



**Permanent Mission  
of the Republic of Azerbaijan  
to the UN Office and other  
International Organizations**

**GENEVA**

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and has the honor to transmit herewith the comments by the Government of Azerbaijan to the Advanced Unedited version of the Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on the third periodic report of Azerbaijan under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 5 pages



Geneva, 13 October 2021

Office of the United Nations  
High Commissioner for Human Rights,  
Geneva

**Comments by the Government of Azerbaijan to the Advanced Unedited version of the Concluding Observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on the third periodic report of Azerbaijan under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

**“Introduction” part of the document** “Office of the President of the Republic of Azerbaijan” to be replaced with “Presidential Administration of the Republic of Azerbaijan”.

**Paragraph 7:**

The Committee notes as positive that the State party voted in favour of the Global Compact for Safe, Orderly and Regular Migration (GCM), endorsed by the General Assembly on 19 December 2018 in its resolution 73/195, and its active participation in the regional review in the UNECE region on November 12-13, 2021, as well as submission of Voluntary Regional Review Report on implementation of the GCM during 2019-2020, and recommends that the State party work towards its implementation, ensuring full compliance with the Convention.

**Paragraph 15:**

“National Migration Strategy of the Republic of Azerbaijan for 2020-2025” to be replaced with “National Migration Strategy of the Republic of Azerbaijan”.

**Paragraph 19:**

Database (name, surname, date of birth, sex, citizenship, border crossing document, last country of departure of migrant) related with migrant workers in irregular situation is in place and accessible. Information to be kindly considered in the relevant paragraph.

**Paragraph 23:**

According to Article 2 of the Law “On Public participation” provisions of this Law does not limit the rights of civil society institutions and citizens related with exercising civic engagement which is not reflected in this Law.

**Paragraphs 35-36:**

Generally, migrant children under 16 years old are not subject to administrative liability. Administrative liability of migrant children between 16-18 years is subjected to strict regulations under the Code of the Azerbaijan Republic on administrative violations, including involvement of commissions on cases and protection of rights of juveniles, prosecutors, their parents while reviewing their cases. As a general rule, State Migration Services does not apply administrative detention measures to migrant children in practice, except for the cases their parents, who do not have a place of

residence in the territory of the Republic of Azerbaijan or funds to meet their minimum needs and the minimum needs of their family members, apply to SMS.

Furthermore, under national law, asylum seekers cannot be detained by SMS for expulsion until the exhaustion of domestic remedies requirement has been met. Under Migration Code (Articles 82.1.1 and 82.1.2), in two cases, refugee or asylum seekers can voluntarily stay at Detention Centre, which should not be considered administrative detention:

1. when a person (along with the family members who arrived with him) applies for refugee status - until resolving the issue of granting refugee status;
2. when a person was granted refugee status - until employment or getting a residence, but not more than for three months.

Almost 70% of all persons voluntarily stayed at Detention Centres, and not all of them are subject to expulsion. Migration Code makes it possible for migrants to apply for staying at Detention Centres if they do not have a place of residence in the territory of the Republic of Azerbaijan or funds to meet their minimum needs and the minimum needs of their family members. Moreover, some part of the expulsion decisions is rendered by respective judgments under Article 52 of the Criminal Code and respective Articles of Code on administrative violations.

Migration Code makes an option for asylum-seekers and refugees at Detention Centres voluntarily. In practice, Detention Centres have two separate buildings: for voluntary accommodation and forcibly placement. The building hosts migrants, including asylum-seekers and refugees, who have no strict regime. Therefore, migrants can leave the Centre anytime or come back whenever they want. The Centre is the shelter for asylum-seekers and refugees.

Again, only in exceptional cases (as a last resort measure) migrants can be kept forcibly at Detention Centres if they have committed a crime and relevant judgment exists, or they lived in the country undocumented for a long time and there are sufficient grounds that they evade departure from the country, and never applied to voluntary return. Additionally, without the relevant decision of the court, migrants cannot be kept forcibly at Detention Centre for more than 24 hours under the Migration Code (Article 82). In practice, it is not recorded by other bodies rather than SMS to overturn this rule.

Considering the concerns raised by the Committee, which at the same time creates some misunderstanding on persons staying on a voluntary basis in a facility officially named as "detention centre for illegal migrants", renaming of existing facility under national law or allocation of separate premises for this purpose can be considered in the future.

**Paragraph 46:**

Regardless of the migratory status of their parents registration of all foreign children born in the country, as well as of the children of refugees and asylum seekers are conducted and they are provided with birth certificates.

**Paragraph 55:**

In 2018, the new Employment Law came into force and since then the activities of private employment agencies are regulated in accordance with this law. Agencies that mediate the employment of citizens of the Republic of Azerbaijan abroad must also comply with the requirements of the Migration Code of the Republic of Azerbaijan.

According to the new law, legal entities engaged in employment mediation must first be authorized in the Register of legal entities engaged in employment mediation in the Centralized Electronic Information System of the Ministry.

At the same time, the requirement to obtain a license for mediation services for the employment of the citizens of the Republic of Azerbaijan in foreign countries was abolished in 2015 by the relevant Decree of the President of the Republic of Azerbaijan, which aims to simplify the procedure for these agencies.

The new law also provides for the creation of an appropriate electronic system through which it is possible to monitor the work of these agencies.

Procedure for maintaining the register of legal entities engaged in employment mediation and the requirements for such legal entities Approved by the Cabinet of Ministers of the Republic of Azerbaijan on August 8, 2019, and is defined by Resolution No. 349.

According to both the Law of the Republic of Azerbaijan "On Employment" and the Resolution of the Cabinet of Ministers "On approval of the Procedure for maintaining the register of legal entities engaged in employment mediation and the requirements for such legal entities", the register of legal entities engaged in employment mediation is electronically maintained by the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan.

Legal entities engaged in employment mediation submit to the Ministry of Labour and Social Protection of Population the information on the number of persons applying and being employed in the above-mentioned manner and form.

Legal entities engaged in employment mediation shall provide mutual exchange of information on the collected information resources electronically with the Ministry of Labour and Social Protection of Population.

In this regard, it should be noted that legal entities engaged in employment mediation are administratively liable under Article 576 of the Code on Administrative Offenses of the Republic of Azerbaijan for non-compliance with the requirements established by law, as well as failure to provide mutual exchange of information electronically.

### **Paragraphs 59-60**

Previously, all convictions in criminal cases were sentenced to imprisonment. In some cases, the accused were charged under Article 62 (imposition of a reduced sentence than that provided for the crime), Article 70 (probation), and Article 79 (Delay of enforcement of the sentence for pregnant women and women having juvenile children).

Conciliation between the accused and the victims, the lack of any complaints or claims from the accused, compensation by the accused (without the involvement of the prosecution bodies), the fact that most of the accused were women, the lack of previous convictions, trusteeship over minors, favorable references from the place of residence, and the fact that in some cases, the accused were pregnant or suffering from illness, were assessed by the courts as mitigating circumstances and were the basis for the application of Article 70 of the Criminal Code.

It has also been defined that the multifaceted nature of human trafficking complicates gathering evidence during the investigation performed in several foreign countries. The lack of evidence and retraction of testimony given during the investigation after the victims had been compensated (without the involvement of the prosecution bodies) provided grounds for conditional sentencing of the accused.

This point was also noted as critical in the 2020 US State Department's report, and a recommendation was made in this regard. In 2020, when the recommendation was considered by the courts, cases of real deprivation of liberty increased to 80 % in contrast to 2018 (8.7 %) and 2019 (33.3 %).

In 2020, none of the human trafficking victims applied for temporary residence in the country. In the relevant period of 2021, a Russian Federation citizen being a human trafficking victim applied for and was granted a temporary residence permit.

Decree of the President of the Republic of Azerbaijan on Approval of the Memorandum of Understanding on Cooperation in Combating Human Trafficking between the Ministry of Internal Affairs of the Republic of Azerbaijan and the National Committee of the United Arab Emirates for Combating Human Trafficking was signed in Abu Dhabi on March 21, 2011.

- Law of The Republic of Azerbaijan on Ratification of the Council of Europe Convention on Action against Trafficking in Human Beings;

- Law of The Republic of Azerbaijan on Ratification of the United Nations Convention against Transnational Organized Crime and supplementing it Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea, and Air;
- Law of The Republic of Azerbaijan on Joining the Agreement for Cooperation of the Ministries of Internal Affairs (Police) of the Commonwealth of Independent States in Combating Trafficking in Human Beings;
- Law of The Republic of Azerbaijan on Ratification of the Commonwealth of Independent States Agreement for Cooperation in Combating Trafficking in Human Beings, Illicit Trade in Human Organs and Tissues;
- Law of The Republic of Azerbaijan on Approval of the Decision on the Commonwealth of Independent States Program for Cooperation in Combating Trafficking in Human Beings for 2007-2010;
- Brussels Declaration on Preventing and Combating Trafficking in Human Beings
- Laws of the Republic of Azerbaijan on Approval of Joint Declarations signed between the President of the Republic of Azerbaijan and the Presidents of Venezuela, Bolivar (April 7, 2017), Belarus, and Kazakhstan (October 2017);
- Laws of the Republic of Azerbaijan on Approval of Joint Declarations on the Roadmap for Strategic Partnership and Economic Cooperation between the Republic of Azerbaijan and the Republics of Latvia, Poland (December 1, 2017), and Turkmenistan (December 29, 2017);
- Decree of the President of the Republic of Azerbaijan on Approval of the Agreement for Cooperation between the Ministry of Internal Affairs of the Republic of Azerbaijan and the Ministry of Internal Affairs of Turkmenistan No. 1701 dated November 29, 2017, providing for cooperation in combating human trafficking;
- Law of the Republic of Azerbaijan on Ratification of the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and the Financing of Terrorism dated May 31, 2017;
- Law of the Republic of Azerbaijan on Ratification of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse.

**Paragraphs 61-62:**

Please, note that reported number of illegal migrants includes all foreigners who violate any norm of migration legislation starting from minor breaches (for example, a foreigner who does not apply for registration at their place of stay stays in the Republic of Azerbaijan temporarily for more than 15 days) to illegal staying in the country for a long period of time with expired documents. However, in 2016-2020 and the first half of 2021 12,862 foreigners were legalized in the country and appropriate measures are continued towards this direction.