



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

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## Committee against Torture Fifty-sixth session

### Summary record of the 1360th meeting

Held at the Palais Wilson, Geneva, on 11 November 2015, Wednesday, at 10 a.m.

*Chair:* Mr. Grossman

*later:* Mr. Tugushi (Vice-Chair)

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** (*continued*)

*Fourth periodic report of Azerbaijan* (CAT/C/AZE/4; CAT/C/AZE/Q/4; HRI/CORE/AZE/2008)

1. *At the invitation of the Chairperson, the delegation of Azerbaijan took places at the Committee table.*

2. **The Chair** invited the delegation of Azerbaijan to introduce the fourth periodic report.

3. **Mr. Khalafov** (Azerbaijan) said that his country's fourth periodic report had been drawn up by a working group consisting of representatives of the relevant ministries and agencies and with the participation of the Ombudsman and national human rights organizations. The fact that the country's delegation comprised many high-ranking officials testified to the importance his Government attached to its cooperation with the Committee.

4. The Subcommittee on Prevention of Torture had carried out a mission to Azerbaijan in April 2015, and in 2016 a delegation of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders were due to visit the country. As Azerbaijan had also acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, members of the Council of Europe Anti-Torture Committee too had been carrying out visits to prisons and places of detention. Under an agreement concluded in 2000 with the International Committee of the Red Cross, that organization carried out visits to persons deprived of their liberty in Azerbaijan. In the first 10 months of 2015, 37 such visits had taken place.

5. Pursuant to the second national plan of action on the protection of human rights, a number of measures had been taken to improve the justice system and prison oversight. Among those were the establishment of an electronic portal and web-based services that substantially improved the legal assistance afforded by the justice system and ensured openness and efficiency. A joint programme conducted with the World Bank had introduced new information and communication technologies for the administration of justice. Since 2005, the Judicial Council had exercised oversight of the judiciary and had recently instituted over 200 disciplinary proceedings, eventually imposing disciplinary sanctions on 28 judges, including 17 who were removed from their posts, and issuing warnings to dozens of others. Work was proceeding on the construction, in accordance with the recommendations of international organizations, of six new prisons, including three in remote areas.

6. The functions of the Public Affairs Committee had been extended and strengthened with amendments to the relevant legislation. That body regularly monitored conditions of detention in the country's prisons. Since 2013, it had carried out over 230 visits. A Commission consisting of officials of the Ministry of Justice, the Prison Service and members of the Public Affairs Committee was another body authorized to conduct prison visits without hindrance; it had in recent years recommended the release or transfer of some 3,800 convicted prisoners, and its recommendations were implemented in over 96 per cent of cases.

7. The Government was continuing to combat corruption. In 2015, the law enforcement body responsible for combating corruption had opened 146 criminal cases and secured some 30 million dollars in compensation for damages. A special agency, the ASAN Service, had since 2012 been implementing reforms to facilitate

access to hundreds of State services through electronic means, to reduce costs and to save the time of citizens. Such steps increased confidence in State bodies, strengthened transparency and helped to combat corruption. The ASAN Service had received the United Nations Public Service Award in 2015. At the international level, the Government had placed priority on combating corruption during its chairmanship of the Committee of Ministers of the Council of Europe in 2014. It had held a conference on the question in Baku in July 2014.

8. In 2015, the State Committee on the Family, Women and Children had established a special database to centralize information concerning the victims and perpetrators of domestic violence. Projects for a national family strategy and children's code and a national plan of action on gender equality had been drawn up as part of the "Azerbaijan 2020: Look into the Future" development programme. A third national plan of action for combating human trafficking was currently being implemented and included preventive and protection measures, as well as rehabilitation for victims. Seven non-governmental organizations (NGOs) had recently been given responsibility for setting up shelters for victims of domestic violence; such centres now existed in Baku, Sumgait and Ganja. Local government bodies had set up coordination councils for the prevention of domestic violence. In 2015, over 4,200 reports of criminal acts against women had been recorded and 2,150 people had been convicted for such acts. In the same period, 14 people had been convicted for criminal assault and 21 had been convicted for human trafficking or forced labour. Of 56 persons identified as victims of human trafficking, 48 had been placed in shelters run by the Ministry of Internal Affairs and 33 had received help from an assistance fund for victims of human trafficking.

9. The Ombudsman had been appointed as the national preventive mechanism under the Optional Protocol to the Convention. In the first half of 2015, 179 scheduled and 51 unscheduled visits to places of detention had been conducted by the mechanism, and some 200 proposals and recommendations for the improvement of legislation had been issued by the Ombudsman. Over 70 per cent had been implemented.

10. The Government continued to support the development of civil society by conducting legislative and institutional reforms. The use of an electronic window facilitated communication between NGOs and government agencies. Domestic law did not call for the mandatory registration of local NGOs; they were free to carry out their activities without registering. Commercial entities and representatives and branches of foreign legal entities did, however, have to register. In 2014, the Ministry of Justice had registered the allocation of grants totalling some 69 million dollars, most of which had been earmarked for NGOs.

11. Owing to the occupation of parts of Azerbaijan in the context of the Nagorno-Karabakh conflict, the Government was unfortunately unable to fulfil its international human rights obligations in parts of the country. The armed aggression by Armenia against Azerbaijan had given rise to grave breaches of international humanitarian law and serious human rights violations, including extrajudicial executions, mass killings, torture and the targeting of civilians. Over 4,000 persons were missing, and numerous reports indicated that some were being illegally held captive in Armenia and subjected to torture and other cruel and inhuman forms of treatment. According to information at the Government's disposal, 554 citizens of Azerbaijan had died in Armenian captivity. Two persons, Dilgam Asgarov and Shahbaz Guliyev, had been taken hostage in July 2014. His delegation requested that the Committee pay special attention to the fate of such captives.

12. **Mr. Tugushi** (Country Rapporteur) welcomed the fact that the Government had recently amended its law to bring the definition of torture closer into line with the

requirements of the Convention, that it had in 2012 adopted a law on the rights of persons deprived of their liberty and that the national preventive mechanism had begun regularly visiting persons detained by the police. That notwithstanding, torture in Azerbaijan remained a serious concern. Specifically, according to Government statistics and reports from civil society organizations, there was a nearly total absence of prosecution of perpetrators of torture and similar acts. In a country with a population of 9 million, far from being a positive sign, that indicated a fundamental problem and dysfunction in the system for the prevention of such crimes.

13. The legal guarantees for detainees of prompt access to counsel and medical examinations and the right to be informed of their rights and to report their whereabouts to their next of kin were not regularly implemented. The Committee had received reports that detainees often obtained access to lawyers only after police interrogation and sometimes even during their initial hearings in court. Many defendants had no choice of counsel, but were assigned *ex officio* lawyers, who often sat silent through proceedings and took no action at all.

14. For lawyers, it was reportedly dangerous to actively defend the accused. In a number of cases involving human rights defenders, defence lawyers had been harassed, summoned and subjected to disciplinary action or even disbarred or arrested. He cited, for example, the cases of Javad Javadov and Khalid Bagirov, who had defended Ms. Leyla Yunus and her husband, and the defence lawyer for Rasul Jafarov and Ilgar Mammadov, which had resulted in the disbarment of defence lawyers.

15. Some progress had been made in ensuring detainees' access to medical care, especially in the major cities. However, the medical reports resulting from such check-ups were signed by the escorting officers, or even by the actual arresting officers, who would be the most likely to be responsible for the ill-treatment. Medical confidentiality was thus not respected. Had the procedure been rectified so that medical examinations took place confidentially? The right to notify a relative of an arrest was also often ignored or the notification was delayed. In many cases, the police failed to convey information after promising to do so.

16. Complaints against police officers and prison staff were registered but, according to the replies to the list of issues, the vast majority of cases were later abandoned by procurators for lack of evidence. The system for handling such complaints was clearly inoperable. Initial investigations into allegations of ill-treatment were often assigned to the very police units that were the subject of the accusations. Both the European Court of Human Rights and the Committee against Torture had consistently and clearly called for independent and prompt investigations to be carried out when allegations of ill-treatment were received.

17. While the Government had cited a number of cases in which police officers had been disciplined or dismissed, it was unclear whether the reasons for the sanctions related in any way to torture. In any event, no one had been prosecuted for such offences.

18. While it was encouraging that forensic physicians were invited to take part in investigations relating to ill-treatment and that the authorities bore a responsibility to report any suspected mistreatment to the prosecution service even when the presumed victim maintained that wounds were self-inflicted, the lack of follow-up and prosecution undermined the entire system.

19. Had the Government adopted a legal regime to preclude the expulsion of persons who ran the risk of being subjected to torture if returned to their countries? Had it taken steps to change administrative practices so as to ensure that all asylum seekers would have equal access to refugee status, without discrimination based on nationality? Did it plan to amend the law and administrative practice in order to ensure

that people involved in legal proceedings were not subject to refoulement until a final judgement was reached by a court and that stateless people were afforded protection against arbitrary detention, expulsion and ill-treatment, for instance through the issuance of identity documents?

20. According to the information received by the Committee, the situation in the country's prisons varied widely. Material conditions were sometimes acceptable and sometimes very poor. Had progress been made with the plans for the relocation of the juvenile correctional institution in Baku? Conditions were reportedly quite poor in prisons Nos. 6 and 14, which were overcrowded. Inter-prisoner violence was apparently widespread, and in some prisons entire hierarchies were in place among prisoners, with some known as "commanders" who exercised power over others. There were evidently problems owing to a lack of activities, especially in remand prisons, and a lack of medical staff, and corruption had been reported at many facilities. In a system with thousands of prisoners and hundreds of prison officers, and with reports of such problems commonplace, the fact that no cases of ill-treatment had been brought to justice was a subject of concern.

21. He was concerned at reports of laws inhibiting the activities of civil society organizations and subjecting them to stringent registration and funding procedures. The authorities often denied registration and sometimes punished administrative violations with criminal prosecution and imprisonment. He was also alarmed by reports that activists and human rights defenders had been imprisoned. In particular, he wished to know whether the authorities had taken any action to address concerns about the conditions of imprisonment of the human rights activists Leyla and Arif Yunus. According to reports, they were suffering from chronic health problems and required urgent medical care, while Leyla Yunus had also apparently sustained injuries after being attacked by other prisoners. Had any investigation been conducted into reports of attacks by prison officers against the human rights activist Ilgar Mammadov?

22. He welcomed efforts to tackle human trafficking through the introduction of article 144 into the Criminal Code. However, that amendment had been made in 2005 and trafficking had recently increased. According to reports, widespread corruption hindered anti-trafficking efforts and law enforcement officials sometimes failed to investigate allegations of forced labour in the construction sector for fear of retaliation by influential figures, including government officials. There were also allegations that the police sometimes took bribes from traffickers. He would like to know what measures were being taken to bring perpetrators to justice. More cooperation between the authorities and NGOs was needed, as well as more government-sponsored awareness-raising campaigns on the dangers of trafficking.

23. He asked the delegation to comment on reports that the rights of juveniles arrested by the police were not always respected. Sometimes they were interrogated without a lawyer being present or they were held in cells with adult detainees. Had any steps been taken to create separate units in police detention facilities and to raise awareness about juvenile justice among prosecutors and judges?

24. The Committee had received information about deficient investigations by the Department of Internal Investigations of the Ministry of Internal Affairs, and he wondered whether there had been any positive developments on that front. Were investigations which revealed evidence of wrongdoing brought to the attention of procurators without delay, particularly if the alleged perpetrators were law enforcement officials? He wondered whether any consideration had been given to setting up a special team of procurators to handle such cases at the national level. In line with the case law of the European Court of Human Rights, procurators who needed support should not have to seek it in the police station whence the allegations

originated. He wished to know if there were plans to install closed-circuit television cameras in police stations and detention facilities, and if procurators would be able to access the recordings.

25. **Mr. Zhang** (Country Rapporteur) said that he wished to know whether the training in violence prevention, mentioned in the periodic report as having been offered to officials from the Ministry of Internal Affairs, had also been made available to officials from the Ministry of National Security. He asked the delegation to comment on reports that no proper investigation had been carried out into the death in custody of Turac Shuriyye oglu Zeynalov, who had been held in a remand centre of the Ministry of Justice Prison Service in Naxçivan Autonomous Republic, and that his family were still receiving threatening phone calls intimating that they should leave the Naxçivan. Did the prevalence of tuberculosis as a reported cause of death of persons in custody mean that the disease was out of control?

26. He was concerned at the fact that investigations into suicides of persons in custody often seemed to end with the case being dismissed, and he asked for further information about articles 39.1.1 and 39.1.2 of the Code of Criminal Procedure, which apparently contained standard provisions and were often quoted in that regard. He wondered why five prison officers had been disciplined in a case from 2012 in which a prisoner serving a life sentence had committed suicide because, according to the periodic report, of “family relationships”. Could the delegation provide information about the outcomes of investigations into suicides by persons in detention in 2009 and 2010, which was missing from the periodic report?

27. Azerbaijan was to be commended for reforms to the juvenile justice system. He asked the delegation to provide updated information on the numbers of convicted persons being held in single cells and of visits to correctional institutions made by the Public Affairs Committee.

28. He wished to know precisely what steps had been taken against the 1,196 police officers who had been responsible for unlawful actions against citizens and who, according to the periodic report, had faced “other disciplinary measures”. Had the victims of those actions or their families received any redress or compensation? Also according to the report, the Department of Internal Investigations had found evidence of 1,247 violations committed by police officers between 2010 and 2013, none of which amounted to torture or inhuman treatment. He would be interested to hear what kind of violations they had been. He was concerned that investigations into complaints regarding the use of excessive force by prison officers always seemed to conclude by finding no evidence and asked the delegation to comment in that regard.

29. He asked the delegation to inform the Committee about any measures taken to ensure that a person convicted on the basis of coerced evidence was afforded a new trial and adequate remedy, and that relatives were not pressured to withdraw testimonies or complaints of ill-treatment.

30. **Mr. Bruni** said that Azerbaijan had received a total of nine visits by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment between 2002 and 2015, and he wondered why the Government had agreed to the publication of only two of the reports from those visits — those made in 2002 and 2008. He wished to know whether personnel involved with detainees received specific training on how to identify signs of torture and ill-treatment on the basis of the Istanbul Protocol.

31. He was concerned at the fact that, over the previous three years, there had been no recorded cases of torture by police officers or cases of cruel, inhuman or degrading treatment of detained or arrested persons when, during the same period, the Office of the Procurator-General had received 678 complaints of torture or cruel or inhuman

treatment. He wished to know who had made those complaints and against whom. Did the fact that no legal grounds for initiating criminal proceedings had been found mean that the complaints had been invented or exaggerated? He wondered how it was possible that complaints regarding the use of excessive force by prison officers made during the same period were also considered groundless, especially as, according to the report on its 2008 visit, the European Committee for the Prevention of Torture had received several credible allegations of deliberate ill-treatment and excessive use of force. He wished to know whether the Ministry of Justice had acted on concerns expressed by the Office of the Ombudsman following the latter's visit to Gobustan prison in July 2011.

32. **Mr. Domah** said that the role of the judiciary was to prevent the abuse of power by the legislative and executive branches of government. Noting that judges in the State party appeared to be subject to heavy political influence, he wondered whether that role was being fulfilled effectively and whether the judiciary was truly independent and impartial. He asked how judges were appointed, given that there did not appear to be any credible appointing authority. There was also an unreasonably large backlog of cases and an insufficient number of lawyers to deal with them. Such endemic flaws in the current system facilitated acts of torture and ill-treatment, and he asked whether there were any plans to implement a legal and judicial reform so that the State party could start addressing its obligations under the Convention.

33. **Ms. Gaer**, referring to paragraph 16 of the State party report, asked whether the two Prison Service employees investigated in connection with the inhuman treatment of detainees had undergone criminal proceedings or been sanctioned and whether they were still serving in an official capacity.

34. Noting that the deaths of soldiers Ruslan Kerimov, Raul Agayev and Azer Abbaszade had not been linked to the use of violence, threat, deception, torture or other cruel, inhuman or degrading treatment, she asked whether any military personnel had ever been sanctioned in connection with deaths resulting from such treatment and requested information on the outcomes of the cases brought against Ensign Altay Askerov and Captain Oktay Khudaev.

35. Expressing concern about the independence of the national preventive mechanism, in particular with regard to its examination of torture cases, she asked how the Ombudsman was appointed. Had any of the cases brought by the Ombudsman resulted in criminal prosecution?

36. She expressed alarm at the assertion that no case linked to torture, cruel, inhuman or degrading treatment or punishment had ever been brought before the courts, particularly given that the vast majority of domestic violence cases had gone to trial. She asked the delegation to clarify that situation, which suggested that the numerous complaints of torture and ill-treatment made by detainees were deemed less credible than those made by victims of domestic abuse, even when they were validated by NGOs, lawyers and the Ombudsman.

37. She requested more information on the 333 cases of domestic violence that had been diverted from the criminal court process. Had those cases involved negotiated settlements and were the victims ever returned to difficult domestic circumstances? Noting that the police were trained in protecting women against domestic violence, she asked whether they were also trained in protecting detainees from torture and ill-treatment.

38. Referring to paragraph 162 of the State party report, she asked what constituted parental consent in the case of early marriage and how that process was monitored by the Government.

39. Turning to individual high-profile cases, she asked whether any medical care was being provided to human rights lawyer Intigam Aliyev, who had been so unwell during his trial that on one occasion he had been taken back to the remand prison in an ambulance. With regard to the case of Leyla Yunus, she asked why it had taken a month to conduct a forensic examination following Ms. Yunus's alleged beating by her cellmate and why she had not been transferred to a safe place, particularly given that her claim had been supported by a number of other detainees and the doctor who had examined her. She also referred to the case of journalist and human rights activist Hilal Mamedov, who had been charged with incitement of racial hatred and treason and had allegedly been beaten unconscious and denied access to lawyers while in detention. She asked what his current status was, why he had not been released as recommended by the Working Group on Arbitrary Detention and what constituted incitement of racial hatred. Lastly, with regard to the case of Ilgar Mammadov, who had been asked to make an apology and pledge support to the President of Azerbaijan as a condition for his release, she asked whether that was standard practice and whether the delegation could provide previous examples of such apologies. She requested information on follow-up to allegations that Mr. Mammadov's cellmate had attacked him. Although damages had been paid, he had not been released as requested by the Committee of Ministers of the Council of Europe and no one had been prosecuted in connection with his treatment. She requested an update in that regard.

40. **Ms. Pradhan-Malla** said that, while the establishment of a complaint mechanism for reporting cases of torture and ill-treatment was commendable, the Committee was concerned about whether that mechanism truly ensured justice and accountability. It was shocking that no evidence had been found to support the numerous claims of torture and ill-treatment in prisons and she asked who was responsible for collecting evidence in such cases. She also asked: whether the crime of torture was recognized as a crime against the State; whether there was an independent investigation mechanism in place; to what extent forensic examinations were conducted independently; and how much importance was attached to victims' statements and their physical condition. While the State party had recognized that there were flaws in the current system, she asked whether it was taking measures or establishing a strategy to address deep-rooted problems, particularly with regard to prison conditions.

41. She asked for more information on the types of torture and ill-treatment reported by victims. An alarming proportion of complainants were women and she asked whether any of those cases related to sexual violence and how they were investigated.

42. Civil society could play a vital role in ensuring justice and accountability with regard to serious human rights violations, but members of civil society were reportedly subject to systematic violence in the State party. Were there any plans to collaborate with civil society in promoting and protecting human rights?

43. **Mr. Gaye** said that he shared the concerns of his colleagues about the practical application of legislation in the State party, in particular with regard to the need for timely and impartial investigations, the handing-down of suitable punishments and the award of reparations in relation to cases of police violence, torture and ill-treatment.

44. Noting that paragraph 50 of the State party report was rather ambiguous, he asked the delegation to clarify who decided that a person was a "suspect" and whether lawyers were truly "independent", given that detainees were not permitted to choose them.

45. The fact that no case of torture or ill-treatment had ever been brought before the courts suggested that the current criminal justice system was not functioning properly and required a complete overhaul.



46. **Mr. Modvig** asked whether the Public Affairs Committee was competent to conduct prison monitoring activities independently or only under the auspices of the Commission to which it was answerable. He asked whether the membership of that committee was determined on the basis of objective and transparent criteria and whether any NGOs were excluded from it. He requested specific examples of recommendations by the Commission that had given rise to major improvements in the criminal justice system.

47. Referring to paragraphs 50 and 52 of the State party report, he asked the delegation to provide more information on the medical examination undergone by detainees upon arrival in a detention centre. Were those examinations always performed by doctors and which ministry or other body did those doctors report to? In how many cases had injuries been recorded during the initial examination and how had they been investigated?

48. The complete lack of evidence to support the numerous complaints of torture could only be the result of poor investigations. A complete overhaul of the investigation procedure was necessary to ensure that it was thorough and impartial, as required by the Convention. He asked whether the State party had established guidelines for the investigation of torture cases, in line with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). If not, current standards should be updated accordingly.

49. **Ms. Belmir** said that while progress had been made in the State party since 2009, a great many problems persisted in the criminal justice system. She referred in particular to: the serious shortage of medical experts and lawyers; the fact that detainees often had to pay bribes to access the services of a doctor, see family members or avoid ill-treatment; the continuing problem of tuberculosis in prisons; the ill-treatment inflicted on minors for the purposes of obtaining confessions; and the continuing problem of hazing. Moreover, there appeared to be a very lenient approach towards dealing with abuses of authority by law enforcement officials. Overall, it was clear that the current system was deeply flawed and should undergo comprehensive reform.

50. **The Chair**, speaking as a member of the Committee, welcomed the invitations extended by the State party to special procedures mandate holders. He asked whether it had considered inviting the Special Rapporteur on torture to visit the country.

51. He commended the incorporation of a definition of torture that reflected article 1 of the Convention into the Criminal Code. It appeared from the report, however, that the definition was reflected in a note to article 293 rather than in the article itself. He enquired about the legal status of the note.

52. He requested a copy of the Act of 22 May 2012 on the rights and freedoms of persons held in detention facilities for the Committee's records.

53. According to Human Rights Watch, the Azerbaijan Committee against Torture had received 96 complaints in the first nine months of 2013. He asked whether the State party had statistics for such complaints disaggregated by age, sex and other criteria.

54. He enquired about the steps taken to inform remand and convicted prisoners of their constitutional and legal rights. While he commended the reference in paragraph 55 of the report to the requirement to charge detainees within 48 hours, he requested clarification of the reference in the same paragraph to the requirement "to bring the detainee before a judge in good time".

55. The Committee had been informed that the Women's Crisis Centre in Baku had been closed down. He enquired about the grounds for that decision. Welcoming the prohibition of forced marriage of women, he asked how the prohibition was enforced and whether there had been any indictments.

56. Noting that in cases where a complaint or objection was filed against an administrative decision, including the administrative sanction of deportation, the implementation of the decision must be suspended until the complaint or objection was considered, he enquired about the number of cases in which suspensive action had been taken.

57. He asked whether the State party had fully implemented the decisions taken by the European Court of Human Rights in a number of cases concerning Azerbaijan.

58. The Committee had been informed that the State party had participated in a programme of secret detention and interrogation with the United States Central Intelligence Agency (CIA), that it had facilitated an extraordinary rendition flight and that the Saudi citizen Ahmed al-Darbi had been taken into custody by Azerbaijani officials. He asked whether the authorities had investigated those actions and considered making reparations.

59. The Committee had been informed that Rashad Ramazanov had been held in a Ministry of National Security remand centre for 10 days after his arrest, in violation of the Code of Criminal Procedure. He asked whether the responsible authorities had been punished. The Committee had recommended in its previous concluding observations that remand centres should be administered by the Ministry of Justice rather than the Ministry of National Security.

60. The Committee had also been informed that youth activists associated with the NIDA movement had been detained and that their confessions, some of which had allegedly been forced, had been broadcast on television. Regardless of whether they were innocent or guilty, such public confessions were entirely unacceptable.

61. Commending the Supreme Court decision of 10 March 2000 that evidence obtained unlawfully could not be used for the administration of justice, he asked whether confessions extracted under torture had been rejected pursuant to the decision.

62. As it was virtually impossible to prevent the occurrence of acts of torture and ill-treatment, even in States where the highest standards were upheld, the fact that no cases involving torture or ill-treatment had been brought before the courts in the State party required an explanation. He wondered whether there was adequate awareness of the procedures for filing complaints and whether the independence of investigators was guaranteed.

*The meeting was suspended at 12.20 p.m. and resumed at 12.35 p.m.*

63. *Mr. Tugushi (Vice-Chair) took the Chair.*

64. **Mr. Abbasov** (Azerbaijan) said that the Committee's recommendation concerning the alignment of the definition of torture with article 1 of the Convention had been fully implemented. In line with the Constitution, the Office of the Procurator General had submitted a legislative initiative to parliament and article 293 of the Criminal Code had been amended. It now prescribed criminal sanctions for cruel, inhuman or degrading treatment or punishment and for torture committed by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. The note to article 293 had the same legal status as the article itself. It stated that torture included severe physical or mental pain or suffering inflicted on a person for the purpose of obtaining information or a confession, or for a number of other purposes listed in paragraph 12 of the report.

65. Azerbaijan had taken other decisive steps to combat torture. The Act of 22 May 2012 provided for measures to protect the rights and freedoms of persons held in detention facilities. Article 22 of the Act stated that complaints regarding torture, ill-treatment or degrading treatment, as well as written information about physical harm due to ill-treatment, torture or degrading treatment that was revealed during a medical examination, should be sent to the procurator, who would supervise the preliminary investigation so that a proper investigation could be conducted.

66. Almost all law enforcement agencies had investigative departments, but the competent public procurators' offices were responsible for conducting and monitoring the investigative proceedings. The Procurator-General had issued orders in recent years aimed at ensuring effective and thorough investigations of all complaints and reports of torture. The Office of the Procurator-General had investigated 222 complaints or reports in 2013, 220 in 2014, and 160 in the first 10 months of 2015.

67. Orders and instructions had been issued by the Procurator-General to all subordinate prosecutors with a view to ensuring effective investigations based on the Committee's recommendations and those of the European Committee for the Prevention of Torture. The document containing the instructions had been translated into English and he would share it with the Committee. Some paragraphs focused on the need for effective investigations into reports of torture. Investigative bodies were required to check whether arrest warrants and police custody orders were justified, to ensure that the 48-hour custody limit was observed, and to inform detainees of the reasons for their arrest and detention. They were also required to ensure that detainees were provided with a list of lawyers whose services they could request, that discussions with legal counsel remained confidential, and that the time and circumstances of detention were recorded. Video surveillance was required in police stations and in pretrial and investigative detention facilities.

68. With regard to the lack of case law pertaining to investigations of torture, he said that more than 20,000 different types of crimes were committed in Azerbaijan involving different types of perpetrators and different strata of society. The perpetrators were detected in about 80 per cent of cases and in more than 90 per cent of cases involving serious crimes. Reports alleging the commission of acts of torture were usually linked to drug-related offences, murder and other serious crimes. The existing system of law enforcement agencies permitted investigators to successfully conclude most investigations and to identify the perpetrators without resorting to torture or other forms of ill-treatment.

69. Cases of abuse of authority clearly existed — for instance, unlawful detention in police facilities. However, as such cases did not involve the use of torture, they were prosecuted pursuant to the articles of the Criminal Code concerning abuse of authority.

70. With regard to the allegation that defendants were not always given access to lawyers within the established time frame, he was unaware of any cases in which detainees had been denied the support of defence counsel.

71. Medical examinations of detainees were performed by entirely independent physicians, who were not employed by law enforcement agencies.

72. The Procurator-General had issued an order prohibiting the investigation of complaints of police torture by the police force itself. Such complaints were examined by an expert group in the Office of the Procurator-General. It undertook an analysis and issued recommendations concerning the thorough and effective investigation of all reports of torture.

73. **Mr. Khalafov** (Azerbaijan) said that judicial practice in Azerbaijan had greatly improved in recent years. Great strides had also been made in the country's legislation and its implementation thanks to changes in the economic, social and humanitarian situation, the development of civil society, and the protection and promotion of human rights.

*The meeting rose at 1.05 p.m.*