



**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**
Eighteenth session

Summary record of the 218th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 17 April 2013, at 3 p.m.

Chairperson: Mr. El Jamri

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

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

Second periodic report of Azerbaijan (CMW/C/AZE/2)

1. *At the invitation of the Chairperson, the delegation of Azerbaijan took places at the Committee table.*
2. **Mr. Musayev** (Azerbaijan) said that, in his country, rights and freedoms were fully guaranteed under the Constitution and that national legislation was constantly being improved to bring it into line with international standards. Azerbaijan had recognized the competence of a number of United Nations treaty bodies to consider individual communications from persons who claimed to be victims of human rights violations.
3. In the late 1980s and early 1990s, there had been mass emigration from Azerbaijan due to the political and economic crisis. In recent years, however, as a result of the country's rapid socioeconomic development, the implementation of international projects in the energy and transport sectors and the improvement in people's living conditions, the trend was being reversed, with Azerbaijani citizens returning home from abroad and the number of foreigners arriving in Azerbaijan on the increase. An analysis of the migration trends of Azerbaijani workers showed that the main destination countries were the Russian Federation, Ukraine, Turkey, the United Arab Emirates, Germany and Belarus. Those migrants were generally employed in small businesses and trade. Azerbaijani citizens who had graduated from universities in Western Europe and North America were employed in the areas of health, education, law and business. Any problems faced by Azerbaijani citizens working abroad were resolved through cooperation with the relevant authorities in the countries concerned, on the basis of bilateral or multilateral intergovernmental agreements. The main aspects covered by the agreements were protection of migrant workers' rights, social protection and simplification of administrative procedures.
4. The State Migration Service, set up in 2007, was responsible for implementing State policy on migration, developing the migration management system to regulate and forecast migration processes and coordinating the activities of the relevant authorities. The "single window" principle had been applied since 2009, enabling more flexible and effective management of migration processes. The State Agency for Public Services and Social Innovation, created in 2012 to improve public services and accelerate the transition to electronic services, was structured around centres in which 25 services were furnished by 9 State bodies.
5. Azerbaijan attached great importance to cooperation with the European Union in the field of migration. It had joined the Budapest process and used the European Union assistance tools (TAIEX, Twinning and MIEUX). The draft migration code, which had been developed to create a centralized database of legislation on migration taking into account European Union legislation, was due to be adopted in the near future. The draft code had been prepared in cooperation with the International Organization for Migration and on the basis of recommendations made by non-governmental organizations.
6. In accordance with article 148 of the Constitution, international agreements to which Azerbaijan was a party formed an integral part of the national legislative system. Article 151 of the Constitution provided that, in the event of conflict between a national legal instrument (with the exception of the Constitution and Acts adopted by referendum) and an international agreement to which Azerbaijan was a party, the international agreement prevailed. The rights of all migrant workers and members of their families protected by international instruments had been incorporated into national legislation. Although the definition of "migrant worker" in national legislation differed from that of the Convention,

there was no contradiction. Under the Constitution, foreigners and stateless persons had the right to freely enter and live and work in the country. Foreign nationals had to obtain a work permit in order to be able to work in Azerbaijan. The work permit could not be cancelled, unless the worker committed a criminal offence or provided misleading information in the application for the permit, or if the employment contract was terminated early. According to article 13 of the Labour Code, foreigners and stateless persons enjoyed the same rights as Azerbaijani workers and had the same obligations arising from those rights. Article 16 of the Code prohibited any form of discrimination in labour relations. Migrant workers had the right to join trade unions and to receive the same compensation for industrial accidents as Azerbaijani workers. In accordance with articles 292 and 294 of the Labour Code, migrant workers were entitled to apply to the courts on the same grounds and conditions as Azerbaijani citizens. Article 19 of the Labour Migration Act stipulated that migrant workers legally residing and working in Azerbaijan were obliged to pay taxes in accordance with national legislation. Double or additional profit taxation of migrant workers was prohibited, however. There were no restrictions under national legislation on migrant workers transferring their earnings to their countries of origin.

7. In the area of health, foreigners were entitled to health care in compliance with the conditions set out in the international agreements to which Azerbaijan was a party. Under article 10 of the Public Health Act, medical services were provided free of charge in public health-care facilities. In accordance with article 10 of the Labour Migration Act, any restriction on migrant workers' reunification with their families was prohibited. Under national legislation, the children of migrant workers were entitled to free education up to secondary level. The Information Act, which guaranteed free access to information in Azerbaijan, also applied to migrant workers and members of their families. Many national laws, as well as the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, were accessible on the www.e-qanun.az website. Azerbaijan was not able to apply the provisions of the Convention across its entire territory, given that Armenia occupied the Nagorny Karabakh region and seven adjacent regions.

8. **Mr. Sevim** (Country Rapporteur) asked why the Convention was not invoked before the State party's courts or administrative authorities. Noting that the declarations provided for in articles 76 and 77 of the Convention fell within the remit of the Azerbaijani Ministry of Foreign Affairs, he wished to know that Ministry's position on the matter. He would be interested to know when the Azerbaijani Parliament planned to adopt the draft migration code.

9. Noting that Azerbaijani legislation provided that the State guaranteed equal rights and freedoms for all, he wished to know what measures the State party had taken to ensure that that principle was applied to all categories of migrant workers. Since migrant workers were entitled by law to a pension for the period in which they had worked in Azerbaijan, he asked whether that provision also applied to undocumented migrant workers. The delegation could perhaps comment on the fact that migrant workers did not have the right to be represented by counsel, which was a serious obstacle to their access to justice. He wished to know what consequences the amendments to the Public Health Act that were currently under consideration would have on both regular and irregular migrant workers.

10. **Mr. Carrión Mena** asked for further information on access to justice for irregular migrant workers. Stressing the need for the State party to publicize the Convention, he asked what measures had been taken to raise awareness of it not only among migrant workers, but among emigrant workers and judges, lawyers, police officers and immigration agents as well. He wished to know whether bilateral agreements on migration were being negotiated or had been concluded with neighbouring countries such as Russia, Georgia and Iran. He also asked whether the State party had sufficient reliable data to enable it to draft the relevant public policies.

11. **Mr. Kariyawasam** asked how the State party defined a migrant worker. Welcoming the establishment of the Ombudsman's Office, he requested information on the appointment procedure for the Ombudsman, the funds available to the Office and the number of cases concerning migrant workers dealt with in the previous two to three years. With regard to trafficking in persons, he enquired about the number of shelters for victims of trafficking, the number of persons trained in that area, and measures being taken to combat the phenomenon.

12. **Mr. Ibarra González** asked whether there were any programmes in place in the State party to provide assistance to Azerbaijani citizens returning or wishing to return to the country in terms of resettling and re-entering the national employment market, whether such persons could continue treatment in the State party in the event of health problems, and whether children who had begun their studies abroad could pursue them in Azerbaijan. He would be interested to know how migrant workers and members of their families who transited the State party were treated. On the issue of trafficking in persons, the Committee wished to know whether the State party had concluded agreements with its neighbouring countries, given that the successful fight against the phenomenon called for a global approach based on bilateral conventions.

13. **Ms. Poussi** asked about mechanisms to enable retired migrant workers who returned to their countries of origin to receive their pensions. Since the matter was often dealt with through bilateral agreements, the delegation might explain how it was regulated in the absence of such agreements between the State party and the countries of origin of retired migrant workers. With regard to employment, the Committee wished to know whether the children of migrant workers enjoyed the same access to employment as Azerbaijani children and, in particular, whether they could apply for jobs in the civil service.

14. She would also be interested to learn whether migrant workers lodged complaints in the event of violations of their rights and whether such complaints were dealt with formally and without discrimination. She invited the delegation to comment on the fact that migrant workers could have their temporary residence permits cancelled if they had a particularly serious virus or infectious disease. In the Committee's view, such workers should receive adequate medical care rather than having their residence permits revoked.

15. **Ms. Dicko** asked whether discussions on migration issues were formal and, if so, how often they were held. She would welcome information on the rights of Azerbaijani citizens living abroad to vote or to stand for election, and in which elections they were allowed to participate. The delegation could perhaps outline the measures taken to give foreigners living in Azerbaijan equal access to the different jobs in the private sector.

The meeting was suspended at 4.40 p.m. and resumed at 5.20 p.m.

16. **Mr. Gurbanov** (Azerbaijan) said that the draft migration code was currently before Parliament and that all international instruments to which Azerbaijan was a party prevailed over national law. Article 11 of the Code of Criminal Procedure provided that all individuals in Azerbaijani territory had access to the courts and that all workers enjoyed the same rights.

17. Many training programmes had been organized for ministry officials, the judicial authorities, and educational staff on the provisions of the Labour Code and treatment of workers in accordance with international human rights instruments. He acknowledged that there was a need to improve the training of trainers, and pointed out that a project to reform the judicial system was currently under way in partnership with the European Union, one main objective being to set up legal aid offices.

18. The Ministry of Justice and the Ministry of Internal Affairs had taken energetic action to combat trafficking in persons. Azerbaijan had adopted an anti-trafficking plan,

concluded more than 25 international agreements on combating the phenomenon, and taken many measures to protect minors in areas at risk. Under article 12 of the Electoral Code, all individuals living in Azerbaijani territory for more than five years had the right to vote in municipal and regional elections. Furthermore, if there was a reciprocal agreement with the migrants' countries of origin, they could participate more actively in the State party's political life.

19. **Mr. Sevim** asked about the exact wording of the definition of migration contained in the Migration Code, pointing out that to describe migrants as illegal, as the State party report did, contravened the provisions of the Convention. He was concerned that, although it was guaranteed by law, in practice, there were numerous obstacles to access to the courts.

20. **Mr. Carrión Mena** asked whether there were any bilateral agreements concerning migration rather than trafficking alone, and requested more detailed information on the reliability and management of statistics, and what was being done to publicize the Convention. He wondered how the authorities distinguished between irregular migrants, refugees and asylum seekers.

21. **Mr. Kariyawasam** asked the delegation to provide further details on voting abroad by Azerbaijani migrant workers.

The meeting rose at 6 p.m.