

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

CRI (2003) 3

European Commission against Racism and Intolerance

REPORT ON AZERBAIJAN

Adopted on 28 June 2002

Strasbourg, 15 April 2003



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

In December 1998, ECRI completed the first round of its country-by-country reports for all the member States of the Council of Europe at that time. In January 1999, ECRI began implementing the second stage of its country-by-country work. The second stage extends over four years (1999 – 2002) and again covers all member States of the Council of Europe with the aim of producing a minimum of ten individual country-by-country reports annually. This stage of ECRI country-by-country work therefore includes the preparation of a report on the situation as concerns racism and intolerance in Azerbaijan for the first time.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Azerbaijan took place on 25-28 March 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Azerbaijani national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Azerbaijani national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 28 June 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Azerbaijan has taken some positive steps over recent years which are relevant to combating racism and intolerance. These include the ratification of some international legal instruments of importance for combating racism and racial discrimination, the adoption of codes and other legislation containing anti-discrimination provisions as well as measures to improve provision of mother-tongue education for the members of national minorities. The adoption of a constitutional law establishing the Office of the Human Rights Commissioner also constitutes an important step which can enhance the protection of persons living in Azerbaijan from racism and racial discrimination.

The adoption of measures to tackle racism and racial, national, ethnic or religious discrimination is, however, somewhat limited by a general lack of awareness of the incidence and manifestations of these phenomena in the country. In Azerbaijani society, the notions of racism and discrimination appear to be limited to the most extreme and severe manifestations of these phenomena, whereas their most common manifestations tend to be overlooked. However, there are persons who experience direct and indirect discrimination in daily life in Azerbaijan, including refugees, foreigners, members of minority religious groups and Armenians. Discrimination is present across a range of areas. The role of the conflict over Nagorno-Karabakh in determining this situation and in limiting the response to these phenomena is stressed.

In the present report, ECRI recommends that the Azerbaijani authorities take action in a number of fields. These recommendations cover, *inter alia*: the need to become aware of the various dimensions of racism and racial, national, ethnic or religious discrimination as a preliminary step to the adoption of measures to combat these phenomena effectively; the need to fine-tune the relevant legislation, including the adoption of comprehensive anti-discrimination provisions; the need to address the situation of all refugees and the position of long-term foreign residents; the need to monitor the situation as concerns the exercise of freedom of religion; and the need to tackle the prevailing negative climate concerning Armenians.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. Azerbaijan has ratified several international instruments relevant in the field of combating racism and intolerance. On acceding to the Council of Europe in January 2001, Azerbaijan committed itself to signing and ratifying, within one year of its accession, the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Charter for Regional or Minority Languages and the European Charter of Local Self-Government. ECRI welcomes the ratification by Azerbaijan of the ECHR and its Protocols N° 1, 4, 6 and 7, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Charter of Local Self-Government. ECRI strongly encourages the Azerbaijani authorities to sign and ratify Protocol N° 12 to ECHR as soon as possible. As concerns the European Charter for Regional or Minority Languages, ECRI notes that ratification of this instrument, signed by Azerbaijan on 21 December 2001, is currently pending before the Parliament and encourages the Azerbaijani authorities to complete the necessary work in this respect as rapidly as possible.
2. On acceding to the Council of Europe, Azerbaijan also committed itself to signing the European Social Charter within two years of its accession, to ratifying it within three years of accession, and to strive forthwith to implement a policy consistent with the principles contained in the Charter. ECRI welcomes the signature by Azerbaijan of the European Social Charter (revised) on 18 October 2001. Ratification of this instrument is currently pending before the Parliament. ECRI hopes for a successful and timely conclusion of this process.
3. ECRI understands that the Azerbaijani authorities have given priority to the signature and ratification of those instruments listed in the commitments entered into by Azerbaijan on acceding to the Council of Europe. However, ECRI also encourages the Azerbaijani authorities to undertake, as soon as possible, the necessary work for signing and ratifying the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on the Legal Status of Migrant Workers. ECRI furthermore urges the Azerbaijani authorities to sign and ratify the UNESCO Convention against Discrimination in Education. Azerbaijan ratified the Framework Convention for the Protection of National Minorities on 26 June 2000.
4. In the course of 2001, Azerbaijan ratified the 1966 Optional Protocol to the International Covenant on Civil and Political Rights, allowing individual communications to be considered by the UN Human Rights Committee, and accepted Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, allowing individual communications to be considered by the Committee for the Elimination of Racial Discrimination. ECRI welcomes these developments and encourages the Azerbaijani authorities to ensure that the general public is well informed of the possibility of submitting individual communications to these committees.

5. In conformity with Article 148 of the Constitution, international instruments ratified by Azerbaijan become part of the domestic legal system and the provisions contained therein can therefore be applied directly in courts. According to Article 151 of the Constitution, in case of conflict between a ratified international agreement and domestic legislation (except the Constitution and instruments adopted by referendum), the provisions of the international treaty shall apply. Article 12 (2) of the Constitution states that human rights and freedoms enumerated in the Constitution shall apply in conformity with international treaties ratified by the Republic of Azerbaijan. ECRI encourages the Azerbaijani authorities to ensure that judges and the rest of the legal community are conversant with the provisions of international law binding on Azerbaijan.

B. Constitutional provisions and other basic provisions

6. Article 25 of the Constitution contains the principle of equality of all persons before the law and the courts. According to this article, the State guarantees equal rights and freedoms to every person irrespective of, inter alia, race, nationality, religion, language, sex, origin and convictions. Restrictions of rights and freedoms of persons or citizens on the basis of these grounds are prohibited.
7. Article 47 of the Constitution, which enshrines freedom of thought and speech, provides that propaganda provoking racial, national, religious and social discord and animosity is prohibited.
8. According to Article 45 of the Constitution of Azerbaijan, everyone has the right, and nobody may be deprived of the right, to use his or her mother tongue. Everyone has the right to be educated, carry out creative activity in any language, as desired.
9. Further relevant provisions of the Constitution include Article 35 (4), which stipulates that everyone has the right to work in safe and healthy conditions and be remunerated for his or her work without discrimination, and Article 44, which stipulates that everyone shall have the right to keep and nobody shall be forced to alter, his or her national/ethnic affiliation. ECRI also notes that, on 18 June 2002, the Parliament of Azerbaijan adopted in its first reading a Constitutional Law on the Implementation of Human Rights and Freedoms in the Republic of Azerbaijan, which partly incorporates the substantive provisions of ECHR and its Protocols.

- *Citizenship law*

10. Azerbaijan adopted a new citizenship law in September 1998, whose Article 3 reflects the constitutional principle of equality with respect to rights and duties of the citizens of Azerbaijan. Article 5 of the citizenship law conferred citizenship, inter alia, to stateless persons who had been registered in a place of residence in Azerbaijan until 1 January 1992 if they applied within one year of the entry into force of the Law, and to refugees who had been settled in Azerbaijan from 1 January 1988 to 1 January 1992. On the basis of these provisions, Azerbaijani refugees from Armenia, most Meskhetian Turks and most formerly stateless political refugees from Iran were reportedly able to obtain citizenship.

11. Article 14 of the citizenship law sets out the necessary criteria to apply for naturalisation: five years of residence in Azerbaijan and the knowledge of the State language. The Azerbaijani authorities have stated that, since the entry into force of the Law and the adoption of the relevant regulations, 48 persons have obtained Azerbaijani citizenship through naturalisation. Although the motivation for the decisions on the applications for naturalisation should, by law, be provided to applicants, there are reports that some applicants have been refused naturalisation without being explained the reasons of such refusal¹. ECRI strongly urges the Azerbaijani authorities to ensure that all applicants are thoroughly informed of the motivations for the decisions on their applications.

- Legislation on National Minorities

12. At present, no specific statutory legislation exists in Azerbaijan concerning the rights of national minorities. The rights of national minorities are therefore protected on the basis of the relevant constitutional provisions, primary legislation not specifically dealing with this issue and a 1992 Presidential Decree “On the Protection of the Rights and Freedoms of, and State Support for the Development of the Language and Culture of, National Minorities, Numerically Small Peoples and Ethnic Groups Living in the Azerbaijani Republic”.
13. On acceding to the Council of Europe, Azerbaijan committed itself to adopting, within three years of its accession (i.e. before 25 January 2004), « a law on minorities which completes the provisions on non-discrimination contained in the Constitution and the Criminal Code and replaces the presidential decree on national minorities ». ECRI encourages the Azerbaijani authorities to prepare such legislation in close co-operation with the Council of Europe and other relevant interlocutors at national and international level and to adopt it as soon as possible.

C. Criminal law provisions

14. Azerbaijan adopted a new Criminal Code in 1999. Article 61 of the Code stipulates that an offence committed on the basis of racial, national or religious hatred is considered to have been committed under aggravating circumstances. Article 111 of the Code prohibits: spreading ideas about the superiority of one race over another; advocating racial hatred or instigating racial discrimination; any activity with the purpose of arousing hostility or dissension among races, religions or nationalities; and the direct or indirect restriction of rights or the establishment of direct or indirect privileges for citizens on the basis of the races, religions or nationalities to which they belong. Article 111 furthermore prohibits as specific offences the premeditated murder and infliction of serious injuries motivated by racial, religious, national or ethnic intolerance. Article 109 prohibits as a crime against humanity persecution of a group of people or organization on the basis of a difference in race, colour of skin, nationality, ethnic cultural or religious appurtenance, that is a gross violation of fundamental rights of persons because of their belonging to such groups or organisations. Articles 103 and 104 furthermore prohibit acts of genocide. The penalties provided for in case of breach of the provisions contained in Articles 103, 104

¹ See below, *Reception and status of non-citizens – Long-term residents*

and 111 is imprisonment from 10 to 15 years or for life. Article 154 of the Criminal Code punishes violation of the equality of citizens. Article 283 of the Criminal Code prohibits acts aimed at incitement to national or religious hatred and debasing of national dignity and discrimination.

15. There have been no cases of application of these provisions to date. ECRI considers that it is essential that specific training on the relevant provisions against racism and racial discrimination be provided to all actors involved in the criminal justice system, from the police to the prosecuting authorities and the judges. As concerns more specifically discrimination, ECRI stresses that the adoption of comprehensive civil and administrative legal provisions would also be essential to effectively counter this phenomenon².

D. Civil and administrative law provisions

16. The principle of non-discrimination on the basis of, inter alia, a person's sex, race, nationality, language, origin and religion is reflected in a number of legal provisions contained, for example, in the Code of Civil Procedure and in the laws on parliamentary, municipal and presidential elections. This principle is also contained in legislation regulating certain sectors, such as labour legislation³. However, in Azerbaijan there are currently no comprehensive civil and administrative anti-discrimination provisions covering discrimination in different fields of life such as education, employment, housing, access to public and social services and public places and contractual relations between individuals, and providing for effective mechanisms of enforcement and redress. ECRI encourages the Azerbaijani authorities to consider the adoption of such provisions. As will be discussed below⁴, ECRI stresses the fundamental role that a specialised body on combating racism and intolerance could play in supervising the implementation of such anti-discrimination legislation. ECRI furthermore believes that the debate around the adoption of such legislation would stimulate research covering the phenomena of direct and indirect discrimination and discrimination in the private sphere as well as the extent to which these may be present in Azerbaijan, as there appears to be a lack of awareness of these issues in society in general⁵.
17. Since 1994, the law provides that identification documents and passports do not contain the indication of the ethnic origin of the holder. ECRI understands that the Azerbaijani authorities intend to remove the indication of ethnic origin from birth certificates as well. ECRI welcomes this plan and encourages the Azerbaijani authorities to carry it out as soon as possible.

² See below, *Civil and administrative law provisions*

³ See below, *Employment*

⁴ *Specialised bodies and other institutions*

⁵ See below, *General awareness of racism and racial discrimination*

E. Administration of justice

18. It is generally reported that the judicial system in Azerbaijan does not yet function in a fully effective and impartial manner. Problems persist as concerns the independence and professionalism of the courts, the enforcement of decisions and the infrastructure needed to support the judiciary, such as the police and State administration. Problems of corruption, which the Azerbaijani authorities recognise to be a phenomenon present in different areas of public life in Azerbaijan, also concern the judicial system. This situation affects the application of legislation in the area of racism and discrimination as it does legislation in other areas. ECRI urges the Azerbaijani authorities to continue and strengthen their efforts to develop an independent and effective judiciary, which will enhance protection from infringement of all rights of persons living in Azerbaijan, including the right to be free from racism and discrimination.

F. Specialised bodies and other institutions

19. On acceding to the Council of Europe, Azerbaijan committed itself to adopting, within one year of its accession (i.e. before 25 January 2002), a law on the Ombudsman. On 28 December 2001, the Parliament of Azerbaijan adopted a Constitutional law establishing the Office of the Human Rights Commissioner (hereafter: Ombudsman). The Office of the Ombudsman is expected to begin functioning as soon as a person is elected to this post and budget and facilities are allocated to it. The Ombudsman has the power to investigate the complaints of any person, to issue non-binding recommendations and to propose measures when he or she observes violations of human rights and freedoms by the public administration. The Ombudsman may act on his or her own initiative as well as upon the instigation of individuals and non-governmental organisations.
20. ECRI welcomes these developments, hopes that a Human Rights Commissioner will soon be elected, and urges the Azerbaijani authorities to ensure that sufficient funds are allocated to the Office of the Human Rights Commissioner in order that it may effectively carry out its mandate. ECRI stresses that it is essential that this institution is widely known within Azerbaijani society and encourages the Azerbaijani authorities to make all possible efforts in this respect.
21. ECRI also draws the attention of the Azerbaijani authorities to its general policy recommendation No 2 ("Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level"), in which it stresses the important role played by specialised bodies, such as commissions or ombudsmen, in combating racism and discrimination and promoting equality of opportunity of all groups in society. Specialised bodies play a fundamental role in providing an effective means of redress for cases of discrimination and in supervising the implementation of legislation against discrimination; they are also essential to revealing hidden patterns of discrimination in various fields. ECRI therefore encourages the Azerbaijani authorities to draw inspiration from the above-mentioned policy recommendation and consider the possibility of developing the competence of the Human Rights Commissioner in this field, especially in the context of the possible adoption of comprehensive anti-discrimination legislation, as suggested above.

G. Education and training/awareness-raising

22. Civic education, which includes education in Human Rights, is compulsory in grades 8th to 11th. In addition, it is being piloted as extra-curricular activity in different primary schools. ECRI understands that an overall reform of the education system is currently being put in place in Azerbaijan. In the context of this reform, ECRI encourages the Azerbaijani authorities to devote particular attention to the development of the Human Rights dimension in school curricula for primary and secondary education with particular emphasis on the principles of equality and non-discrimination and the notion of tolerance and respect of difference. ECRI considers that the general goal should be to make the teaching of these subjects compulsory at the primary and secondary level. Initial and, possibly, on-going specialist training should be provided to teachers of these subjects.
23. The development of the Human Rights dimension also requires regular review of school curricula and textbooks across all subjects – with a particular emphasis on history teaching -- to ensure that these do not perpetuate prejudice and stereotypes or favour the development of extreme nationalist, racist or otherwise intolerant attitudes in school children. ECRI encourages the Azerbaijani authorities to ensure that such a review cover possible prejudice and stereotypes *vis-à-vis* the groups mentioned in Section K of this report.

H. Reception and status of non-citizens

- Refugees and asylum seekers

24. As mentioned below⁶, as a result of the conflict over Nagorno-Karabakh there are at present hundreds of thousands of refugees and internally displaced persons, for the most part ethnic Azerbaijani, on the territory of Azerbaijan presently under the control of the Azerbaijani authorities⁷. A State Committee on Work with Refugees has been established to help solve the problems faced by these persons. In addition to these refugees and internally displaced persons, there are about 7,000 refugees, coming mostly from the Chechen Republic of the Russian Federation but also from other countries in the region such as Iran and Afghanistan, and smaller numbers of refugees from further away. These persons are at present dealt with directly by the United Nations High Commissioner for Refugees (UNHCR). Although a law on refugees exists, Azerbaijan has not yet enacted a refugee determination procedure. Asylum seekers with UNHCR cards are reported to be generally tolerated; nevertheless, their presence in Azerbaijan remains illegal, a situation which makes them more vulnerable to possible abuse from the authorities. Since these persons are not entitled to any kind of assistance, nor to seek employment, they often live in conditions of extreme poverty. Further problems include access to medical services and access to school⁸. ECRI is also concerned at reports that, especially after 11 September 2001, refugees

⁶ See *Situation resulting from the conflict over Nagorno-Karabakh*

⁷ The Azerbaijani authorities give a figure of about 1,000,000. The United Nations High Commissioner for Refugees gives a figure of about 810,000.

⁸ See below, *Access to public services – Access to education*

arriving at the borders of Azerbaijan have been routinely sent back without being given a possibility to apply for asylum.

25. ECRI is aware of the very difficult humanitarian situation presently prevailing in Azerbaijan; however it encourages the Azerbaijani authorities to strengthen their efforts to cater for the primary needs of all refugees present on the territory of Azerbaijan. In this respect, ECRI urges the Azerbaijani authorities to continue to co-operate with UNHCR in order to establish a refugee determination procedure, thereby allowing the full application of the law on refugees. Noting reports of intolerant speech present in the media targeted at refugees from countries in the region, ECRI also encourages the Azerbaijani media profession to ensure a more balanced reporting of events and to refrain from the use of discourse which may fuel hostility and animosity *vis-à-vis* refugees and asylum-seekers⁹.

- **Long-term residents**

26. Although exact figures are not available, there are a few thousands foreigners from countries in the region who have been living in Azerbaijan for many years. These persons are mainly Afghan men married to Azerbaijani women, often with children. Many of these long-term residents have managed to secure permanent residence permits, and are therefore entitled to all basic rights on an equal footing with Azerbaijani citizens, although, lacking Azerbaijani passports, they cannot travel abroad. However, a certain number of long-term residents have not managed to secure any legal status. Long-term residents without status include persons who do not possess personal documentation or cannot prove their marriage with Azerbaijani citizens. In spite of the long time spent living in Azerbaijan and their family ties there, the lack of legal status puts these persons in a particularly precarious and vulnerable situation, including at risk of being deported. ECRI urges the Azerbaijani authorities to ensure that all foreigners who are long-term residents of Azerbaijan are able to secure legal status.
27. Very few long-term residents have managed to obtain citizenship of Azerbaijan. The Azerbaijani authorities have stated that most of the persons who have applied for naturalisation were rejected as they did not fulfil the 5-year residence requirement. However, applicants complain that the decisions rejecting their applications do not contain the justification of the refusal. ECRI underlines once more in this context the need for transparency as concerns the naturalisation procedure¹⁰ and stresses that long-term residents should be able to secure citizenship, in conformity with the law.

I. **Access to public services**

- **Access to education**

28. The Azerbaijani authorities have stated that all children in Azerbaijan are entitled to go to school, irrespective of their legal status. There have been reports, however, that children of Chechen refugees have been refused access

⁹ See below, *Media*

¹⁰ See above, *Constitutional provisions and other basic provisions – Citizenship law*

to schools. ECRI urges the Azerbaijani authorities to ensure that the right of all children in Azerbaijan to go to school is respected in practice.

29. Azerbaijan has a two-tier system of education in Azerbaijani and Russian at all levels of education. In schools located in areas of compact settlement of minorities there are classes taught in the language of the national minorities (Lezgin, Tatok, Talysh and other). There are at present no schools with classes in the Armenian language on the territory of Azerbaijan under the effective control of the Azerbaijani authorities. The Government funds the publication of textbooks in Russian, Kurdish, Lezgin, Tatok, Tsakur and Talysh. ECRI encourages the Azerbaijani authorities to keep the situation as concerns availability of mother tongue education under review and to ensure that it reflects the genuine demand of the minority population.

J. Employment

30. The Labour Code and the Law on Employment provide that in offering employment and in defining the rights and duties arising from employment, employees shall not be discriminated against on the grounds of sex, nationality, race or religion. Infringement of this and other relevant provisions entail administrative (Article 53 of the Code of Administrative Offences) as well as criminal (Article 162 of the Criminal Code – Violation of labour protection rules) responsibility. A State Labour Inspection supervises the implementation of the labour legislation, including the provisions prohibiting discrimination. ECRI has not been made aware of any cases where such provisions have been used. However, the practice of favouritism as described below¹¹, leads ECRI to think that there are persons in Azerbaijan who may be vulnerable to discrimination on the labour market. ECRI urges the Azerbaijani authorities to promote research in the phenomenon of direct and indirect discrimination in employment¹² and stresses that employment should be one of the areas covered by the body of comprehensive civil and administrative anti-discrimination provisions suggested above¹³.

K. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- Armenians

31. See Section II of this report.

¹¹ See below, *General awareness of racism and racial discrimination*

¹² See below, *Monitoring the situation in the country and General awareness of racism and discrimination*

¹³ *Civil and administrative law provisions*

L. Religious groups

32. Around 90% of the population of Azerbaijan practice Islam as their religion. The rest of the population include Christians (Orthodox, Catholic and Protestant), Jews and believers of other religions.
33. A State Committee for Work with Religious Associations was established in June 2001 to carry out government policy in the sphere of religion, supervise the observance by the religious associations of legislation concerning religious matters, and improve communication between the religious associations and the executive authorities. While the tasks of the Committee include countering all illegal acts in the sphere of religion, the Azerbaijani authorities have stated that the work of the Committee is particularly important for countering the unlawful activities of non-traditional Christian and Muslim associations.
34. In 2002, all religious associations in Azerbaijan, which were previously registered with the Ministry of Justice, were required to re-register with the State Committee. The process of registration, which, at the time of writing, is not yet finalised, has been subject to criticism by some religious associations as well as by some Human Rights observers. The Azerbaijani authorities have stated that all care has been taken to make religious associations aware of the need to re-register and to ensure transparency as concerns the necessary documentation to be submitted for registration. However, there are reports indicating that some religious associations have suffered from lack of information on the need to re-register and on the relevant documentation to be submitted.
35. At the time of writing, of the 406 religious associations previously registered with the Ministry of Justice, 125 have been re-registered, around 100 have their applications still under review and 2 have been refused. Many of the previously registered religious associations, mainly of Muslim faith and located in the regions, have not applied for re-registration. The Azerbaijani authorities have stated that the associations which, at the end of the process, will not secure registration will still be able to exist and function, although they will be excluded from certain privileges recognised only to registered associations and which are connected to possession of the status of legal person, such as the right to open a bank account or apply for real estate. However, there are reports that the police and local authorities have obstructed meetings of religious associations, with or without registration. ECRI urges the Azerbaijani authorities to look into these allegations and to take appropriate action.
36. Article 22 of the law on freedom of religious beliefs stipulate that religious associations must seek permission from the State Committee before publishing, importing or disseminating religious literature and other religious material. There have been legal suits against religious associations violating such provisions. The Azerbaijani authorities have stated that these provisions are necessary to prevent dissemination of inflammatory religious material. ECRI stresses that the need to prevent dissemination of such material should not result in the infringement of the right of members of religious groups to practice their religion through lawful means.
37. ECRI is also concerned at reports that minority religious groups are often the target of hostile and stigmatising propaganda in the media, particularly the press. The State Committee has stated that it has taken action against newspapers which have used this type of propaganda. ECRI underlines that the

use by the media profession of a discourse which may fuel hostility and animosity *vis-à-vis* minority religious groups runs counter to the role the media could play in promoting tolerance and respect of difference¹⁴.

M. Monitoring the situation in the country

38. There appears to be a lack of reliable data concerning the situation of the various groups in Azerbaijani society across a number of fields of social and economic life, and concerning the incidence of discrimination. ECRI believes that the absence of such data negatively affects Azerbaijani society's level of awareness of discrimination¹⁵. The Azerbaijani authorities have stated that collection of data broken down by national origin, for instance in such fields as employment, is not necessary, as any imbalances which may be found are not due to discrimination. However, ECRI stresses that the collection of this type of data is important to help uncover and remedy any problems, including differences related to direct or indirect discrimination¹⁶. Such system should pay due respect to the principles of confidentiality and voluntary self-identification of persons as belonging to a particular group.

N. Conduct of law enforcement officials

39. It is generally acknowledged that the conduct of Azerbaijani law enforcement officials is often not in conformity with the full respect of human rights of all persons. There are widespread reports of ill-treatment, arbitrary arrest, detention, searches and seizures, extortions and corruption as well as of a general lack of reaction against the officers who are responsible for these acts. Abuses are particularly likely to be committed during the first 48 hours of custody. Although this appears to be a general phenomenon, ECRI is concerned that some groups of persons may be comparatively more vulnerable to this type of behaviour on the part of the members of the police. As mentioned in other parts of this report, the position of the members of minority religions and foreigners without legal status appears to ECRI to be a particularly vulnerable one.
40. ECRI considers that, in order to address this situation, action should be taken to improve the mechanisms to process complaints of unlawful behaviour on the part of law enforcement officials. ECRI notes that a Special Directorate exists within the Ministry of Internal Affairs which examines alleged infringements of citizens' rights and freedoms by the police and refers cases involving criminal liability to the General Prosecutor. However, ECRI encourages the Azerbaijani authorities to consider the establishment of an independent commission which would investigate all allegations of human rights violations by the police and initiate, as necessary, criminal and disciplinary proceedings. ECRI also hopes that the Office of the Human Rights Commissioner will play an active role in this area.

¹⁴ See below, *Media*

¹⁵ See below, *General awareness of racism and racial discrimination*

¹⁶ See above *Employment* and see below *General awareness of racism and discrimination*

41. ECRI notes that human rights are integral part of the educational curriculum of the National Police Academy and that they also feature in regular in-service training provided to police officers. ECRI strongly encourages the Azerbaijani authorities to strengthen both initial and on-going training of the police in human rights and non-discrimination. ECRI stresses that such training should be provided to all members of the police, including police officers of lower ranks. In this respect, ECRI notes with interest that the Ministry of Justice plans to use a United Nations Development Programme grant for police training and strongly urges the Azerbaijani authorities to ensure that human rights feature prominently in this initiative.

O. Media

42. ECRI notes that the printed media in Azerbaijan has sometimes resorted to sensationalist reporting on issues relating to certain minority groups, such as members of religious minorities and refugees and that they have contributed to spreading hostile and stigmatising attitudes *vis-à-vis* the members of these groups. ECRI stresses that the media has an important role to play in creating an atmosphere of general tolerance and understanding between the different segments of society and hopes that the media profession in Azerbaijan will take measures to ensure it contributes to promoting such a climate. In this respect, ECRI strongly supports the adoption and implementation by the media profession of codes of self-conduct which would favour a more responsible type of reporting. ECRI also invites the authorities to support initiatives undertaken by members of the civil society and the media profession itself in the field of interest to ECRI.

P. Situation resulting from the conflict over Nagorno-Karabakh

43. For now over a decade, Azerbaijan has been involved in an armed conflict over the Nagorno-Karabakh region, a part of the territory of Azerbaijan mainly populated by ethnic Armenians. At present, no ethnic Azerbaijani reportedly still live in this region. As a result of this conflict, which has left thousands of both civilians and military dead, Azerbaijan does not currently exercise effective control on Nagorno-Karabakh as well as on other parts of its territory adjacent to this region. Another consequence of this conflict is the presence of hundreds of thousands refugees and internally displaced persons on the territory of Azerbaijan under the control of the Azerbaijani authorities. These include refugees from Armenia and persons displaced from Nagorno-Karabakh and the adjacent regions, who are still unable to return to their homes. Although other nationalities are also represented among these persons, the vast majority of the refugees and displaced persons are ethnic Azerbaijani.
44. In order to favour the full reconciliation of all people living in the region, the restoration of mutual confidence among the members of the different communities and, ultimately, allow the return of all refugees and displaced persons to their homes in the full respect of their rights and dignity, ECRI calls on the Azerbaijani authorities to pursue a constructive dialogue with all the relevant national and international interlocutors with a view to solving the conflict. In this respect, ECRI notes that, on acceding to the Council of Europe, Azerbaijan undertook the obligation « to continue efforts to settle the conflict by peaceful means only » and « to settle international and domestic disputes by

peaceful means and according to the principles of international law [...], resolutely rejecting any threatened use of force against its neighbours »¹⁷.

- **Areas currently not under the effective control of the Azerbaijani authorities**

45. As noted above, the current situation prevents ECRI from covering the position of populations living in Nagorno-Karabakh and the occupied territories around this region, as these parts of the territory of Azerbaijan are currently not under the effective control of the Azerbaijani authorities, to which the present report is addressed. In the framework of its mission, however, ECRI registers its deep concern at reports of serious human rights violations in these areas. It is not clear to ECRI whether any persons other than members of ethnic Armenian communities are still present in these territories. ECRI is deeply concerned, however, 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 non-Armenian displaced population of Nagorno-Karabakh.

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Azerbaijan, ECRI would like to draw attention to the need for general awareness of racism and discrimination and to the negative climate concerning Armenians.

Q. General awareness of racism and racial discrimination

46. Azerbaijan continues to be in a process of consolidation of its adherence to pluralist democracy, rule of law and respect of human rights. Such transition is reflected in ongoing changes across all spheres of life, including the legal, political, economic and social spheres. However, such changes are rendered more difficult by different factors, including the situation resulting from the conflict over Nagorno-Karabakh. In this context, problems of racism and racial discrimination are not generally considered to be the main concerns for members of the Azerbaijani society and there is a corresponding lack of awareness of these issues.
47. The very notions of racism and of racial, national, ethnic or religious discrimination are generally understood in a very restrictive way, so as to apply solely to the most blatant and overt forms of such phenomena. This restrictive approach appears to be common among both public authorities and the general public. The lack of cases brought under the relevant provisions of the Criminal Code and other existing provisions in civil and administrative law is generally interpreted by the Azerbaijani authorities as indicating that racism and racial, national, ethnic or religious discrimination do not exist in Azerbaijan. However,

¹⁷ *Opinion N°222 (2000), para 14, ii, a and b, Parliamentary Assembly of the Council of Europe (21st sitting), 28 June 2000*

ECRI believes that discrimination in daily life is overlooked by both the legislation and society at large.

48. ECRI considers that in Azerbaijan, as in most other countries, discrimination is unfortunately a phenomenon present in society. Although such phenomenon may not always manifest itself in an obvious, direct and overt manner, it does exist in daily life in forms which are often more covered and indirect. For instance, although the legislation in force in Azerbaijan may not contain discriminatory provisions, discrimination can sometimes be present in the way in which legal provisions are applied in practice. Also, due to stereotyping and prejudice concerning them, persons belonging to certain minority groups may not actively seek access to or full enjoyment of, certain rights. This is the case, for instance, of the Armenian population of Azerbaijan but also of other groups such as certain religious minorities. Furthermore, provisions, criteria and practices which are apparently neutral and do not discriminate directly, can still put persons of a specific group at particular disadvantage. An illustration of this comes from the practice of favouritism, corruption and bribes which is widely recognised as prevalent in Azerbaijani society. It is not infrequent that, in order to benefit from a service or to avoid adverse treatment in a specific situation, one must either be closely linked to someone who works within the public administration or pay a bribe. Such practice benefits those with family members and close friends in public institutions and disadvantages those without connections and unable to pay, amongst whom members of minority groups are often comparatively more represented.
49. ECRI considers that there is an urgent need for the Azerbaijani authorities and society in general to become aware of the various dimensions of racism and racial, national, ethnic or religious discrimination in daily life in Azerbaijan. A thorough understanding of the ways in which these phenomena work and an acknowledgment of their presence in society are necessary preliminary steps towards the adoption of adequate policies and legislation to counter them. Research and awareness-raising measures are obviously essential in this respect. Just as an example, ECRI notes that, when members of minority groups suffer disadvantage in Azerbaijan, the link to discrimination is not always immediately obvious, particularly since ethnic Azerbaijani often face similar difficulties. ECRI believes that research on the socio-economic situation of members of different minority groups could help the Azerbaijani authorities to assess the extent to which any imbalances found in such situations might be connected to racial, ethnic, national and religious prejudice and discrimination. The adoption of comprehensive and effective legislation against racism and racial discrimination, as suggested in other parts of this report, would obviously also be an important goal and stimulate the debate around these questions.

R. Negative climate concerning Armenians

50. As mentioned above, the conflict over Nagorno-Karabakh has resulted in a massive displacement of persons. Thus, most of the Armenian population of Azerbaijan left their homes during the conflict¹⁸. Today, other than the Armenians living in Nagorno-Karabakh and in the occupied territories of

¹⁸ According to the 1989 census, the total population of Azerbaijan (7,631,600) comprised 390,500 Armenians.

Azerbaijan, only some 20,000 Armenians - almost exclusively persons married to Azerbaijanis or of mixed Armenian- Azerbaijani descent -- still live in Azerbaijan.

51. Due to the conflict, there is widespread negative sentiment towards Armenians in Azerbaijani society today. As a result, the Armenians today living on the territory of Azerbaijan under the effective control of the Azerbaijani authorities tend to shield their ethnic identity or, in any event, avoid exposing it publicly. For instance, there is no Armenian national cultural association, no school providing education in the Armenian language and none of the Armenian Orthodox churches are functioning. The Azerbaijani authorities have stated their readiness to support any requests on the part of the Armenian population to establish such associations and schools or to resume the use of the churches, but stress that no requests in this sense have been made. ECRI considers that such lack of initiative on the part of the Armenian population is a sign of the negative climate prevailing in Azerbaijani society *vis-à-vis* Armenians.
52. Although there are instances of public figures making positive statements and trying to defuse tension – such as public rejection of views upholding the collective guilt of Armenians for the conflict over Nagorno-Karabakh and calls for justice for Armenians living in Azerbaijan – in other cases, public institutions have contributed to fuel sentiments of animosity *vis-à-vis* Armenians. In general, hate-speech and derogatory public statements against Armenians take place routinely. In fact, the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived as an insult, as illustrated by trials for slander and insult opened by public figures against persons who had publicly and falsely alleged their Armenian ancestry.
53. Armenians today living on the territory of Azerbaijan under the effective control of the Azerbaijani authorities are reported to have experienced discrimination in different fields, including employment and the exercise of property rights. One of the main problems remains the seizure of their apartments by Azerbaijani refugees from Armenia, internally displaced persons or criminals. Judicial proceedings opened by Armenians trying to protect their property have reportedly not led to the restoration of their rights. Armenians are also reported to have suffered from harassment at schools and at the workplace and to have been refused pensions or renewal of permits to live in Baku by local government authorities. There are also reports that low-level officials seeking bribes harassed Azerbaijani citizens of Armenian origin who sought to emigrate or obtain passports.
54. ECRI urges the Azerbaijani authorities to ensure an adequate response to all instances of discrimination and hate-speech against members of the Armenian population, including through the use of the relevant legal provisions. It also encourages the Azerbaijani authorities to contribute more actively to generating a climate where Armenians may not feel threatened when exposing their identity publicly.
55. ECRI believes that a solution of the conflict over Nagorno-Karabakh would impact positively on the general sentiment of the Azerbaijani population *vis-à-vis* the Armenians, including those living at present on the territory of Azerbaijan under the effective control of the Azerbaijani authorities. ECRI expresses its hope that such a solution will be reached soon. In this respect, ECRI notes that the Committee of Ministers of the Council of Europe has stressed the need « to

avoid any statements in favour of a military solution or likely to strengthen enmity and hatred ». ECRI also stresses that situations of tensions between communities are better avoided if the process leading to the identification of a peaceful solution to the conflict is as transparent as possible, i.e. if people are informed in a balanced way and prepared. ECRI furthermore stresses that a return to life together in an atmosphere where human rights are respected can only be brought about through the gradual re-establishment of contacts and through the restoration of mutual trust between the different communities. In this respect, ECRI expresses concern at the lack of opportunities available at present for the members of civil society throughout the territory of Azerbaijan and beyond, to resume dialogue. Pending the identification of a peaceful solution to the conflict, ECRI therefore urges the Azerbaijani authorities to support opportunities for civil society to meet.

BIBLIOGRAPHY

This bibliography lists the main published sources used during the examination of the situation in Azerbaijan: it should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

1. CRI (96) 43: ECRI general policy recommendation n°1: Combating racism, xenophobia, antisemitism and intolerance, European Commission against Racism and Intolerance, Council of Europe, October 1996
2. CRI (97) 36: ECRI general policy recommendation n°2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, European Commission against Racism and Intolerance, Council of Europe, June 1997
3. CRI (98) 29: ECRI general policy recommendation n° 3: Combating racism and intolerance against Roma/Gypsies, European Commission against Racism and Intolerance, Council of Europe, March 1998
4. CRI (98) 30: ECRI general policy recommendation n°4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, European Commission against Racism and Intolerance, Council of Europe, March 1998
5. CRI (2000) 21: ECRI general policy recommendation n° 5: Combating intolerance and discrimination against Muslims, European Commission against Racism and Intolerance, Council of Europe, April 2000
6. CRI (98) 80: Legal measures to combat racism and intolerance in the member States of the Council of Europe, ECRI, Strasbourg, 1998
7. Law on Freedom of Religious Beliefs, 20 August 1992
8. Law on the Status of Refugees and Forcibly Displaced Persons (Persons Displaced within the Country), 21 May 1999
9. Law on Citizenship of the Republic of Azerbaijan, 30 September 1998
10. Law on the Legal Status of Foreigners and Stateless Persons, 13 March 1996
11. Parliamentary Assembly of the Council of Europe, Doc 9294, December 2001
12. Parliamentary Assembly of the Council of Europe, Doc 9212, September 2001
13. Parliamentary Assembly of the Council of Europe, Opinion N° 222 (2000), June 2000
14. Parliamentary Assembly of the Council of Europe, Doc 8757 revised, June 2000
15. Parliamentary Assembly of the Council of Europe, Doc 8748, May 2000
16. CERD/C/304/Add.75: Concluding observations of the Committee on the Elimination of Racial Discrimination, United Nations, March 2001
17. CERD/C/SR/1359: Summary record of the 1359th meeting: Australia, Azerbaijan 26/08/1999, United Nations, August 1999
18. CERD/C/SR/1358: Summary record of the 1358th meeting: Australia, Azerbaijan 31/01/2000, United Nations, January 2000
19. CERD/C/350/Add.1: International Convention for the Elimination of All Forms of Racial Discrimination - Second Report of State Parties due in 1999 – Azerbaijan, United Nations, March 1999
20. CCPR/CO/73/AZE: Concluding Observations of the Human Rights Committee: Azerbaijan, United Nations, November 2001

21. S/RES/822 (1993): Security Council Resolution 822 (1993), United Nations, 30 April 1993
22. S/RES/853 (1993): Security Council Resolution 853 (1993), United Nations, 29 July 1993
23. S/RES/874 (1993): Security Council Resolution 874 (1993), United Nations, 14 October 1993
24. S/RES/884 (1993): Security Council Resolution 884 (1993), United Nations, 11 November 1993
25. UNHCR Mid-Year Report 2000
26. UNHCR Mid-Year Report 2001
27. US Department of State "2000 Country Reports on Human Rights Practices: Azerbaijan", February 2002
28. US Department of State "2000 Country Reports on Human Rights Practices: Azerbaijan", February 2001
29. Amnesty International, Annual Report 2001
30. "Azerbaijan: Comments on the Initial Report submitted to the United Nations Committee against Torture", Amnesty International (EUR 55/02/99), October 1999
31. International Helsinki Federation, Annual Report 2001

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

APPENDIX

ECRI wishes to point out that the analysis contained in its report on Azerbaijan, is dated 28 June 2002, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Azerbaijan to engage in a process of confidential dialogue with ECRI on its draft text on Azerbaijan and a number of his comments were taken into account by ECRI, and integrated into the report.

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

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF AZERBAIJAN CONCERNING ECRI'S REPORT ON AZERBAIJAN

"Executive summary

Para II

It should be noted that in Azerbaijan various minorities had lived together with Azerbaijanis for centuries in peace and harmony. It may 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.

The spirit of tolerance existing in Azerbaijan has been especially mentioned in the speech of His Holiness Pope John Paul II during his recent visit to Azerbaijan.

Mr. Gerard Stoudmann, Director of the OSCE Office for Democratic Institutions and Human Rights, in his opening statement at the OSCE Conference "The Role of Religion and Belief: Searching for Ways to Combat Terrorism and Extremism", held in Baky on 10-11 October 2002, pointed out the following: "It is not by chance that this conference take place in Azerbaijan. This country has a long tradition of different religious communities living together in an atmosphere of tolerance".

Therefore, the last three sentences of the report do not reflect the real situation and represent a misinformation due to the superficial assessment of the situation in Azerbaijan.

Para III

Comments on the phrase "and the need to tackle the prevailing negative climate concerning Armenians", which is contrary to the facts, are given on the content of Section II R of the report.

Section I: Overview of the situation
E. Administration of justice

Para 18

The second, third and fourth sentences are working out in detail the first sentence but at the same time do not reflect the ongoing process of reforming of the judiciary.

H. Reception and status of non-citizens

Para 25

The last sentence of the paragraph refers to "reports of intolerant speech present in the media", which are unknown to the Government. Since there is a strong sense of solidarity between the society and refugees, it is regrettable that report makes references to solitary instances, which create distorted notion of the situation.

K. Vulnerable groups

There is no doubt that the reference in the report to certain minority group, which by no means can be considered as "vulnerable", without careful examination of the situation in general, results in unbalanced approach, which can be overcome by deleting throughout the report of all above-mentioned references. Otherwise, explanations and arguments in this regard, which are given under Section II R, should be taken into consideration.

O. Media

Para 42

There are serious doubts that any sensationalist reports by the printed media in Azerbaijan on issues relating to certain minority groups could contribute to spreading hostile and stigmatizing attitudes vis-à-vis the members of these groups. Changes made by replacing in the first sentence the expression "often" with "sometimes" had slightly improved the text but had not corrected the factual error therein.

P. Situation resulting from the conflict over Nagorno-Karabakh

Paragraphs 43, 44 and 45

While saying about the consequences of the conflict it should be 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 a part of the territory of Azerbaijan, affect negatively all spheres of country's daily life.

In addition to another consequence of the conflict, mentioned in the draft report, namely the presence of hundreds of thousands refugees and internally displaced persons in Azerbaijan, it could be appropriate also to pay the attention to the problem of missing persons as a result of the armed conflict. As at 28 June, 2002 there are 4965 citizens of Azerbaijan reported missing as a result of the armed conflict. This total includes 320 women, 69 children and 358 elderly people. The Azerbaijani side knows that 783 of these people, including 43 women, 18 children and 56 elderly people, were taken hostages or prisoners of war and held at the territory of Armenia and the occupied territories of Azerbaijan. Taking into account the seriousness of the problem, the Government of Azerbaijan initiated the adoption on April 25, 2002 at the United Nations Commission on Human Rights 58th session of the resolution 2002/60 entitled "Missing persons".

In regard to the intention of ECRI to call on the Azerbaijani authorities to pursue a constructive dialogue with all the relevant national and international interlocutors, as well as to remind the obligation of Azerbaijan undertaken on acceding to the Council of Europe, it could be useful to add also the following.

Since February 1992 the process of mediatory efforts on the settlement of the Armenian-Azerbaijani 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.

Section II: Issues of particular concern

Q. General awareness of racism and racial discrimination

Para 48

The conclusions in the fifth sentence create incorrect and subjective perception of the situation concerning the enjoyment of certain rights by persons belonging to minorities.

R. Negative climate concerning Armenians

Paragraphs 50-55

The present part of the draft report, which has been compiled basically by using unchecked and unbalanced information from various sources, will not be able to have pretensions to be considered as a positive contribution in solving the problem and, moreover, 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 Nagorny-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.

It is regrettable that while drafting the relevant parts of the report concerning Armenians the rapporteurs have not found necessary 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. It is also regrettable that, while insisting on the so-called negative climate concerning Armenians, the rapporteurs have not expressed their interest to meet with Armenians living in Baky in order to get information at first hand. The preference to unchecked information resulted, in our view, in predominance of subjectivity in some parts of the draft report. In this regard the Section II R of the draft report should be either deleted or redrafted in accordance with the above-mentioned information.”

