

AZERBAIJAN

Follow-up - State Reporting

Action by Treaty Bodies, Including Reports on Missions

CCPR A/58/40 vol. I (2003)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
...			
<i>Seventy-third session (October 2001)</i>			
Azerbaijan	2 November 2002	12 November 2002	At its seventy-seventh session, the Committee decided to take no further action.

Follow-up - Reporting
Action by State Party

CCPR CCPR/CO/73/AZE/Add.1 (2002)

Comments by the Government of Azerbaijan on the concluding observations of the Human Rights Committee (CCPR/CO/73/AZE)

Information on paragraphs 8, 10, 15, 17, 22 and 27 of the concluding observations of the Human Rights Committee in connection with its consideration of the second periodic report of Azerbaijan concerning implementation of the International Covenant on Civil and Political Rights

Paragraph 8

1. The state of emergency in Azerbaijan is governed by the State of Emergency Act of 4 February 1992, article 19 of which provides that the institution of a state of emergency cannot give rise to discrimination of any kind, restriction of the right to life, freedom of thought, conscience or religion, or the use of torture or cruel, inhuman or other degrading treatment or punishment.
2. On 15 March 2002, the Milli Mejlis approved in first reading a new version of the State of Emergency Act, prepared with the aim of upgrading legislation in this area and bringing it into line with international standards. The new version of the Act is expected to be further considered and approved in second and third readings at the forthcoming session of the parliament. The recommendations made by the Human Rights Committee will be borne in mind when the bill is considered.
3. By a decree of 22 July 2002, the President ordered a referendum on the Constitution of Azerbaijan (Amendment) Bill. The bill contains a proposal for amendment of article 27.4 of the Constitution in the form of deletion of the words "of the application of an order issued by an authorized person during a state of emergency and of war"; it is proposed that the words in question should be deleted from the following sentence: "in cases specified by law ... of the application of an order issued by an authorized person during a state of emergency and of war ..., the use of arms against persons shall be permitted".
4. The referendum was held on 24 August 2002 in accordance with article 2 of the decree. The amendment of article 27.4 of the Constitution was approved and will be incorporated in the Constitution in keeping with the procedure stipulated by law.

Paragraph 10

5. In November 1999, the Committee against Torture examined the initial report of Azerbaijan under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/37/Add.3) and adopted conclusions and recommendations in that regard.

6. On 10 March 2000, with the aim of implementing the recommendations of the Committee against Torture, the President of Azerbaijan issued a special order entitled "Measures related to the recommendations concerning Azerbaijan made by the United Nations Committee against Torture and Amnesty International". Under the order a commission was set up, composed of senior officials of the executive office of the President, security agencies and the Supreme Court. The Commission was instructed to carry out checks of alleged incidents of torture and take appropriate measures. The Ministry of Justice, the Ministry of Internal Affairs, the Ministry of National Security and the Ministry of Defence were instructed to take appropriate steps to prevent violations of the law in the sphere of human rights and freedoms. At the same time, it was recommended that the Supreme Court and the office of the Procurator-General should take the necessary steps to eliminate the shortcomings identified in the Committee against Torture's conclusions and the Amnesty International report.

7. In the context of the recommendations made by the Committee against Torture and Amnesty International, the courts bear major responsibility for guaranteeing human rights and freedoms and preventing torture and other unlawful forms of pressure on individuals. In this connection, the Supreme Court prepared an analysis of case law relating to the guaranteeing and observance of the human rights and freedoms set out in the Constitution and the relevant international instruments. The conclusions were examined at a plenary session of the Supreme Court held on 10 March 2000, leading to the adoption of a decision which reflected the recommendations made by the Committee against Torture and Amnesty International.

8. Specifically, the decision notes that when establishing the facts concerning the use of torture, the courts should take into account the fact that acts of torture are criminal acts.

9. The plenum of the Supreme Court also noted that no exceptional circumstances, such as a state of war, an unstable domestic political situation or a state of emergency, can serve as a justification for the use of torture. A court ruling cannot be based on evidence gathered by unlawful means. If during judicial proceedings a court reaches the conclusion that any evidence tabled by bodies which conducted initial inquiries or pre-trial investigations was obtained by unlawful means, such evidence must be removed from the general mass of the evidence and considered accordingly. The court must also take a specific decision concerning the official who permitted the law to be violated, and initiate criminal proceedings against him or her where appropriate.

10. The decisions of the plenum of the Supreme Court are binding on all courts in the country, as well as bodies which conduct initial inquiries or pre-trial investigations.

11. On 10 March 2000 the recommendations made by the Committee against Torture and Amnesty International were reviewed at a special session of the President's Pardons Commission. It was decided not to grant amnesties or pardons to persons convicted or accused of offences connected with torture and cruel treatment.

12. The Procurator-General has issued an order entitled "Supplementary measures to ensure compliance with the United Nations Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment", which points out the need to increase the effectiveness of procuratorial supervision in efforts to halt and prevent torture and other unlawful methods during initial inquiries or pre-trial investigations and to prosecute those responsible. It also provides that the office of the procurator should include study of the Convention against Torture and other international human rights instruments in the academic courses it organizes, and devote special attention in evaluating its staff to the need for them to be familiar with these instruments.

13. On 18 January 2000, the Ministry of Justice issued an order aimed at putting the recommendations made by the Committee against Torture and Amnesty International into effect within the country's prison system, and ensuring respect for the requirements of domestic legislation regarding protection of the rights and lawful interests of convicted prisoners and detainees. The order requires all heads of correctional labour colonies, inter alia, to take steps to prevent the use of torture and other cruel, inhuman or degrading treatment or punishment, and reaffirms that torture constitutes a criminal offence.

14. In pursuance of the recommendations made by the Committee against Torture and Amnesty International, the Central Administration for the Enforcement of Judicial Decisions in the Ministry of Justice was instructed to enable representatives of local and international non-governmental organizations to visit the country's prisons, acquaint themselves with the facilities and everyday conditions in which prisoners are held, and hold meetings and conversations with them. It was also instructed to publicize all the changes in the penal correction system.

15. On 1 June 2000 the Government signed an agreement with the International Committee of the Red Cross for the implementation of the Committee's mandate in places of detention. The President approved a protocol on 24 August 2002 extending the validity of the agreement.

16. The task of conducting official investigations into reports of torture of prisoners falls to the Inspectorate of Internal Investigations in the Central Administration for the Enforcement of Judicial Decisions in the Ministry of Justice.

17. The recommendations made by the Committee against Torture were reflected in the process of drafting the new Code of Criminal Procedure and Criminal Code, which entered into force on 1 September 2000. Article 15 of the Code of Criminal Procedure expressly bans the use of torture and other cruel, inhuman or degrading treatment or punishment during criminal proceedings, and also lists actions on the part of officials which are considered to be unacceptable.

18. Under article 113 of the Criminal Code, the infliction of physical pain or mental suffering on persons who have been detained or otherwise deprived of their freedom is a criminal offence.

19. Article 132 of the Code provides that the premeditated infliction of blows or the commission of other acts of violence which cause physical pain are criminal offences.

20. Under article 133.1 of the Code, it is also a criminal offence to inflict physical or mental suffering through systematic beatings or other acts of violence.

21. Under article 133.3 of the Criminal Code, commission of the acts referred to in articles 133.1 and 133.2 of the Code by or at the instigation of an official making use of his or her official position, with the aim of obtaining information or a forced confession from a person, or for the purpose of punishing the person for an act he or she has committed or is suspected to have committed, is a criminal offence.

22. The right of a victim to receive compensation, the extent of the compensation and the rules governing how it may be obtained are set out in articles 189 to 191 of the Code of Criminal Procedure. A person who has suffered harm caused by a criminal act is entitled to compensation where the commission of the act has formed the subject of a decision by a court or a body conducting criminal proceedings. The extent of the compensation is dependent on the degree of seriousness of the act which caused the harm. There are plans to draft and adopt a law on the subject with the aim of regulating the question of compensation in a more complete and detailed manner.

23. The law also grants victims the right to bring civil proceedings.

24. At the invitation of the Government, Mr. Nigel Rodley, the Commission on Human Rights Special Rapporteur on the question of torture and member of the Human Rights Committee, visited Azerbaijan from 7 to 15 May 2000. Following his visit the Special Rapporteur submitted a report containing recommendations to the fifty-seventh session of the Commission on Human Rights.

25. The Special Rapporteur's report was considered at a session of the Commission set up under the above-mentioned Presidential decision of 10 March 2000. As a result of the careful verification of the facts contained in the report, a decision was adopted which was communicated to the Special Rapporteur for inclusion in his report for submission to the fifty-eighth session of the Commission on Human Rights. The decision declared, inter alia, a readiness to supply the Special Rapporteur with any additional information and material on specific cases related to allegations of the use of torture which were mentioned in his report.

26. Between 1998 and 2001 and the first half of 2002, 504 officials of internal affairs bodies in Azerbaijan were given severe reprimands or had criminal charges brought against them for violations of human rights or citizens' rights. Of these, 109 were punished for unlawfully taking citizens to district police stations and holding them there, 16 for assault and 14 for unlawful search. During the same period 76 officials of internal affairs bodies and units were dismissed for breaches of rules relating to respect for human honour and dignity or for rudeness, and 53 were charged with criminal offences.

Paragraph 15

27. The following are criminal offences under article 106 of the Criminal Code: slavery - the exercise in full or in part of the legal powers inherent in the right to ownership vis-à-vis a person, the same acts performed in relation to a minor or for the purpose of transferring a person to a foreign State, and also slave trading - keeping a person for the purpose of enslaving him or her or

using him or her as a slave, selling or exchanging him or her, having a person at one's disposal, and also any act connected with slave trading or the transport of slaves, as well as sexual slavery or encroachments on a person's sexual freedom on the basis of slavery.

28. Article 110 of the Criminal Code provides that detaining a person by force is a criminal offence. Under this article, detaining, arresting or abducting a person with the aim of depriving him or her of lawful protection for a lengthy period on the orders of or with the support or the consent of the State or a political organization, and subsequent failure to acknowledge the deprivation of freedom or refusal to provide information concerning a person's involvement or whereabouts, are criminal offences.

29. The Criminal Code provides that the sale or purchase of human organs or tissues or their forcible removal or transplantation (art. 137), abduction (art. 144), coercion to perform sexual acts (art. 151), enticement of a minor into prostitution, or the commission of immoral acts (art. 171), trafficking in minors (art. 173), unlawful adoption (art. 174), enticement into prostitution (art. 243) and keeping a brothel (art. 244) are criminal offences.

30. On 14 March 2002, in Baku, the Milli Mejlis held a round table in cooperation with the International Organization for Migration on the topic "Migration by women - legal aspects and problems". Parliamentarians and representatives of government bodies, international organizations and non-governmental organizations took part in the exchange of views at the round table. Speakers placed special emphasis on issues involved in efforts to combat trafficking in women, analysed legislation in this field and made proposals on possible additional measures to combat this phenomenon.

Paragraph 17

31. Article 136 of the Criminal Code provides that it is a criminal offence to carry out the artificial fertilization or implantation of the embryo of a woman or a minor without her consent, or to conduct operations without consent for the purpose of medical sterilization, that is, in order to deprive a person of sexual reproductive capacity or to prevent a woman from becoming pregnant.

32. The unjustified abrogation of a woman's employment contract on the grounds that she is pregnant or has a dependent child aged under three is a criminal offence under article 164 of the Code.

33. Article 149 of the Criminal Code provides that rape, that is, sexual relations involving the use or threat of force against the victim or other persons, or advantage being taken of the helplessness of the victim, is a criminal offence.

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

35. Article 152 of the Code provides that it is a criminal offence for a person who has reached

the age of majority to engage in sexual relations or other acts of a sexual nature with a person he or she knows to be aged under 16.

36. Under article 153 of the Code, it is a criminal offence to engage in debauched activities not involving the use of force with a person known to be aged under 14.

37. In 2001, criminal proceedings were brought against 155 persons for rape, acts of a sexual nature involving the use of force against women or other acts infringing on the sexual inviolability of women.

38. With the aim of implementing State policy relating to women and enhancing the role of women in the country's political, social, economic and cultural life, the President issued a decree on 14 January 1998 establishing the State Committee on Women's Problems.

39. In March 2000 the President signed a decree concerning the implementation of State policy relating to women, which sets out the main features of women's role in the management of the State and society.

40. On 6 March 2000 the Cabinet of Ministers adopted a decision relating to a national plan of action to address women's problems.

41. Seminars on gender issues take place every year in Azerbaijan. Over the past three years more than 150 seminars, meetings, encounters, panels and congresses of women have been held. The need to tackle women's problems was noted at the first congress of women in Azerbaijan, which was held in 1998.

42. Women in the country's parliament play an active legislative role, creating a legal foundation for equality of the sexes and protection of women's individual freedoms.

43. Elections of judges were held as part of the reform of the judicial sector and statistics indicate that 14 per cent of judges in Azerbaijan are women. The Supreme and appeal courts, as well as a number of ordinary and specialized courts, are headed by women.

44. On 2 July 2002 an Ombudsman was elected. Among three candidates put forward by the President, a woman was elected to the post by a majority of votes in the Milli Mejlis.

45. At present 46 women's non-governmental organizations are operating in Azerbaijan. Their activities focus on the protection of women's rights, as well as the provision of practical assistance in developing women's business in the context of a market economy, the opening of new jobs to women, protection of the family, the health of women and children, the involvement of women in social and political life, the provision of help to refugees, children's homes, the disabled and the families of victims of the war in Karabakh. New women's organizations are being formed, and existing ones are expanding their networks and areas of activity.

Paragraph 22

46. Favourable conditions now exist in Azerbaijan for the free expression of any thoughts in the mass media and the reporting of any facts which do not constitute State secrets or restricted material.

47. Under article 47 of the Constitution, everyone has the right to freedom of thought and speech, and no one may be compelled to express his or her thoughts and convictions publicly or to renounce them. Campaigning and publicity which arouse discord or enmity on racial, ethnic, religious or social grounds are forbidden.

48. Under the Mass Information Media Act, freedom of information in the mass media is founded on State guarantees of the right of citizens to seek, receive, prepare, transfer, produce and disseminate information by lawful means. No restrictions are placed on the establishment, ownership, use or exploitation of mass media, or the right to seek, receive, prepare, transfer, produce and disseminate information through the mass media, except for cases mentioned in the legislation on the subject.

49. State censorship of the mass media, and the creation and funding of special State bodies or posts for that purpose, are prohibited. State bodies, municipalities, institutions, enterprises and organizations, voluntary associations, officials and political parties have no right to vet information and material disseminated through the mass media or to ban its dissemination, except where they are the authors of information or interviews.

50. In accordance with Azerbaijani legislation, civil, administrative, criminal or other proceedings may be brought in the event of any interference by citizens, State bodies, municipalities, institutions, enterprises and organizations, political parties, voluntary associations or officials in the lawful activities of the founders, publishers, editors, distributors or journalists of the mass media, for example through censorship, interference with professional activities, the unlawful seizure or destruction of all or part of a print run, the coercion of a journalist to disseminate or not to disseminate or broadcast information, the placing of restrictions on the transfer of information to a journalist or the refusal to transfer information, except for information enjoying protection under the law, failure to provide a reply to a journalist's question within the deadline stipulated by law, and the violation of other journalists' rights laid down in the law.

51. It is forbidden to use the mass media for the following purposes: disclosure of secrets protected under the law, forcible overthrow of the constitutional order, attacks on the integrity of the State, advocating war, the use of force or brutality, arousing ethnic, racial or social discord or intolerance, making use of the name of a prestigious source to disseminate hearsay, lies or prejudiced publications which demean the honour and dignity of citizens, pornographic material or calumnies, or to commit other illegal acts.

52. On 28 December 2001 the Mass Information Media Act was amended to provide that the production and dissemination of an organ of the mass media may be halted temporarily or ended only by decision of the person responsible for such an organ or a court. Seven days' notice of the creation of a printed organ of the mass media must be given to the appropriate Government body. Government authorization is not required for the creation of such organs.

53. More than 500 mass media organizations are currently operating in Azerbaijan, including newspapers, journals, television production companies, information agencies and over 30 television/radio channels.

54. In order to ensure public monitoring of compliance with legislative requirements relating to the mass media, to regulate the production and broadcasting of material on electronic media and the Internet, to strengthen links and trust between State bodies and the mass media, and also

to broaden the scope for freedom of speech, thought and information, the President issued a decree on 20 June 2001 entitled "Strengthening State stewardship of the mass media". On 27 December 2001 the President issued an order on additional measures to strengthen State stewardship of the mass media.

55. Under article 46 of the Constitution, "everyone has the right to protect his or her honour and dignity. The State shall safeguard personal dignity. Nothing shall justify degradation of the individual".

56. Under article 57 of the Constitution, citizens have the right to criticize the activities or work of State bodies, their officials, political parties, trade unions and other voluntary associations, and also the activities and work of individual citizens. Prosecution for such criticism is forbidden. Insults and calumny cannot be considered to be criticism.

57. Article 147 of the Criminal Code provides that calumny - the dissemination of information known to be false which tarnishes the honour and dignity of another person or undermines his or her reputation in a public statement, a work produced in public or the mass media - is a criminal offence.

58. Article 148 of the Code provides that insults - demeaning the honour and dignity of another person in an unseemly manner in a public statement, a work produced in public or the mass media - constitute a criminal offence.

59. Under article 23 of the Civil Code, an individual may apply to the courts to demand the retraction of information which tarnishes his or her honour and dignity or business reputation or violates his or her personal privacy or personal inviolability, if the person who has disseminated such information fails to demonstrate that it is true. This procedure is also followed in the case of partial publication of factual information when such action harms a person's honour, dignity or business reputation. Action to protect the honour and dignity of an individual is permitted even after the death of the person concerned, at the request of interested persons. If information which tarnishes the honour, dignity or business reputation of an individual or violates his or her personal privacy is disseminated in the mass media, it is subject to retraction in the same mass media. If the information is recorded in an official document, the document must be modified, and interested persons must be informed accordingly. The procedure relating to retraction in other circumstances is laid down by a court. Where the mass media have published information which harms an individual's rights or interests protected under the law, he or she has the right to publish a rejoinder in the same mass media. An individual in respect of whom information which tarnishes his or her honour, dignity or business reputation has been

disseminated has the right to demand retraction of such information and also to demand compensation for the harm caused by its dissemination. If it is not possible to establish who disseminated the information which tarnished the individual's honour, dignity or business reputation, the person in respect of whom such information was disseminated has the right to demand a declaration that such information is not true. The rules set out in this article concerning protection of the business reputation of an individual are applied mutatis mutandis to protection of the business reputation of a corporation.

Paragraph 24

60. In accordance with article 4 of the Presidential Elections Act of 9 June 1998, elections to the post of President are conducted using a single constituency covering the whole of the country. Preparations for and the conduct of elections, and monitoring of the realization of citizens' electoral rights, are the task of electoral commissions. While preparing for and conducting Presidential elections, and within their areas of competence, the electoral commissions are independent of the State authorities and local or municipal administrations, being subject solely to the provisions of the Act.

61. Under article 9 of the Act, citizens, including officials, who encroach on the freedom of citizens to exercise their electoral rights, the work of the electoral commissions or the activities of the members of the electoral commissions by means of deception or the use or the threat of physical force, persons who falsify electoral documents, including those who vote more than once, persons who deliberately miscount votes or by other unlawful acts hinder the correct counting of votes, persons who deliberately disseminate false information on Presidential candidates, and persons who by other acts tarnish the honour and dignity of a candidate, or who hinder the lawful activities of the legal representatives of candidates, observers and also international observers, or who violate the conditions for the conduct of pre-election campaigning are liable to prosecution under the Code of Administrative Offences or the Criminal Code.

62. Under article 1.2 of the Milli Mejlis Elections Act of 5 July 2000, citizens of Azerbaijan participate in elections in a free and voluntary manner. No one has the right to exert pressure on citizens for the purpose of compelling them to participate or not to participate in elections, and no one may prevent them from expressing their wishes freely.

63. Under article 7 of the Act, the electoral commissions, within the areas of competence specified in the law, are responsible for preparations for and the conduct of elections, and the realization and protection of the electoral rights of citizens, and for ensuring that those rights are respected. While preparing for and conducting elections, and within the areas of competence specified in the law, the electoral commissions are independent of the State authorities and local administrations. No interference by such bodies or their officials is permitted in the activities of the electoral commissions. It is an offence under administrative or criminal law to interfere in or exert influence on the work of the electoral commissions. The decisions adopted by the electoral commissions within the areas of competence specified in the law are binding on municipal bodies, parliamentary candidates, registered parliamentary candidates, political parties, coalitions of political parties, officials and voters. During preparations for and the conduct of

elections the electoral commissions have the right to inform the voters of progress made in preparing for and conducting the elections and the election results, to receive, collect, add to, reprocess, transfer and store information used during the preparations for and conduct of elections, and to make use of the State electronic information system to support the information activities of the electoral commissions.

64. Under article 12 of the Act, for the purpose of conducting elections, the Central Electoral Commission creates 100 single-member constituencies on the basis of information on the actual numbers of persons resident in the geographical units of the country and registered voters supplied to it by district and city authorities and municipal bodies. Voters resident outside Azerbaijan are allocated to single-member constituencies. Information on voters who are permanently resident outside Azerbaijan or are on lengthy assignments abroad and are registered with the appropriate diplomatic and consular offices of Azerbaijan is provided to the Central Electoral Commission by the Ministry of Foreign Affairs.

65. Under article 16.1 of the Act, all citizens of Azerbaijan who have electoral rights are included in the electoral roll.

66. The most recent elections to the Milli Mejlis were held on 5 November 2000, in a political context marked by the country's admission to the Council of Europe.

67. On 18 July 2000, by Presidential decree and a decision of the parliament, the Central Electoral Commission was established, composed of 18 persons who represent the main political forces in the country.

68. In accordance with the Milli Mejlis Elections Act, the Central Electoral Commission decided to create 100 single-member constituencies and approved a schedule and diagram for the purpose.

69. On the basis of information received by the Central Electoral Commission concerning the numbers of Azerbaijani citizens who reside or are on assignment abroad, a list of the single-member constituencies to which they were allocated was approved. The Ministry of Foreign Affairs assisted the Central Electoral Commission in ensuring that citizens of Azerbaijan who reside abroad were able to exercise their electoral rights.

70. Separate electoral units were established in areas containing high concentrations of refugees to enable them to exercise their electoral rights. Electoral units as well as sectoral electoral commissions were set up in Azerbaijan's embassies and diplomatic missions abroad 30 days before the election for the benefit of citizens who were outside the country.

71. A total of 20,000 copies of the Milli Mejlis Elections Act and the Central Electoral Commission Act were published in Azerbaijani and English and distributed to electoral commissions, local and international observers and appropriate organizations.

72. The electoral commissions were granted broadcasting time to provide information to voters, and relevant material was published in the press. The political parties were granted more than

eight hours of broadcasting time per week for purposes of electioneering.

73. On 3 September 2000 the President issued a decree entitled "Creation of a State electronic information system in the country". In accordance with the decree, an information centre was set up in the Central Electoral Commission. When used in the elections for the first time, this system played a major role in voter registration, preparing electoral rolls, planning the conduct of the election and the announcement of the results, obtaining requisite information from the electoral commissions and processing it.

74. Under articles 9 and 21 of the Presidential Elections Act, article 83 of the Milli Mejlis Elections Act and article 46 of the Referendum Act, it is an offence to hinder citizens in the free exercise of their electoral rights.

75. The Central Electoral Commission reviews actions and omissions by the electoral commissions and their officials which violate the electoral rights of citizens.

76. When considering cancellation of the registration of a list of candidates or a registered candidate, the electoral commission has the right to obtain information from citizens and officials and to demand and receive the requisite documents and material.

77. Each higher electoral commission has the right to cancel a decision taken by a lower electoral commission, decide on the merits of a complaint or order the reconsideration of a particular issue.

78. Decisions on complaints lodged with an electoral commission during the elections are taken within five days, while decisions on complaints lodged on voting day or the following day are taken immediately.

79. Citizens have the right to bring proceedings in district, city or national courts if their electoral rights have been violated.

80. During preparations for elections to the country's parliament, the Central Electoral Commission heard 42 complaints relating to actions by lower electoral commissions. Of these, 16 complaints were accepted by the Commission; the complainants were registered as parliamentary candidates, and 4 of them were subsequently elected as deputies, 2 of them representing opposition parties.

81. When the law is violated, the Central Electoral Commission may declare the results of elections in various constituencies or electoral units invalid and annul them.

82. Following the referendum of 24 August 2002, the results of voting in 251 units in various constituencies were annulled.

83. The draft of an electoral code is currently under preparation, following generally accepted international standards. In June 2000 the draft was sent for expert appraisal to the Venice Commission of the Council of Europe and the Bureau for Democratic Institutions and Human

Rights of the Organization for Security and Cooperation in Europe.

CCPR/C/AZE/CO/3 (2010)

Information received from Azerbaijan on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/AZE/CO/3)

[24 June 2010]

Implementation of the recommendations contained in the concluding observations of the Human Rights Committee (CCPR/C/AZE/CO/3) following consideration of the third periodic report of Azerbaijan on the implementation of the International Covenant on Civil and Political Rights

Paragraph 9

1. According to article 4 of the Aliens and Stateless Persons (Legal Status) Act of 3 March 1996, “aliens and stateless persons enjoy the same rights and freedoms and have the same obligations as citizens of Azerbaijan, except as otherwise provided for by the Constitution, this Act and other laws of Azerbaijan, and the international treaties to which Azerbaijan is party”. Under article 439 of the Code of Civil Procedure, aliens and stateless persons, foreign legal entities and international organizations may apply to the courts of Azerbaijan for protection of legally protected rights and interests that are violated or challenged. Foreign persons have the same procedural rights and obligations as Azerbaijani citizens and legal entities.
2. According to article 5 of the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act, a refugee may under no circumstances be sent or deported to a country where his or her life or liberty would be threatened. Besides this, article 8 of the Act specifies that a person who cannot be granted refugee status or asylum may in the appropriate manner be sent to another country. These provisions result from the alignment of the Act with the requirements of international instruments such as the Convention on the Status of Refugees of 1951 and the related Protocol relating to the Status of Refugees of 1967.
3. The prosecution by other States of persons residing permanently or temporarily in Azerbaijan and enforcement of sentences handed down by a court against such persons for acts committed outside Azerbaijan are governed by the Extradition of Offenders Act of 15 May 2001.
4. According to article 3.2 of the Act, extradition may be refused if there are sufficient grounds for supposing that the individual concerned will, if extradited, be subject in the requesting country to torture, to cruel, inhuman or degrading treatment or punishment, or to persecution on the grounds of his or her race, ethnic origin, language, religion, citizenship, political views or sex.
5. On receipt of an extradition request, information is gathered about the requesting State, and in particular about incidents of torture and cruel treatment there, and the reports and conclusions of international human rights organizations are studied.

6. In cases involving serious offences, decisions about extradition are made by the Court for Serious Offences, where cases are always reviewed by a bench of three judges, special attention being paid to safeguarding the right to a defence and to appeals and the review of decisions in appeal proceedings.

7. Individuals are not forcibly deported from Azerbaijan when there is good reason to believe that they would be tortured or persecuted in the country they arrived in after deportation.

8. In connection with the Committee's concerns over reports of deportation to countries where individuals could face torture or ill-treatment, it should be noted that a procedure for obtaining diplomatic assurances is applied during extradition. In practice, extradited individuals' rights and conditions in detention have been monitored after extradition. This approach to the issue by Azerbaijan has been hailed by the United Nations High Commissioner for Refugees as a model for other States to follow.

Paragraph 11

9. The Office of the Procurator investigates breaches of the law, human rights violations, mistreatment, abuse of authority and other such conduct during detainees' pretrial detention in temporary holding facilities and remand centres. According to the Office of the Procurator Act, prosecuting authorities oversee the implementation and enforcement of the law in the work of detective and investigative units.

10. Under article 442 of the Code of Criminal Procedure, the trial court, within the limits of its jurisdiction is responsible for the judicial supervision of coercive investigative operations, the use of coercive procedural measures and detective work.

11. A Penal Enforcement Inspectorate and a Human Rights and Public Relations Office have been established under the Ministry of Justice to monitor the observance of human rights in prison. To ensure the independence of medical specialists, medical services have been separated from the penal system and the central medical authority reports directly to the Ministry of Justice.

12. Under current law those convicted may, while serving their terms of punishment, apply to the court in the manner prescribed by law.

13. The treatment of prisoners is monitored by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the International Committee of the Red Cross, the Commissioner for Human Rights (Ombudsman), the Civic Prison Watchdog Committee and non-governmental organizations. In 2008, Azerbaijan, in acceding to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acknowledged the right of the Subcommittee on Prevention of Torture to monitor prison conditions.

14. Paragraph 1 of the Presidential Order of 13 January 2009 defines the office of the Ombudsman as a national preventive mechanism as called for under the Optional Protocol to the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. Public supervision of the rights of accused persons and convicts is also dealt with in the 2009-2013 State programme for the development of the Azerbaijani justice system.

16. To offer further protection to persons under judicial investigation, a bill safeguarding the rights and freedoms of detainees has been drafted and approved in two readings; it is expected to be adopted soon by Parliament.

17. Newly recruited employees of the prison service attend a 3-month introductory course at the service's Training Centre which includes topics specific to the work of the service, including 50 hours of study on human rights. Under the judicial reform assistance programme, being implemented jointly with the European Commission, there will be a number of seminars to increase the professional knowledge of service staff.

18. In addition, the Judicial Academy holds mandatory professional training for new recruits to the judiciary and procuratorial service and boosts the skills of workers in various categories, including prison service staff, by means of advanced legal training.

19. Victims' right to compensation and the procedure for its provision are outlined in chapter XX of the Code of Criminal Procedure. Under article 189 of the Code, victims are entitled to compensation for harm caused by criminal acts if the court rules, or the body conducting the criminal proceedings finds, that such acts were committed. Victims of harm caused by criminal acts are entitled to compensation commensurate with the severity of the offence.

20. The question of whether compensation should be paid from the State budget for harm caused by a criminal act is decided by a court on application by the victim. Article 191.2 of the Code of Criminal Procedure requires a court handing down a guilty verdict pursuant to which the victim is to receive compensation from the State to mention that the compensation ordered is to be recovered from the offender and repaid into the State budget.

21. By Act of 17 March 2000, Azerbaijan acceded to the European Convention on the Compensation of Victims of Violent Crimes.

22. Azerbaijani criminal procedure legislation does not mandate the use of audio or video recordings in the examination of witnesses. Articles 232.3 and 233.8 of the Code of Criminal Procedure permit investigators to use audio, video, film and other recording methods during interrogations of suspects and accused persons.

23. Investigations at the Ministry of National Security remand centre, including interviews of detainees, are conducted in accordance with criminal procedure law. Under article 51.6 of the Code of Criminal Procedure, if photography, audio, video, film or other means of recording will be used in the proceedings, investigators must so inform all participants beforehand. The use of recordings is noted in the record of the proceedings, and the recording or film is sealed and kept with other material related to the prosecution as an annex to the record.

Paragraph 15

24. The amendments to the Constitution adopted by referendum in 2009 cover protection against unlawful interference with privacy and family life, the right to rebut media reports, and the use of personal data. Work is under way, in accordance with a Presidential Order dated 2 April 2009, to bring the related laws and regulations into line with the amended Constitution.

25. On the issue of aligning legislation on the dissemination of defamatory information with the Covenant, it should be stated that an ad hoc working group of judges, lawyers and prominent legal scholars is developing proposals to improve criminal legislation. These will be taken up after a review of international practice.

26. Foreign radio transmissions have been suspended under the Television and Radio Broadcasting Act, which underwent legal review in the Council of Europe and has been found to comply with international standards. At the same time, it has been decided to allow foreign stations to broadcast by other means (fibre-optic and other cables, Internet).

27. Last year, the Act was amended to permit foreign operators to transmit directly from Azerbaijan and to regulate the organization of broadcasting and restrict advertising time during television and radio broadcasts. The Mass Media Act was amended to more precisely regulate the conduct, suspension and termination of media operations.

28. As the next policy step towards freedom of expression, the President signed a decree in 2009 establishing a State fund under his jurisdiction to support the development of the mass media in Azerbaijan.

29. Under the law, no State approval is needed to establish printed publications. Any individual or legal entity wishing to establish a publication must officially notify the Ministry of Justice seven days before the issue is printed. There are currently 4,100 registered publications.

Paragraph 18

30. Under current law a citizen's place of residence is registered when he or she is first given a national identity card. A card issued to a citizen under 16 years also serves as identification once the person reaches the age of 16. Citizens of Azerbaijan and stateless persons living permanently in the country who apply for residence registration are immediately registered by the Ministry of Internal Affairs. Before a national identity card is issued, the applicant receives a temporary document certifying that he or she is a citizen of Azerbaijan or, in the case of a stateless person, a temporary document showing that he or she is permanently resident in Azerbaijan.

31. Requests for residence registration may be refused only in the event of declaration of war or mobilization in border areas, in areas harbouring closed military bases, closed areas, ecological disaster zones, areas subject to special regimes in connection with infection or contamination, and areas where a state of emergency or martial law prevails. These special cases apart, internally displaced persons cannot be denied residence registration.

32. Internally displaced persons migrating within the country must, if they wish to move temporarily to a new address, have in their possession a migration sheet established by the

authorities of their initial temporary place of residence, and should, on the basis of this document, be registered at the new address. There have been no cases of artificial problems being created for internally displaced persons requesting temporary registration. As citizens of Azerbaijan, internally displaced persons have the same rights and obligations as are stipulated in the Constitution and national legislation. They also enjoy certain benefits and privileges because of their social status. They enjoy those privileges not only at their registered places of residence but also where they actually live. This prevents infringement of their social rights and benefits.

33. Internally displaced persons and persons of equivalent status benefit from social protection measures as prescribed by law. Measures stipulated by the Forcibly Displaced Persons and Assimilated Persons (Social Protection) Act remain in force for three years after conditions will permit the return of internally displaced persons to their former homes. For persons of status equivalent to that of internally displaced persons, those measures remain in force until conditions will permit their return to their former homes or their permanent resettlement. The acquisition by such persons of a separate dwelling under housing law or civil contract is regarded as permanent resettlement.

34. Furthermore, according to a Cabinet of Ministers order of 9 April 2003, homeless citizens of Azerbaijan can register with the nearest branch of the Ministry of Internal Affairs, which will issue them identity cards showing that as their place of residence.

35. In 2009 the President signed a decree introducing the “one-stop shop” principle for managing migration issues with the aim of simplifying the procedure for granting foreigners authorization to reside and work legally in the country. The decree assigned the role of “one-stop shop” to the State Migration Service.