



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE: cc/jmnt/jli/follow-up/CAT

2 May 2012

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture ("the Committee" or CAT), I am writing regarding the examination of the third periodic report of Azerbaijan (CAT/C/AZE/3) on 9 and 10 November 2009. The Committee requested further information from the Government of Azerbaijan in response to the Committee's recommendations in paragraphs 9, 11, 12 and 26 of the Concluding Observations (CAT/C/AZE/CO/3).

On behalf of the Committee, allow me to express appreciation for your Government's reply dated 18 November 2010 (CAT/C/AZE/CO/3/Add.1) regarding those recommendations. I have reviewed them with care and am writing to seek further clarification, as there remain outstanding questions about the implementation of the recommendations in practice. Please reply if possible by July 1.

Torture and Ill-treatment (paragraph 9)

The Committee notes with concern the State party's submission that 336 complaints of torture or ill-treatment were received by the Ministry of Justice Prison Service from 2005-2010. Please indicate whether any of these cases, or any complaints received following the end of the data collection period, have resulted in a criminal case against an official under article 133 of the Criminal Code. The Committee notes with interest the information provided regarding the four cases in which complaints of ill-treatment or poor conditions of detention received by the Ministry of Justice Prison Service were found to be substantiated. The Committee appreciates the updated information provided on the status of the four victims. Please provide update on the status of the four persons found responsible for their ill-treatment. Please provide additional information regarding the reprimands issued to Lieutenant-Colonel Agamamed Mamedow and Major Babek Guseinov, the only prison officials disciplined for ill-treatment in the period 2005-2010 according to the information provided. What were the results of these disciplinary measures? Were the officials removed from direct supervision of the complainants or otherwise sanctioned? Have they been denied or received promotions? What is their status and rank today?

The Committee regrets that the State party has not provided similar data regarding the number of complaints received and investigated by the Ministry of Internal Affairs, as referenced in paragraph 9 of your reply, particularly regarding torture and/or ill-treatment of criminal suspects and detainees allegedly perpetrated by the police or other official between the moment of apprehension and formal registration in remand centers. Please provide this data for

.../...

H.E. Mr. Murad N. Najafbayli
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Azerbaijan
to the United Nations Office at Geneva
Fax: 022 901 18 44

the reporting period. Please indicate how many of the complaints received were investigated, the number substantiated, and the number of convictions, disaggregated by year and location. Please clarify whether any disciplinary or criminal penalties were issued against Internal Affairs officials and the nature of any such penalties.

The Committee has received numerous allegations that torture and ill-treatment of suspects and other detainees continues in the State party, often "between the moment of apprehension and formal registration" of the detainee, and the alleged failure of officials to conduct prompt and effective investigations. As explained in paragraph 9 of its conclusions, the Committee is concerned that "such practices contribute to a culture of impunity among law enforcement officials." The Committee understands that in December 2011 the Azerbaijan Committee Against Torture published the details of 136 complaints of alleged torture and ill-treatment it received during 2011, and that complaints were submitted to relevant ministries and prosecutors for investigation, including the case of Nadir Mammadov in Nakhichevan, and Bakhtiar Hajiyev, whose lawyer filed a complaint in Ganja. Similarly, the Committee understands that Azerbaijani human rights monitors reported on 169 alleged cases of torture in police custody in 2010. Please indicate whether there have been effective investigations of these allegations, including any between the time of apprehension and the individual's registration. Also, please update the Committee on the report that the administrative judge who sentenced musicians Jamal Ali and Natig Kamilov in March 2012, after observing Mr. Ali's condition in court on March 17, 2012 requested in writing that the Sabail district prosecutor's office investigate Ali's claims of beatings by police and police station officials following his apprehension. Please provide the outcome of any such investigations, indicating whether any procedures were begun against alleged perpetrators, including whether any administrative or criminal penalties were handed down against any police, prison, or other officials?

Insufficient Basic Legal Safeguards (paragraph 11)

The Committee appreciates the information provided regarding the content of laws guaranteeing legal safeguards against torture to persons deprived of their liberty. Please indicate the measures in place to ensure that detainees' requests to meet with counsel, receive an independent medical exam, and contact family members, are granted promptly. Please provide data on cases in which law enforcement or prison officials have received disciplinary or criminal penalties for failing to respect detainees' rights promptly to contact an attorney, to contact a family member, or to receive an independent medical exam.

The Committee notes that paragraph 28 of the follow-up submission indicates that a bill on the protection of rights of persons in preventive detention facilities was under consideration by Parliament as of November 2010. If that bill has been adopted, please describe any effects on the legal safeguards for persons deprived of their liberty, particularly the right to immediate access to independent doctors and attorneys, and the right to contact family members following deprivation of liberty, the right of detainees to be brought promptly before a judge, the maintenance of the central registration system for detainees, and the use of audio and video equipment in interrogations, in police stations and/or detention facilities.

The Committee appreciates the information in paragraph 25 indicating that all persons entering prison facilities undergo a medical examination. Please clarify whether this is also true with respect to persons entering remand centers, and explain who must formally request such a medical examination. Please also provide data on the number of cases since the consideration of the previous periodic report in which prison or remand center staff have informed the authorities of concerns that a detainee was subjected to torture or ill-treatment based on the results of such medical exams.

The Committee further appreciates the data provided in paragraph 30 on the number of persons who sought independent medical treatment in the first 10 months of 2010. Please



clarify the amount of time that elapsed between the request and the evaluation in each case. Please also indicate if any of the 30 individuals who requested an evaluation by an independent doctor alleged that they were subjected to torture or ill-treatment in detention.

The Committee appreciates the clarification in paragraph 18 of the follow-up submission regarding the information recorded in the registry of prison inmates and individuals held in remand centers. The Committee notes the statement in paragraph 19 of the follow-up submission that a new registration network for convicted and remand prisoners was to become operational in 2010. Please indicate if this network is currently functioning and, if it is, how the registration system has changed as a result. Also, please indicate whether all police stations, as well as prison facilities and remand centers, are required to maintain registries of persons in custody. Is information concerning the date and time of inmates' requests to meet with counsel, to contact family, and to receive a medical examination recorded, in addition to the date and time on which such requests were granted? Please indicate whether police station, remand prison, and other prison registries are accessible by the public, and describe the procedure by which individuals in detention, their family members and legal counsel can access them. Please provide information about the measures in place to monitor police and prison officials' obligations to maintain accurate registries. Have any police or prison officials been subjected to disciplinary or administrative penalties for failure to maintain accurate registry records?

The Committee regrets that the State party did not provide information regarding steps taken to ensure that detainees are promptly brought before a judge. Please provide such information, and indicate if any police or prison officials have been subjected to disciplinary or criminal penalties for failing to bring detainees before a judge within the required time.

The Committee further regrets that the State party did not provide information regarding steps taken to ensure that audio and video recording of interrogations are effectively implemented in police stations and detention facilities. Please provide information on the number of police stations and detention facilities currently equipped with such technology.

The Committee appreciates the information provided regarding the cases of Emin Abdullaev (a.k.a. Emin Milli), Adnan Hajizade, Kamil Sadreddinov, Mahir Mustafeav, and Novruzali Mammadov in paragraphs 21-23 of the follow-up submission. Please provide additional detail about any investigations conducted into the allegations that safeguards were denied in these cases. Please indicate whether reports that Abdullaev and Hajizade were denied prompt access to their lawyers following their detention on 8 July 2009 until the afternoon of 9 July 2009 were investigated, and if so, the authority that investigated the claims, and the results.

Please also clarify whether the UN Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol) was followed in the course of investigations into the deaths in custody of Mahir Mustafeav and Novruzali Mammadov. Please indicate if authorities are considering reopening the investigation into the death of Mr. Mammadov, noting in particular that his physical condition was the subject of attention by UN Special Rapporteurs on human rights. Also, please clarify the investigations and methods followed regarding autopsies and independent verification of the following reported cases of deaths in custody: Turac Zeynalov, (died, August 28, 2011, Ministry of National Security); Elvin Askerov (died, January 2011, Baku police station); Nadir Abdullayev (died, September 28, 2010, Ujar District police); and Jeyhun Zarbaliyev (died, March 25, 2010, Nasimi District Police Department). Please also indicate whether the State party has investigated the allegations of torture or ill-treatment related to each of these deaths, with what outcomes/penalties.

The Committee remains concerned by reports that individuals detained in the State party are denied fundamental safeguards including the right to meet promptly with a lawyer. Please comment on reports that from March 13-28, 2012, Vugar Gonagov and Zaur Guliyev,



television journalists, were detained, first in Guba and then in Baku, and denied the opportunity to contact a lawyer or family member.

Independent Monitoring of Places of Detention (paragraph 12)

The Committee appreciates the data provided in paragraph 32 of the follow-up submission noting that the Public Committee carried out 260 prison visits from 2006-2010. Please elaborate, by disaggregating the data on visits by year, indicate the names of the facilities visited, and provide updated data on the number of visits carried out. The Committee appreciates the information provided in paragraphs 36-37 regarding the number of visits made to the Ministry of National Security remand center by prison monitors from 2009-2010, but regrets that the Public Committee has made no such visits. Please indicate if the Public Committee has visited the remand center since the submission of the follow-up report.

The Committee also appreciates the information provided regarding the provision of passes to members of the Public Committee regarding unannounced visits to places of detention. Please indicate the number of visits that were not announced in advance to the relevant detention center and the names of all facilities receiving unannounced visits. Please provide additional information concerning which members have been reappointed to additional terms and the number of terms they have served. Are the reports of the Public Committee made available to the public? Have visits by Public Committee members to places of detention resulted in investigations into allegations of torture of detainees, and if so, please elaborate.

Violence in The Armed Forces (paragraph 26)

The Committee regrets the lack of information provided by the State party regarding investigations into non-field related deaths of persons in the armed services, and any prosecutions regarding ill-treatment including *dedovshchina*. The Committee has received continuing reports of ill-treatment of military conscripts by their colleagues in the State Party. For example, the Committee understands that Military Prosecutor Khanlar Veliyev stated on January 30, 2010 that in 2009, the number of reported crimes "relating to the harassment or mistreatment of service personnel" had increased by more than thirteen percent. Please provide any updated data on the number of injuries, suicides or other unexplained deaths in custody of conscripts, the number of complaints of crimes against conscripts received by the authorities in subsequent years, the number investigated, the authority that investigated, the results of the investigations and whether any personnel were subjected to disciplinary or criminal penalties.

Please indicate whether an investigation was opened into the June 12, 2010 beating of Royal Musayev, as requested by Ombudswoman for Human Rights Elmira Suleymanova, the investigating authority, whether the investigation resulted in criminal or disciplinary sanctions against the perpetrators, and, if so, the nature of those sanctions. Please indicate if any individuals investigated in connection with the deaths of Privates Ruslan Kerimov on October 30, 2011; Raul Agayev on October 31, 2011; and Azer Abbaszade on November 1, 2011 have been made the subject of criminal proceedings, and if so, indicate the charges filed, the status of any ongoing proceedings, and the results of any concluded proceedings. Please also provide information on the charges of "abuse of power" brought against Major Valad Gurbanov and Lieutenant Rustam Ahmedov in February 2010 following an incident in which two conscripts under their command killed several soldiers and each other. Did Gurbanov or Ahmedov receive criminal punishments related to ill-treatment or *dedovshchina*? If so, please provide details.

Accept, Excellency, the assurances of my highest consideration.

Felice D. Gaer

Rapporteur for Follow-Up on Concluding Observations
Committee against Torture