



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

Distr.: General
16 November 2015

Original: English

Committee against Torture Fifty-sixth session

Summary record of the 1363rd meeting

Held at the Palais Wilson, Geneva, on Thursday, 12 November 2015, at 3 p.m.

Chair: Mr. Grossman

Contents

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

Fourth periodic report of Azerbaijan (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-19927 (E) 161115 161115



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



The meeting was called to order at 3 p.m.

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

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

1. *At the invitation of the Chair, the delegation of Azerbaijan took places at the Committee table.*
2. **The Chair** invited the members of the delegation of Azerbaijan to reply to questions put by Committee members at the 1360th meeting.
3. **Mr. Gurbanov** (Azerbaijan), replying to questions about the judiciary system, said that reform of the legal system had been under way for a number of years. The first democratic and open election of judges had taken place in 2001, and since then the face of the judiciary had changed considerably. Other reforms had included the creation of special courts for particular types of crimes and for very serious crimes, modernization of the system of military courts, and the establishment of a countrywide legal aid network with free clinics. All the reforms had been introduced in close cooperation with the European Union, various other European-level entities and the World Bank.
4. The selection of judges was overseen by the Judicial Council, which supervised the functioning of the judiciary. Nine of its 15 members were acting judges while the rest were drawn from the Ministry of Justice, the Bar Association and other entities dealing with the administration of justice. Sitzings of the examination for selecting judges could be monitored by the media and international observers, and the examination results were announced in the presence of all the candidates.
5. Only the Judicial Council could discipline judges. Only the nine active judges had the right to participate in votes to reassign or dismiss a judge. Judges subject to disciplinary proceedings had the right to be represented by a lawyer or another judge. Since 2005, some 25 such proceedings had been carried out, and some judges had been reassigned or removed from office as a result.
6. Judges' salaries had been raised numerous times in recent years and could be reduced in individual cases only if the judge was moved to a position with a lower salary.
7. The infrastructure of the judicial system had also been overhauled. New buildings were fully equipped for the use of information technology, and an online portal for the judicial system enabled residents of Azerbaijan, regardless of their citizenship status, to obtain information about the system generally and cases before the courts specifically. They could also submit appeals and other communications to the court system electronically. He invited the Committee to consult the portal to obtain accurate information about the judicial system.
8. The Judicial Council worked with the Academy of the Ministry of Justice to organize training courses and examinations for judges. Those activities were monitored by representatives of human rights organizations. Furthermore, representatives of civil society could participate in discussions and decisions pertaining to reform of the judiciary.
9. Replying to questions about his country's system of juvenile justice, he said that the Baku Court for Serious Crimes was operating a pilot project in which three judges there focused on crimes by minors. Some 8 per cent of criminal cases involved defendants who were minors. While some aspects of juvenile justice were already

covered by legislation, his Government was preparing a code of juvenile justice. The existing legislation did include provisions covering the detention of minors, who were afforded some special protection. His Government closely followed developments in other countries with regard to juvenile justice. While there was room for improvement in Azerbaijan, his Government was committed to pursuing reforms.

10. **Mr. Abbasov** (Azerbaijan) said that the absence of statistics regarding the implementation of article 293 of the Criminal Code, which made torture a punishable offence, did not indicate a lack of will to investigate such crimes. When an accusation was made under that article, it was necessary to provide evidence, which in some cases was lacking. The accused also had rights that needed protecting. All allegations of torture that reached the Procurator-General's Office, whether they were made by individuals themselves, by lawyers, by the Ombudsman's Office or by some other entity, were registered. After that a thorough investigation was conducted, and, if necessary, criminal proceedings were instituted. There were regular reports on those types of proceedings and the procedure seemed to be fairly effective.

11. He wished to provide details regarding some recent investigations into complaints of torture. He would begin with the case of Leyla Yunus, who claimed that in September 2014 at the pretrial detention centre of Baku she had been beaten by her cellmate and later subjected to degrading treatment and struck on the head in the office of the deputy chief of the detention centre. No one among the prison staff or the other inmates had corroborated her claims about being beaten, and her cellmate had stated that, on the contrary, detention centre officials had treated Ms. Yunus with particular consideration. Recordings from on-site video cameras had contradicted Ms. Yunus's assertions and had revealed no traces of bodily injury. A forensic examination had likewise not revealed any traces of injury, nor had a later examination by specialists. A neuropathologist had diagnosed Ms. Yunus as having neurasthenia.

12. Regarding the case of Turac Shuriyye oglu Zeynalov, he reiterated the information provided in paragraphs 29 and 30 of the report, emphasizing that no criminal proceedings had been instituted as no evidence of torture or other ill-treatment had been found.

13. The Office of the Procurator-General was currently investigating a claim by Mr. Ilgar Mammadov that he had been subjected to acts of torture.

14. The right to defence was guaranteed under the Code of Criminal Procedure and strictly enforced in practice. Accordingly, from the time of their arrest all suspects and accused persons were informed of, among other things, the reasons for their arrest and their right to be assisted by a lawyer of their choice. All allegations concerning violations of the right to defence were investigated thoroughly by the competent authorities and, where appropriate, disciplinary proceedings were instituted and sanctions imposed. The use of evidence obtained by unlawful means was prohibited by both the Code of Criminal Procedure and mandatory instructions issued by the Procurator-General. No one had been convicted on the basis of such evidence.

15. Regarding deaths by suicide among detainees and prisoners, a number of police and prison officials had been charged and held liable for failing to provide appropriate supervision as required by internal regulations. Under article 39, paragraph 1 (1) and (2), of the Code of Criminal Procedure, criminal liability could be established only if there was sufficient evidence of, for example, incitement to suicide, as provided for under article 125 of the Criminal Code.

16. **Mr. Kishiyev** (Azerbaijan), in response to a question asked the previous day regarding instances of violence within the military, said that maintaining proper discipline and preventing acts of violence within the armed forces was of paramount importance to the Government. Accordingly, a range of regulations and practical

measures had been put in place to ensure that there was no impunity for those responsible for such acts. Officers were required to report all allegations of violence to an independent body, which would then conduct a formal investigation and, as appropriate, recommend either disciplinary or criminal proceedings, depending on the seriousness of the case. In 2014, the Military Procurator's Office had examined 227 criminal cases of violence among military personnel, and 554 persons had been convicted as a result. In the first six months of 2015, 157 criminal cases had been initiated and 197 persons had been convicted. In 2014, seven investigations had been conducted into the death by suicide of a total of nine persons, while in the first six months of 2015 three criminal cases had been opened against six persons, all of whom had been held criminally responsible and punished. In the period from 2012 to 2014, a total of 35 commissioned and non-commissioned officers had been found guilty by the criminal courts of acts of torture or ill-treatment against subordinates.

17. **Mr. Humbatov** (Azerbaijan) said that many of the reports cited the previous day by members of the Committee concerning the prison system did not reflect current reality. Since 1999, a number of major reforms had been carried out, in cooperation with major international organizations, including the Council of Europe, the European Union and the International Committee of the Red Cross, with a view to improving the system and bringing it fully into line with international standards.

18. As part of the reform process, a number of legislative and practical measures had been taken to ensure that prisoners' rights were fully protected both in law and in practice. Under the Act on the rights and freedoms of persons held in places of detention, prisoners were entitled, among other things, to receive twice-weekly visits from members of their families, to make two telephone calls a week and to file complaints against the administration. Under a prison building and modernization programme launched in 2005, construction work had started on nine new facilities, three of which had already been completed. The material well-being of prisoners had been enhanced through the provision of improved equipment and services. Prison overcrowding was no longer a problem. Rehabilitation programmes for prisoners included educational and vocational training opportunities, as well as employment assistance services. Furthermore, human rights training programmes had been provided for prison staff on a number of subjects, including the Convention against Torture and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). A transparent system for public oversight of prisons had also been put in place.

19. Following the 2015 visit by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a number of meetings and seminars, involving, among others, prison service officials, representatives of the Ministry of Justice and Council of Europe experts, had been held to consider and act upon the Subcommittee's recommendations. It had, for example, been decided to increase the number of medical personnel and night staff working in prisons, to put an end to solitary confinement in juvenile detention facilities and to provide staff with training on the use of special measures.

20. In the period from January 2012 to October 2015, a total of 47 complaints of acts of torture committed against prisoners had been received and investigated. A total of 19 cases had been referred to the Office of the Procurator-General and criminal proceedings had been brought in a number of cases. Following an investigation into two cases of unlawful use of measures in prison No. 13, the prison director had been dismissed from the service and a further 10 staff members had been sanctioned. There had, however, been insufficient grounds to bring a criminal prosecution in those cases. Investigations were carried out by the Office of the Procurator-General into all cases of prison deaths by suicide. In recent years a total of 16 staff members had been held

liable for negligence in that connection. However, it should also be noted that in the previous three years 76 suicide attempts had been thwarted by prison officials. Solitary confinement was used in exceptional circumstances as a form of punishment or as a safety measure at the request of the individual concerned. All decisions regarding the placement of inmates in solitary confinement were made by the prison director and reviewed on a regular basis. Thus far in 2015, only three persons had been placed in solitary confinement, all of them at their own request.

21. Responding to a number of questions asked by Ms. Gaer the previous day, he said that the individuals responsible for the acts of violence committed against Mr. Mamedov had been dismissed from the prison service and were no longer working in law enforcement agencies. Regarding amnesties, there was no need to apologize to the President as a condition for release. The number of annual deaths from tuberculosis among prisoners had fallen from 69 in 1995 to 13 in 2015. As for the case of Leyla Yunus, who had systematically refused to be examined by prison doctors, it had been decided, in line with a Council of Europe proposal, to establish an international panel of physicians to visit her on a regular basis. Six such visits had been conducted in the period from December 2014 to October 2015. The authorities had acted upon the recommendations made by those physicians.

22. **Mr. Tugushi** (Country Rapporteur) said that a lack of complaints and convictions relating to ill-treatment perpetrated by police officers suggested a problem relating to accountability mechanisms, rather than an absence of ill-treatment. The bodies responsible for investigating such allegations should examine their approach so as to identify the problem. He was concerned that forensic medical examinations were often not confidential, were carried out in the presence of police officers and provided only a superficial description of injuries. The Committee had received reports that despite legal provisions granting detainees the right to instruct a lawyer, they were often only able to do so after initial questioning.

23. Noting that the husband of Leyla Yunus had been released from prison earlier that day, he expressed the hope that similar action would be taken with regard to Ms. Yunus and other imprisoned human rights defenders. He requested information on detention conditions in prisons Nos. 6 and 14, particularly with regard to hierarchies and violence among prisoners, and asked whether the juvenile detention centre had been closed as planned.

24. He wished to know whether reforms had been made to the psychiatric care system, including through the Mental Health Care Act, so as to improve conditions in psychiatric hospitals, standardize the recording of the use of restraint in those hospitals, decrease the number of patients and increase the number of staff members. Lastly, he invited the delegation to comment on reports that NGOs were required to submit to a lengthy registration process and that some activists who had failed to do so had been prosecuted.

25. **Mr. Zhang** (Country Rapporteur) asked whether officials from the Ministry of National Security and its separate security force had participated in the training sessions organized in cooperation with the United Nations and the Organization for Security and Cooperation in Europe. He requested further clarification of the circumstances surrounding the death of Turac Shuriyye oglu Zeynalov and reports that his family was being pressured to leave their place of residence. He commended the State party's progress in reducing the number of deaths from tuberculosis and suicide in prisons.

26. **Ms. Belmir**, noting that several international bodies had expressed concern that the independence of the judiciary was threatened by the power of the executive and by corruption, said she was concerned that responsibility for the judiciary was divided

between the Ministry of Labour and Social Security and the Ministry of Justice, hindering measures to supervise it.

27. Detainees suffering from tuberculosis should receive adequate treatment regardless of where they contracted the disease. Such treatment was lacking in the State party, and work remained to be done to improve detention conditions in general. The detention of persons who did not suffer mental illness in psychiatric facilities could be seen as a violation of their rights.

28. **Mr. Domah** said that the impartiality and independence of the judiciary was fundamental and should be prioritized. Judges in Azerbaijan received excessive salaries, making them subservient to those in power and thus threatening their independence. He would welcome information on the independence of the Bar, on which the independence of the judiciary depended.

29. **Mr. Bruni** asked why criminal proceedings had not been launched against police officers accused of torture or ill-treatment, despite the fact that those allegations were well founded and the officers involved had been subject to disciplinary sanctions. He enquired why most of the reports on the visits of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to the country had not been publicized.

30. **Ms. Gaer** asked whether criminal proceedings had been launched against Lieutenant-Colonel of Justice Agammed Nariman oglu Mamedov and Major of Justice Babek Nurbal oglu Huseinov, who had been dismissed from service during the visit of the Subcommittee on Prevention of Torture. Their dismissal suggested that visits by international bodies were effective, as did the release of Arif Yunus, and she asked why his wife, Leyla, had not also been released or transferred to a safer detention facility. She wished to know whether the report on the Subcommittee's visit would be publicized.

31. A coalition of NGOs had submitted a report containing details of 20 cases of the wrongful imprisonment or ill-treatment in prison of human rights advocates and lawyers. She wished to know whether any of those allegations were accurate, in particular regarding the case of Rasul Jafarov who had presented a report to the Committee in 2009 and who was currently imprisoned for reasons relating to the registration of his organization. How did that case relate to the delegation's comments on NGO registration?

32. **Mr. Modvig** said he would welcome confirmation that forensic medical examinations were carried out by doctors from the Ministry of Health in all cases of alleged torture and ill-treatment and the results submitted to the Office of the Procurator-General. He asked whether there were guidelines for conducting and recording examinations, whether any third parties were present during them, what the typical time span between alleged acts of torture and examinations was, what evidential weight was given to examinations that did not detect visible signs of torture, whether such a result weakened a complainant's case and whether corruption affected the outcomes of complaints.

33. He requested information on the number of injuries detected during initial medical examinations prior to 2015 and the resulting investigations and sanctions. Lastly, he wished to know whether the commission comprising officials from the Ministry of Justice, the prison service and the Public Committee had access to the private discussions of the Public Committee.

34. **The Chair** asked whether prison windows did not have bars and why the prisoner who had reportedly committed suicide by jumping from a window had not been restrained so as to prevent such an eventuality. He asked when the investigation

into Lieutenant-Colonel of Justice Agammed Nariman oglu Mamedov had begun and how long it had lasted. He wished to know what charges had been brought against the prisoner who had fallen ill and died during transit, whether his family had received evidence of the pulmonary embolism identified as the cause of death, whether they could dispute such evidence and whether an investigation into the matter had been carried out.

35. He asked what proof existed that Leyla Yunus' injuries had been self-inflicted, whether proceedings had been launched against her as a result, who had diagnosed her as suffering from neurasthenia, whether that person had been appointed by the State and whether Ms. Yunus had cooperated. Would the State party consider inviting the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Azerbaijan?

36. **Ms. Gahramanova** (Azerbaijan) said that the Committee on the Elimination of Discrimination against Women had noted the progress achieved in protecting the rights of women in Azerbaijan and that its latest set of recommendations to Azerbaijan were currently being implemented. The State Committee for Family, Women and Children's Affairs was working in cooperation with various government bodies and NGOs to implement the law adopted in 2010 to prevent domestic violence. Those efforts included many awareness-raising initiatives, which had led to a sharp drop in the number of reported cases of physical violence against women and minors from 2011 to 2014.

37. The State Committee was developing a database on perpetrators of domestic violence, and 11 centres throughout the country provided support to women and children who were victims of domestic violence. Efforts were also being made to discourage early marriage as a way of preventing domestic violence. A new legislative amendment established penalties for forcing a woman into marriage, and those penalties were increased in cases where the victim had not reached the minimum age for marriage. The number of early marriages had dropped from more than 5,000 in 2011 to 479 in 2014. Of those, punishment had been handed down in only 35 cases.

38. The State Committee for Family, Women and Children's Affairs had developed a national plan to ensure gender equality; the plan had been submitted to the Government and was expected to be adopted shortly. The State Committee carried out visits to the women's prison and was taking steps to ensure the social integration of minors in the "colony" for juvenile offenders and in the "special schools".

39. **Mr. Asgarov** (Azerbaijan) said that several cases concerning conditions of detention and access to medical care for detainees, including the cases of Leyla Yunus and Intigam Aliyev, had been brought before the European Court of Human Rights. The Court had concluded that interim measures were not necessary in those cases, based on the fact that none of the complainants suffered from an illness that was incompatible with detention. As for Arif Yunus, a national court had ruled that very day that he should be released from detention. That decision had been taken by the courts rather than the Government and was not connected with the Committee's consideration of the report of Azerbaijan.

40. It was incorrect to say that there had been a regression in law and practice regarding the functioning of civil society organizations. There were more than 3,000 NGOs currently operating in the country. Those organizations were required to inform the authorities about the source and amount of any grants they received; otherwise, that funding was subject to taxation. In the cases where those organizations or individuals connected with them had been prosecuted, they had cashed large amounts of money from foreign sources and had failed to pay taxes on that income. Important legislative amendments had been adopted to make procedures concerning the

functioning of NGOs more transparent. There were no gaps in that legislation, and there was thus no room for abuse or financial crimes.

41. An NGO was registered through a simple notification procedure, and there was no abuse by State authorities in that regard. The legal defence activities of Mr. Khalid Bagirov had been suspended by the Bar Association because of offensive statements he had made to a judge in a case that was not connected with any of the individuals mentioned at the previous meeting. Mr. Javad Javadov had not been disbarred. He was not allowed to defend Leyla Yunus because he was a witness in the case involving her.

42. No extraditions or returns had been carried out against the parties in the cases pending before the European Court of Human Rights, nor would they ever be carried out if the Court determined that doing so would put the individual at risk of torture. In response to a ruling by that Court, a legislative amendment had been introduced to ensure that persons subject to an order of extradition or return had an effective remedy enabling them to challenge that decision. Further amendments addressed issues such as pretrial detention and access to a lawyer from the moment of arrest. Azerbaijan was not on the list of countries associated with extraordinary renditions or secret prisons run by the Central Intelligence Agency (CIA) of the United States of America, and an inquiry conducted at the European level had not uncovered any proof that Azerbaijan had cooperated with that agency.

43. **Mr. Zolov** (Azerbaijan) said that the use of video surveillance was widespread in places of detention and that the recordings could be used to investigate any complaints of ill-treatment. The Department of Internal Security within the Ministry of Internal Affairs was regularly asked to investigate alleged violations by law enforcement officials. In the past five years, 1,500 violations had been reported. Criminal proceedings had been brought against a total of 15 police officers, and about 150 officers had been dismissed. Another 140 individuals had been demoted or dismissed from leadership positions. All complaints of torture were thoroughly investigated.

44. **Mr. Rahimov** (Azerbaijan) said that the current national plan to combat human trafficking covered the period up to 2018. It provided for awareness-raising activities throughout the country and focused particular attention on the Centre for Victims of Human Trafficking. Since its establishment in 2009, the Centre had provided assistance to 464 persons, of whom 253 were direct victims of human trafficking. Rehabilitation and reintegration centres were being set up in various regions of the country in cooperation with NGOs and international organizations. There was a strong legislative framework to combat domestic violence, and a system was in place to accredit NGOs to provide social services in that context. Ten NGOs had thus far been accredited to carry out such work. A new institution had been established through which the Government invited tenders from NGOs to carry out social projects.

45. **Mr. Aliyev** (Azerbaijan) said that the mechanisms available for foreigners or stateless persons to appeal expulsion orders against them were set out in national law. If a complaint was received, the relevant body must suspend the expulsion proceedings until the complaint had been investigated or an appeal had been lodged. Pursuant to the Criminal Code, individuals could not be forcibly expelled from Azerbaijan if there were grounds for believing they would be at risk of torture in the country to which they were returned. The cases of the asylum seekers from Chechnya were being monitored by the United Nations High Commissioner for Refugees.

46. **Mr. Khalafov** (Azerbaijan) said that employees of the Ministry of National Security received training through cooperative arrangements with other ministries and various international organizations.

47. **Mr. Gurbanov** (Azerbaijan) said that an effective mechanism was already in place to monitor the situation of persons who had been extradited from Azerbaijan.

Some prisons in the country were functioning very well, while others were in the process of being refurbished or replaced by new, exemplary facilities. Providing infrastructure for the many refugees from Armenia did pose a challenge, but the Government was managing to find the resources to improve the infrastructure for vulnerable population groups.

48. The recent court decision ordering the release of Arif Yunus was a testament to the humaneness and impartiality of judges in Azerbaijan. Since the country had first gained its independence, more than 6,000 detainees had been granted amnesties. All judges were under the authority of the Ministry of Justice and carried out their duties in an independent manner.

49. **The Chair** said that answers to any pending questions could be sent in writing before the close of business on Monday, 16 November 2015.

50. **Mr. Khalafov** (Azerbaijan) said that his delegation's dialogue with the Committee had seen a fruitful exchange of views about the progress achieved and the challenges that remained. The reform of the judiciary and other reforms carried out by his Government would bring about a well-functioning law enforcement system that guaranteed fundamental rights and freedoms. His Government would review the Committee's recommendations and would keep the Committee informed about the challenges it faced. Like all special procedures mandate holders, the Special Rapporteur on torture was welcome to visit Azerbaijan, and any Committee members who wished to join him on that visit were also welcome.

The meeting rose at 6.05 p.m.