UN Convention on the Rights of the Child, the NPG members gave to the principal of the school relevant recommendations on treatment and detention conditions, carrying out the control over and efficient ensuring the rights to education, health and other rights.

The visit to was held in ***Guba City Secondary Boarding School for Children deprived of Parental Care*** in accordance with the OPCAT.

During the visit, the NPG members monitored the dormitories, class rooms, training rooms, kitchen, bath, and the administrative area of the facility, as well as the general area; living conditions and treatment of the children, state of the education and organization of the leisure time.

The main building of boarding school was closed for repairing due to its emergency condition; the contingent of the school was temporarily placed in the building of kindergarten located in Zardabi settlement of Guba city. Then, within the frames of the activity as the NPM, the Commissioner carried out the visit to that institution it was revealed that the mentioned building was not suitable for a boarding school and the Ministry of Education was appropriately urged with regard the conclusion of the construction works.

Basing on the motion the repair works were concluded quickly and the children were returned to newly repaired building of the boarding school.

During the visit held in the institution after the repair the problems with gas supply were revealed in connection with the detention conditions and after the Commissioner urged to the Ministry of Emergency Situation and AZERIGAZ production union this matter was positively solved.

Private meetings were held with some group of children residing in the institution and the treatment by the staff, their provisions and conditions in the institution were monitored. The children made no complaints on the condition and treatment by the staff in the boarding school.

At the end of the visit, basing on the national legislation and international standards, including the Convention of the Rights of the Child, the NPG members carried out legal awareness conversations with the

administration and staff of the boarding school, the recommendations were given on increasing attention to realization of and ensuring child rights and their ensuring, improving the situation in this sphere.

Scheduled visit was held in ***Ganja City Sanatorium Type Boarding School***. The area of the boarding school, its dormitories, and other education establishments were monitored during the visit; it was observed that capital repairs were continued in two buildings of the facility.

It was revealed that due to lack of the full installation of the heating system on the first floor of school, the rooms were temporarily heated by electric heaters. According to the school administration, the canteen, kitchen and other objects of the facility is going to be put into exploitation after the entire repair works completed.

It was also mentioned that this is considered to give opportunity for children from low income families to stay in the dormitory overnight after the capital repair works completed.

During the visit, the administration of school was recommended to teach child rights to children and to improve the conditions in the boarding school and to cooperate with the Ombudsman's Ganja Regional Office.

As a consequence of the previous visit of the NPG, it was revealed that the kitchen and canteen of the boarding school were repaired and opened for use.

At the end of the visit, basing on the national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the boarding school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held in ***the Special School for Mentally and Physically Handicapped Children No.45 of the Ganja City Department of Education***. During the visit class rooms, teachers' rooms, also medical, boiling rooms, sports hall and yard of the school were visited and it was observed that the rooms were repaired and tidy, the sports hall was provided with sports equipments and other rooms were also provided with necessary equipment for use. During the meetings with children there were no complaints on conditions and treatment.

Alongside with this, the lack of gas supply to the school and, due to this, the heating of some rooms with electrical heating devices were observed. This caused to coldness in classrooms and decreasing the attendance of pupils. The failure in gas supply was explained by the reason that the transition to winter mood was not concluded.

The NPG members conducted a visit in ***the Integration Training Gymnasium of Boarding Type located in Goranboy district***. During the visit dormitories, calls and training rooms, kitchen, bathroom and

administrative rooms of the institution, as well as general territory were visited, the detention conditions, treatment of children in the institution, their education and organization of their leisure time were investigated.

During the visit it was revealed that the building of the gymnasium required capital repairing, there was a need in provision of with a bus for transport of pupils, a huge need in material and technical equipment.

At the end of the visit, basing on the national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the school to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The scheduled visit was held in ***the Integration Training Gymnasium of Boarding Type of Govlar city of Tovuz district***. The school administration informed that it had been functioning since 1960. The pupils from Gazakh, Agstafa, Tovuz, Shamkir raions are educated in this institution at present. From 779 pupils of total educating in the gymnasium 54 are children with limited physical capacities, 64 stay at the institution overnight.

It was observed conduction of repair works there; additional constructions were extended to two main buildings and underwent repairing, the new dormitory building was under construction as well. This should be noted that the administration of the gymnasium informed the NPG members that due to repairs the institution switched to two shift educational system.

At the end of the visit, basing on the national legislation, international standards and the Convention of the Rights of the Child, the NPG members gave relevant recommendations to the principle of the Gymnasium.

The visit was held in ***Siyazan City Secondary Boarding School***. The dormitories, class rooms, training rooms, kitchen, bathroom, administrative rooms, sports hall and the facility area were visited; detention conditions, treatment of children in the institution, the state of education and the organization of the leisure time were inspected.

During the visit it was revealed that the bathrooms and sanitarian units of the boarding school require capital repair. Some untidiness and unsanitary was witnessed in general area and dormitories. The revealed shortcomings were brought to the attention of the principle of the school; the recommendations on improvement of detention were put forward.

Private conversations were held with some group of children residing in the institution and the treatment by the staff, their provisions and conditions in the institution were monitored. The children were explained their rights, they made no complaints on the condition and treatment by the staff in the boarding school.

At the end of the visit, basing on the national legislation, international standards the relevant recommendations were given to the administration of the boarding school.

The visits were held in ***Lenkaran City Mixed Type Boarding House*** and ***Lenkaran City Integration Training Boarding Type Gymnasium***.

The aim of the visit carried out by the NPG members basing on the OPCAT demands was investigation of treatment of children and detention conditions in the both institutions. During the visit dormitories, class and training rooms, kitchen, bathroom, administrative rooms, general areas were visited; detention conditions in the institution, the treatment of children, their education and organization of their leisure time were inspected.

Private conversations were held with some group of children residing in the institution and they were asked about the treatment by the staff, their provisions and conditions. The children were explained their rights, they made no complaints on the condition and treatment by the staff in the boarding school.

At the end of the visit, basing on the national legislation and the Convention of the Rights of the Child, the NPG members recommended to the administration of the schools to carry out teaching of child rights, to keep under control the situation with treatment of children by the staff.

The visit was held by the NPG members in ***Zagatala City Boarding School*** basing on the OPCAT demands. During the meetings carried out in the institution the children, teachers and educators were carried out separate conversations with, all objects of the institution were visited; existing conditions and treatment of children residing there were inspected.

At the end of the visit, basing on the national legislation, international standards and the Convention of the Rights of the Child, the NPG members gave relevant recommendations to the principle of the school.

2.2.8. The institutions of the Ministry of Labor and Social Protection of Population

Within the frames of the activity of the Ombudsman as the National Preventive Mechanism the staff members of Ganja Regional Center of the Commissioner who are the members of the National Preventive Group carried out 6 scheduled and *ad-hoc* visits in 2016 to the institutions under the jurisdiction of the Ministry of Labour and Social Protection of Population.

The visits were held basing on the national legislation, the Law of the Republic of Azerbaijan On Psychiatric Assistance, as well as international standards, the UN Convention on the Rights of Persons with Disabilities, Declaration on the Rights of Mentally Retarded Persons, the UN Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care, UN Principles for Older Persons, the UN GA International Plan of Action on Aging, CPT and SPT rules.³³

³³<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806fc22b>

The scheduled visit was held in *the Psycho-Neurological Social Care Center No.3 located in Ghirikhli village of Goygol district*. During the visit the NPG members the treatment and dormitory rooms of the institution, the canteen and kitchen, general area, met with children with limited physical capacities and persons with disabilities.

The persons talked with expressed their content with detention conditions and treatment towards them.

According to the result of the visit it was revealed that due to long-term exploitation of the building of the institution, the walls were got etched, the plaster lays of the majority of walls poured down, due to this, there was a need in capital repair, also a need in functioning the dentist's room and a relevant specialist to render stomatology services.

The administration of the social care institution was given relevant recommendations on further improvement the detention conditions basing on the national legislation, as well as the UN Convention on the Rights of Persons with Disabilities.

Within the frames of the activity of the Commissioner as the NPM and upon the OPCAT demands the NPG members carried out a visit to *Ganja City Regional Social Care Center for Pensioners*. During the visit the NPG members visited the dormitories, canteen, kitchen, general area of the institution, individually received aged persons, persons with limited physical capacities and with disabilities.

The habitants of the social care institution made no complaints on the detention conditions, treatment of the staff members.

Basing on the UN Convention on the Rights of Persons with Disabilities and the UN International Plan of Action on Aging, the administration of the institution was given relevant recommendations within the carried out works on further improvement of detention conditions and bringing them in compliance with the international standards.

2.2.9. The institutions of local executive power bodies

The NPG members conducted 5 scheduled and *ad-hoc* visits under the OPCAT to the institutions in Baku and regions of the country which were under the jurisdiction of the local executive bodies and NPM.

NPG held visit in *Baku City Children's Home No.2*. The aim of the visit was investigation of the status of preparedness of children resisted in the institution to the education process, living conditions of habitants and children admitted for the first time there, treatment issues.

It was found out that the institution was functioning since 2000; the limit is 150 persons and at the present 147 children resided there. Daily care center was created at the institution and 140 children reside there. The Care Center is functioning 12 hours a day.

The children residing there as well as the educators were held private conversations with. The children made no complaints on conditions and treatment by the institution staff. At the end of the visit the administration of the institution was given relevant recommendations. The staff member of the Child Rights Department of the Greek Ombudsman A.Rutsi also participated at the visit.

The NPG members held scheduled and *ad-hoc* visits to ***Ganja City Children's Home***. During the visit, due to the fact that school-aged children were at school, only 3 and 5 year minors were met and their general condition, including clothing, heating system of rooms, cleanliness of the beddings, visual materials and etc. were inspected; the staff of the institution was met with.

During the visit it was found out that dormitories, psychologist's cabinet, room for paintings, IT room, kitchen, canteen, storage and in general the entire institution was clean, tidy and in normal condition.

During the visits all objects of those institutions were visited; the current condition, state of repairing and renovating works and provision of children with educational tools were checked as well.

During the meetings with the staff of the institution they were given legal information and recommendations regarding treatment of children, efficient ensuring the rights of the child, including the rights to education, health, organization of leisure time basing on the national and international legislation demands.

The members of the National Preventive Group held visits to ***Sheki City Children's Home of Mixed Type***. In the course of the visit, it was revealed that there was a need to carry out capital repair in the institution and there were difficulties in supply with sufficient number of medications. Such shortcomings were brought to the attention of the administration of the facility, as well as the supervising local executive body and they were given necessary recommendations for undertaking relevant measures.

Private conversations were conducted with the children resided in the institution; they were interrogated on treatment issues, guarantees and detention conditions and explained their rights. The children made no complaints on treatment by the institution staff.

At the end of the visit, basing on the national legislation, international standards, as well as the UN Convention on the Rights of the Child, the NPG of the Commissioner carried out conversations with the administration of the institution on improvement the detention conditions, rendering first aid, treatment issues also gave relevant recommendations.

CHAPTER 3.

Legal Analysis

One of the directions of activity of the National Preventive Mechanism of Azerbaijan is legal analysis of the information obtained in the process of preventive visits and legal awareness events. The theoretical-practical analyze of undertaken activity, as well as of gathered information on this activity, also of received recommendations, or draft legislative acts, summarization of obtained results is carried out in the legal analysis process. The Article 19 of the OPCAT enshrines the right of the NPM to submit proposals and observations concerning existing or draft legislation.

Efficient organization of legal analysis in 2016 year as well was one of the main standing tasks within the frames of the Commissioner's activity as the NPM. As in previous years, in 2016 as well, the recommendations and proposals were worked out for improvement the results of activities realized for ensuring the prevention of torture and existing normative – legal base.

Alongside with the reception of persons deprived of liberty during the visits and complaints addressed to the Commissioner, the applications received by the 24/7 Hot-Line on illegal detention in the police and torture are the sources of information for legal analysis.

During the reception of detainees, as well as carried out investigations it was determined that the representations on choosing the arrest measure with regard the persons accused by the investigation bodies upon the criminal cases covered minors, women, aged persons, as well as ill persons from the standpoint of large number in comparison with other groups of population. The long-term conduction of investigation of criminal cases in the many of cases was the matter in the focus of attention.

All these, choosing the restraint method of arrest, several times prolongation of its term cause to overcrowding in the investigation isolator, difficulties regarding the detention conditions, increasing inclination among juveniles to criminal behavior and spending of sufficient state amounts. This puts forward wider application of alternative restraint measures.

In 2016, creation of obstacles in meetings of detained and arrested persons with their lawyers in police bodies were observed despite submission of relevant order. The Head Office for Combating Organized Crime, Sumgayit City Police Department should be point out in this line.

Besides this, it was observed that the delinquencies were omitted in the term of placing the arrested persons detained in the Temporary Detention Place of the Head Office for Combating Organized Crime to investigation isolator, the provisions of the Criminal Procedure Code of the Republic of Azerbaijan and of the Law of the Republic of Azerbaijan on Ensuring the

Rights and Freedoms of Persons kept in the Places of Detention were violated. *Thus, according to the court decision the arrested person cannot be kept in the temporary detention place for more than 24 hours and before this term expires, he/she should be transferred to the investigation isolator (the period of escorting the persons to the investigation isolator in transport vehicles is not included into this period)*³⁴.

In general, as it is mentioned in the CPT reports, it is essential to the good functioning of society that the police have the powers to apprehend, temporarily detain and question criminal suspects and other categories of persons. However, these powers should not bring with them a risk of intimidation and physical illtreatment. Reducing that risk to the absolute minimum without unduly impeding the police in the proper exercise of their duties is a matter of importance.

*The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.).*³⁵

The arrested persons or prisoners received during the visits expressed discontent with the quality of legal service rendered by the lawyers at the state expences within the process of criminal discourse execution and complained on the absence of measures carried out in this direction.

The existence of certain problems was observed in 2016 year as well in realization of the rights of persons deprived of liberty regarding their correspondence in the penitentiary institutions. Such cases are witnessed in both the penitentiary institutions and investigation isolators. Thus, it was observed that the applications of persons deprived of liberty sent to their lawyers, bodies controlling the activity of penitentiary institutions and the Commissioner, as well as replied from these bodies passed censorship with break of confidentiality.

The majority of applications from the penitentiary institutions are received with accompanying letter signed by the heads of the institutions and a letter sent in a closed envelope to an accused or a convicted person are added to their personal files after being opened and given to the prisoner for being acquainted with. Whereas, the complaints addressed by the persons detained in the penitentiary institution, investigation isolators and temporary

³⁴ <http://e-qanun.az/framework/23933>

³⁵ CPT, GR 2, paragraph 40

detention places shall be sent to the Commissioner without censorship within 24 hours.³⁶ Such provisions are envisaged in the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in the places of detention”³⁷ and the Code on Execution of Punishments³⁸.

According to the international experience the right to respect to secret personal correspondence assumes high importance in ensuring the delivery of information on ill treatment to relevant bodies. The states shall provide all resources for ensuring the right of persons deprived of liberty to correspondence. There is a need in carrying out relevant measures for elimination of such cases in the Republic of Azerbaijan as well.

*The CPT recommends ensuring delivery of all claims and information about ill treatment to the authorized bodies, as well as proposes additional measures with this regard. Thus, “Apart from the possibility for persons to lodge complaints directly with the agency...; appropriate forms should be introduced for acknowledging receipt of a complaint and confirming that the matter will be pursued.”*³⁹

From this standpoint the Commissioner recommends increasing the control over ensuring the right of persons deprived of their liberty to correspondence and of the confidentiality as one of the tools to prevent ill treatment.

The Commissioner is of the opinion that there is a need in enshrining in the “Instruction on security measures and their application rules in the penitentiary system of the Republic of Azerbaijan” of the duties of penitentiary institution staff when application special means and, at the same time, *in improvement of the rules of application of those means in compliance with the UN Standard Minimum Rules for the treatment of the prisoners, European Prison Rules, at the same time CPT Standards.*⁴⁰ Thus, *this measure would be important for non allowance of abuse in application of special means.*

The analysis of applications addressed to the Commissioner, meetings with persons received during the visits, calls on the relevant Hot-Line of the Ombudsman show that there are cases of violations of the rights relating the meetings of persons deprived of liberty with family members and relatives, reception of parcels and phone conversations. Thus, realization of these

³⁶ The Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan (28.12.2001), Article 8.5

³⁷ The Law of the Republic of Azerbaijan on Ensuring the Rights and Freedoms of persons kept in detention places (22.05.2012), Article 18;

³⁸ The Code of the Republic of Azerbaijan on Execution of Punishments (14.07.2000), Articles 83.2 and 83.5;

³⁹ The 14th General Report on the CPT activities. CPT/Inf (2004) para. 28-38;

⁴⁰ The UN Standards Minimum Rules for the Treatment of Prisoners, para.33; European Prison Rules Para. 68.2 and 68.3.

rights assumes importance in delivering of information on ill treatment. *The Commissioner is of the opinion that undertaking the measures on increasing the control over such cases and their elimination.*

Decreasing the number of persons deprived of liberty is among priority issues of world countries. The research carried out by us and analysis of received applications highlights the issues related the judicial practice. Thus, paying attention to application of arrest and deprivation of liberty as the last measure of necessity, the punishment adequate to committed crime are among aspects requiring fundamental approach.

If to mention the Probation Service, there comes forward the importance in functioning of a system of wide opportunities for use of alternative punishment not related to deprivation of liberty on the prisoners and that leads significant results. The analysis of experience of foreign countries also shows that each year as a result of probation thousands of people sentencing to alternative punishments stood beyond the penitentiary institutions and this leads to saving from the state financial expenses respect. Thus, in Kazakhstan, the expenses spent on one probationer 20 times less than the amount spent on detention of the prisoner in the penitentiary facility.

However in general, one of the matters on need is comprehensive and detailed analyzing the causes of committing crime, carrying out of complex criminological researches for elimination of circumstances inveigling the people in crime and this is of crucial importance from the prophylactics of criminality standpoint. Training of social workers and psychologists in institutions, as well as in the process of realization the preventive measures, their involvement in this activity would be purposeful.

The monitoring of the NPM bring us to a result that there are still several problems and shortcomings in involving the prisoners in the penitentiary institutions to labor. In some cases there are difficulties in getting salary by prisoners. Employment of prisoners assumes special importance for their rehabilitation. *The Commissioner recommends carrying out of various projects for enjoying the labor force of prisoners in penitentiary institutions, finding markets for selling the products manufactured by prisoners; they should be encouraged for such kind activity.*

To consider the matter of specialization of the institutions from the manufacturing perspective within the reforms process also would be purposeful. Thus, the sample models created in many countries in this regard significantly contribute to correction of prisoners, perceiving labor habits, as well as their rehabilitation and social adaptation.

The Commissioner is of the opinion that there is a huge need in improvement of vocational training in the penitentiary institutions alongside with secondary education from the point of view of correction of prisoners' behavior and their preparing to inclusion into society. Also this is necessary

to increase attention to social adaptation and rehabilitation of persons released from serving their sentence.

From this standpoint, carrying out complex programs in rehabilitation and social adaptation of persons released from penitentiary institutions, improvement of social services with benefiting from the capacities of the Ministry of Labor and Social Protection of Population could give successful results.

Despite keeping under the focus of attention the matter of ensuring the employment of persons released from the places of deprivation of liberty in the working places upon the quotas being included into the line of citizens who are in special need of social protection and facing difficulties in employment, there are still problems in practice. Considering certain concessions in the legislation for private enterprises, entrepreneurs providing the persons from this category with work is purposeful.

The results of monitoring in the psychiatric institutions are summarized as following upon the national legislation, international standards, the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, European Minimum Standards on Detention conditions and treatment of Mentally Ill Persons, as well as the recommendations of UN Sub-Committee on Prevention of Torture, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

Overcrowding in institutions of this category and weakness of treatment–rehabilitation programs create tension in relations regarding detention conditions and treatment and there is a need in carrying out measures for their elimination, increasing the food and medications supply.

It was also observed that the allocations from the healthcare expenses of the Ministry of Health that spent on psychiatric health services are less in comparison with the others and this is important to increase it as well as the expenses for food and medication expenses per patient is crucially important. This is also necessary to ensure allocations for psychiatric institutions budgets not jointly but separately from the expenses allocated for raion healthcare departments or city/raion central hospitals. Speeding up reforms in these directions is purposeful.

Failure in following sanitarian norms in the institutions was observed as well. From this standpoint this is very important to review exiting rules for such kind of institutions and increase the control over their implementation basing on the international standards.

Despite the realized reforms there is still lack of specialized cadres (therapist-psychiatrist, nurses) in the psychiatric institutions, as well as a need in medical personnel of other specializations. Considering the field specificity of middle and junior medical personnel working there, involving

them to short-term relevant vocational courses and carrying out encouraging measures for them corresponding to rendered services with the aim to increase its quality is rather important. There is a great need in approaches basing on practice of foreign countries in this direction.

It is important to work out the principles of emergency medical aid and treatment according to the diagnosis of patients, of standards regulating the activity in adjusting the rules of their discharge, elimination of inclination to their hospitalization.

There is a need in creation of community based programs for persons with mental disorders, establishment of such kind of settlements, expansion of the opportunities for involvement of patients to out-of-ward labor considering their abilities and interests, also in application of new approaches as undertaking relevant measures in this field can positively contribute in efficiency of treatment. From the standpoint of efficiency of treatment-rehabilitation measures a large space is given to application of community based programs at the state level in the experience of Greece, Portugal and other European countries. Geographical location of institutions and considering these aspects in construction of new ones, as well as benefiting from relevant experience of foreign countries would be purposeful.

As the Commissioner within the frames of her activity as the NPM mentioned in previous years, some provisions of Addition No.4 to the “Charter of garrison and guard services of Armed Forces of the Azerbaijan Republic” regulating the detention in guardhouse fail to meet the modern demands is still in force.⁴¹ Thus, paragraphs 17 and 21 of that addition the discrimination between soldiers and officers was allowed. This comes out from the mentioned provisions that the soldiers (sailors) should sleep on the floor without provision with beddings; however officers and warrant officers should sleep, being provided with mattress and other bedding equipments.

In the paragraph 19 of the Addition, the norm permitting involvement of soldiers (sailors) disciplinary detained in common cells of guardhouses to work for 10 hours does not meet existing standards on detention. Despite these rules are not practically applied, being in force of the mentioned addition to the normative document is undesirable and this is considered important to revise and made relevant amendments to the document.

Considering that the main aims of open and closed type special training – educations institutions are correction of juveniles behavior and their social adaptation, as well as ensuring their psychological, medical and social

⁴¹According to the Law of the Republic of Azerbaijan On Approving the Charter of garrison and guard services of Armed Forces of the Azerbaijan Republic, the charter has been enacted since January 1, 1995.

rehabilitation, create environment for their education, during the visits we can come to conclusion that the activity of these institutions is inefficient. Among these institutions only Guba Special Vocational Schools is functioning as a closed type training-educational institution and its activity does not meet the modern demands.

We are of the opinion that reorganization of those institutions the activity of which is regulated by the legislation is rather necessary. The rules of detention, education and upbringing of juveniles should be improved considering their ages, as well as psychological status and health, also the environment for psychological correction basing on the individual social – psychological diagnosis of the persons committed delinquency should be enhanced as well; organization of sanitation educational measures system, socially useful employment, efficient day assignment including leisure time of pupils, maximal protection of pupils from negative cases should be undoubtedly ensured.

Considering the recommendations upon periodic reports of the Republic of Azerbaijan under the UN Human Rights Council Universal Periodic Review, the Commissioner proposes⁴² to take into account the Bangkok Rules regarding women.⁴³

⁴²The Report of the Working Group on the UN Human Rights Council Periodic Review adopted on July 5, 2013 (paragraph 103.95);

⁴³The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

CHAPTER 4.

Legal Awareness

One of the directions of the Azerbaijani NPM is organization of legal awareness work addressed at the persons detained in the places which a person cannot leave on his own will and service personnel working with them. The preamble of the OPCAT states 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.

The meetings, seminars and trainings based on national and international legislation provisions, the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other international standards were organized in children's houses and boarding schools, different state agencies, Scientific-Education Centers of Armed Forces, the Academies of law-enforcement bodies, military units, penitentiary institutions. The scheduled and continuous trainings carried out upon national and international standards assume high importance from the standpoint of popularization of the NPM, support to its activity, capacity building and legal awareness, as well as implementation of recommendations of this kind.

During the public hearings carried out in 57 cities and raions of the republic conducted with participation of representatives of local state bodies and civil society organizations with the aim of monitoring and evaluation the status of coordination, promotion and implementation of measures considered in the National Program to Raise Effectiveness of Protection of human rights and freedoms in the Republic of Azerbaijan approved by the Decree of the country President, the Commissioner carried out meetings with heads and personnel of raion (city) police bodies, the legal awareness work was conducted with them, the importance of special attention to ensuring human rights and freedoms was brought to point, the cooperation in this field was discussed, the legal publications, manuals, the posters on hot-line, learning of these materials and their use in trainings, practical application were recommended.

The awareness activities devoted to the 10th anniversary of entering into force of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment were among main topics of legal awareness events.

As a continuation of these activities, at the Commissioner's initiative, in compliance with the paragraph 4.1 of the National Program for Actions to Raise the Effectiveness of protection of human rights and freedoms in the

Republic of Azerbaijan, there was organized the education of representatives of law-enforcement bodies, respective structures, lawyers and NGOs specialized in human rights sphere on the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Optional Protocol to it, wide –scaled discussions were held in this regard in the Academies of law-enforcement bodies, Police Academy and the Academy of Justice.

These events were continued by the NPG members in the penitentiary institutions, the OPCAT provisions were promoted in institutions, the Commissioner’s competences as NPM, the works carried out within this frame, the visits held in the institutions which persons cannot leave on their own will and their results were among the topics during the legal awareness events.

A range of events linked to the 10th anniversary of the OPCAT were conducted with participation of staff of the law – enforcement bodies, social, healthcare and psychiatric institutions; numerous proposals on efficient ensuring of human rights submitted to state bodies, existing approaches, challenges and ways of their solution were demonstrated by presentations to the participants.⁴⁴

The events linked to the 10th anniversary of entering into force of the OPCAT were continued by the regional centers of the Ombudsman in Ganja, Sheki, Jalilabad and Guba in the country regions.

As in previous year, legal awareness trainings were continued in the regions jointly with the UNICEF, Police Academy and Academy of Justice. The NPG members participated as experts in the trainings on the awareness and capacity building on the topics “Juvenile Justice and Torture Prevention” aimed at judges, staff of prosecutor’s offices, police, justice and local executive power bodies. The lectures on national legislation and international standards on torture prevention were delivered; wide discussions upon the topic and legal awareness work were carried out.

At the Commissioner’s initiative, in cooperation with the UNICEF, the NPG members and the staff members of the Commissioner’s regional centers continued the trainings in the regions on the topics “Capacity building in monitoring in child rights sphere” considered for the staff of judicial, police, education, healthcare, local executive powers bodies working in child rights sphere.

The situation with assessment of influence of reforms in juvenile justice system at children in conflict with law, new approaches in activity of the Commissions on juveniles’ issues and protection of their rights under the local executive power bodies, positive practices of foreign countries in this

⁴⁴<http://ombudsman.gov.az/en/view/news/406/the-ombudsman-office-held-range-of-events-in-relation-to-the-10th-anniversary-of-un-opcat>

field, existing difficulties were among topics of discussions. The head of the NPG participating at the trainings gave comprehensive information on the activity of the Commissioner in the field of struggle against child violence, as well as her activity as the NPM, measures carried out in the country with the aim to support improvement the juvenile justice system, national legislation and experience in this sphere and to legal reforms in a whole, carried out preventive measures, as well as the difficulties existing this field and needed measures. The discussions over increasing the awareness of police, prosecutor, judicial and other authorized bodies for making just decisions, the needs in improvement of measures carried out regarding juveniles displaying behavior contradicting with law and detained ones, their social adaptation were carried out during the events.

The efficient cooperation relations were continued with the Academy of Justice of the MJ in the field of legal awareness, as well as capacity building of persons admitted to service on different directions.

The lectures on the topic “The activity of the Ombudsman in human rights protection and as the National Preventive Mechanism” were delivered by the NPG members during the compulsory training courses held in the Academy of Justice with regard the graduation to the vocational activity of the students admitted to service for the first time in Penitentiary Service, Judicial Expertise Center and Head Medical Department. Considering the initiatives and proposals of the Ombudsman the listeners were given comprehensive information on the on reforms realized in the national legislation of the Republic of Azerbaijan, the activity of the Commissioner in human rights protection and as the National Preventive Mechanism, as well as they were educated on the provisions of the Constitutional Law on the Ombudsman.⁴⁵

The NPG members also delivered lectures for the staff of the State Migration Service basing on the provisions of the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it and carried out expanded discussions on the topics of efficient ensuring the human rights.

Alongside with the mentioned, the attention was paid to capacity building of the members of the National Preventive Group within the frames of the activity of the Commissioner as the NPM. Thus, within the frames of the EU European Neighborhood and Partnership Instrument, the Commissioner carried out the Twinning Project in partnership with Germany and Poland.

⁴⁵<http://www.gununsesi.info/ombudsmanin-%C9%99m%C9%99kdasi-%C9%99dliyy%C9%99-akademiyasinda-muhazir%C9%99-oxuyub/>

Twinning project titled “Support to strengthening the capacities of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” be continued for 24 months not only covered 4 components (strengthening the activity of the Ombudsman Institution as of the National Preventive Mechanism against Torture, improving the institutional capacities of the Ombudsman Office in management information system, child rights, rights of persons with disabilities and the elderly, strengthening the capacities of the Ombudsman Office in implementation of the Law of the Republic of Azerbaijan on Access to Information, conduction of trainings on efficient management for the staff of the Office and regional centers) but also ensured expanded participation of staff of the Office and NPG members in the trainings conducted with involvement of foreign experts.

The trainings, meetings and experience exchange with participation of well-known experts of the NPM Network carried out within this ongoing program further strengthened the potential capacities of the Azerbaijani NPM as well, served to increasing the knowledge and practical skills of the Group members.

The continuous attention is paid to increasing practical knowledge and skills of new members of the National Preventive Group, as well as experts cooperating in this sphere, and of civil society within the frames of the activities.

Within the twinning project frames the experts from Poland, Germany, Greece and Portugal organized trainings for the NPM members on such topics as “How to conduct preventive visit in the prison”, “The Ombudsman as the modern and flexible oversight mechanism”, “Preparation of reports”, “The cooperation with international organizations on human rights”; the active discussions were conducted.

Besides, the CPT member, the professor of the Greece Peloponnesian University, the deputy Ombudsman of Greece VassillisKarydis conducted the trainings on the topic “Conduction of private interviews by the non-medical members of the NOM and description of injuries”. The increasing the knowledge on methodologies of conduction the private interviews and description of injuries, the acquaintance with the practice of the Greek Ombudsman as the NPM were among the main topics of the trainings.

Within the frames of measures carried out for implementation the first component of the project (strengthening the NPM), a group of NPM members passed exchange of experience in Greece, held meetings with different bodies, including healthcare and penitentiary institutions upon the program, learned the structure and activity of the Greek Ombudsman’s National Preventive Mechanism, as well as country experience in conduction of visits to penitentiary and psychiatric institutions.

The international experts got acquainted within the Twinning Project frames with the Azerbaijani NPM activity positively assessed the reforms carried out in human rights protection in Azerbaijan and multi-directional activity of the Azerbaijani Ombudsman in this field, efficient cooperation.

CHAPTER 5.

PUBLIC RELATIONS AND INTERNATIONAL COOPERATION

Considering the positive experience of previous years, the Commissioner continued the efficient cooperation with local, regional and international organizations according to the directions of activity.

In 2016, exchange of information and experience with the state, local civil society organizations, as well as mass media, regional and international organizations, including foreign NPMs, ensuring mutual participation in conducted events, as well as organization of joint events further improved the activity in this direction.

Within the reviewed period, both national and international organisations were regularly and comprehensively informed about the activity of the Azerbaijani NPM.

In general, during 2016, 93 press releases in total were released in mass media, 63 of which were dealt with the visits and 30 with the other activities.

Totally, within 2009-2016 years 788 informational press releases were disseminated in mass media with regard the NPM activity.

Press releases, NPM Reports, the information on the NPG composition, related normative acts were placed on the special division of the official website of the Ombudsman Office in the Azerbaijani and the English languages. Besides placing the reports on the official web site of the Commissioner, they were also submitted to the relevant state bodies and international organizations.

At the same time, the appeals and the other information addressed to the Ombudsman, including those received by 24-hour hotline, from NGOs, human rights defenders, mass media, or obtained from internet recourses or facts ascertained through direct inspection on the spot or received by the state authorities given the instructions to investigate, collected information and materials, as well as relative and quantitative indicators of the complaints were used during the visits.

Moreover, the Commissioner's representatives visited on a regular basis the persons whose names were repeatedly indicated in press, including those detained or persecuted. The information related to the monitoring was released through mass media and placed on the official website of the Commissioner.

In 2016, the Azerbaijani NPM further developed its relations not only with state authorities, international institutions and non-governmental organizations but also with mass media in the field of prevention of torture.

The representatives of non-governmental organizations and civil society participated at the meetings devoted to making additions and amendments to the composition of the National preventive group established within the Commissioner's Office for the purposes of fulfilling the functions of the national preventive mechanism referred to the Article 1.2 of the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan according to the Article 18-1.1 of the Constitutional Law. The new composition of the NPG was elected through open and transparent elections. Besides the staff members of the Ombudsman Office, several representatives of the civil society were also involved as experts to the elections of the new composition of the NPG.

From the beginning of her activity, the Commissioner closely cooperates with the civil society institutions. From the first years of activity at her initiative the Council of Independent Experts that became an innovation in the country experience and united numerous civil society institutions was created at the Office and this council functions at present. As mentioned previously, attraction of civil society members and participation of experts is regularly ensured during the visits and legal awareness events within the frames of the NPM activity, during the meetings held with participation of relevant state agencies, discussions on legislation, in the process of compilation of appropriate reports.

Within this framework of activity, close cooperation is built with the Public Committee under the MJ composed of the civil society members. The members of the Committee involved as experts closely participate in the activity of the NPM.

The head of the NPG of the Ombudsman was a participant in relevant events conducted during the reviewed period as a member of Public Committee Election Commission under the Ministry of Justice of the Republic of Azerbaijan.

International cooperation. Further expanding of international relations in 2016, conducted exchanges of experience and opinions created wide space for efficient realization of the Azerbaijani NPM's activity.

The Commissioner as the NPM, closely cooperates with the UN and its Treaty bodies, including CAT, SPT, as well as CPT, COE, EU, OSCE, Association for the Prevention of Torture (APT) and other international institutions, as well as foreign NPMs, and shares her experience in the concerned field. Organization of efficient meetings, holding joint events and participation of the Commissioner and the NPG in international events and exchange of experiences in the field of prevention of torture can be shown as the directions of international relations of the Commissioner as the NPM.

This cooperation also includes various trainings for advancement of the NPM activity and increasing the professional capacity of the NPG members organized in cooperation with the UN agencies, as well as improving the activities of the NPM within the Twining Project which is running in partnership with Germany and Poland with EU support, meetings and exchange of experience with participation of CPT, APT representatives and other NPM experts.

Within the international relations framework of the NPM, bilateral cooperation relations were successfully built between the Commissioner and the UNICEF Baku Office, several activities, trainings and seminars were jointly conducted, the strategic plan of the NPM in child rights field was advanced and this contributes to further increasing the efficiency of the activity.

As a component of the COE “Action Plan for Azerbaijan 2014-2016”, the Ombudsman became a partner in the project “Support to reforms in penitentiary service in Azerbaijan”, the representative of the Commissioner became the coordinator upon the project and relevant measures are carried out in the direction of improvement of the penitentiary system and increasing the professionalism of medical personnel. Besides, within this project framework the members of the NPG and experts will be represented in monitoring in COE prisons, as well as in the trainings starting from 2017 with participation of experts specialized in medical sphere, psychiatrists.

In cooperation with the EU on this direction of activity, the strategic plan of the Azerbaijani NPM was complied with participation of experts invited from Poland and Greece. This will enable achieving efficient results on the NPM visits, submission of recommendations, legal analysis and directions of activity.

During the reviewed period the Commissioner and NPG members held meetings with representatives of international organizations, international experts and foreign colleagues and participated in a range of important events.

Within the frames of country visit the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) met with the Commissioner and NPG members, wide discussions were carried out in the conducted visits and submitted recommendations.

The Commissioner received Mr. Michel Forst, the UN Special Rapporteur on situation of human rights defenders⁴⁶. Jamshid Gaziyeu, a responsible person from the Office of the UN High Commissioner for Human Rights also attended the meeting. The main goal of the meeting was

⁴⁶http://azertag.az/xeber/Ombudsman_Aparatinda_BMT_nin_xusus_i_meruzechisi_ile_gorus_kechirilib-994133

acquaintance with the activity of the Commissioner in ensuring the rights of human rights defenders in Azerbaijan. The Commissioner replying to the questions of interest of the guest gave comprehensive information about the activity in human rights field, also as the NPM. The applications addressed to the Ombudsman during the visits, ensuring the rights of detainees were among the main topics of discussion.

In 2016, the Commissioner received the deputy head of the COE Office in Baku Joel Mermet⁴⁷. The responsible person for the project of the COE Office also attended the meeting. Strengthening the cooperation relations and their importance with international organizations, including COE, the Commissioner gave comprehensive information on joint measures, awareness events organized for representatives of the state authorities, NGOs and mass media and expressed her interest in intensive continuation of cooperation as in previous years. She emphasized the designation of the Ombudsman as the institute responsible for fulfilling the NPM functions, conduction of visits to places which persons cannot leave on their own will for carrying out more efficient activity in this field, informed the guest about the work carried out in this direction and appraised the NPM as a very important mechanism in efficient protection of human rights. Alongside with this, wide information was given regarding cooperation of the Ombudsman of Azerbaijan with state bodies, as well as the Parliament, proposals submitted on more efficient provision of human rights and their implementation status, surveys submitted to the Constitutional Court.

Within the frames of the activity as the NPM, the Commissioner held meetings with Anna Leshinskaya and ChingizAbdijaparov, the program representatives on defense issues of the International Committee of the Red Cross (ICRC) Azerbaijan Delegation⁴⁸. She noted that the Ombudsman has built efficient cooperation relations with international organizations, including ICRC, and its Azerbaijan Delegation, brought to the attention the usefulness of joint cooperation on relevant directions of activity. The head of the Department of the Ombudsman Office gave comprehensive information on the directions of activity of the Ombudsman institution, its mandate, designation as the institution fulfilling the NPM functions, conduction of regular visits to the places which persons cannot leave on their own will for more efficient carrying out the relevant activity. A. Leshinskaya thanked for the provided information, put the questions of interest and talked about the cooperation directions, also discussed future cooperation relations. The guests expressed their interest in continuation of

⁴⁷ <http://www.gununesi.info/ombudsman-joel-mermeti-q%C9%99bul-edib/>

⁴⁸ <http://ombudsman.gov.az/en/view/news/330/icrc-country-office-delegation-was-received-at-the-ombudsman-office>

cooperation ties with the Ombudsman Office and gratitude for sincere reception and information exchange.

The Ombudsman Office representatives and the head of the National Preventive Group of the Ombudsman participated at the High-level Seminar co-organized by the Council of Europe and the European Network of National Human Rights Institutions (ENNHRI) on Freedom of Expression – role and powers of National Human Rights Institutions (NHRIs) and other national mechanisms. The presentation of Secretary General of the Council of Europe Thorbjørn Jagland, Council of Europe, executives of OSCE, European Federation of Journalists, International Ombudsman Institute, European Network of National Human Rights Institutions (ENNHRI), ombudsmen of different countries and international experts, exchange of opinions was carried out.

During the seminar held with participation of representatives of numerous national human rights institutions, independent experts, diplomats, the discussions were carried out on such topics as the activity of the National Human Rights Institutions as independent monitoring mechanisms in ensuring the freedom of expression, the directions of cooperation with civil society and journalistic unions, the implementation of international documents, accountability, analyze of legislation, transparency of media bodies activities, pluralism, support to social media and others. The staff members of the Office also attended the meeting of ENNHRI Working Group on Communication held with participation of representatives of the NHRIs functioning in European region. Within the visit framework the publications of the Ombudsman, annual reports, the reports on the activity of the Commissioner as the NPM were presented to the COE Office.

Within the international cooperation of the NPM, the representative of the Azerbaijani NPM participated at the international seminar on the topic “Monitoring in Psychiatric institutions” co-organized by the International Ombudsman Institution, APT and Lithuanian Ombudsman held in Vilnius for the staff members of the National Human Rights Institutions for strengthening the NPM mandate.⁴⁹

The visits paid to psychiatric institutions that are the places which persons cannot leave on their own will upon the United Nations Convention on Prevention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to it, the referred international standards, reforms in the national legislation, accountability, the positive experience gained as NPM in different countries, existing resources, the difficulties faced in the frames of these activities and their

⁴⁹http://www.apt.ch/en/news_on_prevention/workshop-with-ombuds-institutions-on-monitoring-psychiatric-facilities/#.WRAe29wlG70

ways of solution were the subjects of discussions, the presentations of experts from International Ombudsman Institution, APT, SPT and CPT were delivered as well.

The head of the NPG participated at the seminar and gave comprehensive information on reforms realized in Azerbaijan in the field of implementation of international standards in the national legislation, improvement of normative-legal base, active participation of the Ombudsman of Azerbaijan in these processes as the NPM and her activity, annual plans of actions, submitted proposals, the visits held in the places which persons cannot leave on their own will, the positive experience formed in the country, also Twinning, TAIEX programs launched for improvement of the activity, exchange of experience and other subjects.

The focus group discussion on reintegration of readmitted citizens of the Republic of Azerbaijan was conducted by the International Center on Migration Policy Development (ICMPD) that is an executive agent of the EU funded “Support to the Implementation of the Mobility Partnership with Azerbaijan (MOBILAZE)” Project. Representatives of relevant state bodies, other stakeholders, international experts from Netherlands and Bulgaria, the representatives of the ICMPD and EU participated at the event. The head of the NPG also attended these discussions and shared opinions upon the topic.

Alongside with the abovementioned, within the frames of international cooperation, the surveys received from international organizations during a year regarding the activity of the Commissioner as the NPM were replied to and the approaches of openness to information in this regard is displayed.

CHAPTER 6.

OUTCOMES AND RECOMMENDATIONS

Increasing the legal culture in the society is conditioned not only by non-subjection of a person to torture or other cruel, inhuman or degrading treatment or punishment, but also increasing the level of provision of other rights. As a result of submission of numerous proposals and recommendations during the activity realized in the reviewed period, the attitude of law-enforcement bodies, punishment execution structures and other state agencies and officials to the essence of human rights and their ensuring has been changed positively, the legal thought was formed in a new content, the steps were undertaken in the direction of improvement the administration.

The Commissioner builds her activity following in compliance with the Paris Principles:

- promotes bringing the national legislation acts and practices in compliance with international documents on human rights to which the country is a party to;
- promotes adhering of the country to international documents and implementation of international norms in the national legislation, as well as carrying out relevant measures;
- assists in working out the reports on the activities realized under the international conventions to be submitted to the UN bodies and regional institutions, expresses her reference regarding these report in compliance with the principle of independency, as well as submits additional report.

From this standpoint more than half of proposals and recommendations presented in the previous reports on the activity of the Commissioner as the NPM were solved or directed for implementation. The present report also enshrines the recommendations among the previous ones but still waiting for their solution, as well as the new proposals and recommendations coming up within the activity process.

With the aim of analysis of the results of the activity carried out as the NPM in 2016, efficient protection of detainees' rights, the Commissioner proposes the following:

Regarding the normative legal acts:

1. Re-organizing the work of open and closed type special training-educational institutions, improving the normative legal acts in this field, ensuring the correction of juveniles' behavior and their social adaptation, as well their social, medical and social rehabilitation;

2. Increasing the control over conduction of the investigation regarding the criminal cases related to juveniles by inspectors with higher professionalism level;

3. Preferring the alternative restriction measures with regard the accused persons, especially juveniles, as well as pregnant women, or women with infants, strengthening the control over this;

4. Promoting correction of juveniles detained in Correctional Institution of the Penitentiary Service and their forming as individuals good for the society, their involvement to qualified education and relevant vocational courses, adoption of relevant norms relating to controllers in this institution to service in civilian uniform;

5. Prevention of dissemination of information and images of detained or arrested persons in mass media until judgment legally entered in force;

6. Researching the possibilities for application the Mediation and Probation institute model widely expanded in the practice of foreign countries and used in criminal prosecution;

7. Approving by the Cabinet of Ministers of the approved by relevant local executive power bodies temporary Statute on “Detention stations for administratively arrested persons” and temporary Internal Disciplinary Rules in “Detention stations for administratively arrested persons”, also of Internal Disciplinary Rules in Penitentiary Institutions, draft Internal Disciplinary Rules of” Detention Centers of Illegal Migrants”;

8. Bringing in compliance with international norms of paragraphs 17 and 21 of the addition No.4 to the “Charter of garrison and guard services of Armed Forces of the Azerbaijan Republic”.

The recommendations to the Ministry of Internal Affairs:

1. Involving social workers, psychologists to the process while prophylactic registration by the MIA of persons released from the penitentiary institutions;

2. Taking into account the lack of personnel responsible for conduction of prophylactic work and carrying out the measures for its elimination;

3. Carrying out the measures for providing the police child inspectors with technical equipment;

4. Increasing the control over moving of persons detained in the TDPs and arrested persons to investigation isolator within 24 hours as provided by the legislation, involvement of medical personnel and conduction of documentation;

5. Carrying out relevant measures for elimination of overcrowding observed in the MIA Detention Station for the administratively arrested persons;

6. Promoting widely the Law of the Republic of Azerbaijan on “Ensuring the rights and freedoms of persons kept in detention places” and its monitoring;

7. Enhancing the provision of persons detained in TDPs with material – household and hygienic means at state expenses as provided in the legislation;

8. Improving the detention conditions in some temporary detention places (DPOs in Khizi, Ismayilli, Imishli, Saatli, Neftchala).

The recommendations to the Ministry of Justice:

1. Strengthening the measures in elimination of overcrowding in penitentiary institutions and investigation isolators;

2. Speeding up building of women’s prison that is under construction in Zabrat settlement of Baku city, alsoof juvenile correctional institution, of prison located in Umbaki settlement, the penitentiary complexes in Ganja and Lenkaran cities,

3. Increasing control over application of disciplinary reproof measures and special means only if necessary and strictly conduction of documentation in this situation, compulsory receiving of relevant explanation from a prisoner;

4. Using the Skype program as a stimulating measure, benefiting from the experience of foreign countries (Polish Republic) considering that the relatives of detainees cannot meet with them for certain reasons;

5. Increasing the measures in observing the demands of confidentiality of private correspondence and applications of persons detained in the institutions of the Penitentiary Service;

6. Improving the activities in realization of secondary and vocational education for prisoners and supporting its re-organization;

7. Increasing the attention to correction of prisoners in penitentiary institutions throught labor and their encouraging to labor and vocation habits, opening new work places and realization of projects, specialization of the institution itself from production standpoint;

8. Improving the relevant infrastructure taking into account the overcrowding and unsatisfactory conditions in train coaches considered for escort of detainees from penitentiary institutions to temporary detention places and vice versa;

9. Making amendments in legislation with regard transferring the officer status of psychologists working in penitentiary institutions to medical personnel in order to create confidence and trust attitude of prisoners to them;

10. Increasing by the MJ the quality of legal aid rendered to detainees, as well as carrying out the measures towards increasing the number of lawyers and legal advice offices;

11. Continuing the works in the direction of bringing the waiting rooms in the courts considered for detainees in compliance with modern standards.

12. Creation of the Probation Service and holding of realization of the reforms.

The recommendations to the Ministry of Health:

1. Working out the principles of emergency medical aid and treatment according to the diagnosis of patients in psychiatric institutions, of standards regulating the activity in adjusting the rules of their discharge;

2. Increasing the means spent from general healthcare expenses for psychiatric health services; as well as ensuring allocations for psychiatric institutions budgets not jointly but separately from the expenses allocated for raion healthcare departments or city/raion central hospitals;

3. Increasing the attention to ensuring the sanitarian norms in the institutions upon the international standards;

4. Increasing the number of specialized cadres (therapist-psychiatrist, nurses) in the psychiatric institutions, as well as a need in medical personnel of other specializations, considering the field specificity of middle and junior medical personnel working there, involving them to short-term relevant vocational courses and carrying out encouraging measures for them corresponding to rendered services with the aim to increase its quality;

5. Increasing the awareness of medical and auxiliary personnel working in psychiatry sphere regarding the relevant legislation and international standards, “Principles for the Protection of Persons with mental Illness and the Improvement of Mental Health Care”, “European Minimum Standards on Detention conditions and treatment of Mentally Ill Persons”

6. Creating the community based programs for persons with mental disorders, establishment of such kind of specialized settlements, expansion of the opportunities for involvement of patients to out-of-ward labor considering their abilities and interests, also in application of new approaches as undertaking relevant measures, efficient organization of their leisure time with performing the sports games, music and other cultural events, applying new approaches as undertaking relevant measures in this direction positively influences to treatment;

7. Carrying out the measures in moving by the MH of the persons remained for a long time in the Republican Psychiatric Hospital No.1 who is not in need of stationary treatment and stayed there only for the reason not to lose social ties to relevant social institutions under the jurisdiction of the Ministry of Labor and Social Protection of Population;

8. Carrying out by the Ministry of Health the measures for improvement the material – living conditions in regional psychiatric institutions;

9. Promoting rejection from use practice of seclusion of patients in psychiatric hospitals in compliance with the international practice and standards;

10. Improving the conduction of documentation in psychiatric institutions, elimination of needs in creation the worship and meeting rooms, phone boxes, libraries, organization of regular meetings with families and their socialization of the institutions;

11. Carrying out by the MH of measures in the direction of realization the public control over psychiatric institutions.

The recommendations to the Ministry of Education;

1.Improving the normative acts regulating the functioning the Guba Special Vocational School and ensuring the detention conditions there in compliance with the international standards and interests of juveniles;

2. Re-organizing the activity of open and closed type special training-education institutions basing on the legislation demands for prophylactics of delinquencies committed by juveniles;

3. Involving the educational staff working in boarding schools to relevant vocational courses in order to increase their professionalism, at the same time carrying out for this aim the measures towards creation relevant educational specialties in secondary vocational schools;

4. Capital repairing of several institutions in order to improve the detention conditions (Guba Special Vocational School, Siyazan city secondary Boarding School, Goranboy City Integration Training Type Gymnasium named after R. Aghakishiyev);

5. Organizing secondary and vocational education for prisoners in penitentiary institutions, improving and re-organizing the measures on perceiving computer knowledge and other skills.

The recommendations to the Ministry of Labor and Social Protection of Population:

1.Realizing complex programs for rehabilitation and social adaptation of persons released from the penitentiary institutions, improving the social services benefiting from the MLSPP capacities;

2. Working out the individual programs for re-socialization of persons deprived of liberty for a long time;

3. Working out the new mechanisms on solution the employment problems of persons released from the penitentiary institutions;

4. Speeding up the establishment of social adaptation centers basing on the demands of the Article 6 of the Law of the Republic of Azerbaijan on

“Rehabilitation and Social Adaptation of Persons released from the Penitentiary Institutions”;

5. Improving the measures in determination of disability degree of prisoners, working out the efficient mechanisms upon the national and international standards;

6. Improving the material conditions in the institutions under the jurisdiction of the MLSPP for mentally handicapped persons, persons with disabilities, the aged ones and continuation of measures towards bringing them in compliance with international standards;

7. Carrying out relevant measures taking into consideration the low level of medical service rendered to persons detained in the relevant institutions under the jurisdiction of the MLSPP, limited reserves of medications, also advancing the quality of rendered services;

8. Bringing the detention conditions of the elderly, as well as national legislation in this sphere in compliance with the UN Principles for Older persons and other international standards.

The recommendation addressed to the State Migration Service:

1. Installing phone conversations station for realization of the right of foreigners and stateless persons placed in the Yevlakh Raion detention center for illegal migrants to use phone contacts.

STATISTICAL INDICATORS

Diagram 1. The number of institutions visited by the NPM

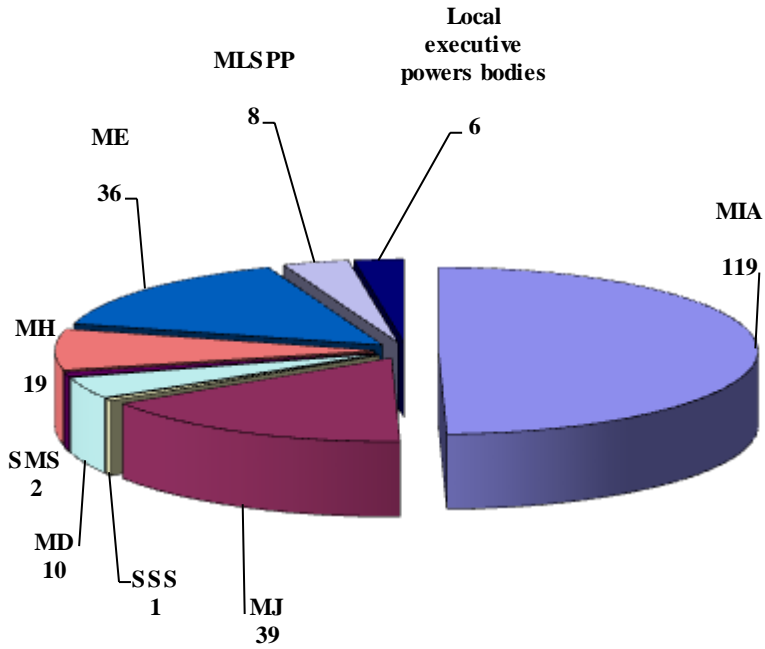


Diagram 2. The visits conducted by the NPM in 2016

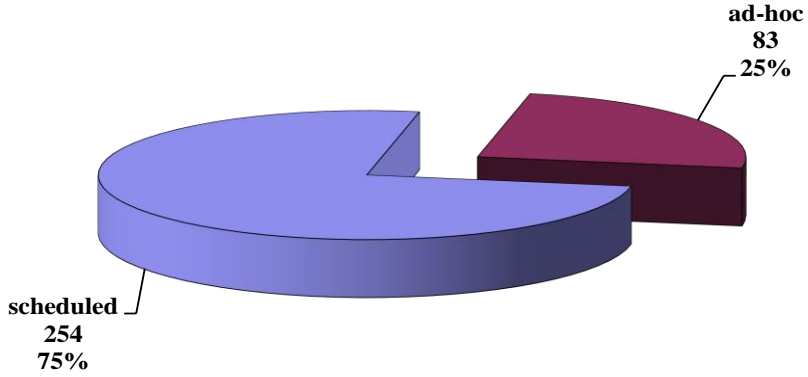


Diagram 3. The visits held by the NPM in 2016 (per institutions)

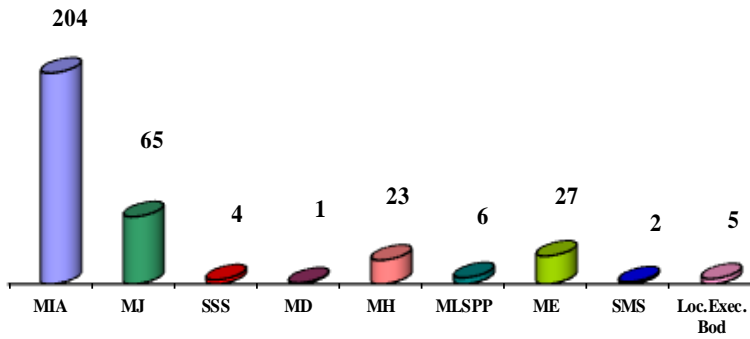


Diagram 4. The visits conducted by the NPM (per years)

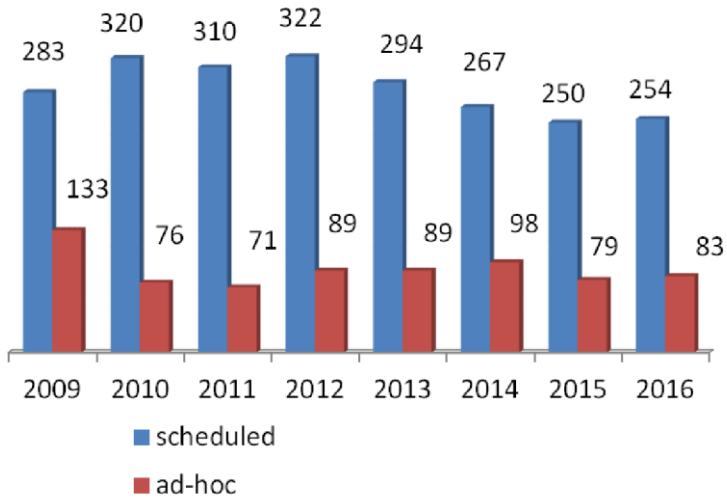
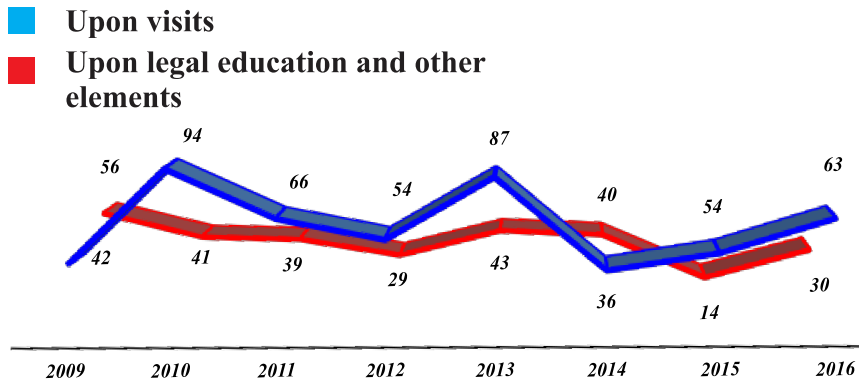


Diagram 5: The statement of the NPM to mass media (upon years)



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

*Adopted on 18 December 2002 at the fifty-seventh session of the
General Assembly of the United Nations by resolution A/RES/57/199
entered into force on 22 June 2006*

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 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.

THE DECLARATION

of the Republic of Azerbaijan to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

“The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from occupation.” (the map of the occupied territories is attached below).