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Conseil des droits de l'homme

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Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Informations communiquées par le Commissaire aux droits de l'homme (Médiateur) d'Azerbaïdjan*

Note du secrétariat

Le secrétariat du Conseil des droits de l'homme fait tenir ci-joint la communication présentée par le Commissaire aux droits de l'homme (Médiateur) d'Azerbaïdjan**, reproduite conformément à l'article 7 b) du Règlement intérieur figurant dans l'annexe à la résolution 5/1 du Conseil des droits de l'homme, qui dispose que la participation des institutions nationales des droits de l'homme s'exerce selon les modalités et les pratiques convenues par la Commission des droits de l'homme, notamment la résolution 2005/74 du 20 avril 2005.

* Institution nationale des droits de l'homme à laquelle l'Alliance globale des institutions nationales des droits de l'homme a accordé le statut d'accréditation « A ».

** La communication est reproduite en annexe telle qu'elle a été reçue, dans la langue originale seulement.

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Merci de recycler



Annexe

[Anglais seulement]

Submission by the Azerbaijan: Human Rights Commissioner (Ombudsman)

The role of Azerbaijan NHRI in the field of protection of the rights of migrants

During the first years after regaining independence in 1991, the Republic of Azerbaijan faced with the emigration of a significant number of its nationals abroad. The root causes of this emigration were, on the one hand, hardships peculiar to the transition period, and, on the other hand, grave economic consequences of the aggression and consequent occupation of territories of Azerbaijan by neighbouring Armenia and the emergence of about one million refugees and IDPs. So far more than 20 legislative acts related to migration issues have been adopted in Azerbaijan. In the context of protection of the rights and freedoms of migrants, the Republic of Azerbaijan has acceded to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and Palermo Protocols related to trafficking in persons and smuggling of migrants¹.

On March 4, 2009 the country president signed a decree on the implementation of the "Single Window" principal of migration processes in order to improve the mechanism of migration management, provide foreigners and stateless persons arriving in the Republic of Azerbaijan with permissions for residence and legal labour activities in the country to simplify their registration for residency and ensure transparency in this regard. Adoption of Migration Code is one of the measures taken with the aim of adapting the legislation to the requirements of modern period. "Migration Code of the Republic of Azerbaijan" drafted in accordance with "State Migration Programme of the Republic of Azerbaijan" entered into force on August 1, 2013 according to the Law of the Republic of Azerbaijan from July 2 of the same year. Generally, the Code is a single document establishing norms concerning implementation of the state policy in migration field, regulation of migration processes and relations arising in this sphere, as well as the legal status of foreigners and stateless persons in the Republic of Azerbaijan².

The Institute of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, which is A status National Human Rights Institutions from 2006, founded in 2001 which is functioning after the election of the Ombudsman in 2002. One of the main directions of multi-faced activity of the Commissioner is protection and promotion of rights of all groups of population, including migrants and refugees in compliance with the Presidential Decree on "National Program for Action on Raising Effectiveness of Protection of Human Rights and Freedoms in the Republic of Azerbaijan" dated 27 December 2011. The Unit on Protection of Rights of Refugees, IDPs and Migrants of the Ombudsman Office handles the applications of aliens and stateless persons. Also, there was appointed the specialized adviser of Ombudsman, in this regard. In line with the amendments and additions to the Constitutional Law, the Commissioner is determined to function as NPM according to the OPCAT. Ombudsman regularly investigates the status

¹ <http://www.mfa.gov.az/en/content/118>

² <https://migration.gov.az/post.php?pageid=5774&scatid=458&lang=en>

and enforcement of rights of migrants, preparation of recommendations for development in the country's the adequate migration policy guarantying more effective fulfillment of basic rights. According to each oral or written communication addressed to Ombudsman, the corresponding organizations investigate the issues raised and this process is controlled by the Ombudsman Office. Ombudsman thinks that it is necessary to take into consideration the opinion of migrants while drafting the related legislative acts and state programs, also attract them to the process of realization of the latter. In general, Ombudsman's suggestions and recommendations addressed to the public institutions for qualified ensuring and protection of rights, restoring the violated rights and main freedoms of citizens, including preventing the violations shall not be out of attention and they must be taken into account.

The Commissioner and the staff member of Ombudsman Office regularly conduct monitoring of the Migration Department of Azerbaijan and detention facility of illegal migrants of the State Migration Service. During the visits, they get acquainted with detention conditions, nutrition, rendering of medical service, treatment towards detained persons and the situation with implementation of recommendations given during previous visits, as well as existing problems. The detained migrants had no complaints on detention conditions, nutrition, as well as treatment. This is and indicator of improved situation in the country's migration policy and this can be accepted as best practice for other countries respective institutions. This also should be noted that the Commissioner forwarded to the State Migration Service several recommendations and proposals to the draft law on "The Rules of Placement and Detention of Aliens and Stateless Persons" prepared by the State Migration Service.

It should be mentioned, that during the analysis and investigation of the complaints addressed to the Ombudsman, the groundless limitation of the right to leave the country, in several cases the process of provision of returning certificate to the citizens of Azerbaijan being abroad and living there with invalid documents or lost their identity cards was fastened, in some cases the decision on administrative exclusion from the country and those were allowed to enter the Republic of Azerbaijan, aliens living without documents or stateless persons in the country were provided in a short period of time with required documents and they were provided with conditions to return to their country.

The geographic expansion of the conflict and crisis zones all over the world has been accompanied by rapid increase of the number of people losing their lives and forced to leave their flats. In particular, the massive unprecedented migration from the war-torn Near East and North Africa towards Europe and death scenes of innocent people including women and children are shocking. At the same time, religious intolerance, discrimination towards migrants in certain countries, xenophobia, particularly the cases of Islamophobia complicate the problem and further aggravate the situation.

We believe that international community first of all have to mobilize the effort to prevent armed conflicts to occur and must seek efficient ways of solving the existing conflicts based on the generally accepted norms and principles of the international law, as well as the principles of sovereignty and territorial integrity of states. The strengthening of cooperation between various states and international organizations, such as the UN High Commissioner for Refugees, International Organization for Migration, International Committee of Red Cross as well as the relevant UN mechanisms in settlement of vulnerable people's problems is also important.