

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	359
Land:	Aserbajdsjan
Kilde:	The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan
Titel:	Submission to the UN Committee against Torture 79 th session, 15 April – 10 May 2024
Udgivet:	2024
Optaget på baggrundsmaterialet:	18. juni 2024



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

COMPLEMENTARY REPORT

**prepared within the framework of the activities of
the National Preventive Mechanism of the Commissioner for Human Rights
(Ombudsman) of the Republic of Azerbaijan on the 5th periodic report submitted
by the Republic of Azerbaijan to the UN Committee Against Torture**

2024

Contents

Foreword.....	3
Summary.....	4
Introduction.....	6
Information on the implementation of the provisions of the Convention	6
Cooperation of the HRCA with stakeholders.....	7
Issues of providing legal assistance in criminal proceedings.....	9
Information on the implementation of Article 11 of the Convention.....	10
Issues regarding the legal security (guarantees) of persons detained in places of detention.....	10
Detention conditions of facilities which individuals cannot leave on their own will.....	10
Issues related to the detention condition of penitentiaries.....	11
Information on the issues regarding medical service.....	11
Information on the issues of Mental Health.....	13
Information on the measures alternative to arrest and penalties alternative to deprivation of liberty.....	14
Legal Reforms.....	15
Draft Law on the protection of children from corporal punishment.....	16
Juvenile Justice Reforms.....	17
Legal awareness activities and cooperation.....	18
Reports of National Preventive Mechanism.....	19
Information on the activities carried out during the COVID-19 pandemic.....	20

FOREWORD

On 2 December, 2008, the Republic of Azerbaijan ratified the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and under the Presidential Decree of 13 January 2009, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan (HRCA) has been appointed as an institution performing the functions of the National Preventive Mechanism (NPM).

HRCA's relations with relevant government agencies, civil society institutions, human rights defenders, lawyers, the media, international organizations, national human rights institutions of foreign countries, local and international experts also contributed to the development of its activities as an NPM, establishment of successful and constructive cooperation, arrangement of useful discussions, training sessions and exchanges of experience.

As part of the NPM's efforts to prevent torture and other cruel, inhuman, or degrading treatment or punishment, initiatives are being taken to provide both a practical approach and suggestions and recommendations for legislation, as well as improvement of existing organizational activities.

Within the framework of legal reforms, many of our proposals for legislation have been adopted, also recommendations on legislation that are still pending to be executed.

The submitted report covers the activities of the Azerbaijan NPM and includes measures taken, such as preventive visits and their results, suggestions, and recommendations and the status of their implementation, as well as areas of activity such as legal awareness provided by NPM.

Proposals and recommendations of the Committee for the Prevention of Torture, the Subcommittee on Prevention of Torture (SPT), the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of the Child (CRC), the Committee on the Rights of Persons (CRPD), as well as the Working Group on the Universal Periodic Review (UPR) of the UN Human Rights Council on periodic reports of the Republic of Azerbaijan were also taken into account in the process of preparing this report and fulfilling the functions of NPM.

I hope that the issues raised in the report, our proposals, and recommendations will contribute to the further improvement of the country's experience and activities in relevant areas following the requirements of national and international law.

Thank you in advance for consideration of our report.

Sabina Aliyeva
Commissioner for Human Rights (Ombudsman)
of the Republic of Azerbaijan

SUMMARY

The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has expanded cooperation with relevant government agencies, civil society institutions, NGOs, human rights defenders, lawyers, and international organizations in the implementation of NPM.

In the process of legal reforms implemented in the country, the Republic of Azerbaijan continues to bring national legislation in line with the provisions of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

As a result of HRCA's active participation in these processes, new normative-legal acts were adopted to ensure effective human rights, additions and amendments were made to the Criminal, Criminal Procedure, Penitentiary and Administrative Offenses Codes of the Republic of Azerbaijan, as well as to the decisions of central executive bodies.

Legislation on "Ensuring the rights and freedoms of detainees" has been updated, and new Internal Disciplinary Rules for Temporary Detention Facilities and Pre-trial Detention Facilities have been developed and approved in accordance with this document. "Internal disciplinary rules of detention centers for illegal migrants" were also approved.

These rules govern the rights of suspects and accused immigrants in a wide range, their responsibilities, admissions, registration, placement in cells, health, safety, personal search, daily walks, meetings, telephone calls, gift reception and material support, also allowed to clearly define the responsibilities of the relevant service staff working with this group of people.

The issues and recommendations raised by HRCA regarding the detention conditions in penitentiaries were included in the HRCA's annual reports and the reports of NPM, also paved the way for changes.

As a result of recommendations about detention conditions in penitentiary institutions, the construction of new buildings for many of the Penitentiary Service Institutions, such as the Gobustan Prison, Pre-Trial Detention Facilities No.2 and 3, Penitentiary Institution for Women No. 4, and other penitentiary institutions with the need to adapt detention conditions to modern standards has been completed.

So that, in 2022, the penitentiary institution No. 4 and Juvenile Correctional Institution of the Penitentiary Service were built and put into use and the convicts were moved to a new building that meet detention conditions. In November 2023, the newly constructed mixed-regime penitentiary complex in the Umbaki settlement has been put into operation. This complex includes a prison and a pre-trial detention facilities. The operation of the complex eliminates the overcrowding in the pre-trial detention facilities and, and allows for the full transfer of prisoners from the Gobustan Prison, which was built during the Soviet era and gradually became obsolete.

In addition to the above-mentioned issues, it was observed that there was a lack of adequate medical and social services and attitudes to accused persons and prisoners with disabilities and mental problems in prisons and penitentiaries.

Thus, there are difficulties in assigning the degree of disability to persons suffering from mental and other diseases, who are hospitalized.

At the new stage, training sessions aiming to enhance the skills on subject of Juvenile Justice which involves judges, prosecutors, police, justice, health, education, social services, and employees of local executive authorities, NGOs, and lawyers were held.

Our recommendations on the implementation of Juvenile Justice Reform in the country and the work to be done in this area are also pending.

Strategic plans were adopted within the framework of the Ombudsman's NPM activities. Apart from this, a three-year Strategic Plan to monitor the status of children's rights has also been adopted and is being implemented for a second term after the update.

This plan was developed with the participation of international experts of UNICEF and implemented based on joint monitoring.

Upon the HRCA's initiative, topics related to the prevention of torture are included in the annual curriculum of the Police Academy of the Ministry of Internal Affairs of the Republic of Azerbaijan¹ and the Academy of Justice of the Ministry of Justice and are taught by NPG members.²

Topics in the curriculum include international standards for treatment and detention, torture and other cruel, inhuman, or degrading treatment or punishment, the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment and its Operational Protocol, or Principles for Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Effective Investigation and Documentation of Cases of Behaviour or Punishment (Istanbul Protocol), as well as recommendations for the country in the reports of the Committee Against Torture (CAT), the Subcommittee on Prevention of Torture (SPT) and the European Committee on Prevention of Torture (CPT).

It should be noted that this activity was continued during the COVID-19 pandemic, all groups of the population were provided with full access to the HRCA. Appeals of the population addressed to HRCA are received electronically and through social networks (Facebook, X, and Instagram), as well as 24/7 operating "916" Call Center.

The activity of HRCA through its Regional Centers, covering also their surrounding districts and cities creates opportunities for the people in terms of on-site investigation of appeals from the regions and awareness activities.

¹ <https://ombudsman.az/en/pages/116>

<https://ombudsman.az/en/pages/117>

² <https://ombudsman.az/en/pages/118>

Introduction

1. 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 Decree No. 112 of the President of the Republic of Azerbaijan dated January 13, 2009, HRCA was designated as an institution fulfilling the functions of NPM envisaged by the OPCAT.

The provisions of the Optional Protocol have been integrated into national legislation, as well as the Constitutional Law of the Republic of Azerbaijan on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

According to Article 1.2 added to the Constitutional Law: The Commissioner shall perform the functions of the national preventive mechanism envisaged in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. To prevent torture and other cruel, inhuman, or degrading treatment or punishment, the Commissioner shall visit places where detained persons are unable to leave on their own will regularly or whenever the Commissioner deems it necessary.

Article 12.2.1 added to the Constitutional Law stipulates that the Commissioner shall have the right to visit state authorities and local self-governing bodies, military units, as well as police stations, temporary detention facilities, pre-trial detention facilities, penitentiaries, garrison headquarters, psychiatric institutions, detention centers for illegal migrants and other places which individuals cannot leave on their own will at any time, without hindrance and without prior notice; meet and talk with detained persons, as well as with any other person who may provide relevant information, in person or, if necessary, in the presence of a specialist or an interpreter; get acquainted with and obtain copies of all documents confirming the legality of the detention of detainees, as well as the treatment of such persons and the conditions of their detention; compile an act, record the course and results of the measures taken; to make relevant recommendations to the authoritative state bodies and receive responses to those recommendations within the established period.

Information on the implementation of the provisions of the Convention

2. The Republic of Azerbaijan has continued legal reforms to align national legislation with the provisions of the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment.

Legislative reforms are carried out continuously to improve the overall situation in terms of the practical application of criminal law against torture.

Cooperation of the HRCA with stakeholders

3. In the process of exercising its powers, the HRCA effectively cooperates with relevant government agencies, civil society organizations, NGOs, human rights defenders, practising lawyers, and international organizations.

Article 18-1.1 annexed to the Constitutional Law on HRCA specifies the establishment of a National Preventive Group (NPG) in the Office of HRCA, which is formed every three years through open and transparent procedures to implement the functions of NPM stipulated in Article 1.2 of this Constitutional Law.

With the latest amendments to the Constitutional Law, changes were made to Article 12 and a new Article 13-2 specifying the legal foundation and activities of the National Preventive Group has been introduced. These constitutional changes have contributed to the institutional improvement of the activities of the National Preventive Mechanism. Thus, while implementing monitorings, the Ombudsman and her National Preventive Group were granted the authority to make photos, audio, and video recordings using technical means, as well as to be received without delay by the management of the places where detainees cannot leave at their own will.

In accordance with the relevant recommendations, the NPG consists of experts from the HRCA's Office, including women specializing in the prevention of torture and preventive measures, as well as civil society members and non-governmental organizations.³

The involvement of civil society representatives, practising lawyers, human rights defenders and persons experienced in torture prevention and experts in this process has contributed to increasing the efficiency of activity.

The representatives of CSOs actively working in the field of human rights are involved in the NPM activities as experts. These include "the Citizens' Labor Rights Protection League," "the Association for the Protection of Women's Rights in Azerbaijan," "the Legal World Public Union," "the Union of Organizations for Persons with Disabilities," "the Clean World Public Union for Aid to Women," and other independent experts.

The Constitutional Law ensures the independence, inviolability, and security of the Ombudsman's activities in this direction.

4. Within the framework of the HRCA's action plan on cooperation with the UNICEF Country Office, joint visits and monitoring of state children's institutions are being carried out. NPG members, which consist of lawyers, medical doctor as well as social worker and psychologist formerly associated with the UNICEF Country Office and international experts also participate in these visits. It should be noted that as of today, these social worker and psychologist members have been officially recruited by the Ombudsman Institution and are involved in the NPG activities as staff members.

5. Since HRCA is determined as an institution that performs the functions of NPM under the Optional Protocol in order to organize the activities effectively in this area, as well as to

³ List of NPG Members. <https://ombudsman.az/en/pages/8>

strengthen preventive measures against possible incidents, relevant announcements indicating the HRCA's 24-hour "916" Call Center were posted in police departments, divisions and departments of all cities and regions of the country, penitentiaries, as well as in institutions where persons could not leave on their own will. The "916" Call Center is available for everyone and responds immediately to requests from detainees, their family members, relatives and lawyers.

6. Investigations were carried out by responding immediately to reports of physical harassment, detention conditions, and nutrition of detainees on social networks and websites, issues were raised before the authorities, and many appeals were positively resolved.

Family members, relatives and lawyers of the detainees also appealed to HRCA, all appeals were answered.

7. The Constitutional Law guarantees the independence of HRCA. As for the financing of the HRCA's activity, the activity is funded by the state budget of the Republic of Azerbaijan and the amount of annual funds allocated for this purpose in accordance with the Constitutional Law may not be less than the amount provided for this purpose in the previous financial year. NPM also has a sustainable funding in this regard.

The Constitutional Law, as well the amendments made to the national legislation based on the implementation of the Optional Protocol allow the independent activity of Ombudsman as NPM, to carry out visits at any time and without hindrance, as well as guarantee the independence and the integrity of people involved in this activity for the effective fulfilment of its activities.

8. The number of visits made within the framework of the HRCA's activities as NPM was 329 in 2015 (250 scheduled, 79 ad-hoc), 337 in 2016 (254 scheduled, 83 ad-hoc), 341 in 2017 (251 scheduled, 90 ad-hoc), 343 in 2018 (220 scheduled, 123 ad-hoc), 268 in 2019 (170 scheduled, 98 ad-hoc), 176 in 2020 (130 scheduled, 46 ad-hoc), 184 in 2021 (123 scheduled, 61 ad-hoc) and in 2022 the number of visits was 201 (139 scheduled, 62 ad-hoc). Information on visits and preventive measures carried out within the framework of the mandate is available, as well as information on alleged abuses is published in the press-releases and regularly posted on the official website.⁴

9. We immediately respond to the appeals of any person we meet in places where detainees cannot leave on their own will, as well as detainees, arrested or convicted persons, their family members, and lawyers. Subsequently, we raised issues such as the violation of the law, conditions of detention, treatment standards, appointing and conducting forensic medical examinations, and the situation of ensuring the rights of detainees before the Prosecutor General's Office, the Ministry of Internal Affairs, the Ministry of Justice and other relevant authorities. Each individual is provided with outcomes of their appeal.

⁴ <https://ombudsman.az/en/pages/12>

10. Since the establishment of the Institution, HRCA submitted approximately 700 proposals and recommendations to the government and various government agencies, 250 of which were related to the NPM activities. As a result, the adoption and implementation of more than half of these recommendations contributed to a positive change in the attitude of law enforcement and penitentiary authorities, education, health, social service, and other state agencies and promoted better understanding by officials of human rights related issues. The implementation status of these proposals is checked during the follow-up visits.

The preventive measures taken have supported relevant legal and infrastructural reforms, the treatment issues of detainees, and the provision of their rights, as well as the identification and resolution of needs and challenges in relevant directions.

Issues of providing legal assistance in criminal proceedings.

11. An increase in the number of members of the Bar Association and lawyers' offices is observed during the process of legal reforms implemented in the country. Taking into account the importance of the advocacy institution in the protection of citizens' rights, HRCA in her annual reports made proposals to increase the number of practising lawyers in the country, increase the amount of payments in exchange of legal aid at public expense and support their activities, and continues lobbying for the implementation of these measures.

12. Appeals about obstacles for lawyers to meet with the persons whose rights they protect were also made. In practice, when such appeals are received, HRCA intervenes immediately. Appeals for meetings of lawyers with the persons whose rights they protect are satisfied. The HRCA's activity in preventing violations is accessible, and the modern, 24-hour operating "916" Call Center is available for all in addressing such issues.

Information on the implementation of Article 11 of the Convention

Issues regarding the legal security (guarantees) of persons detained in places of detention

13. The current difficulties in the provision of the rights of detainees and prisoners are reflected in HRCA's annual report and NPM reports. Relevant state bodies are immediately appealed in order to take the necessary measures in this direction, and the results of the appeals are monitored until resolution. The institutions where the problems occurred are kept in focus, relevant analysis is carried out and recommendations are given to the relevant government agencies to eliminate the gaps in practice, and cooperation is being established in this direction.

14. Issues related to the treatment of detainees and prisoners, as well as the awareness of these persons about the charges against them and issues related to their rights, were raised within the framework of the Ombudsman's NPM activity.

Taking into account our proposals, the legislation on "Ensuring rights and freedoms of persons held in detention facilities" was amended, as well as new internal disciplinary rules for temporary detention places and pre-trial detention facilities were developed and approved in accordance with this document. These rules regulate the issues such as the wide-scale provision of the rights of suspected and accused persons, responsibilities, admissions, registration, placement in cells, ensuring their health and safety, conducting a personal search, daily walks, meetings, phone communication, parcelling, in addition, the provision of household items, specify the roles of relevant service employees working with people belonging to this group.

Based on our proposal the right of individuals detained or arrested (*minors, women, elderly, people with disabilities, foreigners, etc.*) to inform close relatives or other people of legitimate interest to them after being brought to detention is widely enshrined in legislation. These issues are also monitored within the activities of NPM.

The unimpeded and confidential reception of detainees by HRCA and NPG members at any time and the reception of their appeals is specified by a separate norm in the legislation and is applied in practice without any obstacles.

Detention conditions of facilities which individuals cannot leave on their own will

15. Consecutive visits were also made to educational, health and social institutions, and meetings with randomly selected children, persons with disabilities, women and the elderly persons in these institutions were held in order to investigate conditions and treatment issues, and the provision of their rights was investigated on the spot. The current situation, access to education and health services, social services and the provision of rights were analysed, and the identified needs were raised before the relevant authorities, and the implementation status was monitored.

16. There is a need for improved provision of modern psychological and social services in such institutions.

Issues related to the detention condition of penitentiaries

17. In addition to being included in the HRCA's annual and NPM reports, the issues related to detention conditions in the penitentiary facilities were also raised before the relevant authorities. As a result of visits, HRCA raised issues related to the detention condition in the Penitentiary Service Prison (Gobustan Prison), pre-trial detention facilities No. 2 and 3, Penitentiary Institution No. 4 (for sentenced women), the Juvenile Correctional Institution, and penitentiary institutions in general before the Ministry of Justice on the basis of suggestions and recommendations.

In November 2023 and January 2024, respectively, the Umbaki and Lankaran mixed penitentiary complexes were inaugurated. With the opening of these new facilities, some penitentiary institutions will no longer be overcrowded. The construction of another new penitentiaries is also underway. These measures were also covered in our recommendations.

18. Considering the construction of new buildings for penitentiary institutions, we raised issues regarding the organization of rehabilitation and reintegration measures, modern medical, psychological and social services, the rehabilitation of prisoners by involving them in social labour, including persons sentenced to life imprisonment, as well as creation of new production facilities for the involvement of prisoners in order to earn a certain salary to meet personal needs.

19. During the visits, the prisoners also complained about the quality of food. These issues are being raised by us to find a solution.

20. The right of detainees and convicts to engage in outdoor sports is not adequately ensured. One of the reasons for this is the shortage of staff in penitentiaries.

21. HRCA is a partner in the ongoing program "Support to Penitentiary Service Reform in Azerbaijan", which makes an important contribution to the development of management in the penitentiary system and professionalism of health services.

Information on the issues regarding medical service

22. HRCA encourages to improve access to health care and opportunities for medical assistance in her activities focused on institutions which persons cannot leave on their own will.⁵

⁵ <https://ombudsman.az/en/pages/119>

A doctor member of the NPG also participates in the visits carried out within the framework of NPM.

At the same time, the statistics of written appeals submitted to HRCA include issues related to the quality of medical care for detainees. In practice, appeals of those who are dissatisfied with the level of medical care are investigated and addressed within the framework of HRCA's activities. *This includes issues such as transfer to a medical institution, expediting the request for the arrival of the desired doctor.*

23. Amendments to the legislation based on the proposals made within the framework of NPM provides for a 24-hour medical examination by healthcare providers at facilities where detained persons cannot leave on their own will, including penitentiaries and detention facilities.

24. New amendments to the legislation create an opportunity for medical examinations in penitentiaries and places of detention to be carried out by medical specialists of the detainee's own choice or those who are invited.

25. One of the successful innovations in legislation is the provision of a mandatory norm on medical examination of detainees in the "Rules for the provision of medical care to detained or arrested persons, as well as their detention in medical institutions" approved by the Cabinet of Ministers of the Republic of Azerbaijan.

The Decision of the Cabinet of Ministers of April 8, 2020 provides for the improvement and expansion of the right of detainees to free psychological assistance in places of detention and detention centers for illegal migrants.⁶

The relevant Decision ensured the inclusion of the right to receive free psychological assistance in accordance with the Law of the Republic of Azerbaijan on Psychological Assistance in the internal disciplinary rules of pre-trial detention centers, temporary detention facilities and detention centers for illegal migrants.

26. There are problems in providing medical and social services to accused persons and prisoners with disabilities and mental problems in prisons and penitentiaries. Such difficulties are the assignment of disabilities to individuals suffering from mental and other diseases and kept at the hospital.

Another problem is to continue holding people suffering from mental illness in penitentiary institutions, or who have gone through significant changes in their mental health conditions during the imprisonment, which results in worsening of their mental health conditions.

By the Decision No. 4-N of the Board of the Ministry of Justice of the Republic of Azerbaijan dated November 29, 2011, the Rules for medical examination of prisoners suffering from serious diseases that prevent the imposition of punishment were approved.

⁶ <https://ombudsman.az/az/pages/120>

According to the rules, the Special Medical Expert Commission under the Ministry of Justice carries out such medical examination based on the submission given by administration of the penitentiary institution. Furthermore, the relatives of the person in question also may submit appeal to the court conduct such examination. Then the court review the issue relative to the release of that person.

Observations suggest that, in general, the practice in this area is not effective, and it is necessary to take adequate measures in the relevant area to take actions to place such persons in specialized psychiatric hospitals, rather than in penitentiaries.

Information on the issues of Mental Health

27. Initiatives for the development of medical services in the country, the reforms implemented, the overhaul and reconstruction of psychiatric hospitals, contribute to the work done to improve the material and living conditions of these institutions.

28. During the visits to psychiatric hospitals located in Baku, Ganja, Shaki, Salyan, it was observed that the institutions were overcrowded and rehabilitation programs were rather weak.

29. There is a need for the implementation of new approaches, as community-based programs for people with mental disorders, the creation of such living places, the expansion of out-of-ward employment opportunities and then taking appropriate measures in this area can all contribute to the effectiveness of treatment.

30. Our observations during the visits indicate that the country's mental health system is more likely operates in isolation from centralized services, the general health system and other sectors (social security, assigning disability degree, housing-utilities services, education, the justice system, etc.). Despite the availability of all types of medical services across the country, there is a need for the development of mental health services in terms of efficiency and accessibility at the primary health level.

31. In addition to the abovementioned, due to the dynamics of suicides observed in our daily lives, in parallel, there is a need to develop special programs for suicide prevention, including stress management, the mental health of children and youth, expand psychological rehabilitation, as well as increase attention to work in this area.

Information on the measures alternative to arrest and penalties alternative to deprivation of liberty

32. HRCA in the framework of activities as NPM raises issues such as the provision of the right to liberty and regularly submits proposals to the State authorities who has the right of legislative initiative.

33. The proposals of HRCA on application of measures alternative to arrest, raised during the budget discussions in the Parliament contributed to the acceleration of the process of establishing a Probation Service, as well as to the creation of modern production facilities for prisoners and the increase of funding for social services.

34. Proposals on the establishment and application of a Probation Service in the NPG reports were also adopted, and amendments were made to the Code of Execution of Punishments by introducing new Article 15-1, and issues related to probation, application of electronic means of control (51-2), execution of punishment in the form of restriction of liberty (51-1) have been enshrined into legislation, and already started to be applied in practice. In general, 12 new articles have been added to the Code.

35. In general, more than 40 articles of the Code have been amended in connection with the application of alternatives for arrest.

36. More than 10 new articles about the execution (467-1/467-11) on the application of electronic means of control (156-1) for the arrest in the Code of Criminal Procedure, the application of compulsory medical measures on a person to be released from criminal liability in connection with drug addiction have been added.

Exceptional cases for the implementation of pre-trial detention are listed, which is aimed at expanding the use of preventive measures especially house arrest and bail, that are alternative to arrest. Amendments to improve the norms of the Code regulating the issues related to arrest and preventive measures such as house arrest and bail have also been proposed.

37. The disciplinary measures against the officials who violated the rights of citizens or committed such acts in the course of activities is implemented as required by the law. The HRCA informed the relevant authorities regarding the violations committed by officials raised in the incoming complaints, as a result of which those competent authorities have taken appropriate measures such as dismissal, expulsion from the relevant agency and other disciplinary and criminal liability measures. Information on the measures taken in this direction is also included in the annual reports of HRCA.

Legal reforms

38. Within the framework of activity as NPM, HRCA cooperates with the authorities, as well as NGOs and international organizations to take measures and investigate by analysing the applications of detainees, arrested or convicted persons, their families and lawyers based on the visits to the places where persons cannot leave on their own will.

39. As a result, new normative-legal acts were adopted to provide effective human rights, as well as amendments and additions were made to the Criminal, Criminal Procedure, Execution of Penalties and Administrative Offenses Codes of the Republic of Azerbaijan, and decisions of central executive bodies.

Similar ongoing amendments to the legislation, institutional improvement policies serve to reducing the confinement and preferring the alternatives to detention measures, decriminalization in the country.

40. One of the most important novelties was the adoption of the Order on improving the operation of the penitentiary system, humanizing the penal policy and expanding the use of alternative punishment and procedural coercive measures not related to isolation from community signed by the President on February 10, 2017. This document marked a new stage of the reforms implemented for the purpose of effective provision of human rights.

As a result, approximately 300 norms were amended in the Criminal Code to more effectively ensure human rights.

41. Thus, in order to prevent the application of restrictions on the right to liberty of persons who committed crime and violated law, within the mandate of the NPM, HRCA cooperated with government agencies, civil society institutions in relevant areas, the proposals of HRCA regarding the amendments to 50 articles on applicable sections of the Criminal Code, especially the exemption from criminal liability were taken into consideration.⁷

42. In her 2020 report, the Ombudsman proposed that prisoners be allowed to contact with their family members and relatives through video communication. The Ombudsman also proposed relevant additions and amendments to the Code of Execution of Punishments.

The Code of Execution of Punishments was amended, and the prisoners were legally granted the right to hold video meetings. The establishment of this opportunity is important for strengthening the connections between the prisoner and his/her family, contributing positively to the rehabilitation process.

The experience of video meetings is already widely used in the penitentiary system. It is worth noting here that, the citizens of Armenia, who were convicted for crimes committed in the liberated territories of Azerbaijan, have also been able to maintain contact with their family members through video communication.

⁷ https://525.az/site/?name=xeber&duzelis=0&news_id=75580#gsc.tab=0

The Ombudsman has proposed to address in the legislation the issues related to providing certain hygiene products for female prisoners, as well as ensuring the supply of diapers and food for children. It's noteworthy that the draft decision of the Cabinet of Ministers on amending the relevant decision of the Cabinet of Ministers of the Republic of Azerbaijan regarding "Approval of the norms for the food and household needs of prisoners" has been prepared by the Penitentiary Service, and the Ombudsman's proposal regarding the provision hygiene products for female prisoners, as well as ensuring the supply of diapers and food for children was considered there.

43. Issues related to the treatment of detainees and prisoners, as well as the awareness of those persons about the charges against them and issues related to their rights were one of the concerns in NPM activity of HRCA.

As a result, the law on *"Provision of the rights and freedoms of detainees"* was updated, as well as *New internal disciplinary rules for temporary detention places and Pre-trial detention facilities* were approved in accordance with this document.

These rules regulate the issues such as the wide-scale provision of the rights of suspected and accused individuals, their responsibilities, admissions, registration, placement in cells, ensuring their health and safety, conducting forms of personal search, daily walks, meeting, phone communication, gift acceptance, household items security, in addition, specify the roles of relevant service employees working with people belonging to this group.

44. Decree of the President of the Republic of Azerbaijan dated April 3, 2019 "On deepening reforms in the judicial system" specified the priorities for strengthening reforms the field of judiciary, expansion of opportunities to appeal to the courts, increasing the transparency of the courts, increasing the efficiency of judicial proceedings, continuing the elimination of lengthy delays and other negative situations at a new stage in accordance with modern challenges and systematically, the future development of the judicial system.

45. The reforms implemented in the country at the new stage have enabled wide opportunities for the development of the judicial system, improvement of legislation, adoption of special state programs, facilitation of access to justice, modernization of the court and judicial infrastructure.

Draft Law on the protection of children from corporal punishment

46. The draft law on the Protection of children from corporal punishment was prepared by HRCA in cooperation with the UNICEF Country Office and submitted to the Milli Majlis. During the preparation of the draft law, the recommendations of the UN Committee on the Rights of the Child provided to the Government of Azerbaijan, as well as the recommendations of the UN Human Rights Council on the Universal Periodic Review were taken into account.

47. The draft law submitted to the Parliament specifies the legal and organizational basis for the prevention of corporal punishment of children in the Republic of Azerbaijan, legal and organizational basics of the fight against the use of all forms of corporal punishment, as well as the legal status of children suffered from corporal punishment, also intends to regulate the issues regarding the protection and assistance to children affected by the corporal punishment. At present, activities related to advocating for legislation are ongoing.

Juvenile Justice Reforms

48. The Office of HRCA, together with UNICEF, the Ministry of Justice and the Ministry of Internal Affairs, with the involvement of NGOs and practising lawyers, has begun to implement measures to speed up reforms in juvenile justice, improve practice, and increase the skills of those working in this field.

49. At the new stage, trainings aimed at strengthening skills were held on subject of “Administration of Juvenile Justice” involving court judges, employees of prosecutor's office, police, justice, health, education, social service and local executive bodies, NGO and practising lawyers.

50 Surveys were conducted on the existing difficulties in practice, the need to raise awareness of the police, prosecutors' offices, court and other authorities in order to make fair decisions, the need to improve the work with detained juvenile delinquents demonstrating unlawful behaviour, and regulatory documents covering prevention, referral and social adaptation issues were prepared.

51. One of the main needs in terms of the impact of reforms in the juvenile justice system on children in conflict with the law in the first instance is the reorganization of the Commission on Juvenile Affairs and Protection of the Rights of Minors under local executive authorities.

52. Activity of NPM also supports the improvement of national legislation and practice in this field and in general initiatives, implemented work and preventive measures in order to support legal reforms also contribute to Juvenile Justice reforms in the country.

53. HRCA continued to work on the implementation of preventive measures to be implemented on the basis of the national and international normative legal acts, UN Convention on the Rights of the Child, Beijing rules and Riyadh instructions.

54. Three-year Strategic Plan which aims to ensure the rights of children was adopted within the framework of NPM activity of HRCA. This document mainly emphasizes the juvenile justice reforms.

55. Along with practice, initiatives are also continued to improve the legislation in this direction.

56. HRCA also prioritizes the issue of the adoption of the Law on Juvenile Justice in her annual reports and reports on the activities of the NPM. Currently, HRCA continues the activities advocating for the relevant legislation in this regard.

Legal awareness activities and cooperation

57. Upon the initiative of the HRCA, topics related to the prevention of torture are included in the annual curriculum at the Police Academy of the Ministry of Internal Affairs of the Republic of Azerbaijan and the Academy of Justice of the Ministry of Justice and are taught by NPG members.

58. The curriculum includes international standards for the treatment and detention, documents on the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, as well as effective investigation of cases related to torture and other cruel, inhuman or degrading treatment or punishment and Principles on documentation (Istanbul Protocol) and recommendations for the country in the CAT, SPT and CPT reports.

59. This activity, which has been continued since 2016 in accordance with national and international law, is addressed to trainees and police officers at the Police Academy, candidates for judges at the Academy of Justice, persons admitted to Penitentiaries and medical services, and examination centers, including service officers working at temporary detention facilities, penitentiaries and pre-trial detention centers, as well as employees of the Migration and Border Service.

60. The trainings, which are attended by more than 200 service personnel per year, are important in terms of raising the awareness of NPM mandates, the treatment and conditions of detention of persons who cannot leave on their will, and the prevention of torture and ill-treatment.

61. Since 2016, the Office of HRCA, together with UNICEF, the Ministry of Justice and the Ministry of Internal Affairs, with the involvement of NGOs and practising lawyers, has launched the next phase of measures to accelerate reforms in the administration of juvenile justice, improve practice and increase the skills of those working in this field.

62. At the new stage, trainings aimed at awareness and strengthening skills were held on the basis of national legislation, international standards and practice and subject of these

trainings was “Juvenile Justice” involving court judges, employees of prosecutor's office, police, justice, health, education, social service and local executive bodies, NGO and practising lawyers.

63. The training focused on the challenges encountered in practice, the need to raise awareness of the police, prosecutor's office, court and other authorities in order to make fair decisions, the need to improve the work with juvenile delinquents who behave illegally and are detained, and their social adaptation.

64. In the course of the activity, attention was paid to improving the practical skills of the staff of HRCA's Office and staff participated in local and international projects implemented with relevant UN agencies, the European Union, other international and regional organizations, exchange of experience, seminars.

65. Strengthening the activity of NPM in Twinning project which intended as support for increasing opportunities of HRCA in the partnership of Germany and Poland in the framework of European Neighbourhood and Partnership Instrument was targeted, Trainings with the participation of CPT and other international experts, effective joint visits in institutions where meetings were held, exchange of experience in Greece, Poland and Portugal were organized.

Reports of National Preventive Mechanism

66. HRCA's NPM activity is organized on the basis of a three-year Strategic Plan. The plan was developed in collaboration with NPMs in Greece, Poland and Portugal.

67. A three-year Strategic Plan was adopted aimed at monitoring the status of children's rights separately as part of the NPM's activities.

The plan was developed with the participation of international experts of UNICEF and implemented based on joint monitoring.

68. HRCA's annual reports on the activity of NPM were published in Azerbaijani and English and posted on the official website of the institution⁸.

The recommendations of the UN Committee on the Rights of the Child to the Government of Azerbaijan, as well as the Universal Periodic Review of the UN Human Rights Council, the Committee Against Torture (CAT), the Subcommittee on Prevention of Torture (SPT) and the European Committee on Prevention of Torture (CPT) recommendations were taken into account during the compilation of reports.

⁸ <https://ombudsman.az/en/pages/32>

Information on the activities carried out during the COVID-19 pandemic

69. When a new type of coronavirus (COVID-19) infection was spreading rapidly in the world, HRCA has addressed the population of the country in the context of measures taken at the national level, and a series of measures have been initiated.⁹

70. From March 2020, the status of ensuring the rights of detainees in places where persons cannot leave on their will, including penitentiaries, detention centers¹⁰ for illegal migrants, education, health and social institutions¹¹, was monitored; relevant recommendations regarding the conditions of detention, treatment, awareness, expansion of access to medical and social services were made and their implementation and ensuring were monitored.

The recommendations are based on national legislation as well as UN documents, including the UN High Commissioner for Human Rights' Guidance on COVID-19, the recommendation of the SPT and the principles adopted by the CPT.

71. The statement and information containing the work done and the recommended issues within the framework of the NPM were disseminated and posted on the official website of the Ombudsman (www.ombudsman.az) in two languages.

The document envisaging the Recommendation of the Subcommittee on Prevention of Torture to the Member States and National Preventive Mechanisms on the Coronavirus Pandemic has also been disseminated by translating into Azerbaijani on the initiative of the Commissioner and applied in practice.

72. As a National Human Rights Institution, special approaches have been demonstrated in this area, and initiatives have been taken to implement the recommendations of the UN and other international organizations at the national level.

73. Due to the epidemiological situation, access to the HRCA was made available for all groups of the population. Everyone, including detainees in institutions and quarantine areas where they cannot leave on their will, has the opportunity to access to the Commissioner through “916” Call Center working 24 hours a day.¹² Commissioner also receives applications from the population electronically and through social networks (Facebook, X, and Instagram).

74. The activity of HRCA through its Regional Centers, covering also their surrounding districts and cities creates opportunities for the people in terms of on-site investigation of appeals from the regions and awareness activities.

⁹ <https://ombudsman.az/en/pages/121>

¹⁰ <https://ombudsman.az/en/pages/125>

¹¹ <https://ombudsman.az/en/pages/126>

¹² <https://ombudsman.az/az/pages/124>

75. It should be noted that as an NPM, HRCA continued to take preventive measures during the pandemic, and has established effective cooperation with relevant government agencies and civil society institutions to investigate and ensure received appeals.

76. Within the framework of NPM activity of HRCA, the initiatives, implemented preventive measures aimed at improving the national legislation and practice in this field, as well as to support legal reforms, in general, contributes to the assessment of existing difficulties and needs in practice and the implementation of appropriate measures.