

APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Azerbaijan

ECRI wishes to point out that the analysis contained in its third report on Azerbaijan, is dated 15 December 2006, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Azerbaijan was subject to a confidential dialogue with the authorities of Azerbaijan. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the authorities of Azerbaijan requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

“Comments provided by the authorities of the Republic of Azerbaijan concerning ECRI's Second report on Azerbaijan

General comments

1. The authorities of Azerbaijan would like to express their support to ECRI'S valuable efforts to combating racism and intolerance in Europe. It should be recognized that ECRI's task to fight racism and intolerance has become extremely important over the last few years, within the changing modern societies we all live in. At the same time, we firmly believe that ECRI will continue to carry out its entrusted mandate with a co-operative, transparent and sincere dialogue with the countries involved.

Azerbaijan appreciates constructive dialogue with ECRI as well as experience and professional knowledge of its experts and representatives of the Secretariat who visited Azerbaijan in September 2006. We were pleased that they were able to meet a wide range of officials during their contact visit and that they also took the opportunity to visit Guba region to see at the local level how the Azerbaijani population is tolerant towards national minorities and religious groups.

The Azerbaijani authorities appreciate that in the Second report the progress in a number of areas has been recognized. The Government of Azerbaijan will take due account of ECRI's recommendations in order to make even better the situation in the field of fight against racism and intolerance.

Further, the Government would also like to thank ECRI for the adoption of a number of comments made by the Azerbaijani authorities to the draft of the Second Report, as well as for accepting some of the explanations which improved the text of the Report.

2. As another general comment, we wish to reiterate that we support ECRI's main task to monitor and increase the public awareness on problems of racism and racial discrimination within the Council of Europe's member states. However, we think that ECRI, making, in particular, conclusion on persistence in Azerbaijan of the negative climate against Armenians, should take into consideration the issues of political nature that are under discussion, at a bilateral or multilateral level, by the states involved, as well as the fact that about 20 percent of Azerbaijan's territory is still under Armenian occupation and 1 million of people in Azerbaijan are refugees and internally displaced persons.

It should be noted that in Azerbaijan various minorities had lived together with Azerbaijanis for centuries in peace and harmony. It should be stated that this ethnic and religious multiplicity has been preserved in Azerbaijan to the present day. It is a matter of fact that at no time in the history of Azerbaijan there have been recorded cases of religious or ethnic intolerance and discord or discrimination on ethnic or religious grounds. Azerbaijan has a long tradition of different religious communities living together in an atmosphere of tolerance. Representatives of different countries and international organizations have always mentioned this spirit of tolerance existing in Azerbaijan.

3. As a last general comment, we would like to point out that the report contains a series of generalizations and sometimes unfounded conclusions concerning incidents of discrimination or illegal behaviour of the Azerbaijani authorities towards either some social groups or individuals. Some reports and allegations provided to the ECRI by non-official sources and included in the report do not reflect the real situation and represent a misinformation due to the superficial assessment of the situation in Azerbaijan. It would be very helpful for examining and clarifying those allegations if ECRI could provide more detailed information about these reports.

Specific comments

4. Paragraph 20

The word “fact” used in the text is the strong judgment of ECRI and is not in conformity with the language of the paragraph 15 of the report, in particular, with its last sentence, and it doesn't reflect the real situation in the country.

5. Paragraph 36-37

These paragraphs contain conclusions of a very general nature, without specifying the concrete incidents. The Azerbaijani authorities requests ECRI to provide with information about what ECRI's conclusions on “existence of discrimination in Azerbaijan in daily life in forms which are often more discreet and indirect” are based on.

6. Paragraph 42

The authorities of Azerbaijan wish to point out that the Armenians cannot be referred to as "vulnerable" without careful examination of the situation in general. Such reference results in unbalanced approach.

7. Paragraph 45

Although the religious tolerance is positively assessed in the report, it is noted that, allegedly, there is discrimination and intolerance against non-traditional religious groups. The State Committee on Work with Religious Organizations explicitly points out that this information is based upon false information of some organizations with non-constructive position. No pressure was ever put on non-traditional religious groups. Measures have been taken on the regular basis by the State Committee to solve the problems of those groups. Several meetings have been held with representatives of religious minorities at the State Committee, their problems have been studied and ways of solution of those problems have been discussed. The meetings have been held with local and international NGOs in order to discuss the ways how provide the legal assistance to those religious groups and make sure that they enjoy of all religious freedoms. All requests made by representatives of religious minorities had been replied operatively.

Unfortunately, some non-traditional religious groups are not interested in cooperation with the state authorities, explicitly violate the rules and try to present it as religious intolerance when these violations are being prevented. For instance, the mentioned in the report the “Jehovah's Witnesses” group ignores the events dedicated to studying and resolving of religious minorities' problems, refuses to fulfill the requirements of the Law in its activity, in many times ignores the warnings and demonstrates an aggressive reaction. Another group “The Church of Love” tried to present as an example of intolerance and discrimination the fact that its registration has been canceled by a court decision for insulting at its meetings the religious senses of Muslims.

8. Paragraph 46

Despite the few members of non-traditional religious groups, those who applied for registration in accordance with the legislation are officially registered. There are no obstacles for the religious freedoms of the religious groups which are not even registered. For instance, although protestant groups who refused to be registered at the State Committee such as “Vivifying Mercy” and “Baku Bible Institution” as well as the above mentioned “The Church of Love” group have no registration, they perform their religious freedoms without any obstacle.

9. Paragraph 47

Although the explanations by the Azerbaijani authorities on some “radical and aggressive” religious groups are given in the report in a critical manner, there are serious grounds for those explanations. During the last years some persons belonging to some religious movements and groups have created the armed terror groups and were preparing terrorist acts in public buildings and representations of Western countries. For instance, an organization calling itself as “Al-Qaida Caucasus” were revealed and brought to the justice. Some of these groups (such as “Jeyshulla”) even succeeded in committing murders on religious ground before their arrest.

10. Paragraphs 64-65

The Azerbaijani authorities consider as groundless the allegations that the members of minority groups are more vulnerable to illegal behaviour by law enforcement officials.

11. Paragraph 75

The Azerbaijani authorities consider that it would be appropriate to be in conformity with the language of the PACE Resolution 1416 (2005) which contains the regret that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region of the Republic of Azerbaijan remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. About 20 percent of the territory of Azerbaijan is still under occupation of armed forces of the Republic of Armenia, and they are still exercising control over the Nagorno-Karabakh region of the Republic of Azerbaijan.

It should be also pointed out that the United Nations Security Council in its resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 11 November 1993 had condemned the occupation of the territories of the Republic of Azerbaijan, reaffirmed respect for the sovereignty, territorial integrity, and inviolability of the borders of the Republic of Azerbaijan and the inadmissibility of the use of force for the acquisition of territory. In our view, the phrase in the draft report that “Azerbaijan does not currently exercise effective control on Nagorno-Karabakh as well as on other parts of its territory adjacent to this region” in no way can reflect the existing situation resulting from the conflict. In fact not only the conflict itself but also especially the consequences of the conflict, including first of all the continuing occupation of considerable parts of the territory of Azerbaijan, affect negatively all spheres of country's daily life.

12. Paragraphs 80, 83 and 84

With regard to the ECRI's call on the Azerbaijani authorities to pursue a constructive dialogue with all the relevant national and international interlocutors, as well as reminding of the obligation of Azerbaijan undertaken on acceding to the Council of Europe, the authorities of Azerbaijan state the following.

Since February 1992 the process of mediatory efforts on the settlement of the Armenia-Azerbaijan Nagorno-Karabakh conflict within the framework of the Conference for Security and Cooperation in Europe began. At the meeting of the CSCE Council of Ministers held in Helsinki on 24 March 1992 the decision was adopted to convene in Minsk a conference on Nagorno-Karabakh under the auspices of the CSCE as an ongoing forum for negotiations towards a peaceful settlement of the conflict on the basis of the principles, commitments and provisions of the CSCE.

The United Nations Security Council had demanded as long ago as 1993 the immediate, complete and unconditional withdrawal of all occupying forces from the occupied areas of Azerbaijan.

Since May 1994 the cease-fire is in force. On December 5-6, 1994 at the CSCE Budapest Summit a decision was adopted, in accordance with which Heads of State and Government of CSCE participating States established Co-Chairmanship of the Minsk Conference for the coordination of all mediatory efforts within the CSCE framework. The Budapest Summit tasked the CSCE Chairman-in-Office to conduct negotiations aimed at the conclusion of a political agreement on the cessation of the armed conflict, the implementation of which would lift the consequences of the conflict and would permit to convene the Minsk Conference. The Summit also decided to deploy the CSCE multinational peacekeeping force after the achievement of the agreement between the Parties on the cessation of the armed conflict, as well as to set up High-Level Planning Group aimed at the preparation of the peacekeeping operation.

At the OSCE Summit held in Lisbon in 1996 the following principles were worked out for settling the armed conflict, recommended by the Co-Chairmen of the OSCE Minsk Group and supported by all the OSCE member states with the exception of Armenia:

- territorial integrity of the Republic of Armenia and the Republic of Azerbaijan;
- legal status of Nagorno-Karabakh defined in an agreement based on self-determination which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan;
- guaranteed security for Nagorno-Karabakh and its whole population, including mutual obligations to ensure compliance by all the Parties with the provisions of the settlement.

Since 1999 direct talks between Presidents of Armenia and Azerbaijan began. They did not result in the conflict settlement due to destructive position of the Armenian side. Up to now, despite unambiguous demands of the UN Security Council and other international organizations Armenia continues to occupy Azerbaijani territories and increases its military potential there.

13. Paragraph 85

As it was done in the previous report on Azerbaijan, the Azerbaijani authorities consider it as appropriate the mentioning of concerns at reports of actions which are detrimental to the exercise of human rights by the potential returnee population, such as the destruction of mosques and places of worship of the Azerbaijani displaced population of Nagorno-Karabakh region of the Republic of Azerbaijan.

14. Paragraphs 93-97

The Azerbaijani authorities wish to point out that there are, indeed, some problems with Russian citizens from Chechnya caused by impossibility to determinate their identity due to the fact that they arrive to Azerbaijan illegally. The issues of their access to healthcare and children's education are being solved.

15. Paragraphs 105-114

The Azerbaijani authorities state that this part of the report in present wording will give an opportunity for those who are not interested in restoration of peace and good-neighbourly relations in the region to use it in their own political agenda. In this regard the following information on some historical phases of the Azerbaijani-Armenian relations and the root causes of the present conflict makes the perception of information contained therein more balanced, though the deletion of the above-mentioned paragraphs could had a beneficial effect on the report in general.

It is well-known, that by 1918, the number of Azerbaijanis in the present-day Armenia stood at 575 000 - more than a third of all the inhabitants of the area. But as a result of the Armenian Government's deliberate policy of expelling the Azerbaijani population,

there remains today in Armenia not a single Azerbaijani out of that half million-strong community.

It is a matter of historical fact that between 1905 and 1907, 1917 and 1918, 1918 and 1920 a series of large-scale bloody actions had been carried out by Armenians against Azerbaijanis in various parts of Azerbaijan and present-day Armenia.

By the Decree of the President of the Republic of Azerbaijan of March 26, 1998 the Day of Genocide of the Azerbaijanis is commemorated every year in Azerbaijan on 31 March.

Over the 70-years of Soviet rule, the Armenia conducted a policy of building an "Armenia for Armenians only", expanding their territory at the expense of Azerbaijani lands and using every possible means to expel Azerbaijanis from their historical and ethnic lands. During this period, the aforementioned policy was implemented systematically and methodically.

While being even a part of the USSR, Azerbaijan faced the threat to its territorial integrity and security. During the Soviet times the territories of Zangezur, Goycha, a part of Nakhchivan and other regions were taken from Azerbaijan in favor of the neighboring Armenia. As a result, the territory of Azerbaijan that during the times of the Azerbaijan Democratic Republic (1918-1920) constituted 114 thousand sq. km. reduced to 86.6 thousand sq. km. On July 7, 1923 at the initiative of the Moscow leadership of the Bolshevik party, the Nagorno-Karabakh Autonomous region (NKAR) with dominating Armenian population was artificially set up at the territory of Azerbaijan. This decision became the first step on the way of goal-oriented policy of separation of Nagorno-Karabakh from Azerbaijan.

Furthermore, on the pretext of providing a labour force for the cotton-growing regions of the Mugan-Milsk steppe in the Azerbaijani SSR, the resettlement of Azerbaijanis from the territory of the Armenian SSR had been carried out in order to settle the vacated lands with Armenians coming from abroad.

Consequently, on December 23, 1947 the Council of Ministers of the USSR adopted Decision No. 4083 on resettling collective farm workers and other members of the Azerbaijani population from the Armenian SSR to the Kura-Araks lowlands of the Azerbaijan SSR. On March 10, 1947 the Council of Ministers of the USSR supplemented its first decision with decision No. 754, which had outlined the planned measures to resettle Azerbaijanis.

The first section of the decision of December 23, 1947 indicates that between 1948 and 1950. "on the basis of the voluntary principle", 100 thousand collective farm workers and other members of the Azerbaijani population living in the Armenian SSR were to be resettled in the Kura-Araks lowlands of the Azerbaijan SSR.

The reason for the haste in drawing up this decision is abundantly clear from one particular section of the decision, namely "to authorize the Council of Ministers of the Armenian SSR to use buildings and living accommodation vacated as a result of the resettlement of the Azerbaijani population to the Kura-Araks lowlands for the installation of Armenians coming from abroad".

All the necessary measures were taken to enforce the decision to drive Azerbaijanis from Armenia. In 1948 a total of 10 584 Azerbaijanis were resettled from Armenia in various regions of Azerbaijan. Between 1948 and 1950, 34 383 people were resettled from the Armenian SSR. Large-scale resettlement continued right up to Stalin's death in 1953 and only then the numbers begin to decrease. According to official records, 53 thousand Azerbaijanis were resettled in the Kura-Araks lowlands region alone. However, this is not a complete list of the people who were resettled or forced to migrate from Armenia. Most of the people resettled from mountain pasture in Armenia were unable to adapt to the

environment of the Mugan-Milsk steppe and either died or were forced to move on to other regions of Azerbaijan.

Thousands of Azerbaijani families were forced to flee not just to various regions of Azerbaijan, but also to other Republics of the USSR.

In February 1988, at the session of the regional Soviet of NKAR, without the participation of Azerbaijani deputies a decision was adopted on the withdrawal of the NKAR from Azerbaijan and its joining Armenia. On December 1, 1989 the Supreme Soviet (Parliament) of the Armenian SSR adopted a decree, which is still being in force, on the annexation of the Nagorno-Karabakh region of Azerbaijan to Armenia. This and other similar decisions of the Armenian side, aimed at the unilateral separation of a part of territory of Azerbaijan from it, contradicted the Constitutions of the USSR and Azerbaijan SSR, according to which the territory of a union Republic could not be changed without its consent. The borders between union Republics could be changed by mutual agreement of respective Republics, to be confirmed by the USSR.

Despite the affirmations of the Armenian side which, by spreading disinformation about alleged violations of the rights of persons belonging to the Armenian minority in Azerbaijan, tries to justify its aggressive policy towards Azerbaijan, the former NKAR, a number of residents in which before the conflict were 186,1 thousand (138,6 thousand Armenians (73,5%) and 47,5 thousand Azerbaijanis (25,3%)), had acquired all the basic elements of self-government and achieved considerable progress through its social, economic and cultural development.

In fact the NKAR was developing more rapidly than Azerbaijan as a whole. Accordingly, the statistics and NKAR's experience of development within Azerbaijan confirm that the form of autonomy which had evolved was entirely appropriate to the specific social, cultural, national and daily needs of the population of the autonomous region.

The mass expulsion since 1988 of Azerbaijanis, from NKAR and Armenia (there more than 200 thousand Azerbaijanis were expelled from Armenia) resulted in complete ethnic cleansing of these territories from all non-Armenians. The Soviet leadership was not able to stop anti-constitutional actions of Armenia and prevent from sending military units and terrorist groups to the territory of Azerbaijan.

In accordance with the Law adopted by the Supreme Soviet of the Republic of Azerbaijan on November 26, 1991 the NKAR had been abolished. One of the reasons of this decision was that the creation of NKAR had promoted deepening national enmity between the Azerbaijan and Armenian peoples.

Full-scale hostilities began to unfold end 1991/early 1992. Armenian armed units, using most sophisticated weapons systems, expanded their military operations in Nagorny Karabakh, the culmination of which were the seizure in February 1992 of the Khojaly town, resulted in deaths of over 600 civilians, including women, children and elderly people, occupation in May 1992 of the Shusha town and Shusha district. As a result of these actions, all Azerbaijani population was expelled from Nagorny Karabakh, which had been completely occupied. By the seizure of Lachin in May 1992, the territory of the former Nagorno-Karabakh Autonomous region was joined with Armenia.

Afterwards, the military operations have spread beyond the confines of the region and have extended to other territories of Azerbaijan outside the administrative borders of the region, as well as to the Azerbaijan-Armenia border. Six more districts were occupied by Armenia.

Taking into account the mentioned above, we request ECRI to take into consideration the fact that despite the cease-fire regime the two countries are still in a state of war and a part of Azerbaijan is still under the military occupation.

16. Paragraph 111

The mentioned in the paragraph negative climate doesn't result from the conflict over Nagorno-Karabakh region of the Republic of Azerbaijan directly, it comes from the painful consequences (occupation, death and injury of thousands of people, ethnic cleansing, about one million refugees and IDP's etc.) of the conflict for the Azerbaijani people.

It would be preferable to take out the last two sentences because they are not seemed appropriate in this paragraph, do not accord with the whole paragraph and represent completely different point.”