



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

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COMMITTEE ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 73 OF THE CONVENTION**

Initial report of States parties due in 2004

AZERBAIJAN*

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* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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I. INFORMATION OF A GENERAL NATURE

1. Processes of labour migration in Azerbaijan are regulated by the following State bodies:
 - State Migration Service (established under Presidential decree No. 560 of 19 March 2007);
 - Ministry of Foreign Affairs;
 - Ministry of Labour and Social Protection;
 - Committee for Refugees and Displaced Persons;
 - State Border Service.
2. Azerbaijan's legislation in the field of labour migration consists of the Constitution, the Labour Migration Act, the Immigration Act, the Entering and Leaving the Country and Passports Act and the Trafficking in Persons Act, international conventions ratified by Azerbaijan and bilateral and multilateral agreements signed by Azerbaijan.
3. The country's migration policy is guided by the principle that discrimination on grounds of race, sex, religion, citizenship, age, political opinions or membership of any social group is not tolerated.
4. The main purposes of State migration policy are:
 - To harness migration processes effectively for the development of the State;
 - To ensure that the interests of the State, society and individuals are respected in the implementation of programmes and measures relating to migration;
 - To combat illegal migration;
 - To create conditions which will enable migrants to adapt speedily to social and economic conditions in the country;
 - To protect migrants' rights.
5. By decision No. 1575 of 25 July 2006, the President approved a State Migration Programme for 2006-2008, which sets out the main directions of migration policy and measures for implementation.
6. This policy provides for coordinated activities by the appropriate State bodies under the State Migration Programme in the following areas:
 - Forecasting of migration processes, drafting of an effective State migration policy in the light of changes in the political and economic situation, improving administrative machinery in the field of migration;

- Improving legislation in the field of migration;
- Ensuring effective State regulation in the field of migration, implementation of appropriate measures to eliminate duplication, coordination of the activities of the appropriate State bodies in the field of migration;
- Expansion of cooperation with the migration agencies of other States and international organizations in addressing problems in the field of migration;
- Establishment of appropriate arrangements for the integration into society of foreigners and stateless persons living in Azerbaijan and their adaptation to local conditions;
- Implementation of a set of measures to combat illegal migration and trafficking in persons;
- Setting up of an advisory service on migration, and so on.

7. Azerbaijan has acceded to 15 international legal instruments in the field of migration and the Agreement on labour migration and social welfare for migrant workers from the CIS (Commonwealth of Independent States) States (15 April 1994), and has signed bilateral agreements on cooperation in the field of migration with Ukraine, Moldova, Kazakhstan, Kyrgyzstan and Belarus; the signing of similar agreements with a number of other countries is pending. These agreements deal principally with protection of the rights of migrant workers, social welfare for such workers and simplification of job placement procedures.

8. At present, labour migration in Azerbaijan is growing. While Azerbaijani citizens are migrating abroad to work, foreigners are also migrating to our country to work.

9. Migration by citizens of Azerbaijan abroad to work, which started at the end of the 1980s and the beginning of the 1990s, has undergone substantial changes both in nature and in scale since then.

10. Azerbaijani citizens migrated abroad on a large scale owing to the political and economic crisis which arose at the end of the 1980s and the beginning of the 1990s, the fact that some 1 million persons became refugees or were displaced as a result of the occupation of 20 per cent of Azerbaijani territory by Armenia, and the drop in demand in a number of occupations caused by the transition to new socio-economic relations. This is now no longer the case, and the country is witnessing the return of citizens who had left the country and a rise in the number of foreigners arriving in Azerbaijan.

11. The main reason for the reduction in migration abroad by Azerbaijani citizens is the rapid economic growth in the country and the rise in the standard of living.

12. A superficial analysis of labour migration shows that the main destinations of Azerbaijani manpower are the Russian Federation, Turkey, Ukraine, the United Arab Emirates, Germany and other western European countries. The largest numbers of Azerbaijani migrant workers are to be found in the Russian Federation. They are mainly occupied in small businesses and illegal trade.

13. The fact that Azerbaijan is carrying out large-scale international oil exploration and oil transport projects, its socio-political and macroeconomic stability, the creation of a favourable climate for business and foreign investment, and the dynamic growth of the economy, are the main factors involved in increased migration by foreigners to Azerbaijan.
14. Given the current rate of economic development and the socio-political stability in the country, the flow of migrants to Azerbaijan is expected to grow in the coming years. Our domestic labour market is expected to be dominated by ethnic Azerbaijanis living in the CIS member States (especially the Russian Federation and Georgia) and Turkish citizens. Statistics on the registration of foreigners by place of residence show further growth in the rate of migration of citizens of these States to Azerbaijan.
15. Foreigners who come to Azerbaijan mainly engage in paid employment, and the corresponding State agencies take all necessary steps to ensure that this process is carried out in accordance with Azerbaijani law.
16. The fact that Azerbaijani legislation in the field of labour migration is in keeping with the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ensures that all the obligations arising from the Convention are fully complied with.
17. In accordance with the domestic procedure for accession by Azerbaijan to this Convention, the Government informed the appropriate State bodies, which were provided with the corresponding instructions, and the public was also informed through the media.

II. PROVISIONS OF THE CONVENTION

General principles

Articles 1, 7, 83 and 84

18. Under the Constitution of Azerbaijan, foreigners and stateless persons have the right to enter Azerbaijan and live and work in Azerbaijan freely.
19. Work by foreigners in Azerbaijan is governed by the Labour Code and the Labour Migration Act. Under this Act, every foreigner or stateless person who has reached the age of 18 and is able to work has the right to engage in paid employment in Azerbaijan.
20. Foreigners who have arrived in Azerbaijan legally and who have received an individual permit to engage in paid employment in Azerbaijan, in accordance with the procedure laid down in domestic legislation, are recognized as migrant workers.
21. Discrimination of all kinds against migrant workers is prohibited by domestic legislation.
22. Migrant workers whose rights have been violated have the right to bring the matter to the attention of the courts or law enforcement agencies.
23. Azerbaijan's legislation in the field of migration does not conflict with the provisions of the Convention.

Parts III and IV of the Convention

Human rights of all migrant workers and members of their families

Other rights of migrant workers and members of their families who are documented or in a regular situation

Articles 8-19 and 40-42

24. Under Azerbaijani legislation migrant workers have the right to abrogate a labour contract at any time in accordance with the established procedure and leave the country. Migrant workers are not forbidden to leave for their country of origin or any other country.

25. Under the Criminal Code, trafficking in persons is an offence and is prosecuted in accordance with the law.

26. The right of migrant workers to freedom of thought, conscience, religion and speech and their right to life are protected by Azerbaijani legislation, and association in trade unions is not forbidden.

27. Under the Constitution and domestic legislation every person in Azerbaijan is guaranteed freedom and security. The unjustified detention or arrest of any person or confiscation of his property is prohibited. These guarantees are extended to migrant workers.

28. Under the Civil Code, if the needs of the State or society so dictate, private property may be alienated by the relevant State body (the Cabinet of Ministers), but only in the circumstances stipulated in the law and only following payment of its market value.

Articles 20-24, 38, 39 and 56

29. An individual permit which has been issued to a migrant worker cannot be cancelled, except in cases where a migrant commits a criminal offence or presents false documents or information when obtaining an individual permit or completing his employment in Azerbaijan.

30. There is no provision in domestic legislation for confiscation of documents which confirm the identity of foreigners for the purpose of paid employment, or restriction of their movement within the country.

31. When the period of validity of a migrant worker's individual permit has been completed, or when his labour contract is abrogated early, the migrant worker must leave the country. In cases where the labour contract is abrogated early in circumstances outside the control of the migrant worker, financial costs associated with his return home and that of his family members are borne by the individual or organization which engaged him.

32. If a migrant worker engages in employment in violation of the Labour Migration Act, he is expelled from Azerbaijan and all costs associated with his return home and that of his family members are borne by the individual or organization which engaged him.

33. Under the Trafficking in Persons Act, if a foreign citizen or stateless person is considered to be a victim of trafficking in persons, any expulsion measures against him are suspended for a period of one year.

Articles 25-31, 43, 45, 53 and 55

34. On issues related to working conditions, remuneration, working hours and hours of rest, migrant workers have rights identical to those of Azerbaijani citizens. Social welfare for migrant workers is provided in a manner identical to that for Azerbaijani citizens, with the exception of pension provision. Migrant workers have the right of access to the courts on the same terms as Azerbaijani citizens. No restrictions are placed on access to education for migrant workers.

35. Members of migrant workers' families have the right to seek work in accordance with the procedure laid down in the rules for engagement of foreigners for paid employment in Azerbaijan.

Articles 32, 33 and 46-48

36. Azerbaijani legislation does not impose any restrictions on the remittance of migrant workers' earnings to their countries of origin. Double taxation of migrant workers is also prohibited. No customs duties are imposed on migrant workers in respect of the import and export of tools they use in their professional activities, or on articles purchased using their earnings.

37. Under the Information Act, information may be freely obtained in Azerbaijan. Everyone has the right to contact the owner of information directly or through an intermediary, and to choose the type of information and the form in which it is obtained.

38. A free advisory service has been established in the Migration Administration in the Ministry of Labour and Social Protection, where the requisite information on labour migration is available.

Article 37

39. Under the Labour Migration Act, before they enter Azerbaijan migrant workers must receive a copy of the labour contract which they intend to sign with their employer.

Article 54

40. The matters referred to in article 54 of the Convention are governed by the Labour Code, and in these areas migrant workers are granted the same rights as Azerbaijani citizens.

Articles 44 and 50

41. Under the Labour Migration Act, no restrictions are placed on the reunification of migrant workers with their families.

Articles 49, 51 and 52

42. Individual permits to enable foreigners to engage in paid employment in Azerbaijan are issued by the Ministry of Labour and Social Protection. Each individual permit is issued for one year and can be extended four times for a period of no more than one year each time. The lodging of applications for the issue of individual permits to enable foreigners to engage in paid employment in Azerbaijan, preparation of the required documents and payment of the official fee are the task of the prospective employer.

Part V of the Convention

Provisions applicable to particular categories of migrant workers and members of their families

Articles 57-63

43. Under Azerbaijani legislation, migration by frontier workers is governed by international, bilateral and multilateral agreements to which Azerbaijan is a party.

44. Foreign seasonal workers, foreign itinerant workers, foreign project-tied workers and foreign specified-employment workers are granted recognition as migrant workers and enjoy the corresponding rights and privileges.

Part VI of the Convention

Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 65

45. Matters related to migrant workers and members of their families are under the supervision of the appropriate State bodies. At the same time, the State creates the necessary conditions to enable non-governmental organizations to carry out their activities in the field of labour migration.

46. Some obligations set out in this article are the responsibility of the State Migration Service, which was set up under Presidential decree No. 560 of 19 March 2007.

Articles 66 and 67

47. Under the Constitution, every citizen of Azerbaijan has the right freely to leave the country and to live and work abroad.

48. Under the Labour Migration Act, every Azerbaijani citizen who has reached the age of 18 and is able to work has the right to engage in paid employment abroad. Azerbaijani citizens have the right to seek work abroad independently or with the help of organizations acting as agents. It is forbidden for individuals to operate as agents in this area.

49. In order to engage in this type of activity, such organizations must obtain a special authorization. This special authorization is issued by the Ministry of Labour and Social Protection for a period of five years.

50. Organizations acting as agents must conclude an agreement with an employer in a foreign State, which must cover issues relating to protection of the rights of Azerbaijani citizens and provision of social protection for them. This agreement must be approved by the Ministry of Labour and Social Protection.

51. An organization acting as an agent must ensure that the Azerbaijani citizen is issued with a labour contract, which must be concluded between this citizen and the foreign employer, before he leaves Azerbaijan.

52. It is forbidden to obtain payment from an Azerbaijani citizen for acting as an agent.

Articles 68 and 69

53. Under the Criminal Code and the Code of Administrative Offences, anyone engaged in trafficking in persons, forced labour or the transport of passengers without documents is liable to prosecution.

54. The Trafficking in Persons Act, Act No. 958-IIQ, was adopted on 28 June 2005, and a department to combat trafficking in persons has been set up in the Ministry of Internal Affairs.

55. The following special facilities are to be established to protect victims of trafficking in persons:

- Refuges providing temporary housing for victims of trafficking in persons;
- Centres providing assistance to victims of trafficking in persons.

Article 71

56. Migrant workers receive compensation for industrial injuries in the same manner and on the same basis as for Azerbaijani citizens. In the event of the death of a migrant worker, all costs associated with his death are paid by the employer who had engaged him.
