



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Summary record of the 1692nd meeting

Held at the Palais Wilson, Geneva, on Monday, 7 March 2005, at 10 a.m.

Chairperson: Mr. Yutzis

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The meeting was called to order at 10.20 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item) *(continued)*

Third and fourth periodic reports of Azerbaijan (CERD/C/440/Add.1) (continued)

1. *At the invitation of the Chairperson, the members of Azerbaijan resumed their places at the Committee table.*

2. **Mr. Khalafov** (Azerbaijan) said that, under article 5 of the 1998 Citizenship Act, persons who had had citizenship on the date of entry into force of the Act, on the basis of registration in their place of residence in Azerbaijan, were citizens of the Republic of Azerbaijan. Following the amendment of the Act in 1992, persons who did not have Azerbaijani citizenship or citizenship of another State but were registered as residents of Azerbaijan on 1 January 1992 had been able to obtain citizenship within a period of one year after the entry into force of the amended Act.

3. According to the same Act, persons who had been present on the territory between 1 January 1988 and 1 January 1992 could also obtain citizenship, while those who had been unable to return to another country had benefited from advantages offered by Azerbaijani law.

4. Following the Soviet period and the creation of the new independent States, citizenship had been determined in accordance with permanent residence criteria. Thus, more than 250,000 persons of Azerbaijani stock driven out of Armenia had received Azerbaijani citizenship under the above-mentioned Act, without prejudice to their right to return to their homes in Armenia. The Act also applied to all those on Azerbaijani territory who had been forcibly displaced. Persons who had left Azerbaijan before 1992 and wished to return there could apply for citizenship; their cases were examined individually in accordance with domestic law and the relevant international agreements.

5. There was no provision in the Citizenship Act for an Azerbaijani citizen to be deprived of his or her citizenship. Azerbaijani citizenship was terminated when the holder renounced it, when it was withdrawn for having been obtained with the aid of forged documents or false statements, or when international agreements so provided. The Act extended State protection to all Azerbaijani citizens living temporarily or permanently abroad.

6. The legal status of refugees and displaced persons was governed by the Constitution, the Refugees and Displaced Persons Act and the international treaties to which Azerbaijan was party, in particular, the 1951 Convention relating to the Status of Refugees. A State committee dealing with matters relating to refugees and displaced persons was chaired by the Deputy Prime Minister and had quasi-ministerial status. The Azerbaijani Government was still concerned about the fate of refugees and displaced persons and had assigned particularly high priority to those people in the nation's social and economic activities. It had spared no effort to achieve a peaceful settlement of the conflict with Armenia and to liberate the territories occupied by that country, in order to enable the refugees and displaced persons to return home. Economic growth had had a positive effect on the well-being of the refugees and displaced persons, who benefited from special concessions, particularly in relation to housing and social security. In that field, the Government was cooperating with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office of the United Nations High Commissioner for Human Rights, the International Organization for Migration (IOM) and donor countries. It was currently concerned about the falling-off in contributions from organizations and donor countries at a time when the conflict had still to be resolved and the territories occupied by Armenia had still to be liberated.

7. In 2004 and 2005, Azerbaijan had granted refugee status to 320 people, including 193 Afghans, 58 Chechens, 33 Iraqis, 21 Iranians, 9 Palestinians and 2 Somalis. A good many of the refugees arriving in Azerbaijan, particularly Chechens, went on to seek asylum in a third country. The UNHCR was providing assistance for Chechen refugees in cooperation with the Government, which was endeavouring to solve their problems. Persons who had obtained refugee status benefited from all the rights and guarantees for which the Azerbaijani legislation provided. Chechen refugees wishing to study in their own language had access to special schools, organized by the UNHCR with the help of the Government, in which the teaching was in Chechen.

8. The case of persons who were not regarded as refugees but could not return to their own country was being examined with the IOM and ways of regularizing their situation were being studied, in particular, the possibility of redirecting them to third countries. Returning people to countries in which they risked the death penalty was prohibited by law.

9. Where border controls were concerned, the Government, in cooperation with the IOM, had taken measures which had led to the creation of a database and an identity document control system. Moreover, the border posts were now fitted with modern equipment.

10. With regard to the conflict with Armenia, he explained that during the Soviet period a separatist movement aided by Armenia had sprung up in Nagorny Karabakh, an autonomous province of Azerbaijan; people had been driven out with the protection of the Soviet Union for the purpose of taking the province away from Azerbaijan and reattaching it to Armenia. In 1988, 250,000 Azerbaijanis had been driven out of Armenia and 50,000 out of Nagorny Karabakh, which had brought the two countries to the brink of an armed conflict. In that hostile environment, many people of Armenian descent had begun to leave Azerbaijan. However, he was astonished that the Committee should have adopted a unilateral approach and was not defending the tens of thousands of people who had been forcibly displaced following Armenia's occupation of one fifth of Azerbaijani territory.

11. A patient, humane and tolerant people, the Azerbaijanis wanted a peaceful settlement of the conflict. The Armenians living in Nagorny Karabakh enjoyed a high degree of autonomy and the Azerbaijani Government was ready to ensure their safety and respect for their rights under international guarantee. In Baku, many Armenians enjoyed all the rights guaranteed by the State without discrimination. For its part, Armenia should liberate the territories it was occupying in Azerbaijan and allow the refugees and displaced persons to go home. It was on that basis that reconciliation between the two countries would be possible.

12. Replying to a question on that subject, he explained that several minorities – Russian, Ukrainian, Lezgin, Talysh, Kurd and Avar, in particular – were represented in Parliament. He added that national origin was not indicated on identity documents and everyone was free to decide whether or not to divulge it. Education delivered in minority languages was equivalent to that delivered in institutions using Azerbaijani, which remained the official language, although the minority languages could be freely used. Textbooks, books, magazines and newspapers were published in those languages, which were also used in radio and television broadcasts. The law provided for people who did not understand Azerbaijani to be assisted by an interpreter when they came before the courts.

13. **Mr. Musayev** (Azerbaijan) said that Azerbaijan condemned racial discrimination and that, even before the International Convention on the Elimination of All Forms of Racial Discrimination had been ratified, the 1995 Constitution had already laid down the principles for implementing it, in particular where racial discrimination was concerned.

14. With regard to the provisions of the Criminal Code, he said that the presence of racist, religious or fanatical motivation constituted aggravating circumstances in criminal

cases. Moreover, offenders were equal before the law without distinction as to race, religion, etc. The Criminal Code had more than 10 articles aimed at combating racial discrimination, which dealt, in particular, with crimes as serious as genocide and incitement to genocide. Article 111 defined racial discrimination as, among other things, acting with a view to establishing the superiority of one group over another, murdering someone belonging to a given group or acting with a view to bringing about the annihilation of another group; the State party wished to extend that offence to include any racially motivated behaviour.

15. Moreover, the Labour Code prohibited any discrimination in labour relations based on race, national origin, religion or language (art. 16). Thus, every aspect of the struggle against racial discrimination had a legislative underpinning, since Azerbaijan wanted to do everything it could to combat such behaviour.

16. Article 283 of the Criminal Code was aimed not only at the vilification of a group but also at the act of inciting racial hatred against a group or insulting a person's dignity for reasons of national origin. The Civil Code contained provisions intended to guarantee the equality of all before the law and before the courts.

17. In actual fact, where judicial practice relating to the struggle against racial discrimination in Azerbaijan was concerned, the legislative provisions on racial discrimination were little used; however, the main reason why the courts had not had to deal with cases of that kind during the last three years had to do with the traditional tolerance of the Azerbaijani people, which inspired respect for all those who lived in the country and explained the absence of offences of a racist nature. At the same time, any negative manifestation of that kind was condemned by public opinion and that condemnation was worth much more than anything the courts might do. In addition, such manifestations were severely punished, which acted as a deterrent. The absence of cases of that kind did not reflect a lack of confidence in the administration of justice since, following the reform of the judicial system in 2000, which had created three tiers of jurisdiction – first instance, appeal and cassation – legal proceedings brought by citizens had increased by 25 per cent. Any cases of racial discrimination that might occur would certainly be reported by the NGOs representing minorities, which would bring them before the courts and inform the Government.

18. However, article 148 of the Civil Code dealt with affronts to personal dignity and integrity, where someone was the target of insults disseminated by the media or in public statements. There had been two cases of that type in 2004, and none of the 129 convictions for intentional homicide in 2004 had concerned racial discrimination.

19. Where the operation of the judicial system was concerned, apart from the reform of the courts in 2000, the Ministry of Justice, in collaboration with the Council of Europe, had drawn up a body of legislation intended to make the judicial system more effective and guarantee its independence.

20. Azerbaijan had recently reviewed its system for the appointment of judges to make it more impartial and to prevent the executive from interfering in judicial proceedings. In addition, the Azerbaijani Citizenship Act of 30 September 1998 had affirmed the equality of all before the law and the courts, a principle on which the Code of Civil Procedure was also based. As for the Code of Criminal Procedure, it required that accused persons who spoke no Azerbaijani be informed of their right to use their mother tongue and take advantage of the services of an interpreter, free of charge.

21. In relation to the status of women in Azerbaijan, he noted that the Constitution established equality between men and women and protected the rights and freedoms of all citizens, regardless of their gender, language, religion, race or ethnic origin. Moreover, Azerbaijan had acceded to the Convention on the Elimination of All Forms of

Discrimination against Women and had set up a committee responsible for developing policies designed to ensure parity of the sexes in every field, including employment, and for drawing up a national plan of action on behalf of women with a view to implementing the Beijing Declaration and Platform for Action. In Azerbaijan, 60 or so NGOs concerned with the protection of women's rights were dealing with questions as diverse as the role of women in the private sector, maternal health and aid for women refugees. In addition, the new NGO Registration Act provided for a simplified procedure for registering NGOs, which should result in an increase in their number.

22. Moreover, Azerbaijan had been visited by representatives of the European Commission against Racism and Intolerance (ECRI), which planned to carry out an in-depth study of the situation in the country with a view to proposing appropriate solutions.

23. **Mr. Zalov** (Azerbaijan) said that in order to follow through on paragraph 19 of the concluding observations (CERD/C/304/Add.75) made by the Committee after considering the State party's initial and second periodic reports, in which the Committee had recommended that Azerbaijan should envisage improving the education and training of the police force to promote racial tolerance and human rights, his country had organized training courses and sessions on those issues attended by almost 1,500 police officers in 2003 and some 1,900 others in 2004. Moreover, the Government had set up a refugees and displaced persons committee, which, in collaboration with the NGOs concerned with the protection of the rights of refugees and the HCR, was working to establish a system for the prevention of acts of discrimination.

24. The Azerbaijani Citizenship Act of 30 September 1998 had allowed nearly 80 per cent of stateless persons to obtain Azerbaijani nationality by conferring the right to acquire it on those already residing on Azerbaijani territory on 1 January 1988. That provision also applied to persons who had been forcibly displaced and, in particular, to the 50,000 Meskhetians who had been living on Azerbaijani territory at the time.

25. **Mr. Amirbayov** (Azerbaijan) said that the Office of the United Nations High Commissioner for Refugees (UNHCR) had been present in Azerbaijan since the beginning of the 1990s, which had been marked by the military intervention of Armenia and the humanitarian catastrophe that had followed. The aid provided by the UNHCR, donors and the international community in general had begun to taper off when the country had entered a development phase and the conflict had then become bogged down, which had led to less and less attention being paid to the persons displaced. At the end of 2003, a lack of resources had obliged the UNHCR considerably to reduce the aid it was providing for displaced persons in the cities, and the World Food Programme had been forced to discontinue its food aid programme, from which 140,000 displaced persons had been benefiting. The Government had endeavoured to improve the lot of those people and facilitate their temporary integration into society, but aid from donors and the international community had been sorely lacking. In November 2004, the High Commissioner for Refugees, Mr. Lubbers, had stressed the need for the UNHCR to pursue its action in the country, which should involve targeting the most vulnerable, coordinating humanitarian assistance for the populations displaced so as to avoid overlapping of the activities of the many NGOs working in that field and, finally, helping the Government to improve the system for the protection of asylum-seekers it had recently installed.

26. **Mr. Valiyev** (Azerbaijan) said that his country was one of the most dynamic developing countries in the region and that the economic reforms it had undertaken had borne fruit: the growth rate had increased by 10 per cent during the last eight years and the level of wages and pensions by 26 per cent. However, the social problems were far from having all been solved and the Government should devote itself to creating jobs and reducing the poverty rate, which still stood at 43 per cent. For that purpose, a four-year programme for the social and economic development of the regions had been adopted

in 2004 and had led to the creation of 100,000 jobs. Moreover, every year Azerbaijan was increasing the budget for the health sector, social security and education in order to guarantee respect for its people's economic, social and cultural rights.

27. **Mr. Budaqov** (Azerbaijan) said that, apart from the collapse of the former USSR, Azerbaijan had been confronted with a major problem that no other former Soviet republic had had to endure, namely, the occupation of one fifth of its territory by Armenia, a situation which had created 1 million refugees and displaced persons, caused the loss of 300,000 jobs in the occupied zone and bankrupted 4,000 enterprises. Despite the difficulties it had had to face, the country had adopted employment legislation with a view to guaranteeing every citizen a decent standard of living without distinction as to language, nationality, ethnic origin, etc. The Employment Act of 2 July 2001 had been drawn up in cooperation with the ILO, in accordance with international norms.

28. In addition, Azerbaijan had ratified the revised European Social Charter, article 26 of which established the right to dignity at work, and had amended the Labour Code accordingly to give it full effect at national level and hence prevent any conduct that might insult the dignity of citizens in the workplace motivated by their ethnic origin, language, beliefs, religion or sex.

29. Moreover, the Code of Administrative Procedure had been finalized and provided for sanctions against anyone who violated the provisions of the Employment Act, in particular, where hiring quotas were concerned.

30. The official unemployment figures did not necessarily correspond to reality; however, according to a survey recently carried out with the support of the UNDP and the ILO, unemployment was affecting 10 per cent of the population. One of the key objectives of the Azerbaijani Government was to create 600,000 jobs during the next five years, 100,000 jobs having already been created during the first year of the President's term of office. Azerbaijan and the ILO had developed a youth employment strategy that should shortly be approved by the President. Moreover, the employment of women, persons with disabilities, and refugees and displaced persons was receiving special attention.

31. He noted that young people under the age of 20, single parents, mothers of children with disabilities, former prisoners, and refugees and displaced persons were among the groups to benefit from minimum hiring quotas. He also acknowledged that the large number of unemployed among refugees and displaced persons was a cause for concern, but said that, with the support of the UNDP, programmes had been put in place to meet their essential needs and help them find work. However, it was particularly difficult to provide work for people who had often not received any training in their country of origin.

32. **Mr. Agayev** (Azerbaijan) said that under the Constitution every citizen was entitled to health care and Azerbaijan had skilled medical personnel, a good health care network with numerous hospitals, 1,600 outpatient centres and dozens of private clinics. In 1998, a ministerial commission had been made responsible for studying ways and means of reforming the health care system within the context of a national economic infrastructure development strategy. In the health sector, 10 new laws had been adopted with a view to improving public health, fighting HIV/AIDS and regulating blood donation. A very extensive national vaccination programme and a programme to control tuberculosis, AIDS and malaria had been launched. A protocol had been adopted to improve the care provided for the 726 individuals found to be seropositive in 2004. Since 1996, the Ministry of Health had been targeting its efforts on certain infectious diseases, which had made it possible to eradicate poliomyelitis and diphtheria, and was also working to improve the health status of refugees and displaced persons. Thus, more than 10,000 refugees from Afghanistan, Iraq and the Chechen Republic were receiving free medical care. The Ministry of Health was

unaware of any cases in which health might have been denied to certain persons on racial or other grounds

33. **Mr. Avtonomov** asked for further information concerning the number and nature of the complaints referred to the Ombudsman and for specific examples of the application of the criminal and civil legislation on racial discrimination. He noted the statement by the delegation of Azerbaijan according to which no complaint concerning racial discrimination had been referred to the courts and urged the State party to carry out an enquiry into the reasons why no complaint had been lodged. Azerbaijan had provided some very useful information regarding the ethnic composition of the population, but it would also be interesting to have figures on the extent to which the ethnic groups were represented in the various professions and in ministries, in particular, the Ministry of the Internal Affairs. In paragraph 212 of the report it was stated that more than 60 non-Azerbaijanis were employed in procuratorial bodies, but as the total number of staff was not indicated, he invited the delegation to provide further details. Finally, he wished to know whether Azerbaijan was planning to accept the amendment to article 8 of the Convention adopted by the States parties.

34. **Mr. Thornberry** noted that there was no definition of the term “minority” in Azerbaijan’s Constitution or in its legislation and, in that connection, drew the delegation’s attention to the Committee’s General Recommendation VIII concerning self-identification as a member of a particular racial or ethnic group and its General Recommendation XXIII concerning the rights of indigenous peoples. He pointed out that in the absence of a definition it might be difficult to frame policies in favour of minorities.

35. **Mr. Khalafov** (Azerbaijan) said that, since being appointed in July 2002 the Ombudsman had received 4,500 complaints, of which 32.7 per cent concerned violations of economic and social rights. He noted that 6.6 per cent of complaints came from prisoners and 6.9 per cent from refugees and displaced persons. Altogether, 53.6 per cent of the complaints had been rejected on the grounds that they were unconstitutional. The delegation would inform the Government of Mr. Avtonomov’s question concerning acceptance of the amendment to article 8 of the Convention in the report it would be submitting upon its return to Azerbaijan. However, the Azerbaijani authorities had recognized most of the mechanisms for the submission of complaints for which the international human rights treaties provided.

36. He added that, since the adoption of the Citizenship Act in 1958, the ethnic origin of individuals was no longer mentioned in official documents and identity papers. Accordingly, it would be difficult for the Azerbaijani Government to provide statistical data broken down by ethnicity on the representation of minorities in the civil service.

37. **Mr. Tang** (Rapporteur for Azerbaijan) warmly thanked the Azerbaijani delegation for the quality and detail of its replies to the questions put by the members of the Committee. He welcomed the dialogue initiated with the delegation, which had made it easier to understand the country’s concerns.

38. He noted with satisfaction that the delegation had provided the Committee with additional information, in particular concerning the mandate of the Ombudsman, the acceptance and processing of complaints for violations of human rights, the measures taken by the Government to combat human trafficking, the sanctions imposed on the perpetrators of that crime, and the protection accorded to their victims. The Azerbaijani delegation had also provided important further details about the measures adopted by the Government to combat the incitement of racial hatred and about the conflict between the State party and Armenia, as well as concerning the question of the Chechen refugees. Specific information had also been supplied regarding the operation of the criminal justice system and the human rights training provided for law enforcement and court personnel.

39. However, he considered that Azerbaijan's next periodic report should contain fuller information concerning the definition of ethnic groups and statistics on the representation of minority groups in the organs of government.

40. He also noted that, according to a European Commission report, the Armenians living in Azerbaijan were victims of racial discrimination and that several NGOs had asserted that Azerbaijan was not respecting article 4 of the Convention which, in particular, required States parties to condemn the dissemination of ideas or theories based on the superiority of one race. He recalled that a publisher had recently been prosecuted in the country for having published an apologia for Adolf Hitler, which proved that racism and anti-Semitism were a reality in Azerbaijan. Those were worrying problems which the State party should endeavour to address.

41. **Mr. Aboul-Nasr** wondered why, particularly in the Middle East, primary and secondary school textbooks dealt with the Armenian genocide committed by the Turks but not with the conflict which for more than a decade had opposed Azerbaijan and Armenia. He suggested to the delegation that Azerbaijan should make efforts to raise awareness of the issue in the countries of the Middle East.

42. **Mr. Khalafov** (Azerbaijan) thanked Mr. Aboul-Nasr for having raised that very important question. He recalled that for seventeen years his country had been living through a tragedy and one inhabitant of Azerbaijan in every eight was either a refugee or a displaced person, and that one fifth of the territory was occupied by Armenia. Despite that, no international organization, apart from the Organization of the Islamic Conference, had recognized the aggression suffered by Azerbaijan. The Security Council had adopted four resolutions concerning that conflict, all to no effect.

43. Despite the numerous problems facing Azerbaijan that stemmed directly from that situation, the Government was endeavouring to pursue an active policy of defending and promoting human rights and strengthening democracy. Azerbaijan intended to continue cooperating with the Committee in the same spirit of dialogue and transparency.

44. **The chairperson** declared that the Committee had now completed its consideration of the third and fourth periodic reports of Azerbaijan.

45. *The delegation of Azerbaijan withdrew.*

The meeting rose at 1.00 p.m.