

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	365
Land:	Aserbajdsjan
Kilde:	Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
Titel:	Concluding observations on the fifth periodic report of Azerbaijan
Udgivet:	5. juni 2024
Optaget på baggrundsmaterialet:	18. juni 2024

Committee against Torture

**Concluding observations on the fifth periodic report of
Azerbaijan^{*}, ^{**}**

1. The Committee considered the fifth periodic report of Azerbaijan¹ at its 2084th and 2087th meetings², held on 23 and 24 April 2024, and adopted the present concluding observations at its 2101st meeting, held on 6 May 2024.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation, and the responses provided to the questions and concerns raised during the consideration of the fifth periodic report.

B. Positive aspects

4. The Committee welcomes the ratification by the State party, in 2019, of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) Amendments to the Migration Code, regulating placement of foreigners and stateless persons in detention centres for migrants, on 16 December 2014;

(b) Presidential Order of 10 February 2017, improving the work in the prison system and expanding the use of alternative forms of punishment and non-custodial measures;

(c) Presidential Decree No. 1257 of 23 February 2017, increasing protections for unaccompanied migrant children;

(d) Amendments to the Code of Criminal Procedure, restricting the use of preventive detention and increasing the availability of alternatives to detention, on 1 December 2017;

^{*} The present document is being issued without formal editing.

^{**} Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

¹ CAT/C/AZE/5

² See CAT/C/SR.2084 and CAT/C/SR.2087

(e) The Law on Psychological Assistance of 7 December 2018, providing access for victims of trafficking in human beings to free psychological support;

(f) Amendments made to the Status of Refugees and Internally Displaced Persons Act and the Rights of the Child Act, improving access to education for individuals with refugee status, on 7 December 2018;

(g) Decree No. 387 of 10 December 2018 of the President of the Republic of Azerbaijan on Ensuring Continuous and Effective Activities of the Social Service Agency, providing for social rehabilitation of victims of trafficking in human beings;

(h) Amendments made to the Youth Policy Act, aimed at protecting young people considered to be at risk, on 5 March 2019.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

(a) The establishment of the Probation Service, within the Ministry of Justice, to facilitate the effective enforcement of non-custodial sentences, in 2018;

(b) The State Program for the development of Azerbaijani justice for 2019-2023;

(c) The National Action Plan on combating domestic violence for 2020-2023;

(d) The National Action Plan on combating human trafficking in the Republic of Azerbaijan for 2020-2024

(e) The Strategy on children in Azerbaijan for 2020-2030 and the associated action plan for its implementation for the period 2020-2025;

(f) The establishment of the Department for the Social Rehabilitation of Victims of Domestic Violence, in 2021;

(g) The National Action Plan on gender equality for 2023-2025.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations, the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: the eradication of widespread torture and ill-treatment, the eradication of arbitrary imprisonment and alleged torture of human rights defenders, and the respect of fundamental legal safeguards³. In the light of the information included on these matters in the follow-up report submitted by the State party on 8 December 2016, and with reference to the letter dated 20 August 2018, the Committee considered that initial steps towards the implementation of the recommendations included in paragraphs 9 and 11 of the previous concluding observations had been taken, and that substantive steps had been taken towards the implementation of the recommendations included in paragraph 13, though further action was needed. The outstanding issues addressed in the previous concluding observations are covered in paragraphs 12, 16 and 20 of the present concluding observations.

Definition and criminalization of torture

8. While noting the prohibition of acts of torture in the State party's Criminal Code, inter alia, under article 133, the Committee is concerned that the Code does not fully incorporate in domestic law the obligations related to the criminalization of acts defined as torture under the Convention (arts. 1, 2, 4 and 16).

9. **The Committee recommends that the State party amend its legislation to ensure compliance with all relevant provisions of the Convention, including by ensuring that:**

³ CAT/C/AZE/CO/4, para. 40.

(a) The prohibition of torture, as defined in the Convention, is established as absolute and non-derogable in national legislation, and that no exceptional circumstances, including a state of emergency or threat of war, can be used to justify the use of torture;

(b) An order from a superior officer or public authority may never be invoked as a justification for torture, and that there is no exception to this rule, including in cases where such orders are not “obviously illegal”;

(c) Legislation clearly provides criminal liability for any attempt to commit torture or any act which constitutes support or complicity in torture, including liability for any superior or commander who is, or should be, aware that a subordinate is carrying out or may carry out an act of torture but fails to take appropriate action to prevent the act;

(d) The law establishes penalties for those responsible for the crime of torture that are commensurate with the gravity of the crime, as set out in article 4(2) of the Convention;

(e) In order to safeguard against the possibility of impunity for the investigation of acts of torture and the prosecution and punishment of perpetrators, the offence of torture is not subject to any statute of limitations.

National Human Rights Institution and National Preventive Mechanism

10. While appreciating the statements by the State party regarding recent legislative reforms aimed at increasing the independence and effectiveness of the Human Rights Commissioner (Ombudsman) and National Preventive Group, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the Committee remains concerned regarding reports, including from the Global Alliance of National Human Rights Institutions, that the Office of the Human Rights Commissioner of Azerbaijan has not effectively carried out its functions in a manner that promotes protection for human rights in response to credible allegations of serious human rights violations committed by government authorities, and that the failure to do so reflects a lack of its independence (arts. 2, 11 and 16).

11. **The State party should take all measures needed to guarantee the independence of its national human rights institution, including through ensuring its full compliance with the Paris Principles. In doing so, the Committee invites the State party to seek technical and capacity-building support and advice from the Office of the United Nations High Commissioner for Human Rights and, in the case of its activities relating to its work as the National Preventive Group, from the United Nations Subcommittee on the Prevention of Torture.**

Fundamental legal safeguards

12. The Committee expresses its serious concerns about widespread reports regarding the State party’s failure, in practice, to afford all persons deprived of liberty with all fundamental legal safeguards from the very outset of their deprivation of liberty, notwithstanding the existence of legislation that would appear to provide for such safeguards as a matter of law, including serious concerns about:

(a) Failures to inform individuals of their rights, and any charges against them, from the very outset of their deprivation of liberty, or of the rights and obligations that they have upon entering remand centres and prisons, including in a language they understand;

(b) Denials of access to a lawyer of one’s own choice, refusals of the authorities to accept documentation needed from lawyers to access their clients, failures to respect confidentiality between lawyers and their clients, including situations in which clients are only able to meet with lawyers in front of officials who are alleged to have abused them, delays in allowing lawyers access to their clients, including until after the authorities have questioned the client or until after the client has signed a confession, and the ineffectiveness of ex officio lawyers, including complaints that the system of ex officio legal aid fails to operate as an effective legal safeguard against torture and ill-treatment. The Committee is

further concerned by reports of lawyers representing clients who allege torture or ill-treatment being disbarred or reprimanded by the Bar Association, which lacks sufficient independence from the government, or being detained on other charges, such as tax evasion or abuse of authority, and of other allegations of the physical and judicial harassment of lawyers representing clients who allege being subject to torture or ill-treatment or who are otherwise involved in politically-sensitive cases;

(c) Failures to provide individuals the opportunity to inform their family members, legal counsel, or other persons of their choice of their detention, and the holding of persons incommunicado or in undisclosed locations;

(d) Failures to respect the right of persons to request and receive an examination by an independent medical doctor free of charge, or by a medical doctor of their own choice, in full confidentiality, noting reports, inter alia, that medical examinations provided by the State, if and when performed, are habitually perfunctory, routinely fail to adequately record and report injuries, and are performed in a manner that does not respect the principle that such examinations should be conducted out of hearing and sight of police officers and prison staff, unless the doctor involved explicitly requests otherwise⁴;

(e) Routine reliance on evidence obtained through torture or ill-treatment in the course of judicial proceedings (arts. 2, 15 and 16).

13. The State party should ensure that all fundamental legal safeguards are guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty, including:

(a) The right to be informed of their rights, how to exercise those rights, the reason for their arrest, and any charges against them, in a language they understand and in an accessible manner, and to be fully informed of their rights and obligations, including avenues to lodge complaints, in a language they understand immediately upon entry to places of deprivation of liberty, including pretrial detention centres and prisons;

(b) The right to access and consult with a lawyer of their own choosing and have the confidentiality of private meetings guaranteed, including prior to interrogation, and, if necessary and applicable, to access free, independent, and effective legal aid. In this regard, the State party should ensure the independence of lawyers, including by, inter alia, ensuring that the Law on Lawyers and Legal Practice is brought fully in line with the Basic Principles on the Role of Lawyers (the Havana Principles) and other relevant international standards, and by promptly investigating and prosecuting all acts of harassment against lawyers, and should take effective measures to ensure against reprisals of any kind against lawyers for representing persons who allege being tortured or ill-treated or who are otherwise involved in politically-sensitive cases;

(c) The right to notify a relative or another person of their choice of their detention immediately upon apprehension;

(d) The right to request and receive, from the very outset of their deprivation of liberty, an examination by an independent medical doctor free of charge, or by a medical doctor of their own choice, in full confidentiality. In this regard, the State party should ensure that all alleged cases of torture and ill-treatment are promptly medically documented in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), as revised, and that registers containing information on injuries and other medical conditions of detainees are carefully maintained, and should consider placing all health care personnel under the responsibility of the Ministry of Health;

(e) The right not to be subjected to torture or ill-treatment, including as a means for being compelled to make a confession or any other statement, and the right

⁴ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised, para. 16(a)(iii).

not to have any such statement used as evidence against the victim in any proceeding. In this regard, the State party should deliver a clear and effective message at the highest possible level that the use of such tactics will not be tolerated, and should review cases in which convictions may have been based on such statements or evidence derived from such statements.

Principle of non-refoulement

14. The Committee is concerned that the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act does not provide protections against refoulement for individuals at risk of being subjected to torture unless they also fit within the definition of “refugee” as defined by that Act. The Committee particularly expresses its deep concern over extraditions and renditions of individuals with perceived or real affiliations to the Hizmet/Gülen movement to Türkiye, including in cases where such individuals have pending asylum claims or in cases where extradition proceedings had not been concluded or where the case was the subject of a request for interim measures by the Committee, despite the existence of substantial grounds for believing that they would be in danger of being subjected to torture, as evidenced by decisions of the European Court of Human Rights⁵, the United Nations Working Group on Arbitrary Detention⁶, and by the Committee itself, including its decision in communication No. 905/2018⁷ (arts. 2, 3, 11, 13, 14 and 16).

15. The State party should ensure that no person is expelled, returned or extradited to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture. In particular, the State party should:

(a) **Ensure that domestic law prohibits expulsion, return or extradition where there are substantial grounds for believing that a person would be in danger of being subjected to torture, regardless of whether the person fits within the definition of refugee under the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act;**

(b) **Immediately cease all extrajudicial extraditions and renditions, including of individuals with perceived or real affiliations with the Hizmet/Gülen movement;**

(c) **Ensure that in all cases where requests for extradition are received, individuals forming the object of such requests are provided with the opportunity to judicially challenge their extradition, and appeal extradition decisions, and that such challenges and appeals have suspensive effect;**

(d) **Ensure that each individual case is thoroughly assessed, taking into account both the overall situation with regard to torture in the country of return or extradition and the individual risk that an individual may face upon return;**

(e) **Ensure the implementation of the interim measures and decisions of international human rights mechanisms in good faith, including in cases such as the decision of the Committee in communication No. 905/2018.**

Allegations of torture and ill-treatment

16. The Committee is alarmed by widespread and persistent reports of the routine use of torture and ill-treatment in the State party, most notably by members of the State Security Service and by personnel of the Main Department for Combating Organized Crime of the Ministry of Internal Affairs. According to the information available to the Committee, including the reports of international monitoring mechanisms and decisions of the European Court of Human Rights, detained individuals appear to be frequently beaten by law enforcement officials with the aim of extracting confessions. In more harrowing cases, allegations include the use of electric shocks, beatings on the soles of the feet (falaka), binding with ropes in contorted positions, simulated suffocation, extraction of fingernails, and sexual violence as a means of torture. The Committee is also concerned over reports of

⁵ *Shenturk and others v. Azerbaijan*, Application No. 41326/17, Judgment, 10 March 2022.

⁶ A/HRC/WGAD/2019/10.

⁷ CAT/C/74/D/905/2018.

excessive use of force by law enforcement officials in the context of demonstrations, for instance in connection with events in Soyudlu village in 2023. While noting at least one instance where authorities have publicly acknowledged the use of torture, the Committee is concerned by repeated high-level statements which appear to support the excessive use of force by law enforcement and promote impunity (arts. 2, 4, 11-13, 15 and 16).

17. The State party should:

(a) **Adopt a zero-tolerance approach to torture and ill-treatment and issue a clear and effective message from the highest possible level that torture and ill-treatment are unacceptable under all circumstances, so as to ensure individual accountability and protection against acts of torture and ill-treatment;**

(b) **Carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;**

(c) **Prosecute all persons suspected of having committed torture or ill-treatment, and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner;**

(d) **Make and maintain video recordings of all interrogations and install closed-circuit television (CCTV) in all areas of places of deprivation of liberty where detained individuals may be held, except where doing so would give rise to violations of detainees' right to privacy or the confidentiality of their conversations with their counsel or doctor, and ensure that persons who have made allegations of torture and ill-treatment and their representatives are provided with access to recordings which concern them;**

(e) **Provide all police officers, especially those deployed to control demonstrations, with systematic training on the use of force, based on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. The State party should also consider incorporating the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests⁸ into its training curricula and should ensure that those responsible for excessive use of force are held to account.**

Conditions of detention

18. While noting recent efforts to improve conditions of detention in the State party, including through the construction of new penitentiary facilities in Zabrat, Umbaki and Lankaran, and through reforms implemented through Presidential Order No. 2668 of 10 February 2017, the Committee remains concerned that:

(a) Several prisons and pretrial detention centres continue to have poor material conditions, including crumbling walls, humidity, poor ventilation, lack of access to natural light, and insalubrious conditions, notably Ganja Pretrial Detention Facility No. 2 and Shuvalan Pretrial Detention Facility No. 3;

(b) Many places of deprivation of liberty continue to suffer from high rates of overcrowding, such as in Baku Pretrial Detention Facility;

(c) Prisons and pretrial detention centres lack sufficient medical equipment and medicines and do not have adequate programmes to tackle drug use among detainees, including opioid substitution therapy, and infections associated with narcotic consumption;

⁸ A/HRC/55/60.

(d) Comprehensive data regarding the number and causes of deaths in custody, along with investigations and prosecutions regarding deaths in custody, was not provided to the Committee;

(e) Prisons and pretrial detention centres suffer from shortages in custodial and medical staff, including nurses and staff qualified in the provision of psychological and psychiatric assistance;

(f) Corruption among prison guards remains a problem, and prisoners are sometimes required to pay for access to basic services which they should be entitled to free of charge;

(g) Prisons and pretrial detention centres lack sufficient meaningful activities, such as educational or vocational training, that contribute to the social reintegration of detainees and the ability to engage in work while in detention;

(h) Solitary confinement may continue for periods beyond 15 days, and medical doctors are involved in certifying prisoners as fit to undergo punishment, having a detrimental effect on their relationship with patients. In addition, while the Committee welcomes information that solitary confinement is no longer used on children in practice, it is concerned that the placement of children in solitary confinement is still permitted by law (arts. 2, 3, 11 and 16).

19. The State party should:

(a) **Continue its efforts to improve the conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures and the recruitment of an adequate quantity of trained staff. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Ensure that all necessary measures are taken to ensure the right of persons deprived of their liberty to the highest attainable standard of health, inter alia through the provision of the necessary human, material, and financial resources, including the hiring of an increased number of physicians, nurses, psychiatrists, and other medical personnel, and through the introduction of drug rehabilitation programs which provide not only psychological and social assistance, but which also provide effective and continued medical interventions for detainees suffering from different forms of addiction;**

(c) **Adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and maintain up-to-date and disaggregated data on deaths in custody as a measure by which to more effectively prevent them;**

(d) **Assess the effectiveness of strategies and programmes for the prevention of suicide, self-harm, and violence, evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons, and continue improving medical treatment in places of deprivation of liberty, particularly in pretrial and temporary detention facilities;**

(e) **Take judicial and disciplinary proceedings, as well as preventive measures, against officials and other custodial personnel responsible for corruption in the penitentiary system;**

(f) **Take steps to strengthen access to rehabilitation and reintegration programmes in all places of deprivation of liberty, including by providing all detainees with meaningful activities, vocational training, and education, with a view to supporting their rehabilitation in the community;**

(g) Use solitary confinement only in exceptional cases as a last resort, for as short a time as possible (no more than 15 days) and subject to independent review, and only upon authorization by a competent official, in accordance with rules 43 to 46 of the Nelson Mandela Rules. The use of solitary confinement on children should be prohibited by law.

Harassment of human rights defenders and journalists

20. The Committee is concerned that human rights defenders and journalists continue to face both physical and judicial harassment, and in some cases are subjected to torture and ill-treatment. In this regard, the Committee notes allegations concerning the torture of human rights defender Tofiq Yagublu, the violent abduction and torture of human rights defender Bakhtiyar Hajiyeu, and the arrests of and denial of medical treatment for journalists Avaz Zeynalli and Alasgar Mammadli, and is concerned that full, independent and effective investigations into these allegations and prosecutions of the perpetrators of these and other incidents have not taken place. The Committee is also concerned over allegations regarding shrinking civic space and suppression of independent voices in the State party more generally, including arrests of journalists associated with Abzas Media and Toplum TV, the imposition of burdensome or prohibitive legal, financial, and administrative requirements for civil society and media organizations, such as those contained in the Law on Media, and the high number of arrests and detentions in the State party that are reported to have been made on the basis of alleged political motives (arts. 2, 4, 11-13 and 16).

21. The State party should ensure that all human rights defenders and journalists are able to carry out their legitimate work in an enabling environment, free from threats, reprisals, violence, or other forms of harassment, and, mindful that a free and vibrant civil society is a key element in the prevention of torture and ill-treatment, the State party should amend its legislation in line with international standards regarding the regulation of civil society and media organizations, respecting their rights to freedom of expression, association and peaceful assembly. The Committee also recalls and reiterates its previous recommendations⁹ to release all human rights defenders and journalists who are arbitrarily detained as a result of exercising their rights to defend rights and freely express themselves, and investigate promptly, thoroughly, and impartially all allegations of arbitrary arrest, denial of adequate medical treatment, and other torture or ill-treatment of human rights defenders and journalists, including those listed above, prosecute and punish appropriately those found guilty, and provide victims with redress.

Conflict in Nagorno-Karabakh

22. The Committee is deeply concerned by reports of severe and grave violations of international humanitarian law and human rights law committed by Azerbaijani military forces against prisoners of war and other protected persons of Armenian ethnic or national origin, including extrajudicial killings, torture and other ill-treatment, and the recording and dissemination of videos that appear to depict horrifying acts involving beheadings of live individuals, desecration and mutilation of corpses, and acknowledgment on-camera by the perpetrators of responsibility for such abuses in a manner that strongly suggests they did not fear being held accountable. The Committee notes the information provided by the State party regarding efforts to prosecute five cases, though, according to the information provided, none of the sentences imposed in those cases were for extrajudicial killings, torture or ill-treatment, and no sentence required the imprisonment of any offender. The Committee underscores the need for independent, impartial, transparent, and effective investigations into allegations of extrajudicial killings, torture and ill-treatment, and the prosecution of those responsible. The Committee also expresses its deep concern regarding the State party's conduct of what it describes as anti-terrorism operations, including its concern regarding the continued detention of what it describes as 23 individuals in connection with terrorism and related offences (arts. 2, 4, 11-13, 15, 16).

⁹ CAT/C/AZE/CO/4, paras. 11(a) and 11(b).

23. The Committee underscores that the prohibition of torture is non-derogable, that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture, and that the obligations stemming from this prohibition are not subject to reciprocity. The Committee also recalls that the Geneva Convention Relative to the Treatment of Prisoners of War applies to all cases of armed conflict between two High Contracting Parties, including outside of cases of declared war. In this regard, the Committee recommends that that State party:

(a) Make clear at the highest levels that any violations of international humanitarian law and human rights law related to the conflict in the region, or otherwise related to the treatment of ethnic or national Armenians, are totally unacceptable, conduct prompt, independent, impartial, transparent and effective investigations into all allegations of violations of international humanitarian law and human rights law committed by Azerbaijani service members and law enforcement officials in the context of hostilities in the region and the capture of combatants, including allegations of extrajudicial executions, torture and ill-treatment, prosecute and punish appropriately those determined to be responsible, and provide victims or their families with redress and compensation;

(b) Ensure that investigations and prosecutions include the acts of any persons in a position of command or superior responsibility who knew or should have known that his or her subordinates had committed, or were likely to commit, extrajudicial executions, torture or ill-treatment, or other war crimes, and failed to take reasonable and necessary preventive measures;

(c) Ensure that international humanitarian law is applied during all international and non-international armed conflicts to which the State party is a party, including relevant and applicable provisions relating to the detention, immunity and release of combatants, the establishment of a central tracing agency, and the access of the International Committee of the Red Cross to all premises where prisoners of war may be held;

(d) Consider acceding to the Rome Statute of the International Criminal Court or, at a minimum, accepting the jurisdiction of the Court by making a declaration under article 12 (3) of the Rome Statute, and otherwise cooperating with the Court.

Hate crimes, hate speech and discrimination

24. The Committee is concerned over the effect that discriminatory statements made by high-level officials and disseminated in both online and offline media may have in creating an environment that greatly increases the likelihood of the commission of violence against persons of Armenian national or ethnic origin and other minority groups. The Committee is similarly concerned over the low number of prosecutions and convictions under article 283 of the Criminal Code, and regrets that article 283 does not criminalize incitement to violence, nor does it expressly include the grounds of colour, language, citizenship or ethnic origin as bases for discrimination (arts. 2, 4, 11-13 and 16).

25. The State party should publicly condemn hate speech, threats and attacks against persons of Armenian national or ethnic origin and all other minority groups, at the highest levels, and refrain from endorsing, through action or omission, such threats and attacks by ensuring their prompt, thorough and effective investigation, whoever the perpetrator may be, including any alleged discriminatory motives that may provoke such actions, guaranteeing that those responsible are tried and punished in accordance with the gravity of their acts.

Lesbian, gay, bisexual and transgender persons

26. The Committee is concerned over reports of violence, hate crimes and discrimination against lesbian, gay, bisexual and transgender persons in the State party, including violence and acts of humiliation carried out by State officials. The Committee similarly regrets information received indicating that complaints of violence, harassment and ill-treatment of lesbian, gay, bisexual and transgender persons are not adequately investigated or prosecuted.

The Committee is also concerned that no provision in the State party's legislation expressly criminalizes hate crimes, hate speech or discrimination on the grounds of sexual orientation or gender identity.

27. The State party should take measures to prevent violence and discrimination against lesbian, gay, bisexual and transgender persons on the basis of their sexual orientation and gender expression or identity, and ensure that all acts of violence against lesbian, gay, bisexual and transgender persons, including those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation and rehabilitation. The State party should also consider expressly criminalizing hate crimes and hate speech targeted at lesbian, gay, bisexual and transgender persons, and consider including sexual orientation and gender identity as a prohibited form of discrimination in its domestic legislation.

Gender-based and domestic violence

28. The Committee is concerned that gender-based and domestic violence continue to pose a problem in the State party, that there is an environment that adversely affects the willingness of victims to come forward with complaints, and that the complaints of victims that are brought forward often do not lead to investigations or prosecutions. The Committee is also concerned that studies carried out by authorities in 2023 failed to uncover any cases of sexual violence in the State party (arts. 2, 12-13 and 16).

29. The State party should ensure that all acts of gender-based and domestic violence, including those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, including through the initiation of ex officio investigations, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation and rehabilitation. The State party should also take necessary measures to prevent all forms of violence against women, provide mandatory training on sexual and gender-based violence for law enforcement officials, social workers, medical personnel, lawyers, prosecutors, and judges, and consider becoming a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).

Corporal punishment

30. While welcoming that corporal punishment is considered unlawful in schools, the Committee is concerned that the State party's legislation has not been interpreted as prohibiting corporal punishment in all settings, including the home, alternative care settings, or early childhood care, despite recommendations accepted by the State party to this effect during the first, second and third cycles of the Universal Periodic Review (arts. 2 and 16).

31. The State party should explicitly prohibit the use of corporal punishment in all settings, including at home and in institutional child- and day-care centres where adults exercise parental authority over children, and raise public awareness of positive, participatory, and non-violent forms of discipline. It should also consider adopting the draft Law on Protection of Children from Corporal Punishment and ensure its conformity to international standards.

Training

32. The Committee welcomes the efforts of the State party to include the Istanbul Protocol, as revised, into its training curricula for medical professionals, judges, and law enforcement officials. It similarly welcomes the incorporation of training on the Convention. It regrets, however, that instruction on the Convention does not form part of the mandatory initial and ongoing training of all law enforcement personnel (art. 10).

33. **The Committee recommends that the State party provide mandatory training on the provisions of the Convention for all law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. It also recommends that the State party ensure that the Istanbul Protocol, as revised, forms an essential part of the training of all medical professionals and other public officials working with persons deprived of their liberty. In this regard, the State party should develop methodologies to assess the impact of these training programmes. The State party should also consider incorporating the principles on effective interviewing for investigations and information gathering, known as the “Méndez Principles”, into future initiatives to review and revise interrogation techniques.**

Publication of reports

34. The Committee regrets that several reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the United Nations Subcommittee on Prevention of Torture remain unpublished and underscores that the enhanced transparency that can be achieved through the publication of such reports can serve to greatly enhance trust in the criminal justice system and confidence in the commitment of the authorities to combat all traces of torture and ill-treatment.

35. **The Committee urges the State party to agree to the publication of all past, pending, and future reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the United Nations Subcommittee on Prevention of Torture.**

Investigation and prosecution of acts of torture and ill-treatment

36. The Committee regrets that the State party did not provide detailed statistical information regarding the number of complaints, investigations, prosecutions and convictions regarding torture and ill-treatment, along with detailed information on sentences handed down. Regarding the effectiveness of independent investigations, the Committee is concerned that law enforcement officials implicated in acts of torture and ill-treatment may be involved in the collection of evidence related to the alleged offence. It is also concerned over allegations that prison administration and detention centre officials monitor correspondence with judicial authorities and the Ombudsman involving complaints of torture and ill-treatment, supervise lawyer-client meetings, and have limited lawyers from bringing documents in and out of detention centres (arts. 2, 4, 11-13 and 16).

37. **The State party should ensure that all complaints of torture or ill-treatment are investigated promptly and impartially by an independent institution, that suspected officials are suspended from duty immediately for the duration of the investigation, particularly where there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim, interfere in the collection of evidence, or otherwise obstruct the investigation, subject to the principle of the presumption of innocence, and ensure that the alleged perpetrators are duly prosecuted and, if found guilty, given a sentence commensurate with the gravity of their acts. The State party should similarly ensure, in both law and practice, that authorities are empowered and obliged to open an investigation ex officio in the absence of a complaint whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed. The Committee further recommends that the State party guarantee an independent, effective, confidential, and accessible complaints mechanism in all places of detention, including prisons and police custody facilities, and protect victims and witnesses, and members of their families, from any risk of reprisals.**

Redress

38. While the Committee notes information provided by the State party regarding access to compensation for victims of torture, it regrets that no information was provided regarding

the number of instances in which victims of torture and ill-treatment have received monetary compensation, or on the amounts received (art. 14).

39. The State party should ensure that all victims of torture and ill-treatment obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible. The State party should compile and provide to the Committee information on redress, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment. The State party may further consider contributing to the United Nations Voluntary Fund for Victims of Torture.

Data collection

40. The Committee regrets the failure of the State party to provide to the Committee comprehensive and disaggregated statistical data on cases of torture and other cruel, inhuman or degrading treatment or punishment, including allegations of police violence and excessive use of force, and on other matters for which the Committee requested such data. The Committee notes that a focused and coordinated system of data compilation and analysis is necessary to effectively monitor the State Party's implementation of its obligations under the Convention (arts. 2, 11-13 and 16).

41. The State party should intensify its efforts to compile and publish comprehensive disaggregated statistical information on all matters relevant to its obligations under the Convention, including on all complaints and reports received of torture, ill-treatment, excessive use of force and abuse of power concerning public officials, including information on whether such complaints led to investigations and, if so, by which authority, whether the investigation resulted in the imposition of disciplinary measures or prosecutions, and whether the victims obtained redress.

Follow-up procedure

42. The Committee requests the State party to provide, by 10 May 2025, information on follow-up to the Committee's recommendations on access to and independence of lawyers; the adoption of a zero-tolerance approach to torture; the protection of human rights defenders and journalists; and the investigation and prosecution of violations of international humanitarian and human rights law in connection with hostilities in the region (see paras. 13(b), 17(a), 21, and 23(a) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the present concluding observations.

Other issues

43. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about its disseminating activities.

44. The Committee requests the State party to submit its next periodic report, which will be its sixth, by 10 May 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.
