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Report of the Working Group on the Universal Periodic Review*

Azerbaijan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

1. The Government of the Republic of Azerbaijan received totally 162 recommendations during its second Universal Periodic Review held on 30 April 2013 and thorough consideration was given to all recommendations presented to it during the very review. The Government of Azerbaijan accepts totally and partially all recommendations except 110.1, 110.2, 110.3 and 110.4. The accepted recommendations will be implemented for to increase the efficiency of the protection of human rights and main freedoms and the realization of the very implementation will be monitored by the Government. Azerbaijan does not accept the above mentioned resolution due to following reasons:

2. Azerbaijan rejects the recommendations 110.1, 110.2, 110.3 and 110.4 presented by the Republic of Armenia, who has undertaken ethnic cleansing towards Azerbaijanis since 1988, committed the Khojaly genocide in 1992 and is still occupying Nagorno Karabakh and 7 adjacent territories of the territory of the Republic of Azerbaijan, which makes 20 percent of its territories, as these recommendations reflect the biased and invasion policy of Armenia and as “recommendation” on Nagorno Karabakh is contrary to and as well as abuse of the UPR mechanism. Furthermore, the fact of occupation by the Republic of Armenia violating the territorial integrity of Azerbaijan stands among the main reasons of challenges faced by Azerbaijan in the sphere of human rights. The very occupation brought about over 1 million IDPs and refugees along with political, social and economic problems.

In relation to some recommendations

Recommendations 109.5, 109.7, 109.8, 109.9, 109.10, 109.11, 109.12

3. The Republic of Azerbaijan participated at the UN Diplomatic Conference (Rome Conference) of Plenipotentiary Representatives on establishment of International Criminal Court held on 15 June - 17 July 1998 and took part at the adoption of the final statement. Since 1998 till present discussions on different crimes that are under the jurisdiction of International Criminal Court and on its punitive mechanisms are ongoing. From the other hand the formation of International Criminal Court is ongoing. Therefore, the Republic of Azerbaijan observes the process of formation of the International Criminal Court. After the process is complete, the possible accession to the Statue of the International Criminal Court may be reviewed by competent authorities of the Republic of Azerbaijan. Thorough study of proposals concerning the amendments to Constitution and other legislative acts of the Republic of Azerbaijan, necessary for the accession to the Rome Statute must be realized by the relevant competent authorities of the Republic of Azerbaijan. Hence, the conclusion of the formation process of the Statue is important from the view of acceding to it.

Recommendations 109.13, 109.14, 109.15, 109.24, 109.25

4. According to the National Action Program of the Republic of Azerbaijan on increasing the efficiency of the protection of human rights and freedoms, approved with the Presidential Decree of 27 December 2011, the elaboration of draft laws are based on human rights and main freedoms reflected in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is a party to. The realization of measures for the implementation of obligation coming out of international treaties and harmonization of normative legal acts to the international legal documents is ongoing.

Recommendation 109.16

5. The paragraph 4.1 of the Development Concept “Azerbaijan 2020: Vision to the Future” approved by the Presidential Decree of 29 December 2012, confirms the simplification of migration procedures. Furthermore, for the protection of the rights of

migrants the elaboration of the Migration Code has been finalized. The very Code was adopted on 13 June 2013 after its third reading in the Parliament of the Republic of Azerbaijan. The Migration Code entered into force on 1 August 2013. The very Code simplifies the migration procedures including the residence and work permits and envisages the migration registration of foreigners and stateless persons.

Recommendations 109.19, 109.20, 109.21

6. The Republic of Azerbaijan is cooperating with the UN Special Procedures-mandate holders and is committed to the very cooperation. Since April 2013, Azerbaijan has extended a standing invitation to the special procedures-mandate holders.

Recommendations 109.26, 109.27, 109.28, 109.29

7. Constant measures on upgrading the legislation on the NGOs are being undertaken for the improvement of the conditions necessary for the development of civil society. Amendments have been made to the Laws on “Grants” and “Non-Governmental Organizations” for the regulation of donations as a form of financial assistance. Meanwhile, drafts of the laws on “Public Participation”, “Trade Unions”, “Social Order” aimed at establishing favorable conditions for the activities of NGOs have already been elaborated and are being discussed. The draft law on “Public Participation” has passed the second reading. The proposals elaborated on the basis of recommendations of the Venice Commission on the NGO legislation, including their registration process are being considered for further action.

Recommendations 109.31, 109.70

8. The Commissioner for Human Rights (Ombudsman) was designated as a national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with the amendments made to the Constitutional Law on “The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” on 24 June 2011. For the realization of the very functions the National Preventive Group has been established in the Office of the Commissioner.

9. The Commissioner while fulfilling functions of the national preventive mechanism has access, without hindrance and prior notification, to any governmental and municipal bodies, military units, as well as police stations, temporary detention places, investigatory isolators, penitentiary institutions, military guardhouses, psychiatric institutions and other places, which detained persons can not leave at will; may meet with and talk to detained persons, as well as any other persons who may provide relevant information in private or when deemed necessary with the participation of an expert or interpreter. The Commissioner has the right to obtain necessary information, document and materials from the competent authorities in 10 days for the investigation of human rights violations, get acquainted with decisions on criminal, civil and administrative cases legally in force as well as with materials on rejection of initiation of criminal suits, request for written information from the responsible persons while investigation the communication.

Recommendations 109.48, 109.89, 109.97

10. “Rules of state control on the realization of children’s rights” was approved by the Presidential Decree of 8 May 2012 for the organization of state control on the realization of children’s rights. The aim of the state control is the prevention of factors leading to the violation of the children’s rights. The state control on protection of rights of children is being undertaken in the form of coordination of activities of relevant competent bodies, the Commission under the Cabinet of Ministers on protection of rights of juveniles holds

meetings, monitors child institutions, and prepares annual state report on the situation of children. The very annual state report also reflects the information on measures realized for implementation of recommendations of the UN Committee on the Rights of the Child. Currently, proposals on increasing the parental responsibility in the legislation are being elaborated. Physical and psychological violence against children has been abolished by the Articles 12, 27 and 28 of the Law on Rights of the Child. Furthermore, the Law on fight against domestic violence all in all covers the prevention of violence against children too. The Law on Juvenal Justice has been elaborated and relevant measures in the very direction are on the way.

Recommendation 109.50

11. For the provision of proper and timely birth registration, in 2010 the period of submission of information on birth was reduced from 3 to 1 month time period with the obligatory electronic transmission of birth information to the ministry of justice by the health organizations where the baby was born. The amendments establishing the liability of both the parents and the health organizations for the failure of timely submission of such information have been made to the Family Code and Administrative Offenses Code. To ease the birth registration in remote rural areas the district executive powers have been rendered with the birth registration authorities. In this regard service centers of State Agency for Public Service and Social Innovations under the President of the Republic of Azerbaijan (ASAN) are being established since 2012 in different parts of Azerbaijan with the aim of providing all services by state authorities to public from one place and with more quality and comfort.

Recommendations 109.51, 109.54

12. In accordance with the National Action Program the measures on increasing the potential of strengthening the combat against corruption, developing national mechanisms as well as institutional reforms in the very sphere are ongoing. The National Action Plans on Promotion of Open Government and on the Fight against Corruption was approved with the order of the Head of State on 5 September 2012. The Action Plans covering the years of 2012 – 2015 aim at granting the sustainability of measures implemented against corruption in the Republic of Azerbaijan, enhancement of transparency in the work of state authorities and promotion of open government principles. It is to be noted that the involvement of specialized non-governmental organizations in the field of human rights to the activity of the relevant monitoring group established within the Ministry for Justice in the framework of measures strengthening transparency and fight against corruption, is being promoted.

13. International cooperation in the field of fight against corruption is of crucial importance. Azerbaijan actively participates in the work of International Association of Anti-Corruption Authorities (IAACA) which brings together more than 140 States, the Minister for Justice of Azerbaijan is the vice-president of the very organization. Furthermore, Azerbaijan has become full-fledged member of International Anti-Corruption Academy, after acceding to the Agreement for the establishment of International Anti-Corruption Academy as an International Agreement.

14. On 1 February 2013 Azerbaijan acceded to the Additional Protocol on Criminal Law Convention on Corruption with a relevant declaration. For to increase the efficiency of the State Agency for Public Service and Social Innovations under the President of the Republic of Azerbaijan (ASAN), in accordance with Presidential Decree of 18 March 2013, the number of employees of the Agency have been raised from 120 to 260 employees and broad range of subsidiary functional services have been defined.

Recommendations 109.80, 109.81, 109.82, 109.83

15. The Law on fight against domestic violence was passed in 2010. The Family Code was amended in accordance with this Law and the minimal age of eligibility for marriage, both for men and women, was set up at the level of 18 years. The amendments introduced into the Family Code in 2011 prohibit early and forced marriages, and strengthen punishment for such acts. In 2010 our country ratified the International Labour Organization Convention 156 concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities and the ILO Convention 183 concerning the revision of the Maternity Protection Convention (Revised), 1952.

Recommendation 109.87

16. The Cabinet of Ministers has issued Decisions on “Regulations on placing and protection of child victims of human trafficking in shelter” and “The calculation of reliefs for the victims of human trafficking, paid during the reintegration”.

Recommendation 109.97

17. The draft of the Law on Juvenal Justice has been presented to Milli Mejlis (Parliament) for the deliberations. The draft of the Law on prohibition of application of physical punishment to children, elaborated by the Office of the Commissioner for Human Rights (Ombudsman) and UNICEF has also been presented to Milli Mejlis.

Recommendation 109.100

18. The State Committee for Family, Women and Children Affairs in cooperation with UNICEF since 2011 has been implementing the project on “Social communication and change of behaviors” aimed at prevention of early marriages and education evasion of girls, which is most common to the southern part of the country. Since the implementation of the project as a result of prophylactic measures no cases of early marriages have happened in the southern part of the country. The law of 15 November 2011 amending the Criminal Code prescribes sanctions for forcing the girls to marry, who have not reached the marriage age.

Recommendations 109.110, 109.111, 109.116, 109.117, 109.118, 109.121, 109.122 and 109.123

19. The Law on Non-Governmental Organizations (public unions and funds) does not in anyhow restrict the state registration of NGOs as legal entities. Unlike the commercial entities the NGO may organize and realize measures in accordance with their purposes without even registration. As according to the Law on state registration of legal entities and state registry commercial entities and the representatives or branches of foreign legal entities may operate only after the state registration. The Presidential Decree of 27 July 2007, which laid down the foundation of new stage of the development of civil society in the country, approved “The state support concept of the Republic of Azerbaijan to the Non-Governmental Organizations”. The Council of State Support to NGOs under the Auspices of the President of Azerbaijan was established on the basis of the Presidential Decree of 13 December 2007. The national donor institute has been formed through the very Council, which contributed to the development of NGOs and the increase of financing from the state budget in the very direction is in the focus of attention.

20. The amount of resources envisaged in state budget to finance the socially important projects of the NGOs, has been increased. Inasmuch as in 2012, 3,8 million manat was allocated to the Council of State Support to NGOs under the Auspices of the President of Azerbaijan, while in 2013 the very amount was more than 8,2 million manat. Furthermore,

in 2013 5 million manat was allocated from the state budget to the Youth Foundation under the President of the Republic of Azerbaijan.

21. As a result of establishment of broad possibilities for the activities of the NGOs and application of mechanisms providing financial support of state to the NGOs, in 2012 the grant agreements of 40 million manat (more than 50 million US dollars) were registered in the Ministry for Justice.

22. The registration procedure of grants, prescribed in the existing legislation is very simple and is of informational character. For this just the submission of the copy of application and relevant agreement with notarial attestation to the Ministry for Justice is enough.

23. There are no restrictions for the activities of NGOs in our country. The analysis of legislation and practice shows that the abolition of NGOs is an exceptional measure. The warning and notifications applied by the Ministry for Justice for to organize the activities of the NGOs within the legal framework, aims to inform these organizations about the revealed breaches of regulations and laws without bringing them to responsibility. Although the legislation contains provisions on possibility of abolition of NGOs after more than two warnings or notifications, it has never been applied in practice.

24. In relation to the human rights defenders it should be noted that all conditions for their independent activity have been established in the Republic of Azerbaijan. They enjoy all human rights and freedoms, they are not prosecuted for their activities. There is a persistent system of partnership relations between the state organs and non-governmental agencies in the country. As an example for this could be shown Public Committee comprising in itself prominent human rights defenders which has been realizing the public control in the penitentiary system for a long while.

Recommendations 109.126, 109.127, 109.128 and 109.129

25. Since 2009 the courts of the Republic of Azerbaijan while considering the criminal cases on Article 147 (slander) and Article 148 (insult) of the Criminal Code do not apply the punishment of deprivation of liberty. However, it should be noted that according to the analysis of criminal legislation of Member States of the Council of Europe, as well as the analysis carried out by the OSCE representative on freedom of media which is posted on the official website of OSCE, the criminal liability for defamation exists in majority of those states, including the states that have submitted the mentioned recommendations. The National Action Program of the Republic of Azerbaijan on increasing the efficiency of the protection of human rights and freedoms, approved with the Presidential Decree of 27 December 2011 envisages the elaboration of draft legislation on defamation. The request for the assistance in the preparation of the draft law has been sent to the Venice Commission of the Council of Europe in September of 2012. The Delegation of the Venice Commission visited Baku and held discussions on draft legislation on defamation together with relevant State authorities, media representatives and civil society institutions in April of this year. Furthermore, public discussions were held on the draft law, with the participation of President Administration of the Republic of Azerbaijan, Parliament, Press Council, mass media and other interested parties on 22 May, 2013. The draft law in question envisages, in course of the court proceedings on the defamation cases, the application of principles established in the precedent law of the European Court on Human Rights. No representatives of mass media or civil society are prosecuted in their legal activities. Only criminal suspects of this or another concrete crime are brought to criminal liability in the manner prescribed by law based on the equality before the law of everyone irrespective of position or other issues.

Recommendations 109.106, 109.130, 109.133, 109.134, 109.135, 109.136, 109.137, 109.138

26. In 2008 the amendments incorporating the views of the Venice Commission were made to the Law on “Freedom of Assembly” of the Republic of Azerbaijan, adopted on 13 November 1998. The Final Opinion of the Venice Commission states that taking into consideration the very amendments the Law is fully in compliance with the European standards. In accordance with the Law on “Freedom of Assembly”, relevant venues have been determined in every city by the city (district) executive power and the executive powers of the districts of the city of Baku to conduct peaceful assemblies. The very venues are at the centers of the relevant districts. The analysis of the practice of various assemblies held in Baku shows that most of assembly organizers tried to conduct assemblies in the places different from the ones mentioned in their application to the executive power of the city of Baku. Hence, lawful and proportional intervention was made by the state agencies to the realization of assemblies in undefined places.
