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HUMAN RIGHTS COMMITTEE

**REPLIES TO THE LIST OF ISSUES (CCPR/C/AZE/Q/3) TO BE TAKEN  
UP IN CONNECTION WITH THE CONSIDERATION OF THE THIRD  
PERIODIC REPORT OF AZERBAIJAN (CCPR/C/AZE/3)\***

[18 May 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Annexes to the written replies can be consulted in the Secretariat file.

**Information from the Government of Azerbaijan on the concluding observations of the Human Rights Committee relating to the third periodic report submitted by Azerbaijan in accordance with the International Covenant on Civil and Political Rights**

**Paragraph 1**

The Commissioner for Human Rights has received a total of 42,260 communications during her time in office. In 2008 alone there were 8,600 such communications.

Complaints accounted for 93 per cent of the total number of communications (86 per cent in 2008). Between 2003 and 2008, 38.8 per cent of the complaints (42.6 per cent in 2008) concerned violations of civil rights and 61.2 per cent (57.4 per cent in 2008) involved economic, social and cultural rights.

In accordance with the Constitutional Act on the Commissioner for Human Rights (Ombudsman), the Commissioner declared irreceivable 52.6 per cent of the complaints submitted (51.2 per cent in 2008) because they fell outside her jurisdiction; the violation had occurred more than a year previously; the complaints had been lodged anonymously; judicial proceedings had already been instituted; or complaints were repeated without fresh information, facts or evidence. She had taken up 47.4 per cent of the complaints submitted during her time in office (48.3 per cent in 2008) and found for the plaintiffs in 35.7 per cent of the complaints received (43.3 per cent in 2008).

**Paragraph 2**

The Gender Equality Act was adopted on 10 October 2006. It seeks to eliminate all forms of sexual discrimination, creating equal opportunities for men and women in the political, economic, social, cultural and other spheres of public life. It outlines State policy on gender equality and the duty of the State to secure such equality, upholding it in economic and social relations and in the exercise of the right to work, receive an education and other rights.

This law also establishes benefits, privileges and additional safeguards for women, including a different retirement age, separate regimes for the enforcement of penal sanctions, and special measures to promote gender equality.

In 1918, the declaration of independence of the Azerbaijan Democratic Republic made Azerbaijani women the first in the East to obtain the right to vote and to stand for election. Today, women in Azerbaijan are represented in management and the legal and judicial system and are active in the country's public and political life.

Whereas in 1990 only 4.3 per cent of the members of the Milli Meclis (parliament) of Azerbaijan were women, they now account for 11.2 per cent (14 female members), and some hold senior posts: 1 of the 3 deputy chairpersons of the Milli Meclis and 2 chairpersons and a deputy chairperson of Milli Meclis commissions are women.

Women also hold senior posts in the executive. For example, four deputy ministers (Culture, Education, Health and Economic Development), the chairperson and two deputy

chairpersons of the State Committee on the Family, Women and Children, the chairperson of the State Commission on Student Admissions, a deputy chairperson of the Cabinet of Ministers of the Autonomous Republic of Naxçivan, and a deputy chief executive of the capital are women. Women hold the post of deputy chief executive in 31 districts.

Furthermore, the national Commissioner for Human Rights and the Commissioner for Human Rights of the Autonomous Republic of Naxçivan are also women.

Statistically, women make up 11.8 per cent of the judiciary. The Deputy Chairperson of the Constitutional Court and the Chairperson of the Civil Chamber of the Supreme Court are women. More than 970 women work in the justice system, including about 100 women on staff at headquarters of the Ministry of Justice. More than 80 women have senior-level appointments.

In addition, almost half of the members of the Civic Prison Watchdog Committee are women.

There are 1,967 women serving in various posts in law enforcement. They include 396 sergeants, 219 officers, 12 women in senior-level posts and 1,340 civilian personnel.

There are currently 89 non-governmental organizations in the country working to protect women's rights, promote gender equality in the family, involve women in public and political life, offer practical assistance with the development of women-run businesses in a market economy and create new employment opportunities for women.

The President issued a decree on the implementation of State policy on women in Azerbaijan on 6 March 2000; this has helped support the operation of the protection mechanism for national women's rights and freedoms in Azerbaijan. Gender-policy coordinators to monitor the implementation of the decree have been appointed for all executive bodies.

In accordance with the decree, the State Statistics Committee prepares and publishes a yearly report entitled "Women and men in Azerbaijan". The State Committee on Families, Women and Children draws up a report on its assessment of progress made towards gender equality and women's participation in public life.

The Constitutional Amendment Act, adopted by national referendum on 18 March, which entered into force on 31 March 2009, is also worth noting. The amendments to the Constitution included provisions enshrining the right to equality.

In particular, the Act added language prohibiting the granting or withholding of any benefits or privileges on the basis of race, ethnic background, religion, language, sex or other considerations.

### **Paragraph 3**

#### **New and existing legislation on domestic violence**

The legislation of Azerbaijan has sufficient mechanisms to bring people who commit violence against women to justice. The Criminal Code which took effect on 1 September 2000

specifies penalties for murder, various degrees of assault, battery, torture, the threat of homicide, the infliction of grievous bodily harm and other offences. Similar offences are also covered under chapter 22 of the Code (Offences against minors and the family).

In cooperation with the United Nations Population Fund (UNFPA), the State Committee on Families, Women and Children has drafted a bill on the prevention of domestic violence which is currently under consideration by Parliament.

The bill divides action to halt domestic violence into legal, social and preventive measures.

The legal measures include consideration of complaints by State agencies, criminal and administrative penalties for perpetrators, and legal assistance for victims of domestic violence.

The social measures consist of social protection for persons affected by domestic violence, publicly funded legal and medical services, help in obtaining necessary documents, social benefits, extended education, job placement and other assistance. The bill provides for the establishment of help centres and temporary shelters for victims of domestic violence. Services at State help centres are provided for free. If necessary, victims of domestic violence must be provided with shelter at help centres for up to two months, three months if they are not yet adult.

Azerbaijan has been a participant in the two-year campaign to combat violence against women, including domestic violence, launched by the Council of Europe in November 2006. A comprehensive national programme to combat domestic violence in a democratic society was adopted in 2007. The Heydar Aliyev Foundation, the State Committee on Families, Women and Children and UNFPA in Azerbaijan are currently carrying out a project to prevent violence against women in the twenty-first century.

The Ministry of Internal Affairs has prepared a plan of action to combat offences against women. The Ministry registers and investigates offences against women, including domestic and other forms of violence.

According to a survey by the State Statistics Committee, 12 per cent of Azerbaijani urban women and 15 per cent of the rural women aged 15 to 49 have at some point experienced physical violence. In addition, 13 per cent of urban women aged 15 to 49 and 14 per cent of rural women have experienced physical or sexual violence.

A plan of action on family and women's issues for 2009-2012 has also been prepared. The plan covers assistance to victims of violence and rehabilitation services, the development of models for convalescent centres, outreach activities and other measures.

There is a separate chapter in the plan on preventing domestic violence, violence against women and early marriage. It takes up the issues of accountability, the protection of victims of violence, including legal, social and psychological support, and removal of the causes of domestic violence and violence against women.

### **On the definition of rape in the Criminal Code and whether it covers the rape of one family member by another**

Under the criminal law of Azerbaijan rape (article 149 of the Criminal Code), sexual assault (art. 150) and sexual coercion (art. 151) are punishable offences.

The article on rape (149) specifies the penalty for engaging in sexual intercourse with the use or threat of violence against the victim or other persons, or by taking advantage of the defenceless state of the victim.

The article on sexual assault (150) specifies the penalty for engaging in sodomy or other forms of sexual assault with the use or threat of violence against the victim or other persons or by taking advantage of the victim's defencelessness.

The article on sexual coercion (151) specifies the penalty for forcing someone to engage in sexual relations, sodomy or other sexual acts by threatening to destroy, damage or confiscate property or taking advantage of a person's economic or other form of dependence.

The country's criminal legislation thus clearly circumscribes offences against sexual inviolability. The main criterion used in establishing criminal liability for such conduct is whether it was carried out against the will of the other party, even if no resistance was offered. Accordingly, the law does not restrict the application of these articles if such conduct is committed by one family member against another.

### **Training for judges in combating domestic violence and raising awareness among women of their rights**

The Government is focusing on the issue of preventing domestic violence. Azerbaijan has joined the Council of Europe campaign to combat violence against women. Parliament adopted a special declaration on combating violence against women, including domestic violence, on 21 December 2006.

Under paragraph 17 of the national plan of action for the protection of human rights in Azerbaijan, confirmed by an order of the President on 28 December 2006, State agencies have been instructed to step up their efforts against violence, including domestic violence against women, to provide the victims of such violence with legal protection, essential compensation, rehabilitation and medical and psychological support, and to organize broad outreach publicity campaigns on the subject.

The national integrated programme to combat domestic violence in a democratic society was confirmed by a decision of the Cabinet of Ministers on 25 January 2007. This programme provides for comprehensive measures to prevent violence against women, improve legislation in this area, work with persons who have committed such violence and cooperate with international organizations for the prevention of cases of domestic violence.

Training for judges and public prosecutors is voluntary, and the course curriculum takes their views into consideration. Pursuant to opinion No. 4 of the Consultative Council of

European Judges on appropriate initial and in-service training for judges at national and European levels, a training division for judges and public prosecutors was established under the Judicial Council in May 2007. This division also trains candidates for judgeships.

In recent years the Judicial Council has organized workshops for judges and public prosecutors on various legal issues, including combating domestic violence in a democratic society, in conjunction with the Organization for Security and Co-operation in Europe (OSCE), the United Nations Children's Fund (UNICEF), the American Bar Association and other international organizations.

The study and application of the judicial practice of the European Court of Human Rights is particularly relevant for improving the work of the judiciary. For this purpose, various events have been held, training courses have been organized with the participation of judges from the European Court, and the Bulletin of the European Court of Human Rights is published in Azeri.

The Government is actively cooperating with international organizations including the United Nations, the Council of Europe, the European Union, the German Agency for Technical Cooperation, the American Bar Association and the European Public Law Organization to raise public awareness of women's rights.

Workshops and training sessions covering various aspects of human rights, including efforts to eliminate all forms of violence, are being conducted by the Government with the Office of the United Nations High Commissioner for Human Rights under the technical cooperation project on strengthening of capacities and infrastructure for the protection and promotion of human rights in Azerbaijan.

Given the importance of outreach activities and raising public awareness, the Convention on the Elimination of All Forms of Discrimination against Women has been translated into Azeri and published in print and on the Ministry of Justice website.

Furthermore, the Academy of Justice curriculum includes a range of topics involving the study of international instruments on human rights and fundamental freedoms, including the Convention.

The Ministry of Justice and the State Committee on Families, Women and Children jointly organized a conference in 2007 entitled "Women in the legal profession: challenges and prospects". Among the topics of discussion at the conference were the legal framework for Azerbaijan's gender policy, the prohibition of discrimination, the development of legal literacy and public awareness of the law, the potential for courts to apply the relevant United Nations convention and the status and role of women legal professionals in civil society.

It also bears mentioning that judges, police officers, procurators, justice officials, health professionals, educators and local government workers regularly attend conferences, workshops, training sessions and other women's rights events organized by State bodies, international organizations and non-governmental organizations.

#### **Paragraph 4**

The following penalties were imposed on law enforcement officers for violations of human and civil rights during the first half of 2008: 3 criminal prosecutions, 8 suspensions, 13 dismissals, 1 demotion in rank by a step and 60 other disciplinary measures.

#### **Paragraph 5**

Issues relating to the prevention of torture and the protection of the rights of detainees in temporary holding facilities, remand centres and prisons are of major concern to Azerbaijani government agencies.

In paragraph 22 of the national plan of action for the protection of human rights of 28 December 2006, the Procurator General was assigned to conduct a serious investigation into breaches of the law, human rights violations, mistreatment, abuse of power and other such conduct during the apprehension, pretrial detention and custody of detainees in temporary holding facilities and remand centres.

The Supreme Court has summarized judicial practice in order to give guidance to the courts in the correct application of the law and international conventions against torture. The plenum of the Court adopted a special decision, "The work of the courts to protect human rights and freedoms during the administration of justice" on 10 March 2000; this reflects the recommendations of the Committee against Torture and notes in particular that any instance of torture, cruel treatment or physical or psychological harm must be treated as a potential crime since such conduct is a punishable offence which no exceptional circumstances can justify. Decisions cannot be based on unlawfully obtained evidence.

If information suggesting torture emerges during judicial proceedings, the victim must undergo a medical examination, witnesses must be questioned and, if there are legal grounds for doing so, criminal proceedings will be instituted.

In court practice, evidence of torture or ill-treatment during the pretrial investigation is never disregarded. All allegations of defendants being tortured are investigated, the evidence is gathered and the court specifically verifies that the right of the defendant to legal defence have been fully upheld. If a defendant complains of torture or ill-treatment, the courts immediately order a forensic examination and ensure that it is conducted in a thorough, objective and independent manner. When rendering their final decision the courts once again scrutinize all the evidence and record in the decision any attested instances of the use of violence against the defendant during the pretrial investigation.

The Inspector of Prisons and the Human Rights and Public Relations Office at the Ministry of Justice, the Commissioner for Human Rights (Ombudsman), the International Committee of the Red Cross and the Civic Prison Watchdog Committee are all working within the limits of their authority to ensure that investigations of torture and ill-treatment in prisons are swift, impartial and comprehensive.

The prevention of torture and public monitoring of the rights of accused persons and convicts are issues covered in the 2009-2013 State programme for the development of the Azerbaijani justice system, confirmed by an order of the President on 6 February 2009.

Paragraph 5.2 of the programme directly calls for extensive use to be made of opportunities for the public to monitor how well the rights of accused persons and convicts are respected and the sanitary, material and other conditions in which such people are held. Paragraph 5.5 sets the objective of improving prison conditions in accordance with the national plan of action on human rights in Azerbaijan, recommendations by the Council of Europe and the European Commission, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Prison Rules.

## **Paragraph 6**

The Government is cooperating with non-governmental organizations and other anti-trafficking partners. A total of nine non-governmental organizations in Azerbaijan are engaged in outreach work in this area, including the Temiz Dunya voluntary association, the Association of Young Azerbaijani Friends of Europe and the International Union of Lawyers.

In 2008 there were 76 recorded cases of trafficking in persons, 1 case of forced labour and 300 of enticement into prostitution and operation of brothels. This year there have been 2 offences related to trafficking in persons, 1 to forced labour and 100 to enticement into prostitution and operation of brothels.

There were 52 cases of sexual violence and 34 attempted rapes in 2008. In the current year there have been four cases of sexual violence and nine cases of attempted rape.

An office to combat trafficking in persons was established in the Ministry of Internal Affairs pursuant to a decree of the President of 1 August 2006. A temporary shelter for trafficking victims was established under this office and came into operation in 2006. Furthermore, the Ministry of Labour and Public Welfare has established a corresponding help centre.

The shelter and help centre offer the essentials for victims of human trafficking to survive and guarantee their safety. There is food and medicine, emergency medical, psychological, social and legal assistance and access to a telephone and interpretation services. All services in these institutions are provided for free.

Victims may request shelter for up to 30 days regardless of whether or not they wish to work with the prosecution authorities and testify against human traffickers. The period may be extended on application by the special police unit or the victim him/herself. The consent of the victim is required in all cases when shelter is provided/extended.

Children in shelters are normally housed separately from adults. In their best interests, they may be placed with their parents (unless there is reason to believe that the parents were party to the trafficking of the child) or with other persons who have a positive effect on their psychological well-being. They are afforded the opportunity to continue their education and to maintain contact and relations with their parents.



Help centres are being set up to inform victims of human trafficking of the administrative and legal procedures that exist to protect their rights and interests, to provide medical, psychological and other assistance and to help them to reintegrate into society. Anyone who claims to be a victim of human trafficking may request assistance from these centres regardless of conduct or willingness to cooperate with the prosecution authorities and testify against human traffickers. If help centres suspect that a person has been trafficked, steps are taken to house him or her in a shelter.

An individual social rehabilitation programme is devised for every trafficking victim in accordance with the rules on the social rehabilitation of victims of trafficking in persons approved by decision of the Cabinet of Ministers on 6 March 2006. This programme takes the form of legal and psychological support, medical treatment, professional training, retraining, job placement and housing assistance.

A decision of the Cabinet of Ministers of 12 January 2006 confirmed the statute of the Support Fund for Victims of Trafficking in Persons, which sets out the legal framework for the fund's operations. The fund exists primarily to cover victims' expenses, assist them and, within the limits of its authority, finance other activities relating to the social rehabilitation of victims of trafficking.

Resources from the fund go towards compensation payments, social rehabilitation, the medical and other expenses of trafficking victims and court-awarded damages for material and psychological injury.

The Cabinet of Ministers adopted a decision on 17 June 2006 on the determination of the subsidies payable during reintegration to people affected by trafficking in persons. This sets the reintegration benefit at 30 times the standard accounting unit.

A 2009-2013 national plan of action to combat trafficking in persons in Azerbaijan was adopted by order of the Head of State on 6 February 2009 for the purpose of continuing current efforts, improving the legal framework and institutional mechanisms, and enhancing the effectiveness of State bodies.

The main purpose of the plan is to detect and prevent all forms of trafficking in persons and to perpetuate efforts to mitigate their consequences. The plan sets out measures to boost prosecution of human trafficking, enhance victims' safety and offer improved rehabilitation, cooperation, coordination and public information.

### **Paragraph 7**

Under the Police Act, "detention" means holding a person in temporary holding facilities with the associated short-term restriction on his or her freedom, in the instances and according to the procedure stipulated by law. "Arrest" means holding a person under arrest in an appropriate holding facility with the associated temporary restriction on his or her freedom as an administrative penalty for an administrative offence or as a preventive measure in the instances and under the procedure stipulated by Azerbaijani law.

Under the Act, a police officer exercising his authority to restrict citizens' rights and freedoms must:

- Use safe ways and means to apprehend or arrest a person, except in cases of self-defence or dire emergency
- Identify themselves when they effect a detention or arrest, by showing their official identity card
- Immediately after detention, inform the person of the grounds for his/her detention, explain that he/she has the right not to give evidence against himself or herself or immediate family members and can make use of the services of a lawyer
- Conduct the detainee or arrested person to a police unit without delay, make a formal report under the procedure established by Azerbaijani law, acquaint the detained or arrested person with that report, and register every detention or arrest at the relevant police unit
- Inform the detainee's immediate family and, at the detainee's request, workplace/place of study without delay of the detention or arrest. (The detention facility authorities will automatically notify the families of older persons, minors and mentally incompetent detainees)
- Ensure the detainee or arrested person has the assistance of a lawyer if he/she so requests
- Treat the detained or arrested person with respect for his or her personality and dignity, and take special care with women, minors, older persons, the sick and persons with disabilities
- Release the detainee or arrested person without delay in response to a court (judge's) order or on expiry of the authorized period of detention or arrest

The police officers must uphold other rights of detained or arrested persons as provided for under Azerbaijani law.

In accordance with the law on criminal procedure, crime suspects may not be held in police custody for more than 48 hours. If they are remanded in custody they are transferred to Ministry of Justice facilities within 24 hours.

A person who has committed an administrative offence may not be held in administrative detention for more than three hours except as provided for by the Administrative Code.

Administrative detention may be extended to 24 hours to ascertain the details of an offence committed by a person facing proceedings for a violation of the Azerbaijani border, border strip or border checkpoint regulations or to establish the identity of the offender; if the offender has no identity papers, a court may extend this period to three days.

A person found without special authorization in the street or other public place in an area where a state of emergency has been declared or during a curfew may be detained under administrative procedures until the curfew has ended or, if he or she does not have identity papers, until his or her identity is established.

A person detained under administrative procedures for breach of a state of emergency shall be immediately released when the state of emergency expires.

A person facing proceedings for an administrative offence attracting a penalty in the form of administrative detention may not be held in administrative detention for more than 24 hours.

### **Paragraph 8**

Criminal procedural law in Azerbaijan specifies such preventive measures as remand in custody, house arrest, bail, travel restrictions, personal recognizance, recognizance of an organization, police surveillance, placement under supervision (of a minor), placement under surveillance of a superior officer (active or reserve armed service personnel) and removal from office.

Detention in custody is permitted only by court order. Preventive measures in the form of remand in custody, house arrest or release on bail may be taken only against people accused of a criminal offence, and appeals against them must be considered by a court within 24 hours of submission.

House arrest and release on bail are alternatives to remand in custody which may be selected when a court orders detention in custody.

Criminal procedural law in Azerbaijan specifies who is subject to remand in custody or alternative measures: persons accused of a criminal offence punishable by over two years' deprivation of liberty, and persons accused of offences attracting a penalty of deprivation of liberty for two years or less. Preventive measures may be imposed to stop attempts by the accused to evade the authorities conducting criminal proceedings, hamper the preliminary investigation or court proceedings, commit a further offence, disregard a summons, avoid prosecution or hinder execution of the sentence handed down by a court.

If there is no need to isolate the accused from society by holding him or her in custody the court may replace remand in custody with house arrest. When ordering remand in custody the court may simultaneously allow release on bail, and if it decides that release on bail is possible it must fix an amount of bail that is not excessively high.

On application by the defence, the court may review its ruling not to grant bail or the amount of bail set.

The parties to criminal proceedings may appeal a remand order to a higher court.

A court that has ordered remand in custody as a preventive measure may amend or revoke its order at the request of the procurator in charge of the preliminary inquiry.

Article 157 of the Code of Criminal Procedure states that if there is a medical report ruling out detention in custody because of serious illness, or if the accused's conduct is deemed not to be an offence posing a great risk to society, the investigator or procurator may revoke an order to remand the accused in custody as a preventive measure.

The maximum length of time an accused may be held in custody during pretrial proceedings may not exceed 3 months for offences that do not pose a great threat to society, 6 months for minor offences, 9 months for serious offences and 12 months for especially serious offences.

Exceptionally, when the large volume of evidence collected during pretrial proceedings or the large number of accused in a case hampers or otherwise complicates proceedings, the aforesaid limit on detention may be extended by the court no more than three months for minor and serious offences and no more than six months for especially serious offences.

At present, 2,361 people, or 14.1 per cent of all penal institution inmates, are being held in custody.

The Ministry of Justice developed and launched an experimental electronic case file in 2008. This innovation not only affords greater opportunities for courts to consider cases and acquaint themselves with documents while reducing the likelihood of forgery, it also enables them to consider cases in the shortest period possible.

## **Paragraph 9**

The Civic Watchdog Committee is responsible for ensuring public involvement in penal correction and public supervision of the operation of penal institutions. All Committee members have special passes giving them unobstructed access to penal institutions.

Committee members serve for one year, then a new Committee is selected by the Electoral Commission. The procedure involves an assessment and analysis of the work of Committee members based on individual reports submitted and a review of the programmes and proposals of non-governmental organizations applying to work with the new Committee.

During its more than two years of operation, the Committee has regularly monitored penal establishments of its choice, and the frequency of checks has increased each year: it conducted more than 75 visits in its first year of operation (2006-2007) and the number of visits rose to 90 in 2008. The Committee submits reports on the outcome of the visits, which are carefully analysed and used to determine the steps needed to reform the penitentiary system. The Ministry of Justice has drafted a special survey form to expedite the submission of such reports that includes questions relating to public monitoring.

Committee members meet convicts privately during their visits and learn about their conditions of detention, welfare, medical care and so forth. Human rights defenders also submit proposals and recommendations for improving conditions in detention, creating jobs and improving working conditions in penal establishments. The Ministry of Justice is taking steps to follow up on these recommendations, and Committee members are given regular, detailed reports on the subject.

### **The establishment of a system of regular and independent inspection of places of detention**

The Government has been cooperating with the International Committee of the Red Cross (ICRC) in conducting regular, independent inspections of places of detention under an agreement signed on 1 June 2000. ICRC representatives have the right to conduct unrestricted visits to penal establishments on a regular basis, hold individual meetings with convicts and familiarize themselves with the conditions of detention. Steps are taken to follow up on the confidential ICRC reports.

ICRC members conducted 279 visits to the country's penal establishments between 2000 and 2008 and met 63,343 individuals.

In accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, to which Azerbaijan acceded on 25 December 2001, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has carried out two periodic and three ad hoc visits to the country, including State institutions and places of detention. The most recent visit was carried out in December 2008. The Committee reports on its visits and makes recommendations based on their outcome.

It should be mentioned that Azerbaijan ratified the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 2 December 2008. In accordance with the Optional Protocol each State party must allow visits by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to any place under its jurisdiction and control where persons are or may be deprived of their liberty. In addition, it should be noted that the Azerbaijani Office of the Commissioner for Human Rights was designated as the national preventive mechanism on 13 January 2009 in accordance with the Optional Protocol.

Azerbaijan also has effective national mechanisms to monitor penal establishments.

Under the Constitutional Act on the Commissioner for Human Rights of 28 December 2001, the Ombudsman and his or her staff may visit penal establishments without hindrance and without prior notification, meet prisoners in private and carry out inspections; 82 visits to institutions under the jurisdiction of the Ministry of Justice were conducted in 2008 alone.

Under a project to support the Ombudsman in promptly reviewing complaints and examining allegations of human rights violations in temporary holding facilities and remand centres, the Ombudsman has set up a rapid response team in conjunction with the OSCE office in Baku, which routinely monitors remand facilities and police stations in Baku and reports on shortcomings to the Ministry of Internal Affairs.

In recent years the Ministry of Justice has set up units to bolster its monitoring mechanisms. It has an inspectorate for the supervision of the enforcement of penalties and a human rights and public relations office, which have been authorized to visit penal establishments without hindrance, interview convicts in private and familiarize themselves with the conditions of their detention.

The State programme for the development of the Azerbaijani justice system for 2009-2013 addresses the issue of public monitoring of accused persons' and convicts' rights. Paragraph 5.2 of the programme calls for extensive use to be made of opportunities for public monitoring of the rights of accused persons and convicts and health, living and other conditions in detention. Paragraph 1.3 requires the public, including non-governmental organizations, to be involved in improving legislation governing the operation of the justice system.

#### **Paragraph 10**

Conditions of detention in penal establishments are not dangerous to convicts with tuberculosis or prisoners serving life sentences.

The Government is working with ICRC to provide specialized treatment for convicts with tuberculosis. Based on the recommendations of the World Health Organization, such prisoners have been undergoing the directly observed treatment, short course (DOTS) programme since 1995. Some 9,262 convicts underwent the DOTS programme between 1995 and 2008.

A panel of physicians was established under the Ministry of Justice Specialized Medical Facility to assess the progress and outcome of the treatment. The heads of the ICRC tuberculosis programme and senior Ministry of Health officials work with the panel.

The tuberculosis mortality rate in penal establishments has decreased by over 93 per cent between 1995 and 2008 as a result of the measures taken.

Wide-ranging measures are also being taken to modernize the penal system infrastructure in accordance with international standards and improve conditions in detention for convicts, including life prisoners.

Construction work on a new prison (with a capacity of 1,500) was begun in 2007 at Umbaku, in the Garadag district of Baku. The new prison will have special rooms for prisoners serving life sentences to engage in useful work and sport. Arrangements will also be made for them to spend enough time in the open air. Every cell will have a separate toilet and a shower and an individual exercise area (a room) facing the cell will also be created.

It should be noted that the Parliament adopted the Penal Enforcement Code (Amendment) Act on 24 June 2008, making the rules governing the serving of sentences more humane.

The Act has brought about a significant increase in the sums spent by prisoners serving life sentences, who also now have the right to watch television in their cells. The number of telephone calls they are allowed has quadrupled and the number of short- and long-term visits and parcels permitted has doubled.

Meanwhile, a range of measures have been taken at Gobustan prison to improve living conditions for convicts, including life prisoners. Many cells have been renovated, the heating system overhauled and the prison kitchen substantially repaired and re-equipped; better and more varied food is being prepared.

It is also worth noting that article 5 of the national plan of action on human rights required a bill on the detention in custody of suspects and accused persons. A corresponding bill has been drafted and has already had a second reading in Parliament. Efforts are now under way to prepare it for a third reading.

The bill allows medical examinations to be carried out not only by the medical personnel at a place of detention but also, on application by a suspect, accused person or his/her counsel, by State or private medical establishments.

Measures to improve prison conditions were also covered in the State programme to develop the Azerbaijani justice system for 2009-2013.

Paragraph 1.6 of the programme calls for better legislation to govern the detention of convicts with a view to broader protection of their rights. Under paragraph 5.1, existing prison industries will be restored and new industries established to employ convicts in socially useful work. As mentioned above, the programme also covers the involvement of the public in monitoring (para. 5.2) the rights of accused and convicted persons and health, physical and other conditions in detention. It also calls for improved conditions of detention in penal institutions (para. 5.5) in accordance with the national programme of action for the protection of human rights, the recommendations of international organizations and the European Prison Rules. A separate paragraph in the programme (para. 5.7) covers bringing penal establishments and remand centres into line with international standards.

### **Paragraph 11**

With a view to the future return of internally displaced persons to Nagorny Karabakh and adjacent districts, provision has been made to begin preparing a massive repatriation scheme, entitled “the great repatriation”, in accordance with the State programme to improve the living conditions and promote the employment of refugees and internally displaced persons of 2004. This programme is being prepared with the participation and financial support of international financial institutions, United Nations agencies and international and national humanitarian organizations.

The programme will cover mine clearance of the occupied territories, arrangements for the voluntary and safe return of internally displaced persons to their homes, a mechanism for the restitution of property, reconstruction and compensation, reintegration, and the planning and execution of the return process.

Action to put this programme into effect will begin after the liberation of the Azerbaijani territory occupied by the Republic of Armenia.

### **Paragraph 12**

The law does not provide other forms of protection for persons who are not formally recognized as refugees. However, arrangements are in place for such persons to appeal to the Office of the United Nations High Commissioner for Refugees (UNHCR). Foreign nationals under the care of UNHCR are not deported or forced to return to their countries of origin.

### **Paragraph 13**

Azerbaijan and experts from the Council of Europe began a thorough joint review of the legislative framework governing the work of the judiciary in 2004 and have worked to bring it into line with European standards. In doing so, they have drawn on the recommendations of the Committee of Ministers of the Council of Europe on the independence, efficiency and role of judges (1994), the European Charter on the statute for judges and the opinion of the Consultative Council of European Judges on standards concerning the independence of the judiciary and the irremovability of judges (2001).

The Courts and Judges Act was amended, and the Judicial Council Act, the statute of the Judges' Selection Committee, the rules for the selection of candidates for vacant judicial posts, the Code of Ethics for Judges, instructions governing judicial proceedings and other texts have been adopted and enacted with a view to ensuring the independence of the judiciary.

The independence of judges is ensured by their exclusion from politics; irremovability and inviolability during their terms of office; a special judicial selection and appointment procedure; provisions for judicial accountability, removal or release from office; and guarantees of their personal safety. The law stipulates the independence of the judiciary and the administration of justice according to procedures established by law; it bans any restrictions on or interference in judicial proceedings.

A standing, independent Judicial Council was established under this new legislation to ensure judicial autonomy. Within the limits of its authority, the Council addresses issues concerning the functioning of the judiciary, the filling of vacancies and assessment of the work of judges, transfers of judges to other posts, career development, disciplinary action and other matters relating to the courts and judges.

Given that the process of selecting and appointing judges for vacant posts plays a large role in ensuring the independence of the judicial system, a procedure for choosing candidates for judgeships has been developed in keeping with international standards and based on best practices and transparent methods.

The Judicial Council has established a judicial selection committee to choose candidates for judgeships (through written examinations, interviews and long-term courses); the committee involves members of civil society and non-governmental organizations in its work.

There have already been two competitive examinations under the new rules, taken by more than 1,700 candidates, from which 157 were chosen. This increased the number of judges by 50 per cent. Azerbaijan currently has six judges per 100,000 inhabitants; it had four in 2000.

Under the new law, judges can be appointed and released from office only at the proposal of the Judicial Council. For judges of courts of first instance, the actual decision is taken by the President; for judges of other courts, it is Parliament that decides. Judges are appointed for an indefinite period. The upper age limit is 65 years. In exceptional cases this period may be extended to 70 years at the proposal of the Judicial Council.



The improvements made to the procedure for disciplining judges are yet another important step towards ensuring the independence of the judiciary. Disciplinary proceedings against judges may be initiated only by the Judicial Council, and conducted only by members of the committee who are judges, with the exception of the presiding officer of the Supreme Court and the court reporter. Judges facing disciplinary proceedings are entitled to use the services of a lawyer fellow judge for their defence.

Under the law, justice in Azerbaijan is administered only by the courts. Judges are subordinate only to the Constitution and the laws of Azerbaijan. They hand down decisions on the basis of their inner convictions and the outcomes of judicial investigations.

The law makes it a criminal offence to interfere in the work of a court for the purpose of impeding the course of justice or to assault, threaten to kill, physically harm or destroy or damage the property of a judge.

The Judicial and Law Enforcement Officials (State Protection) Act was adopted on 11 December 1998 especially to guarantee State protection of judges' lives, health, homes and property.

Voluntary judges' associations also play a significant role in strengthening the independence of the judiciary. Under the law, judges united by common interests may establish associations on a voluntary and equal basis.

The particular attention given to judges' financial and social welfare has resulted in a 25-fold increase in their salaries since 2000 and a significant improvement in their working conditions.

The State programme for the development of the Azerbaijani justice system for 2009-2013 sets out a range of measures to entrench the independence of the judiciary, bring the operation of the courts into line with modern requirements and make it more transparent. The main objectives and challenges it defines include swifter adoption of new information and communication technologies, a modernized court infrastructure, better logistical support and greater opportunities for citizens to apply to the courts.

The programme calls for refinements to the legislation regulating judicial activity (para. 1.1), a digest of the laws regulating the work of the courts and guides to their use (para. 6.1), the adoption by the courts of new technology (para. 6.2), better court facilities (para. 6.3) and administrative buildings for the appeals courts (para. 6.4).

Particular attention is given to the introduction of modern technology, including an electronic information system in the courts and Judicial Council connecting them to a single, centralized network (para. 2.1), and a central database on the enforcement of court decisions to which the relevant State bodies have access.

There is provision for judges and court officers to take long-term courses and training sessions and for experts from abroad to take part in the training process in order to develop judicial employees' professional skills (paras. 4.3 and 4.4).

The amendment to the Constitution which was adopted by referendum and entered into force on 31 March 2009 also contains language designed to bring about fuller constitutional coverage of issues relating to the administration of justice and the independence of the judiciary. It stipulates that legal proceedings should seek to establish the truth, that court decisions must be supported by the law and by evidence, and that failure to comply with a court decision renders the culprit legally liable. It is also now a constitutional requirement that decisions of the Constitutional Court and Supreme Court must be published.

#### **Paragraph 14**

Under the Constitution, every person has the right to qualified legal aid. Legal aid is made available free of charge, at State expense, where the law so provides.

Under the Penal Enforcement Code the right to legal aid is among a convict's main rights. At their, their close relatives' or their legal representatives' request, convicts are allowed meetings with lawyers or other persons authorized to provide legal aid. There is no limit on the number or length of meetings between convicts and their lawyers, which are conducted in accordance with prison rules. Such meetings do not count towards the number of meetings set by the Code.

Convicts thus have the right to use the services of any lawyer without hindrance and indeed do so, freely and quite often.

It is a widespread practice in Azerbaijani penal establishments for human rights defenders and members of non-governmental organizations to provide legal aid to convicted prisoners. Last year alone, the Civic Prison Watchdog Committee and other non-governmental organizations conducted more than 190 visits to penal institutions in the country, paying particular attention to the issue of appropriate legal aid.

New courts, including regional appellate and local economic courts, were established by a presidential decree modernizing the justice system and by the Act of 19 January 2006 amending several laws of Azerbaijan. These courts have helped bring about significant improvements in the legal aid offered in the districts, and given a boost to the legal profession.

#### **Paragraph 15**

Since its establishment, the State Committee on Cooperation with Religious Organizations has registered three Baptist religious communities, two Seventh Day Adventist communities and one community of Jehovah's Witnesses. These religious communities are now operating freely. Their members may raise any issue of concern to them with the State Committee.

Under the Freedom of Religion Act, Islamic religious communities are subject to the Caucasus Muslim Board and must obtain authorization from the Board before registering with the State. The State Committee has registered 534 religious communities since it began operating.

## Paragraph 16

The Procurator's Office launched two criminal investigations in 2008. Criminal proceedings were instituted in the case of Aqil Xalil Ali ogly, a reporter for *Azadliq*, a newspaper, who was slashed on 13 March 2008 near the administrative building of the Baku Court of Appeals on A. Sultanova Street in Baku. The investigation was carried out by the Serious Crimes Investigation Unit of the Procurator General's Office.

Investigators established that the offence against Mr. Xalil committed on 13 March 2008 in the aforementioned place was not related to his professional activities: Mr. Xalil had been stabbed with a knife by Sergei Vladimirovich Strekalin in connection with a personal matter. Mr. Strekalin was tried and sentenced by the court to deprivation of liberty under articles 127.1 and 234.1 of the Criminal Code.

The investigation into the second criminal case, which is still under way, was launched under article 163.1 of the Criminal Code following a complaint filed by Zamin Haji Wazir ogly, the author of an article entitled "Dialogue of the Deaf", published in the *Yeni Musavat*, issue No. 320, on 12 December 2008. He claimed to have been beaten and threatened with violence on 12 December 2008 in residential quarter No. 3097 of the Darnagul settlement in Baku by Akif Nagi Kazakh ogly and other persons.

Several journalists were prosecuted between 2006 and 2008, but not in connection with their journalistic work, rather for specific criminal behaviour.

## Paragraph 17

The claim that journalists have been arrested on trumped-up charges and sentenced to long prison terms without a fair trial is most likely to be the result of distorted information; it presents a biased view of the actual situation, where certain persons have committed punishable acts and been sentenced to various terms of deprivation of liberty by lawful court decisions. Those decisions have nothing to do with the journalistic work of the individuals concerned, and the principle that everyone is equal before the law, regardless of position and occupation, applies to all cases.

Ten people were convicted by the courts under articles 147 (Slander) and 148 (Insult) of the Criminal Code in 2007; the figure fell significantly, to just two, in 2008. A total of five persons were sentenced to deprivation of freedom for set terms during those two years. Statistics show that convictions under article 147 of the Code have accounted for 0.1 per cent of all convictions in recent years; convictions under article 148 represent 0.2 per cent.

Meanwhile, a special working group of judges, lawyers and prominent legal scholars is drafting proposals to improve criminal legislation (including the law on slander and insults), and those issues will be taken up after a review of international practice.

Besides, eight journalists have been pardoned under a consistent policy of humane amnesty.

Of the 70,119 civil claims filed by citizens with the courts in 2008, a total of 218 were related to the defence of honour and dignity; the courts upheld only 52 of them.

A master plan of State support for media development was approved by a decree of the President on 31 July 2008. In addition, a presidential decree of 31 July 2008 awarded one-off grants from the President's reserve fund for each of the country's 30 newspapers (*Azadliq*, *Azerbaijan*, *525-chi qazeti*, *Bizim Yol*, *Xalq Cebhesi*, *Xalq Qazeti*, *Merkez*, *Sharq*, *Yeni Azərbaycan*, *Yeni Musavat*, etc.) and 8 news agencies (*Azar Taj*, *Olaylar*, *Turan*, etc.).

The Constitution (Amendment) Act also contains provisions on media activities, freedom of speech and security of person.

Article 32 of the Constitution (Right to security of person) has been amended where it establishes the right of everyone to protection against unlawful interference in his or her personal and family life: except as specified by law, no one may be subjected to surveillance, videotaping, photographing, sound recording or similar treatment without his/her knowledge or against his/her objections. Under other amendments to this article everyone may, unless otherwise specified by law, have access to information gathered about him or her. Everyone has the right to require incorrect, incomplete or unlawfully obtained information about him or her to be put right, withdrawn or deleted.

Under article 50 of the Constitution (Freedom of information) as amended, everyone is guaranteed the right to challenge and refute or respond to information reported in the media that violates his/her rights or harms his/her interests.

### **Paragraph 18**

Article 49 of the Constitution allows everyone the right to assemble and stage meetings, demonstrations, processions and pickets with others, peacefully and without weapons, provided that the relevant State bodies have been given timely notice. The Constitution and the Freedom of Assembly Act of 13 November 1998 set out the provisions governing the exercise of and restrictions on freedom of assembly.

Under article 7 of the Freedom of Assembly Act, freedom of assembly may be restricted solely in circumstances specified by the Act and of significance for a democratic society, in the interests of national or public security, to prevent disturbances of the peace, to prevent crime, or to protect the health, morals, rights and freedoms of other persons. Any such restrictions must be consistent with their stated goals and must not go beyond necessary and sufficient limits. Restrictions on freedom of assembly must be absolutely essential to the attainment of the objective that warranted their imposition. Freedom of assembly may be restricted in various ways, including changes to the time and place of a meeting or the route of a procession, [but] only for the aforementioned objectives.

Assemblies accompanied by incitement to discrimination, hatred and violence or by propaganda in favour of ethnic, racial or religious strife or war are prohibited.

Local government authorities can prohibit politically-motivated meetings, in districts and cities as a security measure before or during international events of importance to the State.

When necessary, meetings can be prohibited or suspended by an order pursuant to article 7 of the Freedom of Assembly Act. Prohibition or suspension is regarded as an extreme step, to be taken only when the restrictions mentioned above are inadequate.

Article 9 of the Act entitles the relevant local government authority, if another meeting is scheduled at the venue and time announced in writing by meeting organizers and there is good reason to suppose that a conflict may arise between the parties concerned, to propose to the organizers a change in the time or venue of the conflicting meeting. If the conflicting meeting is held, the police must take steps to ensure the safety of the participants in both events.

This article also specifies where meetings, rallies, demonstrations and processions are prohibited and the conditions governing picketing. The relevant local government authorities must designate special venues in each city and district where assemblies, meetings and demonstrations may be held. A list of the venues proposed shall be published in the press and brought to public notice by other means. Organizers may choose one of the venues proposed at which to stage an assembly, meeting or demonstration. The local government authorities may amend the list in the light of the applications received.

The decision by the relevant local government authorities that an assembly may be held or not must be communicated in writing to the organizers of the event no later than three working days before the event is scheduled to take place; such decisions must be clear and well founded.

Any decision to restrict or prohibit a meeting may be appealed through administrative channels and/or to the relevant court. Such an appeal must be reviewed by a court within three days. A court ruling on such a complaint may be appealed to a higher court.

### **Paragraph 19**

Under article 24 of the Non-Governmental Organizations (Voluntary Associations and Foundations) Act of 13 June 2000, grants are one source of funding for non-governmental organizations.

The economic and legal relationships associated with the giving, receiving and use of grants in Azerbaijan are regulated by the Grants Act adopted on 17 April 1998, which states that a grant must be made in the form of financial and/or other assets. A grant must be awarded without consideration and is not subject to reimbursement in any way, shape or form.

In accordance with this Act, a person giving another person a grant is recognized as a donor. A grant on behalf of the Azerbaijani Government may be paid out of public funds by the relevant government authorities to a legal or natural person in Azerbaijan or a foreign State. A separate line in the State budget may be established to provide for such grants.

The Act provides that any non-profit-seeking legal or natural person in Azerbaijan whose principal nominal purpose is charitable work or fund-raising for projects and programmes that are eligible for grants may award grants to legal and natural persons in Azerbaijan and foreign States.

The following may act as donors: international organizations and field offices thereof, foreign Governments and diplomatic missions thereof, international charitable organizations, international humanitarian development and other socially oriented international organizations, financial and lending institutions, foreign voluntary associations including foundations, associations, federations and committees working in education, science, health care, the arts and sport, and other non-profit-seeking foreign legal and natural persons.

In awarding grants, selecting grant recipients and selecting projects and programmes on which to bestow grants, donors are absolutely autonomous. Grants on behalf of the Azerbaijani Government are awarded to legal and natural persons in Azerbaijan on a competitive basis.

Those receiving grants are regarded under the Act as recipients. Non-profit-seeking legal persons, whether resident or non-resident in Azerbaijan, whose principal nominal purpose is charitable work or the execution of projects and programmes eligible for grants, and affiliates, field offices and divisions thereof, may be recognized as recipients.

Recipients in Azerbaijan have complete discretion as regards acceptance of a grant, selection of donor and selection of projects and programmes for which to accept grants.

The award, acceptance and use of grants is legally based on a written agreement between the donor and the recipient or a written decision by the donor to award a grant. A grant may be used only for the purposes specified in the agreement or decision. The grant may be used for purposes other than those specified in the agreement or decision only with the additional written consent of the donor.

The State does not levy dues and other mandatory budgetary contributions on the monetary and/or other grant assistance provided pursuant to the Act.

Rules governing the registration of agreements or decisions to award (accept) grants, issued on 12 February 2004, and rules to govern the conclusion and approval of agreements to accept technical assistance and grants, dating from 17 April 2006, have been confirmed by presidential decree.

Moreover, a presidential order dated 27 July 2007 confirmed the master plan on State support of non-governmental organizations in Azerbaijan; this is helping to expand and extend the network of non-governmental organizations into the regions and creating new opportunities for participation in various areas of nation-building.

A decree by the head of State dated 13 December 2007 established the State Council on Non-Governmental Organization Support within the Office of the President and approved its operating regulations. Among the 11 members of the Council, 8 are members of non-governmental organizations and 3 are representatives of State bodies. The State has given grants totalling over 1 million manat to 191 non-governmental organizations (at the official exchange rate of the National Bank of Azerbaijan this represents more than US\$ 1,243,781).

## **Paragraph 20**

The Central Electoral Commission has organized several workshops on election monitoring, attended by representatives of international and non-governmental organizations and

State officials, to preclude a recurrence of the disturbances during the 2005 parliamentary elections. Furthermore, there have been training sessions for election monitors and public information campaigns on the subject.

There were no disturbances of any kind during the presidential elections in 2008, and not a single complaint was filed with the Ombudsman.

### **Paragraph 21**

Parliament adopted the Act on the prevention of child disability and the rehabilitation and social protection of persons with disabilities and children with special needs on 25 August 1992. This outlines State policy on persons with disabilities and children with special needs and seeks to eliminate the causes of disability, to rehabilitate persons with disabilities and children with special needs; it guarantees them the same opportunities as every other citizen to participate in all areas of public life.

The State guarantees that persons with disabilities and children with special needs will be enabled to receive an education and vocational training.

The relevant authorities arrange preschool and extra-curricular education for children with special needs and vocational and higher education for persons with disabilities aged 18 years and older.

Various kinds of education and vocational training are available for persons with disabilities, including education at home and teaching programmes tailored to the individual. Children with special needs who are unable to attend ordinary schools may be taught at home if they and their parents so wish. One parent of such a child or a person acting in loco parentis is paid financial support and benefits in accordance with the procedure and terms specified by law. The time spent looking after the child counts towards the caregiver's record of employment.

Secondary, secondary specialized and higher education for persons with disabilities and children with special needs is provided at ordinary schools or in special schools, if necessary, and specialized faculties or departments have been set up for them at vocational and technical schools, technical colleges and institutions of higher education.

Arrangements are also made for tutoring children with disabilities who are being treated at inpatient medical facilities or rehabilitation centres.

Gifted children with special needs are entitled to free musical and art education at ordinary schools or special extra-curricular training institutions.

Students under 18 with category I or II disabilities or with special needs are paid a supplement equal to 50 per cent of their stipends.

Vocational training and career development for persons with disabilities and children with special needs are provided by educational establishments, including State Employment Service training centres, businesses and (specialized and general) organizations in conjunction with the institutions providing social assistance to persons with disabilities.

A Children with Special Needs Education (Special Education) Act was adopted in 2001. The Act specifies the State's obligations in the area of special education and the rights and obligations of persons with special needs, their parents and other legal guardians and sets out the arrangements and procedures for managing a special education system.

The Cabinet of Ministers has issued a number of orders to help to implement the foregoing Act, as follows: approving the rules governing the admission of persons with special needs to vocational schools; approving the regulations governing speech pathology services; approving the rules governing education at home, including the list of illnesses entitling persons to be educated at home; approving the regulations governing special education establishments; approving the rules governing free education for persons with special needs; approving the rules governing education in institutions offering integrated education; and approving the rules governing education in inpatient facilities.

Furthermore, the Cabinet of Ministers approved a development programme for the education of children with special needs (2005-2009) on 3 February 2005. Under that programme, 145 children with disabilities were enrolled in integrated/inclusive education during the academic years 2005 to 2007, thus helping to bring about equal educational opportunities for all children with disabilities and integrate children with disabilities into society. Furthermore, special-purpose educational establishments have been restored, renovated and provided with modern equipment, adding to the educational facilities available for children with special needs.

Special job creation measures for persons with disabilities and persons under the age of 18 with special needs are laid down by law. Persons with disabilities are entitled to work in enterprises, institutions and organizations offering normal labour conditions, and at specialized enterprises, workshops and sites where they can be employed; they can also engage in business or any other labour activity not prohibited by the law. Refusing to enter into a labour agreement with persons with disabilities on the grounds of their special health needs is prohibited.

Government authorities, enterprises, associations, institutions and organizations, working together with voluntary associations of persons with disabilities and persons under the age of 18 with special needs, guarantee employment for such persons by setting up enterprises and organizations, for the purpose, offering training under special programmes and so forth. An employment for persons with disabilities applies to enterprises, institutions and organizations, regardless of their form of ownership.

Under an order of the Cabinet of Ministers dated 22 November 2005 approving the procedure for enforcing quotas for citizens in particular need of social protection who are experiencing difficulties in finding employment, and also approving a list of enterprises not subject to quotas. Employment quotas for such citizens depending on the situation on the local labour market are set as follows, on the understanding that they may not exceed 5 per cent of the average workforce:

(1) At enterprises with 25 to 50 employees, 3 per cent of the average annual workforce (no less than one post); one post will be set aside for persons with disabilities;

(2) At enterprises with 50 to 100 employees, 4 per cent of the average annual workforce (persons with disabilities representing 2 per cent of the average annual workforce);



(3) At enterprises with more than 100 employees, 5 per cent of the average annual workforce (persons with disabilities representing 2.5 per cent).

Before 1 August every year, employers must officially inform their local branches of the Central Employment Office (hereinafter city and district employment centres) of the number of jobs they offer and the average number of employees on the payroll. The total number of posts to be set aside for citizens in particular need of social protection who are experiencing difficulties finding employment and the numbers of workers employed at enterprises where quotas apply are calculated for the enterprises by the city and district employment centres and, after discussion with the local employment assistance coordinating committee, submitted to the local government authorities by 20 September.

The number of quota workers is confirmed by a decision of the local authorities before 15 October each year. A copy of this decision is sent to enterprises by the city and district employment centres within 15 days.

Workers to fill quota posts are recruited at the direction of the city and district employment centres. An employer has five days to decide whether to hire people in particular need of social protection.

The State Social Protection Fund deducts three times the established average monthly wage per unfilled post per month from enterprises, institutions and organizations that do not meet the established employment quotas for persons with disabilities.

The employment of such persons is mandatory for all enterprises and organizations subject to a quota, regardless of their form of ownership and management.

Enterprises, institutions and organizations where persons with disabilities make up 30 per cent or more of the overall workforce are entitled to preferential financing and technical support. A variety of goods produced exclusively at ventures run by voluntary organizations of persons with disabilities is given preferential treatment.

The relevant authorities enable persons with disabilities and persons under 18 with special needs to work at home and run businesses by making commercial space available and helping them to obtain raw materials and sell their products.

The Cabinet of Ministers approves a yearly programme to fund events relating to the social protection of persons with disabilities.

On 22 December 2008 the President signed an order proclaiming 2009 the Year of the Child. The purpose was to enhance State childcare, raise awareness among civil society institutions about children's issues in Azerbaijan and determine the country's demographic prospects. A broad plan of action was developed and approved by an order of the Head of State on 18 February 2009.

It is also necessary to point out that Azerbaijan acceded to the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 2 October 2008.

## **Paragraph 22**

Azerbaijani law sets a time limit on temporary sojourn by foreign nationals and stateless persons, establishes a procedure for granting them the right to temporary or permanent residence in Azerbaijan, and stipulates documents for persons holding emigrant status.

A State Migration Service was established by presidential decree on 19 March 2007 to carry out State policy on migration, develop a system of migration management, regulation and forecasting and coordinate the activities of the relevant State bodies in this area.

Amendments were made to several laws in 2008 to improve State management of migration; they set a time limit on temporary sojourn in the country by foreign nationals and stateless persons, put in place a mechanism for granting them the right to temporary or permanent residence in Azerbaijan, confirmed the types of documents to be held by persons with emigrant status, improved the registration system for foreigners and increased the penalties for violating migration laws.

On 4 March 2009, the President signed a decree introducing the “one-stop shop” principle for managing migration issues with the aim of simplifying the procedure for foreigners to obtain authorization to reside and work legally in the country.

The decree assigned the role of “one-stop shop” to the State Migration Service. A list of requisite documents and other information on migration procedures will be posted on its official website. There are plans to accept online applications from foreigners.

From the day the “one-stop shop” principle was introduced, exit and return visas for aliens (wishing to reside and take up employment) were abolished. Persons granted temporary or permanent residence in Azerbaijan may henceforth leave and return to the country on their passports or other identity documents and a certificate issued by the State Migration Service. In 2008, the Cabinet of Ministers also approved rules governing voluntary placement and detention in the State Migration Service illegal migrant holding centres of aliens and stateless persons due for deportation from Azerbaijan.

## **Paragraph 23**

On 16 September 1992, the President signed a decree on the protection of the rights and freedoms of ethnic minorities, small peoples and ethnic groups living in Azerbaijan and State support for the development of their languages and cultures. The purpose of this was to improve ethnic relations and make them subject to the rule of law. The decree gives specific instructions to the Presidential Office, Cabinet of Ministers, ministries, government departments and heads of local authorities to provide State assistance and carry out government policy in the following areas:

- Preservation and development of the cultural, linguistic and religious identity of ethnic minorities
- Unrestricted observance of ethnic traditions and customs, religious rites and ceremonies and preservation and use of sacred places

- Unrestricted development of ethnic crafts, professional and amateur art forms and cottage industries
- Conservation of historical and cultural monuments of all ethnic groups
- Conservation and preservation of places of significance to the general public, reserves, parks and other natural sites

Azerbaijan acceded on 16 June 2000 to the Framework Convention for the Protection of National Minorities drawn up at the Council of Europe and has already transmitted its first and second periodic reports to the Secretary-General on the implementation of this Convention.

There are currently 48 non-governmental organizations in Azerbaijan that deal with ethnic minority issues.

Cultural centres, charitable organizations and other voluntary associations of all the minorities living in the country have opened in recent years. The State provides them with as much material and financial support as possible.

#### **Paragraph 24**

The Azerbaijani delegation gave the news media a full briefing on the outcome of the consideration of its second periodic report under the International Covenant on Civil and Political Rights.

Representatives of the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Ministry of National Security, the Ministry of Justice, the Ministry of Youth and Sport, the Ministry of Labour and Social Welfare, the State Committee on the Family, Women and Children and the Office of the Procurator General have taken part in the preparation of the third periodic report of Azerbaijan under the Covenant. In addition to State experts, experts from non-governmental organizations and the Ombudsman's staff were involved in the drafting.

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