

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Azerbaïdjan.

Conformément à sa procédure de monitoring par pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités d'Azerbaïdjan sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui ne tient compte que de développements jusqu'au 11 décembre 2015, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

COMMENTS BY THE GOVERNMENT OF AZERBAIJAN ON THE ECRI'S FIFTH MONITORING CYCLE REPORT ON AZERBAIJAN

Azerbaijan has always attached utmost importance to the cooperation with the European Commission against Racism and Intolerance (ECRI). During its last visit to Azerbaijan on June 1-5, 2015, Azerbaijan fully cooperated with the ECRI, by facilitating meetings with all the stakeholders requested.

It is regretful that, the report gives way to general false assessments based on few inaccurate sources lacking credibility rather than mirroring real picture of the situation on the ground as it does not duly reflect the views expressed by the authorities with regard to many of the issues raised by the Delegation. It omits numerous achievements and positive developments Azerbaijan possess in this field. The report can be considered as an attempt to distort Azerbaijan's positive record on tolerance and multiculturalism - the sphere where Azerbaijan has a comparative advantage and therefore, it is not possible to regard it as a balanced document.

Authorities of Azerbaijan have asked the ECRI delegation and its secretariat several times to elaborate on the reasons for so-called "the negative attitude towards Armenians" in Azerbaijan but unfortunately, this request was overlooked. Therefore, we feel obliged to draw attention of the readers of the report to the following points:

The ongoing armed conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan has resulted in the occupation of almost one fifth of the territory of Azerbaijan and has made approximately one out of every nine persons in the country an internally displaced person or a refugee. The Republic of Armenia bears the responsibility for unleashing the war and using force against Azerbaijan, occupying its territories, carrying out ethnic cleansing on a massive scale and committing other serious crimes during the conflict.

The international community has consistently deplored, in the strongest terms, the use of military force against Azerbaijan and the resulting occupation of its territories. In 1993, the United Nations Security Council adopted resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), condemning the use of force against Azerbaijan and occupation of its territories and reaffirming the sovereignty and territorial integrity of Azerbaijan and the inviolability of its internationally recognized borders. In those resolutions, the Security Council reaffirmed that the Nagorno-Karabakh region is part of Azerbaijan and called for immediate, complete and unconditional withdrawal of the occupying forces from all occupied territories of Azerbaijan. Other international organizations have adopted a similar position. For instance, the Parliamentary Assembly of the Council of Europe also deplored the occupation by Armenia of Nagorno-Karabakh and other adjacent areas of Azerbaijan in its recent resolution 2085 titled "Inhabitants of frontier regions of Azerbaijan are deliberately deprived of water" and requested the immediate withdrawal of Armenian armed forces from Azerbaijani region.

Recently, the European Court of Human Rights (ECHR) considered a case (Chiragov and others v. Armenia) brought up before the Court by a group people from occupied Lachin region of Azerbaijan. In its final judgment the Strasbourg Court ruled in favor of the applicants, recognizing continuing violations by Armenia of number of their rights under Convention for Protection of Human Rights and Fundamental Freedoms namely, those relating to the protection of property (Article 1 of Protocol No. 1), the right to respect for private and family life (Article 8 of the Convention) and the right to an effective remedy (Article 13 of the Convention). Furthermore, the judgment effectively put an end to Armenia's persistent denial of its responsibility for the unlawful occupation of and military presence in the territories of Azerbaijan.

In total disregard of the position of the international community and in flagrant violation of international law, Armenia continues to undertake efforts aimed at further consolidating the current status quo of the occupation, strengthening its military build-up in the seized territories, changing their demographic, cultural and physical character and preventing the hundreds of thousands of Azerbaijani forcibly displaced persons from returning to their homes and properties in those areas.

On April 2, 2016, the armed forces of Armenia increased fighting from their positions in the occupied territories, subjecting the armed forces of Azerbaijan along the line of contact and the adjacent densely populated areas under control of Azerbaijan to intensive fire with heavy artillery and large-caliber weapons. As a result of Armenia's attacks and subsequent hostilities, towns and villages along the line of contact were shelled, a number of Azerbaijani civilians, including children, were killed and wounded. Forensic medical examination registered numerous signs of post-mortem mutilation of the bodies of Azerbaijani servicemen killed during the escalation.

Armenia's direct and deliberate attacks against the Azerbaijani civilian population and civilian objects, as well as inhuman acts against Azerbaijani militaries, constitute a serious violation of international humanitarian and human rights law.

Against this background, we would expect more sincere and correct approach by ECRI being an independent body instituted by the Council of Europe both on the issue of expulsion by Armenian authorities hundreds of thousands ethnic Azerbaijanis and Armenian occupation of the internationally recognized territories of Azerbaijan.

Due to Armenian occupation, ECRI was not able to examine the situation in this part of the country. Regretfully, ECRI tries to disguise Armenian aggression by sufficing to indicate only on the footnote of its 5th cycle report that: *"Nagorno-Karabakh and seven adjacent occupied territories are not under the effective control of the Azerbaijani authorities to whom this report is addressed. Therefore, ECRI will not examine the situation in this area"* while the same sentences had been placed in the main part of the 4th report adopted five years ago. Moreover, the language is very vague, unclear and lacks the name of the aggressor - Armenia, creating the wrong impression as if Azerbaijan neglects or abandons its regions. It raises questions as to why the ECRI going into details in some instances, like highlighting allegations that a convicted person was racially insulted by a police while detained in Azerbaijan, could not name the aggressor country which keeps internationally recognized territories of Azerbaijan under military occupation.

Despite the policy of aggression perpetrated by Armenian authorities, thousands of ethnic Armenians continue to live in Azerbaijan in peace and the laws of Azerbaijan prohibit any discrimination among the citizens, including that of ethnic Armenians.

Regarding the **situation of ethnic and religious minorities** we would like to underline that throughout the centuries, Azerbaijanis have lived together with different national minorities in peace and coexistence. As enshrined in its Constitution the Republic of Azerbaijan protects rights and main freedoms of all Azerbaijani citizens regardless of ethnic origins prohibiting any discrimination among the citizens. The Government of Azerbaijan ensures coexistence of Azerbaijanis and national minorities which have contributed to the formation of the Azerbaijani ethnogenesis and provides equal rights based on law.

Different national minorities are widely represented in state structures of Azerbaijan. In areas of compact living of national minorities, representatives of the local population hold leading positions in local authorities, institutions of local government and other structures. Persons belonging to national minorities work in

Executive Office of the President of Azerbaijan, in Parliament, in Cabinet of Ministers, in Constitutional court, Central Election Commission, law-enforcement bodies, and other state structures.

We totally reject the accusations that “hate speech provisions have been misused against the Talysh minority”. All the citizens of Azerbaijan regardless of their ethnicity are equal before the law. As others, citizens belonging Talysh ethnic minority live in peace and harmony enjoying all rights on equal footing.

Regarding ECRI’s one-sided references to a survey of an NGO distorting reality of **religious tolerance** Azerbaijan has succeeded to sustain throughout history, we would like to underline following facts which speak for themselves:

According to the Constitution (Article 18. Religion and state) and the Law on “Freedom of Religious Belief all religions are equal before the law. No religion or religious association has advantage or restriction in relation to others. The state provides equal rights to representatives of all religious groups. The state escapes differential attitude towards religious communities. It provides equal support, assistance including financial one to representatives of all religious communities (In 2015 registered Muslim communities got 3 mln. AZN and non-Muslim religious communities got 400 thousand AZN of support from the State).

On allegations that minority Muslims and “non-traditional” religious communities have been subject to restrictions and discrimination facing difficulties in registration process it should be underlined that religious tolerance is at a high level in the country and any discrimination on the ground of religion is prohibited. There is mutual respect among various people in the community belonging to different religions. Currently, more than 1800 mosques, 5 Orthodox, 1 Catholic, 1 Lutheran, 2 Alban-Udi, 4 Georgian- Orthodox, 6 synagogues and other prayer houses are functioning in the country. And generally alongside up to 700 Islamic religious communities, 34 non-Islamic religious communities are functioning in the country, 22 of them are Christian, 9 are Jewish, 2 are Bahai and 1 is Krishnaite. Azerbaijan as a secular Muslim country could be shown for many countries as a good example for friendly co-existence and mutual understanding between representatives of various religions and confessions.

The report’s provocative claim about presence of alleged discriminatory practice against Sunni Muslims in Azerbaijan has nothing to do with the reality on the ground. Moreover, it is simply not correct to point that “many Sunny Muslims belong to historical ethnic minorities, such as the Lezghi. A few months back, in one of the greatest mosques of Azerbaijan, Shia and Sunni Muslims prayed together. This shows the genuine circumstance in Azerbaijan both inside the Muslim community and all in all inside the entire society.

Christianity is the second largest confession in Azerbaijan. There are various trends of Christianity- Orthodox, Catholic, Lutheran and Protestant denominations.

On paragraphs concerning **Jews minority** living in Azerbaijan, we have to underline that there has not been any single act of Anti-Semitism registered in Azerbaijan which has always been considered as a safe haven for Jewish people. Currently, there are 8 synagogues, 2 secondary Jewish schools, and Jewish cultural center. Various Jewish delegations from USA, Israel, and other states visited Azerbaijan. They found Azerbaijan as a safer place for the Jews than even many Western states. Some of them shared their impressions of the country in Time magazine, the Jerusalem Post newspaper, the Huffington Post, and JNS.org Internet portals. Merely the titles of those articles (“Azerbaijan is an Oasis of Tolerance in the Middle East”,

by David Wolpe; “Jewish life in Azerbaijan embodies Muslim-majority nation’s culture of tolerance”, by Peter Rothholz; and “How Azerbaijan restored my hope in Israel”, by Yael Lerman Mazar; “Baku, A Unique Geopolitical Gathering of Dialogue and Peace” by Annette Blum) demonstrate the authors’ perceptions of the truth about Azerbaijan and the ethnic, religious and cultural situation in the country. Links to the above mentioned articles are following:

<http://time.com/4099548/azerbaijan-is-an-oasis-of-tolerance-in-the-middle-east/>;

<http://www.jns.org/latest-articles/2015/11/12/jewish-life-in-azerbaijan-embodies-muslim-majority-nations-culture-of-tolerance>;

<http://www.jpost.com/Opinion/How-Azerbaijan-restored-my-hope-in-Israel-434507>;

http://www.huffingtonpost.com/annette-blum/baku-a-unique-geopolitica_b_8936520.html.

As a member of the Organization of Islamic Cooperation and Council of Europe, Azerbaijan understands how pressing and important the issue of promotion of intercultural dialogue is. With that in mind, recently Azerbaijan hosted the 7th Global forum of UN Alliance of Civilizations gathering more than 4000 participants, including heads of states and governments, officials, academicians, experts and representatives of civil society and media from 140 countries. It adopted the Baku Declaration which would serve as guidelines for states and international organizations in the promotion of intercultural dialogue and multiculturalism as a way to counter violence and extremism and sustain peace, security and prosperity for all.

Regarding the issue of **re-registration of religious communities**, it is to be underlined that during the re-registration process equal conditions were created for both Islamic and non-Islamic communities. Receipt of their documents and review of their compliance with the legislation and conduction of the state registration were effectively organized. After its start back in September 2009, documents of more than 800 religious communities were received for re-registration or for the first time registration. Up to now 577 religious communities have passed registration. 372 of these communities were re-registered and 205 religious communities were registered for the first time. The confessional makeup of registered communities is as following: 556 of these registered organizations are Islamic and 21 (12 are Christian, 6 are Jewish, 1 is Krishnaite and 1 is Bahais) are non-Islamic. The religious communities which were denied of the registration have the right to re-appeal to the SCWRA after elimination of shortcomings causing the denial.

The State Committee for the Work with Religious Associations (SCWRA) does not have the right to liquidate the religious communities which did not pass re-registration. Therefore, certificates of the religious communities which did not pass the re-registration remain valid and a vast majority of them continue to function.

As regards to the recommendation on alternative service to military service, it should be underlined that pursuant to Article 76 (II) of the Constitution, “If military service is contrary to a person’s convictions, then, in cases provided by law it may be permissible to replace regular military service with alternative service”. This provision is also laid down in Article 3.3 of the Law “On Military Duty and Military Service” adopted February 10, 2012. However, due to the war with Armenia, Azerbaijan has not been able to enact a separate law on alternative service.

Lastly, it is difficult to understand disproportionate attention of ECRI to general **human rights issues** and cases of some individuals brought to justice for the concrete crimes they have committed. Therefore, it is necessary to underline that the ECRI should have limited itself with the issues, entrusted to it by its Statute, such

as combating racism, racial discrimination, xenophobia, anti-Semitism and intolerance.

Notes in the report related to the situation of the civil society in Azerbaijan are unsubstantiated. Wide opportunities for independent work are created for human rights defenders operating in the Republic of Azerbaijan in various spheres and media, the full amount of their rights and freedoms are guaranteed, they are not subject to criminal prosecution in connection with their activity. The imprisoned individuals the report mentions were held accountable for concrete criminal acts, such as tax evasion, large-scale fraud, illegal entrepreneurship etc. However, guided by humanism principles, a number of imprisoned individuals were released and pardoned respectively by court decisions and the Presidential decrees.

Azerbaijan attaches much attention to the development of the fully independent civil society in the country. More than 4000 NGOs are currently operating in Azerbaijan. A special entity named the Council of State Support to NGOs has been set up in order to streamline the Government's assistance to the civil society. Recent legislative amendments on receiving grants by NGOs have been adopted to ensure open government principles, reporting, transparency and openness.

