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REFERENCE: jmn/mm/fg/follow-up/CAT/Azerbaijan

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Mr. Ambassador,

In my capacity as Rapporteur for Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, I refer to the examination of the 2nd periodic report of Azerbaijan (CAT/C/59/Add.1) by this Committee at its 30th Session from 28 April to 16 May 2003. At the end of that session, the Committee's Conclusions and Recommendations (CAT/C/CR/30/1) were transmitted to your Permanent Mission. In paragraph 10 of those Conclusions and Recommendations, and pursuant to its rules of procedures, the Committee asked that Azerbaijan provide, within one year (by May 2004), further information regarding the Response to the Committee's recommendations regarding areas of particular concern identified by the Committee in paragraphs 7 (c), (f), (h), (i) and (n) (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective. Noting that a reply concerning the information sought by the Committee has been provided on 7 July 2004 (see CAT/C/CR/30/RESP/1 annexed), I am writing to express appreciation for your responses on these matters.

However, from the analysis of the information provided to the Committee, I would be grateful for clarification about the following recommendations, insofar as sufficient information has not been provided by the Government of Azerbaijan:

1. With regard to the recommendation in paragraph 7(c), information is needed on the means by which police, investigator and remand centre personnel instruct detainees of their right to obtain access to a lawyer immediately following detention and their right to request and receive examination by a medical doctor whose independence is ensured. Specifically, additional information is requested on organizational issues related to the commendable decision to remove the medical service from the jurisdiction of the Central Department for the Enforcement of Judicial Decisions and subordinate it directly to the Ministry of Justice. Details as to the transfer and functioning of the medical service under this new jurisdiction, such as to ensure its independence, would enable the Committee to determine if the recommendation has been implemented effectively.

I would also appreciate further details on the implementation (page 6, last § of the Russian version of CAT/C/CR/RESP/1) on measures to strengthen law and order among staff, improve detention procedures, and uphold the rights of detainees, specifically regarding information confirming implementation of these orders in terms of dissemination, reporting, and disciplinary actions for infractions of the orders.

Further details would be appreciated on the special programme to provide detainees and remand prisoners with a lawyer and medical assistance as well as on specific information on how access to lawyers and medical treatment is provided locally. Any documentation on the number of cases where such protective assistance has been provided would be useful. Additional information (page 6, § 4 of the Russian version of CAT/C/CR/RESP/1) that you could provide on the Ombudsman's visits, her reports, and specific recommendations relating to the concerns of this Committee would be welcomed, as would details on the measures taken to address the Ombudsman's recommendations.

Additional information on the nature of the offences, charges and types of convictions of the cases indicated in the Response (page 5, § 5 and page 8, §§ 5 and 6 of the Russian version of CAT/C/CR/RESP/1), including specific disciplinary sanctions brought against other officers, would be appreciated as well as further details on how many allegations of torture have been submitted and investigated during this period.

2. Regarding the recommendation in paragraph 7(f), on the creation of a new bar association and enabling legislation, the Committee notes with satisfaction the successful work of experts and cooperation with the Council of Europe, ultimately leading to the adoption in parliament of the Law on the Bar. I would appreciate receiving any available information on measures of cooperation between the new bar and the Ministry of Justice and Ministry of Internal Affairs to ensure that there is a sufficient number of qualified and independent attorneys to serve detainees, that detainees know and act upon their rights to obtain access to counsel, and that attorneys have unimpeded contact with their clients. I would appreciate receiving specific information concerning the stage at which the counsel has been provided for detainees, as to whether attorneys have access to persons during the phase of preliminary investigation.

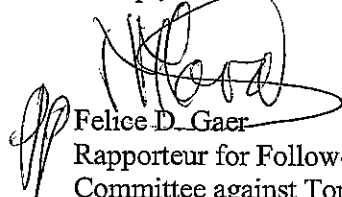
3. Concerning the protection of human rights defenders, recommendation in paragraph 7(h), the Committee remains concerned about reports of intimidation and attacks against human rights defenders attempting to carry out their work. I would appreciate additional detail on the investigation of such reports and their outcomes as the Response states that any reports of this nature are "carefully investigated by law enforcement agents".

4. Regarding the recommendation in paragraph 7 (i), I noted (page 13, § 4 of the Russian version of CAT/C/CR/RESP/1) that the decisions on extradition is the prerogative of the Serious Crimes Court. I would appreciate receiving additional information on the number, type, and receiving countries involved in the extradition requests handled by this Court and whether in any instance individuals were handed over without such proceedings.

5. Finally, with regard to recommendation in paragraph 7(n), I would appreciate further information (pages 13 to 15 of the Russian version of CAT/C/CR/RESP/1) on the ways and means by which prompt, impartial, and full investigations are undertaken following allegations of torture. I would appreciate any information on the findings of the specific unit "to examine convicted prisoners complaints." While recognizing this unit's relevance, I note that the Committee recommended establishment of an independent body to ensure impartiality of investigations. I would appreciate additional information on any measures taken to create this body and the procedures by which torture complaints can be received in practice. Taking note of the Response (page 9, § 3), I would nonetheless note that the Committee has recommended the creation of an independent body outside the system of law-enforcement, justice, and prosecution precisely because, in our experience, victims of torture are unlikely to turn to the very authorities of the same system responsible for abuses; this may account for the absence of reports. The establishment of such an independent body takes on special importance given that currently citizens are still compelled to appeal to the same system that already governs such investigations and bodies. The absence of complaints and the lack of investigations (page 8, § 4 of the Response) could be related to the need to establish a separate, impartial body for examining such allegations.

Upon receipt of your replies to this request for additional information, the Committee will be able to assess whether further information or action is still needed. The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Azerbaijan on the implementation of the Convention and, in this context, to receiving clarification to the enquiries in this letter.

Accept, Mr. Ambassador, the assurances of my highest consideration.


Felice D. Gaer
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

AZERBAIJAN

(...)

D. Recommendations

7. The Committee recommends that the State party:

(...)

(c) Clearly instruct police officers, investigative authorities and remand centre personnel that they must respect the right of detained persons to obtain access to a lawyer immediately following detention and a medical doctor on the request of the detainee, and not only after the written consent of detaining authorities has been obtained. The State party should ensure the full independence of medical experts;

(...)

(f) Ensure the prompt creation of the new bar association and take measures to guarantee an adequate number of qualified and independent lawyers able to act in criminal cases;

(...)

(h) Ensure the full protection of non-governmental human rights defenders and organizations;

(...)

(i) Ensure that all persons have the right to review of any decision about his/her extradition to a country where he/she faces a real risk of torture;

(...)

(n) Ensure that prompt, impartial and full investigations into all allegations of torture and ill-treatment are carried out and establish an independent body with the authority to receive and investigate all complaints of torture and other ill-treatment by officials. The State party should also ensure the Presidential Decree of 10 March 2000 is implemented in this respect;

(...)

10. The Committee requests that the State party provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7 (c), (f), (h), (i) and (n) above.
