

COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE RAPPORT SUR L'AZERBAÏDJAN

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 la procédure pays-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 selon la pratique habituelle de l'ECRI ne pouvait tenir compte que de développements jusqu'au 10 décembre 2010, 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 provided by the authorities of the Republic of Azerbaijan concerning ECRI's Third Report on Azerbaijan

MIGRATION

Paragraph 11

In the case of existence of the bases stipulated by the Law on "Citizenship of the Republic of Azerbaijan" State Migration Service requires only the documents reflected in the Regulation on "Consideration of issues on the citizenship of the Republic of Azerbaijan and rules on their solution" irrespective of foreigners' and stateless persons' race, nationality, religion, gender, origin, education, political and other convictions.

Paragraph 12

If a person applying for the citizenship of the Republic of Azerbaijan intends to change state system approved by the Constitution of the Republic of Azerbaijan, violate territorial integrity of Azerbaijan, poses a threat to the state security, public tranquility of the Republic of Azerbaijan, health and morality of the population, disseminates racial, religious and national discrimination, be connect with the terrorism activity petition of this person is rejected in proper manner and he/she is provided with a written information.

Paragraph 75, 76 and 79

In order to improve the migration management mechanism and simplify the procedures in this sphere the "single window" principle has been implemented since the 1st July 2009 according to the Presidential Decree N° 69 dated March 4, 2009.

Application forms for obtaining permits, as well as list of required documents and information on the amount of state duties are available in the official website of the Service. Today relevant measures are being taken by the Service for reception of application forms of foreigners and stateless persons via e-mail.

Paragraph 78 and 80

In compliance with the Articles 330 and 339 of Administrative Offences Code of the Republic of Azerbaijan in the case of existence of the bases (taking into account aggravating and mitigating circumstances) for staying in the country foreigners and stateless persons violating rules of staying and residing in the territory of Azerbaijan may or may not be expelled in administrative manners out of the borders of the Republic of Azerbaijan by applying fine.

According to the Rules on "Expulsion from the Republic of Azerbaijan of foreigners and stateless persons not obtained immigrant status" state official deciding on expelling foreigners and stateless persons from the borders of the Republic of Azerbaijan should acquaint person with the decision and give a copy of the decision to him/her as well as should inform him/her that he/she enjoys the right of lodge a complaint to the court regarding this decision. If the person does not know Azerbaijan language participation of interpreter is provided.

Concerning the Convention on "Protection of the rights of all migrant workers and their family members" we declare that some provisions arising from mentioned Convention are provided for in the draft Migration Code of the Republic of Azerbaijan.

Paragraphs 85 and 86

Refugees enjoy equal rights and freedoms, bear equal duties as citizens of the Republic of Azerbaijan unless otherwise specified by the Constitution of the Republic of Azerbaijan, Law of the Republic of Azerbaijan on "Status of refugees and IDPs (internally displaced person)" and other legislative acts.

It must be noted that there is no need for persons with refugee status to obtain work permit for labor activity.

Joint activities are processed with the relevant state entities in the direction of preparing new specimens of "refugee cards" and "travel documents" which will be presented to the person obtained refugee status.

Refugee card is a document that certifies identity of refugee and gives him/her the right of free movement and living in the territory of Azerbaijan legally. This document also will make the use of social rights easier for refugees.

Paragraph 87

While investigating applications for obtaining refugee status, it is observed that most of the applicants leave their country of origin because of unemployment and financial problems and come to the Republic of Azerbaijan for working. For this reason percentage of granting refugee status is decreased.

Existing legislative acts of the Republic of Azerbaijan on refugees make no provisions for granting of subsidiary/second degree protection. But all necessary facilities have been provided for such persons in order to apply to the UNHCR Office for the next stages. Foreigners and stateless persons protected by the UNCHR are not expelled from the country.

Paragraph 89

It should be noted that all necessary facilities are provided for foreigners and stateless persons by the State Migration Service to apply for asylum without discrimination.

Consideration of the applications of foreigners and stateless persons intending to obtain "refugee status" is provided in compliance with the Rules on "Consideration of applications on granting refugee status" approved with the Presidential Decree No.419 dated on November 13, 2000.

Appeals of the person applied to obtain refugee status are getting registered for consideration and after proper procedures each of them are informed about the adopted decision. If the person is rejected he is provided with the written notification (the reason of rejection and the right of lodge a complaint are reflected in this notification).

It must be noted Chechens do not apply to the State Migration Service for obtaining refugee status.

FREEDOM OF RELIGION

I. Legislation relating to freedom of religion and to conscientious objection (Paragraphs 15-21)

As it is known, the Republic of Azerbaijan is in the state of war with Armenia for a long time. As a result of Armenian military aggression nearly 20 % of Azerbaijan's territory are occupied by Armenian armed forces and still are under occupation. Ethnic cleansing initially carried out in Armenian territory, afterwards in occupied territories resulted in all Azerbaijanis living in these territories to become refugees and internally displaced persons. Armenian leadership doesn't return occupied Azerbaijani territories by peaceful settlement and doesn't give up its plans on establishment of the second Armenian state in those territories. Despite such difficult conditions a new draft law regulating alternative military service has been already prepared.

Registration of religious organizations (Paragraphs 63-67)

After amendments to the "Law on Freedom of Religious Belief", the State Committee on the Work with Religious Organizations of the Republic of Azerbaijan (SCWRA) has launched re-registartion process in order to conform constitutive documents of religious organizations to that standart-legal act. Furthermore, according to the current legislation the registration process of unregistered religious organizations are also realized. The same conditions have been created both for Islamic and non-Islamic religious organizations.

Other issues relating to the freedom of religion (Paragraphs 68-73)

Intervention of the police to religious rituals and detention of radicals are occured only when there is violation of law.

SCWRA in the framework of its powers provides religious expertise of religious literature, objects and other sources of information of religious character and controls their production and import. Import and dissemination of harmful religious literature, which serves to interreligious confrontation, dissemination of religious extremism and inhuman ideas, propaganda of intolerance to other religions and also straining of religious situation are prevented.

Import, production and dissemination of religious literature, video and audio materials which spreads violence and racism and xenophobia in the society are strictly prohibited.

The SCWRA didn't impose restrictions on any foreign citizen or religious organization. They are only demanded to function in the framework of the Law.

MEDIA (Paragraphs 54-58)

Although the report touches upon several positive tendencies in other spheres, the facts about the media sphere are fragmental. In particular, the report ignores media support efforts in the country, improving financial and technical base of mass media, the media-promotion steps taken by state to improve social conditions of the journalists. There are, according to the report, only two positives: one of them is about improvement of the "Code of Professional Ethics for Journalists of Azerbaijan", and the other is the reaction of Press Council to the article against Christianity published in a newspaper.

The report also underlines the absence of the complaints on ethnic and national ground made to the Press Council and the National Television and Radio Council. It further claims that according to some sources the situation is still as earlier, marking the negative impact of the press on the ethnic, national and religious minorities.

The document marks inconvenience on the use the statutes of the Criminal Code of the Republic of Azerbaijan against minorities and the journalists expressing their own point of view. Such way of approach (to equalize the representative of minority and journalist) is not right. It is impracticable and inadmissible at least for Azerbaijan. The question is that there are articles in the Criminal Code of the Republic of Azerbaijan on imprisonment of the journalist in the case of defamation (insult of dignity and honor). At the moment, several measures are being taken to form defamation conditions and bring the existing legislation of the Republic of Azerbaijan in conformity with defamation conditions.

The report underlines necessity of the editions to meet the interests of the groups of different ethnic, national, religious and other minorities. Based on unknown sources the report claims that the situation is not satisfactory as the Azerbaijani media covers the situation in the Republic of Armenia negatively. And, according to the report, this leads to discrimination of the people with Armenian origin in the Azerbaijan jurisdiction.

We would, therefore, underline some points in this regard:

1. In Azerbaijan, the media is independent and nobody can interfere with the activity of press, coverage of the questions concerning any topic, including religious and national minorities, in particular, the citizens with Armenian origin. If the media when touching to a topic ignores professionalism shows obvious bias and rage, then his behavior is assessed from the point of view of both the "Code of Professional Ethics For Journalists of Azerbaijan" and the legislature of the Republic of Azerbaijan. In such cases, the question is discussed at the Press Council who makes recommendations to the media organ and underlines inadmissibility of such behavior. For example, the owner of a newspaper with insignificant influence had published an article on national belonging of a person (Armenian) living in the same settlement. The person appealed to the Press Council. It was found out that there was not any social motive in coverage of the person's ethnic group and was simply non-professionalism. The edition had been warned and recommended to publish a refutation and make apology to the person and the recommendation had been realized;

2. There is not any fact related to the negative impact on the Armenians living in Azerbaijan of the negative coverage by the Azerbaijani mass media and the Armenians in Azerbaijan negatively regard the Republic of Armenia and its leaders, and therefore didn't leave the country and move to Armenia. Another reason of that is a normal civil attitude shown to them here. The Azerbaijani media adheres, too, the principles of peaceful co-existence. As it concerns the media materials about the Armenians living in Baku, the interest to their problems and daily life, these are undeniable facts and no journalist was persecuted for such activity. It is noteworthy that the country's media covers numerous aspects related to the life of Roma;

3. The negative position of the Azerbaijani media towards the Republic of Armenia is natural and understandable – 20 percent of the country's territories are under occupation, over 1 million of Azerbaijanis were ousted from their homelands. The world community turns a blind eye to these events, ignores the fact of occupation. Up to now, the Republic of Armenia disregards 4 Resolutions of the United Nations. The world states don't show active protest, and the materials of the Azerbaijani media serve establishment of justice and truth while the Republic of Armenia ignores international legal standards. And in these materials, the Armenian nationality was not underlined as negative factor, but the activities of Armenian lobby, the Armenian terrorist groups and the double standards by the world community were the object of criticism;

4. Both the Press Council and relevant governmental bodies recommend the media that they have to respect the people not for their nationality, race, sex, language, profession, religion, place of birth, and not mark such information without great necessity. The journalist has to esteem honor and dignity and privacy of the person. Facts of private life cannot be promulgated without consent of the person, and if they have no public significance. Prior to the nationality and membership of any religious section, the person is the citizen of country. And, generally, in Azerbaijan, the situation doesn't necessitate specific behaviour regarding any nation, including the Armenians, and there is no need of preparing such recommendations.

REFUGEES (paragraphs 111 and 112)

The Solution of problems of refugees and displaced persons has always been in center of attention of Mr. Ilham Aliyev, President of the Republic of Azerbaijan and systematic and appropriate measures have been taken in this sphere.

State Program for "Improvement of living conditions and raising of employment rate of refugees and displaced persons" approved by Order 298 of the President of the Republic of Azerbaijan dated July 1, 2004 and "Appendix" to this State Program approved by the Order 2475 dated October 31, 2007 played an important role in social protection of the refugees and displaced persons, in improvement of their living conditions. The last tent camp has been dissolved at the end of 2007.

Generally, 67 settlements and private houses, including 126 secondary schools, 4 music schools, 40 kindergartens, 45 medical stations, 33 communication houses have been constructed and given to the refugees and displaced persons within 2001-2010.

Funds amounting to 206,6 million manat has been spent for building of new settlements and construction of multistorey apartment buildings during 2009-2010 years.

Constructed settlements for the displaced persons and their entrance-exit ways is situated at least at a distance 10-15 kilometer from contact line of armed forces of Azerbaijan with Armenia and there is no danger for the life of peoples residing there.

649 million manat has been spent for the solution of social problems of refugees and displaced persons during 2009-2010 years.

Unlike the mentioned in the report, a majority of able-bodied displaced persons settled in the villages have possibilities to find a work. So, plot of lands of state and municipal lands allocated for displaced persons settled in village regions to establish own peasant farms.

In order to provide employment of the displaced persons, nearly 50 thousand ha plot of land has been assigned for them from state and municipal reserve funds for temporary utilization, 760 farming facilities which involved 45 thousand displaced persons have been established.

LABOUR RIGHTS (paragraphs 76-78 and 81)

The legislation of the Republic of Azerbaijan provides 7 business days for the processing of individual applications for issuance or renewal of work permit.

The applications for issuance or renewal of individual work permits are reviewed by the Ministry of Labour and Social Protection of Population as provided by the law and it is hardly possible to protract the decision to be made.

Labour migrants operating in the country and working in enterprises, agencies and organizations irrespective of organizational and legal status and who have established labour relations consistent with the requirements of the law enjoy the same labour rights as the resident employees of Azerbaijan and no complaint has been filed by labour migrants on the violation of labour rights.

II. NATIONAL/ETHNIC MINORITIES (paragraphs 102-109)

To present day, in Azerbaijan 47 NGOs relating to national (ethnic) minorities are registered.

From 01.07.2008 to 04.02.2011, birth of 4 children born to mother of Chechen with nationality of Russian Federation are registered.

From 01.07.2008 to 04.02.2011, birth of 6 children born to Roma parents and 3 children one of parents of which is rom are registered.

In all cases, when applicant submit the documents required by law, a birth is registered.