



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/AZE/3
10 December 2007

ENGLISH
Original: RUSSIAN

HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Third periodic report of States parties

AZERBAIJAN

[4 October 2007]

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 15	4
Information on individual articles of the Covenant	16 - 634	5
Article 1	16 - 22	5
Article 2	23 - 61	6
Article 3	62 - 98	14
Article 4	99 - 106	19
Article 5	107	20
Article 6	108 - 120	20
Article 7	121 - 170	22
Article 8	171 - 207	30
Article 9	208 - 254	34
Article 10	255 - 326	42
Article 11	327 - 329	51
Article 12	330 - 335	51
Article 13	336 - 354	52
Article 14	355 - 412	55
Article 15	413 - 417	62
Article 16	418 - 420	63
Article 17	421 - 437	63
Article 18	438 - 454	66
Article 19	455 - 480	68
Article 20	481 - 492	71
Article 21	493 - 494	73
Article 22	495 - 523	73

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
Article 23	524 - 543	76
Article 24	544 - 590	79
Article 25	591 - 616	85
Article 26	617 - 633	89
Article 27	634	91

Introduction

1. The present report, which is submitted in accordance with article 40, paragraph 1, of the International Covenant on Civil and Political Rights, is the third periodic report on the measures taken by the Government of the Republic of Azerbaijan to implement the rights proclaimed in the Covenant and on the progress made in the exercise of those rights.
2. Presidential order No. 2068 of 29 March 2007 established the working group for the preparation of the third periodic report of the Republic of Azerbaijan on the International Covenant on Civil and Political Rights. The group comprised representatives of the ministries of foreign affairs, internal affairs, national security, justice, youth and sport, labour and social welfare; the State Committee on the Family, Women and Children; and the Office of the Procurator-General. Experts from State bodies and from non-governmental organizations also worked on the report.
3. The report has been prepared in accordance with the Human Rights Committee's general guidelines regarding the form and content of States' reports under article 40, paragraph 1, of the Covenant. It examines the legislative, judicial, administrative and other measures taken by the Republic of Azerbaijan to give effect to the provisions of the Covenant since the submission of the second periodic report.
4. On 22 June 2002 the President of the Republic of Azerbaijan signed a decree on the conduct of a referendum on amending the country's Constitution. The referendum was held on 24 August 2002 and led to changes to the Constitution of the Republic of Azerbaijan, including measures to strengthen the protection of human rights.
5. Elections were held in 2003 for the post of President of the Republic of Azerbaijan and in 2005 to the Milli Meclis (Parliament) of the Republic of Azerbaijan.
6. The Republic of Azerbaijan is a permanent member of the United Nations, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO), the World Health Organization (WHO) and many other international and regional organizations.
7. The Republic of Azerbaijan joined the Council of Europe on 25 January 2001.
8. The date 1 September 2000 marked the entry into force of the new Criminal Code and the Code of Criminal Procedure of the Republic of Azerbaijan. The new Civil Code of the Republic of Azerbaijan entered into force on 1 June 2000.
9. The Republic of Azerbaijan has acceded to a number of international conventions, including fundamental multilateral human rights treaties.
10. The main obstacle to the development of Azerbaijan consists in the continuing aggression waged by neighbouring Armenia and the associated serious consequences.

11. As a result of the aggression and ethnic cleansing of Azeris both from the territory of Armenia itself and from the occupied Azerbaijani lands, there are over 1 million refugees and displaced persons in Azerbaijan today, including members of minorities. In humanitarian terms a disastrous situation has evolved in Azerbaijan. Every year hundreds of old people, women and children die in the refugee camps as a result of disease and epidemics.

12. In its resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 11 November 1993 the United Nations Security Council condemned the occupation of the territory of the Republic of Azerbaijan, reaffirmed respect for the sovereignty, territorial integrity and inviolability of the borders of the Republic of Azerbaijan and the inadmissibility of the use of force for the acquisition of territory, and demanded the immediate cessation of hostilities and hostile acts as well as the immediate, complete and unconditional withdrawal of all occupying forces from the occupied districts of Azerbaijan.

13. At the most recent summit meeting of OSCE, the following principles were worked out for settling the armed conflict, recommended by the co-chairs of the OSCE Minsk Group and supported by all the OSCE member States except Armenia:

- (a) Territorial integrity of the Republic of Armenia and the Republic of Azerbaijan;
- (b) The legal status of Nagorny Karabakh as defined by an agreement based on self-determination and affording Nagorny Karabakh the highest degree of self-government within Azerbaijan;
- (c) Guaranteed security for Nagorny Karabakh and its entire population, including mutual responsibility to ensure that all parties observe the provisions of the settlement.

14. In resolution 1416, passed by the Parliamentary Assembly of the Council of Europe on 25 January 2005, the Assembly cites the above-mentioned resolutions of the United Nations Security Council and urges the parties concerned to comply with them.

15. Notwithstanding the unequivocal demands of the United Nations Security Council and the other above-mentioned organizations, Armenia continues to this day to hold occupied Azerbaijani territory and build up its military capability there.

Information on individual articles of the Covenant

Article 1

16. The Republic of Azerbaijan confirms its unswerving commitment to the self-determination of peoples and to their right freely to determine their political status and freely to pursue their economic, social and cultural development.

17. Article 16 of the State Independence of the Republic of Azerbaijan Act, one of the country's constitutional laws, provides:

“The Republic of Azerbaijan shall, in accordance with the generally recognized rules of international law, build its relations with other States on the basis of the principles of the

sovereign equality of States, the non-use of force or of the threat of force, the inviolability of State frontiers, the settlement of disputes by peaceful means, non-intervention in the internal affairs of other States, respect for human rights and fundamental freedoms, the equality of peoples and their right to self-determination, cooperation between States and the fulfilment in good faith of international legal obligations.”

18. The right of peoples to self-determination is of exceptional importance for the people of Azerbaijan, which, through sustained efforts to give effect to that right, has lawfully re-established its independence.

19. The Azerbaijani Constitution, which was adopted by national referendum on 12 November 1995 and came into force on 27 November of that year, states, in article 2, that it is the sovereign right of the people of Azerbaijan freely and independently to decide their own fate and determine their form of government.

20. The article continues: “The people of Azerbaijan shall exercise their sovereign right directly through nationwide voting (referendums) and through representatives elected on the basis of universal, equal and direct suffrage by free, secret and personal ballot.”

21. The Republic of Azerbaijan is firmly convinced that the guiding principles of democratic societies - equality, the rule of law, respect for human rights, freedom of choice, and tolerance - should be applied in the same degree to international relations. Such relations should be founded on the principles of the sovereignty, equality and territorial integrity of States, non-interference in each other’s internal affairs and peaceful coexistence.

22. Azerbaijan further believes that realization of the right of self-determination must not be used as a pretext for infringement of the territorial integrity, national unity or ethnic harmony of independent States. In its view, the right of peoples to self-determination should be given its original, true significance; that would not erode, but on the contrary strengthen the national independence, sovereignty and territorial integrity of States whose Governments reflect the interests of all members of their populations without distinction.

Article 2

23. The protection of rights and freedoms in the Republic of Azerbaijan is seen as a determining factor in the existence of a democratic State governed by the rule of law.

24. Article 12 of the Constitution, sets the upholding of human and civil rights and freedoms as the highest goal of the State. The rights and freedoms of individuals and citizens are upheld in accordance with the international treaties to which Azerbaijan is party.

25. Following important steps in the area of judicial reform, the country’s legislation has been brought into line with international standards, a three-tier court system established and, for the first time in the country’s history, an examination procedure is being used for the appointment of new judges.

26. Fundamental changes have been made to the system for the administration of justice. To improve the work of courts and to bring them into line with international requirements, the

Judicial Council Act was adopted in December 2004 and substantial changes made to the Courts and Judges Act, with a view to defining the procedures for the selection of judges, stiffening the disciplinary penalties for judges who abuse their office and ensuring transparency in the work of the courts.

27. As a result of measures taken in fulfilment of the tasks pursuant to these statutory instruments, the Judicial Council - an independent body of an entirely new type - was set up to give effect to the autonomous function of the judiciary. At the same time, the Judges' Selection Committee was also formed, entrusted with the selection of candidates for vacant judgeships (further details may be found in the section of this report under article 14 of the Covenant).

28. Following amendments made in 2002 to the Constitution of the Republic of Azerbaijan and in accordance with parts V, VI and VII of article 130 of the Constitution, all persons are entitled, in the manner prescribed by law, to submit appeals to the Constitutional Court of the Republic of Azerbaijan challenging statutory instruments issued by the legislative and executive authorities, and the enactments of courts and municipalities that violate their rights and freedoms, or to apply to the Court for it to resolve the issues set out in paragraphs 1-7 of part III of the article, with a view to restoring abridged human rights and freedoms. Consideration by the Constitutional Court of complaints relating to the issues set out in part III, paragraph 4, of article 130 of the Constitution of the Republic of Azerbaijan may proceed in the following cases:

- (a) Where a court has failed to apply the applicable law or regulation;
- (b) Where a court has applied a law or regulation that is not applicable in the present case;
- (c) Where a court has misinterpreted the law or regulation.

29. In the cases specified in article 34 of the Constitutional Court Act of 23 December 2003, verification of the facts of a case under consideration by the Supreme Court is not permitted. Complaints may be lodged to the Constitutional Court, as a rule, in the following cases:

- (a) Within six months of the entry into force of a decision of the highest judicial authority (decision of the Supreme Court of the Republic of Azerbaijan), following exhaustion of the remedy of right of appeal against the enactment of a court;
- (b) Within three months of the date of violation of the right of the applicant to lodge an appeal to the court.

30. The courts may, following the legally prescribed procedure, apply to the Constitutional Court of the Republic of Azerbaijan for an interpretation of the Constitution and the laws of the Republic of Azerbaijan on matters relating to the exercise of human rights and freedoms.

31. An ombudsman's office has been established in Azerbaijan, in accordance with the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan Act of 28 December 2001, a constitutional law of the Republic of Azerbaijan. The Human Rights Commissioner (Ombudsman) has the right, in matters relating to the statutory instruments of the legislative and executive authorities and enactments of courts and municipalities which violate human rights

and freedoms, to apply in the legally prescribed manner to the Constitutional Court of the Republic of Azerbaijan, requesting that court to resolve any of the issues identified in part III, paragraphs 1-7, of article 130 of the Constitution of the Republic of Azerbaijan.

32. In order to ensure that the human rights and freedoms recognized in the Republic of Azerbaijan are in line with the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), on 24 December 2002 the Human Rights and Freedoms in the Republic of Azerbaijan (Regulations on Their Exercise) Act was adopted as a constitutional law of the Republic of Azerbaijan. Under article 1 of the Act, no provision in the Constitution of the Republic of Azerbaijan or of the Act itself may be interpreted or understood by the public authorities, organizations or individuals as providing legal justification for activities or actions designed to set aside human and civil rights and freedoms, or to limit them to an extent greater than that envisaged in the Constitution of the Republic of Azerbaijan and the above-mentioned Act.

33. No restrictions may be placed on the rights enshrined in article 27 (except in the case of death resulting from the lawful conduct of war), part I of article 28, part III of article 46, articles 63 and 64 and part VIII of article 71 of the Azerbaijani Constitution, nor may any reservations be posted against them.

34. Human rights and freedoms protected under the Constitution of the Republic of Azerbaijan and the international treaties to which Azerbaijan is party may only be restricted by law. Any law restricting human rights and freedoms must specify the rights or freedoms being restricted and cite the relevant article of the Constitution. The restrictions imposed on human rights and freedoms may not change the essence of these rights and freedoms. Restrictions imposed on human rights or freedoms serve a legitimate purpose, envisaged by the Constitution of the Republic of Azerbaijan and the above-mentioned Act of 2002, and shall be compatible with this objective.

35. In addition to the grounds set forth in part III of article 71 of the Constitution, human rights and freedoms may be restricted for the purpose of ensuring the exercise and protection of the rights and freedoms of other persons.

36. The rights and freedoms specified in part III of article 28 and articles 32, 33, 49, 50, 51 and 58 of the Constitution and the freedom of speech referred to in article 47 may, among other reasons, be restricted in the interests of State security, or for the protection of the health and morals, or the rights and freedoms of other persons, or for the prevention of crime; the rights and freedoms mentioned in articles 32, 33, 49, 50 and 58 of the Constitution and the freedom of speech referred to in article 47 may also be restricted, among other reasons, for the prevention of unrest; the rights and freedoms referred to in part III of article 28 and articles 49, 50 and 58 of the Constitution, the freedom of speech referred to in article 47 and the right to practice any religion and to express and disseminate opinions related to attitude to religion, referred to in part II of article 48, may also be restricted, among other reasons, for the protection of public safety; the rights and freedoms specified in part III of article 28 and articles 32 and 33 of the Constitution and the right to practice any religion and to express and disseminate opinions related to attitude to religion, referred to in part II of article 48, may also be restricted, among other reasons, for the maintenance of law and order; the rights and freedoms mentioned in

articles 32 and 33 of the Constitution may also be restricted, among other reasons, for the economic well-being of the country; the freedom of speech referred to in article 47 of the Constitution and the freedom of information referred to in article 50 may also be restricted, among other reasons, to safeguard the territorial integrity of the State, to protect the authority or rights of other persons, to prevent the disclosure of confidential information, or to maintain the authority and impartiality of the courts; the right to practice any religion and to express and disseminate opinions related to attitude to religion, referred to in part II of article 48, may also be restricted, among other reasons, to protect the health and morals or the rights and freedoms of other persons.

37. No one may be detained, arrested or deprived of their liberty in any other way, except in the cases and in the manner specified below:

(a) Deprivation of a person's liberty following his or her conviction by a duly authorized court;

(b) Lawful arrest or detention of a person for failure to comply with the lawful order of a court or for the purpose of ensuring compliance with an obligation prescribed by law;

(c) Lawful arrest or detention of persons for the purpose of their handover to a competent judicial authority where there is reasonable suspicion that such persons have committed an offence or a justifiable need to prevent them from absconding after perpetration of the offence;

(d) Deprivation of the freedom of minors on the basis of a lawful order for the purpose of correctional supervision or lawful detention for handover to a competent judicial authority;

(e) Lawful detention of persons to prevent the spread of infectious diseases, and also of persons who are mentally ill, prone to alcoholism or drug addiction or given to vagrancy;

(f) Lawful arrest or detention of persons in order to prevent their illegal entry into the country or the lawful arrest or detention of persons against whom deportation or extradition measures are to be applied.

38. Any person arrested or detained in accordance with the circumstances set out above must be brought without delay before a judge with the authority to consider the matter or to order the person's release pending trial. Such persons have the right to be tried within the time limit set by law, or to be released pending trial.

39. All persons deprived of their liberty through arrest or detention shall be entitled to a trial. In such cases, the court shall immediately decide on the lawfulness of their detention and, if the persons have been detained illegally, order their release. Detained or arrested persons may be released pending trial on condition that guarantees are furnished of their appearance in court. All persons arrested or detained in cases where the circumstances set out above do not obtain shall be entitled to compensation, to be secured through legal proceedings.

40. No one may be detained, arrested or taken into custody simply for failing to meet an obligation under a civil contract.

41. The Harm Caused to Individuals by the Unlawful Actions of Initial Inquiry and Pretrial Investigation Authorities, the Prosecutor's Office and the Courts (Compensation) Act, which entered into force on 18 February 1999, is designed to uphold the right to compensation from the State for harm caused to individuals through the unlawful actions (both by oversight and deliberate wrongdoing) of the initial inquiry, pretrial investigation, procuratorial and judicial authorities and their officials. The right to damages, in the cases, to the extent and following the procedure specified by this Act, arises:

“(a) When an acquittal is granted;

“(b) When a decision is taken to terminate the prosecution;

“(c) Upon termination of the administrative infraction proceedings.”

42. The Decisions and Actions (Omissions) that Violate the Rights and Freedoms of Citizens (Court Appeals) Act of 11 June 1999 establishes the procedure for appealing through the courts against decisions and actions or omissions that violate the rights and freedoms of citizens of the Republic of Azerbaijan as set out in the country's Constitution and international treaties to which it is party, and also contains regulatory provisions relating to the courts' role in upholding the rights and freedoms of citizens.

43. Citizens have the right to lodge appeals with the courts challenging decisions and actions (or omissions) by central and local authorities, enterprises, institutions and organizations, voluntary associations and public officials which breach or impede the exercise of their rights and freedoms, and also to challenge the official information that is invoked to substantiate the adoption of such decisions and actions.

44. The courts hand down decisions on the outcome of their consideration of complaints. If a court finds that a complaint is justified, it rules that the challenged decisions and actions are unlawful, annuls penalties imposed on citizens, restores their violated rights and freedoms, and also determines the liability of central and local authorities, enterprises, institutions and organizations, voluntary associations and public officials relating to their decisions and actions (or omissions) which breach the rights and freedoms of citizens.

45. Under the Code of Civil Procedure of the Republic of Azerbaijan, ratified by an act of 28 December 1999, all individuals and legal entities are entitled in the manner prescribed by law to have recourse to legal protection in order to defend and uphold their legitimate rights and freedoms, and also their interests.

46. In accordance with the Code of Criminal Procedure of the Republic of Azerbaijan, ratified by an act of 14 July 2000, one of the purposes served by criminal proceedings is to protect individuals, society and the State from criminal attacks and to protect individuals from abuse of authority involving the actual or perceived perpetration of offences.

47. Article 154 of the Criminal Code, ratified by an act of 30 December 1999, sets out penalties for violations of the equal rights of citizens, irrespective of race, ethnic origin, attitude to religion, language, sex, origin, property or professional status, beliefs or membership of

political parties, trade unions or other voluntary associations, which have infringed the rights and legitimate interests of citizens, in the form of fines ranging from 100 to 500 nominal financial units or punitive work for periods of up to one year. The same acts committed by officials in abuse of their official position are punishable by fines of between 500 and 1,000 nominal financial units, punitive work for periods of up to two years or custodial sentences for periods of up to two years with or without forfeiture of the right to hold certain positions or engage in certain activities for periods of up to three years.

48. Under article 293 (Coercion to testify) of the Criminal Code, forcing a suspect, an accused person, a victim or a witness to give evidence during interrogation, and also forcing an expert to present findings, through the use of threats or blackmail, or by insulting that person's dignity or through the perpetration of other unlawful acts by procurators, investigators or persons conducting the initial inquiry, or at their instigation, shall be punishable by terms of deprivation of liberty for up to three years. The same acts accompanied by the use of torture are punishable by custodial sentences of between 5 and 10 years.

49. Under the provisions of the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan Act of 28 December 2001, the office of Human Rights Commissioner was established to restore human rights and freedoms violated by central and local authorities and public officials of Azerbaijan. The activities of the Human Rights Commissioner shall not encroach upon or duplicate the powers of other State authorities entrusted with protecting human rights and restoring rights and freedoms which have been violated. Under the Act, the Ombudsman's office may set up regional centres.

50. Adoption of the above-mentioned Act has made it possible for the country to develop a more open society, including the prison system. Thus, the Minister of Justice of the Republic of Azerbaijan has issued a special order to ensure that the Commissioner has unimpeded access to places of detention and remand centres, and that he or she shall be promptly accorded interviews with their administrations and able to hold meetings with the persons detained in those facilities, that the necessary conditions shall be provided for one-to-one interviews with each of the detainees and that documents confirming the legality of their detention in those places shall be made available. Additional measures are being undertaken to ensure effective cooperation with the Commissioner for Human Rights.

51. The Commissioner and his or her staff are able freely and without prior notification to visit remand centres, police cells and prisons and to meet and talk face-to-face with detainees, persons held in remand and convicted prisoners.

52. During 2006 alone, the Ombudsman and his staff conducted 35 visits to custodial facilities overseen by the Ministry of Justice. Following these visits, the Ombudsman issued recommendations on improvements to the detention conditions for convicted prisoners and persons in remand, which are now being put into effect.

53. The Commissioner does not have the authority to review the activities of the President of the Republic of Azerbaijan, the deputies of the Milli Meclis (Parliament) or the judiciary of the Republic of Azerbaijan. The Ombudsman considers complaints of human rights violations filed by citizens of the Republic of Azerbaijan, by aliens and stateless persons, and by legal entities. A

complaint may be filed within one year of the date on which the complainant's rights were breached or of the date when the breach came to his or her attention. Complaints filed by persons serving sentences in prisons or held in remand centres and other temporary custodial facilities should be passed on to the Commissioner within 24 hours and without undergoing censorship.

54. The Commissioner shall, within a period of five days, notify the applicant in writing of the action taken and the outcome of any consideration of the complaint. If, during consideration of the complaint, specific violations of human rights are identified, the Commissioner may take the following steps:

(a) Demand that central or local authorities or public officials who through their decisions or actions (omissions) have violated human rights shall restore these rights (the authorities or officials in question must, within a period of 10 days, submit written notification to the Commissioner of the action taken. If such notification is not submitted or the demands of the Commissioner are not satisfied, the Commissioner may refer the matter to the higher body to which the offending authority or official reports or to other State authorities);

(b) If evidence is revealed that an offence has been committed, apply to the relevant authorities for the institution of criminal proceedings;

(c) Apply to entities with the right to appeal under the ancillary cassation procedure;

(d) Contact the appropriate bodies recommending the imposition of disciplinary sanctions on public officials who have breached human rights through their decisions or actions (omissions);

(e) Inform the media of the outcome of investigations of human rights violations;

(f) In cases where the violation is of particular public importance and where the Commissioner's powers are insufficient to guarantee the restoration of human rights, appeal directly to the President of the Republic of Azerbaijan, and address the Milli Meclis (Parliament) of the Republic of Azerbaijan;

(g) Apply to the courts for the restoration of rights infringed by a decision or action (omission) by a central or local authority or public official;

(h) Where the rights of persons are violated by currently valid laws or regulations, apply to the Constitutional Court of the Republic of Azerbaijan for a ruling.

55. With a view to updating the judicial system and to ensuring that people's needs for legal institutions and judicial assistance appropriate to the social and economic development of regions across the country are met, instances of abusive conduct, excessive red tape and other shortcomings that aggravate the public are eliminated, justice is administered more efficiently, citizens' confidence in the courts boosted and recourse to the courts is rendered easier, a presidential decree was passed on 19 January 2006 on the updating of the judicial system in the Republic of Azerbaijan and the application of the Certain Legislative Acts of the Republic of Azerbaijan (Introduction of Amendments and Additions) Act, which made provision for the establishment of a number of new courts, including appellate courts in the cities of Baku, Gəncə,

Sumqayıt, Əli Bayramlı and Şäki, together with new local economic courts in the cities of Baku, Şäki and Sumqayıt. Pursuant to the decree, the Serious Crimes Court of the Autonomous Republic of Naxçıvan was created in the city of Naxçıvan. The following measures were also recommended:

(a) The Supreme Court of the Republic of Azerbaijan, the appellate courts of the Republic of Azerbaijan and the Supreme Court of the Autonomous Republic of Naxçıvan should make arrangements to study the case law of the European Court of Human Rights and to take this into account in their own judicial practice;

(b) The Office of the Procurator-General of the Republic of Azerbaijan should, in view of the creation of new courts, make appropriate changes to the manner in which public prosecution services are organized in the courts;

(c) The Bar Association of the Republic of Azerbaijan should, in view of the creation of new courts, consider increasing the number of lawyers and take steps to ensure the more effective provision of legal assistance to people living in outlying regions;

(d) The Judicial Council should submit to the President of the Republic of Azerbaijan reasoned proposals on the establishment and operation of an academy of justice, designed to raise the professional level of legal practitioners with higher legal education, with a view to their appointment to certain positions within their special fields.

56. To ensure the more effective administration of justice, to beef up the judiciary, to determine the territorial jurisdiction of the courts and to facilitate the operation of new courts during the process of modernizing the judicial system, the number of judges of the courts of the Republic of Azerbaijan was increased by 156 (or 50 per cent) by presidential decrees of 17 August 2006, on increasing the number of court judges and determining the territorial jurisdiction of the courts of the Republic of Azerbaijan, and of 2 November 2006, on the development of legal institutions in the Autonomous Republic of Naxçıvan.

57. Work is currently under way, in conjunction with the Council of Europe, on a code of ethical conduct for judges.

58. Pursuant to a presidential decree dated 25 August 2000, an order by the Cabinet of Ministers of 6 December 2004 and an order of the Minister of Justice of 15 December 2004, an inspectorate has been established under the Minister of Justice to monitor the enforcement of punishments and this inspectorate is now in full operation. It has such exclusive powers as the entitlement to direct and unimpeded access to prisons, to hold one-to-one meetings with convicted prisoners, to observe their detention conditions and to demand and scrutinize documentation setting out the legal grounds for their detention in custody. The inspectorate's functions also include the consideration of complaints and appeals by convicted prisoners and persons in and awaiting trial, in particular those regarding torture and ill-treatment, monitoring the conditions under which they are guarded and escorted, and also preparing and submitting proposals based on the findings of inspections carried out against officers guilty of misconduct in the performance of their duties.

59. In order to uphold the rights of convicted prisoners and persons in remand, pursuant to an order of the Minister of Justice, the Human Rights and Public Relations Office in the Ministry of Justice has unimpeded access to prisons, looks at detention conditions when visiting such facilities, holds regular meetings with the prisoners, receives and considers complaints from them, and also submits recommendations prepared in the light of these visits to senior officials in the Ministry.

60. Rules have been drawn up and ratified by an order of the Minister of Justice of the Republic of Azerbaijan dated 25 April 2006, to facilitate public monitoring of the work of correctional facilities and the involvement of the public in reform work for convicted prisoners.

61. A compilation of human rights instruments and a wide range of articles on human rights have been published in the Ministry's journal *Qanunculuq* ("Legal Affairs") and circulated among the judiciary and the courts as a source of guidance, pursuant to an order on the obligations of the judicial organs to protect human rights, signed by the Minister of Justice on 12 April 2002.

Article 3

62. The principle of equality between men and women, which is reflected in article 25 of the Constitution of the Republic of Azerbaijan, informs all aspects of the domestic law of the country (labour law, family law, criminal law, civil law, social law, etc.).

63. The Azerbaijani Government has put into effect its national action plan on the protection and promotion of women's rights for the period 2000-2005.

64. The Republic of Azerbaijan signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 6 June 2000 and its formal accession to the Optional Protocol took place on 1 June 2001.

65. On 6 March 2000 a presidential decree on the implementation of government policy relating to women in the Republic of Azerbaijan was signed, with a view to upholding the equality in practice of women and men, and in particular their representation in government at the appropriate level.

66. The Gender (Male and Female) Equality Act of the Republic of Azerbaijan, dated 10 October 2006, has as its aim the attainment of sexual equality through the elimination of all forms of discrimination based on sex and measures to ensure that men and women enjoy equal opportunities in political, economic, social, cultural and other spheres of public life. The Act provides definitions of gender, gender equality, equal opportunities, discrimination based on sex and sexual harassment. The main focuses of the State policy on gender equality are: setting in place, improving and further developing the necessary legal and regulatory framework for gender equality; subjecting the country's laws and regulations to gender screening; preparing and conducting government programmes to ensure gender equality; and promoting a culture of gender equality.

67. On 29 November 2006 a presidential decree was passed on adoption of the Gender (Male and Female) Equality Act.

68. The Azerbaijani Government is taking steps to eliminate all forms of discrimination based on gender, to ensure that women enjoy opportunities equal to those enjoyed by men and to prevent the dominance of either sex in government and in decision-making processes. The Act:

- (a) Prohibits all forms of sexually motivated discrimination and sexual harassment;
- (b) Ensures that no pressure is placed on employees who have been sexually harassed;
- (c) Obliges employers to eliminate all discrimination based on sex and to promote the equality of men and women in employment and in earnings;
- (d) Prohibits different requirements being placed on men and women, preference being expressed for members of one or the other sex in job advertisements, or job-seekers being questioned about their marital status or personal life;
- (e) Ensures equal opportunities for men and women in the exercise of the right to education, guarantees gender equality in the economic and social domains, and also in the activities of political parties, non-governmental organizations and trade unions, and enshrines the right to claim damages.

69. In the area of employment, article 16 of the Labour Code (Non-discrimination in employment) prohibits discrimination between workers on the basis of citizenship, sex, race, religion, ethnic origin, language, place of residence, property status, social origin, age, family status, beliefs, political views, membership of trade unions or other associations, official position or any other criteria unconnected with their professional qualities, occupational skills or results of their work. It also prohibits the direct or indirect conferring of advantages or privileges and the restriction of rights on those grounds.

70. The same article provides that the granting of privileges and guarantees to women in the area of employment to ensure their social protection shall not be deemed to be a form of discrimination. Employers who practise discrimination in employment shall be held to account in accordance with the law.

71. Over the period 1999-2007, 168,093 people, including 66,740 women, were placed in employment by the employment services, 11,496 of them in quota-based jobs.

72. Under article 240 of the Code, a woman may not be refused an employment contract on the grounds of pregnancy or having a child aged under 3. This procedure does not apply in cases where employment is refused because of lack of work (or appropriate post), or to jobs that cannot be performed by women. Where an employer refuses on those grounds to enter into an employment contract with a pregnant woman or a woman with a child under 3 years of age, the woman has the right to request a written confirmation of the reason for refusal. In cases where women are refused employment contracts, they may apply to the courts to defend their rights.

73. In order to ensure the widest possible awareness of the need to prevent violence against women, on 1 September 2004 a law was passed to supplement that part of article 31 of the Labour Code of the Republic of Azerbaijan which specifies the obligations of employers and employees, adding the following clauses:

“(a) To take all necessary measures to facilitate the conduct of outreach work among employees and to inform them of any incidents of harassment of individuals in the workplace or during their performance of their duties, and of manifestly hostile and degrading treatment, as well as measures to prevent such conduct and to protect workers from actions of this kind;

“(b) To take all necessary measures to facilitate the conduct of outreach work and to inform employers of any incidents of sexual intimidation (harassment) in the workplace or during the performance of their duties, with a view to preventing such forms of intimidation, as well as measures to protect employees from such actions.”

74. Pursuant to the provisions of article 149 of the current Criminal Code of the Republic of Azerbaijan, the penalties for rape have been stiffened.

75. Under the Code of Criminal Procedure of the Republic of Azerbaijan, jurisdiction for the investigation and prosecution of cases involving this category of offences has been assigned to the procuratorial offices.

76. Over the reporting period, the procurator’s offices have carried out a range of measures to combat cases of rape.

77. In the country as a whole, 64 rapes were committed in 1999; 46 in 2000; 41 in 2001; 39 in 2002; 49 in 2003; 24 in 2004; 44 in 2005; and 35 in 2006.

78. Rape constitutes an insignificant proportion of the total offences in the country (given that more than 10,000 offences are committed every year) and the number of rape cases is steadily decreasing.

Year	1999	2000	2001	2002	2003	2004	2005	2006
Total number of offences	14 400	13 958	14 607	15 520	15 206	16 810	18 049	19 045
Cases of rape	64	46	41	39	49	24	44	35

79. Practical clinics are held every six months to review methods to combat these offences, and measures have been identified and conducted to tackle the causes and conditions that contribute to the commission of rape. In all the cases referred to above, the courts handed down penalties of various kinds on the culprits.

80. In 2005, the State Committee on Women, established by presidential decree on 14 January 1998, together with the women’s organization “Coalition 1325”, held 14 local-level workshops in different regions of Azerbaijan on the identification of gender priorities, at which there was lively debate on selected priority areas (women and the economy, women and education, etc.), the views of local residents were heard about the problems which they faced and due account was taken of the suggestions put forward by participants.

81. In 2006, the State poverty alleviation and sustainable development programme for the period 2006-2015 was adopted. The programme devotes an entire section, entitled “Gender policy”, to the issue of gender equality.

82. The State social and economic development programme for the period 2004-2008 is currently being implemented across the country. The programme is designed to foster the balanced economic development of Azerbaijan, including by promoting an enabling environment for women and men in key areas of development. Focus is also placed on women’s employment issues as part of the planned new employment strategy.

83. The Committee has been actively involved in the process of preparing the programme and has worked closely with the secretariat of the State poverty alleviation and sustainable development programme. The Azerbaijani office of the United Nations Development Fund for Women (UNIFEM) has also contributed to this work through its regional initiative “Women for conflict prevention and peace-building in the southern Caucasus”.

84. Under this initiative, an agreement has been struck between the Committee and the UNIFEM regional office on a legislative and political framework conducive to promoting sexual equality and the protection of women’s rights.

85. A presidential decree was passed on 9 August 2006, ratifying the statute of the State Committee on the Family, Women and Children, a central executive body responsible for applying State policy and regulation relating to the family, women and children in legally defined areas of activity. This body was originally established in 1998 to replace the State Committee for Women.

86. The Committee carries out regular monitoring and gender screening exercises, with a view to ensuring sexual equality and taking particular care to involve the public directly in its work.

87. Through outreach activities (including the publication of books and leaflets) and the holding of workshops in different parts of the country, the State Committee on the Family, Women and Children is making a particular effort to enhance the role of women at decision-making levels. One of the Committee’s priorities is boosting the participation of women in elections.

88. In 2006, the Government of the Republic of Azerbaijan conducted joint workshops with UNIFEM on the prevention of human trafficking, violence against women and early marriage in various towns and districts around the country, including Baku, Quba, Lankaran, Astara, Massalli, Gänjä, Agdam, Füzuli, Ismayilli and Şamaxı.

89. Currently, draft legislation is under preparation in Azerbaijan on the prevention of domestic violence. The provisions set out in chapter XX of the Criminal Code cover offences against the sexual integrity and the sexual freedom of the individual (arts. 141-153), while those in chapter XXII cover offences against juveniles and family relations (arts. 170-176).

90. Under article 141 (Illegal abortion) of the Criminal Code of the Republic of Azerbaijan, the performance of abortions by doctors outside medical establishments is punishable by fines of up to 200 nominal financial units or by punitive work for periods of up to six months. The performance of abortions by persons without specialized higher medical education is punishable by fines of up to 300 nominal financial units, or by 180-200 hours of community service or by punitive work for periods of up to one year. The same acts, if through negligence they have caused grievous harm to their victims, are punishable by fines of 300-500 nominal financial units, or by punitive work for a period of up to two years, or by deprivation of liberty for periods of up to one year, with or without forfeiture of the right to hold certain positions or engage in certain activities for periods of up to one year. The above acts, if through negligence they have caused the death of the victim, are punishable by deprivation of liberty for periods of up to five years with forfeiture of the right to hold certain positions or to engage in certain activities for a period of up to three years.

91. Working together with UNIFEM, the Government of the Republic of Azerbaijan has developed a national plan of action on the family and women for the period 2007-2010. Some 25 government agencies and as many as 40 non-governmental and international organizations were involved in preparing the plan.

92. In the Republic of Azerbaijan, women are represented in senior positions in central government, and are also actively involved in business activities and academic research in various scientific fields. There are 6,492 registered women entrepreneurs in the Republic of Azerbaijan. In all, there are 11 women members of the Academy of Sciences, 206 women doctors of science and 3,020 women PhDs.

93. Parliamentary elections were held in Azerbaijan in November 2005, contested by 1,539 candidates registered with the Central Election Commission of the Republic of Azerbaijan, of whom 1,372 were men and 167 women.

94. At the current time, the Milli Meclis (Parliament) of Azerbaijan includes among its members 14 women, representing 11.2 per cent of the total number of deputies of this highest legislative body of the country. Of the three deputy speakers of parliament, one is a woman.

95. The Commissioner for Human Rights (Ombudsman) is a woman.

96. More than 70 women's non-governmental organizations are operating in the country.

97. In recognition of the importance of the Convention on the Elimination of All Forms of Discrimination against Women, the instrument has been translated into Azeri and also published in print and on the Internet site of the Ministry of Justice (www.justice.gov.az), which was established to ensure transparency and education in different areas of law.

98. Further information may be found in the section of the present report dealing with article 8 of the Covenant.

Article 4

99. Since 8 June 2004, Azerbaijan's State of Emergency Act has regulated the application of states of emergency and of special powers in accordance with the Constitution of the Republic of Azerbaijan. The Act stipulates the restrictions which may be imposed on the constitutional rights and freedoms of citizens of the Republic of Azerbaijan, and of aliens and stateless persons, and also on the rights and legitimate interests of all legal entities, irrespective of their form of ownership, and assigns them additional obligations, while also regulating the activities of the central and local executive authorities and of the officials of these bodies in the various areas of the Republic of Azerbaijan.

100. Measures entailing restrictions on the powers of the central and local executive authorities and local governments, and also on the rights and legitimate interests of all legal entities, irrespective of their form of ownership, and on the rights and freedoms of citizens, aliens and stateless persons, and steps taken under the state of emergency are applied to an extent commensurate with the severity of the situation and in the manner prescribed by the law of the Republic of Azerbaijan and the international treaties which it recognizes.

101. Pursuant to the requirements of article 21 of the State of Emergency Act, these activities must be consistent with the obligations flowing from international treaties on human rights and recognized by the Republic of Azerbaijan and should not serve to justify discrimination against individuals and certain groups on the grounds of race, ethnic affiliation, language, sex, origin, property or professional status, beliefs or membership of political parties, trade unions or other voluntary associations.

102. In the event of the declaration of a state of emergency, the Government of the Republic of Azerbaijan, acting in accordance with the International Covenant on Civil and Political Rights and the Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), notifies the Secretary-General of the United Nations and the Secretary-General of the Council of Europe within a period of three days of the temporary restrictions imposed on the rights and freedoms of citizens and the reasons therefor.

103. The Government of the Republic of Azerbaijan must inform the Secretary-General of the United Nations and the Secretary-General of the Council of Europe of the lifting of a state of emergency.

104. In the event of the introduction of a state of emergency in specific areas of the Republic of Azerbaijan, the Government notifies its neighbouring States of the state of emergency and of the circumstances that led to its introduction within 24 hours after ratification by the Milli Meclis (Parliament) of Azerbaijan of the legal instrument decreeing the state of emergency.

105. With regard to paragraph 2 of article 4 of the Covenant, it should be noted that, under article 8 of the State of Emergency Act, the measures set out in articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18 of the Covenant are not subject to any restrictions for the duration of the state of emergency in the territory where it is imposed.

106. The provisions of the Human Rights and Freedoms in the Republic of Azerbaijan (Regulations on Their Exercise) Act of 24 December 2002 setting out requirements relating to the limitation of human rights and freedoms can be considered as the legal basis ensuring application of the law called for in paragraph 8 of the Committee's concluding observations.

Article 5

107. Information pertaining to this article of the Covenant may be found in the initial report by the Government of the Republic of Azerbaijan.

Article 6

108. On 25 January 2001, the Republic of Azerbaijan signed Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty and, on 15 April 2002, ratified that instrument.

109. The Criminal Code, which has been in force since 1 September 2000, does not provide for the death penalty as the punishment for the commission of any offence (art. 42).

110. The most severe punishment imposed under the Criminal Code is life imprisonment.

111. Pursuant to the provisions of article 57 of the Criminal Code, life imprisonment:

“(a) May be imposed only for the most serious crimes against peace and humanity, war crimes, crimes against the person, public safety and law and order and State authority;

“(b) May not be imposed on women, on persons who at the time of committing the offence were aged under 18, or on men who, by the time the sentence is passed by the court, have attained the age of 60.”

112. In the event that a convicted prisoner has actually served not less than 25 years of a sentence of life imprisonment, and during that time has not deliberately committed any further offences, the court may, if it concludes that there is no need for the prisoner to continue serving his sentence, commute the sentence of life imprisonment to fixed-term imprisonment or release the prisoner early on parole.

113. The penalty of life imprisonment may, in accordance with the Criminal Code, be commuted to a prison sentence for a maximum term of 15 years.

114. The crime of genocide shall, as prescribed by article 103 of the Criminal Code of the Republic of Azerbaijan, be punished by terms of imprisonment of between 10 and 15 years, or by life imprisonment.

115. Amnesty (article 81 of the Criminal Code) may be granted by the Milli Meclis (Parliament) of Azerbaijan to a category of people, rather than to specified individuals. Persons who are granted amnesty may be absolved of the criminal charges brought against them. Those convicted of offences may be released from punishment, the penalty imposed on them may be reduced, the

still unexpunged part of their sentence may be commuted to a milder form of punishment, or they may be exempted from further punishment. Where persons who have been granted amnesty have already served their sentence, their conviction may be struck from the record.

116. Pardon (article 82 of the Criminal Code) may be granted by the President of the Republic of Azerbaijan to designated individuals. Where persons convicted of an offence are granted a pardon, they may be exempted from serving the remainder of their sentences, or the penalty imposed upon them may be reduced or the as yet unexpunged part of their sentence may be commuted to a milder form of punishment. Life imprisonment may, as a form of clemency, be commuted to terms of imprisonment of not more than 25 years. Where persons who have been pardoned have already served their sentence, their conviction may be struck from the record.

117. Pursuant to amendments to part IV of article 27 of the Constitution of the Republic of Azerbaijan introduced in 2002, it has been determined that arms may not be used against other persons in the execution of orders issued by those in authority during periods of emergency or under martial law.

118. Azerbaijan's Criminal Code also includes provisions setting out the criminal penalties for premeditated murder (art. 120); for actions taken in response to requests from patients to hasten their death through the administration of drugs or through any other means or for terminating artificial life-support measures (art. 135: "Euthanasia"); for illegal artificial insemination and embryo implantation, and for medical sterilization (art. 136); for the performance of operations with the aim of medical sterilization and without the consent of the patient, in other words, depriving persons of the ability to procreate, or preventing women from becoming pregnant (art. 136.2); for buying and selling organs or human tissue or their forcible removal for transplantation (art. 137); for the illegal conduct of biomedical research or the use of prohibited means of diagnosis and treatment and of prohibited medicines (art. 138).

119. In recent years, the pattern of murders in the Republic of Azerbaijan has shown a steady downward trend, as illustrated in the table below:

Year	1999	2000	2001	2002	2003	2004	2005	2006
Total offences	14 400	13 958	14 607	15 520	15 206	16 810	18 049	19 045
Number of murders	242	226	218	212	183	201	192	190

120. In 1999, 242 murders were committed, in 2000 - 226, in 2001 - 218, in 2002 - 212, in 2003 - 183, in 2004 - 201, in 2005 - 192 and in 2006 - 190. Criminal proceedings were instituted in all these cases and, as things stand, the investigations have all closed, the cases have been referred to the courts and the perpetrators have received just punishments. It should be noted that, to date, no criminal proceedings have been initiated under any other of the above-mentioned articles of the Criminal Code, nor have any complaints or applications regarding these matters been filed with the Office of the Procurator-General of the Republic of Azerbaijan.

Article 7

121. The Criminal Code, which entered into force in September 2000, contains an article entitled: “Torture” (art. 113).

122. According to the article, the infliction of physical pain or mental suffering on persons who have been detained or otherwise deprived of liberty, shall be punished with imprisonment for a period of 7 to 10 years.

123. Under the provisions of article 61.1.9 of the Criminal Code of the Republic of Azerbaijan, the commission of a crime with particular cruelty, or causing unusual pain or suffering for the victim, is deemed to be an aggravating circumstance in determining the punishment.

124. Under the provisions of article 133 of the Criminal Code (Torture), the infliction of physical or mental suffering through systematic beatings or other violent acts, where this has not led to the consequences set out in articles 126 (Intentional infliction of grievous bodily harm) and 127 (Intentional infliction of less grievous bodily harm) of the Code, is punishable by deprivation of liberty for terms of up to three years. The same acts committed against two or more persons, or persons taken hostage or kidnapped, or performed under contract; committed against women known to be pregnant, by a group of individuals, by a group of individuals acting by prior conspiracy, or by an organized group or a criminal association (criminal organization); committed against minors or persons known by the perpetrator to be in a helpless state; or committed against individuals or their close relatives in connection with the exercise by such individuals of their official functions or the performance of their public duties are punishable by deprivation of liberty for terms of between three and seven years.

125. Perpetration of the above acts by officials taking advantage of their official position or by others acting at their instigation for the purpose of obtaining information from persons or forcing them to make confessions, or for the purpose of punishing them for acts which they have committed or are suspected of having committed is punishable by deprivation of liberty for terms of between 5 and 10 years.

126. Pursuant to the provisions of article 15 of the Code of Criminal Procedure of the Republic of Azerbaijan, the following acts are prohibited in criminal prosecutions:

“(a) Torture, the use of physical and psychological force, including medication, forced starvation, hypnosis, withholding of medical assistance, or the use of any other cruel, inhuman or degrading treatment or punishment;

“(b) Subjecting suspects to experiments or procedures which are of long duration or involve severe physical suffering or temporary health disorders, and also the application of any other comparable trials;

“(c) Obtaining evidence from a victim, suspect or defendant, and also from other persons participating in the criminal proceedings, through the use of force, threats and deceit or any other unlawful actions in violation of their rights.”

127. The Ministry of Foreign Affairs of the Republic of Azerbaijan issued an instruction on 21 April 2006 reminding officials of the internal affairs system yet again that it is quite unacceptable to obtain evidence through inhuman or degrading treatment. A range of measures have been conducted, designed to raise the legal awareness of Ministry staff and to step up monitoring of the services to which they belong, and substantial progress has been made in ensuring that substantive and procedural rights are duly upheld. Arrangements are made to ensure that persons whose presence is required by law are in fact present at interrogations. Detention and pretrial custody are not imposed for terms in excess of those stipulated by law.

128. Pursuant to the provisions of article 18 of the Procuratorial Service Act, the procurator's office acts to ensure uniform and scrupulous application and enforcement of the law in the work of the investigative and inquiry bodies through its oversight activities in the following areas:

(a) Compliance with the rules set out under law on the registration of applications and of reports of offences and other unlawful actions which have been submitted to the bodies conducting initial inquiries, on their consideration and on the adoption of appropriate measures;

(b) Performance by the bodies conducting initial inquiries of tasks prescribed by the laws of Azerbaijan and the lawfulness of any decisions taken during the performance of these tasks.

129. On 14 March 2000, an order was passed by the Office by the Procurator-General of the Republic of Azerbaijan on tasks to be undertaken by the procuratorial services in stepping up its campaign against the use of torture and other unlawful methods in the course of initial inquiries and pretrial investigations, in connection with the entry into force of the Procuratorial Services Act of the Republic of Azerbaijan. On 12 January 2001, an order was passed on the submission of special reports, pursuant to which lower ranking procurators were instructed to submit special reports, without delay, to the Office of the Procurator-General regarding any evidence of unlawful acts by officials of the law enforcement agencies perpetrated in the course of inquiries and investigations.

130. In order to ensure the correct application of the rules set out in the Code of Criminal Procedure, persons conducting inquiries and investigations are required, from the moment that suspects are taken into custody, to explain to them their rights, including the right to defence counsel. A defence lawyer must be made available to detainees from the moment that they are taken into custody.

131. The families and close relatives of detained persons must be informed without delay of their arrest, the place of their detention and any change in that place. If the detainee is an alien or stateless person, the relevant diplomatic mission must be informed forthwith through diplomatic channels of his or her detention.

132. Procuratorial officials conduct daily checks of remand centres and holding cells in district and municipal police stations.

133. The state of health of arrested or detained persons should be closely observed by investigators or officials conducting initial inquiries. Where necessary, they should receive prompt medical examinations or undergo forensic tests. The Ministry of Internal Affairs of

Azerbaijan issued an instruction on 27 December 2002 requiring local police stations to take additional steps to provide medical care to people held in remand, and also to set in place appropriate conditions for them to have meetings with relatives.

134. Should they receive reports of the use of torture or other illegal methods, persons conducting initial inquiries, investigators and procurators are required, when considering the examination of evidence, and also when preparing the indictment and securing its approval, following an objective evaluation of the evidence, to declare inadmissible any evidence obtained through torture and other illegal means of coercion.

135. Under the provisions of article 125 of the Code of Criminal Procedure of the Republic of Azerbaijan, no information, documents or materials may be used as evidence in criminal proceedings which have been obtained:

“By depriving parties to criminal proceedings of their legally guaranteed rights, or by restricting those rights, in violation of the constitutional human and civil rights and freedoms or of any other requirements of the Code, which should or could affect the validity of the evidence;

“With the use of violence, threats, deception, torture or other cruel, inhuman or degrading treatment.”

136. In order to give guidance to courts in the correct application of the law and the rules of international conventions against torture, the Supreme Court of the Republic of Azerbaijan has compiled jurisprudence in this area, leading to a ruling which sets out the recommendations of the Committee against Torture and notes in particular that, where evidence of torture, ill-treatment or physical and mental violence comes to light, it must be subject to a legal appraisal since these are criminal offences and no exceptional circumstances may be invoked to justify their use. Evidence obtained by illegal means cannot serve as the grounds for any decision.

137. This ruling was transmitted to all courts and pretrial investigation bodies for practical application in their work.

138. In court practice, evidence of the use of torture or ill-treatment during the pretrial investigation stage is never disregarded. All allegations of the use of torture against defendants are subject to a judicial examination, the relevant evidence is gathered and the court specifically verifies that the rights of the defendant to legal defence have been fully upheld. Where defendants complain of torture and ill-treatment, the courts immediately order a forensic examination and ensure that such examination is conducted in a thorough, objective and independent manner. Following all those steps, when rendering their final decision the courts once again scrutinize all the evidence and facts, and specify in the decision any attested instances of the use of violence against the defendant, where these have occurred during the pretrial investigation stage.

139. Currently, as part of the democratic legal reforms under way in the Republic of Azerbaijan, wide-ranging measures are being set in place to improve the operation of the prison system, to render it more efficient and to correct any shortcomings. Accordingly, by a presidential directive

of 28 January 2005, the chief of the prison service was dismissed from his post for misconduct, and other senior prison officers who were in charge of the prison catering services were dismissed from their posts, prosecuted and convicted.

140. Under the provisions of article 138 of the Criminal Code (Unlawful conduct of biomedical research or the use of prohibited means of diagnosis and treatment, and also of prohibited drugs), the conduct of biomedical research on persons without their consent is punishable by fines of between 500 and 1,000 nominal financial units, or by punitive work for periods of up to two years, or by deprivation of liberty for terms of up to two years, with or without forfeiture of the right to hold certain positions or engage in certain activities for up to two years.

141. The application of duly prohibited means of diagnosis and treatment, and of prohibited drugs, if this leads through negligence to the death of a person, or the infliction of serious or less serious harm to his or her health, is punishable by fines of between 500 and 1,000 nominal financial units, or by punitive work for periods of up to two years, or by deprivation of liberty for terms of between two and five years, with or without forfeiture of the right to hold certain positions or engage in certain activities for up to three years.

142. Under the provisions of article 10.3 of the Corrections Code of the Republic of Azerbaijan, ratified by an act of 14 July 2000, convicted prisoners may not be subjected to medical or other experiments that endanger their lives and health.

143. In order to ensure that complaints by convicted and accused persons to the relevant bodies and organizations are processed in conditions of full confidentiality, these individuals and their relatives are kept informed of their rights. Libraries for convicted prisoners contain copies of legislative acts and each convicted prisoner is issued a "Prisoner's handbook", printed in Azeri, Russian and English. The recently published *Information Manual for Convicted Prisoners* reproduces all the laws and regulations governing the rights of convicted prisoners, together with a collection of international human rights treaties. It also includes, in particular, information about the procedure for appealing to the European Court of Human Rights.

144. The right of convicted prisoners to file complaints is covered in detail in the Corrections Code. Article 10.2.7 of the Code sets out the right of convicted prisoners to make proposals or to submit representations and complaints in the State language or in other languages for the purpose of defending their rights and freedoms and, where necessary, to have recourse for these same purposes to the services of an interpreter provided by the institution or body administering the punishment. At the same time, article 10.2.12 of the Code sets out additional rights of convicted prisoners to appeal to other authorities. Article 14 of the Code, which is fully devoted to this topic, is entitled "Communications from convicted prisoners and the procedure for their consideration". This article states that "proposals, applications and complaints by convicted prisoners may be submitted both orally and in writing".

145. Written communications are transmitted through the administration of the correctional facility. The offices and officials to whom proposals, applications and complaints are addressed must consider them within the time limits prescribed by law and must inform the convicted prisoners of any decision taken.

146. An order was issued on 9 February 2001 by the Office of the Procurator-General of the Republic of Azerbaijan on improving arrangements for the consideration of communications from citizens to the procuratorial service of the Republic of Azerbaijan, instructing lower-ranking procurators promptly to check all communications falling under their direct responsibility, with a view to identifying any instances of bias in the conduct of preliminary investigations and other unlawful actions by initial inquiry and investigation bodies, of breaches of the rights of accused persons and suspects, of torture, beatings, or the use of other methods of physical and mental coercion during initial inquiries and pretrial investigations, of illegal detention and of other abusive practices.

147. On 14 February 2003, the Procurator-General issued an order setting out the duties of the procuratorial service consequent upon the accession of the Republic of Azerbaijan to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, on 1 December 2006, an order was issued instructing the procuratorial authorities to take due consideration of the requirements set out in the articles of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights in their conduct of criminal prosecutions.

148. These orders provide for specific measures to improve the efficiency of procuratorial oversight of the application and enforcement of the law and to safeguard human rights during the conduct of initial inquiries and pretrial investigations.

149. If complaints or reports of the use of torture or other unlawful practices are received from individuals or their relatives or other persons and organizations, and also if evidence of the use of torture or other unlawful practices is detected by investigators or persons conducting the initial inquiry, even when no complaints have been submitted, each such instance must be subjected without delay to a thorough, comprehensive and objective check. Culprits should be removed from office and prosecuted. The victims are to be notified of any measures taken and informed of their rights to compensation for any mental distress and material damage and the necessary conditions are to be provided to ensure that they can in fact exercise those rights.

150. Article 83.5 stipulates that proposals, statements and complaints submitted to the authorities responsible for overseeing the activities of correctional institutions and to the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan may not be censored and must be transmitted to their addressees within a period of no more than 24 hours, excluding holidays and weekends.

151. Pursuant to an act adopted on 17 March 2005, the Republic of Azerbaijan acceded to the European Convention on the Compensation of Victims of Violent Crimes.

152. Victims' rights to compensation and the procedure for its provision are regulated in Azerbaijani law by chapter XX (Award of compensation to victims) of the Code of Criminal Procedure of the Republic of Azerbaijan. Under the provisions of article 189 of the Code, victims are entitled to compensation for harm caused by acts defined in criminal law if the court rules, or the body conducting the criminal proceedings finds in its concluding decision, that such acts have indeed been perpetrated against them. The victim has the right to compensation for harm caused by acts defined under criminal law, depending on the gravity of the offence, to an amount ranging from 10 to 300 times the minimum wage.

153. The question whether compensation is to be paid from the State budget of the Republic of Azerbaijan to victims for harm caused by acts defined under criminal law is decided by a court on an application from the victim. Under the provisions of article 191.2 of the Code of Criminal Procedure, in handing down a guilty verdict pursuant to which the victim is to receive compensation paid from the State budget of the Republic of Azerbaijan, the court shall also impose a penalty against the convicted offender, which is stated in the sentence, under which the offender is obliged to repay to the State the amount disbursed in compensation.

154. The Criminal Code of the Republic of Azerbaijan and the statutes of the Ministry of Justice, together with the European Prison Rules and other international instruments, all contain standards for public participation in the correction of convicted prisoners and the exercise of public monitoring of the activities of correctional institutions. In order to strengthen interaction with human rights organizations in this field, proposals have been put forward and used as the basis for the preparation of draft rules on public participation in correcting convicted prisoners and public monitoring of the correctional institutions. These rules have since been approved by the Board of the Ministry of Justice and ratified by ministerial decree. Pursuant to the rules, a selection board has been set up, with a view to forming a public committee to participate in the work of correcting convicted prisoners and exercising public monitoring. The selection board comprised members of Parliament, representatives of the Bar Association, the Supreme Court, the judiciary and the procuratorial service, and prominent Azerbaijani academic, religious and public figures. At the board's first meeting, which was attended by the Minister of Justice, members identified the tasks before them. A competitive examination was announced in the media, including on the Ministry of Justice website and in its own publications, and details given of the procedure for submitting projects and proposals to the selection board, with the aim of setting up the Public Committee and processing applications to participate in its work. Documents submitted by non-governmental organizations and human rights defenders, applying to join the Public Committee, were duly reviewed. In the selection process, which was conducted in accordance with the rules, preference was given to candidates with the highest ethical and moral standing, with experience and knowledge in the field of human rights, and who were known both in Azerbaijan and abroad for their activities. Following a round of public hearings, the members of the Public Committee were duly selected. They included representatives of such organizations as the Public Association for the Protection of Human Rights and the Rule of Law, the Committee for Democracy and Human Rights, the "Azerbaijan against Torture" Committee, the Public Detention Facilities Monitoring Committee, the "EI" development programmes centre, the Constitutional Research Foundation, the Association of Young Lawyers of Azerbaijan, the Azerbaijani National Bureau of the International Society for Human Rights and the Citizens' Labour Rights Defence League. At its first meeting, the Committee considered organizational matters and elected a coordinator. It also took the necessary steps to launch its activities, including appropriate amendments to the order by the Minister of Justice regarding arrangements for access to correctional facilities. Committee members were issued with special passes signed by the Minister, granting them unimpeded access to these facilities. The Committee conducts regular monitoring, carries out the tasks assigned to it and draws up recommendations on the basis of its visits. These recommendations are subject to careful scrutiny and are used in identifying the measures to be taken in further reforming the prison system.

155. Over the period 1999-2006, 377 reports and complaints from citizens were submitted to the procuratorial authorities of the Republic of Azerbaijan regarding evidence of the use of unlawful

methods of interrogation and inquiry, broken down as follows: 25 in 1999, 6 in 2000, 74 in 2001, 49 in 2002, 50 in 2003, 31 in 2004, 76 in 2005 and 66 in 2006. In the case of 370 of these submissions, the allegations were not substantiated and it was decided not to institute criminal proceedings, while in the case of the remaining 7, investigations and prosecutions were ordered. Over the period 1999-2007, criminal charges were brought against eight police officers for the offence of the infliction of torture or other cruel, inhuman or degrading treatment or punishment by law enforcement officials.

156. Each such report or complaint by a citizen was carefully checked by the chief procurators and, in the light of these checks, appropriate action taken against offending officers.

157. In the course of investigating a theft, on 25 August 2005 the citizen Rasim Jafar-oglu Alyshov was brought into the police station in the city Mingäçevir. During his interrogation, with a view to identifying other accomplices to the crime, various methods of physical coercion were used against him, leading to his death from his injuries. Criminal proceedings were instituted in this matter by the Mingäçevir city procurator. Three police officers were taken into custody and subsequently convicted by the courts.

158. On 13 August 2005, the citizen Bairam Agalar-oglu Agaev was brought into police station No. 18 in the Narimanov district of Baku, on suspicion of assault with intent to rob. Agaev was subjected to degrading treatment by being left for many hours cuffed to the iron bars in full view of others and, as a result of this misconduct by a number of police officers, was pushed to commit suicide. Criminal proceedings were brought in this matter and the police officer D. Mamedov sentenced to three years' imprisonment.

159. In addition, in 2005 criminal charges were brought against the chief of criminal investigations in the Nizami district police office in the city of Gäncä, K. Gasimov, for the use of physical violence.

160. In 2004, the Azerbaijani procuratorial service prepared a special compilation of documents (in two volumes), including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the recommendations of the Committee against Torture and of the international non-governmental organization Amnesty International, relevant orders by the President and the Procurator-General, rulings by the plenum of the Supreme Court and other documents. Copies of the compilation have been circulated to all procurators.

161. In March 2007, the Office of the Procurator-General of the Republic of Azerbaijan and the Ombudsman's office jointly organized a conference on upholding human rights during investigations and inquiries, which representatives of all the country's law enforcement agencies were invited to attend.

162. The observance of human rights in the performance by their staff of their routine functions, including in the conduct of large public events and in carrying out police work, is closely tracked by those in charge of law enforcement agencies. These issues are systematically examined at board meetings and staff briefings. Complaints against police officers are, without fail, subject to close scrutiny. The causes and circumstances leading to conflicts with the public are thoroughly investigated. Priority is given to strict observance of the rights of persons detained by the police for various offences.

163. To ensure more effective monitoring of compliance with ethical standards, professional codes of conduct and the rule of law, the Ministry of Internal Affairs has set up specialized services, including for the management of internal investigations, for internal security, and for work with staff. The Code of Ethical Conduct for Employees of the Internal Affairs Offices was approved by a ministerial order of 8 April 2005.

164. In 2006, a “hot line” was set in place, to enable citizens promptly to report police misconduct.

165. Compliance with the law is constantly screened and analysed, official investigations are held into each attested violation and penalties imposed on culprits. Statistical analyses are made of all instances of rights abuses by law enforcement officials and the results of such analyses taken into consideration in efforts to bring the training of police more into line with democratic trends and to promote the human dimension in their work. The police training curriculum includes a special course, wide-ranging in scope, on the observance of human rights. Academics and practitioners from a number of developed countries have assisted in developing a course for the Police Academy on the issue of the police and human rights, which has been approved by experts from the Council of Europe.

166. Theoretical and instructional materials are routinely exchanged with foreign counterparts. Workshops and theoretical and practical seminars are regularly held to discuss human rights issues and to explore ways of strengthening democratic approaches in the daily work of the police.

167. Pursuant to the presidential decree of 25 August 2000 on the application of the Code of Criminal Procedure of the Republic of Azerbaijan (Ratification and Entry into Force) Act and on regulatory matters associated with its application, and pursuant also to the Code itself, as ratified by this Act, the Central Investigations Office of the Ministry of National Security conducts preliminary investigations into offences against public security, economic activities, law and order and the public authorities (articles 206, 214, 214-1, 216, 219, 219-1, 233-2, 233-3, 224-1, 270 and 271-285 of the Criminal Code of the Republic of Azerbaijan). To ensure that such preliminary investigations are objective, suspects and accused persons are temporarily remanded in custody in the manner prescribed by law and are held in the remand centre of the Ministry of National Security.

168. Official operations in the Central Investigations Office and in the remand centre are carried out in conformity with the requirements set out in the presidential decrees, in the Criminal Code, the Code of Criminal Procedure and the Corrections Code, and in domestic rules and regulations ratified by the Minister of National Security in application of current legislation, and also with the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials, the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and also the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

169. The work of the Central Investigations Office is monitored by the procuratorial authorities and the courts for compliance with the rules of law. Over recent years there have been no recorded instances of illegal arrest, detention or criminal prosecutions by the Central Investigations Office, nor of the use of torture or cruel, inhuman or degrading treatment by investigators against the parties to criminal proceedings. To make things easier for suspects and defendants, they may make reports and representations by submitting simple requests to the Ministry of National Security, and these requests are then duly considered in accordance with the law.

170. Further information may be found in the section of the present report dealing with article 2 of the Covenant.

Article 8

171. Slavery, as defined in article 106 (Slavery) of the Criminal Code of the Republic of Azerbaijan, is the full or partial exercise in respect of another person of powers inherent in the right of ownership, an offence punishable by deprivation of liberty for terms of between 5 and 10 years.

172. The same acts committed against a minor or for the purpose of conveying a person to a foreign country are punishable by deprivation of liberty for terms of between 7 and 12 years.

173. The slave trade, that is detaining persons for the purpose of their enslavement or use as slaves, the sale, exchange or disposal in any other manner of persons, and also any act associated with the slave trade or the transportation of slaves, along with sexual slavery or encroachments on sexual freedom in the form of slavery are punishable by terms of deprivation of liberty for periods of between 5 and 10 years.

174. The criminal law of the Republic of Azerbaijan does not provide hard labour as the penalty for any offence.

175. In order to ensure that the relevant government bodies are properly equipped to take mutual action to combat trafficking in human beings, a national plan of action to combat trafficking in persons in the Republic of Azerbaijan was ratified by presidential decree of 6 May 2004.

176. For the purpose of carrying out the organizational and practical tasks envisaged under the national plan of action, in 2004, the National Coordination Institute was created and a special office to control human trafficking set up within the Ministry of Internal Affairs.

177. The national plan of action sets out basic responsibilities in the campaign against trafficking, defines the involvement of various bodies (the central authorities, non-governmental organizations, international partners and others) in the performance of these responsibilities, outlines the functions of the national coordinator in harmonizing the efforts of these various bodies and identifies other activities designed to combat trafficking in human beings.

178. Under the national plan, starting in 2005 training workshops on human trafficking have been held in a number of districts and towns around the country, geared towards professionals

working in the area of youth and sport, youth representatives of local non-governmental organizations and youth activists. At those workshops participants were informed about the law in this area, both international and domestic, and about methods of preventing such trafficking. Regular meetings are held with young people, to raise their awareness of the pathways, methods and consequences of human trafficking.

179. On 28 July 2005 the Suppression of Human Trafficking Act was passed, with a view to setting in place the necessary legal and institutional framework to combat and prevent human trafficking, to define the legal status of trafficked persons in the Republic of Azerbaijan, to resolve matters relating to the protection of the victims of trafficking and to render them assistance.

180. Cabinet decisions were adopted on 9 November 2005, ratifying the procedure and arrangements for establishing and funding special facilities for the victims of trafficking, setting out their activities and arrangements to monitor them; on 12 January 2006, ratifying the regulations on the assistance fund for victims of trafficking, which sets out the legal framework for the operation of a special fund to assist such persons, established and operating under the Ministry of Internal Affairs; of 6 March 2006, ratifying rules for the social rehabilitation of victims of trafficking, which define arrangements for their rehabilitation; and of 17 June 2006, setting the level of benefits payable to victims of human trafficking during the course of their rehabilitation at 30 nominal financial units.

181. Particularly close attention is also given to the rehabilitation of victims of offences associated with human trafficking, and to measures to ensure their safety and to provide them with sound medical, psychological, social, domestic and legal assistance.

182. In order to give effect to the above legislative instruments, the main objective of which is to assist victims of trafficking, the Azerbaijani Government has drafted the statute for a social rehabilitation centre, which has been duly registered. All the organizational tasks necessary for the centre to become fully operational are expected to be completed by the end of 2007.

183. In 2001, at the meeting of the Human Rights Committee to hear Azerbaijan's second periodic report, it was noted that the Criminal Code of the Republic of Azerbaijan contained no separate or stand-alone rules setting out criminal penalties for human trafficking.

184. In order to combat such trafficking, an act was passed on 30 September 2005, supplementing the Criminal Code of the Republic of Azerbaijan with the articles described below.

185. Article 144-1 (Trafficking in persons) of the Criminal Code stipulates that trafficking in human beings, that is the purchase and sale of persons or the conclusion of any transactions with a view to gaining possession of persons, or their recruitment, reception, detention, concealment, transportation, transfer or reception for the purpose of their conveyance across the State border of the Republic of Azerbaijan with a view to their exploitation or transfer to third parties for the same purpose, shall be punishable by deprivation of liberty for terms of between 5 and 10 years with the confiscation of property.

186. The same acts perpetrated against two or more persons; against minors; against women whom the perpetrators know to be pregnant; by a group of individuals acting by prior conspiracy, an organized group or a criminal gang (or criminal organization); by a culprit using his or her official position; with the threat or use of force, endangering life or health; causing suffering to the victim or involving cruel, inhuman or degrading treatment; or for the purpose of using the victim's organs or tissue are punishable by imprisonment for terms of between 8 and 12 years with the confiscation of property.

187. The same acts which entail the victim's death by negligence or other serious consequences are punishable by imprisonment for terms of between 10 and 15 years with the confiscation of property.

Note

(a) The term "exploitation" of a person is understood to mean forced labour (services), sexual exploitation, slavery or slavery-like practices and the resulting state of servitude, unlawful removal of human organs and tissue, conduct on persons of unlawful biomedical research, use of women as surrogate mothers, involvement in illegal - including criminal - activity;

(b) The fact that the victim of trafficking might have consented to being exploited, that person's lifestyle, and also his or her immoral or dissolute behaviour may not be regarded as circumstances mitigating the punishment of a person found guilty of the offence of trafficking.

188. On 24 March 2000, the Republic of Azerbaijan acceded to the 1957 ILO Convention No. 105 on the abolition of forced labour.

189. Article 144-2 (Forced labour) of the Criminal Code stipulates that coercion to the performance of tasks (or the provision of services) through the use or threat of violence and restrictions on the freedom of individuals, other than in specific cases prescribed by law, is punishable by punitive work for periods of up to two years, or by deprivation of liberty for the same periods.

190. The same acts perpetrated against two or more persons; repeatedly; against minors; against women whom the perpetrators know to be pregnant; by a culprit using his or her official position; by a group of individuals acting by prior conspiracy, an organized group or a criminal gang (or criminal organization), are punishable by deprivation of liberty for terms of between three and five years.

191. The same acts which entail the victim's death by negligence or other serious consequences are punishable by deprivation of liberty for terms of between 5 and 10 years.

192. Article 316-1 (Disclosure of confidential information about victims of human trafficking) of the Criminal Code stipulates that the unlawful gathering or deliberate disclosure of confidential information about victims of human trafficking is punishable by fines ranging between 100 and 500 nominal financial units, or by community service of up to 240 hours or by punitive work for terms of up to one year.

193. The same acts perpetrated by the culprit using his or her official position are punishable by fines of between 500 and 1,000 nominal financial units or by punitive work for terms of up to one year or by deprivation of liberty for terms of up to six months.

194. The same acts which entail serious consequences are punishable by imprisonment for terms of between one and five years.

Note

The term “confidential information” in this article is understood to mean any information the dissemination of which might endanger the lives or health of the victims of human trafficking or of their close relatives or of persons assisting in combating such trafficking.

195. The Code of Administrative Offences of the Republic of Azerbaijan, ratified by an act of 11 July 2000, has been supplemented with a new article 150-1 (Carriage of passengers without documents), under which fines of between 30 and 40 nominal financial units are prescribed for individuals engaged in international shipping who carry passengers who do not have the requisite documents for entry into the territory of a given State or for their departure from the territory of that State; officials committing the same offence incur fines of between 80 and 90 nominal financial units; and legal entities incur fines of between 200 and 300 nominal financial units.

196. Article 17 of the Labour Code (Prohibition of forced labour) prohibits coercing employees to perform work (or services) which fall outside the scope of their designated functions through the use of force of any kind or of any degree, or by threatening them with dismissal. Persons responsible for forcing employees to work shall be punished in the manner prescribed by law.

197. Compulsory labour is permitted for the performance of jobs carried out under the supervision of the relevant government authorities in connection with a state of war or a state of emergency on the basis of the appropriate legislation, and also during the execution of court sentences that have become enforceable.

198. Under article 7 of the Employment Act of the Republic of Azerbaijan of 2 July 2001, citizens may not be required to perform compulsory labour, except in special cases prescribed by law (under the terms of a court order that has entered into force, during the performance of military service, or in a state of war or state of emergency).

199. Under article 53-1 of the Code of Administrative Offences, requiring citizens to perform forced labour, except in special cases prescribed by law (under the terms of a court order that has entered into force, during the performance of military service, or in a state of war or state of emergency) shall be punishable by fines ranging from 50 to 70 nominal financial units.

200. With a view to stepping up control efforts and to studying best practices in this area, in 2006 law enforcement officials were actively engaged in workshops and conferences held in Austria, Georgia, Germany, Italy, Kazakhstan, Moldova, the Russian Federation and Turkey,

and also in training courses organized by the United Nations in Baku. Since then, in 2007, they have also attended a workshop held in Tbilisi on trafficking in Turkey and the southern Caucasus, and a conference in New York on the trafficking of women and girls.

201. To ensure free and uninterrupted telephone access to victims and those at risk of human trafficking, the Office to Control Human Trafficking of the Ministry of Internal Affairs has set up a special hotline. To the same end, a telephone helpline is also operated by one non-governmental organization with which the Ministry of Internal Affairs is currently working.

202. In efforts to combat and prevent this type of crime, particular attention is given to the cultivation of media relations and the establishment of working groups composed of international experts and non-governmental organizations with experience in controlling human trafficking.

203. Regular workshops are held in different parts of the country to raise public awareness of this issue and to identify the causes and conditions conducive to this particular kind of offence. The resources of the mass media are widely employed in these public awareness campaigns. Special leaflets and brochures have been printed and distributed and a short film prepared about criminal investigations into human trafficking.

204. Organizational and practical measures conducted around the country have led to the exposure of 211 attested offences and in 192 of these cases investigations have been launched. To date, charges have been brought against 207 people and 86 victims of human trafficking have been identified. The offences committed include 27 cases of human trafficking, 1 of forced labour, 58 of involvement in prostitution, 114 of running a brothel, 7 of the enticement of minors into prostitution, and 4 of coercion to perform sexual acts.

205. Since the beginning of 2007, 70 such offences have been registered and investigations launched in 69 of these cases. To date, criminal charges have been brought against 73 people and 19 victims of human trafficking have been identified.

206. As a result of operations conducted in Azerbaijan in 2006, 4 organized criminal groups and 23 criminal gangs have been exposed.

207. Further information may be found in the section of the present report dealing with item 15 of the Committee's recommendations.

Article 9

208. In accordance with the Constitution of the Republic of Azerbaijan, everyone has the right to properly qualified legal assistance. It is further stipulated that all persons, from the moment that they are arrested, remanded or charged with an offence by a competent State authority, have the right to be assisted by legal counsel. If suspects or accused persons lack the necessary funds to engage the services of a lawyer, the investigative authorities shall issue an instruction appointing a lawyer, whose services shall be paid for by the State. Every suspected, accused or remanded person receives the services of legal counsel and their interviews with their counsel are confidential, held in private and not limited as to duration or number. The presence of a lawyer is mandatory during all investigative actions, including interrogations.

209. Under article 14 of the Code of Criminal Procedure of the Republic of Azerbaijan, the right of all persons to freedom can only be restricted through their arrest, remand in custody or imprisonment in the manner and in the cases prescribed by law. No one may be arrested or taken into custody except on the grounds stipulated by the Code or in another law of the Republic of Azerbaijan.

210. Remand in custody may only be imposed by a court order.

211. All arrested or remanded persons must be immediately notified of the grounds for their arrest or remand in custody, and also of the nature of the suspicion or the charges against them, and they must be given the right to remain silent and the right to receive legal assistance from a lawyer.

212. The Corrections Code of the Republic of Azerbaijan fully reflects the rights of convicted persons to legal assistance. Those rights are included in the list of fundamental rights of convicted persons and are explicitly stated in article 10.2.9 of the Code. Those rights are also spelled out in article 81 of the Code. Article 81.7 provides that “convicted persons shall be able, on the basis of an application from themselves, their immediate family or their legal representatives, to have interviews with lawyers for the purpose of obtaining legal assistance, or with other persons entitled to render such assistance”. Article 81.8 of the Code states that “the number and duration of interviews between convicted persons and their lawyers may not be limited and such interviews are conducted in accordance with the internal rules of correctional facilities. These interviews are not included in the number of visits stipulated by the Code”. Article 81.9 states that “lawyers or other persons having the right to render legal assistance shall be admitted to correctional facilities on production of a document attesting to their identity and credentials. These interviews shall, at the request of the parties concerned, be conducted in private”.

213. The above articles of the Corrections Code accord to convicted persons the right to have unimpeded access to the assistance of any lawyer. It should be noted that convicted persons freely and widely avail themselves of this right.

214. One area where legal reforms are being effected is the removal of the legal defence system from the jurisdiction of the central authorities and in 1999, to ensure the equality of the procedural rights of defence lawyers and the rights of the prosecution, the Lawyers and Legal Profession Act was adopted, laying the legal foundations for the creation of the Bar.

215. Under the provisions of the country’s criminal procedure law, suspects and accused persons receive written notice of their rights and obligations, and also an explanation of their right to appeal to the procurator with procedural responsibility for the conduct of the preliminary investigation, and to the court overseeing the actions of the investigator. In accordance with the law, detainees are entitled to send and receive letters and to have meetings with relatives and, with a view to keeping them informed and helping them to keep records, they are given a copy of the transmittal letter accompanying their applications, petitions or complaints. Detainees have the right to send confidential letters to the officials specified in the law (judges and procurators, and also the Commissioner for Human Rights of the Republic of Azerbaijan, or Ombudsman).

216. From the moment of their admission to the remand centre, all arrested and detained persons undergo immediate examinations by the centre's medical health service. Persons taken into remand as suspects or on criminal charges, and also persons under investigation are informed of the availability and operating procedure of the medical and health-care services and are also informed about the health and safety rules. In order to ensure that the medical records of detainees are properly maintained, an individual medical record is opened for each detainee and this is kept in a separate locked room. At all stages of the preliminary investigation of a criminal case detainees have the right to confidential treatment by the medical and health services, the right to seek advice from a doctor, and the right to undergo a medical examination if they so request. Medical examinations of detainees are carried out in a room where they cannot be observed or overheard by the prison guards. In addition, suspects, accused persons and persons under investigation undergo medical examinations individually and not in groups. The medical services in remand centres also perform social and preventive functions, alongside the treatment of patients.

217. Investigators, officials conducting initial inquiries, procurators and the courts must immediately release persons who have been unlawfully arrested or remanded in custody.

218. Under the provisions of article 159 of the Code of Criminal Procedure of the Republic of Azerbaijan, during the pretrial proceedings in criminal cases the time limit for holding the accused in custody cannot, as a rule, exceed:

“For offences not posing great public danger - three months;

“For offences of moderate gravity - six months;

“For serious offences - nine months;

“For particularly serious offences - twelve months.”

219. In exceptional cases, when the proceedings are being hampered by the large volume of material collected during the pretrial proceedings in a criminal case, or by the large number of accused persons that have been detained or in some other manner, the above-mentioned time limit for the remanding of persons in custody can be extended by the courts by not more than three months for offences of moderate gravity and for serious offences, and for particularly serious offences by not more than six months.

220. Under the provisions of article 292 of the Criminal Code (Unlawful arrest, detention or remand in custody), knowingly unlawful detention is punishable by restriction of liberty for up to three years or deprivation of liberty for up to two years with forfeiture of the right to hold certain positions or engage in certain activities for up to three years.

221. Knowingly unlawful remand in custody is punishable by deprivation of liberty for terms of between two and four years.

222. The same acts, if they entail serious consequences, are punishable by deprivation of liberty for terms of between four and eight years.

223. Under the provisions of article 48.2.1 of the Code of Criminal Procedure, bodies conducting criminal proceedings must ensure, in every case, that accused persons against whom remand in police custody has been imposed as the selected measure of restraint are able to appear in court and complete the court hearing necessary to determine the validity of the charges against them before the expiry of the period set for their remand in custody.

224. The maximum period during which people may be remanded in custody awaiting charges may not exceed 48 hours. When police custody is selected as the measure of restraint to be used against an arrested suspect, the suspect must be brought before a court within 48 hours of the moment of arrest and the court must consider the case without delay and either approve the use of police custody as the measure of restraint or order the suspect's release (article 150.3 of the Code of Criminal Procedure).

225. Under the provisions of article 154.3 of the Code of Criminal Procedure, police custody may only be applied as the measure of restraint against a person who has been charged with an offence. Appeals regarding the use of police custody as a measure of restraint are considered by the court within 24 hours of their submission to the court.

226. Under the provisions of article 91 of the Code of Criminal Procedure, accused persons have, among others, the following rights:

“To know of what they have been accused (the substance of the charges - the alleged facts of the offence and the legal basis for the charges that have been brought), upon presentation of the charges, and, immediately after they have been remanded in custody or notified of the decision on the measure of restraint to be applied against them, to receive a copy of the said decision;

“To have the services of legal counsel from the moment that they are remanded in custody or charged;

“To have the free assistance of such counsel;

“Immediately upon being taken into custody to inform their family, relatives, neighbours at home or colleagues at work (or classmates) by telephone or other means of their detention;

“To receive written notification of their rights from the person who made the arrest or carried out the custody order, the person carrying out the initial inquiry, the investigator or the procurator.”

227. The exercise by accused persons of their rights or their refusal to exercise such rights should not entail undesirable consequences for them. Accused persons may not be held responsible for the giving of evidence or explanations, except where they deliberately name persons who have no connection with the commission of the offence.

228. Under the provisions of article 157 of the Code of Criminal Procedure and the presumption of innocence, persons may not be detained or unnecessarily remanded in custody unless their involvement in the perpetration of acts categorized by law as offences has been proved.

229. Persons detained by the order of a court may not be held in temporary detention for more than 24 hours and must be transferred to a remand centre within that period (the time spent transporting them to the remand centre is not included in that time limit).

230. The investigator, the procurator in charge of the preliminary investigation procedure or the court may give the administration of the remand centre instructions on other matters, provided that these do not conflict with the rules on the separate custody of persons accused in the same criminal case, or in several interrelated criminal cases, on measures to prevent accused persons communicating with other detainees, and on the custody of detainees.

231. If, when considering whether to use remand in custody as a measure of restraint, a court decides that there is no need to isolate accused persons from society by placing them in custody, it may choose to substitute house arrest for such remand in custody. When handing down a detention order, a court may at the same time rule whether or not the accused person may be released on bail and, if so, set the amount for such bail. On application from the defence, a court may reconsider its ruling on the inadmissibility of bail and on the amount set for bail.

232. The parties to criminal proceedings may lodge appeals against decisions by the courts to order detention as the measure of restraint or rejecting such a measure. The decision of the appellate court on such a matter shall be final.

233. A court which has ordered detention as the measure of restraint may amend or revoke such an order before the expiry of its term of application upon the recommendation of the procurator in charge of the preliminary investigation procedure. The investigator or procurator in charge of the preliminary investigation procedure may only terminate the application of detention as a measure of restraint in the following cases:

- (a) In the event of a medical finding that the accused person is too ill to be held in custody;
- (b) Where it has been decided that the offence in question does not pose a great risk to society.

234. Under the provisions of article 162 of the Code of Criminal Procedure, a person must be released from custody by order of a court in the following cases (in the first two cases, the detained person must be released from custody immediately, in the courtroom):

“In the event that the charges against a person accused of the perpetration of an act categorized by law as a criminal offence are not substantiated, or that the court terminates the proceedings in the criminal case;

“If the court’s decision to impose remand in custody as the measure of restraint against an accused person is either replaced or repealed, or if the penalty handed down on a convicted defendant does not involve the deprivation of liberty;

“If it is determined that there is no need for the person to be remanded in custody.”

235. An accused person may also be released from custody on a decision by the investigator or the procurator to drop the case.

236. Upon receipt of a copy of a decision by the authority conducting the criminal proceedings to repeal or amend an order of remand in custody as the measure of restraint, the person concerned is immediately released from custody by the head of the administration of the custodial facility.

237. Without such a decision being reached by the authority conducting the criminal proceedings, the official in charge of the custodial facility will release detainees from custody and draw up a corresponding report in the following cases:

(a) At the end of the period set by the court order for remand in custody, and failing an extension of this period;

(b) Upon expiry of the maximum permissible period for remand in custody;

(c) Upon notification by the authorities conducting the criminal proceedings of payment of the bail set by the court as a condition for the person's release from custody.

238. Once they have been released from custody, persons may not be remanded again on the same charges, except in cases where the authority conducting the criminal proceedings learns of significant new circumstances or the conditions of the measures of restraint applied against those persons have been breached.

239. If, immediately after a judge has overruled remand in custody as the measure of restraint or refused an extension of the period of custody, the official leading the preliminary investigation procedure rejects such rulings and challenges them in an appellate court, the judge may add seven days to the period of temporary remand in custody or house arrest imposed on the accused person.

240. If accused persons are present at the court hearing where the court rules against the use of remand in custody as the measure of restraint, they shall be released forthwith from detention in the courtroom where the hearing is being held, except in the case specified above.

241. Under the provisions of article 161 of the Code of Criminal Procedure, the administration of the custodial facility is obliged:

“161.0.1. Without delay to register persons handed into custody pursuant to a court decision ordering remand in custody as the measure of restraint to be used against them;

“161.0.2. At the request of newly detained persons, without delay to give notification of their detention and the place of such detention to their next of kin, friends and other persons whom they have legitimate reasons to contact, (in the event that they do not wish to inform the above persons of their detention and the place of such detention, the administration of the detention facility is not permitted to give such notification on its own initiative except where this is rendered necessary by such considerations as, for example, age, mental state, etc.;

“161.0.3. To allow detained persons to have meetings under supervision and in decent conditions with members of their families, friends and other persons whom they have legitimate reasons to contact, except for a number of limitations dictated by the exigencies of justice, or for the purposes of security and compliance with the rules of the custodial facility;

“161.0.4. To ensure the safety of persons held in custody and to render them all necessary assistance and protection;

“161.0.5. To provide persons held in custody with copies of the procedural documents intended for them on the same day that they are received or, should they be received at night, by noon on the following day;

“161.0.6. To register all complaints and other statements by persons held in custody;

“161.0.7. Without delay to forward complaints and other statements by persons held in custody addressed to investigating officials, procurators in charge of the preliminary investigation procedure or to the court;

“161.0.8. To indicate in the record any refusal by persons held in custody to appear in court;

“161.0.9. To admit without hindrance defence counsel and their legal representatives to persons held in custody and to provide the necessary conditions for their private meetings without restriction as to the number and duration of such meetings;

“161.0.10. To ensure the prompt delivery of persons held in custody to the authority conducting the criminal proceedings;

“161.0.11. On the instructions of the investigating official, procurator or the court, to provide the necessary conditions for the conduct of investigative or other procedural measures in the place where persons are remanded in custody;

“161.0.12. In accordance with the decision of the authorities conducting the criminal proceedings, to transfer remanded persons to other places of custody and to carry out other instructions of the authorities conducting the criminal proceedings, provided that they do not conflict with the rules laid down by law for remand in custody;

“161.0.13. Seven days before expiry of the period of remand in custody to notify the procurator in charge of the preliminary investigation procedure accordingly;

“161.0.14. Promptly to release persons being held in custody without a corresponding court order or in respect of whom the maximum allowable period of custody has expired or for whom the amount of bail stipulated by the court has been paid and to notify the judge or the court accordingly.”

242. Under the provisions of article 56.0.5 of the Code of Criminal Procedure, a person unlawfully remanded in custody, or held in custody beyond the maximum allowable period without legitimate grounds, is entitled to damages for any harm resulting from the error or wrongdoing by the authority conducting the criminal proceedings.

243. Compensation is payable for any moral, physical or material harm caused by the error or wrongdoing of the authority conducting the criminal proceedings. At the same time, the right to work and the right to housing must be restored and, where this is not possible, monetary compensation must be paid for any harm caused by a violation of these rights.

244. Compensation should be paid in full for any material harm caused by the error or wrongdoing of the authority conducting the prosecution, following a substantiation and computation of such harm.

245. Unless otherwise provided by the laws of the Republic of Azerbaijan, compensation shall be paid for physical and moral harm to an amount deemed by the court to be fair. Compensation shall be paid for:

- (a) Salary, pension benefits and other income which have been lost;
- (b) Material loss due to the confiscation of property, its forfeiture to the State, garnishment by the investigating authorities or seizure;
- (c) Court costs incurred;
- (d) Fees paid to legal counsel;
- (e) Amounts paid or collected in fines levied as part of the sentence.

246. No deductions may be made from the amounts stipulated for the payment of compensation for harm caused by the error or wrongdoing of the authority conducting the criminal proceedings of sums spent on the upkeep of persons remanded in custody, on court costs, or in remuneration of any forced labour performed by the detainee while in custody.

247. If compensation for harm has been paid following an acquittal or decision to drop criminal charges, but this acquittal has been subsequently overturned or the charges reinstated and the person concerned duly convicted, the court may decide to order the recovery of any such sums paid out in compensation.

248. Other entitlements to compensation for harm caused by the error or wrongdoing of the authorities conducting the criminal proceedings, following conclusion of the criminal prosecution, are exercised in accordance with articles 59-63 of the Code, through civil proceedings, under the provisions of the Unlawful Actions by Bodies Conducting Initial Inquiries and Preliminary Investigations, Procurators and the Courts (Compensation for Harm Caused) Act of the Republic of Azerbaijan.

249. There have also been instances where the right to defence has been violated during preliminary investigations, and appropriate remedial measures have been taken by the central authorities.

250. In 1999 and 2000, no cases were sent back for further investigation, but over the period 2001-2007, following the adoption of the new Criminal Procedure Act, 183 criminal cases were sent back by the courts for further investigation because of violations of the rights of the accused to defence.

251. Checks must without fail be carried out when there are attested violations of the rights of suspects and accused persons to defence, and those responsible for such violations are prosecuted.

252. Over the period 1999-2007, 12 employees of the procuratorial service were dismissed for violations of the rights of the accused to defence.

253. For example, Isa Mehtiev, an investigator with the Ucar district procurator's office, and Elhan Isaev, an investigator with the Länkärän district office, both committed violations of the rights of the accused to defence, for which they were dismissed from the procuratorial service in 2006.

254. Further information may be found in the section of the present report dealing with articles 2 and 7 of the Covenant.

Article 10

255. On 28 December 2006, a presidential order was passed ratifying the national plan of action for the protection of human rights in the Republic of Azerbaijan, which, among other things, includes measures to improve the prison system, to build new facilities which meet European standards and to improve the detention conditions for convicted prisoners.

256. The Republic of Azerbaijan respects and upholds the rights, freedoms and legitimate interests of convicted prisoners, ensures that the corrective measures used against such prisoners are lawful and that their safety is fully protected while they serve their sentences. The rights and freedoms enjoyed by citizens of the Republic of Azerbaijan are guaranteed to convicted prisoners, with the limitations and exclusions set out in the Criminal Code, the Code of Criminal Procedure and the Corrections Code, together with other legislative acts of the Republic of Azerbaijan.

257. One of the fundamental rights of convicted prisoners is to be able to serve their sentences in conditions based on respect for the individual.

258. Under the provisions of the Corrections Code of the Republic of Azerbaijan, the enforcement of sentences entailing the deprivation of liberty is underpinned by the principles of legality, humanism, democracy, equality of convicted persons before the law, the tailoring of sentences to the individuals serving them, the advisability of the use of coercive measures and the application of measures to correct convicted persons, to foster their law-abiding conduct and to strengthen the educational impact of punishment.

259. Under the provisions of article 30 of the Code of Administrative Offences, administrative detention may only be applied in exceptional cases for certain types of administrative

misconduct for periods of up to 15 days. Administrative detention may not be used against pregnant women, women with young children, persons under the age of 18, disabled persons in disability categories I and II, women aged 60 and over, and men aged 65 and over.

260. The administrative detention of persons charged with acts of administrative misconduct which render them liable to administrative penalties of a custodial nature may not extend for longer than 24 hours.

261. An official report (or decision by the procurator) of an act of administrative misconduct which renders the perpetrator liable to an administrative penalty of a custodial nature must be referred for consideration by a judge immediately after it has been filed or issued.

262. Under the provisions of the Code of Criminal Procedure, when remand in custody is being applied as a measure of restraint the accused person is to be kept in a designated custodial facility (remand centre).

263. Under the provisions of article 65 of the Corrections Code, persons receiving fixed-term custodial sentences as a rule serve their sentences in correctional facilities situated near their place of residence.

264. Correctional establishments comprise reformatories for juvenile offenders, custodial facilities of different regimes for adult convicted prisoners, prisons and designated medical establishments for persons serving custodial sentences. Remand centres serve as correctional facilities for convicted prisoners who are placed in such facilities to carry out cleaning and kitchen duties.

265. Custodial correctional establishments include correctional colonies and general, strict and special-regime facilities, while reformatories fall into two categories: ordinary regime and strengthened regime reformatories. Convicted prisoners in need of inpatient medical treatment serve their sentences in designated medical establishments.

266. Under the provisions of article 434 of the Code of Criminal Procedure of the Republic of Azerbaijan (Imposition on minors of remand in custody as a measure of restraint), remand in custody may only be imposed as the measure of restraint against juveniles charged with offences involving at least a moderate degree of violence, or with serious or particularly serious offences.

267. The use against juveniles of remand in custody as a measure of restraint is permitted as an exceptional measure and only for as brief a period as possible.

268. Juveniles in custody must be kept separate from other detainees.

269. Their needs should be attended to and they should receive the protection and individual assistance appropriate to their age, sex and specific characteristics.

270. The purpose of the Corrections Code of the Republic of Azerbaijan is to correct convicted persons and to prevent the commission of further crimes both by persons already convicted and by other persons.

271. The correction of convicted persons is effected by encouraging their law-abiding conduct, fostering their respect and concern for their fellow humans, for work and for the rules and traditions of human coexistence. The main procedures followed in correcting convicted persons are the following:

- (a) Application of the established procedure for the enforcement and serving of sentences (the regime);
- (b) Re-education work;
- (c) Community service;
- (d) General education;
- (e) Vocational education and training;
- (f) Community rehabilitation.

272. Measures for the correction of convicted prisoners are applied with due consideration for the type of punishment imposed upon them, the extent and nature of public danger posed by their offence, the character of the individual prisoners and their conduct.

273. Under the provisions of article 72 of the Corrections Code, convicted juveniles held in correctional facilities are separated from convicted adults, and men separated from women.

274. Juveniles convicted to fixed-term custodial sentences serve their sentences in general in strengthened-regime reformatories.

275. Female juveniles serve their sentences in general-regime reformatories, as do male juveniles who are first-time offenders receiving fixed-term custodial sentences. Male juveniles who are repeat offenders receiving fixed-term custodial sentences serve their sentences in strengthened-regime reformatories.

276. Inmates of reformatories are fed and clothed by the State.

277. The staff of the agency or authority administering the punishment are obliged to treat convicted prisoners with courtesy. Convicted prisoners may not be subjected to cruel and degrading treatment. Coercive measures may only be applied against them in accordance with the law.

278. Thorough maintenance and construction work is carried out to improve the material and living conditions in detention facilities and remand centres, and conditions are provided that match international standards. New housing blocks have been erected in the country's correctional facilities, and new sports stadiums and facilities, clubs and libraries are being built and put in operation to ensure that convicted prisoners can spend their free time in a constructive manner. In order to ensure that convicted prisoners can exercise their freedom of religion, premises are set aside for the conduct of religious services and, at the same time, facilities for short-term and extended interviews and meetings are being expanded and the necessary conditions provided for prisoners and their families, in accordance with international standards.

279. As part of efforts to bring the work of the correctional system into line with international standards, the legal framework has been improved, concerted steps have been taken to give effect to the rights of convicted prisoners. Accordingly, over the last few years the allocations from the central budget to the prison service have been tripled.

280. Steps are currently being taken to ensure that there is no overcrowding in remand centres; that the arrangements for the remand in custody of accused persons are in line with international standards; that facilities are provided in remand centres for long-term visits; that the detention conditions in custodial facilities for convicted prisoners, particularly those serving life terms, are improved; that their right to exercise is upheld, in other words, that they are able to take walks and to use their free time outside their cells in a constructive manner, as detainees can in European countries; that optimal conditions are provided, in accordance with international standards, for convicted juveniles and women, in particular breastfeeding mothers and mothers with infants; that the necessary conditions are provided for secondary and secondary-level vocational education, and also for involvement in socially useful work and sport. To this end, consideration is currently being given to renovating and resiting certain correctional facilities and additional measures are being planned and put into effect, including amendments to the legislation.

281. Efforts are under way to improve detention conditions and medical and health-care services in detention facilities in the Naxçıvan Autonomous Republic. To this end, construction and renovation work is being carried out in a number of facilities and work is nearing completion on the construction of a new multi-regime prison complex (with a capacity of 640 inmates) that meets international standards. At the same time, construction has started of comparable facilities in other cities of Azerbaijan, such as Şäki (with a capacity of 900 inmates) and Länkäran (with a capacity of 1,000 inmates).

282. Following a recommendation by the United Nations Educational, Scientific and Cultural Organization (UNESCO), it is planned to resite Qobustan prison and a decision has been taken in designing the new prison, pursuant to an order of the Cabinet of Ministers of 5 August 2005, to improve the detention conditions for convicted prisoners serving sentences and to bring these into conformity with international standards, including for persons serving life terms. It has also been decided to build a new remand centre near the city of Baku. For this purpose an area of 20 hectares has already been allocated and building work is being prepared.

283. Currently, the number of convicted prisoners and persons remanded in custody is below the holding capacity of the country's correctional facilities and remand centres.

284. Over the past few years, there has been a drop in the number of convicted prisoners, as the result of a more benign State policy in dealing with crime, including the widespread application in Azerbaijan of amnesties and pardons. Thus, between 1996 and 2003 seven amnesty acts were adopted, benefiting more than 77,000 persons convicted on a range of charges. A total of 21,325 convicted persons were released from detention.

285. On 8 May 2007, the Milli Meclis (Parliament) of Azerbaijan adopted a new amnesty act, which will apply to 9,000 convicted persons. In addition, over the period from 1995 to 2007, the President of the Republic of Azerbaijan signed 43 pardons in respect of 4,584 convicted persons.

286. Wide use is made of provisions in the Criminal Code for the granting of parole and the substitution of milder punishments for remaining periods of sentences. Thus, between 2002 and 2006, 10,062 convicted prisoners were released in this way from their correctional facilities.

287. The new Criminal Code includes new forms of punishment that do not involve isolating the convicted person from society: these include community service, restriction of liberty and such punishments as fines and punitive work, which are widely imposed. Suspended sentences are also handed down fairly extensively. All these measures help reduce the number of convicted persons held in detention facilities.

288. Bills on holding suspects and accused persons in remand centres and on the social rehabilitation of persons released from detention are currently under consideration in the Milli Meclis (Parliament).

289. In order to ensure that persons serving sentences, including those serving life terms and those held in Qobustan prison, enjoy normal material and living conditions, the measures described below have been put into effect.

290. To ensure that new arrivals are held apart from other convicted prisoners for up to two weeks, separate cells have been set aside for them in which they are detained in normal living conditions. To ensure that convicted prisoners can exercise their freedom of conscience and freedom of worship, a separate room has been allocated with the appropriate facilities and religious literature, and arrangements made for ministers of religion to visit convicted prisoners, including those serving life terms. Noticeable improvements have also been made to the quality and range of food served to convicted prisoners. Thus, under the joint European Commission-Council of Europe prison reform programme for Azerbaijan, the prison kitchen is being thoroughly renovated and provided with new and modern equipment. Work is also being carried out to improve the heating system in the prison and to ensure that cells are properly ventilated. In addition, the punishment cells have been refurbished, with the installation of central heating, and equipped with tables and stools. The shower rooms for convicted prisoners have also been renovated and the number of showers increased.

291. A new washing machine has been installed and put into operation for the bedding and clothing of convicted prisoners and a separate room set aside and equipped as a library for inmates, stocked with a range of reading material. To ensure that convicted prisoners enjoy their right to exercise, four new exercise yards have been created.

292. Pursuant to a decision of the Cabinet of Ministers of 2001, the daily dietary standards for persons held in detention centres have been considerably increased.

293. Over the past few years new remand centres have been built in the districts of Quba, Qäbälä, Oğuz and Xanlar, and also the urban districts of Azizbeyov, Binagadi, Narimanov, Nasimi and Yasamal districts of Baku city and 50 of the 64 existing remand centres in the country have been completely renovated and equipped with all the necessary facilities. Currently, the detention conditions in the remand centres operated by the Ministry of Internal Affairs of the Republic of Azerbaijan are in line with international standards.

294. Over the course of 2006, a number of steps have been taken to protect the rights of detainees and to improve their detention conditions, resulting in a thorough renovation of the remand centre in the Ministry of National Security, to ensure that its holding cells meet European requirements and that living conditions in the centre are improved.

295. Following the recommendations by international organizations relating to monitoring of the arrangements for detention, punishment cells have been built as set out in the relevant project documents. Since these cells do not meet modern requirements, however, their use has been suspended. Rather than impose harsher punishments on prisoners who infringe the detention rules, discussions of a preventive nature are held with these prisoners instead. As a result, in 2006, no prisoners have been punished by confinement in punishment cells.

296. In 2003, as a means of keeping detainees occupied, a fully equipped modern gymnasium was installed in the remand centre of the Ministry of National Security, in which inmates are able to play sport in addition to taking their daily exercise. The cells in the remand centre are equipped with radios on which detainees can listen to broadcasts. Those detainees who so wish may, in accordance with the law, be employed in the remand centre to carry out repair work and to clean and tidy the facility. Detainees are issued with reading material, including works of fiction, religious texts and other books, daily newspapers and board games, and arrangements are made for them to perform religious activities. Meetings with relatives, interviews with investigators, lawyers, doctors and the facility administration also considerably reduce the amount of time that the detainees actually spend in their cells.

297. In 2002, instructions were adopted in Azerbaijan setting out the rules for the completion of documents on the allocation and payment of pensions and compensation to persons sentenced to terms of imprisonment and to life sentences. The instructions also include rules on the certification procedure to determine the level of disability and associated pensions.

298. On 25 December 2001 Azerbaijan acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

299. The entry into force of the Convention for Azerbaijan on 1 August 2002 made it possible for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to visit relevant State institutions and detention facilities.

300. In the light of the new responsibilities placed on the courts under these international obligations, steps have been taken to carry out additional activities geared towards human rights protection.

301. Over the reporting period alone, reports have been submitted on two routine and two special (ad hoc) visits by CPT to Azerbaijan and on their findings, describing the steps taken to put into effect the relevant recommendations of the Committee.

302. In November 2006, the Committee made its second periodic visit to the country, during which its delegation held meetings with the relevant State bodies, and also visited places of detention, observing the conditions in which convicted and remand prisoners were being held

and conducting private interviews with these persons. Members of the delegation also had meetings with the heads of the relevant State bodies, international organizations and members of the Public Committee.

303. During the meeting with the Minister of Justice, members of CPT noted that progress had been made in carrying out the recommendations formulated during previous visits, although questions remained which needed to be resolved. Reviewing their initial impressions gained from the second periodic visit, they highlighted the positive changes in the prison system of Azerbaijan.

304. Pursuant to the Committee's recommendations, including recommendations on the operation of the country's correctional facilities and on their design and upgrading to bring them up to modern-day standards, the Ministry of Justice requested assistance from the Committee in securing access for officials from the ministry to correctional facilities of European countries, selected by the Committee as model examples, so that they could study how those facilities were organized and operated, with a view to emulating those practices in comparable facilities of Azerbaijan. The Committee recommended visits to the prison facilities in Estonia and Finland. In April 2007, a delegation from the Ministry of Justice visited Finland to see at first hand how its correctional facilities were organized and to study the country's prison system. During the visit the delegation visited correctional facilities of seven different kinds, and also observed the arrangements for the placement and distribution of convicted prisoners.

305. Azerbaijan is closely cooperating with the Council of Europe and the European Commission in efforts to improve its prison service. Starting in 2006, in conjunction with these organizations, a joint programme has been under way on the reform of the penitentiary system of Azerbaijan, with a budget of 1.4 million euros. Under this programme, proposals have been prepared on further improving the legislation and management system in this area, training has been organized and activities conducted for the rehabilitation of convicts. In addition, technical assistance has been rendered to the prison service, to correctional facilities, and also to the training centre in the prison service, including the provision of essential computer equipment.

306. Following the conclusion of the programme conducted jointly with the Ministry of Justice, a conference was held on 15 December 2006 to review its results. The conference was attended by representatives of the Council of Europe, the European Commission, the United Nations and other international organizations, the Ombudsman, deputies of the Azerbaijani parliament, members of the Public Committee, and representatives of the judicial system, law enforcement agencies, the Bar and non-governmental organizations.

307. Since 2000, a project has been under way between the Government of Azerbaijan and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the promotion of human rights, strengthening the arrangements for their protection and creating the necessary infrastructure. Given the importance of this project, it has repeatedly been extended and measures have been taken to enhance its effectiveness. Under the project, a series of outreach activities have been conducted, including workshops on the submission of periodic reports to the United Nations treaty bodies, and training courses for judges, procurators and other members of the judiciary. On 2 November 2006, the Azeri translation of a compendium of international documents entitled *Human Rights and Pretrial Detention* was launched. The compendium has been distributed to the courts, law enforcement agencies and non-governmental organizations.

308. This project is being carried out in close cooperation with the Azerbaijan office of the United Nations. As part of the project, representatives of OHCHR have visited Azerbaijan. The project is still under way.

309. Alongside basic work to provide better amenities and conditions for the detention of convicted prisoners in custodial facilities, particular attention is also being given to the provision of qualified medical attention to those serving sentences. Thus, under articles 93 and 10.2.5 of the Corrections Code of the Republic of Azerbaijan, health-care, prevention and disease control programmes are being organized and conducted in correctional facilities. Convicted prisoners who fall ill are provided with the necessary bedding and their health and hygiene conditions have been improved. The costs of medical care and medicines for convicted prisoners are borne by the State.

310. The staff of medical services in correctional facilities undergo extensive further training courses in this special area, with the participation of experienced specialists from the Ministry of Health. These courses focus on such issues as the identification by forensic experts of torture and ill-treatment and the documenting of such cases.

311. Pursuant to an order by the Minister of Justice, the administration of custodial facilities is obliged to ensure that all persons being admitted to such facilities undergo medical examinations and are properly registered and that their right to receive essential medical assistance during their detention is upheld. Any injuries specified in complaints of ill-treatment are recorded and reported to the relevant authorities. The remanded or convicted prisoners themselves and their counsel are given the opportunity to peruse these reports.

312. An ad hoc working group has been set up to prepare proposals on the conduct of practical steps to ensure the independence of medical experts. The group has carefully studied the recommendations of international organizations and the experience of foreign countries in this area. In order to provide medical care to convicted prisoners that meets modern standards, and to ensure the independence of medical specialists, the medical services have been removed from the jurisdiction of the prison service and, instead, a central medical authority has been created and set in operation, as part of the official apparatus of the Ministry of Justice.

313. In 2000, the Government of Azerbaijan signed an agreement with the International Committee of the Red Cross (ICRC), the period of validity of which has been repeatedly extended.

314. Under the agreement, representatives of ICRC may routinely and without restriction visit places of detention and hold private meetings with the prisoners, and specialized treatment is being arranged for prisoners with tuberculosis. Essential measures have been set in place on the basis of confidential reports on these visits, submitted by the ICRC representatives. Thus, over the period 2005–2006, ICRC representatives carried out 65 visits to a total of 33 correctional facilities. During the visits, they noted positive changes in the prison system, arrangements to uphold the rights of convicted prisoners, and improvements in the conditions of their detention.

315. As part of the State tuberculosis control strategy, appropriate measures have been taken in cooperation with ICRC and other international organizations to provide specialized treatment

and special detention and dietary arrangements for prisoners infected with tuberculosis. Following the recommendations of the World Health Organization (WHO), arrangements have been set in place for the treatment of convicted prisoners infected with tuberculosis, using the directly observed treatment short-course (DOTS) strategy; correctional facilities have been provided with up-to-date equipment, including mobile screening units; a tuberculosis control programme has been set in place in the prison system; and international seminars and training courses have been organized for health-care employees. As a result of such measures, the number of deaths from the disease in prisons in recent years has declined markedly.

316. In order to prevent tuberculosis in its primary stages and to provide arrangements for its treatment, numerous joint projects are being carried out, including a project on treatment-resistant forms of tuberculosis which has been under way since 2006 with the support of the Green Light Committee of WHO and the Global Fund.

317. The date 6 December 2005 marked the tenth anniversary of cooperation between the Ministry of Justice and ICRC in fighting tuberculosis in the prison system of Azerbaijan.

318. To ensure the recruitment of properly qualified staff, advertisements have been placed in the media and competitive examinations organized for applicants.

319. Convicted prisoners who fall ill are provided with appropriate bedding and better health and hygiene conditions. As part of the programme for the provision of technical assistance to the countries of the Commonwealth of Independent States (TACIS), a new treatment block has been erected in the specialized treatment facility for convicted prisoners with tuberculosis. With the participation of professional specialists from the Ministry of Health, special psychiatry courses are being run in custodial facilities for paramedical staff, and steps are being taken to fill vacant posts with junior medical officers.

320. In addition, in Qobustan prison, a modern, 44-bed medical wing has been installed. Improved arrangements have been set in place for the provision of medical equipment and medicines, and properly qualified doctors have been appointed to fill existing vacancies. At the same time, in accordance with the timetable approved by the Central Medical Office of the Ministry of Justice, doctors specializing in different fields routinely visit the prison, including psychiatrists, and psychiatric attention is made available to convicted prisoners. Within 24 hours of their admission, new prisoners undergo a medical examination and any found to be unwell, including those suffering from tuberculosis, are promptly transferred to the prison's medical wing, and, where necessary, sent to a designated treatment facility.

321. As indicated above, under the provisions of article 81 of the Corrections Code, convicted prisoners may receive visits from relatives, their lawyers and other persons. Convicted prisoners are entitled to short visits of up to four hours and extended visits lasting from one to three days in the grounds of the correctional facility.

322. Short visits by relatives and other persons are conducted in the presence of staff of the administration of the correctional facility.

323. Extended visits are granted to convicted prisoners with the entitlement to co-residence with close relatives (spouses, parents, grandparents, children, adoptive parents and adopted children, grandchildren, brothers and sisters). At the request of convicted prisoners, extended visits can be replaced by short visits. The administration of correctional facilities provides the necessary conditions for convicted prisoners to meet other persons, visits from whom will have a positive effect on them, and ensures that arrangements are made for convicted prisoners to be visited by close relatives when they fall seriously ill with life-threatening diseases.

324. Over the course of 2006 alone, the prison service received 216 applications from voluntary associations wishing to visit remand centres and correctional facilities. These applications were granted and the necessary conditions provided for the organizations to visit these institutions and to conduct various measures.

325. In addition, in order to strengthen public oversight in this area and to gather information on violations of the rights of convicted prisoners, and also to ensure a rapid response to any complaints, information stands for the public have been erected at the entrance to correctional facilities, displaying the contact details of the Ministry of Justice and the prison service, to which people can send written complaints of violations of the rights of convicted prisoners.

326. The Government of Azerbaijan has also prepared and published compilations of international and domestic enactments on torture and human rights. These compilations have been distributed to correctional facilities, the relevant State bodies, the courts, the law enforcement agencies and non-governmental organizations.

Article 11

327. Under the provisions of article 4 of the Human Rights and Freedoms in the Republic of Azerbaijan (Regulations on Their Exercise) Act, no one may be detained, arrested or imprisoned simply for failing to meet any obligation under a civil contract.

328. According to the Criminal Code of the Republic of Azerbaijan, persons found guilty of offences shall be subject to punishments. These take the form of the deprivation or restriction of certain rights and freedoms of such persons, as prescribed by the Code.

329. Fixed-term imprisonment is applied only as a form of primary punishment and, as such, can be imposed only in cases where it is prescribed as a penalty by articles of the Special Section of the Criminal Code.

Article 12

330. Pursuant to an act of the Republic of Azerbaijan adopted on 20 October 2006, the first paragraph of article 1 of the Exit, Entry and Passports Act has been deleted and a new third paragraph added, which reads as follows:

“Persons permitted to work with State secrets may have their right to travel abroad to take up permanent residence in another country temporarily restricted until expiry of the period of secrecy of the information to which they have had access, but in any event not for more than five years.”

331. Comparable amendments have been made to the regulations on the application of the Exit, Entry and Passports Act, ratified by decision of the Milli Meclis (Parliament) of the Republic of Azerbaijan, and to rule 27 of the rules on special documents of aliens and stateless persons permanently residing in the Republic of Azerbaijan, ratified by an act of the Republic of Azerbaijan of 30 December 1997.

332. In addition, an act was passed on 8 December 1999 ratifying the regulations on the application of the Permanent and Temporary Residence (Registration) Act, which governs the procedure for the registration of Azerbaijani citizens, aliens and stateless persons at their place of permanent or temporary residence in the Republic of Azerbaijan.

333. The Exit, Entry and Passports Act was amended in 2006 with additional clauses specifying that the right of Azerbaijani citizens whose passports had expired or been lost or stolen while they were abroad to return to Azerbaijan was to be exercised with the use of an emergency travel document for repatriation to Azerbaijan. The form of the travel document and the procedure for its issuance were to be ratified by an appropriate act of the Republic of Azerbaijan.

334. Accordingly, the emergency travel document for repatriation to Azerbaijan and the procedure for its issuance were ratified by an act of the Republic of Azerbaijan of 10 April 2007.

335. With a view to putting into effect the State policy on migration in the Republic of Azerbaijan, to bringing the country's law into line with the standards and requirements of international law, to avoiding oversights and abuses in the application of laws, to making full use of the intellectual and labour potential of immigrants, to mitigating the negative impact of unregulated migration processes, and to preventing illegal migration, including human trafficking, the President of the Republic of Azerbaijan has issued an order ratifying the State migration programme of the Republic of Azerbaijan for the period 2006-2008.

Article 13

336. Under the provisions of article 13 of the Immigration Act, which entered into force on 18 March 1999, immigrants are deported from Azerbaijan and declared prohibited immigrants:

“1. If they have obtained their Azerbaijani residence permit on the basis of falsified documents and false information;

“2. If they have committed serious criminal acts defined as offences under criminal law, and the judgement of a court relating to these acts has become enforceable;

“3. To ensure the State security of the Republic of Azerbaijan or to safeguard law and order.”

In cases covered by the Code of Administrative Offences of Azerbaijan, aliens and stateless persons are subjected to administrative deportation from the territory of the Republic of Azerbaijan.

337. The decision to withhold immigrant status from aliens or stateless persons or to deport them from the territory of the Republic of Azerbaijan is the responsibility of the courts (or judges).

338. The deportation of immigrants from the territory of the Republic of Azerbaijan is carried out in accordance with the relevant legislation.

339. Immigrants who fail to leave the territory of the Republic of Azerbaijan within the period prescribed by law shall be forcibly deported.

340. Immigrants who commit serious and especially serious offences may be forcibly deported from Azerbaijan in the manner prescribed by article 52 of the Criminal Code of the Republic of Azerbaijan.

341. Pursuant to the amendments introduced in 2001 to article 27 of the Aliens and Stateless Persons (Legal Status) Act of the Republic of Azerbaijan, aliens and stateless persons who do not have immigrant status may be deported from Azerbaijan by a decision of the appropriate court (or judge) within a period of between one and seven days, if such action is necessary to ensure national security, to safeguard law and order and public health, or to protect the rights and interests of the population, and also if they have flagrantly violated the law on the legal status of aliens and stateless persons.

342. The deportation from Azerbaijan of aliens and stateless persons who do not have immigrant status shall be effected in the manner prescribed by law.

343. Aliens and stateless persons who do not have immigrant status must leave the territory of the Republic of Azerbaijan within the period set in the decision on their deportation. Such aliens and stateless persons who refuse to leave the Republic of Azerbaijan shall be subject to arrest and forcible deportation from the country pursuant to a decision of the appropriate court (or judge).

344. Appeals may be lodged with the courts against decisions to deport aliens and stateless persons who do not have immigrant status. The lodging of an appeal shall not have the effect of suspending execution.

345. In the event that aliens or stateless persons who do not have immigrant status are recognized as victims of human trafficking, their administrative deportation from Azerbaijan shall be suspended for a period of one year. If, however, upon the expiry of this period, the aliens or stateless persons have been assisting the prosecuting authorities in a criminal case related to human trafficking, their administrative deportation shall be suspended until the completion of the criminal proceedings.

346. Children who are victims of trafficking shall not be subject to administrative deportation from Azerbaijan.

347. Under the provisions of article 52 of the Criminal Code, aliens may be subject to forcible deportation from Azerbaijan upon completion of their primary sentence. Forcible deportation from Azerbaijan is not applied against persons:

- (a) Who have lived in the territory of the Republic of Azerbaijan for five years by the time their sentence becomes enforceable;
- (b) Who are married to a citizen of the Republic of Azerbaijan at the time their sentence becomes enforceable;
- (c) Who were born in the Republic of Azerbaijan;
- (d) One of whose parents is a citizen of the Republic of Azerbaijan;
- (e) Who have been granted refugee status or political asylum in the Republic of Azerbaijan;
- (f) Who have minor dependants, or dependents who lack legal capacity or have category I or category II disabilities;
- (g) In respect of whom there are reasonable grounds to believe that they will be tortured or persecuted in the country to which they are to be deported.

348. Under the provisions of article 457 of the Administrative Offences Code of the Republic of Azerbaijan, aliens or stateless persons are obliged to leave the country within the period stipulated in the order on their deportation from the Republic of Azerbaijan. Administrative deportation orders issued by the competent authorities (or officials) are carried out by the Ministry of Internal Affairs.

349. The costs incurred in the administrative deportation of aliens or stateless persons from the Republic of Azerbaijan shall be borne by those being deported. Should those persons lack the funds to cover their deportation from the Republic of Azerbaijan, the costs shall be borne by the institutions, enterprises or organizations which have hosted those persons and, in the case of aliens or stateless persons residing in the Republic of Azerbaijan, or visiting the country on personal business, by the Ministry of Internal Affairs.

350. Following the execution of administrative deportation orders, the orders are returned to the competent authority (or official) which issued them, accompanied by the corresponding confirmation of execution.

351. Under the provisions of article 166 of the Corrections Code, forcible deportation from the Republic of Azerbaijan is applied in the cases specified in Azerbaijani law.

352. The authority enforcing the penalty of forcible deportation from the Republic of Azerbaijan files reports of such deportation of convicted persons with the appropriate executive authority and with the diplomatic and consular missions of the State of which the convicted person is a national, and also of the State assuming guardianship of a convicted person.

353. Persons sentenced to punishments which entail forcible deportation from the Republic of Azerbaijan are obliged to leave the country immediately, from the day on which they are released from their primary punishment, except where dictated otherwise by compelling reasons.

354. The costs incurred in deportation from the Republic of Azerbaijan are covered by the convicted persons themselves or by the diplomatic and consular mission of the State of which they are nationals. In exceptional cases, the costs of deportation of convicted persons from the Republic of Azerbaijan may be met by the authority enforcing the penalty.

Article 14

355. Under the provisions of article 11 of the Code of Criminal Procedure, criminal proceedings in Azerbaijan are conducted on the basis of the equality of all before the law and the court. The authorities conducting criminal proceedings shall not accord any advantages to any of the participants in criminal proceedings on the grounds of their citizenship, social status, sex, race, ethnic origin, political or religious affiliation, language, origin, wealth, official status, beliefs, domicile or place of temporary residence or for any other considerations not stipulated by law.

356. Under the provisions of article 22 of the Code of Criminal Procedure, the authorities conducting criminal proceedings must uphold the right of everyone to a fair and open trial on the charges brought by the prosecution or in connection with the procedural enforcement measures applied against them. There may be no derogation on any grounds from the right to stand trial.

357. Under the provisions of article 23 of the Code of Criminal Procedure, criminal trials are conducted by a duly authorized court which forms part of the judicial system of the Republic of Azerbaijan. No one may be found guilty and sentenced without the judgement of a court.

358. The establishment of emergency courts and the appropriation of the powers of the courts are unacceptable and punishable under the legislation of the Republic of Azerbaijan.

359. The judgements and other rulings of emergency and other unlawfully constituted courts have no legal effect and cannot be enforced.

360. Under the provisions of article 25 of the Code of Criminal Procedure, judges and jurors are independent and subject only to the laws of the Republic of Azerbaijan.

361. Judges and jurors may not be associated with the findings of the authorities conducting criminal proceedings, issued during the preliminary investigation.

362. Judges and jurors reach decisions on criminal cases or other matters relating to criminal prosecutions, in accordance with their own inner convictions and knowledge of the law, which are based on a study of the evidence presented in court by the parties to the proceedings.

363. The courts of the Republic of Azerbaijan administer justice under conditions that preclude the exertion of any unlawful pressure on the independence and will of judges and jurors.

364. No one has the right to interfere in the administration of justice or to demand explanations from judges or jurors on the merits of criminal proceedings either already under consideration or pending consideration or of other matters related to the criminal proceedings.

365. Actions by any person either directly or indirectly, and for any reason, to place constraints on the administration of justice, to exert unlawful pressure on the court, to use threats, to interfere, to show disrespect for the court, or manifestly to ignore its authority are deemed unacceptable and are punishable under the legislation of the Republic of Azerbaijan.

366. Under the provisions of article 27 of the Code of Criminal Procedure of the Azerbaijani Republic, justice in criminal cases and in other matters associated with criminal proceedings is administered in public in all courts, except in cases prescribed by the Code where it is necessary to protect State, professional and trade secrets, and also the confidentiality of citizens' personal and family information.

367. It is not permitted for courts to conduct criminal trials and other proceedings relating to criminal prosecutions in absentia, except as prescribed by the Code of Criminal Procedure.

368. Court rulings handed down during criminal trials are without fail made public.

369. Under the provisions of article 4 of the Code of Civil Procedure, approved by an act of 28 December 1999, all individuals and legal entities are entitled, in the manner prescribed by law, to have recourse to the protection of the courts in safeguarding and giving exercise to their lawful rights, freedoms and interests.

370. Under the provisions of article 6 of the Code of Civil Procedure, the administration of justice in civil matters and economic disputes is the exclusive prerogative of the courts and justice in such cases is dispensed in the manner prescribed by law.

371. Under the provisions of article 8 of the Code of Civil Procedure, justice is administered in civil matters and economic disputes on the basis of the principle of the equality of all before the law and the courts. The court treats all participants in proceedings equally, regardless of their race, ethnic origin, religion, language, origin, wealth, official status, beliefs, membership of political parties, trade unions and other public associations, the legal entity to which they report, form of ownership and other distinctions between them that are not provided for by law.

372. Under the provisions of article 10 of the Code of Civil Procedure, proceedings in courts are conducted in accordance with the principle of transparency. Cases in all courts are heard in public, except where there is need to protect State, professional and trade secrets, or the confidentiality of personal and family information, or to protect the interests of minors.

373. In cases where, for reasons of morality, law and order or public safety, and also in the light of other special circumstances, the conduct of public hearings in a democratic society will be prejudicial to the interests of justice, the court proceedings, or a part thereof, may be conducted in closed session. Persons participating in court proceedings may, in order to protect the confidentiality of adoption or inheritance, trade secrets, or the confidentiality of inventions, tax information or other matters, and also of private personal and family matters, may request that court proceedings be conducted in camera.

374. Hearings in camera are conducted in compliance with all the rules of court proceedings.

375. All court judgements are made public.

376. Under the provisions of article 21 of the Code of Criminal Procedure, any person accused of an offence shall be presumed innocent until proved guilty in the manner prescribed by the Code.

377. Persons may not be presumed guilty, even if there are compelling grounds for suspicion of their guilt. Under the provisions of the Code, accused persons (suspects) shall have the benefit of any doubt which cannot be resolved through appropriate legal procedures. Similarly, they shall have the benefit of any doubt which is not resolved through the application of criminal law and the law of criminal procedure.

378. Persons charged with offences are not obliged to prove their innocence. The burden of proof of the charges and refutation of the arguments put forward in defence of the accused rests with the prosecution.

379. The matters referred to in paragraph 3 of article 14 of the Covenant are fully reflected in the Code of Criminal Procedure.

380. In particular, article 91 of the Code sets out the rights of accused persons, which they exercise in the cases and in the manner prescribed by the Code.

381. The conduct of pretrial proceedings involving minors, and also proceedings in the courts of first instance, appeal and cassation, is determined by the general rules set out in the Code of Criminal Procedure, and also by articles 428-435 of the Code.

382. Under the provisions of article 432, pretrial investigations involving minors should be conducted, where possible, by a special unit of the relevant pretrial investigation authority or by individuals with the necessary experience of working with minors. Criminal proceedings involving minors should be carried out without any delays. Legal counsel must be present in all cases involving minors.

383. Meetings between minors and investigators during the pretrial investigation shall be conducted with due regard for the circumstances of the case, the need to ensure a respectful attitude to the minors and the proviso that such contacts should be conducive to the minors' well-being and designed to prevent them being caused any harm.

384. At all stages of pretrial investigations involving minors, basic procedural safeguards must be observed to ensure the following rights:

- (a) Right to be informed of the charge against them;
- (b) Right to refuse to testify;
- (c) Right to defence;
- (d) Right to the participation of parents or other legal representatives;
- (e) Right to confidentiality.

385. When carrying out investigative activities involving minors under the age of 16 with signs of mental retardation, the investigator must ensure that a teacher or a psychologist is present.

386. Proceedings in a criminal case involving minors may, in any event, be terminated with the consent of the minors themselves or of their parents (or other legal representatives).

387. When informing minors charged with an offence that the pretrial investigations against them have been concluded and when furnishing them with copies of the case materials, the investigators and procurators responsible for ensuring due process in the preliminary investigation may, at their own discretion, make a decision, with grounds stated, not to furnish the minors with copies of the case materials where these might unduly influence them. In this event, the minors' legal counsel or legal representative must be familiarized with the contents of these case materials.

388. Criminal cases relating to offences committed by minors should be dealt with by more experienced judges. When selecting the penalty to be imposed on a minor, the court must be guided by the following considerations:

(a) The punishment should not only be commensurate with the circumstances and gravity of the offence committed, but should also be consistent with the minors' condition and needs, and also with the needs of society;

(b) Any punishment involving deprivation of the liberty of minors should only be applied after exhaustive legal proceedings and should, if possible, be reduced in length;

(c) Deprivation of the liberty of minors is inadvisable, unless they have been found guilty of the repeated commission of a serious or especially serious offence, or of an offence entailing serious consequences, knowingly committed with the use of violence, or of a serious offence of another kind.

389. Articles 435-1 and 435-2 of the Code of Criminal Procedure set out provisions on the committal to special reform schools of a custodial nature of persons who have not attained the age of criminal responsibility.

390. Attention is also drawn to the Homelessness and Juvenile Offences (Prevention) Act, adopted by Azerbaijan on 24 May 2005 with a view to tackling social issues relating to the prevention of homelessness and juvenile offences and to specifying the rights and duties of public agencies, institutions and organizations in this domain.

391. A cabinet decision was adopted on 13 May 2003 to ratify the model regulations on special custodial and open-type reform schools, which contain provisions on the social and economic arrangements for the educational and correctional work of such establishments.

392. An act of the Republic of Azerbaijan was passed on 31 May 2002 ratifying the regulations governing the juvenile affairs commissions and the commissions for protection of the rights of minors, the primary purpose of which is to have a corrective influence on minors, to protect their rights and legitimate interests, to monitor their behaviour, to suppress unlawful acts, and to coordinate efforts in this area by central and local authorities, businesses, institutions and organizations, regardless of their form of ownership.

393. Under the provisions of article 35 of the Code of Criminal Procedure, in cases and in the manner prescribed by the Code, participants in proceedings have the right to appeal to a higher court against procedural rulings and actions either approved or initiated by a court in the consideration of a criminal case or other matters associated with a criminal prosecution.

394. All convicted persons may exercise the following rights in filing complaints with a higher court:

(a) To request a review of their case on the grounds that the judgement of the court against them is unlawful or unfounded;

(b) To seek mitigation of the punishment handed down in the sentence, on the grounds that it is too severe.

395. No restriction may be placed on the rights of convicted persons set out above.

396. Under the provisions of article 56 of the Code of Criminal Procedure, the following are entitled to damages for any harm resulting from the error or wrongdoing by the authority conducting the criminal proceedings:

“1. Persons acquitted of the charges against them;

“2. Persons whose criminal prosecution is dismissed on the grounds stipulated in articles 39.1.1, 39.1.2, 39.1.6-39.1.8, and 39.2 of the present Code.”

These grounds are:

“(a) In the absence of a criminal act;

“(b) Where there is no evidence of the commission of an offence;

“(c) Where a court judgement has already become enforceable against the accused person on the same charges or where the decision of another court precluding further prosecution has not been overruled;

“(d) Where a decision has been taken in respect of the same charges against the accused person by the official conducting the initial inquiry, the investigator or the procurator not to proceed with the prosecution or to terminate it, and such decision has not been overruled;

“(e) Where no complaint has been filed by the victim (in cases where the criminal prosecution has been instituted in response to charges brought by a private individual or social entity and has not been initiated by the procurator);

“(f) Where a criminal prosecution instituted against any person has been terminated on the grounds of lack of evidence of that person’s involvement in the offence or failure to prove his or her guilt;

“3. Persons whose criminal prosecution has had to be terminated on the grounds stipulated in articles 39.1.3, 39.1.4, 39.1.10 and 39.1.11 of the present Code;”

in other words, when the statutory period for the initiation of criminal proceedings has been exceeded (except in cases where the statute of limitations is suspended); if, at the time of perpetrating the acts proscribed under criminal law, the perpetrator was under the age of criminal responsibility (except where there are circumstances necessitating the imposition on that person of measures of restraint of a correctional nature); if, at the time of perpetrating the acts proscribed under criminal law, the perpetrator was in a state of legal incapacity (except in cases where measures of restraint of a medical nature are to be applied to that person); where there are grounds for exempting a person from criminal responsibility under certain provisions of criminal law (but the case was not terminated in good time and the prosecution is continuing);

“4. Persons whose criminal prosecution should have been terminated on the grounds stipulated in article 39.1.12 of the present Code (if the person is to be exempted from criminal responsibility under an act of amnesty), but, although consent has been granted to terminate the proceedings, the prosecution is continuing;

“5. Persons who, without lawful grounds, have been unlawfully detained or forcibly committed to medical or reform institutions, or remanded custody, beyond the stipulated time limit;

“6. Persons unlawfully subjected to procedural measures of restraint in the prosecution of cases under articles 176 and 177 of the present Code.”

397. Under the provisions of article 34 of the Code of Criminal Procedure, a person cannot be tried twice for one and the same act.

398. If a court judgement has been passed against a person for the perpetration of an offence and has become enforceable, no repeated criminal proceedings may be initiated against that person for the same offence, nor may a more serious charge or a more severe punishment be substituted for the charge already brought or the punishment already imposed.

399. In the cases stipulated in article 41 of the Code (Procedure for the termination of prosecution), a voluntary decision by, as appropriate, the public prosecutor or the private individual bringing charges to desist from the criminal prosecution of a person shall preclude that person being indicted again for the same offence (except where new circumstances have come to light).

400. In recent years, significant progress has been achieved in the sustained process of judicial and legal reform in the Republic of Azerbaijan, primarily designed to ensure that human rights and freedoms are reliably upheld.

401. In March 2004, in the course of the reforms to the work of the courts, designed to bring them in line with international standards, a joint Azerbaijan-Council of Europe working party was set up, comprising representatives of the Azerbaijani executive and judiciary and experts from the Council of Europe, to deal with matters relating to the independence, selection,

appointment and evaluation of judges. The working party prepared a draft act supplementing and amending the Azerbaijani Courts and Judges Act, setting out a new, multi-stage procedure for the selection of judges, stiffening the penalties incurred by judges committing abuses in their work and ensuring transparency in the work of the courts, and also a draft act on the Judicial Council. These acts entered into force in early 2005.

402. The same year saw the adoption of the statute of the judges' selection committee and the rules for the selection of aspirant judges for vacant judgeships, the drafts of which were developed by the working party. Under the new legislation, the Judicial Council was set up in February 2005, and the Judges' Selection Committee in March of the same year, and, at the same time, improvements were made to the statutes of the judges' voluntary associations. In turn, in 2005, special commissions set up by the Judicial Council drafted regulatory documents required for the conduct of judicial activities. These included a draft ethical code of behaviour for judges, rules for evaluating the performance of judges, rules for disciplining judges and other instruments.

403. In accordance with the new rules, in 2005 arrangements were made for the first time in Azerbaijan for the selection of judges for vacant posts. All stages of the selection process (comprising multiple choice tests and written and oral exams) were held in the presence of observers from more than 30 international and local non-governmental organizations, together with representatives of the media, who confirmed that it was both transparent and objective. Thereafter, the 56 selected candidates underwent long-term (five months) introductory courses conducted by leading international and local experts.

404. Given the large number of vacancies, in 2006, the Judges' Selection Committee set up a regular procedure for the selection of judges, which remains in place to the present.

405. In October 2004, with a view to further improving arrangements for the initial and further training of judges and candidate judges, a joint Azerbaijan-Council of Europe expert commission on training was set up, comprising judges from various courts of Azerbaijan and European countries, together with other officials and experts in the field. The commission systematically conducts meetings and seminars, drafts new instruments and makes recommendations on their implementation, thus ensuring an efficient exchange of experience and information in this area.

406. In 2005, the joint Azerbaijan-Council of Europe working party on the independence, selection, appointment and evaluation of judges, working together with the expert commission on training and with the support of the German Agency for Technical Cooperation (GTZ), and drawing on the experience of France's École nationale de la magistrature - the national legal service training college - and comparable schools in other countries, drew up a syllabus for a comprehensive, long-term basic training course for candidate judges, the first part of which was held in early 2006. The training included modules in forensics, basic economics, accounting and international and European law, including the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), the stipulations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Charter on the Statute for Judges, and also international standards in juvenile justice and other areas.

407. Provision was also made on the training course, in addition to lectures, for the conduct of mock trials and the consideration of fictitious cases. Upon completing the course candidates served internships in the corresponding courts of first instance.

408. The Judicial Council has been encouraged to create a judicial academy, working in conjunction with the Ministry of Justice. The plan is to run courses in this establishment for both the initial and further training of judges (with separate further training courses for new judges, judges with at least five years' experience and presiding judges), and of other members of the judiciary, procurators, notaries and other persons with higher legal education.

409. In order to develop the training of judges and other legal professionals, the curriculum of the Academy of Justice (which was officially established by a presidential decree of 17 August 2006, on long-term basic training courses for candidate judges and continuing training courses for judges and legal professionals) includes a range of topics involving the study of international human rights instruments.

410. Under the provisions of article 179 of the Labour Code of the Republic of Azerbaijan, ratified by an act of 1 February 1999, when candidate judges are assigned to basic long-term training courses, their posts are kept open for them and they receive their average monthly salary.

411. The judicial and legal reforms under way in Azerbaijan are being supported by international financial organizations. Thus, in October 2006, a project to modernize the judicial system of the Republic of Azerbaijan was launched with financial support from the World Bank. The project aims, among other things, to improve the infrastructure in this domain; to identify and renovate existing buildings and construct new ones; substantially to strengthen the logistical resources of the courts; and to equip them with the most advanced information technology.

412. The Cabinet of Ministers passed a decision on 30 December 2006 adding 296 new posts to the staff of the courts system. In addition, by an act of 17 April 2007 amending and supplementing certain legislative acts of the Republic of Azerbaijan, the post of assistant judge was added to the staff of both the High Court and the appeals courts. At the same time, in order to enhance the independence of the judiciary, judges' salaries were increased, pursuant to an act of 8 May 2007 amending and supplementing the Courts and Judges Act and the Constitutional Court Act.

Article 15

413. Under the provisions of article 10 of the Criminal Code of the Republic of Azerbaijan, the criminality of a given act and the penalties which it incurs are determined by the criminal law in force at the time the act was committed. No one may be held criminally responsible for an act which was not recognized as an offence at the time of its perpetration.

414. A criminal law which declares that a particular act is no longer an offence and lifts the penalties which it formerly incurred, or which mitigates a punishment or otherwise improves the position of the perpetrator shall have retroactive effect: that is, it shall apply to the perpetrators of

the act in question even when the act was perpetrated prior to the entry into force of the law, and shall also apply to those still serving sentences or who have already served their sentences but whose criminal records have not yet been expunged.

415. A criminal law which criminalizes a given act, stiffens a punishment or otherwise worsens the situation of an offender shall not have retroactive effect.

416. Under the provisions of article 58 of the Criminal Code, when a conviction is handed down on multiple counts in an indictment and an aggregate sentence is passed, a more severe sentence than that prescribed for a specific offence in the relevant article of the Special Section of the Code may be imposed as part of that sentence.

417. Under the provisions of article 3 of the Criminal Code, the basis for the determination of criminal responsibility shall be the perpetration of only of acts specified by the Criminal Code which contain all the evidence of the commission of an offence.

Article 16

418. Under the provisions of article 25 of the Civil Code of the Republic of Azerbaijan, the civil legal capacity of a person is that person's capacity to possess civil rights and to bear obligations under civil law. All individuals have equal civil legal capacity.

419. Under the provisions of article 28 of the Code, the dispositive legal capacity of individuals under civil law is their ability, through their own actions, to acquire and exercise civil rights and to assume and discharge civil obligations. Individuals acquire full dispositive legal capacity under civil law on the attainment of the age of majority, in other words, when they reach the age of 18.

420. Under the provisions of article 31 of the Code, an individual may not under any circumstances be stripped of legal capacity. The legal capacity and the dispositive capacity of the individual may be restricted only in cases and in accordance with procedures established by law.

Article 17

421. Under the provisions of article 23 of the Civil Code of the Republic of Azerbaijan, ratified by an act of 28 December 1999, individuals may petition the courts for the rebuttal of information injurious to their honour, dignity or business reputation, invading the privacy of their personal and family lives, or encroaching upon their personal and family integrity if those disseminating such information are unable to prove that it is true. The same procedure applies to the partial publication of factual information if this tarnishes the honour, dignity or business reputation of individuals. Measures to protect the honour and dignity of individuals may also be taken after their death, at the request of other interested persons.

422. If information tarnishing the dignity or business reputation of individuals or invading their privacy and family life has been circulated in the media, it shall be subject to retraction by the media outlets which have published it. If the information has been recorded in an official document, the document must be amended and the persons concerned duly informed. In other cases, the procedure for the rebuttal of information is laid out by the court.

423. Persons about whom the media have published information which infringes their rights or lawful interests have the right to publish refutations of such information in the same media outlets.

424. Persons about whom information injurious to their honour, dignity or business reputation has been disseminated are entitled to claim compensation for the harm caused by such dissemination, in addition to demanding rebuttal of the information. If the identity of the person disseminating information which is injurious to the honour, dignity or business reputation of individuals cannot be ascertained, the individuals to whom such information relates are entitled to demand acknowledgement that the information is unfounded.

425. Under the provisions of article 59 of the Code of Criminal Procedure, a media outlet which has published details of a criminal prosecution that are defamatory to suspects or accused persons is obliged, if so requested by those suspects or accused persons upon their acquittal or the termination of their prosecution, within a time limit of one month to report on the final outcome of the case, without impugning the innocence of the citizen in question.

426. Under the provisions of article 199 of the Code of Criminal Procedure, steps are taken during criminal proceedings to protect confidential personal and family information, as defined by the Code and other laws of the Republic of Azerbaijan.

427. It is not permitted during the conduct of procedural actions to gather, disclose or make use of any unnecessary information relating to the private life of any individual, or any other personal information that such individual deems it necessary to keep secret. On the instructions of the investigator, procurator or court, the participants in investigative actions and court proceedings shall sign undertakings not to disclose such information.

428. If the authority conducting criminal proceedings, acting pursuant to a corresponding court order, should request individuals to report or provide information relating to their private lives, those individuals have the right to be persuaded of the need to collect such information in connection with the criminal case that has been instituted and, should they remain unpersuaded, to refuse to furnish it. When requesting individuals to report or provide information pertaining to their own lives or those of other persons, and when invoking the need for such information, the authority conducting the criminal proceedings must enter a record in the report of the examination or other investigative procedure substantiating the need for the information.

429. Evidence which reveals confidential personal or family matters should be examined in closed hearings.

430. Compensation shall be provided in the manner prescribed by Azerbaijani law for any harm caused to persons through encroachments upon their personal integrity or the disclosure of confidential personal or family information.

431. Under the provisions of article 177 of the Code of Criminal Procedure, a court order must be obtained for, among other purposes, the forcible performance of the following investigative actions:

- (a) Inspections, searches, seizures and other investigative actions at places of residence, offices or industrial premises;
- (b) Examinations of persons carried out against their will, except of persons who have been arrested or detained;
- (c) Seizure of property;
- (d) Seizure of postal, telegraphic and other correspondence;
- (e) Interception of conversations conducted over the telephone and other devices, or of information transmitted by telecommunication facilities or other technological means;
- (f) Obtaining confidential personal, family, State, commercial or professional information, including the records of financial transactions, bank statements and tax returns.

432. Except for the procedure of inspection, search and seizure, court orders must be obtained for the conduct of all inspections and other investigations at places of residence, offices or industrial premises, and also for the procurement of confidential personal, family, State, commercial or professional information, including records of financial transactions, bank statements and tax returns.

433. Under the provisions of article 200 of the Code of Civil Procedure, in order to protect the confidentiality of correspondence and telegraphic communications, the content of personal correspondence and personal telegraphic communications may only be divulged in court with the consent of those to whom they were addressed.

434. The following paragraphs list offences for which the Criminal Code establishes criminal liability.

435. Under the provisions of article 155, breaching the confidentiality of correspondence, telephone conversations, or postal, telegraphic or other communications is punishable by fines of between 100 and 500 nominal financial units or by punitive work for periods of up to one year.

436. Under the provisions of article 156, the unlawful gathering and dissemination of confidential information on the private lives or family affairs of individuals, and also the sale or transfer to third persons of documents containing such information, are punishable by fines of between 100 and 500 nominal financial units, or by community service for up to 240 hours, or by punitive work for periods of up to one year. The same acts committed by officials in abuse of their official position are punishable by deprivation of liberty for periods of up to two years, with or without forfeiture of the right to hold certain posts or engage in certain activities for periods of up to three years.

437. Under the provisions of article 157, gaining entry into homes without justification on the grounds stipulated by Azerbaijani law, and against the will of the persons living in them, is punishable by fines of between 100 and 500 nominal financial units, or by community service for up to 240 hours, or by punitive work for periods of up to one year. The same acts committed with the use or threat of violence are punishable by punitive work for terms of up to two years or

deprivation of liberty for the same period. The same acts committed by officials in abuse of their official position are punishable by deprivation of liberty for periods of up to three years, with forfeiture of the right to hold certain posts or engage in certain activities for periods of up to three years.

Article 18

438. Under the provisions of article 167 of the Criminal Code of the Republic of Azerbaijan, illegal obstruction of the performance of religious ceremonies is punishable by fines of between 100 and 500 nominal financial units, or by community service for between 160 and 240 hours, or by punitive work for periods of up to one year.

439. Under the provisions of article 168 of the Criminal Code, the formation of groups which conduct activities under the pretext of the propagation of religious faiths and the performance of religious rites, whose activities disturb law and order or cause harm to the health of citizens, or in some manner or means violate the rights of citizens, and which divert citizens from the performance of their statutory legal duties, and also the leadership of or membership in such groups are punishable by fines of between 100 and 500 nominal financial units or by deprivation of liberty for periods of up to two years. The offence of involving minors in the commission of the acts referred to above is punishable by punitive work for periods of up to two years or by deprivation of liberty for periods of up to three years.

440. Under the provisions of article 299 of the Code of Administrative Offences of the Republic of Azerbaijan, breaching the procedure for the formation and operation of religious bodies, in other words, the refusal by those in charge of such bodies to register them with the relevant State authorities, or infringing the rules laid down by law for the organization and conduct of religious gatherings, processions and other religious ceremonies, for the conduct by religious figures and members of religious associations of special gatherings for children and young people, and for the organization of work groups, book clubs and other groups and associations not connected with the performance of religious rites, shall incur the imposition of fines on individuals of between 10 and 15 nominal financial units and, on officials, of between 40 and 70 nominal financial units.

441. Under the provisions of article 11 of the Refugees and Internally Displaced Persons (Status) Act of 21 May 1999, persons who have applied for refugee status shall have the right freely to practise their religion.

442. Under the provisions of article 7 of the Tourism Act of 4 June 1999, tourists travelling from the Republic of Azerbaijan to foreign countries, including in transit, must abide, while travelling, by the laws of the country (or place) which they are visiting and must respect its social order, customs, traditions and religious beliefs.

443. Under the provisions of article 28 of the Police Act and rule 17 of the rules of service in the Azerbaijani internal affairs agencies, ministers of religion may not be admitted to service in the police.

444. Article 4 of the Police Operations Act of 28 October 1999 prohibits persons responsible for the conduct of police work from performing any acts in the interests of political parties or other voluntary associations, and also prohibits the covert involvement of such persons in the work of the legislative or judicial authorities or of properly registered voluntary associations and religious organizations, with a view to influencing their legitimate activities.

445. Under the provisions of article 29 of the Procuratorial Service Act of 7 December 1999, ministers of religion may not be admitted to work in the procuratorial service.

446. Under the provisions of article 20 of the Public Service Act of 21 July 2000, public servants may not use their status as public servants for the purposes of advocating a religion or lending an official character to the performance of religious services in facilities under the jurisdiction of the public authorities.

447. Under the provisions of article 3 of the Extradition of Offenders Act of 15 May 2001, if there are sufficient grounds for the assumption that, as a result of extradition, the requested person will be subject to persecution on the grounds of race, ethnic origin, language, religion, citizenship, political views or sex, extradition of that person may be refused.

448. Under rule 7 of the rules of service in the State tax department, citizens of the Republic of Azerbaijan, irrespective of their race, ethnic origin, language, sex, social origin, wealth, place of residence, religious affiliation, beliefs or membership of voluntary or other associations, who have professional training that meets the requirements of the relevant post, have the right to serve in the tax department.

449. Under the provisions of article 30 of the Psychiatric Care Act of 12 June 2001, the responsibilities of the administrative and medical staff of psychiatric hospitals includes drawing up rules on the free performance of religious offices that do not cause inconvenience to other patients and familiarizing patients who are practising believers with such rules.

450. Under the provisions of article 5 of the Social Services for the Elderly Act of 22 June 2001, in facilities for the elderly run by the social services, elderly persons are entitled to a separate area for the performance of religious offices subject to compliance with the rules of the facility in question.

451. Under the provisions of article 3 of the Legal Assistance in Criminal Proceedings Act of 29 June 2001, if there are sufficient grounds for the assumption that requests for legal assistance have been submitted for the purposes of prosecuting persons because of their race, ethnic origin, religion, language, citizenship, political opinion or sex, the request for legal assistance will be refused.

452. Under the provisions of article 8 of the Public Broadcasting Act of 28 September 2004, no restrictions on the grounds of race, sex, religious affiliation or political views may be placed on the appointment of persons to posts in the public broadcasting service or the promotion of persons to senior posts in other public broadcasting entities.

453. Under the provisions of article 76, part 2, of the Constitution of the Republic of Azerbaijan on 24 August 2002 as amended, if it is contrary to the beliefs of citizens for them to perform active military service, in cases prescribed by law they shall be permitted to perform alternative service.

454. In accordance with the provisions of article 2, part 2, of the Military Personnel (Status) Act of 25 December 1991, military status does not extend to persons performing alternative service (civilian conscription) in work detachments, humanitarian services and public utilities. Under the provisions of article 2, part 3, of the Military Conscription in the Republic of Azerbaijan (Basic Principles) Act of 10 June 1992, citizens of the Republic of Azerbaijan who, for reasons of belief or on other grounds recognized in the Act, cannot be called up for active military service are required to perform alternative service (civilian conscription) for a period of 24 months.

Article 19

455. Article 50 of the Constitution of the Republic of Azerbaijan enshrines the freedom of all persons to seek, receive, impart, compile and disseminate information by lawful means.

456. In paragraph II of article 50, the Constitution guarantees freedom of public information and prohibits State censorship in the media, including in the press. The legal rationale for these safeguards is set forth in the Mass Media Act of the Republic of Azerbaijan of 7 December 1999.

457. The Mass Media Act set out general rules on seeking, receiving, preparing, imparting, producing and disseminating public information in the Republic of Azerbaijan, and also defines the organizational, legal and economic framework for the work of the press, news agencies, television and radio companies to give effect to the rights of the citizens of Azerbaijan to full, accurate and timely information.

458. Article 7 of the Act prohibits any censorship by the State of the media, and also prohibits the creation and funding of special government agencies or posts for this purpose. Public authorities, municipalities, institutions, enterprises, organizations, voluntary associations and officials, and also political parties, may not require media outlets to clear reports and information with them before publication, nor may they forbid their dissemination, except where they themselves are the authors of these reports and information.

459. Under the provisions of article 14 of the Act, the permission of central authorities is not required to set up a publication. Individuals or legal entities wishing to set up a publication must submit a formal application to the Ministry of Justice at least seven days prior to the issuance of the publication. The application should include:

- (a) The name, purpose, periodicity and company address of the publication;
- (b) The full name of the founder and, if there is one, editor (editor-in-chief) of the publication;
- (c) If the founder or editorial office of the publication is a legal entity - its registered articles of association.

460. In the event that a publication is disseminated without submission of such a formal application to the Ministry of Justice, or the information contained in the application is found to be misleading, the Ministry of Justice shall initiate proceedings with the appropriate court to close the publication down.

461. Public authorities, municipalities, political parties (for printed publications only), voluntary associations, administrative boards, agencies and organizations and citizens permanently resident in the territory of the Republic of Azerbaijan have the right to establish media outlets independently or in association with others.

462. The establishment of media outlets in Azerbaijan by individuals and legal entities of foreign States is governed by an inter-State agreement concluded with the Republic of Azerbaijan (the term "legal entity of a foreign State" is understood to mean a legal entity more than 30 per cent of whose authorized capital or shares are owned by legal entities and citizens of a foreign State, or more than one third of the founders of which are legal entities or citizens of a foreign State).

463. Financing the media outlets of the public authorities, legal entities and individuals of foreign countries is not permitted, except in the cases specified in the Mass Media Act, and also in other cases spelled out in the laws of the Republic of Azerbaijan. In addition, persons serving custodial sentences pursuant to enforceable judgements handed down by courts, persons declared by the courts as lacking legal capacity and voluntary associations or political parties which have not undergone official registration or whose activities are banned by law are not permitted to establish media outlets.

464. Under the provisions of article 6 of the Local Opinion Poll Act of 30 November 1999, the right of citizens to participate directly or indirectly in local opinion polls may not be restricted on the grounds of race, ethnic background, religion, language, sex, origin, education, wealth, official position, beliefs, or membership of political parties, trade unions or other voluntary associations.

465. The purpose of the Receipt of Information Act of 30 September 2005 is to set out a legal framework to protect the right, enshrined in article 50 of the Constitution, of all persons to have free and unrestricted access on equal terms to information on the basis of the principles of an open society and the democratic rule of law, and to set in place arrangements for citizens to be able to monitor the performance of public duties.

466. Under the provisions of this Act, everyone has the right, either directly or through a representative, to seek information from those in possession of it and to select the type of information and the manner in which it is received. Anyone seeking information from persons in possession of that information is entitled:

(a) To ascertain whether the information sought is at the disposal of that person and, in the event that it is not, to ascertain further details that will assist in obtaining the information;

(b) If the information is at the disposal of that person, to receive it freely, without hindrance and on equal terms.

467. Individuals have the right to unimpeded access to documented information about themselves, to take possession and seek clarification of such information, and to ascertain by whom and for what purpose the information is being used.

468. Under the provisions of article 10 of the Act, persons in possession of information must, in the manner prescribed by the Act, give effect to the right of everyone to have free, unimpeded access on equal terms to the information contained in the information resources in their possession.

469. For this purpose, persons in possession of information shall designate information officers or set up special offices for the provision of information services.

470. Under the provisions of article 17 of the Act, persons in possession of information must make available to the persons seeking the information, in an accessible form, the conditions, rules and modalities for the provision of such information. In the event that the information sought is not at the disposal of the person in possession of the information resource, that person must help the information seeker ascertain where the information might be found.

471. Under the provisions of article 32 of the Act, public authorities and municipalities shall set up Internet sites to provide information for the public. The central authorities shall make arrangements for the creation of Internet sites for the public authorities under their jurisdiction. For this purpose branch (corporate), regional and other forms of Internet sites may be created.

472. Under the provisions of article 163 of the Criminal Code of the Republic of Azerbaijan, it is an offence to obstruct journalists in the performance of their legitimate professional activities, for example, by compelling them with the threat or use of force to publish or to desist from publishing certain information, an offence which is punishable by fines of between 100 and 500 nominal financial units or punitive work for periods of up to one year. The same acts committed by officials in abuse of their official position are punishable by punitive work for periods of up to two years or custodial sentences for periods of up to one year with or without forfeiture of the right to hold certain positions or engage in certain activities for periods of up to three years.

473. Under the provisions of article 185 of the Administrative Offences Code of the Republic of Azerbaijan, obstructing the dissemination in the prescribed manner of media products or placing restrictions not prescribed by law on the retail sale of periodical publications are offences punishable by the imposition on individuals of fines of between 15 and 20 nominal financial units and, on officials, of between 30 and 50 nominal financial units.

474. Under the provisions of article 186 of the Code of Administrative Offences, failure to answer enquiries from journalists within the time limit set by law is punishable by fines of between 40 and 70 nominal financial units. Placing restrictions on or refusing to provide information to journalists, except information protected by law, shall incur fines of between 60 and 90 nominal financial units.

475. Under the provisions of article 187 of the Administrative Offences Code, the jamming of radio and television broadcasts is punishable by the imposition on officials of fines of between 50 and 70 nominal financial units and, on legal entities, of between 150 and 200 such units.

Pursuant to the same article, the use of radio and television broadcasts and programmes without the permission of the broadcasting organizations, and also the reproduction, rebroadcasting or wide-scale dissemination of these broadcasts and programmes without the permission of their owners are punishable by the imposition on officials of fines of between 70 and 90 nominal financial units and, on legal entities, of between 250 and 300 such units.

476. On 20 July 2001 a presidential decree was passed on stepping up State attention to the media, with a view to enhancing the attention given by the State to development of the media and to helping media outlets overcome any material difficulties in their path.

477. In order to ensure exercise of the freedom of information and radically to improve relations with the public, the media and non-governmental organizations, on 27 June 2005 an order was signed by the Procurator-General of the Republic of Azerbaijan on cooperation between the procuratorial authorities and the media and non-governmental organizations. Pursuant to this order, all line units of the procuratorial service have been assigned the responsibility of keeping the public systematically informed, through news agencies, the press, radio and television, about crime control efforts, including work by procuratorial offices in combating corruption, organized crime, and serious or particularly serious offences. They were also instructed to monitor all reports and allegations of harassment of journalists and of the exertion on them of undue pressure in connection with their legitimate professional activities.

478. Every reported attempt to obstruct journalists in the exercise of their professional duties must be investigated by the procurator's office and the legally prescribed action taken in response.

479. During a concert at Shafa stadium, Shaheen Agaev and Vilaet Imamverdiev, employees of the television company Azad Azerbaijan, were beaten by Azer Aliyev, Asimom Hasanov and Elchin Kazymov, security guards working for the company P.S.S. In response to this incident, on 27 September 2004 the investigative unit of the Nizami district police office instituted criminal proceedings under articles 221.2.1 (Criminal mischief) and 163.1 (Obstructing journalists in the performance of their legitimate professional activities) of the Criminal Code of the Republic of Azerbaijan, and the above-named persons were duly charged under those two articles. On 30 October 2004 the case was brought before the court.

480. On 20 April 2004, at noon, Elnara Darzieva, Tarana Mirzoeva and Samir Suleymanov, employees of the television company Leader, were physically assaulted during filming by Guljahan Najafi and Zamijan Nasirova. In response to this incident, on 26 April 2004 the investigative unit of the Sabail district police office instituted criminal proceedings under article 163.1 of the Criminal Code. The above-named persons were duly charged under that article and, on 4 December 2004, the case was brought before the court.

Article 20

481. Under the provisions of article 101 of the Criminal Code of the Republic of Azerbaijan, public incitement to a war of aggression is punishable by restriction of liberty for periods of up to three years or imprisonment for the same periods. The same acts committed through use of the

media, or by officials, shall be punishable by imprisonment for periods of two to five years with or without forfeiture of the right to hold certain positions or engage in certain activities for up to three years.

482. Under the provisions of article 283 of the Criminal Code, actions designed to inflame ethnic, racial, social or religious hatred and enmity or to offend ethnic pride, and actions aimed at restricting the rights of citizens, or according superior status to citizens on the grounds of their ethnic or racial origin, social position, or attitude to religion shall, if such actions are performed in public or by using the media, be punishable by fines of between 1,000 and 2,000 nominal financial units, or by restriction of liberty for periods of up to three years, or by imprisonment for terms of between two and four years. The same acts committed with the threat or use of violence; by persons in abuse of their official position; or by organized groups, shall be punishable by imprisonment for terms of between three and five years.

483. Under the provisions of article 300 of the Administrative Offences Code of the Republic of Azerbaijan, aliens and stateless persons who engage in religious proselytism shall be liable to administrative deportation from Azerbaijan, with or without the imposition of fines of between 20 and 25 nominal financial units.

484. Under the provisions of article 8 of the Azerbaijani Freedom of Assembly Act of 13 May 1998, all gatherings accompanied by incitements to discrimination, hostility, violence, or the advocacy of ethnic, racial or religious strife, are prohibited.

485. Under the provisions of article 10 of the Mass Media Act of 7 December 1999, the media may not be employed to divulge confidential information protected under Azerbaijani law, to advocate the forcible overthrow of the existing constitutional order, to instigate attacks on the integrity of the State, to propagate war or the use of force and brutality, to stir up ethnic, racial and social strife and intolerance, or under the guise of an authoritative source to publish hearsay, lies and biased matter which offends the honour and dignity of citizens, or pornographic or defamatory materials, or to commit other illegal acts.

486. Under the provisions of article 5 of the Publishers Act of 30 May 2000, materials prepared, produced and distributed by publishing companies may not contain incitements to the dissemination of State secrets, to the forcible change or overthrow of the existing constitutional order, to attacks on the security or integrity of the State, to the advocacy of war, violence, or ethnic, racial or religious supremacy, to intolerance or social strife, to the publication and dissemination of materials of a pornographic or defamatory nature, or to the commission of other offences.

487. Under the provisions of article 11 of the Television and Radio Broadcasting Act of 25 June 2002, the National Council for Radio and Television carries out monitoring to ensure that:

(a) Programmes which might harm the physical, mental and emotional development of children and teenagers are shown at hours when they are unable to watch them;

(b) Programmes do not advocate terrorism, violence, cruelty or ethnic, racial or religious discrimination.

488. Under the provisions of article 23 of the Act, if a radio or television broadcaster defends public incitements to the violent overthrow of the State order, attacks on the integrity of the State and national security, the stirring up of ethnic, racial and religious strife, or the organization of mass disturbances and terrorism, or knowingly provides facilities for the transmission of such broadcasts, its special permit or licence to broadcast on the territory of the Republic of Azerbaijan may be revoked by a decision of the court.

489. Under the provisions of article 32 of the Act, in preparing programmes for diffusion, broadcasters must observe the requirement that they should not propagate terrorism, violence, cruelty or ethnic, religious or racial discrimination.

490. Under the provisions of article 35 of the Act, advertisements on television may not encourage actions which offend the dignity or religious and political convictions of others.

491. Under the provisions of article 7 of the Public Television and Radio Broadcasting Act of 28 September 2004, broadcasters shall also be responsible for ensuring that no pornographic materials or programmes go out on air that advocate violence, cruelty and religious and racial discrimination.

492. Under the provisions of article 4 of the Political Parties Act of 3 June 1992, it is prohibited to set up and run political parties which have as their aim or tactics the overthrow or violent change of the constitutional order or encroachments on the territorial integrity of the Republic of Azerbaijan, the advocacy of war, violence and cruelty, or the incitement to racial, national and religious strife and to the commission of other acts contrary to the constitutional order of the Republic of Azerbaijan and incompatible with its obligations under international law.

Article 21

493. Under the provisions of article 49 of the Constitution of the Republic of Azerbaijan, everyone has the right to freedom of assembly. Subject to the provision of advance notice to the relevant State authorities, everyone has the right of peaceful, unarmed assembly and the right to hold meetings, rallies, demonstrations and street processions and to picket.

494. Under the provisions of article 49 of the Code of Administrative Offences of Azerbaijan, the obstruction of meetings, rallies, demonstrations, street processions and pickets that have been organized in accordance with the law shall incur the imposition on individuals of fines of between 25 and 30 nominal financial units, and on officials of between 50 and 70 nominal financial units. A range of measures is currently being set in place to improve the legislation in this area. A working party has been set up for this purpose, which is working in close cooperation with the European Commission for Democracy through Law (Venice Commission of the Council of Europe).

Article 22

495. We indicate below the amendments and additions introduced to the Trade Unions Act of the Republic of Azerbaijan by an act of 10 October 2006.

496. In the preamble, the European Social Charter has been added to the list of international instruments underlying the definition of trade union rights (Azerbaijan ratified the Charter in 2004).

497. In article 1, new definitions have been provided of the following concepts: “sectoral national or regional trade union associations”, “employee”, “employer” and “enterprise”.

498. Article 3 of the Act has been amended to specify that, for the purposes of performing their statutory functions, trade unions are entitled, in accordance with the principle of voluntary participation, to form associations (councils, federations or confederations) on sectoral, regional or other lines.

499. A new article has been added to the Act defining the status of trade unions, under which trade unions may have local, regional or national status.

500. Article 5 of the Act now prohibits any interference by State authorities or officials likely to compromise the rights of trade unions or to impede the lawful performance of their statutory activities.

501. Under the provisions of article 7 of the Act, the recruitment, promotion or dismissal of employees may not be contingent on their initiative to form trade unions, or their action to join or leave existing trade unions.

502. Article 10 of the Act stipulates that, when enacting rules and regulations relating to the labour, social or economic rights and interests of employees, central or local authorities must give at least 15 days’ notice of such enactment to the corresponding trade unions.

503. Article 14 of the Act establishes that the conduct of collective negotiations and the conclusion of collective agreements shall be effected on the basis of recommendations by trade union organizations; trade union associations shall, within the limits of their jurisdiction, conduct collective negotiations and conclude collective agreements with State authorities and other bodies on matters of economic, social and cultural development.

504. The organization of trade unions is also governed by the Labour Code of the Republic of Azerbaijan.

505. Under the provision of the Companies State Registration and State Register Act of 12 December 2003, bodies wishing to be accorded the status of legal entities in the Republic of Azerbaijan are obliged to undergo State registration and to be entered in the State register.

506. Bodies seeking the status of legal entities must apply to the Ministry of Justice of the Republic of Azerbaijan.

507. The State registration of bodies applying for legal entity status is completed within a period of no more than five days.

508. The State registration of non-profit bodies applying for legal entity status is to be completed within a period that generally does not exceed 40 days.

509. Under the provisions of article 8 of the Act, in the event that no reply on the refusal of State registration is received within the period stipulated in this article, the applicant body is deemed to have undergone State registration. In such cases, the Ministry of Justice must issue the applicant a certificate of State registration within a period of 10 days.

510. Applications for State registration by bodies seeking the status of legal entities may not be refused on any grounds other than those specified in the law of the Republic of Azerbaijan.

511. The registration of bodies seeking the status of legal entities may not be refused on the grounds that the formation of such bodies is considered undesirable.

512. The registration of bodies seeking the status of legal entities may only be refused on the following grounds:

(a) That the documents submitted to the appropriate executive authority of the Republic of Azerbaijan are inconsistent with the Constitution of Azerbaijan, the present act and other laws;

(b) That the objects, aims and activities of bodies seeking the status of legal entities contravene the law;

(c) That the legal requirements on the protection of trademarks will be breached or that another non-profit organization with the same name has already been registered;

(d) That inconsistencies in the constitutive documents have not been rectified within the specified time limit.

513. Appeals against the unlawful rejection or refusal to grant State registration to bodies seeking the status of legal entities may be lodged with a higher authority or court in accordance with Azerbaijani law.

514. Under the provisions of article 16 of the Non-Governmental Organizations (Voluntary Associations and Foundations) Act of the Republic of Azerbaijan of 13 June 2000, the State registration of non-governmental organizations is carried out by the Ministry of Justice in compliance with Azerbaijani law on the registration of legal entities. A non-governmental organization may only be granted the status of a legal entity upon undergoing State registration.

515. State registration of non-governmental organizations may only be refused on the grounds specified in the Legal Entities (State Registration and State Register) Act.

516. Under the provisions of article 14 of the Political Parties Act, political parties shall undergo State registration with the Ministry of Justice of the Republic of Azerbaijan.

517. Political parties must submit applications for State registration within one month of the date of adoption of their statute, which must be signed by the members of the governing body of the party and indicate the physical address of each such member. In accordance with the country's laws, political parties shall be recognized as legal entities from the date of their State registration.

518. Registration shall be refused:

- (a) If the statute of the political party contravenes the provisions of articles 3-5 of the Act (on the principles, terms of reference and modus operandi of the political party);
- (b) If the constitutive documents of the political party are not in compliance with the law;
- (c) If another party with a similar name has already undergone registration.

519. Appeals against refusal to grant State registration may be lodged within a period of 10 days with the courts of the Republic of Azerbaijan, whose decision shall be final.

520. Under the provisions of article 4 of the Trade Unions Act, trade unions shall be deemed to be legal entities and shall be entitled to the status of such entities from the moment of registration of their statutes.

521. Trade unions shall be registered in accordance with the procedure laid down in the relevant law.

522. As of early March 2007, the total number of organizations registered by the Ministry of Justice in the specified categories were as follows:

- (a) Protection of human rights and freedoms - 117;
- (b) Family, women's and children's affairs - 157;
- (c) Activities related to journalism - 43.

523. As of early March 2007, 2,400 non-governmental organizations had undergone registration formalities with the Ministry of Justice of the Republic of Azerbaijan.

Article 23

524. The Family Code of the Republic of Azerbaijan, ratified by an act of 28 December 1999, sets out, in accordance with the fundamental human and civil rights and freedoms enshrined in the Azerbaijani Constitution, the principles underlying the formation and strengthening of family relations and also their dissolution, the rights and duties of those engaged in family relations, the duties of the State authorities in this domain, and also the rules and regulations governing civil registration formalities.

525. Under the provisions of article 9 of the Family Code, marriages are solemnized by the State civil registration authorities of the Ministry of Justice, in the presence of the persons entering into marriage, after a period of one month from the date of application. If there are legitimate grounds for so doing, the State civil registration authorities may reduce or extend that one-month period, but not for more than one additional month.

526. In special cases (pregnancy, childbirth and other circumstances), the marriage may be solemnized on the day of submission of the application.

527. The rights and responsibilities of spouses enter into effect from the date on which their marriage is registered by the State civil registration authorities of the Ministry of Justice.
528. Appeals may be lodged in court against the refusal by the State civil registration authorities of the Ministry of Justice to register a marriage by the intending spouses (or by one of them).
529. Article 10 of the Family Code sets the following marriageable ages for the Republic of Azerbaijan: for men - 18; for women - 17. Where there are legitimate grounds for so doing, local executive authorities in the place of residence of minors wishing to marry may, at the request of those minors, lower the marriageable age by not more than one year.
530. Under the provisions of article 11 of the Family Code, the written consent of the intending spouses is required for their entry into marriage and they must have attained the marriageable age.
531. Marriage may not be entered into by close relatives (parents and children, grandparents and grandchildren, consanguine and uterine siblings); by adoptive parents and adopted children; by persons, of whom one or both are already married; by persons, of whom one or both are deemed by a court to be lacking legal capacity, as a consequence of mental illness or mental retardation.
532. Under the provisions of article 29 of the Family Code, spouses have equal personal and property rights in family matters. Maternity, paternity, the raising and education of children, and other family issues are addressed jointly by the spouses in accordance with the principle of equality of spouses. Spouses are free to elect their occupation, profession and place of residence. Spouses are required to form their relations in the family on the basis of mutual assistance and mutual respect, to work together for the well-being and strengthening of the family, to create favourable conditions for the growth of their children and to attend to their health.
533. Under the provisions of article 15 of the Family Code, a husband may not sue for divorce without the consent of his wife during his wife's pregnancy or for a period of one year following the birth of a child.
534. Under the provisions of article 22 of the Family Code, when a marriage is being dissolved in court proceedings, the spouses may submit an agreement to the court establishing with which of them their minor children will be living, the arrangements for the payment of child maintenance or maintenance for a spouse who is unable to work and needy, the amount of such maintenance and the division of their jointly owned property. In the absence of an agreement between the spouses on these matters, and also in the event that such an agreement runs counter to the interests of the children or one of the spouses, the court must determine which of the parents is to be ordered to pay child maintenance and the amount of such maintenance.
535. In 2000, 26 family planning centres were created as part of the reproductive health and family planning programme. Two of these centres (the Family Planning Centre of the Republic of Azerbaijan and the Reproductive Health Centre at the Institute of Obstetrics and Gynaecology) operate in the city of Baku.
536. The other centres are scattered around the country, in such areas such as Gäncä, Sumqayıt, Quba, Massalli, Astara, Länkärän, İsmayilli and others.

537. Since 1999, the relevant authorities in Azerbaijan have been conducting a range of activities on the prevention of violence against women. Azerbaijan has not had a coordinated government programme to combat such violence, however.

538. In 2006, with the cooperation of the Baku office of OSCE, workshops were held in various regions on the role of the police in protecting women against domestic violence.

539. At a meeting on 27 January 2007, the Board of the Ministry of Internal Affairs of the Republic of Azerbaijan discussed ways and means of stepping up efforts to combat offences against women, including domestic violence. The ministry has taken steps to prevent offences, including murder and attempted murder, provoked by family disputes. The heads of regional internal affairs offices have been instructed to take appropriate measures to prevent unlawful acts in families and homes and, at the end of each quarter, to review the effects of such measures and to hold briefings at which the outcome of these measures is discussed.

540. In January 2007, a comprehensive national programme to combat day-to-day violence in Azerbaijan's democratic society was adopted and approved by Cabinet decision. In order to put the programme into effect, an action plan has been drawn up, providing for the creation of a network of crisis centres throughout the country, the conduct of outreach work, work with victims of violence, research and other activities. Under this plan, a schedule is drawn up every year of measures to combat violence. Accordingly, this year, major awareness-raising campaigns are scheduled, covering the conduct of courses, workshops and round tables in different regions and cities for local officials and representatives of voluntary associations. These activities will be undertaken with the support of international organizations and with the involvement of young volunteers.

541. Over the period 2006-2007, an awareness-raising campaign is being conducted around the country under the slogan "A healthy family - the foundation of society". The campaign includes meetings with young people to discuss topical issues such as human trafficking, violence and promoting healthy lifestyles and information materials on these issues are being disseminated among young people, along with the organization of concerts to promote the fight against negative trends in society, with the participation of talented young performers.

542. A round-the-clock crisis helpline has been set in operation in Azerbaijan, with the aim of providing social services to young people and giving them access to essential psychological support to help them deal with their problems, including those of domestic violence and human trafficking.

543. The national plan of action, approved on 28 December 2006, envisages that, over the next few years, the laws and regulations of the Republic of Azerbaijan will be brought into full compliance with international human rights standards, a new strategy of cooperation with international organizations will be drafted and set in operation, improved efforts will be made by State authorities to promote human rights, scientific and analytical work in this area will be launched, legal awareness will be promoted, and efforts to combat violence against women and domestic violence will be stepped up. Steps are also to be taken to develop better mutual relations between the State and civil society, to set in place human rights protection systems, to

make the necessary arrangements for compensation, rehabilitation and medical and psychological assistance for victims of this kind of violence and to promote much broader public awareness in this domain.

Article 24

544. Public policy on children is designed to ensure the growth and development of each child in appropriate material and domestic circumstances, the provision of education in keeping with modern requirements and the raising of children as upstanding citizens. This public policy is put into effect through targeted social programmes for children, specially tailored to national and local conditions. Other legal entities and individuals may be involved in implementing these programmes, along with the public authorities.

545. All children have equal rights. Children may not be subjected to discrimination on the grounds of social and property status, health, race, ethnic origin, language, education, political opinion or their own place of residence or that of their parents or persons acting in their parents' stead. Children may not be held liable for the actions of their parents or persons acting in their stead, and the rights of children may not be restricted on grounds associated with their parents.

546. Irrespective whether children were born in or out of wedlock, they enjoy equal rights vis-à-vis their parents.

547. The Orphans and Children Deprived of Parental Care (Social Protection) Act of 22 June 1999 determines exactly what action the State should take to ensure the social protection of orphans and children deprived of parental care, and also of other persons in this category up to the age of 23, and regulates matters relating to any such action taken.

548. The social protection of orphans and children deprived of parental care, and also of other persons assigned to that category, shall be assured by the State in accordance with the current legislation.

549. The Government of the Republic of Azerbaijan shall develop and implement targeted programmes for the social protection of orphans and children deprived of parental care, and of other persons assigned to that category, and shall create State-run social rehabilitation and readjustment centres, underpinned by a centralized system of residences, educational establishments, social services and other facilities.

550. The financial outlay on social protection for orphans and children deprived of parental care, and for other persons assigned to that category, shall be based on the minimum State standards set by the Azerbaijani Government. Guardians and foster parents shall receive monthly benefits for children who have lost their parents or been deprived of parental care, in the manner and to the amount prescribed by the Cabinet of Ministers.

551. Under Azerbaijani law, additional social protection measures may be devised for children who have lost their parents or been deprived of parental care, and for other persons assigned to that category.

552. The funding of measures for the social protection of orphans and children deprived of parental care shall be drawn from the State budget, from other State and non-State funds, and from grants and other sources which are not prohibited by law.

553. Education, health care, and the right to work, to own property and to have somewhere to live shall be guaranteed to children who have lost their parents or been deprived of parental care.

554. Children's rights are also governed by the rules set out in the Family Code of the Republic of Azerbaijan.

555. The Infants and Young Children (Nutrition) Act of 17 June 2003 identifies priority areas for efforts to promote and protect the breastfeeding of newborn babies and infants, sets out organizational and legal arrangements to monitor the production, import, sale and advertising of artificial foods, and regulates other matters arising in this area.

556. By law, medical facilities for orphans or children deprived of parental care are entitled to purchase artificial foods at a reduced price, or to receive such foods as gifts, donations, humanitarian aid or in any other form.

557. The duties of medical establishments, regardless of their form of ownership, include:

- (a) Protecting and promoting the special nutritional status of infants, and studying and disseminating international best practices in this field;

- (b) Ensuring that, from the moment of birth, infants remain with their mothers for an entire day and are breastfed during the first hour after birth;

- (c) Giving parents the necessary guidance when their children develop a need for artificial foods or supplementary feeding;

- (d) Prohibiting disclosure of the names and addresses of pregnant and breastfeeding women, and also of their infants, to the manufacturers and distributors of artificial foods;

- (e) Banning the provision of artificial food products by their manufacturers and distributors, in the form of samples, gifts, donations and other means, except as prescribed by law;

- (f) Carrying out awareness-raising work related to the feeding of children.

558. The Azerbaijani Rights of the Child Act of 19 May 1998 defines the rights and freedoms of children in the Republic of Azerbaijan, the basic principles of the State policy on children, the duties of the State authorities and other legal entities and individuals relating to the protection of children pursuant to the Constitution of the Republic of Azerbaijan, the Convention on the Rights of the Child and other instruments of international law.

559. The Act enshrines the rights of children:

- (a) To life and development;

- (b) To protection of their life and health;
- (c) To have a name and citizenship;
- (d) To be raised and educated;
- (e) To liberty and security of person, and to leisure;
- (f) To material security;
- (g) To freedom of conscience, thought and speech;
- (h) To freedom of information;
- (i) To housing and a family life;
- (j) To receive inheritances and to be maintained from their parents' estate;
- (k) To form and join voluntary associations;
- (l) To protection of their honour and dignity;
- (m) To protection from exploitation and harmful influences.

560. In 2004, the Republic of Azerbaijan ratified ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999.

561. On 31 May 2002, an act was passed into law ratifying the statute of the Commission on the Prevention of Delinquency and Homelessness among Minors.

562. The Homelessness and Delinquency among Minors (Prevention) Act of 24 May 2005 regulates social issues relating to the prevention of homelessness and delinquency among minors and defines the rights and duties of State authorities, institutions and organizations in this domain.

563. Endeavours to prevent homelessness and delinquency among minors have the following primary objectives:

- (a) Preventing the homelessness and abandonment of children, combating juvenile delinquency and removing the causes and circumstances conducive to those phenomena;
- (b) Protecting the rights and legitimate interests of minors;
- (c) Ensuring the social and educational rehabilitation of minors in a socially precarious condition;
- (d) Uncovering and suppressing attempts to lure minors into criminal activities;

(e) Uncovering and suppressing the consumption by minors, unless on medical authority or under a doctor's prescription, of alcohol or narcotic drugs and psychotropic substances in violation of the laws and regulations of the Republic of Azerbaijan.

564. The system of institutions and agencies engaged in the prevention of homelessness and delinquency among minors include the commissions on juvenile rights and welfare, the authorities responsible for social welfare, guardianship and care, education and health and the internal affairs and youth affairs offices.

565. Other offices, institutions and organizations, including non-governmental organizations, are also being brought into efforts to prevent homelessness and delinquency among minors within their respective areas of jurisdiction and in the manner prescribed by Azerbaijani law.

566. The specific elements of pretrial proceedings and proceedings in courts of first instance, courts of appeal and courts of cassation involving children are set out in the Code of Criminal Procedure of the Republic of Azerbaijan.

567. Pretrial proceedings relating to offences by children may only be conducted in the form of a pretrial investigation. The application of custodial measures of restraint against children is only permitted in cases involving the commission of less serious, serious and especially serious offences. Penalties entailing deprivation of the liberty of children may only be imposed by courts after full consideration of the case.

568. Children may not be held in detention together with adults, except where this is necessary in their own interest. Children sentenced to custodial punishments are held in reform institutions in the manner prescribed by the Criminal Enforcement Code of the Republic of Azerbaijan.

569. The authorities of reform institutions for children are under an obligation to create the necessary conditions to enable the children detained within their institutions to grow up as conscientious and upstanding citizens and to receive a decent education and appropriate vocational training.

570. Since 2002, gatherings have been organized from time to time (on the occasion of festivals and other special dates) with juvenile offenders in reform institutions in the prison system. Cultural events, sports competitions and concerts are regularly organized with the participation of talented young sportsmen and performers for the inmates of reform institutions. In this way leisure activities are arranged for juvenile offenders and their right to cultural development is duly upheld. In addition, the inmates of reform institutions regularly receive allocations of books, including books on human rights, sports gear, clothing, footwear and other equipment, training courses are arranged for them on a range of topics and their right to education ensured. Conditions are set in place for the subsequent reintegration of juvenile offenders into society.

571. On 30 March 2004, the Republic of Azerbaijan acceded to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

572. Criminal investigations have revealed that, over the period 2000-2004, 186 children of Azerbaijani citizenship were adopted by foreign parents, including 157 children placed with

citizens of the United States of America, 18 with Israeli citizens, 1 with a French citizen, 1 with a British citizen, 2 with Italian citizens, 1 with a Swiss citizen, 1 with a German citizen, 1 with an Australian citizen, 1 with a Belgian citizen, 1 with a Turkish citizen and 1 with a citizen of Kazakhstan. Further inquiries uncovered breaches of the Azerbaijani laws governing these matters in the placement of these children with foreign citizens, including citizens of the United States, for the purposes of their adoption.

573. The children placed with foreigners had not been put up for adoption by Azerbaijani citizens, even though they had been on the adoption list for a long time, nor was their placement cleared with their relatives. Some of the children placed with foreign parents did have relatives, but the consent of the latter to their placement had not been obtained. The children were handed over to representatives of these foreign nationals for the purposes of adoption. The official reports on the living conditions and the circumstances of the foreign nationals adopting the children were prepared by licensed non-governmental organizations, and not by the appropriate public authorities, and no official documents were submitted confirming that the authorities of the foreign State in question had granted consent to the child's entry to and residence in the country. In a number of cases, siblings were separated and handed over to different foreign parents.

574. Applications have been submitted to Israel and the United States, requesting legal assistance in matters related to the fate of these children.

575. Under the provisions of article 10 of the Azerbaijani Rights of the Child Act, children are given their names with the consent or on the instructions of their parents, or, if they should have no parents, with the consent or on the instructions of the guardianship authorities.

576. Under the provisions of article 53 of the Family Code, children have the right to a first name, patronymic and surname. Children receive their first name with the consent of the parents, their patronymic is formed from their father's name and their surname is determined by their parents' surname. If the parents use different surnames, the child is given either the father's or the mother's surname, by agreement between the parents.

577. Under the provisions of article 166 of the Family Code, the birth of a child is registered at the child's place of birth or the place of residence of one or both parents. Notification of the birth is provided in writing or orally by both parents or by one of them, or, in the event of the sickness or death of the parents, or if for any other reason they are unable to provide the notification themselves, details of the birth are provided by relatives or neighbours, or by the administration of the medical establishment where the child was born, or by other persons. At the request of the parents, the registration of birth may be conducted in the form of a ceremony.

578. Under the provisions of article 167 of the Family Code, notification of the birth of a child must be submitted within three months of the birth and, in the case of a stillborn child, within three days of the birth.

579. Under the provisions of article 168 of the Family Code, the birth certificate shall record the child's first name, patronymic and surname, together with details of the parents. If the child's paternity has not been established, the ethnic origin of the father shall be recorded as indicated by the mother.

580. Article 169 of the Family Code stipulates that, where a child is born after the death of the mother's registered husband, the deceased husband's name may be recorded in the birth certificate as the father of the child, provided that no more than 10 months have elapsed between the death of that person and the birth of the child.

581. Pursuant to article 170 of the Family Code, the birth of a child who was conceived during the marriage, but born after the divorce or annulment of that marriage, provided that no more than 10 months have elapsed between the date of divorce or annulment and the birth of the child, is registered in the same manner as the birth of a child whose parents are still married.

582. The Criminal Code of the Azerbaijan Republic establishes criminal penalties for the following offences:

- (a) Enticing minors into the perpetration of offences (art. 170);
- (b) Luring minors into prostitution, or the performance of immoral acts (art. 171);
- (c) Substitution of someone else's child (art. 172);
- (d) Illegal adoption (art. 174);
- (e) Disclosing confidential information about adoption (art. 175);
- (f) Wilful evasion of the payment of maintenance for children or parents (art. 176).

583. Under the provisions of article 51 of the Code of Administrative Offences, failure by parents or persons acting in their stead to discharge their responsibility to raise and educate their minor children, or their inadequate discharge of that responsibility, shall entail an official warning or a fine of between 20 and 40 nominal financial units.

584. Under the provisions of article 65-1 of the Code, activities by the manufacturers and distributors of artificial foods which breach the law on nutrition for newborn babies and infants, such as: organizing promotions and sales of special artificial foods for publicity purposes; funding scientific research work in child nutrition without the endorsement of the appropriate executive authority; sponsoring medical associations without the endorsement of the appropriate executive authority; and the unauthorized participation of employees from the health-care system in scientific and practical conferences, seminars, and practical medical workshops, shall incur the imposition of fines on individuals of between 15 and 20 nominal financial units and on legal entities of between 200 and 250 such units.

585. In the Republic of Azerbaijan there are some 170 registered children's and young people's non-governmental organizations. These include a number of young people's non-governmental organizations, registered over the period 1999-2006, that are directly concerned with human rights. Their activities are aimed at protecting and upholding human rights and freedoms, raising awareness in this domain, and promoting legal literacy among young people.

586. The Government of Azerbaijan regularly organizes workshops, courses and round-table discussions on human rights for young people, at which attention is given to problems relating to protection of the rights of young people and ways of resolving these problems.

587. Since 1994, the Voluntary Youth Council has been in operation, as part of the Board of the Ministry of Youth and Sport of the Republic of Azerbaijan. State-registered bodies, including non-governmental organizations, voluntary associations, foundations and movements, together with the youth wings of political parties whose activities are primarily geared towards young people, are represented on the Council. The purpose of the Council is to involve young people's non-governmental organizations active in Azerbaijan in efforts to carry out the Government's youth policy, to develop and improve the laws relating to young people, to discuss and solve problems of concern to young people, to study and evaluate public opinion in aspects of work with young people, and also to coordinate the activities of young people's non-governmental organizations, voluntary associations and other bodies.

588. In collaboration with the Council of Europe, the Azerbaijani Government has prepared and published an Azeri translation of a handbook for the teaching of human rights to young people.

589. In August 2005, a presidential order was passed ratifying the State youth programme for the period 2005-2009. The programme envisages the creation, both in the capital Baku and in other towns and districts of the country, of youth centres where social and psychological support services will be available to young people, alongside leisure facilities. In some areas, these youth centres are already up and running.

590. The Azerbaijani Government is currently developing a national plan of action on children's rights.

Article 25

591. Under the provisions of article 3 of the Municipalities (Status) Act of 2 June 1999, Azerbaijani citizens exercise their right to local self-government in a variety of ways, such as by electing the municipalities in the areas where they reside, by voting in referendums, by participating in opinion polls, by freely expressing their views, and by putting forward proposals.

592. Citizens can exercise their right to local self-government both directly and through their representatives, without distinction as to race, ethnic background, sex, language, origin, wealth and official status, religion, convictions, occupation, or association with political parties, trade unions and other voluntary associations.

593. Citizens of the Republic of Azerbaijan have the right to elect and be elected to local governments. All citizens of the Republic of Azerbaijan are equally entitled to serve on municipalities. Every citizen has the right to submit applications to municipalities, municipal authorities and their officials.

594. Municipalities, municipal authorities and their officials are obliged to allow all citizens to peruse documents and materials directly related to human and civil rights and freedoms and also to be fully informed about the activities of municipalities, unless otherwise provided by law. They are also obliged to carry out the tasks assigned to them by the electorate.

595. The Azerbaijani Public Service Act regulates relations between the State and public servants in the performance of their functions in the Republic of Azerbaijan and other matters related to the legal status of public servants.

596. Under the provisions of article 27 of the Public Service Act, the right to enter the public service is enjoyed by all citizens of Azerbaijan who have attained the age of 16, regardless of their race, ethnic origin, language, sex, social origin, wealth, place of residence, attitude to religion, convictions and membership of voluntary and other associations, and who meet the professional requirements for the post in question.

597. No one may be admitted to the public service if any of the following obtains:

- (a) They have been declared by a court as having limited or no legal capacity;
- (b) They have been stripped by a court for a specified period of their right to hold public office;
- (c) They are closely related to or have a close affinity with (as spouses, parents, siblings or children) the public servant under whose direct authority or supervision they would have to work;
- (d) Other circumstances defined by law.

598. A person's eligibility for employment in the public service may be verified in advance. The procedure for such verification is laid down by law. Details of the applicant's personal (family) life are not subject to verification.

599. Citizens are appointed to the public service through a process of competitive examinations or interviews.

600. In 2001, presidential decrees were passed in Azerbaijan ratifying:

- (a) Rules for admission to service in State bodies through a process of competitive examinations for recruitment to the public service;
- (b) Models of the employment agreement (or contract) for admission to service in the relevant government bodies for a probationary period;
- (c) Rules on the prior verification of candidates selected for recruitment to government bodies, to ensure that they meet the eligibility requirements for employment in the public service;
- (d) Rules on the granting of service grades to public servants employed in government bodies;
- (e) Regulations on the procedure for appealing against disciplinary measures applied against public servants employed in government bodies.

601. A presidential decree was passed on 19 January 2005 creating the Public Service Commission under the direct responsibility of the President of the Republic of Azerbaijan.

602. A presidential decree was passed on 3 June 2005, ratifying the statute of the Public Service Commission under the President of the Republic of Azerbaijan, as a central executive body, responsible for ensuring the application of laws and regulations adopted in Azerbaijan in the domain of the public service, for applying the policy prescribed by Azerbaijani law for the recruitment and placement of professional staff in the public service through a process of competitive examinations, for the further training of public servants, the appraisal of their performance and their social protection, and for other matters related to the public service.

603. Under the provisions of article 2 of the Electoral Code of the Republic of Azerbaijan, ratified by an act of 27 May 2003, citizens of the Republic of Azerbaijan take part in elections and referendums on the basis of universal, equal and direct suffrage, by secret and individual ballot. The participation of citizens of the Republic of Azerbaijan in elections and referendums is free and voluntary. No one may exert influence on Azerbaijani citizens for the purpose of forcing them to participate or not to participate in an election or referendum, and no one may obstruct them in the free expression of their will.

604. Citizens of the Republic of Azerbaijan have the right to elect and stand for election, and to participate in referendums, regardless of their race, ethnic origin, religion, sex, origin, property and official status, beliefs, membership of political parties, trade unions or other voluntary associations, or other attributes.

605. Citizens participate in elections and referendums on an equal footing. In each ballot, each citizen has one vote. All votes have equal weight.

606. Citizens vote in person in elections for or against candidates or for or against issues put to referendum. Proxy votes are not allowed. Citizens who have voted or have made arrangements to vote in the place of others shall incur the penalties specified in the Criminal Code or the Code of Administrative Offences of Azerbaijan.

607. Voting in elections and referendums must be by secret ballot and there may be no canvassing while voting is under way.

608. Elections to the Milli Meclis (Parliament) of the Republic of Azerbaijan, to the post of President of the Republic of Azerbaijan and to the country's municipalities must be held within the time limits specified in the Constitution of the Republic of Azerbaijan and in the Code.

609. Except as otherwise provided by law, every citizen of the Republic of Azerbaijan who has reached the age of 18 on the day of elections to the Milli Meclis (Parliament), of the presidential elections, of municipal elections, or of a referendum (including the day of voting itself), has the right of suffrage - namely, the right to elect, the right to vote in a referendum, the right to observe elections (or referendums), the right to participate in pre-election (or pre-referendum) campaigns, and the right to participate in the electoral activities and in activities associated with the preparation of a referendum as stipulated by the Code.

610. Stateless persons who have been permanently resident in the Republic of Azerbaijan for at least five years may vote in the presidential election, elections to the Milli Meclis (Parliament), municipal elections and referendums.

611. Citizens of foreign countries who have been living in a given municipality for at least five years may participate in its municipal elections (provided that the countries of which they are citizens accord the same rights to aliens in their own municipal elections).

612. Articles of the Criminal Code set out penalties for the following offences:

- (a) Hindering the exercise of the right to vote (to participate in a referendum) (art. 159);
- (b) Breaching the rules on participation in elections (referendums) (art. 159-1);
- (c) Interfering in the work of electoral commissions (referendum commissions), or putting pressure on such commissions (art. 160);
- (d) Falsifying election documents (participation in referendums), ballot rigging, or divulging secret information about the ballot (art. 161).

613. The Code of Administrative Offences sets out administrative penalties for the following acts:

- (a) Breaching the rules and exceeding the time limits for the conduct of the election campaign or referendum campaign (art. 39);
- (b) Wilful destruction of printed campaign materials or obstructing meetings between candidates and voters (art. 40);
- (c) Knowingly disseminating false information about a candidate (art. 41);
- (d) Infringing the rights of members of the electoral commissions (referendum commissions), of observers, election agents, candidates and the authorized representatives of political parties, of referendum campaign groups, of coalitions of political parties, and of media representatives (art. 42);
- (e) Abuse of office or official position to secure an advantage for election purposes (or in referendums) (art. 42-1);
- (f) Failure to provide accurate, complete and timely information about voters (art. 42-2);
- (g) Breaching the rules on the issuance and storage of ballot papers, polling reports and certificates (art. 42-3);
- (h) Improper use of the computerized information system (art. 42-4);
- (i) Making threats or statements calling for violence on the occasion of elections (referendums), or disseminating material containing such incitements (art. 43);
- (j) Deliberately including voters' names in more than one electoral roll (art. 43-1);
- (k) Infringing citizens' rights to peruse the electoral roll and other rights (art. 44);

(l) Refusing to grant employees time off to enable them to vote in elections (or referendums) (art. 45);

(m) Breaching the rules on the financing of elections (or referendums) or the provision of financial reports (art. 46);

(n) Preparation and dissemination of anonymous campaign materials or anonymous campaign advertising (art. 47);

(o) Deliberate failure to make available or publish information on the results of voting or on the outcome of elections (art. 48).

614. There were in fact some attested violations committed by officials in the parliamentary elections on 6 November 2005 and 13 May 2006, for which the perpetrators have been prosecuted.

615. In all 20 criminal prosecutions were brought on the basis of evidence of these breaches of the law during the parliamentary elections and 15 of these cases, involving 18 defendants, were referred to the courts for consideration on the merits. All the accused were sentenced to penalties by the courts. Three criminal cases were dismissed; in one case the proceedings have been suspended as the whereabouts of the accused remain unknown; and one case is currently being heard in the Suraxani district court in Baku. Eight of those being prosecuted were the chairs or members of electoral commissions.

616. For example, Rahim Sabir-oglu Tanryverdiev, Daglar Sadradin-oglu Jafarov and Elshan Tofig-oglu Ismailov attempted to buy votes when standing for election to parliament, and were duly convicted under article 159 4.1 of the Criminal Code. Tofig Mutalim-oglu Gafarov, Shukur Mahmoud-oglu Azimov, Rashad Jabrail-oglu Babaev, Sultan Nagim-oglu Guliyev, Mazahir Zakir-oglu Sadygov and others, all members of electoral commissions, were convicted for interfering with the work of the electoral commissions, for falsifying election documents, deliberately miscounting votes and breaching the secrecy of the ballot.

Article 26

617. Information on measures to uphold the right of equality before the law and to the protection provided under articles 2, 3, 14, 23 and 25 of the Covenant may be found in earlier sections of the present report.

618. Paragraph 20 of the concluding observations of the Human Rights Committee is not entirely correct. It states that the right to immediate access to legal representation is guaranteed only to citizens.

619. Under the provisions of article 61 of the Constitution, as pointed out in the second periodic report of Azerbaijan on the implementation of the International Covenant on Civil and Political Rights, everyone has the right to qualified legal assistance. In certain cases, as stipulated by law, legal assistance is provided free of charge by the State.

620. Under the provisions of article 69 of the Constitution, aliens and stateless persons present in the Republic of Azerbaijan are entitled to all the same rights and subject to the same obligations as citizens of the Republic of Azerbaijan, except as otherwise provided by law or international treaties to which the Republic of Azerbaijan is party.

621. The rights and freedoms of aliens and stateless persons permanently or temporarily resident in the Republic of Azerbaijan may only be restricted in accordance with the rules of international law and the laws of the Republic of Azerbaijan.

622. Azerbaijani law sets out rules for the treatment of aliens in the country. Article 25, paragraph 3, of the Azerbaijani Constitution, stipulates that the restriction of human and civil rights and freedoms on the grounds of race, ethnic background, religion, language, sex, origin, beliefs or political or social affiliation is prohibited.

623. Under the provisions of article 4 of the Aliens and Stateless Persons (Legal Status) Act of 3 March 1996, aliens and stateless persons enjoy the same rights and freedoms and have the same obligations as citizens of the Republic of Azerbaijan, except as otherwise provided by the Constitution of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is party. Under the Code of Civil Procedure of the Republic of Azerbaijan, aliens and stateless persons, foreign legal entities and international organizations may apply to the courts of the Republic of Azerbaijan for protection of their infringed or disputed rights and legally protected interests. Aliens enjoy the same procedural rights and have the same procedural obligations as citizens and legal entities of the Republic of Azerbaijan.

624. Under the provisions of article 3.5 of the Human Rights and Freedoms in the Republic of Azerbaijan (Regulations on Their Exercise) Act, adopted on 24 December 2002 as a constitutional law of the Republic of Azerbaijan, human rights and freedoms may be limited, in addition to the grounds set forth in article 71, part III, of the Constitution, in order to ensure that the rights and freedoms of others are protected and upheld.

625. The right to protection of all citizens, including aliens and stateless persons, is enshrined in the Code of Criminal Procedure of the Republic of Azerbaijan.

626. Official figures show that 210 offences were committed in 2003 by aliens and stateless persons, 466 in 2004, 418 in 2005 and 366 in 2006. During the investigation of these criminal cases, the services of lawyers were provided for all the accused aliens in accordance with their request. In addition, information about their cases was transmitted to the embassies of the countries of which they were citizens.

627. Neither in 2003, nor in subsequent years have any complaints of violations of the right to defence been submitted to the procuratorial authorities by aliens or stateless persons who have been charged with the commission of offences.

628. The Social Benefits Act of the Republic of Azerbaijan entered into force on 1 January 2006. Under the provisions of article 3.2 of the Act, except as provided in international agreements to which the Republic of Azerbaijan is party, aliens and stateless persons shall enjoy equal rights to social benefits (with the exception of the lifetime benefits granted to public servants).

629. In accordance with the Employment Pensions Act, which entered into force on 1 January 2006, analogous arrangements are made for the payment of employment pensions to aliens and stateless persons.

630. Regulations on the labour rights of aliens and stateless persons are reflected in article 13 of the Labour Code, pursuant to which, except as otherwise provided by the law or international treaties of the Republic of Azerbaijan, aliens and stateless persons present in the Azerbaijani Republic enjoy all the same labour rights and have the same obligations as citizens of the Republic of Azerbaijan.

631. Article 13 prohibits the restriction of the labour rights of aliens and stateless persons stipulated in the Code and other regulations, except in cases prescribed by law.

632. Aliens and stateless persons may not be accorded preferential treatment over citizens of the Republic of Azerbaijan in labour-related matters.

Article 27

634. Measures relating to article 27 of the Covenant have been described in detail in previous reports.
