

Привлечение внимания к молодежным организациям

- Что делает эту конкретную организацию целесообразной?

Союз Молодых Юристов Азербайджана (СМЮА) является единственной зарегистрированной неправительственной организацией собравший вокруг себя молодых юристов.

- Представляет ли эта организация полностью всю молодежь?
Членами СМЮА (около 200 человек) являются студенты юридического факультетов, магистранты, а также практикующие юристы.

- Соблюдается ли гендерный баланс?

35 %-ов членов СМЮА женщины(девушки). В Правлении (Board) из 5-ти членов 2-е являются представителями слабого пола.

- Как эта организация работает с правительством и неправительственными организациями?

СМЮА поддерживает одинаковые отношения с правительством, а также с НПО, в основном работающие по вопросам молодежи, а также проблемами прав человека.

- Какие типы программ эта организация осуществляет?

С основным это работа с иолодежю по просвещению в области международных стандартов по правам человека. СМЮА осуществляет программы по правовому просвещению, по информированности населения, по мониторингу прав человека а также бесплатные юридические консультации и формирование общественного мнения по проблемам молодежи, прав человека и свобод.

- Какие успехи и проблемы?

СМЮА успешно участвовала при разработке Закона о Государственной Молодежной политике, при выработке предложений Законопроекту об Омбудсмане и др. Законов в области прав человека которые были приняты во внимание со стороны правительства. СМЮА успешно сотрудничает с Парламентскими комиссиями по правам человека и юридической плоитики и государствовстроению. Кроме того СМЮА успешно просвещает население по процедурам обращения в судебные органы и Омбудсман, а также в Европейский суд по правам человека. СМЮА решила многие проблемы населения по юридическим вопросам оказывая беспдатную юридическую консультацию и составление заявок и жалов в государтсвенные органы и в суды. СМЮА успешно организывает диалог между государтсвенными органами и НПО для обсуждения и решения проблем в правами человека в Азербайджане путем проведения «круглых столов» и конференций с участием представителей всех секторов общества.

Национальные действия, предпринятые в 15 приоритетных областях молодежи

Это раздел предоставляет Вам название первые 10 из 15-и приоритетных областей Всемирной программы действия.

Приоритетная область 7: Преступность среди несовершеннолетних

Section 1: GENERAL OVERVIEW OF THE JUVENILE JUSTICE ADMINISTRATION IN AZERBAIJAN

Article 49 of Concluding Observation of UN CRC Committee (Geneva, 17.06.1997).

The Committee recommends that the State party consider undertaking a comprehensive reform of the juvenile justice system in the spirit of the Convention, in particular articles 37, 39 and 40, and of other United Nations standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. Particular attention should be paid to protecting the rights of children deprived of their liberty, especially those living in "corrective labour institutions", to the establishment of an appropriate and independent monitoring mechanism, and to the improvement of the quality and adequacy of alternative measures to imprisonment. Training on the relevant international standards should be organized for all professionals involved with the juvenile justice system. The Committee further suggests that the State party consider seeking technical assistance for this purpose from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the United Nations.

There were major changes in the legislation concerning the administration of juvenile justice and judicial system in Azerbaijan immediately after the presentation of Concluding Observations by UN CRC in 1997. However, most of the recommendations of the UN CRC Committee on juvenile justice administration in practice were either not realized or realized partially.

The problems in the sphere of juvenile justice in Azerbaijan are manifold and often complex; and all are important from a children's rights standpoint. International rules and guidelines, like the Riyadh Guidelines, the Beijing Rules and the UN CRC (United Nation's Convention on the Rights of the Child), postulate that the treatment of a child in conflict with the law should primarily attempt the child's reintegration into society and encourage him or to play a constructive role in that environment. This approach is missing in Azerbaijan's criminal and juvenile justice system.

Although there are a number of laws and constitutional guarantees for the protection of the rights of children accused or convicted of criminal conduct, in reality they are seldom upheld. Immediately following arrest and during police remand, children in languish in police custody and are maltreated by police authorities seeking confessions. They are denied access to lawyers and relatives and are not held separately from adults. While in prison, children are often subjected to degrading and inhuman punishment. Prisons face problems such as extreme overcrowding, malnutrition, physical, mental and sexual abuse and lack of medical care or legal advice. Many times, when convicted, sentences are in flagrant violation of the key principles of juvenile justice: rehabilitation and the primacy

of the well being of the child. Many children are maltreated during the interaction with police forces even.

Pre-trial detention is widely used. In many cases pre-trial detention was ordered based solely on the gravity of the child's offence, without any examination of other grounds (such as the likelihood that s/he will escape from the investigator, commit another crime). In cases when the family does not have a place of permanent residence (internal migrants), pre-trial detention is ordered even for petty crimes because of the risk that the child may escape.

The choices of punishment are very limited, and the deprivation of liberty is the most commonly used. Long sentences not corresponding to the principle of proportionality are widely used. The criminal justice system is extremely cruel towards minors. Children can be sentenced to up to 10 years of imprisonment. Theft is deemed a serious crime, and the court considers whether or not the child is a first-time offender when deciding his/her sentence. Theft (of food, cigarettes, electronic equipment, etc.) is the most common crime for which children are deprived of liberty and imprisoned. **The average term of imprisonment for theft is about 3-5 years. Children receive very long sentences for car theft and participation at crime.**

It is not possible to know the exact number of prisoners, including children, in jails or "police cells" (temporary or for further investigation) at any given time, simply because the number changes daily as some prisoners are released and new ones are brought in. However, in 2002, there were 432 children in Azerbaijan police jails and pre-trial detention centers. In first 3 months of 2003, there were 230 cases by juveniles in Azerbaijan. The number of children convicted by courts in 2002 was about 400 and about 150 of them were sent to closed type education institution, 80 children have been convicted for placement in prison for children for different periods of time. Unfortunately, no data available about the mechanisms of rehabilitation and reintegration of these children into society, communities and schools as well as their future employment, social welfare privileges, continuing psychological and social counseling,.

Rather than being rehabilitated, the majority of child prisoners become hardened criminals by spending long periods in the company of adult prisoners, who may sometimes be dangerous. The future of those children convicted for many years and who achieved 18 years are even worse, as they are transferred to adult prisons and kept side by side with adults convicted for more serious crimes and recidivists.

Each year over hundreds of **juveniles**¹ in the Azerbaijan are arrested and become involved in the adult court system. The age of criminal accountability in Azerbaijan is 14 years old and for the purposes of the justice (court) system children of 14-18 years old are considered accountable for criminal cases.

In general the juvenile justice system in Azerbaijan is punitive rather than corrective. The overall process of administration of juvenile justice starting from the interactions with police, pre-trial, trial, while in detention place, isolators or KPZs all lead to punishment rather than corrective treatment. There is no specific measure or complex of measures

which ensure the State protection of children while they are at different levels of juvenile justice system.

No special rules or regulations (except those in Criminal Code and Criminal Procedure Code) are provided for police officers, judges, prison and SIZO officers, prosecutors and lawyers to deal with children issues. The police custody as it would be discussed later is not considered as the last resort for placement of children. The presence of parents and representatives of commissions or lawyers are not granted often.

INTERNATIONAL REGULATIONS AND NATIONAL LEGISLATION:

Azerbaijan Republic ratified the UN CRC in 1992, became the part to Beijing rules on UN Minimum Standard rules on administration of juvenile justice, Resolutions on “Rights of the Child”, “Protection of women and children in the situations of emergency and during the armed conflicts”, “Social and legal principles of protection and welfare provision for children during the adoptions at national and international levels”. In 1998, Azerbaijan adopted the national law on the rights of the child, where articles 12, 27, 28, 30-42 provide the definitions of State obligations and responsibilities to prevent and protect children from abuse and violation of their rights.

According to the National Law on the Rights of the Child and also based on the Azerbaijan’s ratification of the UN Convention on the rights of the child, the State must ensure to protect the child from hard, harmful and dangerous actions, exploitation and labor using all possible medical, economical, legal, social and educational means. The inhuman and degrading treatment of children and violation of the rights of the child by third parties should be considered according to the Azerbaijan legislation.

The **Article 4 of the Law on the Rights of the Child of Azerbaijan Republic** states that,

State must ensure the protection of the rights of the child and the protection of the rights of the child must be provided by the appropriate local authorities, courts, prosecutors, municipalities, and also public unions and professionals associations.

however, in reality the local NGOs have very low level of involvement in protection of the rights of children accused or suspected on committing the crimes or sentenced to imprisonment or other types of punishment. There are few NGOs that work with children in detention centers but only one NGO – Republican Child Organization – is deeply involved in protection of the rights of the child during the court trials and pre-trial investigations. Although this experience is not well documented and big, however, it provides a favorable ground for NGOs to become active player and independent assistants and legal representatives of the children who have been accused or suspected or even placed in detention centers.

Although the **Article 12 of the Law on the rights of the Child** and also **Article 5 of the Law on “Commission on minors and the protection of the rights of the children”** children are entitled to protection against the any type of abuse or physical, inhuman and degrading treatment. Based on the **Article 133 of the Criminal Code of Azerbaijan** the physical abuse or inhuman treatment against children is the base for the imprisonment for 3-7 years. And although, most of the children detained by police and sentenced for different terms for imprisonment in detention center and even in special boarding schools

have reported that they have been abused, exploited, and faced the torture and brutal interactions from the police bodies and prison officers, there are just few cases when these police and other state agency officers have been punished according to the Law.

Although the **Article 47 of the Law on Education of the Republic of Azerbaijan by 1992** states that, children in education institutions have the right to be protected from any type of exploitation, physical and psychological abuse, illegal, inhuman and degrading treatment violating their rights and dignity, however, in reality there were many cases reported by NGOs, State investigatory bodies and even Ministry of National Security, when children kept in special education institutions have been abused, tortured, sexually and otherwise exploited by the officers of these institutions.

General considerations:

Legislative process of humanization of criminal procedures concerning minors had been implemented since **2000-2001** appropriately by adoption of the Criminal Code and Criminal Procedure Code of the Republic of Azerbaijan (in 1999 and 2000 respectfully. They took into force next year after year of adoption). General sense of these legislative innovations - in expansion of an opportunity (in cases of small or average offences and crimes) of application to minor of measures of so called “educational influence” or punishment not connected with deprivation of freedom, and also in legalizing of wider possibilities of release of minors from “correction centers” before they served full term of imprisonment. Let us look upon immediate impact of these new humanized laws:

- a) any accused in committing the crime is considered as innocent, till his/her guilty is not proved according to the current Criminal Code, and till the court decision brought to power. The person can not be considered as guilty even if there are very serious accusations and assumptions of his/her guiltiness. All the doubts which could not be confirmed during the legal procedures, should be considered for the benefits of the accused person.
- b) Person accused of committing the crime does not entitled to protect himself/herself of being innocent. The responsibility of proving the accusations, rejecting the explanations or testimonies given for the protection of the accused person, are laid on the shoulders of the prosecutors (Article 21 of CC of AR).
- c) During the arrest, pre-trial, criminal investigation, the investigator, prosecutor and/or court must undertake the measures to provide the rights of the accused or suspected person to get the qualified legal support.
- d) During the interrogations or questioning of accused or suspected person, the body providing the criminal process is obliged to provide the following rights of this person:
 - get the assistance of lawyer before the arrest, detention in custody or appropriately till the first questioning as the suspected person or from the moment when he/she gets the accusations of committing the crime;
 - get the explanations of his/her rights;
 - get enough time to be prepared for the protection;
 - provide his/her own protection or through the selected legal representative or lawyer and if there is not enough money, to enjoy the right of getting the State provided lawyer;
 - get to listen to witnesses during court hearing who gave the testimonies against him/her;

- e) In the cases provided by this CC, the body providing the criminal process must involve the legal representatives of the accused or suspected person to the process.
- f) The accused or suspected person is not obliged to answer the questions, provide any materials to the body implementing the criminal process or assisting this body in the process.
- g) In 11.12.1998 by the law of Azerbaijan Republic on the becoming the part to 2nd Facultative Protocol of the International Pact on Civil and Political Rights directed to the abolishment of death penalty, the death penalty in Azerbaijan had been abolished.
- h) Children of 16 years old and up are entitled to criminal responsibility. The children of 14 years old and up are entitled to criminal responsibility for the deliberate homicide, deliberate serious or less serious harm to the health of other person, trafficking of person, sexual abuse, actions of sexual character, thief, robbery, terrorism, car or other transport means stealing, deliberate destruction or harm to other's property with other serious accompanying circumstances, taking of hostage, thief of guns and other arms, thief of drugs or psychotropic medicines, destruction of transport means or transport arteries.
- i) According to the points 12 and 14 of the Article 5 of Law of Azerbaijan Republic dated by 31 May 2002 on Commission on minors and protection of the rights of the child, these commissions are entitled to appeal to appropriate State bodies requesting the punishment for the people violated the rights of the children or forcing or involving the children to be a part of illegal actions. The appeals should be also directed to appropriate State agencies in the cases when the decisions of the commissions on the restoration of the rights of the child have been rejected by authorities or in the case of refusal to consider the appeals of the commissions.

Azerbaijan and implementation of Concluding Observations of UN CRC dated by 1997 concerning the juvenile justice administration:

The government has made significant efforts and steps towards the implementation of the Concluding Recommendations of the UN CRC Committee dated by 1997 as the result of consideration of Azerbaijan's initial report on implementation of UN Convention on the Rights of the Child.

Article 28 of Concluding Observations of UN CRC Committee (Geneva, 17.06.1997).

The Committee expressed its concern about the administration of juvenile justice and in particular its compatibility with articles 37, 39 and 40 of the Convention, as well as other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. The Committee remains particularly concerned, inter-alia, about the lack of respect for the rights of the child in "corrective labour institutions", the lack of an appropriate monitoring system for all types of detention centers and the inadequacy of alternative measures to imprisonment.

The age of criminal responsibility in Azerbaijan is 14 year old which is considered as limited criminal responsibilities and 16 years old as full criminal responsibility age. All children in conflict with law or suspected in committing crimes are dealt differently according the age at which the crime was committed.

Although there is no separate law on Juvenile Justice Administration, but the special sections on juvenile justice in Criminal Code and Criminal Procedure Code provides favorable grounds for the normal functioning of the juvenile justice system in country based in international standards. However, it is important to note that the existing sections can not provide the implementation of juvenile justice in complete compliance with international standards to which Azerbaijan also is a party.

Although much is done, there is a lot to be done in order to make the juvenile justice in accordance to the Committees recommendations. The above mentioned sections of the Code of Criminal Procedures and Criminal Code do provide the necessary basement for the administration of juvenile justice, but in reality the laws are not followed and their implementation is not fully monitored and controlled. The recent establishment of Public Monitoring Bodies as the part of the reforms in justice system is believed to provide the improvement of the situation, particularly, in detention center for children. But there is lack of public control and monitoring on the work of police departments and police inspectors, the conditions and work of isolators and Child Reception-Transition Centers.

Immediate Outputs of the process of Alternative Report on Juvenile Justice:

The Criminal Code and Criminal Procedure Code have been adopted recently, just 5 years ago and immediately after the consideration of the initial report by UN CRC and issue of the Concluding Observations by the Committee of UN CRC where the committee clearly expressed its concerns over the juvenile justice administration in Azerbaijan, which confirmed the dedication of State to get its national legislation be in compliance with UN CRC and also the State's commitment to implement the Committee's recommendations and also all others stated in documents to which Azerbaijan is a party. However, the present situation requires that additional amendments and changes to be made to these Codes or to draft and adopt new law which would separately deal with the juvenile offenders and which would compose the juvenile justice code.

And the continuous commitment of State and its different agencies to the process of improvement of situation with juvenile justice should be appreciated. The proposals made by the NGO Alliance and the many of recommendations prepared as the result of the preparation of this Alternative Report have been shared with the government which accepted them and agreed on their gradual implementation, initially as within the pilot initiatives. Particularly, State agencies considered the establishment of Juvenile Courts as an important mechanism for the improvement of situation and solution of complex problems related to juvenile justice administration.

Section 2: GENERAL TERMS AND DEFINITIONS WITHIN THE SYSTEM OF JUVENILE JUSTICE IN AZERBAIJAN

The system of administration of juvenile justice can be divided into following sections which would follow the principles of Criminal and Criminal Procedure Codes, however, the major concern in provision of statistical data that leads to the misinterpretation of data concerning the children is that although the criminal procedures concern every person of age under 18 as a child which is also like according to the UN CRC and Azerbaijan law on children's rights, however the statistical department includes the data for criminal behavior, crimes statistics, and other figures for the children of 18 years old adding their numbers to the column of people of 18-24 years old. This leads of course to hidden numbers of crimes committed by minors of 18 years old.

All the analyzed data books of State Statistic Committee include the children of 18 years old with one column for 18-24 years old committing the crimes.

We believe that all data should be presented in the way below. However, the statistical data is presented by State Statistic Committee only for those with criminal responsibility and the data for those under 14 are not presented at all. And being the major sign for the measuring the progress or regress of situation in this area the numbers for the children under 14 should be always separately included and should be used as sensitive sign for the increase of tendency of crimes by minors at later stages.

According to age of person committed the crime:

1. children under 14 years old;
2. children of 14-16 years old;
3. children of 16-18 years old.

Institutions involved in administration of JJ:

1. Ministry of Internal Affairs: police departments, police inspectors and police cells and Child Reception-Transition Centers;
2. Ministry of Justice: detention center for children, investigatory isolator;
3. Prosecutors and lawyers;
4. Commission on minors and protection of the rights of the children;
5. Ministry of Education: boarding school for children with behavioral problems in Mardakan settlement of Baku and Special Boarding school for Children of 14-16 years old committed mild to serious crimes.

Statistical data for 2001:

The percentage of the crimes committed by children was varying from year to year and composed 2-3% of all crimes committed in Azerbaijan, namely:

- In 2001: 3% of all crimes were committed by minors (446 children);
- In 2001: 90% of those children above were subject to criminal responsibility (444 children);
- In 2001: 15 girls were subject to criminal responsibility;
- In 2001 there were 342 children convicted;
- In year 2001, about 132 children were sentenced by courts for imprisonment;

The minors in risk:

- in 2001: there were 620 children registered with child inspectors in Azerbaijan as with tendency to commit the crimes;
- in 2001: there were new 421 minors brought to Distribution or Child Transit Centers in Gyandja and Baku cities. Majority of them were left alone.

Statistical data for 2003:

The percentage of the crimes committed by children was varying from year to year and composed 2-3% of all crimes committed in Azerbaijan, namely:

- In 2003: 2,8% of all crimes were committed by minors (412 children plus those which included within the section on 18-24 years old where data could not be obtained);
- In 2003: 84% of those children above were subject to criminal responsibility (330 children);
- In 2003: 3,3% of children were girls who were subject to criminal responsibility;
- In year 2003, 100 children were sentenced for deprivation of freedom and imprisonment.

The minors in risk:

- in 2003: there were 672 children registered with child inspectors in Azerbaijan as with tendency to commit the crimes;
- in 2003: there were new 274 minors brought to Distribution or Child Transit Centers in Gyandja and Baku cities. Majority of them were with one parent.

Data for 2004:

The statistical data for the 2004 shows the emerging figures as the numbers of crimes and children committed the crimes in different ages were increased:

- Comparing with the figures of 2003 where the number of crimes by minors was 412, the number of crimes committed by children in 2004 was increased to 491 and this does not even include the number of children of 18 years old as these figures are given in mix under the column 18-24 years old.
- Percentage of convicted children: 2,4%.

Figures for the 2005 for the moment of preparation of report:

- Number of children in Baku city reception distribution center: 30 minors;
- Number of children in Guba boarding school: 26 minors;
- Gyandja based isolator #2: 30 minors;
- Baku based isolator: 34 minors;
- Gyandja based child reception-Distribution center: 30 minors.

One of the greatest problems in the judicial process persists from Soviet times - the practice of requiring additional investigation (*dosledovanie*). The procedure itself violates

the principle of the presumption of innocence and finality of judgement. If the hearing on a case has already started and a judge does not find enough evidence to convict the person, the judge can order an additional investigation. There are no restrictions on this additional investigation.

Generally, all parents who have the means, attempt to pay bribes to the police officer/prosecutor or judge even if they believe their children are innocent. Accused persons know they'll be convicted and, therefore try to avoid the likely results of the hearing, by acting pre-emptively.

The law provides the right to defence. However, there are numerous problems both in the statutes and in practice. The obstacles to this right are associated with access to a lawyer (legal representation), and to free legal aid for low-income people as guaranteed by the Constitution.

The law provides the right to access a lawyer at the moment the minor is brought to the police station (in the case of an arrested person) or at the start of the first interrogation (questioning) of a suspect. The law identifies that in case of minors, a defence lawyer shall be present. But, in practice police officers can circumvent the law by arresting a person and driving him around for hours in a car and not bringing him to the police station. They can also use a non-procedural document: they force a person to write an explanatory note (ob'iasnitelnaia) specifying what /she has "committed" the crime. If the person later complains that s/he had no lawyer, the police state that it was not an interrogation. Such explanatory notes are not regulated by legislation. Contrary to formal interrogation minutes, police officers do not sign their name on explanatory notes. It is also very difficult to establish the circumstances surrounding the note.

A defence lawyer has no right to order a medical consultation; only a police interrogator possesses such a right. A defence lawyer has to give the formal request for medical attention to the interrogator, who makes the decision. As evidence of abuse disappear with time, coupled with the inability of defence lawyers to order an immediate medical examination, it is much harder to prove cases of torture. By the new Code the lawyer or suspected can order the medical expertise if needed but this should be covered by own funds of suspected. However, the law does not quarantine the medical expertise on the appeal of lawyer or suspected or victim unless it is not proved by investigator or judge or prosecutor. So there is a discrimination based on financial status and also favourable ground for use of torture and other inhuman treatment towards suspected, convicted or victim by police and other state bodies.

The conditions in detention do not meet minimum international standards. Conditions in police custody and pre-trial detention centres are especially dismal. State law allows a person to be kept for up to 6 months in pre-trial detention, preceding the court hearing. Children and adults are subject to the same pre-trial detention periods. The period of time a child is deprived of his/her liberty is not regulated during the court proceedings. In practice many children have spent many months in pre-trial detention in inhumane conditions.

Work on psychological and social rehabilitation is very formal. There is no professional psychologist or social worker involved at these levels of child temporary and pre-trial detention.

Another problem is the examination of children's cases by administrative bodies - Commissions on Minors Affairs and protection of the rights of children. The consideration of a case involving a minor should meet the requirement of "appropriate legal procedure." The procedure is arbitrary, and commissions do not verify the facts and make decisions based on presumptions that the child committed all acts of which s/he is accused. Members of the commission represent different state institutions, and an absolute majority of them do not have a legal background and/or knowledge of child psychology.

The Commissions on Minors' Affairs have the authority to send minors aged until 14 to a so called "special correctional school" that according to international norms represents an extreme deprivation of liberty. While the Commission considers sending a child to a "special school" the lawyer is not presented during these considerations. According to the monitoring conducted, until recently, no defence attorneys had participated in these Commission meetings.

A child who is sent to the special school is registered with the Commissions on Minors' Affairs and child inspectors within the police department. Children of alcoholic or drug dependent parents can also be registered with the Child Inspectors. This registration places a social stigma on both the children and parents, as drug and alcoholic parents, as well as, children who have spent time in special schools are negatively viewed by society. The special school is officially for children who have committed misdemeanours. Therefore, remanding children who are there for reasons other than attending school essentially, gives these children the reputation of being criminals. According to data provided by UNICEF, World Bank and Azerbaijan government, the major problem caused children to be sent to these institutions were the hardest economic or financial conditions of their families that resulted in the further misdemeanours. According to the Ministry of Economic Development the 44% of population of Azerbaijan leaves under the poverty line. Therefore, registration with the police inspectors and commissions, in addition to the already marginalized social status of these people, creates further hardship.

The police with commissions representatives conduct special investigations to find children who are working, living in the streets, or not attending school or had problems in schools or families reported. These children are placed in "Centres for Reception-Transit of Children" (there are two such centres in the country, in Gyandja and Baku). They are in actuality police centres with conditions similar to pre-trial detention centres. Children can be kept there for as long as **15 days**, and at times the Commissions on Minor's Affairs can prolong their term for even much longer period. The interviews with the Commissions representatives revealed that the prolongation of period of stay in Reception Centre can be decided if there is no documents, or other relevant information about child or if the child is from another country so there is no possibility for immediate release and extradition to the home country.

Again, the Commissions on minors' Affairs, an arm of the executive branch, has the power to *de facto* restrict the liberty of minors without any control by the judiciary.

There are no facilities for the physical and psychological recovery and social reintegration of juvenile offenders within the while system of administration of juvenile justice.

Practical Recommendations:

- Revise the justice system dealing with cases involving minors and undertake a range of actions including amendments to the legislation, development of practices, training for personnel to take children out of general justice system and create a separate juvenile justice system;
- Create separate juvenile or family courts or adopt a specialization of judges within the regular courts;
- Re-structure the Commissions on Minors Affairs' and protection of the rights of the child in a body that would provide support for children and families in need, removing all punitive functions from the commissions' mandate and granting that to juvenile courts and specialized judges.
- Immediately transfer to the courts the competence of sending children to special correctional schools and to centers of rehabilitation and adaptation of minors;
- Reform special correctional schools into open and semi-open institutions to function in accordance with international standards;
- Ensure the respect for basic rights immediately after the arrest and to right to habeas corpus in relation to children who are put in Center for Reception-Transit of Children and to special schools;
- Amend the legislation to ensure that the decision on pre-trial detention is made by a judge and not a prosecutor;
- Ensure that pre-trial detention is used only in exceptional cases:
 - the gravity of crime a child in accused of cannot be the only reason for applying pre-trial detention;
 - other measures should be considered first and the reasoning why they can/cannot be applied is described in written form by the investigator, prosecutor and judge;
- Ensure access to a lawyer at all stages and eliminate all obstacles in regulations and practice when a defense lawyer's actions depends on the decision of an investigator;
- Urgently improve conditions in pre-trial detention, including Temporary Detention Facilities (KPZ) of the Ministry of Internal Affairs;
- Ensure that the terms of pre-trial detention are respected, are as short as possible, and that children are separated from adults at all stages.

Along with the process of the separation of juvenile or family courts are created:

- Ensure efficient, regular monitoring of implementation of recommendations in relation to the examination of cases involving minors by the Supreme Court and local courts;
- Adopt necessary changes to the criminal procedure code to ensure that representatives of the child (parents, pedagogue, psychologist) can be present during any interrogation of a minor independently of his/her status (as witness, accused, victim);

- Urgently revise the list of possible punishments applied to minors and introduce other possibilities of punishment (except the deprivation of liberty) in relation to children aged 14-16 years old;
- Exclude “arrest” (short term detention) as a punishment that may be applied to minors. Or, change the substance of “arrest” and ensure that the basic rights such as contact to outside world are respected;
- Revise the criminal legislation and humanize it; urgently shorten the term of imprisonment for minors, especially in case of theft and car theft;
- Ensure the respect of the principles of fair trial aiming for reasonable time and of finality of court decisions;
- Ensure the respect of Criminal procedural legislation, and abolish practices of taking explanatory notes before the first interrogation;
- Change the court room environment, including not placing accused children in a cage during court hearings.
- Ensure the access of children to quality translation services at all stages of examination of a case if needed.

In relation to justice system as whole in Azerbaijan Republic:

- Revise the process for screening judicial candidates. The CRC and UN international standard rules on Juvenile Justice as well as Tokyo rules, Riyadh principles should be included in the tests for those who are going to become the juvenile judges.
- The practice of additional investigation should be abolished as it violates the principle of presumption of innocence;
- Encourage public control over all places of restriction/deprivation of liberty and efficient complaint mechanisms.
- Ensure that lawyers, future judges, police officers and representatives of commissions have got the special education, part of their overall institutional education and/or education through the courses of improvement of qualification in the area of juvenile justice.