



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

Distr. general  
22 May 2010  
English  
Original: French

---

**Committee against Torture**  
**Forty-third session**

**Summary record of the 907th meeting**

Held at the Palais Wilson, Geneva, on Monday, 9 November 2009, at 3 p.m.

*Chairperson:* Mr. Grossman

**Contents**

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

*Third periodic report of Azerbaijan*

---

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 this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

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.09-46173 (EXT)

The meeting opened at 3.05 p.m.

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

*Third periodic report of Azerbaijan* (CAT/C/AZE/3; CAT/C/AZE/Q/3; CAT/C/AZE/Q/3 and Add.1 (document distributed in Russian and English only); HRI/CORE/AZE/2008) 1.

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

2. Mr. Khalafov (Azerbaijan) said that the third periodic report of Azerbaijan had been prepared by a working group consisting of representatives of the ministries and public bodies concerned, with the added participation of the Commissioner for Human Rights (Ombudsperson) and representatives of non-governmental human rights organizations. The report had been published and could be consulted on the website of the Ministry of Foreign Affairs. The Committee's concluding observations concerning the initial and second periodic reports had been translated into Azerbaijani.

3. Pursuant to a presidential order adopted on 23 September 2003, a special working group made up of representatives of Parliament, the Constitutional Court and several ministries had been set up to act on the recommendations issued by the Committee following consideration of the second periodic report. A summary of the relevant activities is given below.

4. With regard to the recommendation in which the Committee encouraged the Azerbaijani authorities to ensure that the definition of torture appearing in domestic legislation should be fully in conformity with that of article 1 of the Convention, he said that the latter had been incorporated in the relevant articles of the Criminal Code, in particular those punishing torture and ill treatment. According to statistics for the period 2001–2008, 161 persons had been convicted under article 133 (ill treatment) of the Criminal Code for acts of domestic violence.

5. In the first nine months of 2009, 73 cases of ill treatment, wrongful detention or violation of fundamental rights and liberties had been reported, as a result of which five police officials had been criminally prosecuted, nine had been dismissed, 18 had been transferred to another department and 40 had received warnings.

6. It should be remembered that Azerbaijan was a party to all eight main international human rights treaties and that, in 2007, it had signed the International Convention for the Protection of All Persons from Enforced Disappearance. In 2008, it had ratified the Optional Protocol to the Convention against Torture and, under a presidential decree dated 13 January 2009, the Commissioner on Human Rights (Ombudsperson) had been designated as an organ of State, in charge of the national preventive mechanism which was due to be established in accordance with the provisions of the Optional Protocol. Lastly, on 25 September 2009, Azerbaijan had signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

7. On 18 March 2009, constitutional reforms which were of great significance for the promotion and protection of fundamental rights and freedoms had been launched, with the aim of improving the administration of justice and guaranteeing the independence of the judiciary. Since 2006, measures were being implemented to fulfil the National Action Plan for the protection of human rights, which was intended as a means of improving the effectiveness and independence of the judiciary, continuing the construction of new prisons

offering better conditions of detention and establishing an effective system of supervision over the activity of the prison establishments.

8. With regard to the Committee's recommendation on ensuring the independence of the judiciary, he said that the judicial and legislative systems had undergone in-depth reforms. In accordance with the Presidential Order of 19 January 2006 on the modernization of the judiciary and in application of a law intended to amend several legislative acts, local courts had been established including courts of appeal. That measure had led to a significant improvement in terms of public access to legal assistance in the regions and had given further impetus to the establishment of legal counselling services.

9. A working group set up by the Government of Azerbaijan and the Council of Europe had been given the task of studying ways of increasing the effectiveness of the judiciary, ensuring the independence of judges and improving the selection process. That had led to the adoption of a plan of action, under which several draft laws had been drafted and submitted to the Council of Europe. In addition, significant amendments had been made to the Law on Courts and Judges and two competitions for appointments had been held in accordance with the new rules. Out of the 1,752 candidates who had taken part in the competitions, 157 had passed the examinations successfully, which had led to an increase in the number of judges of 50 per cent. The proportion had risen as a consequence to six judges for 100,000 persons in the country, compared with only four per 100,000 in the year 2000. The process of selecting candidates for vacant posts in the judiciary continued to be based on democratic and transparent principles.

10. With regard to the Committee's recommendation that living conditions in prisons should be improved, he pointed out that the Government of Azerbaijan had introduced a series of measures aimed at improving the functioning of the prison system, modernizing its infrastructures and improving conditions of detention.

11. Within the framework of the State Programme on the development of the justice system for 2009–2013, approved by the President of the Republic on 6 February 2009, which had been aimed at improving the independence of the judiciary, the functioning and transparency of courts and the protection afforded to prisoners' rights, new rules were to be proposed concerning the detention of convicted persons in the light of the requirements of the European Prison Rules and the recommendations of the Committee against Torture and the Council of Europe Committee for the Prevention of Torture (CPT). In order to further humanize the rules governing the enforcement of punishment, the Parliament had passed a law amending the Criminal Code and the Code of Criminal Procedure, which had led in practice to improvements in the living conditions of persons sentenced to life imprisonment. Such prisoners had been granted the right to watch television in their cells; the number of telephone calls to which they were entitled had been increased four times and the number of visits and parcels they could receive had been doubled. The Parliament was currently considering a bill aimed at allowing detainees in pre-trial detention and convicted prisoners the possibility of being examined not only by the medical personnel of the place of detention where they were being held, but also by a doctor of their own choice on request. In the Nakhichevan Autonomous Republic, a new mixed prison with a capacity for 400 inmates, in line with current standards, had been opened in April 2008, while in the district of Zabrat, near Baku, a pre-trial detention centre attached to the Ministry of Justice had been built in accordance with international standards and had been operational since 29 May 2009. The construction of similar establishments was still continuing in Shaki (to house 900 inmates) and Lankaran (for 1,000 inmates), as well as a prison in the district of Umbaki (region of Qaradag). There were also plans to build new mixed detention centres in Ganca and a prison for women in the Qaradag region.

12. As a result of efforts made to humanize criminal policies, including the introduction of broad-ranging amnesty laws, the number of convicts had decreased in recent years.

Under the most recent amnesty law, adopted on 17 March 2009, 9,000 prisoners had been released. In addition, members of the Public Committee for Penitentiary Institutions, which consisted of representatives of State entities and non-governmental organizations, regularly conducted visits to prisons, the number of which had increased steadily from 75 in 2006–2007 to 90 in 2008.

13. Two departments had recently been created within the Ministry of Justice, one dealing with the enforcement of sentences and another with human rights and relations with civil society. The personnel of those departments were allowed free access to detention centres, to interview prisoners and to monitor their conditions of detention. Under an agreement signed by the Government of Azerbaijan and the International Committee of the Red Cross (ICRC), Red Cross representatives had made 332 visits to prisons and had interviewed 76,946 detainees between 2000 and June 2009. Furthermore, Azerbaijan was a party to the European Convention on Prevention of Torture and the CPT had access to all places of detention in the country. Its last visit had taken place in December 2008.

14. Awareness and training activities, focusing on the prevention of torture and ill treatment and targeting prison staff in particular, had been organized in conjunction with international organizations. The updated version of the European Prison Rules adopted in January 2006 had been translated into Azerbaijani and published for general circulation. Within the framework of a programme to support reforms in the justice system implemented jointly with the European Commission, training seminars had been held for prison staff. With the technical assistance of the Office of the United Nations High Commissioner for Human Rights, seminars had been organized on the drafting of periodic reports for the treaty bodies, as well as training for judges, prosecutors, officials of the judiciary and workshops on the translation of international instruments into Azerbaijani, their publication and their dissemination.

15. In cooperation with the ICRC, between 1995 and 2008 a total of 9,262 detainees suffering from tuberculosis had been treated under the DOTS programme (Directly Observed Treatment, Short-course), in accordance with recommendations of the World Health Organization (WHO). As a result of that programme, the number of deaths in prisons had decreased by a factor of 17 since 1995.

16. With regard to the Committee's recommendation on allowing full independence to the Ombudsperson, it was worth mentioning that, under the Constitutional law on the Commissioner for Human Rights (Ombudsperson), the Ombudsperson was allowed immediate and unimpeded access to prisons, pre-trial detention centres and remand centres as well as to interview detainees. Within the framework of a project jointly run by the Ombudsperson and the Organization for Security and Cooperation in Europe (OSCE) in Baku, a team had been set up for urgent monitoring of human rights violations in places of temporary detention. That team paid regular visits to police stations and remand centres and reported any breaches to the Ministry of Internal Affairs.

17. Since the Office of the Ombudsperson had been created, the Commissioner's assistants had carried out more than 1,500 visits to places of detention, in the course of which they had met detainees, heard their complaints, issued recommendations and transmitted opinions to the authorities responsible for prisons in order to eliminate existing problems.

18. With regard to the Committee's recommendation on ensuring full protection to organizations involved in the defence of human rights, he said that measures taken in recent years had helped to develop the activities of non-governmental organizations (NGOs), including human rights defence organizations. In July 2007, a programme of public assistance to NGOs had been adopted by presidential decree with a view to creating a stable

and effective partnership between NGOs and the public authorities. Over the last few years, more than USD 1,240,000 had been allocated by the public authorities to 191 NGOs.

19. Unfortunately, Azerbaijan was not able to fulfil its obligations under the Convention in Nagorno-Karabakh and seven neighbouring regions, which together made up 20 per cent of Azerbaijan's territory, due to Armenia's occupation of the area. As a result of Armenia's ethnic cleansing policy, more than 1 million Azerbaijanis had been compelled to flee to another country or another region. In the course of Armenia's armed aggression against Azerbaijan, serious human rights violations had been perpetrated, including violations of the Convention. The Government of Azerbaijan was particularly concerned with the fate of hostages, prisoners of war and missing persons. According to information supplied by the State Commission dealing with the matter, more than 4,500 Azerbaijani nationals had been listed as missing and, according to many reports, were believed to be held illegally in Armenia and systematically tortured and ill treated. According to information received by the Azerbaijani delegation, 552 Azerbaijani nationals had reportedly died in detention in Armenia as a result of the torture and ill treatment to which they had been subjected. Nevertheless, the Republic of Azerbaijan continued in its determination to find a peaceful solution to the conflict based on the principles of sovereignty and territorial integrity and allowing the highest degree of autonomy to Nagorno-Karabakh.

20. In conclusion, he said that the existence of isolated violations of the Convention in Azerbaijan could not be denied, although such violations did not occur systematically and invariably led to action taken by the Government of Azerbaijan, as part of its efforts to eradicate torture in the country.

21. Ms. Gaer (Rapporteur for Azerbaijan) welcomed the fact that the State party had sent a large, high-level delegation to Geneva to present its report and she expressed satisfaction at its submission of the written replies to the list of issues and the additional information supplied orally by the delegation.

22. Among the positive points, she noted the fact that the State party had ratified the Optional Protocol to the Convention against Torture and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, that it cooperated regularly with the CPT and that, as indicated by the delegation in its oral presentation, new prisons in line with international standards had been built and that substantial subsidies had been allocated to NGOs in support of their activities. She noted, however, that a number of sources had reported many allegations of violations of the Convention, most of which had been perpetrated during police custody in the course of interrogation, and that few prosecutions had been initiated against suspected perpetrators. Lastly, noting that only one report on the CPT's visits had been made public whereas that Committee had already visited the State party five times since 2002, she asked when the other CPT reports would be published.

23. She further noted that the report and written replies reflected a fundamental problem, which was the lack of information and statistical data. Yet in its concluding observations (CAT/C/CR/30/1) concerning the second periodic report of Azerbaijan, the Committee had asked the State party in its next periodic report to supply detailed information, including statistical data, on the practical implementation of its legislation and of the recommendations of the Committee, as well as detailed statistical data, disaggregated by crimes, geographical location, ethnicity and gender, of complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, as well as related investigations, prosecutions, and penal and disciplinary sentences. Although some statistics had been provided in the report, they were not disaggregated and the information given on case law related to the Convention left many gaps. She asked the delegation to explain why the report and written replies contained so little information and statistics concerning the

implementation of the Convention. She asked whether data had been collected in that respect and, if not, whether steps would be taken to introduce a data collection system.

24. The definition of torture given in article 133 of the Criminal Code was insufficient with respect to article 1 of the Convention. It did not mention the reasons why torture was practised; it said nothing about the perpetrators and did not refer to torture inflicted “at the instigation of or with the consent or acquiescence of a public official”. She asked whether only State agents who had taken a direct part in acts of torture could be prosecuted for torture or whether other persons acting in an official capacity could also be prosecuted. It would be useful to have examples. In his introductory statement, the head of delegation had indicated that, according to statistics for 2001–2008, 161 persons had been convicted under article 133 for domestic violence, whereas the written replies (question 28) mentioned that 161 persons had been convicted of torture under article 133 during the same period. She would like to know whether the figures referred to the same persons and whether the acts for which they had been convicted really related to domestic violence. Details of the sentences passed would also be useful.

25. The State party indicated in its written replies (question 10) that all suspects brought to a police station were registered in a special register. She asked the delegation to specify exactly at what moment - immediately upon arrest, when placed on remand, or after judgment - detainees were registered and whether the register in question was a central register which could be consulted by third parties. It would be useful to have further details of the entries made in such registers. She asked in particular whether, as recommended by the European Committee for the Prevention of Torture (CPT) following its visit to Azerbaijan in 2002 (CPT/Inf. (2004) 36, English only), the records included all aspects of detention and all measures taken in that respect, including the time of and reasons for the person’s arrival at the police station, the time of issuing the order of detention, signs of injury, and contact with and/or visits by a relative, lawyer or doctor. She was pleased to note that the plan of action approved by the Ministry of Justice in 2003 strengthened the protection of the fundamental rights of persons deprived of liberty, such as the right to contact a lawyer, to be examined by a doctor and to inform the family. She asked at what stage of the detention the right to request examination by a doctor could be exercised and whether, as mentioned in paragraph 35 of the CPT report, a person detained by the police for interrogation could exercise that right. In 2002, the CPT had noted that there was no specific legal provision guaranteeing access to a doctor for persons deprived of their liberty by the police, which left it very much to police staff in charge of a place of detention to determine whether the intervention of a doctor was necessary. She asked whether the situation had changed in that respect. According to information received by the Committee, the right to contact a lawyer and to be examined by a doctor was frequently violated. For example, Emin Milli and Adnan Hadji Zadeh, who had been detained by the police for several months awaiting trial, had reportedly asked to be examined by a doctor upon arrival at the police station because they had suffered injuries, but their request had been turned down. It also appeared that they had been unable to contact their family or their lawyer until 16 hours after their arrest. She asked what had happened with the case, whether the detention of the two men had been submitted to judicial supervision and whether the detainees or their families had any means of challenging the lawfulness of the detention. She would also like further details concerning the case of Mahir Mustafayev, who had been found suffering from second and third degree burns in his cell and had been transferred to a hospital only after 11 hours had elapsed.

26. The State party’s reply to question 3 concerning the plan of action to implement the recommendations of the Committee was very brief and did not give the required information. The Committee would like to know in particular whether there were any mechanisms for monitoring the implementation of the plan of action, whether any changes had been made in legislation or prison administration under the plan and whether an

independent body outside the system of law enforcement, justice and prosecution had been created under the plan, in accordance with the Committee's recommendations.

27. In his introductory statement, the head of delegation had indicated that the number of prison deaths in 2008 had been reduced by a factor of 17 compared with 1995, which was a considerable step forward. Nevertheless, people continued to die in detention and the causes of those deaths needed to be elucidated. Out of the 11 cases of torture and ill treatment inflicted on detainees referred to by the State party in its report (paras. 61 to 135), nine had led to the victim's death, while officials had been found guilty in only two cases. She asked for details of the charges brought against them, such as torture (art. 133 of the Criminal Code), abuse of authority (art. 308), exceeding authority (art. 309) or negligence (art. 314). In six other cases, no charge had been brought against the officials concerned and two investigations had been unfinished at the time the report had been drawn up. The Committee would like up-to-date information concerning those investigations. Two recent cases of detainees' deaths had been brought to the Committee's attention: that of Mr. Novruzali Mamadov, who had died in hospital in August 2009 after having been taken there in July, whereas his transfer request had been accepted five months earlier, and that of Farida Kunqurova, who had died of hunger in detention and who had reportedly been buried three days after her death without her family's knowledge. Regarding Mr. Mamadov, she asked why he had not been transferred to hospital as soon as his request had been approved and whether charges had been brought against the officials who had delayed his transfer. Regarding the death of Ms. Kunqurova, she asked whether an autopsy had been performed and, if so, whether the conclusions reached had been made public and could be consulted by an independent body.

28. The exercise of the right to be assisted by a lawyer was affected by the insufficient number of lawyers in Azerbaijan, of the order of one per 10,000 inhabitants. She asked whether anything had been done to improve the situation. During its visit in 2002, the CPT had gathered evidence establishing that police officers had put pressure on detainees to oblige them to sign a declaration stating that they did not want to use the services of a lawyer. She wanted to know whether any steps had been taken since then to end that type of abuse and to protect the rights of detainees. The CPT had also interviewed detainees, who had stated that they had been expressly informed of their right of access to a lawyer only after charges had been brought against them or that they had been held in custody as witnesses without being allowed access to a lawyer. The delegation's comments in that respect would be welcome. It might also be able to supply details of the follow-up to the decision of the European Court of Human Rights in the Sardar Mammadov case, indicating specifically whether that person had been granted compensation. Another case on which clarification would be useful was that of Kamil Sadreddinov, who had reportedly been allowed access to his lawyers only 16 days after the outset of his detention. It would appear that the free legal aid procedure was little used and that, in the event, the services of court-appointed lawyers, only few of whom were available, left much to be desired. It would be interesting to know what measures had been taken to remedy that situation.

29. The establishment of a civil committee in charge of inspecting prisons was a great step forward. Nevertheless, it appeared that the said committee was subject to certain restrictions, on which the delegation's views would be welcome. For example, members of the civil committee had to notify the authorities of the prisons they wished to visit with one day's notice, although such visits could not really be effective unless they were unannounced. She asked whether the civil committee was authorized to visit other places of detention, such as pre-trial detention centres and psychiatric hospitals, whether it could interview all detainees freely and whether the authorization to meet a detainee had ever been refused, in which case she would like to know for what reasons. The members of the civil committee held office only for one year. In such conditions, it was difficult to see how the committee would ever acquire sufficient experience to become a really effective body.

30. With regard to the replies to question 5, she asked how many investigations into allegations of torture had been initiated by the Ombudsperson, whether in response to a complaint or ex officio, and what results the investigations had led to. Out of the 97 complaints for ill treatment she had received in the first half of 2009, how many had been investigated and what conclusions had been reached? The Office of the Ombudsperson of Azerbaijan had been recognized as a human rights institution with A status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. And yet in her latest report the current Ombudsperson justified the use of violence by the police or prison staff in cases where detainees refused to obey, fought among themselves or, in the case of prisons, disobeyed the internal rules of the establishment. Furthermore, the Ombudsperson was not authorized to investigate members of Parliament, judges or the President. In the light of those facts, the independence of the office was open to doubt. It would be interesting to hear the delegation's views on the subject. In addition, the remand centre of the Ministry of National Security was still active and had not been transferred to the Ministry of Internal Affairs as the Committee had recommended. According to reports, persons were held there after being judged and convicted. Hadji Mamedov was reported to be one such case. Whatever information the delegation could provide in respect of that detainee would be appreciated.

31. The Committee would welcome detailed statistics on domestic violence, such as the numbers of reported cases, investigations and in the event convictions handed down, as well as further details on any progress made with the draft law making domestic violence an offence, the adoption of which had apparently been postponed. She asked whether female staff were present in all premises where women were detained and, if not, who practised body searches on detainees, especially in remand centres. Hazing in the armed forces (*dedovchtchina*) was still practised and sometimes led to the deaths of victims. Could the delegation supply information on any steps taken to end the practice?

32. In its written replies (question 14) the State party mentioned 38 administrative deportation decisions issued by the State Migration Service without giving further details. It would be useful to have more information in that respect, especially regarding the deadlines for implementing those decisions and the return countries concerned. In reply to question 15, the State party indicated that since the beginning of 2008, 142 foreigners and stateless persons had applied to the State Migration Service for the status of refugee, which had been granted to only five persons, while 48 applicants had been turned down because they did not have the necessary identification papers. She asked for more details concerning that procedure and the criteria governing the grant of refugee status. She also asked whether the 48 persons who had not had the necessary identification papers had been expelled and, if so, to which countries. In the *Elif Pelit* case, in which the Committee had considered that the extradition of the applicant by Azerbaijan to Turkey had constituted a violation of article 3 of the Convention, she wanted to know what steps had been taken by the Azerbaijani authorities to ensure that the applicant had been properly treated following her extradition. Reportedly Ms. Pelit has since then been released and had returned to Azerbaijan. Had the Government taken any steps to grant her compensation? According to some reports, many Chechen refugees in Azerbaijan had been abducted, arrested and brought to court to face iniquitous trials. At least 24 of them were said to have been transferred unlawfully to Russia despite the risk they had been exposed to of being tortured there. The delegation might comment on those allegations and indicate how the State party ensured the fulfilment of its obligations under article 3 of the Convention. She would particularly like to have details about the case of Ruslan Eliev, a Chechen refugee registered with the Office of the United Nations High Commissioner for Refugees (UNHCR), who had been allegedly kidnapped in Baku in November 2006 and had been found dead in Chechnya, with his body covered in marks of torture. She also wanted to

know what appeals could be lodged by persons under extradition or expulsion orders if they ran the risk of being tortured in the applicant country or the return country. Article 12.3 of the Criminal Code established that the State of Azerbaijan was competent to deal with crimes of torture committed outside the country. Had any persons known to have committed acts of torture abroad been prosecuted under the terms of that article?

33. Mr. Wang Xuexian (Co-Rapporteur for Azerbaijan) said that the care taken by the State party to draw up its report and its written replies to the list of issues was to be commended. The Committee had also welcomed the efforts made since the presentation of the last periodic report to follow up its recommendations, and in particular the significant steps adopted to improve the legal and judicial systems. With regard to article 10, he noted that several training programmes had been launched and he would like to know whether any assessment had been made of their effectiveness. He also asked for details regarding the specific training given to forensic doctors to teach them to detect signs of torture. With regard to rules and procedures concerning interrogation methods, he said that no clear reply had been given to the question of whether any steps had been taken to review those procedures at regular intervals (question 21). Any information the delegation could provide would be welcome. In its written replies, among the alternatives to imprisonment the State party referred to the payment of fines. That form of punishment was not equitable insofar as, for the same offence, a wealthy person remained unpunished while a poor person would go to prison. He asked the delegation to comment on that subject.

34. He also wanted to know how many investigations into allegations of torture had been opened by the Ombudsperson and with what results. He asked for details of the deaths of Mr. Mammadov and Mr. Djabbarov in detention, since the circumstances did not appear to corroborate the authorities' conclusion that they were cases of suicide. In particular, were the deaths followed by a detailed investigation? In the *Sardar Mammadov* and *Mahira Muradova* cases, the Azerbaijani courts had rejected the allegations of torture, although they had been confirmed by the European Court of Human Rights. It would be interesting to know whether that difference of opinion arose from different ways of assessing the facts or from different interpretations of the law.

35. Compensation in the meaning of article 14 entailed three aspects: moral, financial and medical. Payment alone was not enough. Victims must also be provided the necessary means for their rehabilitation. It would be interesting to know in how many cases of torture the courts had ordered the grant of a payment to victims and whether rehabilitation programmes existed. While the number of tuberculosis cases in prisons had considerably diminished thanks to measures taken by the Government, the problem remained acute. Perhaps the delegation could offer an explanation. In his introductory statement, the head of the delegation had indicated that 9,000 prisoners had been released under the amnesty law of 17 March 2009. It would be interesting to know whether any of those had been found guilty of torture. In reply to the Committee's question regarding allegations that journalists were exposed to consistent acts of violence (question 38), the State party had argued that it was unacceptable that the law enforcement authorities should be hindered in any manner in the performance of their professional duties by representatives of the media. While the Committee did not deny that, it had to be recognized that such allegations were very frequently made and called for some explanation. The fact that the Government had allocated more than 1 million dollars to NGOs was excellent. However, according to certain sources, the effect of recent changes in the laws governing NGOs was to bring them under stricter Government control. The delegation's views on the matter would be worth having.

36. Ms. Sveaass asked for details of the various amnesty laws adopted by the State party and about the types of offences for which persons released under the last amnesty law had been convicted. According to the head of delegation, the number of convicted persons had

diminished in recent years. She asked whether by convicted persons he meant detainees serving a prison sentence. During the presidential elections of 2003 and the legislative elections of 2005, serious violations had been committed against journalists and human rights defenders, while demonstrations had been violently repressed by the police. She wished to know whether investigations had been opened into those events and whether the victims had received any form of compensation. Reiterating the recommendations put forward by Norway during the universal periodic review concerning Azerbaijan (A/HRC/11/20), she called on the State party to protect human rights defenders and journalists and to ensure that every attack on their rights or their person should be investigated. According to NGO reports, the civil committee was not authorized to visit psychiatric hospitals, whereas, with the exception of Baku hospital, many such establishments were far from complying with international standards. It would be useful to know which bodies were authorized to carry out inspections in psychiatric hospitals. According to some reports, internment in a psychiatric hospital was sometimes used as a means of silencing persons who denounced acts of violence to which they themselves or others had been subjected. The delegation might indicate whether those reports were true and, if so, whether any steps would be taken to combat the practice. She would also welcome further details about the use of corporal punishment in institutions where children were placed.

37. Ms. Belmir welcomed the significant effort made by the State party to meet its obligations under the Convention. The establishment of a working group responsible for implementing the recommendations put forward by the Committee following its examination of the second periodic report of Azerbaijan (CAT/C/59/Add.1) was a particularly useful step forward, which could well be emulated by all States parties to the Convention. Despite the significant progress achieved by Azerbaijan in terms of implementing the Convention, however, a number of concerns still arose regarding the organization of the justice system. The information provided by the State party in that respect in its third periodic report (para. 172) and in its replies to the list of issues (CAT/C/AZE/Q/3/Add.1) reflected a certain confusion in the division of jurisdictions between civil and military courts. That degree of confusion could be detrimental to the good administration of justice as well as to the rule of law. With regard to reform of the judiciary, she recalled that, at the time of the consideration of the third periodic report of Azerbaijan, the Human Rights Committee had expressed concern at irregularities occurring in the selection of judges and breaches in the principle of their non-removability. Had any steps been taken by the State party in response to those concerns? The Committee had received alarming reports of the treatment to which juvenile offenders were subjected. The reports mentioned cases of prolonged detention of persons under 18 in premises where they were not kept separate from adults. In her view, that situation indicated a need for an overall reform of the system of juvenile justice. Had Azerbaijan actually taken steps to bring the system into line with the relevant international instruments?

38. Ms. Kléopas thanked the delegation for its written replies and its oral presentation. She shared the concerns expressed by several members of the Committee regarding the definition of torture given in the State party's legislation and agreed that it was not entirely in conformity with articles 1 and 4 of the Convention. It also seemed that the allegations of torture and ill treatment did not automatically give rise to prompt and impartial investigations, and that detainees were not granted all the necessary legal guarantees. With regard to judicial reform, she asked for details of any of the steps taken by Azerbaijan to ensure the independence of judges. It would be worth knowing by which authorities they were appointed and removed. The delegation was also invited to comment on reports indicating that the executive issued instructions to judges on how to approach the cases they were dealing with. With regard to article 3 of the Convention, she asked whether decisions to expel foreign nationals, asylum seekers and refugees were open to appeal.

According to some reports, interviews between detainees and their counsels were recorded, in breach of the right of any detainee to communicate with his lawyer in privacy. She would like the delegation to comment on that matter and on allegations whereby detainees were placed in solitary confinement for prolonged periods that could last in some cases up to one year, considering that such conditions of detention could amount to inhuman or degrading treatment.

39. Mr. Mariño Menéndez, noting that the State party was exercising increasingly strict control over the activities of non-governmental organizations (NGOs), asked whether the changes recently made in the law concerning them granted the authorities special police powers, especially with respect to searches. He understood that draft laws on the right to the assistance of a lawyer were currently being examined and he would like to know whether free legal aid was planned for persons on low incomes. If so, he would like to know what the requirements were for obtaining such aid. Noting that Azerbaijan had ratified the Optional Protocol to the Convention against Torture, he asked whether any steps had been taken to ensure that the powers of the Office of the Ombudsperson, who had been designated as the national preventive mechanism for torture, complied with the Protocol's requirements. In that connection, it would be worth knowing whether the Ombudsperson could carry out visits in any place where persons were deprived of liberty, such as psychiatric hospitals, detention centres placed under the authority of the Ministry of Justice or the Ministry of National Security, holding places for undocumented migrants or detention centres for juveniles. With regard to article 3 of the Convention, the State party indicated, in paragraph 14 of its written replies, that the State Migration Service had taken 38 administrative deportation decisions with regard to foreigners who had violated regulations governing their stay or residence in the country, but that none of those had been deported to a country where he ran a serious risk of being tortured. How could the State party ascertain that that was so? The delegation might also indicate whether expulsion decisions taken by the administration were open to appeal and, if so, whether appeals had a suspensive effect. In the State party's report, it was indicated that when they received an extradition request, the competent authorities gathered information about the requesting State to know whether it practised torture or treatment in breach of the Convention. Were the same precautions taken in the case of administrative expulsion?

40. Mr. Gaye thanked the delegation for the information it had supplied regarding the steps it had taken to implement the Convention against Torture and to follow up the Committee's recommendations. In view of the fact that the definition of torture in domestic law was not in line with that of article 1 of the Convention, he asked the delegation to indicate whether an international norm could be directly invoked before the domestic courts. In its written replies, Azerbaijan stated that the Supreme Court in a ruling had drawn the attention of lower courts to evidence obtained illegally, particularly under torture. Since that ruling had been circulated to all investigative courts and bodies, he asked what the impact had been on the practice of trial courts and whether, for example, any courts had ever rejected evidence on the grounds that it had been obtained under torture. With regard to the justice system, while the steps taken by the State party to increase the number of judges were to be welcomed, it had to be understood that the judges were only one element of the judicial system and that lawyers also played an important role in the administration of justice. It would be interesting to know, therefore, whether as part of its reform of the bar the State party was planning to increase the number of lawyers and to offer them training. Lastly, he asked whether the delegation might specify whether amnesty laws applied only to tried cases or whether they affected pending cases as well. He would also like details on the period covered by that legislation.

41. Mr. Kovalev welcomed the presence of a high-level delegation at the meeting and congratulated Azerbaijan on its resolute action to eliminate torture and other treatment outlawed by the Convention. It had to be admitted, however, that as far as domestic

violence was concerned the efforts made by the State party to prevent and eradicate its occurrence had not been successful. The problem of the forced marriage of minors, for instance, did not appear to have been dealt with. Since the beginning of 2009, more than 2,000 women who had been subjected to domestic violence had reportedly appealed to the women's rights association for psychological support. Since the Chairperson of the State Committee on the Family, Women and Children had signed the European petition against all corporal punishment of children, he would like to know what steps the State party had taken to implement that petition. The Council of Europe Commissioner for Human Rights had recently recommended that Azerbaijan establish a specialized centre for the victims of human trafficking; could the delegation indicate whether any steps had been taken to follow up that recommendation? More generally speaking, what measures did Azerbaijan intend to adopt in order to eradicate the problem of human trafficking once and for all? In addition, what steps had been taken by the State party to ensure that the rights of the numerous Azeri refugees in the country were respected? Lastly, he wished to know whether Azerbaijan was considering ratifying the Rome Statute of the International Criminal Court.

42. The Chairperson, speaking as a member of the Committee, thanked the delegation for its presentation and recalled that all State parties to the Convention needed to incorporate a definition of torture in their legislation in line with that given in article 1 of the Convention. Article 1.3.3 of the Azerbaijani Criminal Code, which defined torture, failed to mention the reasons given in the Convention, such as "discrimination of any kind". In paragraph 2 of its written replies, the State party indicated that the omission was not a problem since pursuant to article 61.1.6 of the Criminal Code reasons such as national, racial or religious enmity was regarded as an aggravating circumstance. That did not appear to be sufficient since other reasons for discrimination, such as gender, were not taken into account. In other respects, the Committee welcomed the fact that the State party had set up a working group responsible for following up the decisions of the Committee concerning communications and the decisions of the European Court of Human Rights. It would be useful to have details of that working group's activities. Did the group's members, for instance, include academics? According to some reports, the civil committee in charge of inspecting prisons was not authorized to carry out visits in police stations, psychiatric hospitals, special education establishments, army detention centres or juvenile detention centres. Yet in many countries persons were detained in places other than prisons, and it was therefore important that the civil committee should have access to such places as well. The Committee attached particular importance to its decisions and recommendations concerning communications received from private individuals under article 22 of the Convention. In that connection, what measures had been taken by Azerbaijan in the *Elif Pelit* case, where the Committee had found a violation of article 3 of the Convention? Did the delegation have any information concerning any compensation measures in favour of the applicant? It would also be interesting to know what was considered admissible evidence of torture or ill treatment under the State party's legislation. What was the evidential value given to a medical certificate certifying the presence of injuries and establishing that they could be the result of acts of torture or ill treatment and what steps had the State party taken to ensure that the rules of evidence in cases related to acts of torture and ill treatment complied with the legal requirements of the European Court of Human Rights? The Committee had received alarming reports about the treatment of journalists in Azerbaijan. Could the delegation provide details on how the investigation into the murder, on 2 March 2005, of Elmar Huseynov, the founder and editor in chief of the weekly "Monitor", was progressing? The Committee had also received reports that Emin Huseynov, Director of the Institute for the Freedom and Security of Reporters, and Süheyle Qemberova, journalist working for the daily "Impuls", had been arrested and beaten by the police respectively in June and September 2008. He would appreciate details concerning any investigations into those cases. The Committee had also been told that Jehovah Witnesses of British, Russian and Georgian nationality had been expelled in January 2008

for having breached a law forbidding religious agitation by foreigners. Had the persons concerned been given an opportunity to appeal that decision before a court of law? Lastly, what steps had been taken by the State party to ensure that no act of human trafficking could be committed at the instigation of or with the consent of a public official or other person acting in an official capacity? In conclusion, he thanked the delegation for its attention and invited it to reply to the questions raised by Committee members.

43. Mr. Khalafov (Azerbaijan) said that, after ratifying the Convention, Azerbaijan had set up a working group to study ways of incorporating the instrument in domestic law. The Government was quite aware that all legislation needed to evolve in relation to development, progress and social change, however, and it would take account of all recommendations the Committee might make in order to implement the Convention and Optional Protocol satisfactorily.

44. Mr. Abbasov (Azerbaijan) said that article 133 of the new Criminal Code was broader in scope than article 1 of the Convention, because it punished all forms of torture regardless of their purpose. That was why the legislators had not considered it necessary to list all the reasons mentioned in the Convention. Paragraph 3 of that article specifically punished acts of torture perpetrated by public officials. Discriminatory intent, moreover, was one of the aggravating circumstances referred to in article 61. Nevertheless, in the light of the Committee's recommendation, a team of experts had been instructed to determine whether article 133 needed changing with the addition of a specific reference to "discrimination". An amendment was currently being considered.

45. As far as statistics were concerned, the 161 convictions handed under article 133 included sexual violence, also within the family; the cases did not therefore only concern acts of torture aimed at obtaining confessions. On the other hand, 220 officials who had made use of unlawful investigation methods had been convicted under article 308 (Abuse of authority) and 113 under article 309 (Exceeding authority).

46. Mr. Alekberov (Azerbaijan) said that the civil committee established for the purpose of inspecting prisons was made up of 11 members belonging to NGOs that dealt with detainees. Since some 20 or so NGOs were involved, the committee's membership was renewed each year in order to allow them to be represented in turn. The members of the civil committee were allowed free access to prisons and could therefore carry out inspections at any moment. It was only if they were accompanied by representatives of other NGOs who were not members of the committee that they needed to give one day's notice of their visit and to request authorization, which was almost invariably granted. They were not allowed to inspect remand centres; those came under the authority of the Ministry of the Interior, whereas the civil committee depended on the Ministry of Justice. Azerbaijan had no objection to placing its detention premises under independent supervision, as reflected not only in the establishment of that transparent mechanism, but also in its collaboration with the International Committee of the Red Cross, which had lasted for over ten years, and with the European Committee for the Prevention of Torture.

47. Mr. Usubov (Azerbaijan), while acknowledging that there were not enough lawyers, said that the Government with the help of legal experts was trying to find ways of overcoming that difficulty. Since the right of defence was recognized for all detainees, they must have access to a lawyer. Thus in the case concerning Emin Milli and Adnan Hajizade, the two young men, who had been arrested for causing a public disturbance, had been allocated an ex-officio counsel prior to contacting lawyers of their own choice, which they had been allowed to do without impediment. Since interviews between detainees and their counsels were confidential, they were never recorded.

48. With regard to the Chechen residents whose extradition had been requested by Russia, it should be pointed out that the person named Alikhan Khasuyev had been arrested

in Baku with weapons in his possession. As he enjoyed the status of refugee, in the light of consultations with the Office of the United Nations High Commissioner for Refugees, the Azerbaijani authorities had finally decided not to grant extradition. The person named Gadji Chankayev had been handed over to the Russian authorities subject to their assurance that he would not be ill treated or tortured. After facing trial in Daguestan, he had returned to serve his sentence in Azerbaijan. With regard to Yusup Nagayev, wanted in Russia for abduction, who had also enjoyed refugee status, in consultation with UNHCR it had been decided to extradite him.

49. Mr. Khalofov (Azerbaijan) said that the Government gave priority to the issues of violence against women, domestic violence and human trafficking. It had already adopted new legislation and plans of action to combat those practices, but he hoped that the dialogue with the Committee would also be helpful in identifying both the causes and the means of eradicating them.

50. Ms. Gahramanova (Azerbaijan) said that the State Committee for the Family, Women and Children had been established in 2006 by presidential decree. It had recommended measures for combating violence against women and children and had prepared a bill which was currently under consideration by Parliament. Several public bodies had been invited to comment on the draft. The new law included social measures, such as the payment of an allowance to victims, as well as free psychological care and support. It also contained plans to set up a national centre to assist victims, but also the aggressors, for example, by offering them to participate in re-education programmes. Specific measures could be taken to ensure the protection of victims (such as withdrawing custody of children) and aggressors would be liable to administrative sanctions if they failed to abide by them. It needed to be pointed out, however, that the new initiative was not always well understood or accepted by society.

51. Azerbaijan was taking part in the Council of Europe Campaign to Combat Violence against Women, including Domestic Violence. In April, the State Committee for the Family, Women and Children had launched a project specially designed to combat violence against women in the southern Caucasus, in conjunction with the Ministry of Foreign Affairs and NGOs defending the rights of women. A film had been shown on regional channels and in schools within the framework of those activities.

52. The State Committee also played a major role in promoting equality between men and women, through improvements in legislation and awareness campaigns. Since 2008, in cooperation with the Geidar Aliev fund, it had been running a programme aimed at protecting women and helping them to exercise their rights, in particular by organizing seminars at regional level and disseminating brochures and documentaries. A special aspect dealt with was the prevention of early marriages. Lastly, measures were also taken to combat human trafficking, and preventive actions were conducted to make vulnerable population groups aware of the danger. In general terms, the fight against trafficking was part of the effort to combat gender violence.

53. The Chairperson thanked the delegation for the information it had supplied and invited it to return with further replies at the following meeting.

*The meeting rose at 6.05 p.m.*

---