



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Second periodic reports of States parties due in 1999**

**AZERBAIJAN \***

[9 February 2004]

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\* For the initial report of the Government of Azerbaijan, see document CRC/C/11/Add.8; for its consideration by the Committee on 2 and 3 June 1997, see documents CRC/C/SR.390-392 and CRC/C/15/Add.77.

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## Introduction

1. The Republic of Azerbaijan acceded to the Convention on the Rights of the Child by Act No. 236 of the Republic of Azerbaijan dated 21 July 1992. The Convention entered into force for Azerbaijan on 13 August 1992.
2. Azerbaijan also acceded to the Convention on the Elimination of All Forms of Discrimination against Women, on 10 July 1995, and submitted its initial report to the Committee on the Elimination of Discrimination against Women, which was considered by the Committee on 23 January 1998.
3. By Act No. 652 dated 28 July 1993 Azerbaijan acceded to the Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”) of 29 November 1985.
4. Azerbaijan’s initial report under the Convention on the Rights of the Child<sup>1</sup> was considered by the Committee on the Rights of the Child at its fifteenth session in 1997. The Committee adopted concluding observations on its consideration of that report.<sup>2</sup>
5. Azerbaijan’s second and third periodic reports have been compiled in accordance with the general guidelines on the form and content of reports submitted by States parties under article 44, paragraph 1 (b), of the Convention. This report covers the period since the Government submitted its initial report (1996-2003).
6. The Committee’s concluding observations on its consideration of the initial report were taken into account in the drafting of the present report.
7. Pursuant to the recommendations of the Cabinet of Ministers of the Republic of Azerbaijan, a number of measures were adopted, a working group consisting of representatives of the relevant State agencies and non-governmental organizations was set up, and a National Plan of Action was drafted. This Plan was approved on 16 December 1999 by the Commission on Minors’ Affairs of the Cabinet of Ministers.
8. The core document<sup>3</sup> submitted in connection with a number of international human rights instruments, including the Convention on the Rights of the Child, forms an integral part of this report.

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<sup>1</sup> CRC/C/11/Add.8.

<sup>2</sup> CRC/C/15/Add.77.

<sup>3</sup> HRI/CORE/1/Add.117.

**I. GENERAL MEASURES OF IMPLEMENTATION**  
**(arts. 4, 42 and 44, para. 6)**

9. Azerbaijan acceded to the Convention on the Rights of the Child without any reservations.

10. During the period under consideration Azerbaijan introduced a number of measures relating to the protection of the rights of the child, including several legislative acts directly applicable to children's problems.

11. In addition to the Constitution of the Republic, adopted on 12 November 1995, the following legislation also promotes and protects the rights of the child:

- a) Legislative acts of the Republic of Azerbaijan:
- Minimum Consumer Budget Act of 14 October 1992
  - Disability Prevention and Disabled Persons (Rehabilitation and Social Protection Act) of 25 August 1992
  - Pensions Act of 23 September 1992
  - Refugees and Displaced Persons (Status) Act of 29 September 1992
  - Education Act of 7 October 1992
  - Hygiene and Disease Control Act of 10 November 1992
  - Martyrs (Immortalization of Names, and Preferential Treatment for Family Members) Act of 3 September 1993
  - Chernobyl Disaster (Status and Social Protection of Victims and Participants in the Clean-up) Act of 6 December 1993
  - Human Immunodeficiency Virus (Prevention and Control) Act of 16 April 1996
  - Social Insurance Act of 18 February 1997
  - Advertising Act of 3 October 1997
  - Rights of the Child Act of 19 May 1998
  - Citizenship Act of 30 September 1998
  - International Convention on the Rights of All Migrant Workers and Members of Their Families (Accession) Act of 11 December 1998
  - Physical Training and Sports (Implementation) Act of 28 December 1998

- Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act of 21 May 1999
- Forcibly Displaced Persons and Assimilated Persons (Social Protection) Act of 21 May 1999
- Children Lacking Parents and Parental Support (Social Protection) Act of 22 June 1999
- State Youth Policy Act of 29 July 1999
- Medical Insurance Act of 28 October 1999
- Transplants of Human Organs and (or) Tissues Act of 28 October 1999
- Infectious Diseases (Immunoprophylaxis) Act of 14 March 2000
- European Convention on the Legal Status of Children Born out of Wedlock (Accession) Act of 17 March 2000
- Persons with Special Health Needs (Education and Special Education) Act of 5 June 2001
- Psychiatric Assistance Act of 12 June 2001
- Narcotic Drugs (Service and Controls) Act of 12 June 2001
- Employment Act of 2 July 2001
- Human Rights Commissioner (Ombudsman) Act of 28 December 2001
- Youth Policy Act of 9 April 2002
- Regulations on Commissions on Minors' Affairs and Protection of their Rights (Approval) Act of 31 May 2002
- Television and Radio Broadcasting Act of 25 June 2002
- Exercise of Human Rights and Freedoms (Regulation) Act of 24 December 2002
- New-born Babies and Infants (Feeding) Act of 17 June 2003
- b) Codes of the Republic of Azerbaijan:
  - Housing Code of 8 July 1982
  - Labour Code of 1 February 1999
  - Family Code of 28 December 1999

- Code of Civil Procedure of 28 December 1999
  - Civil Code of 28 December 1999
  - Criminal Code of 30 December 1999
  - Administrative Offences Code of 11 July 2000
  - Code of Criminal Procedure of 14 July 2000
  - Penal Enforcement Code of 14 July 2000
- c) Decrees and orders of the President of the Republic:
- Decree of 26 February 1997 “On approval of the Regulations on Commissions on Minors’ Affairs”
  - Decree of 14 January 1998 “On improvement of the situation of women”
  - Decree of 22 February 1998 “On measures to guarantee human and civil rights and freedoms”
  - Order of 29 December 1998 “On the membership of the Commission on Adoption Affairs of the Cabinet of Ministers”
  - Decree of 29 July 1999 “On approval of the Plan of Action for Implementation of State Youth Policy”
  - Decree of 30 August 1999 “On application of the Children Lacking Parents and Parental Support (Social Protection) Act”
  - Decree of 6 March 2000 “On application of the Family Code (Approval and Entry into Force) and Related Matters (Legal Regulation) Act”
  - Decree of 6 March 2000 “On implementation of State policy relating to women”
  - Decree of 13 June 2000 “On improvement of the education system”
  - Decree of 29 December 2000 “On increasing State assistance for disabled persons and for certain persons from other categories of needy citizen”
  - Order of 18 January 2001 “On increasing childcare allowances for persons taking social leave on part pay”
  - Decree of 26 December 2001 “On replacement of preferential treatment with respect to communal, transport and other services with cash allowances”
  - Decree of 25 July 2002 “On application of the Regulations on Commissions on Minors’ Affairs and Protection of their Rights (Approval) Act”



- d) Decisions of the Cabinet of Ministers of the Republic of Azerbaijan:
- “On approval of the model regulations for children’s homes” of 19 September 1994
  - “On payment of cash benefits to persons assuming the tutorship (guardianship) of orphans or children lacking parental protection” of 2 February 1995
  - “On the Regulations on special State pre-school education establishments for children with mental or physical disabilities” of 4 September 1995
  - “On approval of the Adoptions Commission Regulations” of 13 February 1997
  - “On approval of the list of disqualifying diseases with respect to adoption, tutorship and guardianship” of 15 August 2000
  - “On approval of the Rules on registration of children lacking parental protection given for adoption, the Rules on registration of persons wishing to adopt children who are nationals of Azerbaijan, and the Rules on registration of foreign nationals and stateless persons wishing to adopt children who are nationals of Azerbaijan” of 20 September 2000
  - “On approval of the Rules on compulsory medical treatment of disabled persons, pregnant women and nursing mothers, men aged over 60 years, women aged over 65 years, and drug addicts having committed a crime who are suffering from one of the diseases set out in the list approved by the Ministry of Health” of 10 October 2000
  - “On calculation of wages and (or) other forms of income received by money order or in foreign currency by parents from whom child maintenance is due” of 23 May 2001
  - “On approval of the model regulations governing sports schools for children and young people and special Olympics schools for children and young people” of 12 October 2001
  - “On measures to improve the social protection of children lacking parents and parental protection” of 7 November 2001
  - “On determination of the amount of cash benefits to be paid to parents and other legal representatives of children requiring special education to enable them to transport their children to and from a special education establishment, health and rehabilitation centre or medical facility” of 25 December 2001
  - “On improving the provision of supplies and equipment to general education schools” of 4 October 2002
  - “On approval of the Rules on the enrolment of persons with health problems in establishments of special and vocational education” of 29 April 2002

- “On approval of the Rules on the provision of free special education for persons with health problems” of 27 May 2002
- “On approval of the Plan of Action to tackle the problems of homeless and street children of 14 April 2003

12. The Regulations on Commissions on Minors’ Affairs and the Protection of their Rights approved by the Act of 31 May 2002 sets out the legal bases for the organization and work of these commissions. Their fundamental purpose is to exert an influence on the social education of minors, protect their rights and legitimate interests, monitor their conduct, prevent unlawful acts, and coordinate the measures taken with regard to these matters by the State and local authorities and by enterprises, establishments and organizations, regardless of their form of ownership.

13. Within the framework of the approved plan for the main areas of activity in the period 2000-2004 the Government, in conjunction with the UNESCO office in Azerbaijan, is carrying out a special programme for children in particular need of care. A training session on the results of the work done during the year under this programme was held in December 1999. The tasks and areas of work for the coming years were identified.

14. Presidential Order No. 932 of 18 July 1999 approved the State Programme for the Protection of Human Rights. Pursuant to paragraph 22 of this Programme, the State Programme for the Protection of the Rights of the Child and Improvement of Education and Training Work with Children was drafted and subsequently approved by a Cabinet Order dated 22 July 2000.

15. The main tasks of this Programme are to create favourable conditions and implement a series of measures for the application of the Convention on the Rights of the Child and the Rights of the Child Act. The Programme also provides for the implementation of the following measures:

- (a) Establishment of an effective system to ensure children’s harmonious development and improvement of the education and training of the younger generation;
- (b) Improvement of the protection of children;
- (c) Protection of the health of mothers and children;
- (d) Improvement of food products;
- (e) Consolidation of the care of children with mental or physical disabilities who are in State guardianship;
- (f) Intensification of the work with families in need of social protection;
- (g) Adoption of measures to eliminate the exploitation of child labour;
- (h) Guarantee of the exercise of children’s rights.

16. In accordance with the recommendations of the Committee on the Rights of the Child and the requirements of the State Programme, work is proceeding on the drafting of a Policy Outline on work with children. A system for collecting information about children covering all aspects of their lives and Convention-related matters has also been devised.

17. The Rights of the Child Act reflects the principles of State policy on the protection of children's rights. The Act also sets out the obligations of State and other agencies in ensuring the protection of children's interests.

18. The Presidential Decree of 29 July 1999 "On State youth policy" approved the Plan of Action for the Implementation of Youth Policy, which addresses issues of the legal protection of the child and the creation of favourable conditions for children's comprehensive development, as well as specifying measures to protect their health.

19. For the purposes of assisting children who are living or working in the street owing to the absence or failure of parental protection or their family's low economic and social standard of living, the Cabinet of Ministers, in its Decision No. 60s of 14 April 2003, approved the Plan of Action to tackle the problems of homeless and street children. This Plan provides for protection of these children's social and economic rights and sets out measures to support their education and health care, the organization of out-of-school activities, and international cooperation for their benefit.

20. By its Decisions of 16 and 17 February 1999 the Cabinet approved two State programmes, the first on enhancement of the education of young people in patriotic and civic values and the other on the young family, which give particular attention to solving problems of the health of mothers and children, reproductive health, and the legal protection of children.

21. The charity operating under the name "Azerbaijan Children's Fund", which was founded as long as 15 years ago, in April 1988, has joined the International Association of Children's Funds. The Fund has offices in all of the country's towns and regions.

22. On the Fund's initiative, the Convention on the Rights of the Child was translated into Azeri and published in 1996 by the UNICEF office in Azerbaijan in an edition of 7,500 copies.

23. A representative of the Fund takes part, as a member of the Commission on Minors' Affairs of the Cabinet of Ministers, in the working groups on the drafting of State programmes on the protection of children's rights.

24. The Fund's Convention-related charitable work is conducted under four main programmes: orphaned children (art. 6); refugee children (art. 22); children's health (art. 24); and children's education (art. 26).

25. During the period 1996-2000 the Fund's charitable work amounted in monetary terms to 1,807,578,300,000 manat (1996 - 143,448,100,000; 1997 - 228,992,300,000; 1998 - 352,797,600,000; 1999 - 551,491,900,000; and 2000 - 530,848,300,000).

26. The following children's organizations, including charities, have been founded and are operating in Azerbaijan (the year of foundation appears in parentheses):

- The Azerbaijan Children's Fund (1988)
- The Children's Rights League (1991)
- The *Deti Voiny* international non-governmental charitable fund (1993)
- *Deti - nashe budushche* (1993)
- The Children's Association of Azerbaijan (1993)
- The Children's Literature Fund of Azerbaijan (1994)
- The *Zorge* children's aid association (1995)
- The *Buta* humanitarian children's fund (1995)
- The Children's Organization of the Republic of Azerbaijan (1996)
- The *Tutu* children's cultural centre (1996)
- The Scouts Association of Azerbaijan (1997)
- The *Umud ieri* association (1997)
- The Association for Assistance to Parentless Children (1997)
- The Fund for Assistance to Talented Children (1997)
- The *Binesib* Children's and Youth Association of Azerbaijan (1997)
- The Caucasus International Children's Environmental Union (1997)
- The *Mir* association (1998)
- The *Pilgrim* Group initiative (1998)
- The *Sakhib* charitable association for disabled children (1998)
- The *Umud ishygy* charitable association (1999)
- The *Yuva* charitable centre (1999)
- The *Geledzhek nesl* charitable centre for children (1999)
- The *Ushaglara markhemet* association (1999)
- The *Gyulyum* clean-environment centre (2000)
- *Goncha* (2000)
- The *Ufug* charitable association (2000)
- *Mushvig* (2001)
- The Children's and Students' Organization (2002)
- United Assistance to Azerbaijan (2002)

27. A number of international organizations are also working in Azerbaijan, including:

- The Azerbaijan Children's Fund (1996)
- The Azerbaijan office of UNICEF
- Save the Children
- The Azerbaijan office of Help the Children World Foundation

28. There has been a marked increase of interest in recent years in the protection of children's rights and the diffusion of information about the Convention on the Rights of the Child. This is demonstrated by the emergence of new NGOs and by the number of projects initiated by groups consisting entirely of schoolchildren and students (the children's groups *Nur* and *Ushagdan ushaga cyulkh shyabyakyasi*; the network for peace *Ot rebenka k rebenky*; *Khazar*, *Shafa*, etc.)

29. The Ministry for Youth, Sports and Tourism is responsible for coordinating all the work being done with children, including the work of NGOs.

30. To this end the National Coordination Council for Children's Affairs was established in February 2001 under the Ministry's auspices; its membership consists of permanent representatives of 12 executive agencies of the State and the directors of some 30 children's NGOs. The Coordination Council considers current problems, sets up working groups to draft measures to ensure the exercise of children's rights, and may lobby on any issue affecting children.

31. Since its creation the Coordination Council has discussed policy outlines on the children's voluntary movement and the organization of children's summer holiday activities and has drafted urgent measures to help children living or working in the street. It is planning to discuss the situation with respect to working children. The Council regularly considers reports from NGOs and information from State agencies concerning their work. At least once a year the Ministry's Central Administrative Board considers the question of the work being done with children in various regions of the country, including study of situations on the ground. It is responsible for the practical monitoring of compliance with the provisions of the Convention.

32. The public is also informed about the principles and provisions of the Convention through the conduct of all kinds of conferences, seminars, forums and round tables. The mass media, both printed and electronic, regularly put out material on the situation with respect to the protection of the rights of the child by means of talk shows, best-reportage competitions, best-film competitions, etc. State education, youth, culture and health establishments run many competitions to publicize and increase awareness of the provisions of the Convention. Several projects have been carried to make the Convention known to children finding themselves in difficult circumstances (children living in refugee camps, boarding schools for orphans, children's colonies). A number of options have been prepared for holding training and educational courses on this subject.

## II. DEFINITION OF THE CHILD (art. 1)

33. According to the Rights of the Child Act, any person under the age of 18 years is a child.

34. According to article 1 of the Act, the rights and duties provided for in the Act apply to all persons below the age of 18 years.

35. Pursuant to article 28.2 of the Civil Code, the capacity to act as a natural person in civil-law matters is fully acquired at the age of majority, i.e. on attaining the age of 18 years.

36. Pursuant to article 28.4 of the Code, a child who has reached the age of 16 years may be declared to have full legal capacity if he engages in an entrepreneurial activity under a labour contract or with the consent of his or parents, adoptive parents or guardians. Such declarations of full legal capacity (emancipation) are made by decision of a tutorship or guardianship agency with the consent of both parents or the adoptive parents or guardians or, failing that, by court order.

37. Pursuant to article 28.6 of the Code, when the law allows marriage before the age of 18 years, the minor in question acquires full legal capacity from the time of the marriage. Legal capacity acquired by marriage is retained in all respects in the event of divorce before the age of 18.

38. Article 250 of the Labour Code prohibits the employment of persons aged under 18 in heavy work, work in harmful or hazardous conditions, and work underground. A list of such heavy and harmful or hazardous work has been approved by the Government.

39. Under article 258 of the Labour Code, in exceptional circumstances children aged 14 or 15 may be allowed to work in a family enterprise. However, they may not be employed in heavy, hazardous or harmful work or in night work. Such children may be employed only to perform light tasks which will help to develop the work habit or tasks essential to their vocational training.

40. The minimum age for admission to work is 15 years (art. 42 of the Code). Children aged 14 may be allowed to work, with their parents' consent, for periods of production-work experience as well as at light tasks which have no harmful effects on their health.

41. Article 91 of the Code stipulates a shorter working week of 24 hours for children aged up to 16 and of 36 hours for those aged 16 to 18. In order to prevent any reduction of their wages, it also provides that they must be paid the same amounts as persons in the same category working a full week.

42. Article 46 of the Code stipulates that parental consent is required for the conclusion of a labour contract with persons aged 15 to 18.

43. The minimum age for admission to work established by Azerbaijani law allows a child to complete his or her general secondary education. Account was taken in establishing this age of the ILO Minimum Age Convention, to which Azerbaijan acceded in 1992.

44. Under article 51.5 of the Family Code, in the event of infringement of a child's rights or legitimate interests, including failure of either or both parents to discharge their duties with respect to the child's education or upbringing or abuse by them of their parental rights, the child is entitled independently to seek protection of his rights before the competent executive authority (the local tutorship and guardianship agency) or, if he is aged 14 or over, before a court.

### **III. GENERAL PRINCIPLES**

#### **A. Non-discrimination (art. 2)**

45. According to article 25 of the Constitution, everyone is equal before the law and the courts. The State is required to guarantee the equality of rights and freedoms of all persons regardless of race, ethnic origin, religion, language, sex, social origin, property status, official position, beliefs, or membership of political parties, trade unions or other voluntary organizations. The establishment of restrictions or preferential treatment with respect to human and civil rights and freedoms on the basis of race, ethnic origin, religion, language, sex, social origin, beliefs or political or social affiliation is prohibited.

46. Under article 17 of the Constitution, the family, as the fundamental unit of society, enjoys the protection of the State. The care of children and their upbringing is a duty of the parents. The State monitors the discharge of this duty.

47. According to article 6 of the Rights of the Child Act, all children have equal rights. Children may not be subjected to discrimination regardless of their social or property status, state of health, racial or ethnic origin, language, education, political opinions or residence, or the residence of their parents or the persons acting as their parents. Children may not be held responsible for the acts of their parents or the persons acting as their parents. Children's rights may not be limited for reasons connected with their parents. Regardless of whether a child was born within or out of wedlock, he enjoys the same rights with respect to the parents. No limitation of a child's rights or interests is legally valid.

48. The Labour Code prohibits discrimination between workers on a number of grounds, including age. The establishment of preferential treatment, benefits or additional guarantees in labour relations for workers under the age of 18 is not regarded as discrimination.

49. An employer or other natural person who permits discrimination between workers in labour relations incurs liability under the relevant legislation. A worker suffering discrimination may submit a complaint to the courts with a request for restoration of his or her violated rights.

#### **B. Best interests of the child (art. 3)**

50. Under article 5 of the Rights of the Child Act, all natural and legal persons must accord preference in their activities to the best interests of the child and create conditions for the exercise of children's rights. National legislation and the decisions of the relevant agencies must not conflict with children's interests, and the application of such legislation and decisions must not cause any harm to their life, development or upbringing. No transaction which limits children's rights or impairs their interests is legally valid.

51. In Azerbaijan the State furnishes support for families, mothers, fathers and children; it has established the following benefits and other guarantees of social protection:

- Maternity benefit (100 per cent of average earnings)
- A one-off benefit payable on the birth of each child (70,000 manat)
- An allowance for poor families in respect of children under 16 (students receiving no bursary - under 18) if the per capita family income does not exceed 16,500 manat (9,000 manat a month)
- An allowance in respect of children of military personnel on fixed-term military service (12,500 manat a month)
- An allowance in respect of children of war invalids and persons disabled as a result of the events of January 1990 (20,000 manat a month)
- An allowance in respect of children of the families of martyrs (35,000 manat a month)
- An allowance in respect of minor children of families affected by the accident at the Chernobyl nuclear power station (25,000 manat a month)
- An allowance in respect of care of a sick child (100 per cent of average monthly earnings)
- A monthly allowance during leave taken to look after a child aged under three (15,000 manat), etc.

52. A pension is paid to a child the event of the loss of the family breadwinner, regardless of whether the child was dependent on him. The minimum amount of such a pension is fixed at 100 per cent of the minimum old-age pension or 70,000 manat.

53. A monthly supplement equal to 50 per cent of the minimum old-age pension is added to the pension due to a breadwinner's children in respect of his or her death.

54. Pursuant to article 23.2 of the Employment Act, the amount of the allowance paid to persons supporting children under 18 is increased by 10 per cent for each child up to a limit of 50 per cent of the allowance.

55. Pursuant to article 24.4 of the Act, the unemployment benefit of an unemployed person supporting children under 18 is increased by 10 per cent for each child up to a limit of 50 per cent of the benefit.

56. In addition to benefits, the law also prescribes the following rights.

57. Under article 9 of the Employment Act, the State furnishes assistance in the search for a job to persons in special need of social protection who are experiencing difficulty in finding



employment by fixing job quotas for enterprises and organizations. The category of persons in need of social protection includes young persons aged up to 20, parents bringing up one or more children under the age of majority, and women bringing up disabled children.

58. Under article 117 of the Labour Code, women with two children aged under 14 are entitled to two additional calendar days of paid leave, and with three or more such children or a disabled child aged under 16 to five calendar days.

59. Fathers bringing up children alone and persons with an adopted child are also entitled to additional paid leave.

60. Article 124 of the Code prescribes paid study leave for workers taking courses in an education establishment for the duration of laboratory work and when taking tests and examinations.

61. According to article 127, a parent or another family member directly caring for a child aged under three is entitled to childcare leave on part pay, together with payment of the social benefit.

62. Article 133 provides that leave from work may be granted, at their wish and at a time convenient to them, to workers aged under 18 and women with two or more children under 14 or a disabled child under 16.

63. Pursuant to article 114.1 of the Family Code, the protection of children's rights and interests devolves on the tutorship and guardianship agency of the local authorities if the parents die or their parental rights are removed or restricted, if they are declared legally incapable, if they fall ill or are absent for a long period, if they refuse to attend to a child's upbringing or to protect his rights and interests, including refusal to remove a child from a social protection institution, education or medical facility or other similar establishment, as well as in other cases of lack of parental protection.

64. Under article 114.2 of the Code, it is the responsibility of the competent tutorship and guardianship agency to identify and register children lacking parental protection and, depending on the specific circumstances of the loss of parental protection, to decide on the best placement arrangements for these children and monitor the conditions of their maintenance, upbringing and education.

65. Article 114.3 prohibits natural and legal persons, except for the tutorship and guardianship agencies of local authorities, from making any placement arrangements for children lacking parental protection.

66. Article 115.1 requires officials of pre-school, general education, health and other establishments and other persons in possession of information about children relating to the matters addressed in article 114.1 of the Code to communicate such information to a tutorship and guardianship agency.

67. Within three days of the receipt of such information the agency must investigate the circumstances of the child in question and, if it establishes that the child does in fact lack the

protection of his parents or close relatives, it must proceed to protect the child's rights and interests until a decision is taken on the question of placement (art. 115.2).

68. The directors of social protection institutions and education, medical and other similar establishments housing children lacking parental protection are required, within seven days of learning that a child may be placed with a family, to report this fact to the competent tutorship and guardianship agency (art. 115.3).

69. Within one month from the receipt of the information referred to in articles 115.1 and 115.2 of the Family Code the competent tutorship and guardianship agency must make arrangements for the child's care; if it is impossible to place the child with a family in accordance with article 115.5 the agency must submit the documents relating to the child to the central registry (art. 115.4).

70. The competent local authority agency enters in the central register the particulars of children who have been deprived of parental protection and proceeds to assist with their placement with a family (art. 115.5).

71. Pursuant to article 115.6, the procedure for the central registration of children lacking parental protection is determined by the Cabinet of Ministers.

72. The directors of the establishments mentioned in article 115.3 of the Family Code and the officials of the competent tutorship and guardianship agencies may be held liable in accordance with the procedure established by law for failure to discharge the duties specified in articles 115.2 to 115.5 of the Code, for knowingly communicating false information, and for other acts designed to conceal a child's placement with a family (art. 115.7).

73. Children lacking parental protection may be placed with a family (for adoption or under a tutorship, guardianship or fostering arrangement) or when this is not possible in a social protection institution, education or medical facility or some other similar establishment intended for such children or for orphans (art. 116.1).

74. The Cabinet of Ministers may establish other kinds of placement arrangements for children lacking parental protection (art. 116.2).

75. Decisions on a child's placement must take into account his ethnic origin, religious and cultural affiliation and mother tongue and be designed to ensure the most favourable conditions for the child's education and upbringing.

### **C. Right to life, survival and development (art. 6)**

76. Pursuant to article 8 of the Rights of the Child Act, every child has the right to life and to physical and mental development in normal conditions. The State is responsible for implementing the necessary economic, socio-legal and other measures and creating the healthy and safe environment which constitutes normal conditions.

77. In all cases involving the death of a minor the law-enforcement and health agencies must follow the established procedures for registration of the child's death and for the investigation and inquest.

78. In cases of child suicide the police and the procuratorial agencies must conduct an investigation in accordance with the criminal law, try to establish the reasons and the circumstances and take steps to prevent their recurrence.

79. Fourteen child suicides were recorded in 1998, 18 in 1999, 15 in 2000, 32 in 2001 (21 of them boys) and 26 in 2002 (19 of them boys); in the first six months of 2003 there were 19 (15 of them boys). Most of these suicides were aged between 14 and 17, and 60-70 per cent of them were boys.

#### **D. Respect for the views of the child (art. 12)**

80. Pursuant to article 52 of the Family Code, children are entitled to express their views, when decisions are being taken in the family, on any question affecting their interests and to be heard during court or administrative proceedings. It is mandatory to hear the views of children aged 10 or older except when this is against their interests. In the cases provided for in the Code the court or the tutorship and guardianship agency may take a decision only with the consent of a child aged 10 years or older.

81. Under article 59.1 of the Code of Civil Procedure, State agencies and individual natural and legal persons are entitled in the cases prescribed by law to apply to the courts for protection of the rights and freedoms and the interests of other persons protected by law at their request or to bring an action for protection of the rights of other persons. An action for protection of the rights of legally incapable persons or minors may be brought even when the person concerned has not requested it.

82. According to article 197 of the Code, the questioning of witnesses aged under 14 years and, at the court's discretion, of witnesses aged 14 to 16 years must take place in the presence of a representative of the educational establishment attended by the witness. When necessary, the parents, adoptive parents, tutors or guardians of a minor witness may be called. With the permission of the president of the court these persons may put questions to the witness and also state their opinions as to his personality and the content of his evidence.

83. In exceptional circumstances when such action is necessary in order to establish the facts of the case, the court may order any person involved in the case or any other person present at the hearing to leave the courtroom when a minor witness is to be questioned. When a person involved in the case has returned to the courtroom he or she must be informed of the details of the evidence given by the minor witness and offered an opportunity to question the witness.

84. Pursuant to articles 87.8, 90.10, 91.9, 104.1, 226.3, 228.1 and 435 of the Code of Criminal Procedure, an injured party may exercise rights and discharge responsibilities either personally or through a representative. The rights of injured parties who are under age or legally incapable are exercised on their behalf by their legal representatives in accordance with the procedure prescribed by the Code. The rights of minor and legally incapable suspects are exercised on their behalf by their legal representatives in accordance with the procedure

prescribed by the Code. In the absence of a legal representative of a legally incapable witness under the age of 14 or of witness aged over 14 but still a minor, the organ conducting the criminal proceedings appoints a tutorship and guardianship agency as such legal representative.

85. As a rule, minors are questioned through their legal representatives. A minor witness may be questioned regardless of his age if he can give either orally or in some other way information relevant to the case. The questioning of a witness aged under 14 or, at the court's discretion, 14 to 16 must be conducted in the presence of an education professional and, when necessary, a doctor and the witness's legal representative. Before the questioning begins, these persons are given an explanation of their obligations and their right to be present during the questioning and, with the prosecutor's permission, to make comments and put questions. A prosecutor has the right to withdraw a question, but the question must be shown in the record of the proceedings. The record must also show all the comments of the person questioned and the other persons taking part in the questioning. Witnesses aged under 16 are given an explanation of their obligation to speak nothing but the truth, but they are not warned as to their liability for refusing to answer a question or give evidence or for knowingly giving false evidence.

86. Criminal proceedings in respect of crimes committed by minors must be heard by the more experienced judges. In court proceedings concerning a minor the president of the court must determine whether the requirements of articles 429-434 of the Code have been satisfied. Parents and other legal representatives of a minor are entitled to take part in criminal proceedings against the minor. In the interests of the minor the court may on its own motion accompanied by a statement of its reasons require such persons to take part in the hearing or deny them the right to participate when it has grounds for believing such denial to be in the minor's interest. When imposing punitive measures on a minor the court must be guided by the following considerations:

(a) The measure must be consistent not only with the circumstances and seriousness of the offence but also with the minor's situation and needs and equally the needs of society;

(b) A measure involving deprivation of a minor's liberty may be imposed only after a meticulous consideration of the question of deprivation of liberty and with the possibility of commutation;

(c) A measure of deprivation of liberty is not appropriate unless the minor has been found guilty of the repeated commission of a serious or exceptionally serious crime or a crime having serious consequences, committed deliberately and with violence, or some other serious crime;

87. If at the time of its final decision the court concludes that the minor is susceptible of correction without the imposition of a punitive measure, it may release him without imposing such a measure and order instead compulsory measures of a re-educational nature.

88. Pursuant to articles 429-434 of the Code, in criminal proceedings against a minor the following details must be established, in addition to the facts of the case:

(a) The minor's age (year, month and day of birth);

- (b) The minor's family circumstances;
- (c) The minor's level of physical, intellectual and mental development;
- (d) When other persons participated in the crime committed by the minor, the possibility of bringing criminal proceedings against them.

89. Pre-trial proceedings in respect of crimes committed by minors may be conducted only in the form of a preliminary investigation. If a minor participated in the commission of a crime together with other persons, then at the pre-trial stage separate criminal proceedings must if possible be instituted against the minor. However, separate proceedings may not be brought against a minor when this would create substantial obstacles to the comprehensive, full and objective investigation of the circumstances of the case.

90. Preliminary investigations in respect of minors must if possible be conducted by special units of the competent preliminary investigation agencies or by persons possessing appropriate experience of working with minors. Criminal proceedings against a minor must be conducted without any delay. The participation of the minor's defence counsel is mandatory. Contacts between the minor and the investigator during the preliminary investigation are subject to the conditions of proper recording of the facts of the case, considerate treatment of the minor, due concern for the minor's welfare, and prevention of any harm to him. The basic procedural guarantees of the following rights must be applied at all stages of the preliminary investigation: the right to be informed of the charge; the right to refuse to give evidence; the right to the services of defence counsel; the right of parents or other legal representatives to participate; and the right to confidentiality.

91. When conducting investigations involving a child aged under 16 who exhibits signs of mental deficiency the prosecutor must ensure that an education professional or psychologist is present. The termination of criminal proceedings against a minor is permitted in all cases with the consent of the minor or his parents or other legal representatives. When making a declaration to a minor concerning the termination of a preliminary investigation and transmitting to the minor the documents in a criminal case, the investigator or prosecutor in charge of the procedural aspects of the investigation has the discretionary right to issue an order, supported by his reasons, that any documents in the case which may have a negative effect on the minor shall not be transmitted to him. In such circumstances it is mandatory for the minor's defence counsel or legal representative to be informed about these documents. The arrest of a minor must be notified immediately to his parents or other legal representatives. If immediate notification is impossible, the minor's parents or other legal representatives must be notified of his arrest with as little delay as possible.

92. On learning of the arrest of a minor the judge performing the function of court supervision and the prosecutor in charge of the procedural aspects of the preliminary investigation must immediately consider the question of the minor's release or continued detention, except in the cases referred to in articles 434.1 and 434.2 of the Code. The imposition of preventive detention on a minor who is suspected of or has been charged with a crime is permissible only when he is alleged to have committed a violent crime of minimal seriousness or a serious or exceptionally serious crime. The imposition of preventive detention on a minor is permissible only as an exceptional measure and for as short a time as possible. When in

custody minors must be held separate from other persons. They must be cared for, have the services of defence counsel and enjoy any other individual assistance required in the light of their age, sex or personal characteristics.

93. Under article 373 of the Code of Administrative Offences, the interests of a minor natural person against whom administrative proceedings have been instituted, of a minor injured party or of a person who by reason of physical or mental disability cannot exercise his rights in administrative cases independently may be defended by his legal representatives.

94. The legal representatives of the interests of a natural person are his parents, adoptive parents, tutors or guardians. If a natural person against whom administrative proceedings have been instituted or an injured party has no legal representatives of his interests, the competent official handling the administrative proceedings shall deem the tutorship and guardianship agencies to be the legal representatives of such person's interests. The degree of kinship of the legal representatives of a natural person with that person and their corresponding powers must be verified by production of the documents specified by law. The legal representative of the interests of a natural person against whom administrative proceedings have been instituted and the legal representative of an injured party may exercise in respect of the rights provided for in the Code in respect of those persons and they have the corresponding duties. When hearing an administrative action brought against a child aged under 18 the judge or the competent organ or official is entitled to deem the presence of his legal representatives mandatory.

95. Under article 376 of the Code, the presence of counsel is mandatory at hearings on administrative offences committed by minors, blind or deaf persons or other persons who by reason of physical or mental disability cannot independently exercise their rights in proceedings concerning administrative offences carrying penalties in the form of administrative detention. If counsel for a person against whom administrative proceedings have been instituted cannot appear, the judge or the competent organ or official provides such person with the legal assistance of a lawyer in accordance with the procedure established by law. The cost of legal assistance for a person under administrative arrest who cannot afford to pay for a lawyer out of his own pocket is met by the State. In such cases a lawyer may not refuse to perform the duties in question.

96. Pursuant to article 377.4 of the Code, the questioning of children aged under 14 must be conducted in the presence of an education professional or psychologist. When necessary, a minor may also be questioned in the presence of his representative.

97. Under article 145.3 of the Family Code, a child's views on the matter must be heard before he is placed with a foster family. Children aged 10 or older may be placed with a foster family only with their consent.

#### **IV. CIVIL RIGHTS AND FREEDOMS**

##### **A. Name and nationality (art. 7)**

98. Pursuant to article 10 of the Rights of the Child Act, all children must be registered at birth in accordance with the law and thus acquire Azerbaijani nationality. A child's name is

given with the common consent or on the instructions of the parents or if the parents are absent with the consent or on the instructions of a tutorship agency.

99. Under article 53 of the Family Code, a child has the right to a forename, a patronymic and a surname. The forename is given by agreement between the parents, and the patronymic is taken from the father's forename. The surname is determined by the surnames of the parents. If their surnames are different, the child takes the father's or the mother's surname by agreement between the parents. If the parents cannot agree on the child's forename or surname, the matter is settled by the competent local authority. If the child's paternity has not been established, the forename is chosen by the mother, the patronymic is taken from the forename of the person recorded as the child's father in accordance with article 46.3 of the Family Code, and the surname is determined by the mother's surname.

100. According to article 54 of the Code, on joint application by the parents before a child's eighteenth birthday the competent local authority, acting in the child's interests, may give permission for the child's forename to be changed or for his surname to be changed to the surname of the other parent. The name or surname of a child aged 10 or older may be changed only with his consent.

101. Under article 20 of the Citizenship Act, if both parents or the only parent of a child living in Azerbaijan renounces Azerbaijani citizenship and no longer participates in the upbringing of the child, for whom Azerbaijani citizens have been appointed tutors or guardians, then, upon application of the parents, a tutor or a guardian, the child shall retain his Azerbaijani citizenship.

102. Under article 21 of the Act, if one of the parents has acquired Azerbaijani citizenship and the other is a foreigner, the child may acquire Azerbaijani citizenship upon application of the parent who acquired Azerbaijani citizenship and with the consent of the parent who is a foreigner. If one of the parents of a child living in Azerbaijan has acquired Azerbaijani citizenship and the other parent is a stateless person, the child acquires Azerbaijani citizenship. If one of the parents of a child living outside Azerbaijan has acquired Azerbaijani citizenship and the other parent is a stateless person, the child may acquire Azerbaijani citizenship upon application of the parent who acquired Azerbaijani citizenship and with the consent of the parent who is a stateless person.

103. According to article 22 of the Act, if the Azerbaijani citizenship of one of the parents is terminated and the other parent remains an Azerbaijani citizen, their children retain Azerbaijani citizenship. Upon application of the parent whose Azerbaijani citizenship has been terminated, and with the consent of the parent who has remained an Azerbaijani citizen, the child may be allowed to renounce Azerbaijani citizenship.

104. Under article 23, when a foreign or stateless child is adopted by citizens of Azerbaijan, the child acquires Azerbaijani citizenship. If one of the spouses who adopted a foreign child is a citizen of Azerbaijan and the other is a stateless person, the child is considered to have acquired Azerbaijani citizenship. If one of the spouses who adopted a foreign child is a citizen of Azerbaijan and the other is a foreigner, the child may acquire Azerbaijani citizenship upon agreement between the adoptive parents. If one of the spouses who adopted a stateless child is a citizen of Azerbaijan and the other is a stateless person, the child acquires Azerbaijani citizenship. If one of the spouses who adopted a stateless child is a citizen of Azerbaijan and the

other is a foreigner, the child may acquire Azerbaijani citizenship upon agreement between the adoptive parents.

105. Under article 24, when a child who is a citizen of Azerbaijan is adopted by foreigners, the child's Azerbaijani citizenship is terminated when the adoptive parents submit an application to that effect. If one of the spouses who adopted an Azerbaijani child is a citizen of Azerbaijan and the other is a foreigner, the adopted child retains his Azerbaijani citizenship. The child may renounce Azerbaijani citizenship upon application of the adoptive parents. If both spouses who adopted a child who is a citizen of Azerbaijan are stateless persons, or if one of them is a citizen of Azerbaijan and the other is a stateless person, the child retains his Azerbaijani citizenship.

### **B. Preservation of identity (art. 8)**

106. Pursuant to article 17 of the Rights of the Child Act, a child has the right to family life with his parents and to enjoy their care.

107. Article 50 of the Family Code provides for the right of the child to enjoy family relations with his parents and other relatives.

108. If the parents' marriage ends in divorce or is annulled, the fact that the parents live apart does not affect their children's rights. If his parents live apart, a child still has the right to family relations with each of them. If his parents are living in different States, a child likewise retains the right to family relations with each of them.

109. Under article 25 of the Citizenship Act, in the cases mentioned in articles 19-24 of the Act the citizenship of children aged 14 to 18 may be changed only with their consent.

110. Articles 114-116 of the Family Code address the protection of the rights and interests of children lacking parental protection. Such children may be placed in the care of a family (for adoption, or under a tutorship, guardianship or fostering arrangement) or, when this is not possible, in a social protection, education, health or other similar establishment intended for children lacking parental protection and for orphans. The Cabinet of Ministers may establish other forms of placement for such children. Decisions on a child's placement must take into account his ethnic origin, religious and cultural affiliation and mother tongue and be designed to secure the most favourable conditions for his education and upbringing.

111. Until a child lacking parental protection is placed in a family or an institution the discharge of the duties of guardian is transferred temporarily to the tutorship and guardianship agencies of the local authority.

112. According to article 3 of the Children Lacking Parents and Parental Support (Social Protection) Act, the social protection of such children and children assimilated to them is provided by the State in accordance with the legislation in force.

113. Within their several spheres of competence the Cabinet of Ministers, the Ministry of Health, the Ministry of Labour and Social Welfare, the Ministry of Education and the Ministry for Youth, Sports and Tourism formulate and implement special social protection programmes for children lacking parents and parental support and children assimilated to them, making use



of special centralized accommodation facilities as well as education and social services establishments, etc., and creating State institutions for social re-education and rehabilitation.

114. In 2002 the Ministry for Youth, Sports and Tourism, with UNICEF support, established around an NGO a drop-in centre for children living or working in the street. One of this centre's programmes focuses on work with the children's parents or guardians.

115. According to article 9 of the Children Lacking Parents and Parental Support (Social Protection) Act, the protection of such children and children assimilated to them is the responsibility of the children themselves, their legal representatives, tutors and guardians, the competent local authorities, court and procuratorial bodies, municipalities and voluntary and trade-union organizations, in accordance with the procedures prescribed by law.

### **C. Freedom of expression (art. 13)**

116. Article 14 of the Rights of the Child Act provides for the right of every child to freedom of conscience, thought and speech. Parents and other persons and the agencies of the State must treat children's freedom of conscience, thought and speech with respect. The involvement of children in religious rites which may harm their health is prohibited.

117. Article 15 of the Act establishes the right of every child to seek, receive, use and impart information in accordance with the law.

118. Under article 52 of the Family Code, a child is entitled to express his opinion in the course of the resolution in his family of any issue affecting his interests and to be given a hearing in any court or administrative proceedings. It is mandatory to take account of the opinions of children aged 10 and older except when this conflicts with their interests. In the cases specified in the Family Code a court or a tutorship and guardianship agency may take decisions affecting children aged 10 and older only with their consent.

119. Pursuant to article 5 of the Freedom of Information Act, the protection of the security of individuals, society and the State is one of the fundamental principles of the regulation of the freedom of information in Azerbaijan.

120. All these considerations are reflected in practice in the fact that children associate freely in voluntary organizations and activity groups, where they have opportunities, with help from adults, to hold forums, conferences and debates; children also speak through the mass media, sometimes even initiating on television the creation of different formats.

### **D. Freedom of thought, conscience and religion (art. 14)**

121. Pursuant to article 47 of the Constitution, everyone has the right to freedom of thought and speech. No one may be forced to divulge or renounce his thoughts or beliefs. Agitation and propaganda which incite racial, ethnic, religious or social discord and hatred are prohibited.

122. Pursuant to article 48 of the Constitution, everyone has the right to freedom of conscience and the right freely to determine his attitude to religion, independently or together with others to profess any religion or none, and to express and disseminate opinions which reflect his attitude

to religion. The performance of religious rites is permitted insofar as it does not disrupt the public order or conflict with public morals.

123. As pointed out earlier, under article 14 of the Rights of the Child Act every child enjoys the freedom of conscience, thought and speech. Parents and other persons and the agencies of the State must respect the right of the child to freedom of conscience, thought and speech. The involvement of children in the performance of religious rites which may have a harmful influence on their health is prohibited.

#### **E. Freedom of association and peaceful assembly (art. 15)**

124. Pursuant to article 49 of the Constitution, everyone has the right to freedom of assembly. Everyone has the right, provided that the relevant State bodies have been notified in advance, to hold meetings, rallies, demonstrations and street processions and to picket together with others, peacefully and without weapons.

125. Pursuant to article 58 of the Constitution, everyone has the right freely to associate with others and to create any association, including a political party, a trade union or any other voluntary association, or to join an existing association. All associations are guaranteed freedom of activity. No one may be forced to join or remain a member of any association.

126. Under article 26 of the Rights of the Child Act, children have the right to establish or to join voluntary organizations or activity groups at their place of schooling or residence, in accordance with the procedure prescribed by law. The involvement of children or their voluntary organizations and activity groups in politics is prohibited.

127. Since the beginning of 2001 there has been a vigorous increase in the number of activity groups for older pupils. These groups generally carry out small projects designed to promote children's study of their rights. They are based in children's resource centres established with UNICEF support.<sup>4</sup>

128. The right of children to form voluntary organizations and associations is established in the Non-Governmental Organizations and Foundations Act.

129. Azerbaijan currently has more than 40 NGOs working directly with children. Of this total, the Azerbaijan Children's Association, the Scouts Association of Azerbaijan and the Children's Union of Azerbaijan draw their membership mainly from children and have branches in many areas of the country. The other NGOs carry out various programmes and projects relating to protection of the rights of the child, social welfare, provision of assistance to children with disabilities and to orphans, rehabilitation of children of refugee families and internally displaced persons (forcibly displaced persons), and environmental education.

130. In order to promote the children's voluntary movement and the role of NGOs in tackling children's social problems the Ministry for Youth, Sports and Tourism has drafted a Policy Outline on the promotion of the children's movement. On 17 July 1999 the Ministry created its Children's Affairs Division.

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<sup>4</sup> There are currently some 20 such groups located throughout the country, including in rural areas.

#### **F. Protection of privacy (art. 16)**

131. Under article 32 of the Constitution, everyone has the right to keep their personal and family life private. Interference in private life is prohibited. The collection, storage, use and dissemination of information about a person's private life without his consent is prohibited. The State guarantees everyone the right to privacy of correspondence and telephonic, postal and telegraphic communication and of information transmitted by other means of communication.

132. Article 33 of the Constitution states that everyone is entitled to inviolability of their home. Except as provided by law or under a judicial order, no one may enter a private home without the occupant's consent.

133. Article 46 of the Constitution states that everyone has the right to defend his honour and dignity. Personal dignity is protected by the State. No circumstance may be invoked to justify degrading an individual.

134. The criminal law establishes criminal liability in respect of offences against the human and civil rights embodied in the Constitution. The Criminal Code contains articles establishing liability in respect of violation of the confidentiality of correspondence, telephone conversations and postal, telegraphic and other communications (art. 155) or infringement of the inviolability of private life (art. 156) or of the home (art. 157).

#### **G. Access to appropriate information (art. 17)**

135. Everyone has the freedom to seek, acquire, transmit, compile and disseminate information by lawful means. The freedom of mass information is guaranteed. State censorship of the mass information media, including the press, is prohibited (Constitution, art. 50).

136. Under article 34 of the Mass Information Media Act of 7 December 1999, the State radio and television broadcasting organization makes and broadcasts educational programmes and special programmes for children and young people.

137. According to article 15 of the Rights of the Child Act, all children have the right to seek, receive, transmit and disseminate any information necessary for their mental or physical development.

138. Article 242 of the Criminal Code establishes criminal liability in respect of the unlawful preparation for the purposes of dissemination or advertising and the dissemination or advertising of pornographic materials or objects and unlawful trade in printed publications, cinema or video films, graphic representations or other items of a pornographic nature.

#### **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

139. The Republic of Azerbaijan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Act No. 103-IQ of 31 May 1996. This Convention entered into force for Azerbaijan on 15 September 1996.

140. The initial report of Azerbaijan on the measures taken in discharge of its obligations under the Convention<sup>5</sup> was considered by the Committee against Torture in 1999. The Committee's conclusions and recommendations following its consideration of the report are contained in document A/55/44, paragraphs 64-69.

141. In November 2001 the Government submitted to the General Assembly of the United Nations its second periodic report, which the Committee against Torture was scheduled to consider in 2003.

142. Torture is a criminal offence in Azerbaijan. Article 113 of the Criminal Code establishes criminal liability for the infliction of physical pain or psychological suffering on persons subject to detention or some other form of deprivation of liberty.

143. Article 133 of the Criminal Code prescribes penalties for inflicting physical pain or psychological suffering by systematic beatings or other violent acts.

144. Azerbaijan has recognized the competence of the United Nations treaty bodies to receive and consider communications from individuals claiming to be victims of violations of human rights. Azerbaijan has acceded to the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. It also made a declaration under article 22, paragraph 1, of the Convention against Torture recognizing the competence of the Committee against Torture to receive and consider communications from persons claiming to be victims of violations of the provisions of the Convention.

145. Article 60 of the Constitution guarantees protection of the rights and freedoms of all persons before the courts. Anyone may submit a complaint to the courts against decisions or acts (or omissions) of State agencies, political parties, trade unions and other voluntary organizations and their officials.

146. Pursuant to article 46.2 of the Code of Criminal Procedure, a declaration by a natural person is one of the grounds for the institution of criminal proceedings.

147. Pursuant to a presidential decree of 11 October 1999 a centre for the training and further training of the staff of correctional establishments and remand centres was set up within the Ministry of Justice. The Convention against Torture was included in the centre's curriculum as a separate subject.

148. A special compilation of documents produced in 2000, including the Convention against Torture, the recommendations of the Committee against Torture and other materials, was distributed for use by all the country's law-enforcement agencies.

149. Article 57.2 of the Criminal Code prohibits the imposition of life imprisonment on women, on persons who were aged under 18 at the time of commission of the crime, or on men who are aged 60 or older at the time of sentencing.

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<sup>5</sup> CAT/C/37/Add.3.

150. Article 15.2 of the Code of Criminal Procedure prohibits during criminal investigations: torture or the use of physical or psychological force, including medication, starvation, hypnosis, deprivation of medical care, or other cruel, inhuman or degrading treatment or punishment; forced participation in lengthy experiments or other judicial measures, including experiments or measures involving severe physical suffering or temporary impairment of health, as well as other similar ordeals; and the extraction of evidence from a victim, a suspect, a person who has been charged or any other person involved in criminal proceedings by means of force, threats, deception or other unlawful acts which infringe their rights.

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **A. Parental guidance (art. 5)**

151. Under article 56 of the Family Code, parents have equal rights and equal responsibilities with respect to their children. The parental rights and responsibilities set out in chapter XII on “Rights and duties of parents” end when the child in question reaches the age of majority or, before reaching that age, marries or acquires full legal capacity in the cases permitted by law.

152. Under article 58 of the Code, parents have the right and are obliged to attend to the upbringing of their children. Parents are responsible for the upbringing and health of their children and their mental, physical and spiritual development. Parents have a preferential right over all other persons with respect to the upbringing of their children. In pursuit of the best interests of their children parents have the right to choose their education establishment and form of education until the children embark on their basic general education. The State may interfere with these parental rights and responsibilities in accordance with the procedures prescribed by law but only when the best interests of the child so require.

153. Article 59 obliges parents to protect their children’s rights and interests. Parents may act in defence of their children’s rights and interests as their legal representatives against any natural or legal persons without special authorization. In the event of a conflict between the rights of parents and their children, the competent local authority is required to appoint a representative to defend the children’s rights and interests.

154. Under article 60, parents may not exercise their rights to the detriment of the rights of their children. Parents must resolve all issues relating to the upbringing and education of their children by mutual consent on the basis of respect for the children’s rights and interests and consideration of their opinions (a child’s affection for his brothers and sisters and for each parent, the parents’ moral and other personal qualities, the child’s age, and creation of the conditions for a child’s development and education).

### **B. Parental responsibilities (art. 18, paras. 1- 2)**

155. Pursuant to article 19 of the Rights of the Child Act, parents have equal rights and equal responsibilities with respect to their children’s upbringing. They are obliged to raise their children in good health and educate them in the light of universal and national human values and prepare them to lead independent lives. The fundamental duties of parents are to attend to the development of their children’s abilities, make provision for their material and moral needs, and

protect their rights and interests. Agencies of the State are permitted to interfere in the exercise by parents of their rights and responsibilities with respect to their children only in the cases prescribed by law and only in a child's best interests. Such agencies are liable on the terms prescribed by law for any material harm which they cause to a child or his parents, adoptive parents, tutors or guardians.

### **C. Separation from parents (art. 9)**

156. Pursuant to article 64 of the Family Code, parents (or either one of them) may be deprived of parental rights if they:

- (a) Refuse to discharge their parental responsibilities;
- (b) Persistently refuse to pay maintenance;
- (c) Decline without good reason to remove a child from a maternity home or any other health or education institution of the social welfare services or from a similar establishment;
- (d) Abuse their parental rights;
- (e) Treat their children cruelly or subject them to physical or mental pressures;
- (f) Suffer from chronic alcoholism or drug addiction;
- (g) Deliberately commit an offence injurious to the health or life of a child or a spouse.

157. Pursuant to article 65, the removal of parental rights is a matter for the courts. Cases concerning the removal of parental rights are heard by the courts on the application and with the participation of the agencies or institutions responsible for protecting minors' rights.

158. Under article 66, persons deprived of parental rights lose all the rights stemming from the fact of their kinship with the child in respect of whom the rights were removed, including the right to receive maintenance from the child and entitlement to the preferential treatment and State allowances accorded to citizens with children. Removal of parental rights does not release parents from their duty to maintain their child. When it is impossible to place a child with the other parent or when both parents have lost their parental rights, the child may be placed in the care of the competent local authority.

159. Under articles 67.1 and 67.2, parents (or either one of them) may have their parental rights restored following a change of life-style, behaviour or attitude to the upbringing of their child. Restoration of parental rights is a matter to be decided by the courts on the application of the parents (or either one of them) who were deprived of their rights.

### **D. Family reunification (art. 10)**

160. Pursuant to article 60.4 of the Family Code, a child's residence when the parents live apart is determined by agreement between the parents. Any disagreement on this score is settled by the courts on the basis of the child's rights and interests and in the light of his opinions (the

child's affection for his brothers and sisters and for each parent, the parents' behaviour and other personal qualities, the child's age, and the creation of the conditions for the child's development and education).

161. Under article 61 of the Code, a parent living apart from his or her children is entitled to maintain a relationship with them and participate in decisions relating to their upbringing and education. The parent with whom a child is living must not obstruct his relationship with the other parent provided that it does not harm the child's physical or mental health or moral development. Parents living apart from their children are entitled to conclude a written agreement on the arrangements for the exercise of their parental rights.

162. Any disagreement between the parents is settled by the courts with the assistance of the tutorship and guardianship agency of the local authority at the request of the parents (or either one of them). Action is taken against a parent who does not comply with a court decision in accordance with the civil procedure legislation. In the event of persistent failure to comply, the court, at the request of the parent living apart from the child, may order the child to be transferred to that parent's care, having considered the child's rights and interests and his opinions on the matter. A parent living apart from a child is entitled to receive information about the child from social welfare institutions and education, health and other establishments. Such information may be denied only if the parent constitutes a threat to the child's life or health. Objections to refusals to provide information may be raised before the courts.

163. Article 10 of the Labour Migration Act prohibits the imposition of restrictions on the reunification of migrant workers with their families.

#### **E. Illicit transfer and non-return (art. 11)**

164. Article 318 of the Criminal Code establishes criminal liability in respect of crossing the defended State frontier of the Republic of Azerbaijan without the required documents or at a place other than a crossing point manned by border-control officers.

165. At a regular meeting of the Council of Heads Government of the Commonwealth of Independent States (CIS) on 7 October 2002, Azerbaijan signed the Agreement on cooperation among the CIS States regarding the return of minors to the States of their permanent residence.

#### **F. Recovery of maintenance for the child (art. 27, para. 4)**

166. Pursuant to article 75 of the Family Code, parents have an obligation to maintain their children. The ways and means of providing for their children's maintenance are determined by parents independently. Parents are entitled to conclude agreements on the maintenance of their minor children (child-support agreements). If parents fail to provide for their children's maintenance, the means of such maintenance (child support) is recovered from the parents by court order. If the parents cannot agree on the payment of child support or they (or either one of them) do not provide such support, in the absence of an application pending before the courts the competent local authority (the local tutorship and guardianship agency) is entitled to bring an action for the recovery of maintenance in respect of minor children from their parents (or either one of them).

167. Cabinet Decision No. 179 of 7 November 2001 contains the following provisions designed to improve the social protection of children lacking parents and parental support:

(a) To purchase textbooks and school materials for children lacking parents and parental support for the duration of their attendance at State higher or secondary special education establishments, using the resources of the establishment in question or, instead of supplying textbooks and school materials, to award such children a cash payment of 180,000 manat;

(b) To provide children lacking parents and parental support, on the completion of their attendance at State general secondary or secondary and higher vocational education establishments, with seasonal clothing and footwear paid for from the expenditure budget of the establishment in question, in an amount equal to 25 times the official financial unit, in accordance with Cabinet Decision No. 15 of 17 January 1994 on the regulations governing the provision of clothing, footwear and minor items for children and adolescents being brought up in regular boarding schools of all kinds, boarding schools for children with mental or physical disabilities, children's homes, and boarding schools for orphans and children lacking parental support, and the award of a one-off cash payment of not less than twice the average monthly wage for the whole country;

(c) To provide children lacking parents and parental support, at the time when they take up their first employment, with clothing, footwear, minor items and equipment paid for from the resources allocated under the "Education expenditure" section of the central State expenditure budget, in accordance with the regulations set out in Cabinet Decision No. 15 of 17 January 1994, and with a one-off cash payment of not less than five times the average monthly wage for the whole country.

#### **G. Children deprived of a family environment (art. 20)**

168. Pursuant to article 31 of the Rights of the Child Act, the protection of children lacking parental support is achieved by placing them in other families for adoption, tutorship or guardianship or, when these measures are not possible, by placing them in an appropriate children's institution. For the purposes of determining the type of placement, consideration must be given to a child's ethnic origin and religious, cultural and language affiliation and to the continuity of his education. Children lacking parental support who are housed in children's institutions enjoy the full services of the State.

169. In accordance with the Children Lacking Parents and Parental Support (Social Protection) Act, adopted on 22 June 1999, children and young people are under the protection of the State until age 23. This Act also provides that children lacking parents and parental support shall receive, at the expense of the State budget, free food, clothing, accommodation, education and medical care. Under article 5 of the Act, the guardians of children in this category must be paid monthly allowances by the State. Grants are also provided for the purchase of textbooks for the duration of a student's attendance at an institute of higher or secondary special education. They are also entitled to free use of all means of public transport.



170. On completion of their secondary or higher education these children must be provided with free seasonal clothing and footwear and given a one-off cash payment of not less than two average wages.

171. Under article 6, when necessary they must be provided with free vouchers for sanatorium treatment.

172. During time spent studying, serving in the armed forces or held in a place of detention they retain the right to their own living accommodation or to the place which they enjoyed in their parents' accommodation where they previously lived.

173. Under article 7, orphaned children lacking any previous living accommodation must be provided with such accommodation three months before the completion of periods of study, service in the army or confinement in a place of detention.

174. Under article 8, one in 50 jobs must be reserved for children lacking parents and parental support. When such children take up their first employment, the competent State agency must provide them with clothing, footwear and any necessary equipment and make them a one-off payment of not less than 15 times the average wage.

175. In accordance with article 114 of the Family Code, the protection of children's rights and interests becomes a responsibility of the competent executive agency (whose powers are exercised by local tutorship and guardianship agencies) in the event that the parents die, have their parental rights removed or restricted, are declared legally incapable, fall ill, are absent for a long period, or refuse to bring their children up or to protect their rights and interests, including refusal to take their children out of an education, health or social welfare institution or some similar establishment, as well as in other instances of lack of parental protection. The competent executive agency maintains a central register of information on children lacking parental protection and organizes their placement in families. The procedure for keeping this central register is determined by the Cabinet of Ministers.

176. Under article 116 of the Family Code, children lacking parental protection may be placed in a family (for adoption or under a tutorship, guardianship or fostering arrangement) or, when this is not possible, in an education, health or social welfare institution or some other similar establishment intended for such children and orphans. The Cabinet of Ministers may determine other forms of placement. For the purposes of a child's placement consideration must be given to his ethnic origin, religious and cultural affiliation, mother tongue, and the need to provide the most favourable circumstances for his upbringing and education.

177. Free shows, concerts, creative events and opportunities for participation in various festivals are arranged for children lacking parental protection and children from refugee families.

### Boarding institutions for children

	1997	1998	1999	2000	2001	2002
CHILDRENS' HOMES (under-fives)	4	4	4	4	4	4
Total inmates	181	181	184	197	191	173
Including orphans	122	115	122	107	101	173
CHILDREN'S HOMES (over-fives)	4	5	5	6	6	6
Total inmates	461	548	608	684	705	749
Including orphans	105	130	117	139	207	266
BOARDING SCHOOLS FOR ORPHANS AND CHILDREN LACKING PARENTAL SUPPORT	2	3	3	3	3	2
Total inmates	616	575	569	554	540	516
Including orphans	349	3454	347	368	356	342
BOARDING SCHOOLS FOR CHILDREN WITH SPECIAL HEALTH NEEDS	2	3	3	3	3	2
Total inmates	13	14	14	13	13	12
Including orphans	236	273	272	280	181	228
BOARDING SCHOOLS/ HOMES FOR RETARDED CHILDREN	2	2	2	2	2	2
Total inmates	262	302	300	300	348	359
Including orphans	85	85	102	203	244	185
GENERAL BOARDING SCHOOLS	38	37	38	38	39	39
Total inmates	16,484	16,131	17,090	17,638	17,781	18,859
Including orphans	1,181	1,481	1,402	1,755	2,095	2,692

### H. Adoption (art. 21)

178. Pursuant to article 32 of the Rights of the Child Act, adoption is permitted in accordance with the procedure established by law when it is in a child's best interests. A person adopting a child must be in a position to ensure the child's normal development and education. Adoption for personal gain is prohibited. Adoptive parents are guaranteed confidentiality by the State. The rules governing the adoption of child who is a national of Azerbaijan by foreigners and the adoption of a foreign child by nationals of Azerbaijan are determined by inter-State agreements and Azerbaijani legislation.

179. The Family Code contains the following provisions on adoption:

- Adoption is permitted in respect of minors but only in their best interests (art. 117.1)
- One and the same child may not be adopted by two persons (except spouses) (art. 117.2)
- A spouse may adopt his or her child born out of wedlock or a child of the other spouse (art. 117.3)

- Brothers and sisters may not be adopted by different persons, except when the adoption is in a child's best interests (art. 117.4)
- The adoption of children by foreign nationals is permitted when the children in question cannot be placed with an Azerbaijani family permanently resident in Azerbaijan or when their relatives, regardless of their nationality or residence, have refused to adopt them (art. 117.5)
- Children may be given in adoption to Azerbaijani nationals permanently resident outside Azerbaijan, to foreigners who are not related to the children and to stateless person within three months from their central registration in accordance with article 115.5 of the Family Code (art. 117.6)
- Adoption is processed by a court on the application of the person or persons wishing to adopt; such cases are dealt with by the courts as special proceedings in accordance with the rules prescribed by the civil procedure legislation with the participation of the competent tutorship and guardianship agency (art. 118.1)
- The rights and duties of adoptive parents and adopted children apply from the day of the entry into force of the adoption order issued by the court (art. 118.2)
- Within three days of the entry into force of an adoption order the court in question is required to transmit an extract from the order to the civil registry agencies of the Ministry of Justice (art. 118.3)
- Adoptions must be registered in accordance with the established procedure for official registration of certificates of civil status (art. 118.4)
- Adoption subject to conditions or for a specified period or arranged through representatives is prohibited (art. 118.5)
- An adoption may not proceed in the event of the child's death (art. 118.6)
- The register of children available for adoption is to be kept in accordance with article 115.5 of the Family Code (art. 119.1)
- The register of persons wishing to adopt is to be kept in accordance with the procedure determined by the Cabinet of Ministers (art. 119.2)
- The register of foreign nationals and stateless persons wishing to adopt children who are nationals of Azerbaijan is to be kept by the competent executive agency (119.3)
- Adoptive parents may be persons of the age of majority of either sex (art.120.1) except for: (a) persons declared by a court to be legally incapable or of limited legal capacity (art. 120.1.1); (b) persons deprived of their parental rights by a court (art. 120.1.2); (c) persons relieved of an obligation of tutorship or guardianship owing to improper discharge of the duties imposed by law (art. 120.1.3); (d) former adoptive parents whose right to adopt has been revoked by a court through their

own fault (art. 120.1.4); and (e) persons whose state of health prevents them from discharging parental duties (art. 120.1.5)

- The list of disqualifying diseases in respect of adoption, tutorship or guardianship is determined by the Cabinet of Ministers (art. 120.2)
- Persons who are not married to each other may not jointly adopt the same child (art. 120.3)
- The age difference between an unmarried person who wishes to adopt and the child to be adopted must be not less than 16 years. A lower age difference may be permitted for reasons accepted by a court (art. 121.1)
- The age difference specified in article 121.1 of the Family Code is waived for adoption by a stepparent (art. 121.2)
- A child having parents may be adopted only with their consent, subject to the provisions of article 123 of the Family Code; adoption of a child of parents under the age of majority requires the consent of their own parents, tutors or guardians or, if they have no parents, tutors or guardians, of the competent tutorship and guardian agency of the local authorities; the written consent of parents to the adoption of their children must be legally certified by the head of the institution where the child is living or by the tutorship and guardianship agency of the place of adoption or the parents' residence; consent may also be given orally in court during the adoption hearing (art. 122.1)
- Parents are entitled to revoke their consent to their children's adoption up to time when the court makes the adoption order (art. 122.2)
- Parents may give their consent for their child to be adopted either by a specified person or by an unspecified person
- The competent tutorship and guardianship agency is required to submit to the court an opinion that an adoption is in the child's best interests; if the adoptive parents are foreigners or stateless persons, the opinion called for in this article must be confirmed by the Cabinet's Commission on Adoption Affairs; this opinion is not required for adoption by a stepparent (art. 122.4)
- The parents' consent to a child's adoption is not required when they had been deprived of their parental rights at least a year earlier or they have been declared by a court to be legally incapable or of unknown whereabouts (art. 123.1)
- If the parents have not been living with the child for more than six months, refuse to be involved in the child's upbringing or maintenance or, despite a warning by a tutorship and guardianship agency, do not display due parental attention and care towards the child, the adoption may proceed even without their consent (art. 123.2)
- The written consent of the tutors or guardians is required in cases of the adoption of children in tutorship or guardianship (art. 124.1)

- The written consent of the foster parents is required in cases of the adoption of children living in foster families (art. 124.2)
- The written consent of the head of the institution or establishment is required in cases of the adoption of children living in social protection institutions or education, health or other similar establishments (art. 124.3)
- In the best interests of the child the courts are entitled to make adoption orders even without the consent of the persons specified in articles 124.1 to 124.3 of the Family Code (art. 124.4)
- The consent of the child is required in cases of the adoption of children aged 10 years or older (art. 124.5)
- If a child was living in the family of the person wishing to adopt him before the adoption application is submitted and regards that person as his parent, the adoption may proceed without the child's consent (art. 124.6)
- At the request of the adoptive parent a child may take the adoptive parent's surname and a new forename; the patronymic of an adopted child is taken from the forename of the adoptive parent, if he is a man, or when the adoptive parent is a woman, in accordance with her wishes, except in cases when the rights and obligations of the child's father towards the child are maintained; when a child is adopted by an unmarried person, the surname, forename and patronymic of the child's mother or father is entered in the register of births on that person's instructions (art. 125.1)
- If adoptive spouses have different surnames, the adopted child takes the surname of one of them, at their discretion (art. 125.2)
- The surname, forename and patronymic of an adopted child aged 10 years or older may be changed only with his consent, except in the case addressed in article 124.6 of the Family Code (art. 125.3)
- The fact that an adopted child has taken a new surname and patronymic or changed his forename is noted in the adoption order made by the court (art. 125.4)
- In order to maintain the confidentiality of the details of an adoption, the adoptive parent's place of birth may be altered at his request, as may the date of birth of the adopted child but by no more than three months (art. 126.1)
- An adopted child's date of birth may be altered only before his first birthday (art. 126.2)
- Any alteration of an adopted child's date and place of birth is noted in the adoption order (art. 126.3)
- At their request a court may order the names of adoptive parents to be entered in the register of births as the parents of the adopted children (art. 127.1)

- The consent of the adopted child to such registration is required when the child is aged 10 years or older, except in the case addressed in article 124.6 of the Family Code (art. 127.2)
- The need to register the adoptive parents as an adopted child's parents is indicated in the adoption order (art. 127.3)
- In the event of the death of a person responsible for a child's upbringing, the fact of adoption may be legally confirmed only when the child is accepted in the family as that person's biological child and he or she had submitted an adoption application to the courts before dying (art. 128)
- A minor child holding entitlement at the time of adoption to a pension and State benefits as a result of the death of the head of his family retains such entitlement even after adoption (art. 129)
- The confidentiality of the details a child's adoption is protected by law (art. 130.1)
- The disclosure of any kind of information about an adoption without the permission of the adoptive parents or, in the event of their death, of the tutorship and guardianship agency or the delivery of extracts from the civil registry records indicating that the adoptive parents are not the adopted child's biological parents is prohibited (art. 130.2)
- Persons violating an adopted child's right to confidentiality against the wishes of his adoptive parents may be held liable in accordance with procedure established by law (art. 130.3)
- Revocation of a child's adoption may be ordered by the courts (art. 131.1)
- Cases concerning revocation of adoption are heard by the courts with the participation of a tutorship and guardianship agency (art 131.2)
- An adoption is terminated from the day of the entry into force of the court order revoking the adoption (art. 131.3)
- Within three days of the entry into legal force of an order revoking a child's adoption the court is required to transmit an extract from this order to the civil registry agency of the Ministry of Justice at the place where the adoption was registered (art. 131.4)
- An adoption is revoked when: (a) the adoptive parents refuse to discharge their parental obligations (art. 132.1.1); (b) the adoptive parents abuse their parental rights (art. 132.1.2); (c) the adoptive parents treat the adopted child cruelly (art. 132.1.3); or (d) the adoptive parents exhibit chronic alcoholism or drug addiction (art. 132.1.4)
- The courts are empowered to revoke adoption orders on other grounds in the child's best interests, having heard his views (art. 132.2)

- The revocation of an adoption order may be requested by the adoptive parents themselves, the child's biological parents, an adopted child aged 14 years or older or the competent tutorship and guardianship agencies (art. 133)
- Adopted children and their descendants in relation to their adoptive parents and their kinsfolk and adoptive parents and their kinsfolk in relation to their adopted children and their descendants are assimilated to kinsfolk by birth with respect to their personal non-property and property rights (art. 134.1)
- Adopted children lose their personal non-property and property rights and are released from their obligations towards their parents and kinsfolk (art. 134.2)
- When a child is adopted by a single person the child's personal non-property and property rights may be retained at the wish of his mother when the adoptive parent is a man or of his father when the adoptive parent is a woman (art. 134.3)
- If one of the biological parents of an adopted child dies, then at the request of the deceased's parents (the child's grandparents) his non-property and property rights and duties towards the kinsfolk of the deceased parent may be retained, provided that this is in the child's best interests; the right of kinsfolk of a deceased parent to maintain a relationship with an adopted child is governed by article 62 of the Family Code (art. 134.4)
- The maintenance of a relationship between an adopted child and one of his biological parents or with the kinsfolk of a deceased parent is indicated in the adoption order (art. 134.5)
- The legal consequences of a child's adoption addressed in articles 128.1 and 128.2 of the Family Code have effect regardless of whether the adoptive parents are recorded as the biological parents in the child's birth certificate (art. 134.6)
- When a child's adoption is revoked by the courts the reciprocal rights and obligations of the adopted child and the adoptive parents (and their kinsfolk) are terminated and the reciprocal rights and obligations of the child and his biological parents (and kinsfolk) are restored, provided that this is in the child's interests (art. 134.7)
- When a child's adoption is revoked by court order he is returned to his biological parents (art. 134.8)
- If the child has no biological parents or if his return to his parents is against his best interests, he is placed in the care of the competent tutorship and guardianship agencies (art. 134.9)
- The court also decides whether the child is to retain a forename, patronymic or surname acquired as a result of his adoption (art. 134.10)
- Alteration of the forename, patronymic or surname of a child aged 10 years or older is possible only with his consent (art. 134.11)

- In the light of the child's best interests the court is entitled to make an order for the recovery from a former adoptive parent and the transfer of resources for the child's maintenance in the amounts specified in articles 76-78 of the Family Code (art. 134.12)
- Revocation of an adoption is not permitted once a person has reached the age of majority; however, revocation is permitted with the common consent of the adoptive parent, the adopted person and his parents (provided that they are alive and have not been deprived of their parental rights or declared legally incapable by a court) (art. 135)

180. The Code of Civil Procedure contains the following provisions on adoption:

- Applications to adopt a child are submitted by the person or persons wishing to adopt to the courts at the child's place of residence or the place where he is temporarily housed (art. 345)
- Adoption applications must include the following particulars: (a) the surname, forename and patronymic, date of birth, place of residence and type of occupation of the applicant or applicants (art. 346.0.1); (b) the surname, forename and patronymic and the date of birth of the child to be adopted, his place of residence or place where he is temporarily housed, and details of his parents and of any siblings (art. 346.0.2); (c) the circumstances justifying the application of the prospective adoptive parents to adopt the child, together with supporting evidence (art. 346.0.3); and (d) any request for change of the child's surname, forename or patronymic or alteration of his date of birth (in the case of children aged under 12 months) or for registration of the adoptive parent(s) as the biological parent(s) in the child's birth certificate (art. 346.0.4)
- The following documents must be appended to an adoption application: (a) a copy of the applicant's birth certificate in the case of adoption by an unmarried person (art. 347.1.1); (b) a copy of the marriage certificate of the applicant or applicants in the case of adoption by married persons (art. 347.1.2); (c) when a child is to be adopted by one partner in a marriage, the consent of the spouse or a document certifying that the spouses have broken off marital relations and have not lived together for more than a year (if such a document cannot be appended, the application must contain evidence supporting the facts) (art. 347.1.3); (d) a medical opinion as to the state of health of the applicant or applicants (art. 347.1.4); (e) a certificate from the place(s) of work of the applicant or applicants indicating the position(s) held and remuneration received or some other document certifying the income of the applicant or applicants (art. 347.1.5); and (f) a document certifying the right to occupy living accommodation or the ownership of such accommodation (art. 347.1.6)
- In the case of the adoption of a child who is a national of Azerbaijan by foreign nationals or stateless persons the documents mentioned in articles 347.1.1 to 347.1.6 of the Code of Civil Procedure must be appended to the adoption application, together with a statement by a competent agency of the State of which



the applicants are nationals (for application by stateless persons - of the State in which they have a permanent place of residence) as to their circumstances and suitability to become adoptive parents, and authorization by a competent agency of that State for the adopted child to enter and reside in its territory (art. 347.2)

- In cases of adoption in Azerbaijani territory by nationals of Azerbaijan, the documents mentioned in article s 347.1.1 to 347.1.6 of the Code of Civil Procedure must be appended to the adoption application, together with the consent of the child's legal representative and the competent agency of the State of which the child is a national and, when required by the legislation of that State and (or) an international treaty to which Azerbaijan is a party, the consent of the child himself (art. 347.3)
- Documents submitted by foreign nationals must be legally certified; after certification they must be translated into the Azeri language and the translation must be notarized (art. 347.4)
- In preparation for an adoption hearing the judge may order the application together with the appended documents to be transmitted to the tutorship and guardian agency of the place of residence of the child to be adopted or of the place where he is temporarily housed, which must then lodge with the court an opinion as to whether the adoption is justified and in the child's best interests (art. 348.1)
- The following documents must appended to such opinions: (a) a document certifying that the circumstances of the person or persons wishing to adopt have been investigated by the tutorship and guardianship agency of the child's place of residence or of the place where he is temporarily housed or of the residence of the prospective adoptive parents (art. 348.2.1); (b) a medical opinion as to the child's state of health and mental and physical development (art. 348.2.2); (c) the child's birth certificate (art. 348.2.3); (d) the child's consent to the adoption when he is aged 10 years or older, together with details of any changes of his forename, patronymic or surname or of the registration of the prospective adoptive parents as his biological parents (except when such consent is not required by law) (art. 348.2.4); (e) the consent of the child's parents to the adoption except when a child's adoption is permitted by law without his parents' consent (art.348.2.5); (f) the consent to the adoption of the child's tutor or guardian or foster parents or of the head of the institution where a child lacking parental protection is living (art. 348.2.6); and (g) in cases of adoption by Azerbaijani nationals permanently resident outside the territory of Azerbaijan, foreign nationals or stateless persons, a document certifying that the particulars of the child to be adopted are recorded in the central registry and that it is impossible for him to be adopted by relatives, regardless of their nationality or place of residence; if the prospective adoptive parents are foreign nationals or stateless persons, the opinion called for in this article must be discussed and confirmed by the Cabinet's Commission on Adoption Affairs (art.348.2.7)
- When necessary, a court may require other information to be submitted (art. 348.3)

- When the conclusion of the tutorship and guardianship agency has reached the court, the judge, on his own motion, orders the proceedings to be resumed and the application to be heard in court (art. 348.4)
- Adoption cases are heard by the courts in closed session with the mandatory attendance of the prospective adoptive parent or parents, a representative of the tutorship and guardianship agency and, when necessary, other interested persons and the child himself if he is at least 10 years old (art. 349)
- Having considered the adoption application, the court makes an order of approval or rejection; if the application is approved the court declares the child to be adopted by a specific person or persons and includes in the order all the particulars of the adopted child and the adoptive parent or parents required for the registration of the adoption by the civil registry agencies (art. 350.1)
- The court may grant an adoption application but at the same time reject a request by the applicant or applicants to be entered in the child's birth certificate as his biological parent or parents or for the place or date of the child's birth to be altered (art. 350.2)
- Following the approval of an adoption application the reciprocal rights and obligations of the adoptive parent or parents and the adopted child are established from the day of the entry into legal force of the adoption order (art. 350.3)
- Within three days of an adoption order's entry into legal force the court making the order transmits it to the civil registry agency of the place where the order was made for the adoption to be officially registered (art. 350.4)
- Actions for revocation of adoption orders are considered and decided by the courts (art. 351)

#### **I. Periodic review of the treatment of children placed for the purposes of care (art. 25)**

181. Pursuant to article 136 of the Family Code, children lacking parental protection are placed in tutorship or guardianship for the purposes of their maintenance, upbringing and education and for the protection of their rights and interests. Children aged under 14 years are placed in tutorship and children aged 14 to 18 years in guardianship. Decisions on the beginning or ending of such placement are made in accordance with the country's civil legislation.

182. According to article 138 of the Code, tutors or guardians are not appointed for children placed under full State tutorship or guardianship in education, health or social welfare institutions. The obligations in question are discharged by the administrations of these institutions. The temporary placement of a child in such an institution does not reduce the rights and obligations of a tutor or guardian towards that child. The tutorship and guardianship agencies constantly monitor the conditions of the maintenance, upbringing and education of children in the institutions referred to in this article of the Code. Responsibility for the

protection of the rights of children released from the institutions referred to in this article rests with the tutorship and guardianship agencies.

183. Under article 140, children lacking parental protection and placed in an education, health or social welfare institution or other similar establishment are entitled to:

- (a) Maintenance, upbringing and education, comprehensive development, respect for their human dignity, and protection of their interests;
- (b) The pensions, benefits and other social payments due to them;
- (c) Retention of the ownership of living accommodation or the right to occupy living accommodation or, in the absence of such accommodation, award of living accommodation in accordance with the housing legislation;
- (d) The preferential treatment with respect to employment accorded by the labour legislation on their release from an institution mentioned above;
- (e) Enjoyment of the rights provided for in article 50 (right of the child to maintain a relationship with his parents and other relatives), article 51 (right of the child to protection) and article 52 (right of the child to express his opinions) of the Family Code for children lacking parental protection and placed under tutorship or guardianship in an institution mentioned above.

**J. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)**

184. Pursuant to article 5 of the Rights of the Child Act, State agencies and natural and legal persons must be guided in their actions by the best interests of the child and must create the conditions for the exercise of children's rights. National legislation and the decisions of the competent authorities must not work to the detriment of the best interests of the child, and their application must not harm a child's life, development or upbringing. Any restriction of the rights and interests of the child is legally invalid.

185. Under article 136.2 of the Family Code, children aged under 14 years are placed in tutorship and children aged 14 to 18 years in guardianship.

186. Under article 137, only persons of the age of majority and possessing full legal capacity may be appointed tutor or guardian. For the purposes of appointing a tutor or guardian for a child, account is taken of the candidate's moral and other qualities and his capacity to discharge the duties in question, the relationship between the candidate and the child, the child's relationship with the members of the candidate's family, and also, when possible, the wishes of the child himself. Persons suffering from alcoholism or drug addiction, persons who have had the status of tutor or guardian revoked, persons whose parental rights have been subjected to restriction, former adoptive parents if the adoption was revoked through their fault, and persons whose state of health prevents their taking on responsibility for a child's upbringing may not be appointed tutor or guardian.

187. Article 171 of the Criminal Code establishes criminal liability in respect of involvement of a minor in prostitution or the commission of immoral acts. Involvement of a minor in prostitution through the use or threat of force, blackmail or destruction or damage of property or by deception, when such act is committed for monetary or some other gain, is punishable as a criminal offence under article 243 of the Code.

188. Unlawful acts committed for purposes of personal gain in connection with the adoption of children or their placement in tutorship or guardianship or in a foster family trigger criminal liability in accordance with article 174 of the Code.

189. Article 176 of the Code establishes criminal liability in respect of persistent refusal by parents who are fit for work or working to comply with a court order for payment of maintenance for minor children or for children of the age of majority who are not fit for work.

190. Article 103 establishes criminal liability in respect of acts aimed at the total or partial destruction of a national, ethnic, racial or religious group by murdering members of the group, causing serious damage to their health or mental abilities, creating living conditions aimed at the total or partial physical destruction of members of the group, implementing measures designed to impair the group's birth rate, or transferring children belonging to one group to a different group.

191. The failure to discharge or the inadequate discharge by parents or persons acting as parents of their duties with respect to the upbringing and education of minor children triggers administrative liability under article 51 of the Administrative Offences Code.

192. Article 307 of this Code establishes the administrative liability of parents and other persons who reduce a minor to a state of drunkenness.

193. The administrative liability of parents or other persons is also established, under articles 307.1 and 307.2, for reducing a minor to a state of vagrancy.

194. Pursuant to article 68 of the Family Code, a court may make an order, in the best interests of the child, to remove a child from his parents (or either of them) without depriving them of their parental rights. Restriction of parental rights is permissible if it would be dangerous for the child to remain with his parents (or either of them) owing to circumstances beyond their control (such as mental disturbance or some other chronic disorder or a concurrence of difficult circumstances, etc.). Such restriction is permissible when it would be dangerous for a child to remain with his parents (or either of them) owing to their conduct but there are insufficient grounds for the removal of parental rights. If the parents do not alter their conduct, the tutorship and guardianship agency of the local authorities is required, on the expiry of a six-month period from the day of the issuance of the court order restricting the parents' rights, to initiate proceedings for the removal of these rights in the best interests of the child. The agency is entitled to initiate proceedings for the removal of the rights of the parents (or either of them) on the expiry of that period. Actions for the restriction of parental rights may also be brought by a child's close relatives, an agency for the protection of minors, or a pre-school, general education or other institution.

195. Applications for the restriction of parental rights are heard with the participation of the tutorship and guardianship agency of the local authorities. At this time the court may also make an order for the recovery of maintenance from the parents (or either of them). Within three days from the entry into legal force of an order restricting parental rights the court is required to transmit an extract from the order to the competent agency of the local authorities.

196. Under article 69 of the Code, parents whose parental rights have been subjected to restriction lose the right to bring up their child personally and their entitlement to State benefits and the preferential treatment accorded to parents with children. The restriction of parental rights does not release parents from their obligation to maintain their child. Children whose parents' rights have been subjected to restriction enjoy the right of personal ownership or occupation of living accommodation and property rights deriving from their actual kinship with their parents and other relatives, including the right to inherit. When the parental rights of both parents have been subjected to restriction, a child is placed in the care of the tutorship and guardianship agency of the local authorities.

197. In accordance with article 72, when a child's life or health is under direct threat the tutorship and guardianship agency is entitled to remove him immediately from his parents (or either of them) or from other persons in whose tutorship or guardianship he had been placed. The agency takes this action pursuant to a court order. Having removed a child, the agency must immediately notify a procurator and make temporary arrangements for the child's care. Within seven days of the issuance of the removal order it may apply to the courts for deprivation or restriction of the parents' parental rights.

198. Under articles 74.3 and 74.4, when a removal order has to be executed forcibly it is mandatory for the competent local authority, the person in whose care the child is to be placed and, if necessary, a representative of the police to be involved. If it is impossible to enforce a court order for a child's transfer without harming the child's interests, the court may order him to be placed temporarily in a social welfare, education or health institution or some other similar establishment.

199. The State education organizations, together with NGOs, carry out educational work with children to explain their rights to them and to try to establish models of behaviour to reduce the likelihood of their being subjected to cruel or degrading treatment.

200. The scientific research centre on youth problems of the Ministry for Youth, Sports and Tourism has devised a two-year course to train social workers to deal with the problems of children and young people. The Ministry is working on a mechanism for the collection and processing of information from district and municipal authorities and is creating an extensive database on the situation of children. The lack of reliable data of this kind is currently obstructing the attainment of better results in terms of the genuine protection of the rights of this category of children.

### Numbers of orphans and children lacking parental protection

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Orphans and children lacking parental protection (total). Including:	25,375	26,065	26,249	26,977	27,275	28,055
In guardianship	8,444	8,677	8,787	9,036	9,090	9,295
For adoption	14,853	14,959	15,063	15,089	15,001	14,962
In children's homes (under-fives)	122	115	122	107	101	85
In children's homes (over-fives)	105	130	117	139	207	266
In boarding schools for orphans and children lacking parental protection	349	345	347	368	356	342
In boarding schools for children with special health needs	236	273	272	280	181	288
In homes for retarded children	85	85	140	203	244	185
In general boarding schools	1,181	1,481	1,401	1,755	2,095	2,692

## VI. BASIC HEALTH AND WELFARE

### A. Children with special needs (art. 23)

201. Pursuant to article 35 of the Rights of the Child Act, disabled children and children with mental or physical deficiencies enjoy the right to special medical, disability and psychological services provided free of charge or on a preferential basis. The State promotes the social and psychological rehabilitation of these children, provides them with assistance to obtain education tailored to their abilities, and implements measures to prevent child disability.

202. In this connection, the construction in Baku of a children's rehabilitation centre with 42 beds was completed in 2002. With financial and technical assistance from the Government of Japan this centre is being furnished with the most up-to-date equipment for the implementation, on an out-patient and in-patient basis, of comprehensive programmes for integrating the children in society and providing them with medical, social and vocational-rehabilitation services. More than a thousand such children a year will be able to use the services available in the rehabilitation centre, which was to open its doors in 2003.

203. Under article 36 of the Act, time spent looking after a disabled child up to age 16 is included in a worker's pensionable service. Persons caring for such children are paid an allowance in an amount fixed by law.

204. Under article 15 of the Disability Prevention and Disabled Persons (Rehabilitation and Social Protection) Act of 25 August 1992, the State guarantees the necessary conditions for disabled people to receive education and vocational training. The competent executive agencies provide, in the manner prescribed by law, pre-school and extra-curricular education for children with disabilities and secondary specialized and higher education under individual rehabilitation

programmes. Various kinds of education and vocational training are available for persons with disabilities, including education at home and teaching programmes tailored to the individual. The State provides training for education workers specializing in education and vocational training for the disabled.

205. Pursuant to article 16 of the Act, the competent executive agencies arrange for the organization of special groups to create the best opportunities for educating disabled children of pre-school age and providing them with rehabilitation assistance in pre-school institutions of the regular type. The article further requires special pre-school institutions to be provided for disabled children whose physical or mental developmental defects preclude their integration in pre-school institutions of the regular type.

206. Article 17 of the Act provides that children with disabilities who are unable to attend general education schools may be taught at home if they and their parents so wish. The competent executive agencies make comprehensive arrangements to ensure that children with disabilities can be educated at home. When a disabled child is educated at home, one of the parents or the persons acting as parents is entitled to receive financial support and benefits in the manner and under the conditions prescribed by law. Time spent caring for a disabled child counts towards the carer's pensionable service. Assistance is available from the relevant education institutions for parents whose disabled children are being educated at home.

207. Pursuant to article 18 of the Act, it is incumbent on other State bodies to put in place the necessary conditions for the extra-curricular education of children in order to ensure their comprehensive, harmonious development, socialize them and familiarize them with the worlds of work, science, technology, art and sport.

208. Article 19 of the Act states that secondary, secondary specialized and higher education for disabled persons shall be provided by educational establishments of the normal type, or by special education facilities if necessary. To provide the requisite conditions for the education of people with disabilities, specialized faculties or departments are set up for them in vocational and technical schools, technical colleges and higher-education institutions. Educational activities are also organized for disabled children undergoing treatment in hospitals or therapeutic rehabilitation facilities. Talented children with disabilities are entitled to free education in music and the fine and applied arts in ordinary schools or under special extra-curricular arrangements. The necessary arrangements are made to enable disabled persons to sit examinations. Pensions and bursaries are paid at the full rate for the duration of study. Students with category I or II disabilities get an additional allowance equal to 50 per cent of the bursary received. The State pays the tuition fees of persons attending fee-paying higher and secondary specialized education institutions who became category I and II disabled as a result of the events in Baku on 19 and 20 January 1990 or who were disabled while protecting the territorial integrity, independence and constitutional order of the Azerbaijani State.

209. Pursuant to article 20 of the Act, children with disabilities who are permanently hospitalized must be provided with continuous education and tuition by the hospital as an integral part of efforts to equip them for life in society and for employment.

210. Pursuant to article 21 of the Act, vocational and refresher training for disabled persons are provided under individual and State rehabilitation programmes by education institutions,

including the training centres of the State Employment Service, and by enterprises and organizations (both specialized and ordinary), in conjunction with institutions providing social assistance to persons with disabilities and their voluntary organizations. The State Employment Service offers persons with disabilities who are able to work career guidance with a view to assessing their suitability for employment and the feasibility of training them for a new occupation. Blind and visually impaired children are provided with Braille textbooks, audio books, study aids, special tape recorders, magnifying glasses and canes, while deaf children receive hearing aids and other devices designed for deaf people. Special schools, sound-recording studios and special libraries are established for them. Persons with disabilities who are undergoing vocational or refresher training are entitled to receive financial support in the manner and under the conditions prescribed by law.

211. According to the Persons with Special Health Needs (Education and Special Education) Act, the purpose of special education is to equip such persons with the necessary knowledge, skills and habits to secure their integration in society and the necessary habits and skills for working and family life.

212. Persons with special health needs who are unable to attend school are educated at home by an appropriate education institution. The list of disorders triggering entitlement to education at home and the rules governing such education are determined by the Cabinet of Ministers.

213. If such persons are hospitalized for a lengthy period (more than 21 days), arrangements are made, by order of the psychological and medical-educational commission of the Ministry of Education, for them to be taught in accordance with their normal curriculum. The rules governing in-hospital education are determined by the Cabinet of Ministers.

214. Such persons may be enrolled in general-education schools under the procedure established by law pursuant to a decision of the psychological and medical-educational commission or the expert medical-social commission.

215. Disabled children whose disabilities do not prevent them from studying the arts have the same educational rights as other children. Baku has a music school for blind children. Disabled children are entirely free to join clubs and to use library services.

216. With a view to supporting families with disabled children, every year since 2001 the Ministry for Youth, Sports and Tourism has organized in the National Centre for Children's Health and Recreation a summer school for a group of children suffering from Down's syndrome, autism, etc., and their parents.

217. A number of reviews and competitions have been held in recent years to promote the social integration of children with disabilities. Drawing and applied-arts competitions have become a tradition. Two social rehabilitation centres have been set up with the assistance of the Soros Foundation; work is currently proceeding on the establishment of branches in towns and districts throughout the country.

218. The Goncha non-governmental organization has set up a children's puppet theatre called *Neposedy* for children with mental abnormalities (Down's syndrome, autism, epilepsy, etc.). The theatre takes an active part in many children's festivals and performs for children in



boarding schools and in kindergartens and day schools. It has performed in Austria, where its work and the results obtained were shown on local television channels.

**Number of disabled children aged 16 or younger receiving social pensions  
(at the beginning of each year)**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Total	19,838	18,876	21,739	26,243	31,460	36,901

**Children with special health needs**

	<i>2002</i>	<i>2003</i>
Deaf children	916	945
Children with poor hearing classified as deaf	1,854	1,920
Blind children	363	356
Partially sighted children	9,693	949
Mentally retarded children	5,970	6,155
Children with speech defects	4,394	4,609
Children with polio or cerebral palsy	2,465	2,511
Children suffering from scoliosis	1,912	2,046

**Numbers of disabled children attending secondary specialized and  
higher education institutions**

	<i>1997-1998</i>	<i>1998-1999</i>	<i>1999-2000</i>	<i>2000-2001</i>	<i>2001-2002</i>	<i>2002-2003</i>
Secondary specialized education	32,578	35,678	38,801	41,173	47,726	50,266
Including disabled	11	49	27	7	20	11
Higher education	79,804	82,308	88,521	91,019	98,959	101,676
Including disabled	2	9	1	6	48	56
Schools for children with special health needs	20	21	21	20	20	20
Students in such schools	3,650	3,968	4,213	4,589	4,789	5,060

**B. Health and health-care services (art. 24)**

219. Pursuant to article 9 of the Rights of the Child Act, every child is entitled to protection of his life and health. The State is responsible for guaranteeing protection of children's lives and healthy development, creating the conditions for their environmental safety and taking appropriate steps to provide children with good-quality food and clean drinking water.

220. Azerbaijan runs programmes in the following areas: national immunization; combatting respiratory infections and diarrhoea among breastfed babies; safe maternity and care of newborn babies; breastfeeding and the nation's health; prevention of diseases associated with iodine deficiency; eradication of German measles; and reproductive health and family planning.

#### **Medical and preventive care for children**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Paediatricians	4,146	4,128	4,149	4,219	4,211	4,228
Children's beds	12,465	12,190	12,165	11,880	11,530	11,432
Children's sanatoria	18	18	18	18	18	18
Children's polyclinics and outpatients departments, and institutions with children's units	588	587	570	600	917	603

221. Under article 11 of the Chernobyl Disaster (Status and Social Protection of Victims and Participants in the Clean-up) Act, the persons referred to in article 5 of the Act and their children born in the post-disaster period in circumstances in which they may have been indirectly exposed to radioactivity are subject to compulsory medical observation by specialists (clinical examination). Arrangements for the medical treatment of victims of the Chernobyl disaster and their clinical examination are made by the health institutions of their place of residence or work, which also furnish them with specialist medical care. The list of these institutions and the procedure for the provision of medical care and conduct of clinical examinations is established by the Ministry of Health. Incapacity to work incurred by the persons referred to in article 5, paragraph 1, of the Act as a result of the Chernobyl disaster is deemed to be indefinite incapacity. A causal link between partial or total loss of the capacity to work and the Chernobyl disaster is deemed established if such a link is confirmed by an expert medical-social commission.

222. Under article 12, the following additional social welfare benefits and medical care and treatment are accorded to children and adolescents aged under 18 evacuated and resettled from the exclusion zone and the evacuation zone, including those who were in the womb on the day of the evacuation and those born after 26 April 1986, as well as to children of a parent who took part in the clean-up following the disaster at the Chernobyl nuclear power station or was a victim of the disaster and is deemed to have been exposed to direct radiation:

- (a) Treatment on medical recommendation in an appropriate sanatorium, including mother and child sanatoria, paid for by the enterprise, establishment or organization employing one of the parents or persons acting as parents or by the social welfare agencies;
- (b) Free provision of medicines (on a doctor's prescription);
- (c) Free return travel by rail accompanied by a parent or a person acting as parent or in areas without railway communications by air or intercity road transport, with preferential entitlement to purchase tickets, as far as the sanatorium or other place of treatment as ordered by

the medical institution, paid for by the employer enterprise, establishment or organization or by the social welfare agencies;

(d) Annual free treatment in a treatment facility with return travel paid for by the enterprise, establishment or organization employing one of the parents or persons acting as parents or by the social welfare agencies or, if free travel cannot be provided, payment of a lump sum equal to the average cost of the travel;

(e) Children and adolescents are entitled to take advantage of these benefits in the event of disorders of the haemopoietic organs (acute white blood cell dysfunction), thyroid gland (adenoma, cancer) or the appearance of malignant tumours;

(f) Full bursaries and entitlement to attend vocational-technical schools with all expenses paid by the State;

(g) Families with children who were disabled or contracted a disease as a result of the Chernobyl disaster and are registered for medical treatment with a health centre and children of parents who acquired group I or II disability or died as a result of the Chernobyl disaster are paid a monthly allowance for each child in an amount fixed by the competent executive agency;

(h) Either parent of a child aged under 14 may be paid a sick-leave benefit for caring for a sick child equal to 100 per cent of the average monthly wage regardless of length of service;

(i) Women referred to in article 5, paragraph 1, of the Act are entitled during pregnancy to free travel for treatment in specialized medical institutions and to 90 days of pregnancy and childbirth leave; leave to care for a child is granted with pay equal to twice the benefit provided for in the existing legislation; pregnant women are entitled to food supplements in accordance with the existing norms.

223. Pursuant to articles 6, 11 and 13 of the Human Immunodeficiency Virus (Prevention and Control) Act, information about children aged under 14 and persons incapable of working who are infected with AIDS is furnished to their parents or other close relatives.

224. AIDS-sufferers who are below the age of majority are awarded the pensions, benefits and allowances provided by law for disabled children. Persons caring for AIDS-sufferers who are below the age of majority are awarded cash allowances and other benefits as stipulated in the legislation.

225. Either parent or the legal representative of an AIDS-sufferer who is below the age of majority is entitled:

(a) To stay with a child aged under 14 in a hospital providing medical treatment and to receive during this time State social insurance benefits as prescribed by law;

(b) To attend places of treatment within Azerbaijan with expenses paid by the State ;

(c) To retain his or her entitlement with respect to pensionable service and to be covered under the general pensionable-service scheme when taking leave to care for an infected person.

226. Pursuant to article 10 of the Medical Insurance Act, compulsory medical insurance for children and students, taking into account the indexing of prices for the medical service, is provided free of charge by the competent executive agency from the social welfare budget and resources.

227. Under article 7.3 of the Narcotic Drugs (Service and Controls) Act, employees of the narcotics services must report to the competent executive agency persons suffering from drug-related illnesses who are not looking after their minor children or treating them violently or infringing the rights of other people.

228. Under article 13 of this Act, in the course of provision of assistance with drugs-related problems the following persons must be kept under special observation, in accordance with the procedure established by the competent executive agency :

- Persons suffering from drugs-related illnesses or alcoholic psychosis
- Persons suffering from drugs-related illnesses or narcotic psychosis as a result of using narcotic drugs or psychotropic substances
- Persons suffering from drugs-related illnesses who have minor children
- Persons suffering from drugs-related illnesses who are under the age of majority
- Persons suffering from drugs-related illnesses who also have HIV/AIDS, hepatitis, venereal disease or an active form of tuberculosis
- Persons suffering from drugs-related illnesses whose minds are undergoing irreversible alteration and who are experiencing personality changes as a result of using mind-altering substances

#### **Incidence of HIV/AIDS**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Total registered AIDS-sufferers	1	2	6	4	10	7
Including children under 14	-	-	-	-	-	-
Total registered HIV-carriers	12	66	83	59	120	90
Including children under 14	-	3	2	-	-	-

**C. Social security and childcare services and facilities  
(arts. 26 and 18, para. 3)**

229. Pursuant to article 29 of the Rights of the Child Act, the State is required to furnish children with social support in the form of various allowances, monthly benefits and compensation payments. The competent executive agency is empowered to provide additional assistance and benefits for needy children. These social benefits must be used in the child's best interests.

230. Article 38 of the Constitution establishes the right of citizens to receive social support until the age fixed by law in respect of sickness, disability, loss of breadwinner, incapacity to work, unemployment and the other situations prescribed by law. The State also provides for opportunities for the conduct of charitable activities, for voluntary charitable insurance and other forms of social assistance.

231. Pursuant to articles 40-57 of the Pensions Act, children who are below the age for admission to work at the time of loss of their breadwinner are awarded occupational pensions, while article 90 establishes the right to receive welfare benefits. If a person in receipt of a pension is supporting children below working age, the pensions awarded under articles 21, 34 and 80 of the Act are augmented by family supplements.

232. On 5 December 1996 the Ministry of Labour and Social Welfare, the Ministry of Finance and the State Social Welfare Fund approved a joint directive "On the regulations governing the award and payment of children's allowances to needy families". Pursuant to this directive, families with a per capita income of under 16,500 manat receive an allowance of 9,000 manat for each child, children of persons on fixed-term military service receive a benefit of 12,500 manat, children of war martyrs (*shekhidy*) 35,000 manat, and children of persons suffering disability as a result of the clean-up at the Chernobyl nuclear power station 25,000 manat.

233. The Ministry of Labour and Social Welfare operates residential home No. 3 for disabled children at Mardakyan in Baku and a similar facility (No. 7) at Sarai in Absheron district, with a total capacity of 605 places.

234. In accordance with the rules approved by Cabinet Order No. 402 of 21 November 1994, children living in these residential homes are provided with full board, clothing and bedding. Special attention is given to the involvement of disabled children and young people in socially useful work. To this end the homes have established gardens for the cultivation of fruit and vegetables. Both the homes operate mixed-ability classes, where those children with mental disabilities receive special training.

**Assistance furnished to children by the State**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 1<sup>st</sup> qtr.</i>
One-off childbirth benefit :							
Recipients (1,000s)	95.6	84.0	91.8	99.6	94.0	94.2	23.8
Total (millions of manat)	4,755.4	4,486.7	4,603.9	4,993.1	4,993.1	6,519.0	1,616.2
Childcare allowance (to age 3) :							
Recipients (1,000s)	79.5	54.4	42.1	31.2	27.5	26.4	24.3
Total (millions of manat)	7,186.9	4,911.3	3,705.7	2,910.5	4,413.4	4,361.1	1,041.8
Monthly allowance (to age 16):							
Recipients (1,000s)	1,596.4	1,400.0	1,556.4	1,627.2	1,622.2	1,605.4	1,226.5
Total (millions of manat)	172,410.0	159,751.4	168,814.4	182,503.6	177,238.7	169,159.9	23,523.7
Loss-of-breadwinner pensions :							
Recipients (1,000s)	131.0	129.2	115.6	113.2	110.4	112.1	-
Total (millions of manat)	1,931.1	3,643.0	4,281.3	5,938.3	5,854.1	8,074.5	-

**D. Standard of living (art. 27, paras 1-3)**

235. According to article 17 of the Constitution, the care and upbringing of children are a parental duty. The State monitors the discharge of this duty.

236. Under article 134 of the Constitution, spouses have equal rights and the right and the duty to attend to the care and upbringing of their children.

237. Article 13 of the Rights of the Child Act establishes the right to material maintenance at a level no lower than the minimum living standard fixed by law.

238. Under article 11 of this Act, every child has the right to develop and be educated in accordance with the national and universal human values and the principles of humanism and morality. Children are to be educated in the family and at school and in pre-school and out-of-school education establishments. The State has established a number of organizations for the development of children's creative abilities and provision of education in the arts and it encourages voluntary bodies to set up similar organizations. Films, books and other materials containing propaganda for violence or tyranny may not be distributed or shown to children, nor may materials with an erotic or pornographic content which may have a harmful effect on children's minds and moral development; the use of children in the production of such materials is also prohibited.

239. Under article 3 of the Act, the State's policies for children must be aimed at securing the growth and development of every child in appropriate material and other living conditions, furnishing education in accordance with progressive requirements, and producing worthy citizens. State policies are implemented in the form of specific social programmes for children devised in the light of ethnic and local circumstances. Other natural and legal persons may take part in the implementation of these programmes alongside the State agencies.

240. Article 17 establishes the right of the child to live with his parents in a family and to enjoy their care. A child may not be separated from his parents against their wishes except in the cases prescribed by law.

241. Under article 18, a child living separately from either or both parents is entitled to recognize them and to have a relationship with them, provided that this does not have a harmful effect on him.

242. In accordance with article 19, parents have equal rights with respect to the upbringing of their children and must discharge all the duties stemming from such rights which may be necessary for their children's upbringing and development.

243. Pursuant to article 56 of the Family Code, parents have equal rights and equal obligations towards their children. The parental rights and obligations referred to in this article are terminated when a child reaches the age of maturity, when a minor child marries, and in the cases prescribed by law in which a minor child acquires full legal capacity.

244. Under article 58 of the Code, parents have the right and the obligation to raise their children. They are responsible for their children's upbringing and health and for their mental, physical and spiritual development. They have preferential rights over other persons with respect to their children's upbringing. Parents are required to ensure that their children receive basic general education. In the light of a child's best interests they are entitled to choose his education institution and form of education until he embarks on general secondary education. The State may interfere in these parental rights and obligations, according to the procedure prescribed by law, only when a child's best interests so demand.

245. Under article 60, parental rights may not be exercised to the detriment of a child's best interests. In the exercise of their rights parents are not allowed to cause harm to a child's physical or mental health or moral development. The exploitation of children and insulting, degrading, cruel, coarse or neglectful behaviour towards them is prohibited. Parents who exercise their parental rights to the detriment of their children's rights and interests incur liability as prescribed by law. All issues relating to their children's upbringing and education are resolved by the parents by mutual agreement in the light of the children's rights, interests and opinions. Parents (or either one of them) may apply to the competent executive agency or to the courts for settlement of disagreements. A child's place of residence when the parents live apart is decided by agreement between the parents. Any disagreement on this score is settled by the courts in the light of the child's rights, interests and opinions (their attachment to siblings and each of the parents, the parents' behaviour and their other personal qualities, the child's age, and the creation of conditions for his development and education).

246. The Presidential Order of 22 May 1996 “On increasing the benefits for needy families” established such benefits and the one-off childbirth allowance in appropriate amounts, to be disbursed from the State Social Welfare Fund (the other benefits are disbursed from the national budget), with the funding provided before the beginning of each calendar month.

247. Article 3 of the Children Lacking Parents and Parental Support (Social Protection) Act sets out measures for the social protection of such children.

248. The social protection of these children and persons assimilated to them is provided for and guaranteed by the State in accordance with the legislation in force.

249. The Cabinet of Ministers, the Ministry of Health, the Ministry of Labour and Social Welfare, the Ministry of Education and the Ministry for Youth, Sports and Tourism are responsible for formulating and carrying out specific programmes for the social protection of children lacking parents and parental support and persons assimilated to them based on special central residential facilities and education, social welfare and other institutions, and for establishing State social reintegration and rehabilitation agencies.

250. Expenditure on the social protection of children lacking parents and parental support and persons assimilated to them is based on the State social standards fixed by the Cabinet of Ministers.

251. Tutors and guardians receive monthly allowances in respect of such children in accordance with the procedure and in the amounts established by the Cabinet of Ministers.

252. Other measures may be enacted for the social protection of these children and persons assimilated to them.

253. The measures referred to above are financed in accordance with article 4 of the Act from the State budget and State and non-State funds and from grants and other sources not prohibited by law.

254. Under article 61 of the Family Code, a parent living apart from his or her children has the right to maintain a relationship with them and have a say in decisions affecting their upbringing or education. The parent with whom the children are living must not obstruct such a relationship, providing that it does not harm their physical or mental health or moral development. Parents living apart from their children are entitled to conclude written agreements on the arrangements for exercise of parental rights. Any disagreement between the parents on this score is settled by the courts with the assistance of the competent executive agency at the request of the parents or either one of them. Action is taken under the Code of Civil Procedure against a parent who fails to comply with a court order. In the event of persistent failure to comply with such an order, at the request of the parent living apart from the child in question the court, having considered the child’s best interests and heard his opinion, may order him to be transferred to that parent’s custody. A parent living apart from his or her child is entitled to receive information about the child from social welfare, education, health and other institutions. Such information may be denied only if the parent in question represents a threat to the child’s life or health. Refusal to furnish information may be contested in the courts.



255. Article 75 of the Code establishes the obligation of parents to maintain their children. Parents are required to maintain their children in accordance with this article. The arrangements for and form of such maintenance are decided by the parents independently. They are entitled to conclude agreements on the maintenance of their minor children (child support agreements) in accordance with chapter XVI of the Family Code. If parents fail to provide maintenance for their children, a means of recovering maintenance from them (child support) is sought in the courts. If the parents cannot agree on the payment of maintenance and either or both of them are not providing maintenance, provided that no child support application has been lodged with the courts the competent executive agency is entitled to initiate an action for the recovery of maintenance for minor children from one or both of their parents.

256. Under article 81, in the absence of agreement on the payment of maintenance and unless the Code provides otherwise, in exceptional circumstances (serious illness or injury affecting a minor child or incapacity to work on the part of a needy child of the age of majority, a need to pay for outside help with childcare, etc.) either parent may be ordered by a court to pay a part of the additional expenditure caused by such circumstances. The procedure for making such payments is determined by the court. The amount of such payments is fixed by the court as a monthly cash sum in the light of the financial and family circumstances of the parents and children and other relevant interests of the parties. The order may require parents to bear additional current expenditure and expenditure which will be necessary in the future.

257. Article 88 of the Code establishes the obligation of brothers and sisters to maintain their siblings who are under the age of majority or not fit for work. A minor who needs assistance from a brother or sister because he cannot obtain support from their parents is legally entitled to maintenance from any adult siblings who can afford to provide it. A person who is incapable of working also has the right to support from any adult siblings if his or her parents, spouse or adult children cannot furnish material maintenance.

258. Article 89 establishes the obligation of grandparents to support their grandchildren. A minor grandchild who cannot obtain material maintenance from his parents is legally entitled to support from his grandparents if they can afford to provide it. Adult grandchildren who are in need of support but incapable of working have the same right if they cannot obtain maintenance from their parents.

259. Under the present legislation the State Social Protection Fund finances the payment of pensions and benefits, including children's allowances. This includes such benefits as, for example, the allowance paid to needy families in respect of children up to age 16 (age 18 if they are studying), the allowance for looking after children up to age three, the one-off childbirth benefit, the allowance for children of war martyrs (*shekhidy*), the allowance for children with disabilities resulting from the disaster at the Chernobyl nuclear power station, the allowance for children of war invalids, and the allowance for children of persons on fixed-term military service.

260. In 2000 the Fund financed various forms of child benefit in a total amount of 197.4 billion manat in respect of more than 1.7 million children.

261. In 2001 resources provided by contributions to the compulsory State insurance scheme were used to increase the one-off childbirth benefit by a factor of 1.4 and the monthly allowance for looking after children aged up to three by a factor of 1.8.

262. In addition, proposals are being prepared, in conjunction with the relevant organizations and within the limits of the State budget, to increase the State benefits for needy families by improving their targeting.

263. In 2002 the Fund's agencies paid out benefits for more than 1.7 million children. During that year a total of 177 billion manat was allocated for this purpose. These were benefits for children of needy families aged up to 16 (up to 18 if they were studying but not receiving a bursary), children of war invalids and children of families victims of the events of 20 January 1990, children of persons on fixed-term military service and children of families of war martyrs, one-off childbirth benefits, etc.

264. Pursuant to the Regulations "On the calculation and payment of contributions to the compulsory State insurance scheme", which were approved by Cabinet Decision No. 189 of 15 September 1998, the State Social Protection Fund makes payments to citizens and their children, through the Confederation of Trade Unions, to cover the cost of vouchers for sanatorium and other treatment facilities. In 2002 a total of 4,430 million manat was allocated for this purpose.

265. Specific allocations are made every year under this Cabinet Decision. For example, for the 2002 summer season a total of 250 million manat was paid out to enable 2,000 children to go to summer camp.

266. A draft Policy Outline on the reform of the country's social welfare system has been produced with a view to reinforcing still further the social protection of the needy members of the population and their children and introducing changes to improve the targeting of the assistance furnished to this category of persons.

267. Pursuant to the Presidential Decree "On the replacement of preferential treatment in respect of community, transport and other services with cash benefits", children lacking parents and parental support were awarded monthly allowances totalling 15,000 manat.

268. The reforms which are being introduced in the social welfare system will ensure effective use of the resources of the State and increased benefits for children.

269. Under this same Presidential Decree, children lacking parents and parental support have been awarded monthly allowances totalling 15,000 manat.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance (art. 28)**

270. The Convention on the Rights of the Child has been translated into Azeri and published with a large print run. Its provisions are used widely in the education of young people. Azerbaijan holds frequent meetings of members of the teaching community.

271. Pursuant to article 42 of the Constitution, every citizen has the right to education. The State guarantees free compulsory general secondary education. The education system is supervised by the State. The State guarantees the continuation of education for talented individuals regardless of their economic circumstances. The State sets minimum standards of education.

272. Article 3 of the Education Act guarantees citizens the right to education regardless of their race, ethnic origin, religious faith, language, sex, age, state of health, social and material circumstances, sphere of activity, social origin, place of residence, attitude to religion, political beliefs or criminal record.

273. Certain occupations and areas of specialization may be subject to Government-imposed restrictions connected with age, sex, state of health or possession of a criminal record.

274. Citizens are entitled to free tuition at public education institutions. Additional fee-paying study groups may be established at such institutions.

275. Citizens are free to choose the form of their education, the institution which they wish to attend and the language of instruction.

276. To ensure that citizens requiring social protection and assistance can exercise their right to education, the State pays part of all of their education expenses for the duration of their education.

277. Citizens with low incomes studying at fee-paying institutions receive State grants in accordance with the rules applicable to public education institutions of the same type.

278. Under the Cabinet Decision “On the amounts of the benefits payable to the parents and other legal representatives of children designated for special education to enable them to transport their children to and from an institution of special education, a health and rehabilitation centre or a medical establishment”, allowances totalling 25,000 manat were earmarked for such parents and other legal representatives.

279. The State establishes all the necessary conditions to enable especially gifted individuals requiring social assistance to be educated either in Azerbaijan or abroad.

280. Students at higher education institutions may obtain State loans repayable over the five years following the completion of their education.

281. Azerbaijani citizens are entitled to receive appropriate certification of their education (including the first stage of higher education, the baccalaureate) after independently studying the curriculum taught at education institutions and passing an external examination.

282. Graduates of public and private education institutions have equal rights of access to the next level of education.

283. Under article 12 of the Education Act, education is provided in the following modes: (a) in education institutions with or without day-release from work; (b) in the family; (c) independently. Different modes of education may be combined. A single State standard is applied to all modes in terms of the curriculum studied. The list of occupations and areas of specialization which may not be studied without day-release from work or externally is fixed by the Government.

284. In accordance with article 27 of the Act, people's universities, reading rooms, libraries, reference centres, clubs, educational television and radio programmes, etc., are available for use by citizens studying independently. Such students may also attend lectures and take part in practical work in various education institutions, subject to authorization.

285. According to articles 38-40, non-State education institutions are regulated on the basis of their charters, which must comply with the legislation on education and with special regulatory instruments. The founders of such institutions are required to provide education consistent with the State standards. The income from an institution's educational activities must be used for its further development and to expand and modernize its resource base, stimulate and improve its teaching, extend the scope of its scientific research, improve the provision for the students' and teachers' economic and social needs, and develop links with other countries. Income may not be used for private gain.

286. Methodological guidance and information services for education are provided by higher education establishments, theoretical research institutes and collectives conducting research into teaching methods and psychology, further training institutes, libraries, information and similar agencies, as well as by methodological research institutes working in close collaboration with education centres, organizations and collectives and with creative unions, societies and associations. A single teaching centre is being established to deal with staffing, theoretical, practical and methodological problems of the country's pre-school and secondary general education schools; this centre consists of the University for Pedagogic Studies, a three-level institution of higher education which functions as a teaching, theoretical research and experimental complex, and the State Theoretical Research Institute for Educational Problems. The Ministry of National Education is responsible for updating the curricula and courses of education establishments at all levels and for the production of new textbooks to meet the needs of these curricula and programmes. The publication of educational literature and textbooks and handbooks on teaching methods and the operations of higher education publishing houses are funded by the State. A State-run psychological service operates in education establishments. This service is staffed by educational psychologists, who have the same status as teachers.

287. Under articles 55-58, links with foreign countries and international cooperation in the field of education are based on Azerbaijani legislation. Education institutions, offices and organizations have the right to conclude agreements directly with their counterparts in other

countries. In the few instances in which the provisions of international treaties and agreements are inconsistent with Azerbaijani legislation on education, the international provisions prevail. International cooperation among education institutions, offices and organizations is conducted in accordance with the legislation on education. Such institutions, offices and organizations and various teaching institutions, in any form of ownership, are entitled to establish direct links, exchange experience and staff, carry out joint programmes, found education institutions, participate in international undertakings and engage in other forms of cooperation with their counterparts in other countries and with international organizations and enterprises. Financial income from such international cooperation, including foreign currency, may be used only for the purposes of strengthening the resource base of the institution concerned and improving the living conditions of the staff. Such income may not be used for private gain.

288. Nationals of Azerbaijan may attend education institutions in other countries in accordance with the international treaties and agreements concluded between ministries and education establishments. Individuals may also attend education institutions in other countries under private agreements. Foreign nationals and stateless persons may attend education institutions in Azerbaijan in accordance with the regulations of the international organizations of which Azerbaijan is a member or in which it participates, with the treaties and agreements concluded by Azerbaijan or by various teaching institutions, establishments, organizations and associations or with private agreements concluded with individuals wishing to come to Azerbaijan for purposes of education. Nationals of Azerbaijan living in other countries and representatives of other ethnic groups who have taken Azerbaijani citizenship may enrol without restriction in the country's education establishments. Foreigners being educated in Azerbaijan have the same rights and obligations as citizens of Azerbaijan.

289. Pursuant to article 23.1.4 of the Psychiatric Assistance Act, a patient undergoing investigation and treatment in a psychiatric hospital enjoys, in addition to other rights, the right to education in accordance with the general education curriculum or a special programme for children with retarded mental development.

290. Under article 22 of the Rights of the Child Act, every child is entitled to be educated in accordance with the country's legislation on education. The State education system must create the conditions for the development of a child's personality and the fullest possible acquisition of the necessary knowledge and skills. Children may not be diverted from compulsory general secondary education.

291. As of the start of the 2002/2003 academic year Azerbaijan had 1,705,255 children attending 4,546 general education schools funded by the State, 111,367 attending 1,781 pre-school institutions, and 329,459 attending 376 non-school facilities.

292. There are 56 boarding schools, six homes for over-fives and two for under-fives for children with physical or mental disabilities, children lacking parental protection and orphaned and abandoned children. These institutions provide free education and maintenance for 22,000 children. The education system has 101,676 persons studying in higher education institutions, 50,266 in secondary special education schools, and 21,619 in vocational-technical establishments.

293. There are 89,985 refugee children from Armenia and children forcibly displaced from the occupied territories of Azerbaijan receiving free education in 695 general education schools for such children.

294. The programme for the development of re-education work in the period 2000-2005 contains measures for the protection of the rights of children, according special attention to social and pedagogical trends in children's re-education, the purposes and special features of re-education, and promotion of a sense of statehood.

295. Steps are being taken in accordance with the Instruction of the Minister of Education dated 9 October 2000 "On further nurturing of a sense of statehood in pupils and students" to ensure the study of the Constitution and the national flag, anthem and crest and the holding of prose, poetry and drawing competitions to this end.

296. The Ministry of Education is conducting meetings, questionnaires, lectures, seminars and conferences in education institutions in order to shape a healthy outlook in pupils and students, prevent the formation of harmful habits and combat illicit dealing in narcotic drugs.

297. The following measures have been carried out in conjunction with the relevant State agencies and NGOs:

- Conferences on the prevention of drug addiction
- A literary competition on the topic "My rights and me" in children's homes and other residential facilities
- A poster competition on "A twenty-first century without drug addiction"

298. Drawing, poetry and prose competitions on the topic "If there's peace in my country" have been held for students in general education schools, vocational-technical schools and higher education institutions in order to familiarize children and young people with life under conditions of peace.

299. The handbooks "My rights" (grades 1-4) and "Human rights and me" (grades 5-11) were prepared for printing and published in order to ensure that children and young people are properly informed about their rights.

300. The Ministry of Culture has done a considerable amount of work in compliance with the requirements of the Convention on the Rights of the Child. The Ministry's main departments and divisions have personnel dealing specifically with children's problems. The Ministry has also instructed local artistic and cultural bodies and institutions to conduct intensive publicity for the Convention. Proposals were formulated and submitted to the Ministry by the Nakhchivan Autonomous Republic and by municipal and district cultural agencies emphasizing the work of clubs, libraries, music and art schools for children, schools for the arts and other cultural institutions of relevance to the protection of children. Special attention is given to the situation of refugee children.

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Permanent pre-school institutions	1,879	1,854	1,814	1,790	1,794	1,781
Including:						
Urban areas	1,084	1,060	1,036	1,014	1,024	1,015
Rural areas	795	794	778	776	770	766
Pre-school enrolment (1,000s)	119	116	112	111	111	111
Including:						
Girls	52	53	55	54	54	54
Boys	67	63	57	57	57	57
Out of total child population:						
Urban areas	85	82	79	79	79	79
Rural areas	34	34	33	32	32	32
State general education day schools	4,507	4,536	4,549	4,548	4,548	4,533
Including:						
Urban areas	1,164	1,171	1,176	1,125	1,130	1,122
Rural areas	3,343	3,365	3,373	3,423	3,408	3,411
Enrolment in State general education day schools (1,000s)	1,578	1,611	1,623	1,654	1,659	1,688
Including:						
Girls	755	789	797	801	803	813
Boys	803	822	826	853	856	875
Teachers (1,000s)	157	158	161	165	168	169
Pupils obtaining certificate of secondary general education (1,000s)	67	79	85	92	96	49
Including:						
Urban areas	36	42	47	50	51	19
Rural areas	31	37	38	42	45	30
General education evening schools	12	13	13	13	13	13
Enrolment in general education evening schools (1,000s)	34	40	41	36	28	17
Including:						
Girls	13	14	16	15	12	8
Boys	21	26	25	21	16	9
Pupils obtaining certificate of secondary general education (1,000s)	6	5	7	9	9	8
Vocational schools and science schools	118	118	108	110	109	109
Enrolment in vocational schools and science schools (1,000s)	24	24	23	23	22	21
Including:						
Girls	8	8	8	8	7	7
Boys	16	16	15	15	15	14
Graduates from vocational schools and science schools	13	13	13	12	13	12
Including:						
Girls	4	4	4	4	4	4
Boys	9	9	9	8	9	8

**Expenditure on education from the State budget**

<i>Year</i>	<i>Expenditure (billions of manat)</i>	<i>As percentage of State budget</i>
1997	563.9	19.2
1998	581.5	22.0
1999	795.1	24.4
2000	909.2	23.8
2001	931.1	23.1
2002	956.2	20.5
2003 (1st qtr.)	461.0	17.9

**Literacy rate of persons aged 15 or older (percentages)  
(Population census data)**

	<i>1998</i>	<i>1999</i>
Total population	97.3	98.8
Including:	98.9	99.5
Males		
Females	95.9	98.2

**B. Aims of education (art. 9)**

301. Pursuant to article 9 of the Education Act, the education system consists of the set of successive course curricula at the various levels, the network of education institutions teaching these curricula, the education management agencies, and the other organizations and establishments involved in the education process. The main purposes of the education system are to produce individuals possessing profound and comprehensive knowledge, abilities and practical skills, a high level of culture, a sense of responsibility, a progressive world outlook, and a desire for ceaseless personal development, and to produce fellow citizens strong in health, dedicated to their native roots and the freedom and democratic traditions of the people of Azerbaijan, deeply imbued with the ethnic, moral, humanistic, spiritual and cultural values of their people and constantly protecting and developing them, loving and striving unwaveringly to exalt their families, native land and ethnic group, embracing universal human values, respectful of human rights and freedoms, capable of creative and independent thought, and able in terms of status, lofty moral and spiritual qualities and democratic convictions to stand on an equal footing with citizens of the world's most advanced countries, and thus to produce people capable of building a highly civilized society and making Azerbaijan into one of the most highly developed democratic States in the world.



302. The system is founded on pre-school education. Pre-school education is provided at home and in pre-school institutions. In these institutions children are educated in close cooperation with their families. The State furnishes financial and material assistance for the education and social protection of young children. The pre-school arrangements include: nurseries, kindergarten-nurseries, kindergartens, family kindergartens, kindergarten schools, boarding kindergartens, day homes, residential homes attached to old peoples' homes, institutions for children with mental or physical disabilities, etc.

303. Children are accepted for pre-school education at the wish of their parents or the persons acting as parents. The enrolment procedure is governed by special regulations. The legal relationship between non-State pre-school institutions and parents or the persons acting as parents is governed by an agreement. The content of the educational work conducted in pre-school institutions is based on the ethnic heritage supported by universal human values. The children learn games involving home-making, chivalry, heroism and patriotism, singing, and the symbols of the State, including the anthem. Most of the time is given over to programmes based on subjects taken from the national oral tradition. The children start to learn foreign languages taught by special methods. Preference is given to studying Azeri. There are special kindergartens or groups for exceptionally gifted children. Here the children engage in various additional activities: dance, oratory, swimming, artistic gymnastics, music, drawing, work, foreign languages, domestic science, etc. Similar specialization is available during teacher-training. The numbers of children enrolled in pre-school educational groups is regulated by article 14 of the Education Act.

304. Pursuant to article 23 of the Rights of the Child Act, the State takes steps to identify and assess at an early age the abilities of children possessing innate talents; it establishes special bursaries for such children, sometimes in their name, and finances a system of special schools, as well as developing international links in this area.

305. The country's leaders give considerable attention to the development of children's creativity, the identification and support of gifted children and the creation of appropriate conditions for their instruction. The names of five gifted children have been entered in the "Golden Book" and they have been awarded monthly presidential bursaries.

306. In compliance with the provisions of the Convention, enrolment in children's music, art and other schools for the arts and the Baku Dance Institute is free of any discrimination in respect of the race, sex, language, religion, political or other opinions, national, ethnic or social origin or property status of the child or the parents.

307. Any talented child can enrol for a nominal fee (385 manat a month) in children's music, art and other schools for the arts.

308. Azerbaijan currently has 232 music, art and other schools for the arts, with an enrolment of more than 72,000 children. These schools provide their pupils with a general education in music, art or dance, familiarizing them with the arts and nurturing their aesthetic taste on the models of national and international work. They produce enthusiasts for amateur artistic activities and propagators of knowledge of the arts and train the most gifted children for admission to an appropriate specialized institution. Many of the schools have orchestras, ensembles and dance groups which often perform at various events. Music schools in the

occupied towns and districts are operating in places where refugees and forcibly displaced persons are being temporarily accommodated.

309. In order to meet the demand for dance specialists, every year the Ministry of Culture sends senior staff of the Baku Dance Institute out into the country to recruit exceptionally gifted children. It currently has 23 students from different areas of the country. It has put in place all the necessary arrangements for the students' accommodation and instruction. The students are provided with free board and lodging. The Institute also has among its students 11 children lacking parental protection, who found shelter with the *Umid ieri* association for homeless children. The directors of children's music, art and other schools for the arts, the Baku Dance Institute and the national training and further training courses for persons employed in the world of culture have been instructed to find room in their curricula for matters relating to the Convention on the Rights of the Child.

310. Theatre and concert organizations allot considerable space in their repertoires to productions for children. The Shaig State Puppet Theatre uses its shows to cultivate in children kindness and comradeship, the work ethic, patriotism and a protective attitude towards the environment. It puts on shows based on the works of the greatest writers and dramatists. Its repertory includes classical works from the past and works by contemporary Azerbaijani and foreign writers: Akhudov, Shaig, Aslanov, Alizade, Agaeva, Hans-Christian Andersen, the Brothers Grimm, Perrault, Pushkin, etc.

311. This extensive repertoire enables the theatre to expand the frontiers of children's knowledge of the world and to imbue its young audience with a spirit of genuine respect for the cultures of other peoples. Similar State puppet theatres operate in Nakhchyvan, Gyandzhe, Salyan and Kakh.

312. The repertory of the State Theatre for Young Audiences gives considerable space to children's plays and fairy tales. This enables the theatre to have a serious conversation with young audiences about good and evil, justice and nobleness. The theatre's best children's pieces are based on Azerbaijani and Russian folk tales and tales from around the world and on plays by Azerbaijani and foreign dramatists.

313. The State Theatre of Russian Drama puts on shows based on Azerbaijani, Russian and West European folk tales. The repertoires of the Sumgait Theatre of Music and Drama and many of the country's other theatres include productions for children in their repertoires.

314. The Ministry of Culture holds regular reviews, festivals and competitions in order to identify gifted children. The children perform in the best theatres and concert halls at events organized by the State.

315. More than 3,000 students from children's music schools and other schools for the arts, not only from Baku but also from neighbouring areas, took part in the Goncha-2000 music festival. Children's choirs, string and wind ensembles, orchestras playing national folk instruments, and solo performers demonstrated their high professional standards. The festival's final concert was dedicated to International Children's Day. The winners received diplomas, certificates of merit and prizes.

316. According to tradition, every two years the city of Baku holds the Gadzhi Mamedov competition for pupils of children's music schools and other schools for the arts. This year more than 100 competitors in four disciplines took part in the competition. At the final concert the winners were awarded diplomas, certificates of merit and souvenir gifts.

317. Since 1989 Azerbaijan has had a State children's philharmonic society. Its main purpose is the musical education of children and young people. It acquaints children with the best examples of Azerbaijani and foreign music, fosters their creative activities and cultivates cultured listeners trained to have a full aesthetic perception of the art of music.

318. With a view to fostering young talents and identifying children with a gift for music or dance the Ministry has introduced a series of measures to enable talented young people to manifest their gifts to the full. These measures include the "Musical September", "Istedadlar soragynda" (Talent spotting), and "Young Talents" festivals, etc.

319. Since 1997 the celebrated musician Mstislav Rostropovich has been conducting annual master classes for gifted young musicians. His classes, seminars, advice and recommendations for the younger generation of performers have not only become a brilliant occasion in the country's cultural life but have also fostered the professional growth of musicians and led to the discovery of new names.

320. In 2000 pupils of children's music schools Nos. 3 and 17 and children's school for the arts No. 4 won the fifth national Fikret Amirov wind and percussion competition.

321. The first Tofik Kuliev music festival was held in 2001, attracting competitors from children's schools and schools for the arts in Baku. The winner (a pupil at children's music school No. 30) was awarded a special prize by the Ministry of Culture.

322. In 2001 pupils from children's music schools and schools for the arts took part in the latest Nazim Aliverdibekov young musicians' competition. The competition was won by a girl student from children's music school No. 35.

323. In April 2002 pupils from children's music schools in Baku took part in the first Caspian jazz festival.

324. In 2002, 48 pupils from children's music schools and schools for the arts from all parts of the country participated in the sixth Fikret Amirov national wind and percussion competition. The winners were awarded cash prizes by the Ministry of Culture.

325. In 2002 pupils from children's music school No. 15 gave solo performances in the organ and chamber music auditorium.

326. In 2002 pupils from children's music schools and schools for the arts gave a local concert in Khachmas district. The best performers were presented with certificates of merit and valuable gifts.

327. At the Goncha-2000 traditional music festival more than 2,000 pupils from children's music schools and schools for the arts in Baku demonstrated their skills. The children

performed solo numbers and as members of string and wind ensembles, an orchestra of national folk instruments, a combined choir, a combined ensemble of *nagara* players (traditional drums) and dance ensembles made up of pupils from Baku's children's music schools and schools for the arts.

328. A national children's competition for performers of *mugham* (traditional music) was held in September 2002 in order to promote the preservation and development of *mugham*. Several of the winners came from children's music schools Nos. 22 and 35 in Baku, one from the children's music school in Astarin district and one from the school in Lachin district. At the end of every academic year concerts are given by pupils from children's music schools and schools for the arts in Baku in the organ and chamber music auditorium, the Rashid Beibutov theatre of song and the Shovket Mamedova opera studio. Graduates of the Baku Dance Institute perform on the stage of the State Academic Theatre of Opera and Ballet.

329. A festival of choral groups from children's music schools and schools for the arts held in April 2003 was attended by more than 2,000 children. The festival's closing concert was given in the State Theatre of Musical Comedy.

330. In 2003, on the initiative of the New Baku-Vienna Austro-Azerbaijani Society, an artistic/political event was held in Baku in connection with the International Year of Disabled Persons with the participation of leading Austrian and Azerbaijani practitioners of the arts. Under the auspices of this Society the Saiyakh children's dance ensemble took part in an international children's festival in Austria in a concert programme organized for inmates of children's homes and disabled children.

331. The Beri-Bakh children's vocal ensemble performed in Moscow in June 2003, under the artistic direction of Maestro of the Republic Rauf Babaev, on the occasion of the Azerbaijani culture days.

332. Pupils from children's music schools and schools for the arts perform with success at various festivals and competitions held outside Azerbaijan.

333. The Lok-Batan folk ensemble of music school No. 9 in Baku has taken part on several occasions in international folk festivals, in Turkey, France, Brazil, Great Britain, Israel, China and Canada.

334. Pupils from children's music school No. 21 performed a concert before the French Senate in the Luxembourg Palace in Paris and at the Berlioz international competition in Côte-Saint-André, France, in August 2001.

335. In 2001 the Beri-Bakh children's vocal ensemble from music school No. 21 performed in Turkey and Egypt and took part in the Azerbaijani culture days in Moscow. At the "Slavonic Bazaar in Vitebsk 2000" children's festival of the creative arts this ensemble won the children's concert programme competition and was awarded a special prize for "the festival's most ringing sound" and a diploma of honour from Bulgaria.

336. In April 2002 the Aisel dance group from children's school for the arts No.2 took part in an international children's festival in Turkey.

337. In June 2002 students from the Baku Dance Institute performed at the third international ballet festival in Austria and were awarded diplomas. The Institute was awarded the Nadezhda Cup for its training of young talents.

338. The Saiyakh national dance ensemble, which was founded in 1991 under the auspices of the Centre for Cultural Methodology of the Ministry of Culture, now has a membership of more than 200 young dancers in three age groups from six to 18. The ensemble has represented Azerbaijan with success at international festivals in Turkey, Iraq, Poland, Italy, Israel, Bulgaria, Taiwan and Brazil. In 1996-2000 the ensemble took part in the first and second World Folklore Festivals, held in the Netherlands and Japan. In 2002 it performed successfully at the festival of peoples and nations of the world in Austria.

339. The Ministry of Culture pays special attention to the development of children's creativity as artists. Young artists have taken part in international exhibitions of children's art in Great Britain, Israel, Japan and Russia.

340. Every year on Children's Protection Day the Ministry holds children's art exhibitions. District art galleries hold periodic art competitions for schoolchildren. The latest one was held under the banner "Children against War" by the State Art Gallery of Bardin district in conjunction with Save the Children Fund USA.

341. A national competition on the theme "Me in the new millennium" was held as part of the festival of children's art under the programme "Support for children's art and creativity" of the International Child Art Foundation. The best work was sent to Washington.

342. In 2001, 17 examples of the work of children's art schools were sent to the Islamic Republic of Iran as entries in the second international competition/exhibition "Dialogue among artists" and "The Silk Road".

343. Solo exhibitions by a 12-year-old artist were presented in June 2001 in Brussels and in April 2002 in the Gyz Galasy art gallery in Baku.

344. On 1 June 2002 an exhibition of children's art entitled "Monuments through children's eyes" was held in conjunction with the Union of Artists of Azerbaijan and the National Commission of UNESCO in Azerbaijan in order to acquaint the younger generation with monumental buildings and spark an interest in and a love for their country's history and cultural heritage. The exhibition, which was staged in the exhibition hall of the Miniatures Centre, included works by over 150 children from Azerbaijan, Norway and Great Britain. The winners received diplomas.

345. The Ministry currently has under its wing 4,091 libraries and 3,016 clubs with a large membership of children and young people. These facilities foster the comprehensive development of children's abilities in the various branches of the arts and their social lives and sense of discipline and organization.

346. Work is proceeding on the modernization of children's libraries and the installation of computers. In July 2003 the Bileien (Connoisseur) multimedia room was opened in the Korcheli national children's library.

347. An internet room was opened in the children's library in Baku with the support of the Open Society Institute - Azerbaijan (Soros Foundation).

348. Active steps are being taken to expand and improve the activities carried on in children's clubs and in culture and recreation parks by children's and young people's circles and groups, independent artistic creation groups, representational art workshops, hobby clubs, amateur associations, and foreign language clubs.

349. Azerbaijan has established all the necessary conditions to enable children to participate freely in cultural life and pursue their creative interests in clubs and similar organizations. The current total of 3,632 children's clubs and circles operating in the Ministry's system of houses of culture and clubs caters for 50,417 children and young people, including 2,911 members of hobby clubs for the arts.

350. The work done by national, district and municipal children's libraries to enhance schoolchildren's appreciation of the arts is being improved. Children's literature is actively promoted by these libraries, which hold book days, talks, matinee performances, and meetings with writers, poets, painters, actors and composers.

351. Several events were organized for Children' Protection Day under the banner "Children are our future". Concerts were held in the children's auto-village and in the National Centre for the Disabled. Children's home No. 3 held an evening of music and literature. The national children's library prepared and conducted seminar-conferences for library personnel on the theme "The role of libraries in fostering appreciation of the arts by children and young people" in Baku and in Ismaillin and Oguz districts.

352. State museums carry out specific activities to enhance the appreciation of the arts and sense of patriotism of the younger generation. The State Museum of Musical Culture runs a children's violin ensemble. The Mustafaev Museum of the Arts and the Dzhabarlal State Museum of the Theatre hold regular meetings of students and professional painters, actors, writers and directors.

353. In connection with the declaration of 2001 as Year of the Child, the Ministry of Culture is giving special attention to the further expansion of the work with children carried on by clubs, libraries, museums, theatres and concert organizations, and culture and recreation parks.

354. The rural network of schools for the arts is being expanded. At present, 85 villages nation-wide have children's music schools and schools for the arts.

355. On 1 June every year the nation's cultural institutions mark International Children's Day . Matinee performances, concerts, evenings of music and literature, and stage performances are held in clubs, museums, libraries and parks.

356. With a view to acquainting children and their parents with the Convention, libraries and clubs organize lectures, talks, reading days, stands and photo exhibitions on the rights of the child. Children's libraries throughout the country set up stands and exhibitions on the protection of children's rights. The Kocherli national children's library has hosted discussions with children on the theme "Do you know your rights?" and discussions with parents on the theme "Let's protect children's health".

357. Clubs in Belokan district have held discussions and round tables on the themes "Your rights and duties" and "Children are our future".

358. The houses of culture in Terter district organized a parents' day. Mass awareness-raising events were held on the themes "Children need looking after", "Parent-child relations" and "A healthy child means a healthy future", calling for children to be treated with patience, courtesy and kindness.

359. Since 2001 the Ministry for Youth, Sports and Tourism, the Ministry of Education, the Voluntary Military-Patriotic and Sports Technology Association and the National Council of Youth Organizations have held an annual competition in scientific and technical creativity for children and adolescents in order to boost their interest in the exact sciences and technical creativity. The competition attracts children from all over the country. An annual average of 3,000 children take part in it.

360. In order to familiarize children with information technology the Ministry for Youth, Sports and Tourism also holds competitions in computer graphics and programming. In conjunction with representatives of higher education institutions and the National Academy of Sciences it is formulating a programme to foster schoolchildren's interest in information technology, expand their access to electronic information and, in particular, to opportunities for distance learning in various subjects.

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Children's music and art schools and other schools for the arts	218	220	231	231	234	232
Theatres	6	6	6	6	6	6
Libraries	116	114	111	114	105	106
Circles and clubs	3,581	3,587	3,512	3,632	3,734	3,614

### **C. Leisure, recreation and cultural activities (art. 31)**

361. Pursuant to article 25 of the Rights of the Child Act, every child is entitled to leisure and to engage in activities in his free time. Children are free to decide on their leisure and out-of-school activities in the light of their interests and abilities. Parents and persons acting as parents and the competent State agencies are required to take steps to prevent children's exposure to bad influences during their leisure and recreation time.

362. With a view to the rational organization of children's leisure and recreation and providing them with opportunities for cultural and creative activity, the State established and is operating

an extensive network of out-of-school institutions and sporting and cultural establishments for children and young people, as well as other places of recreation; it also established rules for the use of these facilities free of charge or on preferential terms.

363. The destruction of places used for the organization of out-of-school recreational and free-time activities for children or the use of such places for other purposes is prohibited, except in cases involving construction works of special importance to the State.

364. Work is currently proceeding on a State programme entitled "State support for leisure activities for children and families".

365. However, the system of summer camps for children needs to be reorganized in the light of the new economic circumstances. This will bring larger numbers of children within the scope of organized leisure activities, improve the targeting of social assistance and upgrade the services provided. A Policy Outline on the organization of summer camps nation-wide is currently being drafted.

366. Azerbaijan's institutions for culture and the arts are making considerable efforts to comply with the provisions of the Convention. For example, seminars are held for their personnel on the work which needs to be done for the benefit of children by clubs, libraries, children's music and art and other schools for the arts, as well as by other institutions; measures for application of the Convention have been identified. The curricula of the Baku Dance Institute and the national courses for the training and further training of the personnel of cultural institutions include provision for study of the requirements of the Convention.

367. All the departments of the Ministry of Culture have been instructed to provide information on their application of the provisions of the Convention as part of an effort to establish systematic data collection with a view to producing suitable indicators of cultural standards.

368. The Ministry of Culture of the Nakhchyvan Autonomous Republic and the cultural agencies and offices of Azerbaijan's towns and districts have been instructed to give priority attention to children's institutions in the allocation of their budgetary resources.

369. These cultural agencies and offices, in conjunction with education, youth, sports and tourism institutions, are carrying out a number of measures for the implementation of specific programmes to protect children and enhance the moral education of children and adolescents and their appreciation of the arts.

370. Over the past three years the Ministry for Youth, Sports and Tourism has introduced leisure and personal development activities for some 2,000 children in several categories (creative and gifted children, refugee children, orphans, children lacking parental protection, and disabled children).

371. A new joint working method is being prepared for State agencies and NGOs to improve the coordination of efforts to create the best possible living conditions for children. The Ministry encourages the work of NGOs, often funding projects submitted by them for the comprehensive development of children and adolescents



### Non-school education institutions

	2000	2002
TOTAL INSTITUTIONS	373	376
Including:	11	10
Youth, tourism and regional studies centres		
Chess schools	58	60
Non-school facilities	9	6
Creative centres for children	77	82
Technical creativity centres	66	66
Environmental education and practical centres	59	59
Children's sports schools	86	86
Arts appreciation centres	3	3
Children's and school parks	1	2
Physical training clubs for children and young people	3	2

## VIII. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency

#### 1. Refugee children (art. 22)

372. Despite the measures for the protection of the rights of the child introduced by the Government, Azerbaijan is still facing problems in this area caused by Armenia's aggression.

373. As a result of that aggression more than 17,000 square kilometres of Azerbaijan's territory (about 20 per cent of the country) was occupied, over 50,000 persons were injured or disabled, over 18,000 lost their lives, 877 settlements were pillaged or destroyed, as were in excess of 600 schools and other education institutions, 250 medical facilities, and most of the monumental buildings in the occupied zone. As a result of the aggression and the ethnic cleansing of Azerbaijanis both from the territory of Armenia itself and from the occupied Azerbaijani territory, Azerbaijan now has about a million refugees and displaced persons. In total, 4,965 persons are missing as a result of the conflict, including 69 children, 320 women and 358 old people.

374. Of particular concern is the fact that children are counted among the hostages taken by Armenia, in violation of article 38, paragraphs 1 and 4, of the Convention on the Rights of the Child. This contradicts the fundamental principles of humanitarian and international law. On this issue Azerbaijan, some of whose very young citizens are being held hostage, calls for support from the international community.

375. Agencies of the State are taking urgent action to mitigate the consequences of the war and the crisis in the lives of Azerbaijan's people, especially its children. Steps are being taken to make arrangements for the education of refugee children. A total of 89,985 refugee children from Armenia and children forcibly resettled from the occupied territory of Azerbaijan are being educated free of charge in 695 general education schools for such children.

376. Pursuant to article 39 of the Rights of the Child Act, refugee children and forcibly resettled children have the right to the status corresponding to their situation. The State is introducing emergency measures to provide the necessary protection and humanitarian assistance for such children; it is organizing searches for missing children, cooperating for this purpose with international agencies, and is furnishing the necessary support for the work of non-State organizations.

377. Under article 30 of the Act, the State runs special programmes to protect children living in areas affected by military activities, epidemics, and natural and environmental disasters and children suffering the effects of such phenomena, as well as children from one-parent and needy families and children of war martyrs.

378. Under article 38, the State provides emergency and other essential assistance for children finding themselves in difficulties as a result of natural disasters or accidents and takes urgent action to evacuate them to safe places. If they have lost their parents these children are provided for by the State under the same arrangements as apply to other children lacking parental protection.

379. Pursuant to article 3 of the Refugees and Forcibly Displaced Persons (Status) Act, persons who have acquired the status of refugee or forcibly displaced person are guaranteed under the arrangements established by law:

(a) Provision of the necessary free medical assistance and everyday necessities on preferential terms in their place of temporary residence for the elderly, children, needy persons and persons who have lost their breadwinner;

(b) Education for pre-school children, adolescents and young people in appropriate education institutions.

**Distribution of children of forcibly displaced persons, by age and sex**  
(at the beginning of 2003)

	<i>Number of children</i>
Total aged up to 15 years Including:	200,796
Aged 5	80,085
6-12	86,131
13-15	34,580
Total boys Including:	96,190
Aged 5	38,169
6-12	41,680
13-15	16,341
Total girls	104,606

	<i>Number of children</i>
Including:	
Aged 5	41,916
6-12	44,451
13-15	18,239

**2. Children in armed conflicts (art. 38), including physical and psychological recovery and social integration (art. 39)**

380. Pursuant to article 37 of the Rights of the Child Act, the State assumes responsibility for the provision, in accordance with the rules of international law, of protection for children in areas affected by armed conflicts. The military authorities must do everything possible to evacuate children from conflict zones to safe places for the protection of their lives and health. The direct participation of children aged under 15 in military action is prohibited. The rules governing the admission of children to military training schools are set out in the relevant national legislation.

381. Article 116.0.5 of the Criminal Code recognizes the recruitment of minors into the armed forces as a violation of the rules of international humanitarian law applicable to armed conflicts and as an act punishable under criminal law.

**B. Children in conflict with the law**

**1. The administration of juvenile justice (art. 40)**

382. Pursuant to article 3 of the Code of Criminal Procedure, the basis of criminal liability is the commission of an act (or an omission) having all the characteristics of a crime as specified only in the Code.

383. According to this Code, the principle of legality (art. 10), the equality of all persons before the courts and the law (art.11), respect for honour and dignity (art.13), the right to professional legal assistance (art.19), the presumption of innocence (art. 21), the free services of an interpreter (art. 26) and the right of appeal to a higher court (art. 35) are extended equally to juveniles involved in criminal proceedings.

384. Under article 432.2 of the Code, it is mandatory for a lawyer to appear on behalf of juveniles.

385. Article 432.4 provides that the fundamental procedural guarantees must be applied at all stages of preliminary investigations in juvenile cases in respect of the following rights:

- (a) The right to be informed of the charge;
- (b) The right to refuse to give testimony;
- (c) The right to defence counsel;

- (d) The right of parents or other legal representatives to participate;
- (e) The right to confidentiality.

386. Under article 432.5 of the Code, the investigator must ensure that an education professional or psychologist is present during investigations involving children under 16 and mentally retarded minors.

387. The termination of the proceedings in juvenile cases is subject in all cases to the consent of the juvenile or his parents or other legal representatives in accordance with article 432.6.

388. The parents or other legal representatives must be informed immediately of the arrest of a juvenile (art. 433.1).

389. The parents or other legal representatives have the right to be present at court hearings in juvenile cases (art. 435.3).

390. A convicted juvenile may be transferred from one type of young offenders' institution to another or from such an institution to a place of imprisonment on application by his legal representative or defence counsel or by the institution (art. 514.2).

391. Convicted juveniles may be held in young offenders' institutions until age 24 (art. 514.4).

392. The Penal Enforcement Code provides that juveniles sentenced to a term of deprivation of liberty must serve their time in a general-regime or strict-regime young offenders' institution (art. 123). In places of detention juveniles must be housed separately from adult offenders (art. 72.1). The places of detention for juvenile offenders must provide better physical living conditions and comply with special catering rules (art. 91.8). On their release juvenile offenders lacking parents may be sent, when necessary, to a residential institution or placed in the care of the Ministry of Education (art. 175.4).

393. The Administrative Offences Code provides that children aged 16 to 18 who have committed an administrative offence may be relieved of administrative liability by a commission on minors' affairs and protection of their rights in the light of the specific circumstances of the case and the offender's degree of mental development, home circumstances, state of health and level of education; the measures prescribed in the Regulations governing commissions on minors' affairs and protection of their rights may be applied to such persons (art. 15.3).

394. For the purposes of imposition of an administrative penalty in respect of the commission of an administrative offence by a juvenile the perpetrator's youth is recognized as a mitigating circumstance. (art. 33.1.3).

395. A juvenile may be required temporarily to leave the place of the administrative proceedings if the discussion of the facts may have an adverse effect on him (art. 371.6).

396. The interests of natural persons subject to administrative proceedings and of injured parties who are under the age of majority or whose physical or mental deficiencies prevent them from asserting their rights independently may be defended by their legal representatives (art. 373.1).

397. Parents, adoptive parents, tutors and guardians are regarded as legal representatives of the interests of natural persons.

398. If a natural person subject to administrative proceedings or an injured party has no legal representatives, the competent official conducting the proceedings recognizes a tutorship and guardianship agency as legal representative (art. 373.3).

399. The kinship or empowerment of persons acting as legal representatives of natural persons must be verified from the relevant documents in accordance with the procedure established by law (art. 373.4).

400. The legal representative of a natural person subject to administrative proceedings or of an injured party has the rights and duties specified in the Code in respect of the person represented (art. 373.5).

401. When hearing administrative cases against persons aged under 18 the judge or competent organ or official may declare the presence of their legal representatives mandatory (art. 373.6).

402. The participation of a lawyer is mandatory in cases involving juveniles or dumb, blind or deaf persons or other persons whose physical or mental deficiencies prevent them from asserting their right to defence independently, as well as in cases involving persons who have committed an administrative offence carrying an administrative penalty in the form of administrative detention (art. 376).

403. Minors aged under 14 are questioned in the presence of an education professional or a psychologist. When necessary, such minors may be questioned in the presence of their legal representative (art. 377.4).

404. The competent organ or official must immediately notify the parents or legal representatives of the arrest of a minor (art. 401).

405. Administrative cases against juveniles are heard at their place of residence (art. 420).

406. Orders for the termination of administrative proceedings may be made even when the case has been referred to a commission on juvenile cases and protection of the rights of juveniles (art. 425.2).

407. Natural persons acting as the legal representative of a juvenile, representatives of legal persons against whom an order has been made, injured parties and defence counsel have the right to appeal against administrative orders, and procurators have the right to contest them (art. 430.1).

408. When there are grounds, submitted by a juvenile's parents or the persons acting as his parents, for considering the postponement, delay, suspension or revocation of the application of an order imposing an administrative penalty or fine on the juvenile, the matter must be heard within three days by the judge or the competent organ or official making the order (art. 443.1).

409. Pursuant to article 20.1 of the Criminal Code, persons aged 16 or older at the time of the commission of a crime may be held criminally liable for it.

410. Persons aged at least 14 years at the time of commission of the crime incur criminal liability in respect of intentional murder, intentional infliction of serious or less serious harm to a person's health, kidnapping, rape and other acts of sexual violence, theft, robbery, robbery with violence, extortion, unlawful taking of an automobile or other means of transport without intention to steal, intentional aggravated destruction or damage of property, terrorism, hostage-taking, aggravated hooliganism, theft or misappropriation of firearms, ammunition, explosives or explosive devices, theft or misappropriation of narcotic drugs or psychotropic substances, and rendering means of transport or communication unusable (Criminal Code, art. 20.2).

411. A juvenile does not incur criminal liability if he has reached the age mentioned in articles 20.1 and 20.2 of the Criminal Code but, as a result of delayed psychological development not connected with imbecility or some other mental disturbance, was unable at the time of commission of a crime not representing a great social danger or of a less serious crime fully to understand the actual nature or the social danger of his actions (acts or omissions) or to control them (art. 20.3).

412. Under article 59.1.2 of the Criminal Code, the fact that a crime was committed by a juvenile is recognized as a mitigating circumstance.

413. Juveniles are defined as persons aged at least 14 but under 18 years at the time of the commission of the crime (art. 84.1).

414. Under article 84.2, a criminal sentence or compulsory measures of a re-educational nature may be imposed on juvenile offenders.

415. The following types of penalty may be imposed on juvenile offenders: fines, community service, correctional work, and deprivation of liberty for a specified term (art. 85.1).

416. According to article 85.2, a fine may be imposed only when the juvenile offender has independent earnings or property on which the fine may be levied. A fine may amount to between 30 and 300 times the minimum wage fixed by law.

417. Community service, which may be ordered for a period of between 40 and 160 hours, consists of work suited to the juvenile offender's capabilities performed in his free time from school or main occupation. The duration of this kind of sentence may not exceed two hours a day for persons aged up to 15 or three hours a day for persons aged 15 to 16 (art. 85.3).

418. Correctional work may be imposed on juvenile offenders for between two months and one year. In this case the State withholds pay from the offender's earnings in the amount fixed in the court order, within a range of five to 20 per cent (art.85.4).

419. Under article 85.5, juvenile offenders may be sentenced to deprivation of liberty for terms of not more than 10 years. Juvenile offenders serve such sentences in the following types of reform institution:

(a) Males sentenced to deprivation of liberty for the first time and females: in ordinary-regime institutions (art. 85.5.1);

(b) Males sentenced to deprivation of liberty on a previous occasion: in a strengthened-regime institution (art. 85.5.2).

420. When sentencing a juvenile the court takes into account his personal and family circumstances, degree of mental development and other features of his personality, as well as the influence of other persons on him (art. 86.1).

421. For sentencing purposes the offender's youth is taken into account as a mitigating factor in conjunction with other mitigating or aggravating circumstances (art. 86.2).

422. A warning consists of an explanation to the juvenile of the harm caused by his act and the consequences of a repetition of the offence specified in the Criminal Code (art. 87.1).

423. Placement under supervision means making the parents or the persons acting as parents or the competent executive agency responsible for re-educating a juvenile and monitoring his behaviour (art.87.2).

424. Liability to make good any harm done may be ordered in the light of the juvenile's property status and his possession of the necessary work skills (art. 87.3).

425. The imposition of restrictions on a juvenile's free time and special conditions on his conduct may include a prohibition on frequenting certain places, engaging in certain forms of leisure activity, among them the operation of certain means of mechanized transport, leaving his home after a certain time of day, and travelling to other places without authorization from the appropriate State agency. A juvenile may also be required to continue his education or find employment with the assistance of the competent executive agency. The imposition of such restrictions or special requirements may include other measures (art. 87.4).

426. Juvenile offenders convicted for the first time of a crime not representing a great social danger or of a less serious crime may be relieved of criminal liability if it is thought that compulsory re-education measures may be sufficient to secure their correction (art. 88.1).

427. Pursuant to article 88.2 of the Criminal Code, the following compulsory re-education measures may be imposed on juvenile offenders:

(a) Warnings (article 88.2.1);

(b) Placement under the supervision of parents or the persons acting as parents or the competent State agency (art. 88.2.2);

(c) Compensation orders with respect to the harm caused (art. 88.2.3);

(d) Imposition of restrictions on free time and special conditions on conduct (art. 88.2.4).

428. Several such measures may be imposed on a juvenile at the same time. The duration of the re-educational measures specified in articles 88.2.2 and 88.2.4 of the Criminal Code is fixed by the State agency imposing the measures (art. 88.3).

429. If a juvenile fails persistently to comply with an order for compulsory re-education measures, the measures may be lifted on the application of the competent State agency and the documents of the case forwarded to the courts with a view to the juvenile's criminal prosecution (art. 88.4).

430. A juvenile convicted of a crime not representing a great social danger or of a less serious crime may escape the imposition of the compulsory re-education measures prescribed in article 87.2 of the Criminal Code (art. 89.1).

431. The court may decide not to punish a juvenile convicted of a less serious crime if it considers that the purposes of punishment can be achieved only by means of placement in a re-education or medical/re-education institution for such juveniles. The duration of a juvenile's stay in such an institution may not exceed the maximum term prescribed by the Code for the offence in question (art. 89.2).

432. In accordance with the decision of the competent State organ concerning a juvenile's correction and the consequent discontinuation of the need to impose the measure in question, a juvenile may be released from the institution before the expiry of the period specified in article 89.2 of the Code (art. 89.3).

433. Conditional early release under article 90.0 of the Code may be ordered in respect of juveniles sentenced to correctional work or to deprivation of liberty once they have served:

(a) At least one third of a sentence imposed for a crime not representing a great social danger or for a less serious crime (art. 90.0.1);

(b) At least one half of a sentence imposed for a serious crime (art. 90.0.2);

(c) At least two thirds of a sentence imposed for an exceptionally serious crime (art. 90.0.3).

434. The statutes of limitation with regard to the release of juveniles from criminal liability or from serving a sentence are reduced by one half (art. 91).

435. Pursuant to article 92 of the Criminal Code, in the case of juvenile offenders the period required for the expunging of criminal records is reduced to the following levels, as appropriate:

(a) One year from the day of completion of a sentence of deprivation of liberty for a crime not representing a great social danger or for a less serious crime (92.0.1);



(b) Three years from the day of completion of a sentence of deprivation of liberty for a serious or exceptionally serious crime (art 92.0.2).

436. In accordance with articles 4-7 of the Order “On commissions on minors’ affairs and protection of their rights” approved by the Order on Commissions on Minors’ Affairs and Protection of their Rights (Approval) Act, these commissions consider cases or files referred to them by the competent State agencies concerning administrative offences involving juveniles aged under 18 and they order one of the disciplinary measures specified in the first part of article 9 of the Order.

437. Within three days the competent State agencies must refer cases or files concerning administrative offences involving juveniles to a local commission. Pursuant to the Administrative Offences Code, the local commissions also consider the administrative cases referred to in articles 51, 297 and 307 of the Code and impose administrative penalties on persons guilty of administrative offences.

438. Under article 5 of these Regulations, the local commissions are empowered inter alia:

- To take part in the drafting of legislation and regulations relating to the rights and legitimate interests of minors
- To take part in the drafting of the corresponding programmes for the protection of the rights and legitimate interests of minors, improvement of their living conditions, and protection of their health, upbringing, education, work and leisure, as well as for the prevention of homelessness and monitoring of the programmes’ implementation
- To study the conditions under which minors are maintained and educated in residential institutions, vocational establishments, children’s homes, special re-education and training institutions of the open and closed types, ordinary re-education and training and medical/education facilities, and reception/distribution centres
- To obtain the necessary information from the inspectors for minors’ affairs of the competent State agency
- To check on the organization of the social education work with minors in general education schools and other education institutions and in enterprises, organizations and establishments, regardless of their form of ownership, where minors work
- To require the administrations (the employers) of enterprises, organizations and establishments, regardless of their form of ownership, to supply any information needed for the commissions’ work
- To hear at commission meetings statements from the administrations (the employers) of enterprises, organizations and establishments, regardless of their form of ownership, on matters connected with the education and training of minors

- To interview minors, their parents and other legal representatives, to consider their complaints and applications, and to study individual cases
- To involve the community in the business of re-educating minors and to appoint volunteer supervisors
- To make representations to the competent State agencies, enterprises, establishments and organizations, regardless of their form of ownership, in connection with the re-education, job placement or education of minors
- To apply to the courts for the imposition of a lighter penalty than the one handed down for the commission of the offence, for the replacement of an unserved part of a sentence with a lighter form of punishment, for the imposition of a conditional sentence, for the early expunging of a criminal record, or for conditional early relief from a punishment
- To submit matters to the competent State agencies in connection with the prosecution of officials who have failed to carry out commission decisions or declined to consider commission applications for the restoration of the violated rights and legitimate interests of minors
- To submit petitions to the Presidential Pardons Commission for clemency for persons convicted by the courts who were aged between 14 and 18 years when they committed their offence
- To make representations to the competent State agencies with a view to the prosecution of persons who have infringed the rights of minors or incited or enticed minors to commit unlawful acts
- To consider the question of consent to the annulment of the registration of children lacking parents or parental protection in their place of residence or sojourn
- To give consent to transactions relating to the privatization of living accommodation owned by minors lacking parents or parental protection or of living accommodation from which such minors are temporarily absent but to which they have equal rights with the owner or lessee in the event of privatization
- To privatize, in accordance with the national legislation and within the limits of their powers, living accommodation to which children lacking parents or parental protection hold entitlement in the event of their parents' death or the compulsory replacement of the living accommodation of parents who have been deprived of their parental rights or in the event of the compulsory replacement of the accommodation in question
- To sign agreements on the transfer of such accommodation to the ownership of children lacking parents or parental protection
- To clarify the reasons for the commission of unlawful acts by minors and - with a view to the prevention of such acts - to keep records of such cases considered at

their meetings and to report this information in a standard format at least twice a year

- To invite to commission meetings officials, experts and citizens to obtain information and explanations about matters considered at the meetings
- To make any necessary representations to enterprises, establishments and organizations, regardless of their form of ownership, in order to restore violated rights or legitimate interests of minors
- To consider files transmitted by the competent State agencies concerning minors who have committed crimes but are still below the age of criminal responsibility fixed by the criminal law
- To transmit to the competent health institutions files concerning minors who use alcoholic spirits, narcotic drugs or psychotropic substances or engage in similar forms of substance abuse with a view to the implementation of treatment, prevention or rehabilitation measures
- To submit applications to the courts for relief from punishment and placement in a re-education and training or medical/re-education institution of minors who have committed an offence not representing a great social danger or a less serious offence and who are below the age of criminal liability fixed by the criminal law
- To submit applications to the courts on the basis of representations by the administrations of special re-education and training institutions of the closed type in connection with the early release of minors from such institutions
- On the basis of an application by a minor, to verify the grounds for cancellation by employer of a labour contract concluded with the minor
- To participate in the consideration by the courts of actions brought by a commission concerning the protection of the rights and legitimate interests of minors

439. At least twice a year the local commissions in Baku submit reports on their work to the commission attached to the competent executive agency, and the local commissions in the Nakhchivan Autonomous Republic submit reports to the commission attached to its competent executive agency. The commissions attached to the competent executive agency in Baku and the competent executive agency of the Autonomous Republic, and all the other local commissions with the exception of the local commissions in Baku and the Autonomous Republic submit reports on their work at least twice a year to the commission attached to competent executive agency of the Republic of Azerbaijan.

440. Under article 6 of the Regulations, the commission attached to the competent executive agency of the Republic of Azerbaijan is empowered inter alia:

(a) To coordinate the activities of the local commissions designed to prevent homelessness and the commission of unlawful acts by minors, to eliminate the causes of these phenomena, and to protect the rights and legitimate interests of minors;

(b) To take part in the drafting of laws and regulations relating to the protection of the rights and legitimate interests of minors;

(c) When necessary, to create temporary working groups to resolve specific issues;

(d) To monitor the activities of the commission attached to the competent executive agencies in the Nakhchyvan Autonomous Republic and in Baku, to coordinate these activities, to provide the commissions with procedural back-up, and to compile and disseminate information about the successful aspects of their work;

(e) To review the decisions of local commissions on the placement of minors in special re-education and training institutions and to revoke such decisions when they are found to be unlawful or unwarranted.

441. The commission attached to the competent executive authority of the Republic of Azerbaijan may also have recourse to the powers provided for in article 5 of the Regulations.

442. Under article 7 of the Regulations, the commissions attached to the competent executive agencies in the Nakhchyvan Autonomous Republic and in Baku are empowered inter alia:

(a) To coordinate the activities of the local commissions designed to prevent homelessness and the commission of unlawful acts by minors in the Autonomous Republic and in Baku, to eliminate the causes of these phenomena, and to protect the rights and legitimate interests of minors;

(b) To take part in the drafting of laws and regulations relating to the protection of the rights and legitimate interests of minors;

(c) When necessary, to create temporary working groups to resolve specific issues;

(d) To monitor the activities of the local commissions in the Autonomous Republic and in Baku, to coordinate these activities, to provide the commissions with procedural back-up, and to compile and disseminate information about the successful aspects of their work;

(e) To review the decisions of the local commissions in the Autonomous Republic and in Baku on the placement of minors in special re-education and training institutions of the open type and to revoke such decisions when they are found to be unlawful or unwarranted.

443. The commissions attached to the competent executive agencies in the Nakhchyvan Autonomous Republic and in Baku may also have recourse to the powers provided for in article 5 of the Regulations.

444. Under article 9 of the Regulations the commissions may impose one of the following types of disciplinary measure on minors, taking into account their character, the reasons for the

unlawful act, their age and personal circumstances, the degree of their involvement in the commission of the unlawful act, and their conduct at school and at work and in the other areas of their lives:

(a) Apology (acknowledgement by the person concerned of his guilt or error in respect of the commission of the act, with an undertaking not to repeat the act in the future);

(b) Warning (explaining to the person concerned the harm resulting from his act and the degree of danger and the nature of the act, with a reminder that severer disciplinary action will be taken against him if he repeats the act);

(c) If the minor has independent earnings and the amount of the damage is less than 30 official financial units, a requirement that the minor pays compensation for the damage caused or makes good by his labour material damage not exceeding 30 official financial units;

(d) Placement of the minor under the supervision of his parents or other legal representatives (such placement means making the parents or other legal representatives responsible for re-educating the minor and monitoring his conduct);

(e) Submission to the tutorship and guardianship agency of proposals for minors aged 15 to 18 to be deprived of the right to dispose of their earnings or bursaries as they wish;

(f) Placement in a special re-education and training institution of the open type for minors who have committed a crime not representing a great social danger or a less serious crime but are below the age of criminal responsibility fixed by the criminal law;

(g) Placement of difficult minors, with the consent of their parents or other legal representatives, in a special re-education and training institution of the open type;

(h) Application to the courts concerning for the placement in a special re-education and training institution of the closed type of minors who have committed a serious or exceptionally serious crime but are below the age of criminal liability fixed by the criminal law.

445. The legal bases for the operation of special re-education and training institutions of the open and closed types are established by the competent national executive agency.

446. A commission decision to warn a minor remains in force for one year. If a minor on whom a disciplinary measure in the form of a warning has been imposed demonstrates by his model behaviour and conscientious attitude to work and study that he has mended his ways, the commission may decide to lift the measure before the expiry of the one-year period.

447. If the disciplinary measures selected for a minor prove ineffective, the commission may impose the more severe disciplinary measures provided for in the first part of this article. If even these measures prove ineffective, an administrative case concerning a minor aged 16 to 18 may be referred back by a commission to the competent State agencies for their consideration with a view to the institution of administrative proceedings against the minor in respect of his acts.

**Juvenile offenders aged 14 to 17**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 1st qtr.</i>
No. of juvenile offenders	716	601	596	573	444	432	229

**2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))**

448. Pursuant to article 42 of the Rights of the Child Act, the investigation of cases involving children must be conducted in accordance with special procedures which safeguard their honour and dignity and take into account their age and individual characteristics. Children are guaranteed protection from the moment when they are arrested as a suspect or formally charged. In the cases prescribed by law investigations are conducted in the presence of the child's parents or legal representatives or guardian. It is prohibited to exert mental or physical pressure on a child or to force him to give evidence or confess his guilt. In cases when a measure of punishment in the form of deprivation of liberty is imposed on a child, in the light of the circumstances of the case the lower level of the term prescribed by law may be imposed. Children held on remand or sentenced to imprisonment may not be housed together with adults, except when this is necessary in their best interests. The administrations of places of confinement where children are held must create appropriate conditions to ensure that the children under their care grow up to be conscientious and worthy citizens and acquire suitable education and vocational skills.

449. The country's sole children's colony currently houses some 70 inmates. The colony's administration pays considerable attention to the rehabilitation of these children. It has a general education school and a number of club activities, including music, dance and drama. Sports competitions are held regularly. With a view to the children's social rehabilitation and dispelling their sense of isolation, the colony's managers organize meetings for them with public figures, well-known sportsmen and sportswomen and cultural figures. Sports competitions are held between the inmates and children from the city's ordinary secondary schools. Inmates regularly benefit under presidential pardons. The colony's administration and a number of human rights organizations took an initiative to establish a Council of Guardians, which includes representatives of the Ministry for Youth, Sports and Tourism, the Ministry of Education and a number of non-governmental organizations and local authorities.

450. Under article 42 of the Act, the investigation of cases involving children must be conducted in accordance with special procedures which safeguard their honour and dignity and take into account their age and individual characteristics. Children are guaranteed protection from the moment when they are arrested as a suspect or formally charged. In the cases prescribed by law investigations are conducted in the presence of the child's parents or legal representatives or guardian. It is prohibited to exert mental or physical pressure on a child or to force him to give evidence or confess his guilt. In cases when a measure of punishment in the form of deprivation of liberty is imposed on a child, in the light of the circumstances of the case the lower level of the term prescribed by law may be imposed. Children held on remand or sentenced to imprisonment may not be housed together with adults, except when this is

necessary in their best interests. The administrations of places of confinement where children are held must create appropriate conditions to ensure that the children under their care grow up to be conscientious and worthy citizens and acquire suitable education and vocational skills.

**3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))**

451. Pursuant to article 57.2 of the Criminal Code, life imprisonment may not be imposed on women, on children under the age of 18 at the time of commission of the crime, or on men aged 65 or older at the time of sentencing.

452. Article 85 of the Code sets out the forms and procedures of the sentences which may be imposed on minors. The following forms of punishment may be ordered: fines, community service, correctional work and deprivation of liberty for a specified term. A fine may be imposed only when the convicted juvenile has independent earnings or property on which the fine may be levied. A fine may amount to between 30 and 300 times the minimum wage fixed by law. A fine may amount to between 30 and 300 times the minimum wage fixed by law. Community service, which may be ordered for a period of between 40 and 160 hours, consists of work suited to the juvenile offender's capabilities performed in his free time from school or main occupation. The duration of this kind of sentence may not exceed two hours a day for persons aged up to 15 or three hours a day for persons aged 15 to 16. Correctional work may be imposed on juvenile offenders for between two months and one year. In this case the State withholds pay from the offender's earnings in the amount fixed in the court order, within a range of five to 20 per cent. Juvenile offenders may be sentenced to deprivation of liberty for terms of not more than 10 years.

453. Juvenile offenders serve such sentences in the following types of reform institution:

(a) Males sentenced to deprivation of liberty for the first time and females: in an ordinary-regime institution;

(b) Males sentenced to deprivation of liberty on a previous occasion: in a strengthened-regime institution.

454. Pursuant to article 86 of the Criminal Code, when sentencing a juvenile the court takes into account his personal and family circumstances, degree of mental development and other features of his personality, as well as the influence of other persons on him. For sentencing purposes the offender's youth is taken into account as a mitigating factor in conjunction with other mitigating or aggravating circumstances.

455. Article 113 of the Criminal Code establishes criminal liability in respect of the infliction of physical pain or mental suffering on persons held in custody or subject to some other form of restriction of liberty.

456. Pursuant to article 15.2.1 of the Code of Criminal Procedure, use of the following methods during criminal investigations is prohibited:

(a) Torture;

- (b) Physical or psychological violence, including the administration of drugs;
- (c) Starvation or hypnosis;
- (d) Denial of medical treatment;
- (e) Other cruel, inhuman or degrading treatment or punishment.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **1. Economic exploitation, including child labour (art. 32)**

457. The rights of the child in the area of labour and labour relations are regulated by the Labour Code. The section of the Code entitled “Special aspects of the use of the labour of children aged under 18 years” contains provisions on the labour of young people and their legal rights and on preferential treatment designed to establish favourable conditions of work for the younger generation.

458. Article 42 of the Labour Code fixes the minimum age for admission to employment at 15 years; this constitutes an important safeguard of the health of the younger generation and a guarantee of their general secondary education. Children aged 14 may also be employed during periods of production training or, with their parents’ consent, in light work which does not harm their health. According to article 46, parental consent is required for the conclusion of labour contracts with minors aged 15 to 18.

459. Probationary periods may not be set with regard to persons aged under 18. Such persons may not be dismissed by decision of an attestation commission on the ground of insufficient education or qualifications.

460. Under article 250 of the Code, persons aged under 18 may not be employed to perform heavy work, work in harmful or dangerous conditions, or work underground.

461. Persons aged under 18 may not be required to carry or move objects weighing more than the prescribed limits.

462. Under article 254, workers aged under 18 may not perform night work or overtime or work on rest days.

463. Under article 252, no person aged under 18 may be recruited before undergoing a medical examination; further examinations at the employer’s expense are then required annually until the person reaches age 18.

464. Pursuant to article 28 of the Rights of the Child Act, the State is required to protect children against all forms of exploitation and heavy, harmful or dangerous work, using to this end social, legal, economic, medical and educational means.



465. The legislation provides for monitoring of the observance of the requirements of the Labour Code and establishes liability for its infringement. Under article 310 of the Code, both workers and employers, as well as other natural persons, may incur material, disciplinary, administrative or criminal liability in respect of violation of the rights established in the Code and other laws and regulations forming part of the system of labour legislation.

466. Azerbaijan is a member of the International Labour Organization and has acceded to 53 ILO conventions, including the Minimum Age Convention (No. 138) of 1973 and the Abolition of Forced Labour Convention (No. 105) of 1957.

467. The provisions of the ILO conventions to which Azerbaijan is a party were taken fully into consideration during the reform of the labour legislation.

468. According to article 1 of the Labour Code, the international treaties relating to labour and socio-economic matters to which Azerbaijan is a party are incorporated in the system of labour legislation.

469. The Government submits regular reports to the International Labour Organization on the application of the ILO conventions to which Azerbaijan is a party.

## **2. Drug abuse (art. 33)**

470. Pursuant to article 9 of the Rights of the Child Act and Cabinet Order No. 49 of 12 December 1998 concerning the implementation of article 9 of the Act, the sale of alcohol and tobacco products to children and the use of child labour in the production and marketing of such products are prohibited.

471. Article 250 of the Labour Code prohibits the use of the labour of persons aged under 18 in work connected with the production, transport, sale or storage of spirits, drugs and toxic preparations.

472. Article 236.2.3 of the Criminal Code establishes criminal liability in respect of the encouragement of minors or two or more persons to use narcotic drugs or psychotropic substances.

473. Azerbaijan adopted the Narcotic Drugs, Psychotropic Substances and Precursors (Illicit Trafficking) Act on 18 June 1999 and the Narcotics Drugs (Service and Controls) Act on 29 June 2001.

474. Pursuant to article 23 of the latter Act, the directors of education institutions and medical and penal correction establishments where preventive measures are applied must not obstruct the preventive measures carried out by specialists of the State narcotic drugs/medical agencies, and when necessary they must conduct preventive examinations or checks of minors, schoolchildren, students and convicted criminals.

475. All health workers must endeavour to identify persons abusing mood-altering substances. In the provision of public health services designed to prevent drugs-related disorders special attention must be given to children who abuse mood-altering substances.

476. Under article 6.5 of the Act, minors suffering from drugs-related disorders must be kept separate from other patients for the duration of their treatment.

477. The following presidential decrees and cabinet decisions have also been adopted in the fight against drug addiction:

- Presidential Decree of 26 August 1996 “On measures to combat drug addiction and illicit distribution of narcotic drugs”
- Presidential Decree of 27 January 1997 “On approval of the Order on the State Commission to Combat Drug Addiction and Illicit Trafficking in Narcotic Drugs”
- Presidential Decree of 27 January 1997 “On the organization of compulsory treatment for chronic alcoholics and drug addicts”
- Presidential Decree of 17 June 1999 “On certain questions relating to the State Commission to Combat Drug Addiction and Illicit Trafficking in Narcotic Drugs”
- Presidential Decree of 15 July 2000 “On approval of the programme to combat illicit trafficking in narcotic drugs and psychotropic substances and the spread of drug addiction”
- Cabinet Decision of 17 April 2000 “On approval of the procedure for the establishment of a national data bank on illicit trafficking in narcotic drugs, psychotropic substances and their precursors, on persons involved in illicit trafficking in narcotic drugs, psychotropic substances and their precursors, including drug addicts, and on the provision of information to this data bank and the receipt of information from it”
- Cabinet Decision of 31 May 2000 “On approval of the procedure for the destruction of seized narcotic drugs, psychotropic substances and their precursors”

#### **Persons suffering from alcoholism and drug and toxin addiction**

<i>Number of first diagnoses:</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Drug and toxin addicts (total)	1,807	1,689	1,665	1,494	1,835	1,565
Including adolescents (15-17)	6	3	2	-	5	17
Alcoholism and alcoholic psychosis (total)	924	967	708	603	632	474
Including adolescents (15-17)	15	2	-	-	-	-

### **3. Sexual exploitation and sexual abuse (art. 34)**

478. Article 149 of the Criminal Code establishes criminal liability in respect of rape, i.e. sexual relations involving the use or threat of violence against the victim or other persons or taking advantage of the victim's state of helplessness.

479. Article 150 establishes criminal liability in respect of sodomy and other acts of a sexual nature involving the use or threat of violence against the victim or other persons or taking advantage of the victim's state of helplessness.

480. Under article 151, it is a criminal offence to compel a person to engage in sexual relations, sodomy or other acts of a sexual nature by threatening to destroy, damage or remove property or by taking advantage of the victim's material or other dependence.

481. Article 152 establishes criminal liability in respect of sexual relations or other acts of a sexual nature committed by a person of the age of majority with a person known to be aged under 16.

482. Article 153 establishes criminal liability in respect of the commission of acts of debauchery not involving the use of violence with a person known by the perpetrator to be aged under 14.

483. Under article 171, it is also a criminal offence to involve a minor in prostitution or other immoral activities.

### **4. Sale, trafficking and abduction (art. 35)**

484. Azerbaijan has acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Act No. 285-IIQ of 2 April 2002), the Slavery Convention (Act No. 99-IQ of 31 May 1996), the Protocol amending the Slavery Convention (Act No. 100-IQ of 31 May 1996), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Act No. 101-IQ of 31 May 1996), and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Act No. 102-IQ of 31 May 1996). The Parliament has ratified the Protocol to prevent, suppress and punish trafficking in persons, in particular women and children, supplementing the United Nations Convention against Transnational Organized Crime.

485. Article 173 of the Criminal Code establishes criminal liability in respect of the buying or selling of children and other transactions involving children by way of their transfer or acquisition, as well as of acts involving the unlawful removal of children across the frontiers of Azerbaijan or their unlawful return to Azerbaijani territory for the purpose of use of their organs or tissues.

486. Article 144.3 also establishes criminal liability in respect of the kidnapping of a minor.

487. Slavery, i.e. the full or partial exercise over another person of the powers inherent in the right of ownership is punishable under article 106 of the Code by deprivation of liberty for five

to 10 years. The same act committed against a minor or with a view to the transfer of a person to a foreign State is punishable by deprivation of liberty for seven to 12 years.

488. The same article establishes criminal liability in respect of the slave trade, i.e. holding a person with view to turning him into a slave, using him as a slave, or his sale, exchange or disposition, and of any act connected with the slave trade or the transport of slaves, and in respect of sexual slavery and infringement of sexual integrity by means of slavery.

489. Article 244 establishes criminal liability in respect of the establishment or maintenance of dens of prostitution or the provision of residential accommodation for such purposes.

## **5. Other forms of exploitation (art. 36)**

490. Pursuant to article 28 of the Rights of the Child Act, the State is required to protect children against all forms of exploitation and heavy, harmful or dangerous work and its effects, using legal, social, economic, medical and educational means to this end.

491. Article 98 of the Labour Code prohibits the employment of persons aged under 18 in night work.

492. Under article 247, employment contracts concluded with individuals aged under 18 must include supplementary clauses and undertakings, which employers must honour, to enable them to increase their work and vocational experience.

493. Article 250 of the Code prohibits the employment of persons aged under 18 in jobs involving difficult or dangerous working conditions, in underground tunnels or shafts, and in nightclubs, bars and casinos which may have a detrimental effect on their moral development; this includes work associated with the production, transport, sale and storage of spirits, narcotic drugs and toxic preparations.

494. Article 251 of the Code prohibits the employment of persons aged under 18 in the lifting and carrying from one place to another of objects weighing more than the maximum specified in the article. It provides that the work or service assignments of persons aged between 16 and 18 may not include the manual lifting and carrying of objects except within the limits specified below:

(a) Males: manual lifting and carrying from one place to another of objects with a combined weight of not more than 15 kg, and lifting of objects with a combined weight of not more than 10 kg to a height of more than 1.5 m, in addition to the performance of other tasks;

(b) Females: manual lifting and carrying from one place to another of objects with a combined weight of not more than 10 kg, and lifting of objects with a combined weight of not more than 5 kg to a height of more than 1.5 m, in addition to the performance of other tasks;

(c) Regular manual lifting and carrying of objects with a combined weight of not more than 10 kg from one place to another throughout the working day or shift;

(d) Transporting of objects on laden trolleys or other mobile devices requiring an applied force of more than 15 kg.

495. Girls under 16 may be assigned to lift and carry objects of a weight limited to one third of the standards set in article 251, paragraphs (a), (b) and (c), of the Labour Code only with their consent. They may not be assigned to the regular lifting and carrying of objects throughout the working day. The list of jobs involving dangerous or difficult working conditions, occupations or positions and of the underground work in which the use of persons aged under 18 is prohibited is approved by the competent executive organ.

496. Under article 254, persons aged under 18 may not perform night work or overtime or work on rest days, public holidays or other days not regarded as working days, and may not be required to travel for work purposes. Work in the period from 8 p.m. to 7 a.m. is regarded as night work for persons aged under 18.

#### **D. Children belonging to a minorities or indigenous peoples (art. 30)**

497. Azerbaijan is a multi-ethnic country. The Government takes the necessary action to create the conditions to guarantee the equality of all citizens. Individuals belonging to ethnic minorities participate actively in all spheres of national life.

498. In Azerbaijan, various ethnic minorities have lived peacefully and harmoniously alongside Azerbaijanis for centuries. The ethnic diversity of Azerbaijan has been preserved to this day. At no stage in its history has Azerbaijan recorded any cases of intolerance or discrimination on the grounds of membership of an ethnic group, or of religion, language or culture.

499. Article 25 of the Constitution embodies the right to equality. Part III of this article reads: “The State guarantees the equality of rights and freedoms of all citizens, irrespective of race, ethnic affiliation, religion, language, sex, origin, property status, occupation, beliefs or membership of political parties, trade unions or other voluntary organizations. Human and civil rights and freedoms may not be restricted on the grounds of race, ethnic affiliation, religion, language, sex, origin, beliefs or political or social affiliation”.

500. Article 109 of the Criminal Code establishes criminal liability in respect of the persecution of any group or organization on political, national, racial, ethnic, cultural or religious grounds, on the ground of sex or on other grounds prohibited by rules of international law, i.e. gross violations of human rights on the ground of membership of such groups or organizations when such violations are linked to other crimes against the security of mankind.

501. Article 154 establishes criminal liability in respect of violations of the equality of rights of citizens, irrespective of race, ethnic affiliation, attitude to religion, language, sex, origin, property or occupational status, beliefs or membership of political parties, trade unions or other voluntary organizations, which have damaged the rights and legitimate interests of citizens.

502. One important aspect of the State’s policy with regard to ethnic groups is its support for the languages and culture of all the ethnic minorities living in Azerbaijan.

503. On 16 September 1992 the President of the Republic signed the Decree “On protection of the rights and freedoms and State support for the languages and culture of national minorities, numerically small peoples and ethnic groups living in the Republic of Azerbaijan”.

504. Cultural centres, charitable societies and other voluntary organizations of all the national minorities operate in Azerbaijan.

505. All the current laws and regulations on education, science, culture, language, health, political parties, voluntary associations, labour, etc., foster the exercise of human rights without any discrimination whatsoever.

506. In addition to the competent State executive and administrative agencies responsible for ensuring the exercise of human rights and fundamental freedoms in general, the State infrastructure also includes the Office of the State Counsellor on questions of nationalities policy and the State Committee on work with religious organizations established under a presidential decree dated 21 June 2001.

507. Pursuant to article 14 of the Rights of the Child Act, every child has the right to freedom of conscience, thought and speech. Parents and other persons and the agencies of the State must treat this right of the child with respect. The involvement of children in the performance of religious rites which may have a harmful effect on their health is prohibited.

508. Pursuant to article 6, part 2, of the Education Act, in accordance with the needs of society and at the wish of citizens and founders of education institutions, certain education institutions may, in keeping with State standards, also provide instruction in the languages of national minorities and in other foreign languages together with compulsory instruction in Azeri and in the history, literature and geography of Azerbaijan.

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