



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

Distr.: General  
22 April 2013

Original: English

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**  
Eighteenth session

**Summary record of the 219th meeting**

Held at the Palais Wilson, Geneva, on Thursday, 18 April 2013, at 10 a.m.

*Chairperson:* Mr. El Jamri

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

**Consideration of reports submitted by States parties under article 73 of the Convention** *(continued)*

*Second periodic report of Azerbaijan (continued) (CMW/C/AZE/2; CMW/C/AZE/Q/2 and Add.1, English only)*

1. *At the invitation of the Chairperson, the delegation of Azerbaijan took places at the Committee table.*
2. **The Chairperson** invited the delegation to continue replying to the questions asked at the previous meeting (CMW/C/SR.218).
3. **Mr. Hajiyev** (Azerbaijan) said that campaigns to raise awareness of the issues covered in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families were run periodically via State-owned media. Information sessions had also been held regarding national and international labour migration laws. In 2012, the State Migration Service had produced a film, which had been broadcast on television. It had been translated into English and the International Organization for Migration had sent it to 60 countries worldwide and had posted it on its website. Information relevant to migrants, including their rights and obligations, was available in Azeri, Russian and English online or through the Ministry of Social Affairs and the State Migration Service. Migrant information centres also operated in those three languages and were crucial to transparency efforts.
4. The Organization for Security and Cooperation in Europe, in conjunction with the Council of Europe, the United Nations Children's Fund (UNICEF) and the International Commission of Jurists, had held seminars for judges and prosecutors on a range of migration issues, such as the right to work and anti-discrimination laws. A university programme had been set up, with a particular focus on national and international human rights law, and human rights were a component of judge and lawyer training.
5. The provisions of the Convention had been included in the national plan of action for the protection of human rights. The Government was reviewing its policy regarding the issuance of temporary and permanent residence permits and work visas.
6. **Mr. Gahramanov** (Azerbaijan) said that Azerbaijan had not signed any readmission agreements but was currently negotiating some with the European Union and Norway. It was understood that any relevant instruments to which Azerbaijan was a party, such as the Convention relating to the Status of Refugees, superseded any future readmission agreements. Candidates for readmission had access to justice and had to meet with a consular officer from their State of origin, which did not violate the Migrant Worker's Convention. As a member of the body that ruled on readmission cases, he could assert that none of the readmission provisions conflicted with the Convention.
7. Regarding cooperation with neighbouring countries, he said that bi- and multilateral agreements on migration issues had been signed with a number of countries, including Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova and Ukraine. Agreements with the Russian Federation and Turkey had been drawn up and were expected to be signed shortly. The protection of the rights of migrant workers, social protection and the simplification of employment procedures were the cornerstones of the agreements. Consultations on migration issues had been under way since May 2011 between the State Migration Service and its counterpart in the Russian Federation. With a view to greater integration with the European Union and other countries, Azerbaijan took part in various processes revolving around readmission, asylum, voluntary return and reintegration.

8. Azerbaijan had signed various agreements with other members of the Commonwealth of Independent States (CIS) regarding the social rights of migrants and diploma recognition. The agreements also provided for sharing experiences of migration management. In September 2000, Azerbaijan had ratified a Commonwealth convention on the rights of labour migrants and their families, which had been in effect since 2010. Best practices had been discussed at the ninth meeting of Commonwealth heads of State in late 2012.

9. Concerning the rights of migrants in transit in the country, he said that every one enjoyed the rights guaranteed by law, irrespective of the duration of a person's stay. Transit visas were valid for five days. All foreigners were welcome for short stays in Azerbaijan and could extend their stay, provided there was a basis for temporary residence. They were also entitled to work if they met the basic conditions.

10. In reply to a question regarding migrants with contagious diseases, he said that laws had been amended to reduce the list of such diseases from four to two, based on a study of relevant international experience. The purpose of the amendments was to give migrants with contagious diseases greater access to paid employment. However, the detection of a contagious disease remained grounds for the denial of residence permits requested from abroad. Recommendations were being considered in cases where the migrant was already in the country.

11. **Mr. Taghiyev** (Azerbaijan) said that migrant workers and their children were entitled to an education. Pursuant to article 3 of the Labour Code, individuals with immigrant status had the same labour rights as Azerbaijani citizens and could apply for retraining. Employers were not required to request a work permit for foreign employees. Individuals who had lived in the country for at least two years could apply for permanent residence. Foreign nationals could not work in the public service, but there were no restrictions on their employment in the private sector or in publically-funded organizations. A State labour inspectorate had been established in 1997. The case of a migrant worker who had been seriously injured while working for a construction company but had not received any assistance had been brought before the inspectorate and had resulted in compensation being paid to the worker. Most complaints by migrant workers to the inspectorate revolved around unpaid wages and were settled out of court. In 1998, Azerbaijan and Turkey had signed an agreement on social protection for their nationals working in the other country.

12. **Mr. Musayev** (Azerbaijan) said that the Republic of Azerbaijan had established the State Migration Service in 2007. In 2009, the State Migration Service had set up the unified migration information system, through which it was possible to track the movements of all foreign nationals present in Azerbaijani territory in order to prevent them from falling victim to trafficking in persons.

13. The State Migration Service, the Ministry of Internal Affairs and the courts were the three authorities with competence to rule on the expulsion of foreign citizens. In 2011 and 2012, 3,710 expulsions had been ordered by the State Migration Service and a further 1,174 by the Ministry of Internal Affairs. Over the previous four years, 112 foreigners had been expelled following court rulings.

14. The State Migration Service and the Ministry of Foreign Affairs had identified over 10,000 undocumented persons, ensured that they received passports from their countries of origin and then granted them the relevant residency permit. Foreign stateless persons whose situation was undefined were not expelled from Azerbaijan.

15. **Mr. Isayev** (Azerbaijan) said that, under article 3 (2) of the law on labour pensions, permanent foreign residents and stateless persons in Azerbaijan enjoyed the same pension rights as Azerbaijani citizens. Furthermore, under articles 7 and 22 of the aforementioned

law, permanent foreign residents requiring social insurance who had reached the age of retirement had the right to a pension, although any individuals moving abroad would have to be covered by the relevant bilateral agreement in place.

16. Bilateral agreements on pensions had been signed with Turkey, Moldova, Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan, Ukraine and Georgia. On 30 December 2008, the State of Azerbaijan had adopted a programme for the period 2009 to 2015 on the development of the pension system. The programme involved ongoing negotiations with Estonia and Belarus concerning the establishment of bilateral agreements.

17. **Ms. Babayeva** (Azerbaijan) said that, under Azerbaijani law, employers had an obligation to formalize employment relationships through a written employment contract. However, the Labour Code of Azerbaijan made provision for the concept of factual employment, whereby any foreign citizen, stateless person or Azerbaijani citizen employed without a written contract, in violation of the labour code, would be deemed to have been contractually employed from the date of entry into employment. Furthermore, in such cases, the employer would be obliged to sign an employment contract and to pay pension contributions relating to the employee concerned. Upon completion of the contractual period of employment in question, the decision as to whether the undocumented worker could remain in Azerbaijan would depend on the employer's willingness to formalize the employment relationship. If the employer was unwilling to formalize the relationship, the worker would be sent back to his or her country of origin.

18. The Government of Azerbaijan had established the Office of the Ombudsman, which monitored the situation of migrant workers and received and responded to requests from such workers with a view to resolving any issues which might affect them.

19. **Mr. Hasanov** (Azerbaijan) said that the Ministry of Foreign Affairs was not the competent body to deal with issues arising under articles 17 (6) and 17 (7) of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families. Azerbaijan was currently studying international practice relating to the related mechanisms. With regard to existing visa facilitation and readmission agreements, the international treaties to which Azerbaijan was party usually contained a provision to the effect that the treaty did not prejudice the rights and obligations deriving from any other international treaties.

20. **Mr. Musayev** (Azerbaijan) said that relevant measures continued to be taken by the Government concerning the Convention. The new migration code, which would facilitate migration procedures, was currently being examined by Parliament. Under the new code, procedures relating to the issue of work permits would be simplified and migrants married to Azerbaijani citizens would be able to seek employment without a work permit. Foreign workers would no longer be obliged to leave Azerbaijan for a period of 12 months once every five years. The new code also made provision for the uninterrupted employment of refugees and removed requirements in terms of work permits for minors under the age of 18 and persons with health problems. The legislation governing entry into Azerbaijan had been simplified. In March 2013, the legislation governing residency and the registration of place of residency had been amended and simplified. As a result, foreign citizens and stateless persons could register free of charge, online, by post or in person with the State Migration Service and were no longer required to contact other authorities.

21. **Mr. Gurbanov** (Azerbaijan) said that, although the draft migration code did not entirely reflect the concept of migrant worker as contained in the Convention, it did contain a number of relevant provisions which encompassed the concepts that had to be covered in line with the Convention. Work on the draft migration code entailed the implementation of the norms and standards of the Convention. It was important to continue to carry out a comparative analysis of existing legislation and of the provisions of other Conventions.

22. As to guarantees and benefits for legal and illegal migrant workers, a set of guarantees existed under civil and criminal law. Article 28 of the Constitution of Azerbaijan stated that all individuals had the right to freedom, a right which could be restricted only subject to existing legislation.

23. With regard to social protection and the provision of benefits to migrant workers and their families, article 25 of the Civil Code stated that all natural persons had equal rights, of which they could not be deprived. Under international and Azerbaijani law, natural persons, including permanent and temporary residents, foreign citizens and stateless persons, had both civil rights and duties. Azerbaijani and foreign nationals were all subject to the same provisions of the Criminal Code and the Code of Criminal Procedure. All suspects had the right to be informed immediately of the charges against them or other reasons for their arrest or placement in detention.

24. All detainees had the right to have investigative and court procedures conducted in their mother tongue. Failing that, the State was obliged to provide the services of an interpreter. All foreign nationals, regardless of their immigration status, who were brought to trial and could not afford the services of a lawyer were provided with court-assigned counsel free of charge. It was true that irregular migrants under deportation orders were often unaware of their right to appeal to the courts and/or immigration service and that, in fact, few had done so. More needed to be done to raise public awareness of their rights but it was only a matter of time before such shortcomings were rectified.

25. The recently established Azerbaijan Service and Assessment Network (ASAN) was an innovative one-stop centre allowing Azerbaijanis, foreign nationals and stateless persons residing in the State party to access Government services and institutions, including the judicial system, civil registry, property registry, taxation authorities and immigration service, quickly and effectively. Matters that formerly took weeks to resolve were now dealt with in a day.

26. Stateless persons permanently resident in the State party had the same rights to health care as Azerbaijani nationals. State health-care services were provided free of charge. The Government worked closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) to ensure that stateless people and refugees residing in the State party received proper medical care. An electronic health-care registry had been established and residents, whether nationals or not, received an electronic card with which they could access medical services.

27. The introduction of an immigration code was currently being examined by parliament. The protection of the rights of different categories of persons, such as migrants, refugees, the elderly and children, was covered by separate laws. With regard to Azerbaijanis returning from abroad to live in the State party, the Government's development plans for the 2020s envisaged an expansion of the domestic job market that would allow nationals to return and take up full-time employment in Azerbaijan. Anyone, regardless of their immigration status, had the right to take up employment in any sectors except those for which Azerbaijani citizenship was a prerequisite (such as the police force, the justice system and other branches of the public service). The Government's development plans for the coming two decades included a human rights policy that took account of migrant workers and their families. The Government engaged in a broad-based dialogue with civil society on migration issues. Finally, Azerbaijani citizens living abroad could vote in elections through the State party's diplomatic missions.

28. **Mr. Sevim** asked whether undocumented children born in the State party had the right to have their births registered. He would like to know whether information on undocumented migrants gathered under the unified migration information system was passed on to the police and what role the system played in decisions to issue deportation

orders. He also asked what was done with property in the State party belonging to deported migrants. Did migrant workers in the State party have the right to join trade unions? He asked whether the State party planned to ratify the International Labour Organization's Migration for Employment Convention (Revised), 1949 (No. 97) and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). He also asked whether specific labour and social security services were available to Azerbaijani emigrants in the State party's diplomatic missions.

29. **Mr. Carrión Mena** said that he would like to know what the State party was doing to address the problem of corruption. He asked whether the State party was considering making a declaration under articles 76 and 77 of the Convention recognizing the competence of the Committee to consider complaints from individuals and States.

30. **Ms. Poussi** asked what became of foreign nationals who were deprived of their residence permits because they were found to be carriers of a virus.

31. **Mr. Kariyawasam** asked how many shelters for victims of human trafficking operated in the State party. He also wished to know whether statistics were available on the participation of Azerbaijani nationals living abroad in elections in the State party.

*The meeting was suspended at 12.20 p.m. and resumed at 12.40 p.m.*

32. **Ms. Babayeva** (Azerbaijan) said that the registration of labour contracts was not provided for under the law. The legal minimum working age was 15. Work contracts for young persons aged from 15 to 18 were allowable only with the written permission of their parents or guardians.

33. **Mr. Musayev** (Azerbaijan) said that 470 undocumented migrants had received Azerbaijani citizenship in recent years. In addition, some 10,000 undocumented immigrants had been identified and had either obtained the appropriate residence permits or returned to their countries of origin. Undocumented immigrants whose citizenship had not been determined were not deported. They and their children had full rights and access to education and health care.

34. The residence permits of 5,200 immigrants had expired in recent years because they had resigned from their jobs or completed their studies. The courts could cancel permanent residence permits and had done so in 17 cases in recent years. A further 4,400 migrant workers had lost their residence permits because their employers had terminated their employment. In such cases, foreign nationals could return to their countries of origin or apply for an extension of their permits. The temporary permits of 5,200 foreign nationals had been extended in recent years. A total of almost 123,000 people had received temporary residence permits and 6,300 had received permanent residence permits. Foreign nationals with residence permits enjoyed the same rights as Azerbaijani nationals.

35. **Mr. Hasanov** (Azerbaijan) said that the Government was studying the possibility of issuing a declaration on articles 76 and 77 of the Convention. The State party's diplomatic missions did not operate specific labour or social security services for its citizens living abroad.

36. **Mr. Gurbanov** (Azerbaijan) said that 10,620 Azerbaijani nationals had registered at diplomatic missions in 27 countries in order to vote in the 2008 presidential elections. An anti-corruption commission with high-profile members had been set up in the State party. An anti-corruption department also operated within the Office of the General Procurator. Members of the public could report instances of corruption involving members of the police and court officials to a special office of ASAN. The State party worked closely with international bodies such as the Group of States against Corruption (Greco).

37. **Mr. Sevim** said that the legal definition of migrant workers contained in the bill on the establishment of an immigration code should be reviewed. The Committee would like the State party, in its next report, to provide examples of cases, particularly those involving undocumented migrants, in which United Nations conventions to which Azerbaijan was a party had been invoked before the courts. More action should be taken to combat human trafficking. The Committee would like the State party to amend the text of its planned readmission agreement with the European Union to include reference to article 22 of the Convention and to exclude regular migrants from its scope.

38. **The Chairperson** reminded the delegation of the importance of collecting proper statistics on the movements of migrant workers and their families.

*The meeting rose at 1.05 p.m.*