

TREATY BODY MONITOR

International Service for Human Rights



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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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AZERBAIJAN, 5TH AND 6TH REPORT

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Key facts¹

Ratification	Reservations	Party to Optional Protocols	Other core treaties ratified	Date of previous examination, submission of present report
1996		1 st OP (individual communications) – 2 nd OP (death penalty)	ICCPR, ICESCR, CAT, CRC, CEDAW, CMW, CRPD	66 th CERD Session 4&7 March 2005, 12 March 2008

Opening remarks by the delegation

Mr Khalaf Khalafov, Deputy Minister for Foreign Affairs, led the delegation of Azerbaijan. He was supported by a high-level delegation consisting of representatives of the Ministry for Education, Ministry for Foreign Affairs, Ministry of Culture and Tourism, Ministry of Internal Affairs, Ministry of Justice, Ministry of National Security, and the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organisations in Geneva. The delegation was composed of the deputy ministers of these ministries, other high officials of the ministries and the national and international legislative bodies, and high representatives of the Permanent Mission of the Republic of Azerbaijan to the UNOG.²

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

² Mr Khalaf Khalafov, Deputy Minister for Foreign Affairs; Mr Oruj Zalov, Deputy Minister of Internal Affairs; Mr Togrul Musayev, Deputy Minister of Justice; Mrs Sevda Mammadaliyeva, Deputy Minister of Culture and Tourism; Mr Elmar Gasimov, Deputy Minister of Education; Mr Rustam Usubov, First Deputy of the General Prosecutor; Mr Murad Najafbeyli, Head of

The State report was due in 2007 and finally submitted in March 2008. The Committee provided a list of issues in June 2009. There was a written response to the list of issues by the State before the 75th session of CERD. The opening remarks were closely based on the State report. Mr Khalafov addressed Azerbaijan's general human rights obligations and commitments, but did not give information on how the Government evaluates and monitors the national activities, projects, and plans.

Although requested by the Committee in the list of issues, the opening statement did not provide information on racial discrimination against Armenians on Azeri territory, and the low number of cases of racial discrimination mentioned in official statistics. Instead, more details on issues already sufficiently covered in the State report were provided. This included the employment situation in Azerbaijan, the preservation of cultural values and languages of ethnic minorities in the fields of education, and advancements in respect of religious tolerance and mutual understanding. Information was based on the census in 1999, as data from the 2009 census was not yet available.

Mr Khalafov commenced his opening remarks by outlining the efforts of Azerbaijan to follow-up to recommendations made by the Committee at the previous examination in March 2005. Special attention was given to the judicial reform, which aimed at raising the effectiveness of law enforcement bodies and ensuring transparency. The *2004 Judicial Council Act* introduced new courts, adapted the constitution and other legal instruments, improved the procedures for selecting judges, and promoted transparency in the work of the courts.

The deputy Foreign Minister also touched on the *2006 National Action Plan for the Protection of Human Rights*, to be implemented from 2007 to 2010. Its objective is to meet international human rights standards and ensure equality regardless of race, ethnicity, religion, language, sex, origin, beliefs or political or social affiliation. Mr Khalafov stressed that any racist act such as genocide, murder, deportation, forced migration, racist discrimination is vigorously investigated by the State. Other efforts included the ratification of the Council of Europe's *Framework Convention for the Protection of National Minorities and the Convention against Discrimination in Education*.

Furthermore, progress in the combat of human trafficking such as the adoption of laws to ensure its punishment by the criminal code was presented. An action plan in force from 2009 to 2013 foresees the creation of rehabilitation mechanisms for victims of trafficking and the introduction of a special unit within the police force. Currently a bill to combat domestic violence is considered by the Parliament, which would allow the setting up of rehabilitation centres for women and children.

According to the *2006 State Migration Programme*, statistics on labour migration were improved and a State Migration Service was introduced, which aims at simplifying all registration matters for migrants through a 'single window' approach. At present, there are around 4,600 foreign workers in Azerbaijan. In general, registration procedures do not require data on ethnic origin or nationality, and therefore no disaggregated data is available. Moreover the opening remarks included information on measures to fully recognise refugees and internal displaced persons (IDPs) and to improve their socio-economic situation and foster rehabilitation. In total, 61 settlements were created over the last years and the last tent camps were dismantled in 2007. Financial investments by the State will continue and the poverty level among refugees and IDPs could be reduced to 30%.

International Law and Treaties Department of the Ministry for Foreign Affairs; Mr Ismayil Asadov, First Secretary of the Ministry for Foreign Affairs; Mr Habib Mikayilli, Third Secretary of the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations in Geneva; and Ms Samira Safrova, Attache of the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations in Geneva. The list of members of Azerbaijan's delegation has been distributed during the session and is not available online. Additional speakers of the delegation, which were not on the list, were given the floor. Mr Khalafov has also led the delegation of Azerbaijan to the UPR earlier in 2009, see www.ishr.ch/upr-monitor.

Overview of key issues

The following overview addresses the Committee's concluding observations following the examination on the basis of those themes that the Committee requested follow-up on implementation within one year.³ Each is assessed according to how they were addressed in the examination, including the initial views of the State, questions and comments by the Committee, and responses provided.

Mr Khalafov, head of the delegation gave replies to all questions. He also delegated some questions to other members. A few Committee members made comments but judging from the concluding observations, the replies by the delegation did not entirely satisfy the Committee's requests for more up-to-date statistics and details on plans for the assessment of national activities and measures.

Rights of non-citizens

The Committee was concerned that internally displaced persons (IDPs), asylum-seekers and refugees continue to be discriminated against in the areas of employment, housing and health. Among IDPs, women and children were particularly vulnerable to being marginalised and some asylum-seekers such as citizens from Chechnya are not acknowledged as refugees.

5. The Committee calls upon the State party to ensure the non-discriminatory implementation of each of the rights and freedoms referred to in Article 5 of the Convention for all groups of the populations. The Committee requests the State party to include, in its next periodic report, information on measures taken in this regard, and draws the attention of the State party to its general recommendation No 30 (2004) on discrimination against non-citizens. Furthermore, the Committee requests the State party:

a) to ensure equal opportunities for displaced persons, and to allow for their enhanced participation in the formulation of State policies and programmes concerning their interests, in particular with regard to the planning of new settlements, improved access to employment, housing, health care and quality education, and measures to encourage mixed schooling with local children. In this respect, it recommends the State party pay special attention to the situation of women and children;

b) to ensure that all refugees and asylum seekers receive equal treatment and to remedy the difficulties encountered by some asylum-seekers, including the Russian citizens from Chechnya, to access refugee status determination procedure and a residence registration ("propiska") in order to access employment, health, and other social and economic rights. The Committee also recommends that the State party consider granting a temporary form of protection for persons who are requesting refugee status under the 1951 Convention but who nonetheless are in need of international protection during the consideration of their request. The Committee also recommends that the State party provide training to public officials and law enforcement officers with the aim of avoiding any tendency towards discriminatory conduct.⁴

The concerns on the refugee status of Russian Citizens from Chechnya were raised Mr Régis de Gouttes, the Committee's special rapporteur for Azerbaijan. Mr Linos-Alexandre Sicilianos highlighted reports on registration obstacles, which results in limited access to the social system for non-citizens. Another concern raised in this respect by Mr Alexei S. Avtonomov regarded the insufficient registration of newborns especially within ethnic minority groups.

Mr Togrul Musayev, Deputy Minister of Justice, replied that Chechens have full access to social security systems. He explained the lack of registration in general terms by a delay in the registration process that

³ CERD/C/AZE/CO/6, at para. 22, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

⁴ CERD/C/AZE/CO/6, at para. 5, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

occurs because of two different registration systems. He stressed that a new law for the transfer of data between the health care and the justice agencies would solve this problem.

In paragraphs 6, 9, 12, and 13 of the concluding observations, the Committee made further requests for detailed information on the situation of racial discrimination within the State. In paragraph 6, for which follow-up information in the next periodic report was requested, the Committee appealed to the State to conduct studies to assess the level of enjoyment of economic, social and cultural rights by different ethnic groups. Mr Avtonomov criticised that the population data provided in the State report was ten years out of date. In response, Mr Khalafov explained that the data from the 2009 population census would only be available in 2011. During the session, Committee member Mr Ion Diaconu requested the delegation to give details on the representation and possibilities of participation of ethnic minority groups within the political system, and to provide data on political participation disaggregated by ethnic group.

Mr de Gouttes asked why there was only a low number of complaints and court decisions concerning acts of racial discrimination during the reporting period. Furthermore Mr Anwar Kemal asked for more details on the number of complaints submitted to the Ombudsman, what their status was and what kind of remedies the applicants were granted. Mr Musayev replied to the first question by insisting that the low number of complaints concerning racial discrimination were indeed realistic, and Mr Khalafov stressed the outreach activities to make the Ombudsman more accessible to the public but gave no details on the successful Ombudsman complaints and pursuant remedies.

In paragraph 9 of the concluding observations, the Committee requested the State to ensure that there were accurate remedies enabling victims to seek redress, that victims are aware of their rights, have no fear of reprisals or lack confidence in the police and judicial authorities, and that the authorities pay adequate attention to cases of racial discrimination. In order to accurately address this issue, the State has been demanded to provide ‘updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings’ in its next periodic report, including ‘the number and nature of cases brought, convictions obtained and sentences imposed, and any restitution or other remedies provided to victims of such acts.’⁵

Trafficking in human beings

While the Committee acknowledged measures to combat human trafficking including a national action plan and a relief fund for victims, it nevertheless stressed that ‘human trafficking remains a serious problem’.

*7. The Committee requests that the State party effectively implement the National Plan of Action against Trafficking in Human Beings and ensure that the Law on Combating Trafficking in Persons is fully enforced and that perpetrators are effectively prosecuted and punished. It recommends that the State party address the root causes of trafficking by increasing its efforts to improve the economic situation of typical victim groups, in particular of women, thereby eliminating their vulnerability to exploitation and traffickers. The Committee also recommends that the State party take measures for the rehabilitation and social integration of victims of exploitation and trafficking.*⁶

Committee member Mr de Gouttes pointed out the need for updated statistics on human trafficking, including on the complaints filed, prosecutions carried out, sentences against perpetrators and support for victims. Mr Patrick Thornberry particularly highlighted the gender specific and racial aspects of human trafficking. Mr Khalafov of the delegation gave recent figures of cases and pointed out support provided for compensation and reintegration of victims. He mentioned that there were bilateral relations with Russia, Kazakhstan, black sea countries, eastern European countries, Iran and Pakistan. Mr de Gouttes reiterated the importance of

⁵ CERD/C/AZE/CO/6, at para. 6, 9, 12, 13, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

⁶ CERD/C/AZE/CO/6, at para. 7, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

coordinated actions by all concerned States to combat human trafficking and recommended future efforts should consider this fact.

Rights of ethnic Armenians living in Azerbaijan

The Committee addressed contradicting information received on the persistence of a generally hostile attitude towards ethnic Armenians within the Azeri society. It was noteworthy that the Committee expressed its concern about the diverging descriptions of the situation by the State and non-governmental sources.

15. The Committee recommends that the State party take steps to prevent and combat hostile attitudes towards ethnic Armenians living in its territory, including through information campaigns and education of the general public. Furthermore, in light of its general recommendation N°19 (1995) the Committee encourages the State party to monitor all tendencies, which may give rise to racial or ethnic de facto segregation and endeavour to combat the negative consequences of such tendencies.

Despite the present efforts by the State to preserve and develop minority languages in general, the Committee also urged the State to include Armenian language in the curriculum of public schools.⁷ Mr de Gouttes highlighted the need to preserve the culture and language of minority groups such as of Armenians living in Azerbaijan. Mr Kemal requested information on the legal status of the Armenians living on Azeri territory and referred to the ‘possibility’ of remaining negative effects of the conflict in the Nagorny Karabakh region. He also raised the question of property rights of Armenians and Azerbaijanis who had to leave their homes. Mr Khalafov reiterated information contained in the State report that ‘the approximately 30,000 Armenians who currently reside in Azerbaijan do not experience any discrimination’⁸. He generally explained that compensation was difficult but the Government would grant certain financial support to concerned persons.

It was notable that this outright dismissal of the Committee’s concerns about contradicting sources of information was not followed-up by Committee members.

Conclusions and next steps

Mr Khalafov agreed that the Government of Azerbaijan would engage in a dialogue with the Committee to respond to remaining questions, information requests and recommendations. He repeatedly stressed that no ethnic or religious minority in Azerbaijan suffers from discrimination and stated that the economic, social and cultural rights of all people, including non-citizens, were ensured. He reiterated some of the Government’s measures to preserve the heritage and culture of ethnic minorities and gave examples of how the Government supports underprivileged groups to have full access to health care facilities. Furthermore he restated the Government’s position on property rights of people who had to leave their homes because of the conflict in the Nagorny Karabakh region. The Government could not fully compensate those people, as the territories have not been returned by Armenia.

In its concluding observations, the Committee called upon the State to provide details within one year for follow-up to the recommendations contained in paragraphs 5, 7 and 15 of the concluding observations.⁹ Furthermore, information and follow-up on concrete measures taken to implement the Committee’s recommendations in paragraphs 6, 9 and 10 was requested to be included in Azerbaijan’s next periodic report.¹⁰

⁷ CERD/C/AZE/CO/6, at para. 17, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

⁸ CERD/C/AZE/6, at para. 7, available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.AZE.6.doc>

⁹ CERD/C/AZE/CO/6, at para. 22, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

¹⁰ CERD/C/AZE/CO/6, at para. 23, available at <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.AZE.CO.6.doc>

The Committee generally suggested that the State should consider ratifying those international human rights treaties that directly influence the subject of racial discrimination. It also suggested enhancing and improving the dialogue with human rights organisations of civil society, especially those who are working in the area of combating racial discrimination. Additionally, it requested Azerbaijan to publish and disseminate the State reports and the concluding observations of the Committee in official and other commonly used languages. The Committee requested that Azerbaijan submit its next periodic report on 15 September 2013. It should include the seventh, eighth and ninth periodic report.

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