



VƏTƏNDAŞLARIN ƏMƏK
HÜQUQLARINI MÜDAFİƏ
LİQASI

**CƏZA ÇƏKMƏ MÜƏSSİSƏLƏRİNDƏ HƏSSAS QRUPA
DAXİL OLAN MƏHKUMLARIN HÜQUQLARININ
TƏMİN OLUNMASINA DAİR
Qanunvericilik və onun tətbiqi praktikasının monitorinqinə dair
H E S A B A T**

- √ Qanunvericiliyin təhlili
 - √ Qanunvericiliyin tətbiqi praktikası
 - √ Siyasətin formalaşmasına dair tövsiyələr
-

R E P O R T

**ON THE LEGISLATION ON THE PROVISION
OF THE RIGHTS OF VULNERABLE PRISONERS
AT PENITENTIARY INSTITUTIONS AND MONITORING
OF THE PRACTICE OF ITS APPLICATION**

- √ Analysis of the legislation
- √ Practice of application of the legislation
- √ Recommendations of the formulation of the policy



REPORT

ON THE LEGISLATION ON THE PROVISION OF THE RIGHTS OF VULNERABLE PRISONERS AT PENITENTIARY INSTITUTIONS AND MONITORING OF THE PRACTICE OF ITS APPLICATION

- √ **Analysis of the legislation**
- √ **Practice of application of the legislation**
- √ **Recommendations of the formulation of the policy**

Baku-2016

TABLE OF CONTENTS

SUMMARY	35
I. LEGISLATION	
1.1. Protection from torture and other cases of mistreatment	38
1.2. Additional provisions	39
1.3. Voluntary engagement in labor	41
1.4. Other provisions	42
1.5. Social adaptation	42
1.6. Requirements in the provision of possibilities for movement	43
II MONITORING	45
2.1 Methodology	45
2.2. Observations on the questions included in questionnaires and their outcomes.....	46
2.2.1. Accessibility of the institution for disabled persons with limited motion, including accessibility of bed, leisure and nutrition places for persons with disabilities	46
2.2.2. Status of provision of disabled persons with limited motion, vision and hearing with appropriate means	47
2.2.3. Access to medicine	48
2.2.4. Education and rehabilitation opportunities	50
2.2.5. Physical training and sports in penal institutions	51
2.2.6. Worship opportunities	51
2.2.7. Status of prisoners belonging to vulnerable groups in relation with provision of pensions and acquisition of a degree of disability	51
2.2.8. Observations on other problems (access to labor, other social problems) of prisoners belonging to vulnerable groups	53
2.2.9. Contact with the outside world	54
2.2.10. Accessibility of communication means for foreigners and stateless prisoners	56
III PROVISION OF LEGAL AID TO PRISONERS BELONGING TO VULNERABLE GROUPS	
3.1. Right of prisoners to the provision of legal and psychological aid	57
3.2. Provision of legal aid to prisoners belonging to vulnerable groups	57
RECOMMENDATIONS	59
ANNEXES	
Annex 1. Observation Record Sheet	61

SUMMARY

According to the provision 25.3 of the Constitution of the Republic of Azerbaijan, *“The government guarantees the equality of rights and freedoms of everyone regardless of race, nationality, religion, language, sex, origin, property, position, conviction and membership in political parties, trade unions and social organizations. It is prohibited to restrict human and civil rights and freedoms for race, nationality, religion, language, sex, origin, property, position, conviction, political and social affiliation.”*

The Constitution and other normative legal acts of the Republic of Azerbaijan prohibit cases of discrimination for any reason and define privileges and additional rights for a variety of unsecured and vulnerable people. In this case, the key purpose is to guarantee equal rights for people.

The prohibition of discrimination and guarantee of equal rights should be applied no matter where and in what situation is a person. In this context, the legislation justifies respect for rights and protection of dignity of persons penalized and deprived of liberty. The Code of Execution of Punishments reads that *“the Code relies on the prohibition of tortures or other cruel, inhuman acts or humiliation of dignity in treatment of prisoners in accordance with the Constitution and relevant laws of the Republic of Azerbaijan and norms and principles of the international law³⁴”*.

The guarantee of the rights of persons serving a sentence in penitentiary establishments who belong to vulnerable groups is defined by the legislation of and the relevant international norms joined by the country.

There are persons with disabilities belonging to a vulnerable group among prisoners, as well. The “Convention on the Rights of Persons with Disabilities” joined by the Republic of Azerbaijan defines liabilities related to persons with disabilities for the State Parties.

³⁴<http://e-qanun.gov.az/code/15>

The Convention reads that "*The State Parties undertake to fully realize and fulfill all the human rights and fundamental freedoms of persons with disabilities without any discrimination on the basis of signs of disability*".

The UN General Assembly adopted the Convention on the Rights of Persons with Disabilities and opened for ratification on December 13, 2006.

The Republic of Azerbaijan ratified the Convention on 28 January 2009.

The Convention includes provisions on the guarantee of rights and freedoms of persons with disabilities, their integration into the society with others and their provision with dignified life and employment. The ratifiers of the Convention undertake to take measures to guarantee the rights and freedoms of persons with disabilities and to remove cases of explicit and implicit discrimination against them.

9/5/2014 **The final recommendations adopted by the Committee on the Rights of Persons with Disabilities on the initial report of Azerbaijan on 9 May 2014** include a special recommendation on the places of deprivation of liberty in Azerbaijan. The Committee stated that "The Committee is concerned with the reports on the poor living conditions of persons with disabilities in certain places of deprivation of liberty³⁵".

Regarding this, the Committee made a recommendation for Azerbaijani government: "**the Committee urges the State party to ensure favorable and humane living conditions pursuant to the Convention in all places of deprivation of liberty, particularly in prisons. In this regard, the State party should ensure satisfactory resources and easy access to places of deprivation of liberty for supervisory authorities such as the Ombudsman and the National Preventive Mechanism³⁶**".

In fact, it seems from the recommendation that the UN Committee does not have serious data on the places of

³⁵http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAZE%2fCO%2f1&Lang=en

³⁶http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=909&Lang=en

deprivation of liberty of the country. The establishments mentioned in the recommendation are provided the right to full and unrestricted access to all the places of deprivation of liberty. At the same time, other agencies, including the “Public Committee under the Minister of Justice”, the effectiveness of activity of which has been positively evaluated by international organizations, including the UN Committee Against Tortures and the Human Rights Committee, are provided with unrestricted access to all the places of deprivation of liberty. The Committee consists of the representatives of organizations specialized in the protection of human rights.

The current report has been prepared on the bases of visits and monitoring conducted at the correctional institutions of the Penitentiary Service of the Ministry of Justice. Members of the Public Committee have been involved in conduction of observations and provision of legal aid.

LEGISLATION

There are persons with disabilities, elderly people and sick persons among those who are serving a sentence at the correctional institutions of the Penitentiary Service of the Ministry of Justice. Women and children under the age of 18 are kept separately at the correctional institutions. The Code of Execution of Punishments and other related normative legal acts consider certain superior rights and privileges for such prisoners. The Code of Execution of Punishments reads that *“The rights and freedoms of prisoners specified with law are guaranteed during the execution and serving of punishments. The rights and freedoms of prisoners can be restricted only in a manner specified with law.”*³⁷

1.1. Protection from torture and other cases of mistreatment

The Constitution of the Republic of Azerbaijan protects everyone from tortures and other degrading behaviors and punishments. The part 3 of the article 46 of the Constitution reads that *“No one can be subjected to tortures and torments. No one can be exposed to treatment or a punishment degrading human dignity. No one can be subjected to medical, scientific and other experiments without his/her consent”*³⁸.

The Code of Execution of Punishments reads that *“Prisoners are provided with the rights and freedoms belonging to the citizens of the Republic of Azerbaijan with restrictions and exceptions specified with the Criminal Code and the Code of Criminal Procedure, this Code and other legislative acts of the Republic of Azerbaijan during the execution of punishments. Prisoners have responsibilities arising from the rights and freedoms except for cases prescribed by law”*³⁹.

³⁷<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 10.1.

³⁸<http://meclis.gov.az/?/az/topcontent/2>: AR Constitution. Provision 46.3.

³⁹<http://e-qanun.gov.az/code/15>: CC. Provision 9.2.

The right of all people, including those detained in the place of deprivation of liberty to be free from torture and other degrading behaviors and punishments is reflected in a number of international norms joined by the Republic of Azerbaijan.

The International Covenant on Civil and Political Rights reads that *"No one should be exposed to torture or hard, inhuman and degrading treatment and punishments. In particular, no one should be subjected to medical or scientific experiments without his/her consent"*⁴⁰.

The article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms reads that "No one should be exposed to torture, inhuman or degrading treatment or punishments"⁴¹.

The second part of the article 15 of the UN Convention on the Rights of Persons with Disabilities prescribes that *"The State parties take all effective legislative, administrative, judicial and other measures to protect persons with disabilities from torture and cruel, inhuman and degrading behaviors and punishments on an equal basis with others."*⁴².

The other international agreements and documents joined by Azerbaijan prescribe the provision of the rights and freedoms other than the restricted rights and freedoms of prisoners and persons who belong to a vulnerable group.

Failure to execute the provisions in the legislation, for instance, lack of access to medicine when necessary, poor nutrition and living conditions are also considered as mistreatment or humiliation of dignity.

1.2. Additional provisions

Additional provisions are considered for prisoners who belong to vulnerable groups at penal institutions. According to the

⁴⁰<http://ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>: International Covenant on the Civil and Political Rights. Article 7.

⁴¹<http://ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>: European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 3

⁴²<http://ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>: International Covenant on the Civil and Political Rights. Article 7.

provision 80.4 of the Code of Execution of Punishments, *“The group I and II disabled, children with limited health, pregnant women, women with children at the orphanages under the penitentiary institutions, prisoners at treatment facilities and penal institutions considered for detention and treatment of persons infected with contagious diseases are allowed obtaining foods products and essential goods at amount of fifteen manat”*⁴³. Prisoners under the categories mentioned in the provision are allowed obtaining food products and essential goods from the trade booths within the penitentiary institutions. According to the provision, prisoners have the right to spent more money at the treatment facilities of the Penitentiary Service (including the penal institution specialized in the treatment of infectious diseases).

Another provision of the Code of Execution of Punishments provides for an additional provision for prisoners under certain categories to get parcels and wrappers.

According to the provision 82.2 of the Code of Execution of Punishments, *“There are no restrictions for female prisoners who are seriously ill or pregnant, prisoners with group I and II disabilities and those under the age of 18 with limited health to receive packages, parcels or wrappers”*⁴⁴.

However, a penitentiary institution should consider certain provisions for prisoners belonging to a vulnerable group who do not afford to get parcels or wrapper (because of financial situation, lack of close relatives or lack of contacts with relatives, etc.). The provision 91.8 of the Code of Execution of Punishments provides for *“the provision of improved living conditions and special dietary standards for female prisoners who are pregnant and have children under the age of 3, underage prisoners, as well as prisoners with serious illness and group I and II disabilities sentenced to life imprisonment and to a certain period of imprisonment”*.

⁴³<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 80.4.

⁴⁴<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 82.2

At least, 50 percent of earnings is transferred to the personal accounts of prisoners after 50 percent is deducted from wages, pensions and other incomes (tax, social payment, etc.) regardless of all deductible amounts. An additional provision is considered for prisoners belonging to a vulnerable group in this case, as well. Thus, *“at least sixty percent of earnings is transferred to the personal accounts of male prisoners over the age of sixty, female prisoners over the age of fifty five, prisoners with group I and II disabilities, underage or pregnant prisoners and female prisoners having children at the orphanages under the penitentiary institutions”* sentenced to life imprisonment and to a certain period of imprisonment in accordance with the provision 99.3 of the Code of Execution of Punishments⁴⁵.

1.3. Voluntary engagement in labor

According to the Code of Execution of Punishments, *“Every prisoner is to be engaged in labor activity in a place and work determined by the administration of a penitentiary institution. The administration of the penitentiary institution is expected to take into account the sex, age, working ability, health situation and specialty to the possible extent when engaging them in useful labor activity”*⁴⁶.

*The provision 26.1 of the European Prison Rules prescribes that “At prisons, labor should be considered as a positive element of the internal regime and it should not be used as a penalty”*⁴⁷.

According to the provision 95.2 of the Code of Execution of Punishments, “male prisoners over the age of sixty, female prisoners over the age of fifty five, prisoners with group I and II disabilities, prisoners under the age of 18 with limited health, female prisoners after the fourth month of pregnancy and those who have children at the orphanages under the penitentiary institutions” sentenced to life imprisonment and to a certain period of imprisonment are allowed working on a voluntary

⁴⁵<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 99.3

⁴⁶<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 95.1

⁴⁷http://www.justice.gov.az/view_hr.php?id=9

basis. *“Juvenile inmates are engaged in labor activity in accordance with the labor legislation”⁴⁸.*

1.4. Other provisions

Other provisions are considered in the legislation for prisoners who belong to a vulnerable group. According to the provision 120.5 of the Code of Execution of Punishments, *“Female prisoners, as well as prisoners with group I and II disabilities cannot be detained in severe prison conditions”⁴⁹.*

Prisoners under the above categories are involvement in general education considered for prisoners at penitentiary institutions on a voluntary basis, as well. According to the provision 104.1 of the Code of Execution of Punishments, “Prisoners are provided with general education at penitentiary institutions. Prisoners over the age of forty, prisoner with group I and II disabilities and those with limited health under the age of 18 are involved in general education on their own will”⁵⁰.

1.5. Social adaptation

The Code of Execution of Punishments and the Law on “Social Adaptation of Persons Released from Punishment in Penal Institutions” consider the implementation of a variety of programs and measures aimed at the social rehabilitation of ex-prisoners. There are extra provisions for ex-prisoners who belong to vulnerable groups. According to the provision 175.3 of the **Code of Execution of Punishments**, *“Prisoners with group I and II disabilities, male prisoners who have reached the age of 62 and female prisoners who have reached the age of 57 are sent to disability and nursing home”⁵¹.*

The provision 6.1.3 of the Law on “Social Adaptation of Persons Released from Punishment in Penal Institutions” provides for the

⁴⁸<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 95.2

⁴⁹<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision də 120.5.

⁵⁰<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 104.1.

⁵¹<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 175.3.

“Provision of persons who do not have a place of permanent residence with a place of temporary residence⁵²”.

Though it has been a long time since the entry into force of the law (31 May 2007), dormitories have not yet been constructed for ex-prisoners who do not have a place of residence. Thus, it is not possible to involve seriously ex-prisoners with disabilities (as well as all ex-prisoners) in a social rehabilitation program.

Prisoners with disabilities have the right to the provision of **technical and other rehabilitation means** according to law.

According to the Law on Labor Pensions, persons with disabilities are provided with pensions in a manner specified with law (*Labor pension for disability is determined to the insured with disabilities or limited health in case they have 4 months of insurance record for each year of able-bodied age if the insurance record is not less than 5 years in total*)

Many prisoners who have reached the retirement age and have disabilities are not able to get pensions for reasons beyond the penal institutions and the Penitentiary Service.

1.6. Requirements in the provision of possibilities for movement

The requirements (article 57) on buildings of the “Code of Urban Planning and Architecture” which entered into force in 2012 read that *“buildings should have necessary infrastructure for use of persons with disabilities and limited possibilities for motion (in particular buildings considered for common use)”⁵³.*

The provision 70.2.3 of the code considers *“provision ramps for the persons with disabilities”⁵⁴* in residential buildings.

There were no standards and requirements in the legislation until the adoption of the code.

There is no normative legal act considering additional infrastructure for prisoners with limited motion, vision and other abilities in penal institutions. The “Code of Urban Planning and Architecture” adopted in 2012 does not set any rules for persons with disabilities in such institutions, as well.

⁵²<http://e-qanun.gov.az/framework/13556>

⁵³<http://e-qanun.gov.az/code/22>

⁵⁴<http://e-qanun.gov.az/code/22>

Construction standards are not available for the creation of infrastructure and the provision of accessible for persons with disabilities in penal institutions and generally, places of deprivation of liberty.

II MONITORING

2.1 Methodology

Monitoring has been conducted in 10 institutions under the subordination of the Penitentiary Service of the Ministry of Justice.

The monitoring has been realized through the application of a set of monitoring tools. The key tools used for monitoring were:

- Conduction of observations on the basis of advance prepared questionnaires and records on the relevant questions included in the questionnaires;
- Unstructured interviews (conversations) with prisoners belonging to vulnerable groups;
- Unstructured interviews with institutions' management and staff;
- Obtaining and analysis of statistics on prisoners belonging to vulnerable groups in penal institutions.

It was considered to obtain information in the directions below through the monitoring:

- Accessibility of the institution for disabled persons with limited motion, including accessibility of bed, leisure and nutrition places for persons with disabilities;
- Status of provision of disabled persons with limited motion, vision and hearing with appropriate means;
- Access to medicine;
- Education and rehabilitation opportunities;
- Worship opportunities;
- Access of prisoners who are foreigners or stateless persons to communication means;
- Status of pension provision of elderly prisoners;
- Leisure opportunities of women;
- Organization of education and training of teenagers;
- Whether the issues of accessibility and necessary infrastructure are considered in penitentiary complexes under construction.

2.2. Observations on the questions included in questionnaires and their outcomes

Observations on the questionnaires and records on the advance prepared questions were the essential tools for conduction of the monitoring.

Observations were conducted in 10 penal institutions of the Penitentiary Service of the Ministry of Justice in April to June within the monitoring.

2.2.1. Accessibility of the institution for disabled persons with limited motion, including accessibility of bed, leisure and nutrition places for persons with disabilities

It should be taken into account that a major part of the penal institutions controlled by the Penitentiary Service of the Ministry of Justice were constructed many years ago or adjusted to the standards of correctional facilities of the time.

In this context, it is not so easy to apply the modern standards to such institutions. Buildings and facilities do not comply with standards required for a contemporary penitentiary institution from physical and moral aspects.

One of the objectives of the **“State Program for the Development of Azerbaijani Justice System in 2009-2013”** is to “modernize the activity of penal institutions”⁵⁵.

The priorities of the program include the “modernization of the activity of the Penitentiary Service and improvement of infrastructure”⁵⁶.

The outcomes of expected from the implementation of the State Program include the “improvement of the conditions of detention of persons arrested and sentenced” and the “involvement of prisoners in socially useful labor”⁵⁷, etc. The State Program was completed in 2013.

Penitentiary complexes compliant with European Standards have been commissioned and similar activities are currently underway in various places of the country.

⁵⁵http://archive.president.az/articles.php?item_id=20090209052021275&sec_id=136

⁵⁶http://archive.president.az/articles.php?item_id=20090209052021275&sec_id=136

⁵⁷http://archive.president.az/articles.php?item_id=20090209052021275&sec_id=136

A significant amount of work has been done to ensure normal living conditions for all prisoners and staff of penal institutions.

One of the most serious problems of institutions subordinated to the Penitentiary Service is related with the accessibility of all infrastructure areas (dorms, leisure time places, worship places, canteens, education facilities, production areas, etc.) of those institutions for persons with disabilities. Of course, it is not possible to ensure full accessibility in old buildings which do not meet modern standards. Nevertheless, the installation of basic facilities for free movement of wheelchairs (construction of ramps, adjustment of door thresholds, etc.) is very important.

We did not notice a prisoner using a wheelchair (a device used by persons with limited motion abilities) during the monitoring. We observed minimal conditions only in a few institutions.

There are special beds available for prisoners with limited motion abilities in few penal institutions.

Sanitary systems accessible for prisoners with limited motion abilities are available in some penal institutions (for example, institutions No. 11 and 17), but in other institutions the sanitary systems are not adjusted for such people.

There are no conditions for movement of prisoners with limited vision in penal institutions observed. In most institutions, prisoners with limited vision (it should be noted that majority of that has a problem only with one eye and the other eye functions well) use the help of other prisoners.

2.2.2. Status of provision of disabled persons with limited motion, vision and hearing with appropriate means

We got information on the provision of prisoners with disabilities (motion, hearing, vision, etc.) with appropriate means in penal institutions monitored.

It was defined that the majority of prisoners had such means when taking to the penal institutions as they had got disability in liberty. For example, prisoners with limited hearing have sound amplifiers, prisoners with limited vision have eyeglasses, prisoners with limited motion and those who have lost one of the

lower extremities have prostheses, as a rule, when entering the institutions.

Those means are renewed by the Main Medical Department of Ministry of Justice during imprisonment.

It was defined as a result of monitoring that *prostheses of prisoners with disabilities who use prosthetic and orthopedic products were outdated and had to be changed* in same institutions. (there are 3 prisoners in PI #15, 1 prisoner in PI #4, 3 prisoners in PI #10 and 5 prisoners in PI #2 who use prosthetic and orthopedic products, 3 of them need changing prostheses, while 3 prisoners need changing prostheses in PI #17 and 3 prisoners in PI #11).

Though the Penitentiary Service has raised a question before the Ministry of Labor and Social Protection of the Population in this regard, the ministry delays the provision. Generally, the Ministry of Labor and Social Protection of the Population and its relevant agencies pave the way for bureaucracy and procrastination in activities related with prisoners (determination of disability, appointment of pensions for age and disability, provision with means, etc.).

The provision of prosthetics that meet the minimum requirements to prisoners with limited motion remains a pressing problem.

2.2.3. Access to medicine

Access to medicine of prisoners meets minimal European standards in penal institutions. European Prison Rules provide that “Each penal institution is expected to have at least one doctor with relevant specialty and general medical experience”⁵⁸. In this respect, there are medical points operating in all penal institutions of the Penitentiary Service. Those points provide residential (inpatient) and outpatient treatment services with a few doctors and other medical staff.

The Penitentiary Service has a treatment facility and a specialized medical institution.

⁵⁸European Prison Rules. Source:<http://publiccommittee-az.org/wp-content/uploads/2016/04/AVROPA-PEN%C4%B0TENS%C4%B0AR-QAYDALARI.pdf>

Medical and sanitary facilities (MSF) are functioning in all the penal institutions monitored. The physician and medical assistant staff (3-5 persons) receive prisoners on a daily basis and provide initial check-up and treatment services in MSFs. Almost, all the MSFs have been refurbished and supplied with minimum equipment. Prisoners in need of more serious medical examinations and treatment are sent to the Treatment Facility of the Penitentiary Service.

The medical and sanitary facilities of the penal institutions observed during the monitoring have necessary conditions for both residential and outpatient treatment of prisoners. Residential points with 12-15 beds serve prisoners in MSFs of the penal institutions. At the same time, tens of prisoners asking for outpatient treatment are provided with initial check-up and treatment services every day. Equipment and medications required for initial check-up and treatment are available in facilities.

There are an electrocardiogram (EKG or ECG), glucometer and an X-ray (for X-ray of teeth, oral cavity, limbs, etc.) in the medical and sanitary facilities of all the penal institutions observed.

There is a dental office in the penal institutions monitored. The dental offices have been supplied with modern equipment – a dental chair, an X-ray equipment, sterilization equipment, etc. – and necessary medicines.

There are medicines and medical supplies in the penal where monitoring was conducted. Probably, medicines are provided by the relevant agencies of the Ministry of Justice in titles and number prescribed on a certain list. As a result of the monitoring, it was defined that medicines were stored in appropriate conditions. The staff is controlling the date of expiry of medicines and so on. The monitoring did not reveal expired medicines. However, the names of medicines were in limited number.

There are minimum conditions available for prisoners belonging to vulnerable groups, including those with disabilities. Nevertheless, the medical and sanitary facilities have not been

adjusted for easy access of prisoners with limited motion. As a rule, the medical and sanitary facilities are located in single-storey buildings, so serious difficulties are not obvious in these facilities, but it is very important to ensure accessibility of the above group of prisoners. The buildings and facilities have not been adjusted for prisoners with disabilities in the treatment facility of the Penitentiary Service, as well. However, minimum conditions have been created in a part of the sanitary system of the facility.

2.2.4. Education and rehabilitation opportunities

The European Prison Rules provide that “Each penal institution should make efforts to provide conditions for using education programs meeting the needs and purposes of all prisoners. Education should not be less important than labor because of the internal regime and prisoners should not be financially restricted for participation in education programs”⁵⁹.

According to the provision 100.1 of the Code of Execution of Punishments, “Prisoners without any profession or qualifications are involved in *primary vocational special education* or vocational training”⁶⁰.

Technical and vocational schools operating under the penal institutions were reviewed during the monitoring. The level of education is very low in all technical and vocational schools of the penal institutions.

The material and technical base of schools is weak, teaching aids have been worn out mentally and physically and do not meet modern requirements. The teaching staff is not complete. In this context, education is a mere formality.

Nonetheless, the Penitentiary Service organizes short-time courses for changing vocational aptitudes or learning professions in some penal institutions. The main courses focus on IT training. Prisoners attending the courses are taught basic IT applications and certified at the end of the course. The audience involved in

⁵⁹European Prison Rules. Source:<http://publiccommittee-az.org/wp-content/uploads/2016/04/AVROPA-PEN%C4%B0TENS%C4%B0AR-QAYDALARI.pdf>

⁶⁰Code of Execution of Punishments. Source: <http://e-qanun.gov.az/code/15>

the computer courses covers prisoners who belong to vulnerable groups, including women and persons with disabilities.

Minors are involved in education pursuant to the secondary school curriculum in the institutions.

2.2.5. Physical training and sports in penal institutions

There are gyms and outdoor playgrounds (mainly for football and volleyball) in penal institutions. The gyms are used on the basis of the principle of rotation. The Penitentiary Service organizes inter-institutional and intra-institutional sports competitions in some types of sports.

The institutions are not equipped with special sports facilities for persons with disabilities, especially those with limited motion. Such prisoners use the sports facilities within their capabilities and mainly, take part actively in table games (chess, checkers, backgammon).

The Penitentiary Service also organizes sports competitions dedicated to the important events and holidays of the country. Regardless of their status, all prisoners who are interested in and capable of the games participate in such competitions.

2.2.6. Worship opportunities

Special places were allocated for the performance of religious rites in penal institutions that the monitoring was conducted in. Prisoners with other traditional religions have been provided appropriate conditions for worship, as well. Prisoners with disabilities do not face problems in doing prayers. The mosques are located in single-storeyed buildings, as usual, without great obstacles for entry.

2.2.7. Status of prisoners belonging to vulnerable groups in relation with provision of pensions and acquisition of a degree of disability

The provision 38.3 of the Constitution of the Republic of Azerbaijan provides that “Everybody has the right to social security upon reaching the age limit defined by law, for illness,

disability, losing the breadwinner, incapacity, unemployment and in other cases prescribed by law”⁶¹.

The management of a penal institution sends to the relevant executive authority the documents of a prisoner who has got the right to pension for age, disability, etc.

It should be noted that positive improvements were observed in provision of pensions for disability, age, etc. unlike previous years. There were serious problem in the determination of pension for a variety of reasons, including problems in documents of prisoners (for example, lack of ID card) in 2008-2012.

Within the monitoring, there were recorded prisoners, who have reached the age of pension, but cannot get pension for certain reasons, in most penal institutions (institutions No. 13, 14, 15).

There were recorded 1 person in the penal institution #4, 2 persons in the penal institution #10 and 13 persons in the penal institution #2 of the Penitentiary Service, who have reached the age of pension, but cannot get pension for certain reasons, during the monitoring.

Such cases were observed in some penal institutions (in penal institution #1, 2 persons in penal institution #13, 2 persons in penal institution #2, 6 persons in penal institution #17, 6 persons in penal institution #11 (documents of 3 of them are under preparation) the monitoring was conducted in. There are prisoners who want to change the degree of disability in some institutions (1 person in penal institution #13). Even, there were recorded prisoners with a degree of disability who is not able to get pension (1 person in penal institution #13, 3 persons in penal institution #15 and 4 persons in penal institution #4).

The problems encountered in appointment of pensions for persons with disabilities are mainly related with their documents. Moreover, bureaucracy dominating in the medical and social expert commissions of some district cause delays in appointment of pensions. Sometimes, the procedures in the determination of disability are delayed for months. Procrastination of the

⁶¹Constitution of the Republic of Azerbaijan. Source:
<http://meclis.gov.az/?/az/topcontent/2>

commissions of Garadagh and Khazar districts of Baku city delays the determination of disability. Lack of ID cards of some prisoners also creates problems in the determination of disability.

2.2.8. Observations on other problems (access to labor, other social problems) of prisoners belonging to vulnerable groups

According to the European Prison Rules, “At prisons, labor should be considered as a positive element of the internal regime and it should not be used as a penalty”⁶².

According to the rules, the management of a penal institution is expected to create satisfactory conditions for useful labor. The characteristics of work offered to prisoners should provide opportunities to maintain and improve the ability to earn money after release from prison. The management also should not pave the way for sexual discrimination in engagement of prisoners in labor.

The Code of Execution of Punishments provides that "Every prisoner is to be engaged in labor activity in a place and work determined by the administration of a penitentiary institution. The administration of the penitentiary institution is expected to take into account the sex, age, working ability, health situation and specialty to the possible extent when engaging them in useful labor activity"⁶³.

Additional deductions (meal, clothing, accommodation costs) from wages of prisoners were excluded from CEP.

There are problems in access of prisoners to labor in penal institutions of the Penitentiary Service. Thus, only a part of prisoners are engaged in labor because of a small number of orders in penal institutions. In this regard, the accessibility of labor is much more difficult for prisoners who belong to vulnerable groups.

The issue of accessibility of labor for prisoners belonging to vulnerable groups was a focus of attention and necessary

⁶²European Prison Rules. Source:<http://publiccommittee-az.org/wp-content/uploads/2016/04/AVROPA-PEN%C4%B0TENS%C4%B0AR-QAYDALARI.pdf>

⁶³<http://e-qanun.gov.az/code/15>: Code of Execution of Punishments. Provision 95.1.

information was collected in this direction during the monitoring conducted within the project.

The situation is relatively good in the penal institutions for female prisoners.

Female prisoners have opportunities to engage in labor in the penal institution #4 of the Penitentiary Service (a penal institution for women). There are a carpet workshop, a sewing workshop, etc. in the institution. The majority of prisoners work in the fields of manufacturing in the penal institution.

The employment outcomes of prisoners with disabilities are very low. The Code of Execution of Punishments provides that “male prisoners over the age of sixty, female prisoners over the age of fifty five, prisoners with group I and II disabilities, prisoners under the age of 18 with limited health, female prisoners after the fourth month of pregnancy and those who have children at the orphanages under the penitentiary institutions are allowed working on a voluntary basis. Juvenile inmates are engaged in labor activity in accordance with the labor legislation”. In this context, prisoners with disabilities are engaged in labor activity only in case they want to work and there are appropriate conditions for their employment.

However, prisoners with disabilities are willing to work on a voluntary basis and it is possible in some institutions. For instance, women with disabilities are provided conditions to work in the penal institution #4 (institution for female prisoners). Prisoners with disabilities are involved in labor in a variety of fields (manufacturing, cleaning of the area, repair and construction areas, renovation work, greenhouses, individual employment, service areas (kitchen, bathroom, laundry, barber, etc.)) in the penal institution #15. Some of them are involved in non-permanent labor. They do what they are asked and get money for it.

2.2.9. Contact with the outside world

European Prison Rules provide that “Prisoners are allowed frequently contacting their families, other persons and representatives of other organizations by mail, phone or other

means of communication, as well as the above people are allowed visiting prisoners”⁶⁴.

The Code of Execution of Punishments includes a number of provisions aimed at the contact of prisoners with the outside world. There are procedures and rules for contact with the outside world such as the provision of phone calls to relatives and close people of prisoners, their walk, provision of prisoners with literatures and writing materials, unaccompanied motion of prisoners, their living outside the boundaries of the penal institutions and short-term trips outside the boundaries of the penal institutions, which are applied in accordance with the regime.

The legislation provides for additional measures in relation with women belonging the vulnerable groups and persons under the age of puberty. Prisoners with disabilities do not have problems in contact with the outside world in minimum security penal institutions.

The managements of penal institutions, where monitoring was conducted, created conditions for both short-term and long-term visits. In those institutions, a few prisoners can meet with their relatives at the same time. In long-term visits, 5-8 prisoners can meet with their family members, while in short-term visits 15-20 prisoners can benefit this advantage. In some institutions, meeting venues have been refurbished, normal conditions have been created for prisoners and their visitors, including sanitary facilities, kitchen, TV set, refrigerator, etc. However, long-term meeting venues do not meet the modern standards and need repair in some institutions.

There are conditions for phone calls in all institutions, where several phone lines are available and phone booths have been installed.

⁶⁴ European Prison Rules. Source: <http://publiccommittee-az.org/wp-content/uploads/2016/04/AVROPA-PEN%C4%B0TENS%C4%B0AR-QAYDALARI.pdf>

2.2.10. Accessibility of communication means for foreigners and stateless prisoners

There are a number of objective difficulties in contact with the outside world of foreigners and stateless prisoners whose country of origin is other than Azerbaijan. They face difficulties in meeting their relatives. Travelling from one country to another to visit a prisoner depends on financial possibilities and therefore, most foreigners or stateless prisoners are having less contacts of this kind. They can make a phone call to their native country and have equal rights with other prisoners who are citizens of the Republic of Azerbaijan. It is necessary to make amendments to the legislation for ensuring communication of such prisoners using new technologies (Skype, etc.).

III PROVISION OF LEGAL AID TO PRISONERS BELONGING TO VULNERABLE GROUPS

3.1. Right of prisoners to the provision of legal and psychological aid

According to the European Prison Rules, “All prisoners have the right to provision of legal aid, whereas the institution management is expected to create necessary conditions for effective use of such aid.

- Prisoners can consult any legal issue with a lawyer at their own funds.
- The management shall inform prisoners of free of charge law service, if available.
- Consultations and any communications of prisoners with their own advocates, including their correspondences shall be confidential.
- In exceptional cases, the court can restrict this confidentiality to prevent a heavy crime or serious threat to security in a penal institution.
- Prisoners should have possibilities to become familiar with documents on the judicial and investigative actions on them and to keep such documents in themselves.⁶⁵

The article 10 of the Code of Execution of Punishments provides for the right of prisoners to legal and psychological aid. According to the provision 81.7 of the code, “Prisoners are providing meetings with lawyers or other persons who are entitled to such assistance upon the applications of prisoners, their relative or legal representatives”⁶⁶.

3.2. Provision of legal aid to prisoners belonging to vulnerable groups

A program has been implemented in the provision of legal aid to prisoners belonging to vulnerable groups in the penal institutions

⁶⁵ European Prison Rules. Source: <http://publiccommittee-az.org/wp-content/uploads/2016/04/AVROPA-PEN%C4%B0TENS%C4%B0AR-QAYDALARI.pdf>

⁶⁶ Code of Execution of Punishments. Source: <http://e-qanun.gov.az/code/15>

monitored with the project. Prisoners (those with disabilities, women, teenagers detained the educational institution, foreigners and stateless prisoners, sick and elderly people) who applied for assistance were provided direct legal aid during the visits (in connection with the study of the situation and conditions, interviews, observations) to penal institutions. The aid covered the directions below.

- Determination of a degree of disability for prisoners with disabilities;
- Treatment and prosthesis of prisoners with disabilities;
- Provision of prisoners with disabilities with special devices (wheelchairs, walking-stick, glasses, hearing aid, etc.);
- Essential needs of female prisoners (premature conditional release, issuance of documents of their children, property issues, etc.)
- Provision of pensions and treatment issues of elderly prisoners;
- Other.

In line of legal aid activities, the majority of prisoners belonging to vulnerable groups raise questions on problems outside the penal institution (social problems of their family members, problems related with targeted state social assistance, property issues, unemployment of family members, etc.).

The questions raised by persons who apply for legal assistance include premature conditional release, transfer of prisoners to minimum security penal institutions, as well as pardon issues and so on.

Recommendations

The article 20 of the UN Convention on the Rights of Persons with Disabilities puts commitment on the State parties for the provision of persons with individual motion.

Lack or partial availability of such conditions in places of deprivation of liberty is considered as violation of the commitments assumed under the convention. In this regard, relevant amendments should be introduced to the “Code of Urban Planning and Construction” of the Republic of Azerbaijan. At the same time, special standards should be defined to ensure accessibility for persons with disabilities in places of deprivation of liberty;

Relevant infrastructure should be created in newly constructed (or under construction) places of deprivation of liberty, including penal institution, prisons and other places;

It is necessary to create addition infrastructure (standard ramps, doors for an easy pass of wheelchairs, etc.) and at least, to meet the minimum needs in previously commissioned places of deprivation of liberty to improve the possibility of motion of disabled persons with limited motion;

Appropriate measures should be taken to provide modern prosthetics to prisoners with limited motion and the responsibility of relevant agencies, including the Ministry of Labor and Social Protection of the Population should be increased with this respect;

Bureaucratic obstacles should be removed in the procedures and adoption of decisions on prisoners who have reached the age of pension or who has the right to pension for disability;

Appropriate measures should be carried out to eliminate problems related with the provision of pensions and a degree of disability to prisoners belonging to vulnerable groups in penal institutions. The activities of high urgency in this direction include documentation (ID cards, etc.) of some prisoners and elimination of obstacles created by the Medical and Expert Commission of the Ministry of Labor and Social Protection of the Population;

Additional activities should be implemented to remove employment problems of prisoners, including those belonging to vulnerable groups in penal institutions.

ANNEXES

Annex 1. Observation Record Sheet

RECORD SHEET

on the observations conducted in the Penal Institutions of the Penitentiary Service of the Ministry of Justice within the “**Public advocacy project on the resolution of social problems of prisoners belonging vulnerable groups in penal institutions**” implemented by the Eurasia Partnership Foundation and the Citizens’ Labor Rights Protection League in the frame of the grant program realized by the Eurasia Partnership Foundation and financed by the Ministry of Foreign Affairs of the Netherlands

Institution _____
_____ **2016**

I. Observation on the accessibility for persons with disabilities of penal institutions under operation and construction.

Possibility of free motion

Are there conditions available for movement of wheelchairs (used by persons with disabilities) in the territories of the institution? Are there ramps in the area? Do the ramps meet the standards?

Are there standard ramps, corridors and doors for easy movement of wheelchairs in residential buildings, punishment cells and infrastructure areas (canteen, library, club, prayer rooms, etc.)?

Have there been constructed sanitary facilities accessible for prisoners with limited motion?

Are there conditions available for motion of prisoners with limited vision?

Are there minimum conditions available for prisoners with other disabilities?

Provision with means

Provision of wheelchairs, crutches, etc. to prisoners with limited motion.

Provision of means for motion and other technical supplies to prisoners with limited vision.

Technical means (including hearing aid) for disabled prisoners with limited hearing.

Provision of other necessary means.

Provision of prosthetic and orthopedic products and other rehabilitation means *to prisoners with disabilities*.

Access to medicine

Access of prisoners belonging to vulnerable groups (disabled, elderly, women, foreigner or stateless prisoners).

Treatment possibilities, including residential (inpatient) and outpatient treatment.

Diagnostic equipment.

Dental equipment and supplies.

Provision of medicines and other medical supplies.

II. Observations and interviews related with the provision of pensions and a degree of disability for prisoners belonging to vulnerable groups.

Are there prisoners who have reached the age of pension, but cannot get pension for certain reasons? (number, proportion)

Are there prisoners who have disabilities, but cannot get the status of disability?

What are the main problems (bureaucracy, corruption, documentation issues, etc.)

III. Observations on other problems (access to labor, other social problems) of prisoners belonging to vulnerable groups.

Data on access of female prisoners to labor

Data on employment of prisoners with disabilities

Contact with the outside world

Participation in education and resocialization programs