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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

**Comments by the Government of Azerbaijan
to the concluding observations of the Committee on the
Elimination of Racial Discrimination**

[10 May 2007]

GE.07-42474

Information from the Government of Azerbaijan on action taken in response to paragraphs 10 and 13 of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/AZE/CO/4) relating to the third and fourth periodic reports (CERD/C/440/Add.1), submitted under the Convention

A. Information relating to paragraph 10 of the Committee's concluding observations

1. The Government of Azerbaijan is doing everything necessary to prevent incidents of racial discrimination and xenophobia.
2. Amendments have been made to a range of legislative texts concerned with the elimination of all forms of racial discrimination on the basis of the international obligations that Azerbaijan has assumed. For example, the title and text of article 283 of the Criminal Code have been amended, pursuant to the Application of the Electoral Code of Azerbaijan (amendments to certain legislative texts) Act of 30 December 2003, replacing the expression "religious enmity" by "religious hatred and enmity".
3. In keeping with section 8.7 of the model regulations governing the Central Executive Bodies approved by Presidential Order No. 363 of 13 February 2006, the central executive bodies are required by the definition of their activities given in those regulations to guarantee, within the limits of their authority, the protection and prevent the violation of human and civil rights and fundamental freedoms.
4. In keeping with article 13, paragraph 1, of the Public Radio and Television Broadcasting Act of 5 November 2004, while pursuing the goals laid down by the Act in the course of programme production, public broadcasters must take due account of political convictions, religious views, public opinion and the legal equality of citizens of Azerbaijan. In keeping with paragraph 2 of the same article, programmes must reflect ethnic and moral values, ethnic customs and traditions, and the full splendour of art and culture.
5. The State guarantees the right to equality laid down in the Constitution of the Republic. Thanks to the practical action that has been taken in this regard, no violations of equality, no criminal acts designed to arouse ethnic, racial or religious enmity or insult national dignity, and no acts restricting citizens' rights or establishing the superiority of any citizens by reason of their membership of an ethnic or racial group or their attitude to religion have been recorded since the country became independent. Acts designed to arouse ethnic, racial or religious enmity or insult national dignity, restricting citizens' rights or establishing the supremacy of any citizens on the grounds of their membership of an ethnic or racial group or their attitude to religion are criminal offences under article 283 of the Criminal Code.
6. Pursuant to Presidential Order No. 387 of 25 August 2000 on the application of the Code of Criminal Procedure, pre-trial investigations under article 283 of the Criminal Code are conducted by the Ministry of National Security. The Ministry has received no reports of religious discrimination against persons of Armenian descent living in Azerbaijan.
7. No crimes committed on grounds of race, culture, nationality or religious hatred or enmity, i.e. offences under articles 103 (Genocide), 109 (Persecution), 120.2.12 (Deliberate homicide on grounds of ethnic, racial or religious hatred or enmity), 154 (Violation of

citizens' equality), 167 (Hindering religious observance), 168 (Infringement of civil rights on the pretext of religious observance) or 283 (Arousal of ethnic, racial or religious enmity) of the Criminal Code, were reported over the period 2003 – 2006, and no one was put on trial for such a crime.

8. Persons of Armenian descent are not discriminated against in Azerbaijan. Under article 69, paragraph 1, of the Constitution, foreigners and stateless persons in the territory of the Republic can exercise all the same rights and are subject to all the same obligations as citizens of Azerbaijan except as otherwise provided by law or an international agreement to which Azerbaijan is party.

9. Azerbaijani legislation contains no rules on the registration of individuals by place of residence or domicile on the grounds of their national or ethnic descent. The fact that personal identity documents make no mention of nationality emphasizes the importance attached at the State level to the equality of citizens.

10. The ministries of justice, internal affairs and national security and other State bodies that maintain records on the population of the Republic are well aware that there are people of Armenian descent, people married to ethnic Armenians, and children born of such marriages living in parts of Azerbaijan other than the areas of Azerbaijan occupied by Armenia (the Nagorno-Karabakh region of Azerbaijan and the seven surrounding districts). These people make no secret of their ethnic origins. The reports referred to in paragraph 10 of the concluding observations are thus groundless.

B. Information relating to paragraph 13 of the concluding observations

11. A 'refugee' is defined in article 1 of the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act of 21 May 1999, as a person other than a citizen of Azerbaijan who, being outside the country of which he or she is a citizen, and having good reason to fear that he/she might be persecuted on grounds of race, nationality, faith, membership of a particular social group or political conviction, is unable or unwilling on account of his/her misgivings to seek the protection of that country, or a person of indeterminate citizenship finding him/herself in consequence of similar circumstances outside the country where he/she used to live and who is unable or unwilling on account of his/her misgivings to return there.

12. According to article 2 (Cases in which refugee status may be denied) of the Act, refugee status will not be accorded to:

- A person who has committed a crime against peace, a war crime or a crime against humanity as defined under international law;
- A person who, before entering Azerbaijan, has committed a serious non-political offence elsewhere;
- A person accused of actions contrary to the purposes and principles of the United Nations.

13. Under articles 5 (Exemption from liability for unauthorized entry, non-expulsion or forcible return of refugees to their countries of origin) and 15 (Withdrawal of refugee status and non-return, extradition or forcible expulsion of refugees to another country) of the Act, moreover, a person who has illegally entered Azerbaijan from another State for the reasons indicated in article 1 of the Act and applied as quickly as possible to the appropriate authority shall by reasoned decision of that authority be exempted from liability under Azerbaijani law and may not under any circumstances be expelled or forcibly returned to a country where his/her life or freedom might be at risk.

14. The Act provides for refugee status to be granted individually. Persons wishing to acquire refugee status must therefore apply to the State Committee on Refugees and Displaced Persons.

15. Up to 250,000 Azerbaijanis were subjected to ethnic cleansing by Armenia in 1988 and 1999 as a result of the war of aggression and occupation of Azerbaijani land launched by Armenia; once these Azerbaijanis had been resettled inside Azerbaijan, they were granted refugee status not en bloc but as individuals, on the basis of appropriate applications and documents confirming that they were, indeed, refugees.

16. An applicant for refugee status cannot be expelled or forcibly returned to another country pending determination of his/her refugee status by the State Committee on Refugees and Displaced Persons.

17. To date, no asylum-seekers who have applied for refugee status have been forcibly returned to their countries of citizenship or long-term residence on grounds of their race, ethnic background or nationality; neither have any foreigners or stateless persons who have been refused refugee status.

18. Pursuant to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol thereto, and the relevant provisions in domestic legislation, a variety of forms of protection are available to persons whom the State does not recognize as refugees, persons in whose home countries armed conflicts are raging, and foreign citizens in need of further assistance. There is active cooperation in this area between the Azerbaijani Government and the Azerbaijan office of the United Nations High Commissioner for Refugees.

19. No discrimination on grounds of race, ethnic background or national origin is tolerated in the procedures applied to asylum-seekers. Individuals awarded refugee status in Azerbaijan can make unrestricted use of the rights established by the Azerbaijani Constitution, the Foreigners and Stateless Persons (Legal Status) Act, the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act and the Registration of Places of Residence and Sojourn Act.

20. An example of Azerbaijan's complete adherence to the principles of the relevant international agreements can be seen in the resettlement to a third country, with no discrimination of any kind based on race, ethnic origin or religious creed, of two individuals of Armenian descent, Arthur Apresyan and Roman Taryan, thanks to the efforts of the Azerbaijani Governments and the intercession of the Azerbaijan office of the United Nations High Commissioner for Refugees. In 2004, Apresyan and Taryan fell victim to the current Armenian regime. Having good reason to fear persecution by the Armenian authorities on

account of their political convictions, they sought assistance from the State authorities in Azerbaijan in obtaining political asylum in Western Europe and illegally crossed the Azerbaijani border.

21. The Government of Azerbaijan constantly monitors compliance with international agreements including the United Nations Convention relating to the Status of Refugees, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Council of Europe Framework Convention for the Protection of National Minorities and other, similar texts.

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