



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
13 May 2016

Original: English

Committee on the Elimination of Racial Discrimination Eighty-ninth session

Summary record of the 2434th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 3 May 2016, at 3 p.m.

Chair: Ms. Crickley

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined seventh to ninth periodic reports of Azerbaijan

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-07312 (E) 130516 130516



* 1 6 0 7 3 1 2 *

Please recycle



The meeting was called to order at 3.05 p.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** *(continued)*

Combined seventh to ninth periodic reports of Azerbaijan (CERD/C/AZE/7-9 and CERD/C/AZE/Q/7-9)

1. *At the invitation of the Chairperson, the delegation of Azerbaijan took places at the Committee table.*
2. **Mr. Khalafov** (Azerbaijan), introducing his country's combined seventh to ninth periodic reports (CERD/C/AZE/7-9), said that the report had been prepared by a working group comprising representatives of relevant government ministries and agencies. The national human rights institution (Ombudsman) and representatives of non-governmental organizations (NGOs) had also been involved.
3. The provisions of the international treaties ratified by Azerbaijan were incorporated into the domestic legal framework and could be applied directly. Azerbaijani law guaranteed equality before the law regardless of, inter alia, race, nationality, religion, language, sex or origin and prohibited racial discrimination. The Criminal Code prohibited acts committed with the aim of inciting national, racial or religious hatred, as well as preferential or inferior treatment on the basis of national, racial or religious origin.
4. Crimes committed on racial grounds were rare in Azerbaijan; in 2015 only one person had been convicted of such a crime. A number of measures had been taken to implement the national action plan for the protection of human rights and to protect and develop the cultural heritage of the country's national minorities. Those measures were aimed at fostering a culture of respect for the law and for human rights in Azerbaijani society. All the religious minorities living in Azerbaijan could meet and worship without restriction. Numerous languages, including Russian, Georgian, Hebrew, Talysh, Avar, Udi, Lezgian, Tsakhur and Kurdish, were taught in schools in the 14 regions of the country. There were cultural centres and other public organizations for national minorities and radio and television broadcasts and books, and newspapers were available in their languages. The Office of the Ombudsman and the competent government agencies had organized seminars, round tables and other activities to raise awareness of the prohibition of discrimination in regions with a large national minority population.
5. The Baku International Multiculturalism Centre sought to promote multiculturalism through study of the question of tolerance for religious and cultural diversity and of the cultural heritage of the various regions. In an effort to preserve and promote the tradition of multiculturalism in the country, 2016 had been declared the "Year of Multiculturalism". The Office of the State Adviser on Multinational, Multicultural and Religious Affairs had been created by presidential decree in February 2014. In addition, Azerbaijan had hosted the World Forum on Intercultural Dialogue on several occasions and the United Nations Alliance of Civilizations Forum in April 2016. The Heydar Aliyev Foundation was making a considerable contribution to the development of multiculturalism and the promotion of tolerance at home and abroad, including through a project to rebuild and restore a large number of mosques, churches and temples, both in Azerbaijan and in Europe.
6. Improvements made to the country's judicial infrastructure and the creation of an Internet portal and information system known as "E-court" had served to improve the legal assistance provided to citizens, boost the efficiency and visibility of legal services and enhance oversight over the execution of court decisions. Ten regional departments of the Ministry of Justice and a number of regional centres for legal consultation had also been set up.

7. The Government remained committed to combating corruption. In 2015, 200 cases involving 295 individuals accused of corruption-related offences had been brought before the national courts. The State Agency for Public Service and Social Innovations had launched the “ASAN Service” with a view to increasing the effectiveness of public service delivery, building confidence in State structures, promoting transparency and combating corruption. More than 200 public services from different government agencies could be delivered through the ASAN service centres.

8. The third national action plan to promote the socioeconomic development of the different regions of the country, including those with a large national minority population, spanned the period 2014-2018 and included measures intended to improve infrastructure and social services, increase investment, generate employment and reduce poverty. The measures taken thus far had reduced poverty and spurred growth in non-oil industry and employment, as well as the construction and renovation of schools and hospitals. In spite of the global financial crisis, the country’s gross domestic product had grown by 1.1 per cent in 2015. A strategic road map for the national economy had been adopted in March 2016.

9. The third national action plan to combat human trafficking also covered the period 2014-2018. In 2015, 38 persons had been charged with the crime of human trafficking and 63 victims had been identified, placed in shelters and provided with legal, medical and psychological support. The Government had taken steps to improve domestic legislation on migration. The Migration Code set out the country’s migration policy and regulated migration processes and the legal status of foreign nationals and stateless persons in Azerbaijan. In 2015, 181 stateless persons had been granted Azerbaijani citizenship, 73 stateless persons had been granted temporary residence permits and 103 stateless persons had been granted permanent residency in the country. A total of 63 persons had been granted refugee status that year. The Government continued to take measures aimed at improving the social and economic situation and facilitating the social integration of those persons.

10. A total of 94 settlements had been built as part of the national action plan to improve the living conditions and raise the employment rate of refugees and internally displaced persons; 5.4 billion Azerbaijani manats had been allocated for the purpose of providing refugees and internally displaced persons with social protection. To date, 165,000 of the 380,000 internally displaced persons in Azerbaijan had been provided with permanent employment and 200,000 had been provided with temporary employment. A further 3,000 internally displaced persons were attending vocational training courses and 16,000 families were receiving targeted social assistance. Internally displaced persons had also benefited from funds generated by community microprojects and allocated through the National Fund for Entrepreneurship Support. The various initiatives undertaken by the Government had led to a considerable reduction in poverty among internally displaced persons in the space of 12 years. Those persons were exempt from paying for utilities and could receive unemployment benefits and attend secondary and higher education establishments free of charge.

11. In June 2015, the European Court of Human Rights had issued a judgment in the case of *Mr. Elkhan Chiragov and Others v. Armenia*. The case had been brought by six Azerbaijani nationals who had been prevented from returning to their homes and making use of their property in the Lachin district of Azerbaijan, from which they had been expelled in 1992 as a result of Armenian military aggression against Azerbaijan. The Court had found there to be a continuing violation of their property rights, their right to respect for private and family life and their right to an effective remedy, as provided in the European Convention on Human Rights. It had also noted that the ongoing negotiation process within the Minsk Group of the Organization for Security and Cooperation in Europe should not be used to justify violation of the rights of displaced persons, which included the right to

voluntarily return to their homes or places of residence once the reasons for their displacement had ceased to exist. The Court had concluded that, as long as Armenia exercised effective control over the occupied territories of Azerbaijan, it bore responsibility for violation of the rights of Azerbaijani displaced persons and was in breach of the sovereignty, territorial integrity and inviolability of the internationally recognized borders of Azerbaijan.

12. Azerbaijan was unable to fully meet its international human rights obligations in the occupied territories as a result of the ongoing conflict in the Nagorno-Karabakh region. The armed aggression by Armenia against Azerbaijan had led to grave violations of international humanitarian law and human rights, including the extrajudicial execution, mass killing, and torture of civilians. Historical monuments, places of worship, schools and cultural institutions and sacred sites had also been destroyed. The systematic violation of the ceasefire by Armenia could lead to the resumption of armed conflict and create a new wave of displaced persons. By provoking further conflict, Armenia intended to consolidate the occupied territories of Azerbaijan and maintain the status quo. The Government of Azerbaijan called upon the international community to take preventive measures aimed at bringing about peace and the withdrawal of the Armenian armed forces from all occupied territories of Azerbaijan, including the Nagorno-Karabakh region.

13. **Mr. Amir** (Country Rapporteur), noting that the State party report contained no information relating to article 1 of the Convention, said that the guarantees of equal treatment and of the protection of the fundamental rights and freedoms of all citizens, set out in article 25 of the Constitution of Azerbaijan were not a substitute for a definition of racial discrimination in line with that laid down in article 1. The Committee encouraged the State party to adjust its domestic legislation accordingly.

14. The conflict in the Nagorno-Karabakh region was a continuation of the conflict that had taken place between 1991 and 1994, which had led to the departure of nearly the entire Armenian population from Azerbaijan and its replacement by the Lezghis. The lack of a political solution to the armed conflict in the region had stoked ethnic tensions. Some 610,000 persons had been displaced by the conflict in Nagorno-Karabakh and neighbouring territories and were unable to return voluntarily to their home or place of residence in safety. Women and children were among the most vulnerable groups of displaced persons. The Secretary-General of the United Nations had urged both Azerbaijan and Armenia to respect the ceasefire in order to protect the lives of all civilian populations.

15. Although the State party had described the ethnic make-up of its population in its report, it had not provided any information on the mechanisms in place to protect its minorities from discrimination or any statistical data that would enable the Committee to assess the effectiveness of those mechanisms. He recalled that, in its previous concluding observations, the Committee had voiced its concern about significant disparities in the enjoyment of economic, social and cultural rights in the State party, particularly among ethnic groups in rural and remote mountainous areas.

16. The Committee would welcome an explanation of why there were no mechanisms for consulting with minorities. Did the State party in fact engage in dialogue with them? If so, in what way? He invited the delegation to provide information on the rights of minorities under the law or the Constitution, for example with regard to education, employment and the protection of minority languages, and to indicate whether there was a network of State schools where minority languages were taught.

17. With regard to article 4 of the Convention, he would like to know more about the scope of the restrictions on the right to freedom of expression by the media and human rights defenders, the closure of independent newspapers and the withdrawal of local broadcasting permits from certain foreign radio stations. According to information received,

peaceful demonstrations tended to be dealt with primarily by force. He would welcome the delegation's clarifications on that matter.

18. It seemed that the Talysh and Lezghi minorities were more vulnerable than others, to the extent that they concealed their ethnic identity in order to avoid discrimination. He wondered why that was. Notwithstanding the constitutional provisions prohibiting discrimination and official statements on the subject, he was not certain what legislative or judicial mechanisms were in place to effectively protect ethnic minorities. Was there a law that defined and protected minority rights? The State party report referred to policies of non-discrimination, but the provisions mentioned did not reflect the provisions of the Convention. The Criminal Code lacked several elements of article 1 of the Convention. The measures described in paragraph 41 of the report were not special measures in the sense of article 1 (4) of the Convention, and the requirements of article 4 were not mentioned in that paragraph.

19. The Lezghi, the second largest ethnic group in the country, suffered more discrimination than any other, even though the Constitution guaranteed them the same rights and freedoms as all other citizens, including with respect to race, religion, nationality and language. The presidential decree of 16 September 1992 on the protection of the rights and freedoms of ethnic minorities, small minorities and ethnic groups did not guarantee non-discrimination since it contained no proper framework, for example with regard to the use of minority languages. In that context, the regulations governing the matter of language in the mass media stipulated that television and radio stations could broadcast only in Azeri.

20. The situation of women in Azerbaijan was also of concern. They were under-represented in decision-making bodies and at the highest levels of the judiciary. In fact, they seemed to be virtually absent from public and political life.

21. There was a very high proportion of migrant workers in an irregular situation. Their working conditions were inadequate and they had no access to social security. If their employment was terminated they might be obliged to leave the country. Despite the progress reported by the Special Rapporteur on the human rights of internally displaced persons, such persons were still not fully enjoying their rights under the Convention. The provision of permanent housing and the building of new camps with modern equipment could hardly be deemed durable solutions, as the people concerned were, after all, in their own country. He would like to know the Ombudsman's position on that matter. He would also like to know the Ombudsman's position on the conflict that continued to produce displaced persons and refugees. There were now 800,000 Azeri refugees from Nagorno-Karabakh in Azerbaijan. What steps were being taken to promote tolerance and dialogue between the parties to the conflict?

22. He would like to know if any complaints for racial discrimination had been brought before the courts. According to paragraph 33 of the report, there had been none. He would also like to know how the courts worked and what rules of criminal and civil procedure applied in cases of racial discrimination. Were aggravating circumstances taken into account in such cases?

23. Politicians continued to make inflammatory statements, and he wondered whether they were punished. Journalists and human rights activists continued to be arrested, and while some had been acquitted, others remained in prison. He wondered on what grounds they had been convicted. Article 283 of the Criminal Code, on incitement to ethnic, racial or religious hatred or hostilities, had been applied as the basis for the arrests of Novruzali Mammadov, Hilal Mammadov and Eynulla Fatullaev for voicing dissenting opinions on the Nagorno-Karabakh conflict and on the situation of minorities. Hilal Mammadov was a human rights activist, the editor of the only Talysh-language newspaper in the country; he had been sentenced to 5 years' imprisonment and remained incarcerated, in violation of

various human rights instruments. Ramil Safarov, on the other hand, had been granted a pardon.

24. **Mr. Kut** noted that the State party had provided the information requested on follow-up to paragraphs 5, 7 and 15 of the Committee's previous concluding observations in timely fashion, but for some technical reason its reply had not been discussed by the Committee. That information should nevertheless be taken into account in the Committee's dialogue with the State party.

25. **Mr. Avtonomov** said that the high-level delegation sent by the State party demonstrated a very serious attitude to the Convention. In its report, the State party had provided a wealth of detail, but had not separated out its replies to the Committee's previous concluding observations, which made it somewhat difficult for the Committee to see what action had been taken in that respect. He would like to know what the State party's position was on ratification of the amendment to article 8 of the Convention.

26. In the latest census, over 3,500 people had declared themselves stateless. There was a lack of regulation of their status, which meant that they did not necessarily have identity documents. That in turn meant they could not register their children, who were thus deprived of services they needed. Drawing attention to the Committee's general recommendation No. 30, on discrimination against non-citizens, he asked if the State party had any plans to change that situation.

27. **Mr. Khalaf** said that the Convention was designed to provide a legal framework to help the State party to move forward in implementing certain principles in domestic law. He noted that the State party's Constitution contained those principles, but he would like to know what rank the Convention had in the legal order and whether it prevailed over domestic law. Could it be invoked in domestic courts and did the courts themselves cite the Convention in cases before them? It was not enough to mention specific forms of discrimination such as apartheid and persecution in the Criminal Code; article 1 of the Convention referred to both direct and indirect forms of discrimination and accordingly the definitions it contained needed to be incorporated into domestic law, along with the provisions of article 4.

28. According to the National Action Programme on increasing efficiency in the protection of human rights and freedom, the drafting of legislation was guided by the Constitution and relevant international treaties; what was needed, however, was not mere guidance but application of principles. He would like to know whether the periodic reports submitted to the President by the working group on implementation of the Programme were public and available to the press and where they could be obtained. He would also like to know to which "relevant State organs" implementation of the Programme had been assigned. Paragraph 9 of the report referred to "other measures" that had led to progress in implementing the Convention: he would like to know what those measures were and what criteria were used in assessing progress. He would also like an explanation of what was meant by offences against "national dignity", a concept referred to in the report; did the expression in fact mean "human dignity"?

29. With regard to support for the establishment of civil society organizations to combat racial discrimination, he would like to know what policies were in place to enable the Government to help create NGOs that were independent and would help reinforce non-discrimination. Lastly, he noted that the report referred to 705 registered Islamic "communities", whereas the head of delegation's introductory statement had referred to 705 Islamic "institutions". He would appreciate clarification of the difference and also of whether the category was based on purely religious criteria.

30. **Ms. Shepherd**, noting with concern that employers could exploit certain provisions of the Migration Code to keep migrant workers in a dependent situation, asked what was

being done to raise awareness of migrants' rights and what happened to schoolchildren whose parents were expelled pursuant to the Code. She also invited the delegation to explain whether language and other barriers prevented ethnic minority students from pursuing further education.

31. It would be interesting to know how many people of African descent resided in Azerbaijan and whether Afro-descendants were among the "other nationalities" mentioned in table 4 in the State party report. She would also like to know whether any people of African descent had complained of racial discrimination, how such complaints were typically handled and whether they were predominantly filed by men, women or children. She asked whether and how the events planned to mark the Year of Multiculturalism in Azerbaijan would be combined with the Programme of activities for the implementation of the International Decade for People of African Descent. Lastly, she wished to know to what extent skin colour was taken into account in decisions to issue entry visas, whether anti-discrimination training was provided to immigration officers and whether people of African descent from the Caribbean were treated differently from continental Africans in terms of the documents required to support a visa application.

32. Lastly, she wondered whether it was feasible to provide court interpretation for all persons who did not speak Azeri, particularly given the sizeable number of different ethnic groups in the country.

33. **Mr. Marugán** said that he would appreciate information on the employment and unemployment rates among the ethnic minorities listed in table 4 of the periodic report. He asked whether inspections were conducted to monitor compliance with article 16 of the Labour Code, which prohibited discrimination in the workplace, whether such discrimination was considered an administrative offence and whether victims of discrimination could be granted redress by administrative bodies as well as courts. He would like to have statistics disaggregated by ethnic group and sex on access to higher education, health care and housing and on measures taken to ensure that refugees had access to education. He also invited the delegation to respond to reports that asylum seekers and refugees did not enjoy the same access to housing as internally displaced persons.

34. **Ms. Mohamed** requested clarification on the procedure for granting citizenship to refugees. She would also like data on women's representation in parliament. In addition, she wondered whether the requirement to broadcast only in Azeri applied to both private and State-owned media outlets.

35. **Mr. Yeung Sik Yuen** asked how many ethnic Armenians were living in Azerbaijan, whether any of the complaints submitted by them to the Commissioner for Human Rights (Ombudsman) had been upheld and whether Armenians were among the ethnic minority representatives who met regularly with the Commissioner.

36. **Mr. Kemal** said that the Committee had received reports indicating that there were as many as 120 boys born for every 100 girls and that the sex ratio had been skewed by human intervention. He invited the delegation to comment on those reports. He would also welcome information on the number of migrant workers in Azerbaijan, on their countries of origin, on the number of Azerbaijanis employed abroad and on the Government's efforts to combat corruption in international labour migration and to prevent all forms of human trafficking.

37. **Mr. Khalaf** asked whether the State party intended to establish a national human rights institution in line with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.

38. **Ms. Li Yanduan**, noting that racial discrimination and incitement to hatred were punishable under article 283 of the Criminal Code if committed publicly or by using mass media, asked whether such acts were regarded as offences if committed in private.

39. **The Chair** said that it would be helpful to receive further information on the ethnicities and nationalities of migrant workers in Azerbaijan.

The meeting was suspended at 4.55 p.m. and resumed at 5.10 p.m.

40. **Mr. Khalafov** (Azerbaijan), expressing gratitude to the Country Rapporteur for his detailed analysis of the periodic report, said that the conflict in the Nagorno-Karabakh region was rooted in territorial disputes and a separatist movement that had begun before the collapse of the Soviet Union. As a result, some parts of Azerbaijan, amounting to around 20 per cent of the national territory, had been occupied by the Armenian military forces. After some 25 years of conflict, the Nagorno-Karabakh region were still under Armenian military control, and the dispute remained a serious threat to peace and security in the region, as Armenia continually violated the ceasefire that had been in place for several years. Approximately one million people had been internally displaced or become refugees as a result of the conflict. Over the previous 25 years Azerbaijan had made significant efforts to address the social and economic problems encountered by those persons, including through the provision of housing, free health care and education, and unemployment and other social benefits. About 8,000 refugees and internally displaced persons were currently studying free of charge at Azerbaijani universities. In the long term, however, the only solution to the problems faced by refugees and displaced persons was to enable them to return to their homes in the occupied territory.

41. The Government had successfully provided all refugees and internally displaced persons in the country with decent housing, moving them out of camps with tents into more suitable accommodation. Although all of the issues relating to the conflict undoubtedly had repercussions in terms of the human rights situation, in the territory controlled by Azerbaijan the law was applied and no discrimination on any grounds was permitted. The only difference in the rights accorded to Azerbaijani citizens and to refugees, was that refugees were not able to vote or hold elected office. The population of Armenians in Azerbaijan, which numbered around 30,000 people, enjoyed the same rights and protections as other citizens.

42. With regard to migration policy, special quotas were established annually for migrant workers; generally, about 12,000 foreigners per year were permitted to work lawfully in Azerbaijan. They came from a variety of countries and worked in various sectors. The Government had established a special commission to regulate labour migration.

43. Because of its history, Azerbaijan was a multi-ethnic and multi-religion country. The Government viewed that diversity as a source of great wealth and worked to promote and strengthen intercultural and interfaith dialogue. No distinction was made among the various minority groups, national identity documents gave no indication of the bearer's national or ethnic origin, and the Government did not keep statistics on the numbers of national minorities. All minorities and ethnic groups were represented in the country's government, political and law enforcement institutions.

44. The Convention had supremacy over domestic law, except for constitutional provisions adopted by referendum. All international conventions ratified by Azerbaijan were automatically incorporated into domestic law and were directly applicable in the courts.

45. **Mr. Musayev** (Azerbaijan), noting that 2016 marked the twentieth anniversary of Azerbaijan's ratification of the Convention, said that, because all international treaties to which Azerbaijan was a party became an integral part of national legislation, the definition

of racial discrimination in article 1 of the Convention was directly applicable in Azerbaijan. The principles of equality before the law and equality of opportunity for all were enshrined in the Constitution, as was the prohibition of both direct and indirect discrimination. Since the country's ratification of the Convention, more than 85 normative acts, including 50 laws and 20 presidential decrees, had been adopted to implement its provisions.

46. The Criminal Code established harsher sentences for any offence motivated by racial or religious hatred, which was considered an aggravating factor. Since 2014, only two people had been convicted under article 283 (incitement to national, racial or religious hostility) of the Code. In order for such offences to be prosecuted, the incitement must be committed publicly or by using the mass media. An offence against national dignity was an affront to the national dignity of a citizen.

47. In court proceedings, professional interpretation services were always provided when required for speakers of minority languages; failure to provide interpretation could be grounds for appeal. The interpreters were paid by the State. As to rules of civil procedure, the courts treated everyone involved in civil cases equally, regardless of race, national origin, religion or language.

48. Hilal Mammadov had been convicted for inciting national, racial or religious hostility; for treason; and for drugs offences. His conviction had been upheld on appeal. However, in March 2016 he had been pardoned and released from prison. Rasul Jafarov, the head of an unregistered non-governmental organization who had been convicted of violation of taxation legislation, had also been pardoned.

49. With regard to the status of women in Azerbaijan, 63 women were employed in the judicial system, a number of whom belonged to ethnic minority communities. Over 20 per cent of the employees of the Ministry of Justice were women, including women from national minorities.

50. As to future plans for the implementation of the Convention, two important laws had been introduced in the previous two years, on the subjects of religious extremism and on complaints from citizens to State bodies. The Constitution and a number of laws guaranteed freedom of expression in the media. There were over 5,000 registered media outlets in Azerbaijan and they enjoyed full freedom of expression. As in other European countries, foreign radio stations could broadcast in Azerbaijan via shortwave, satellite and the Internet. In the case of a single radio station that had been closed down, the decision had been made to enable local radio stations to use the frequency on which the station had been broadcasting. There was no prohibition on broadcasting television or radio programmes in foreign languages and such programmes were regularly broadcast in Armenian, Russian, English and other languages.

The meeting rose at 6 p.m.