



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 Thirty-third session

Summary record of the 465th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 5 October 2021, at 10 a.m.

Chair: Mr. Ünver

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The meeting was called to order at 10.10 a.m.

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

Third periodic report of Azerbaijan (continued) (CMW/C/AZE/3; CMW/C/AZE/QPR/3)

1. *At the invitation of the Chair, the delegation of Azerbaijan joined the meeting via video link.*
2. **Mr. Kariyawasam** (Country Rapporteur) said that the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was concerned that irregular migration was being handled as a criminal offence rather than as an administrative matter. Noting that migration could be motivated by political, economic and even environmental factors, he asked whether government officials working at the border and in the legal system had been briefed on those factors and whether they understood that migrants were not criminals and should not be treated as such unless they committed criminal acts. He would also like to learn about efforts to stop the practice of using the adjective “illegal” to describe migrants in an irregular situation.
3. He wished to know how the Government facilitated migrant workers’ exercise of their right to participate in trade unions without facing any penalties or repercussions relating to their migration status. It would also be helpful to find out whether a monitoring system was in place to detect cases where migrant workers were prevented from exercising their labour rights and how the Government responded to such cases when they arose.
4. The existence of a legislative framework for the provision of health-care services to stateless persons and migrant workers was laudable. He would appreciate further information on how those services were provided in practice and how the Government ensured that no one entitled to such services was denied access to them by local authorities.
5. **Mr. Corzo Sosa** said that the Committee was concerned about the provisions of the Criminal Code and the Migration Code that gave judges the discretion to penalize unauthorized border crossings with up to 2 years’ imprisonment instead of a fine and to order that a migrant should be held in detention for up to 6 months, an excessively long period. He would appreciate information on the number of persons who had been displaced within Azerbaijan because of the conflict with Armenia and on the measures taken to assist them, to give them access to accommodation, food, water, education, health care and other important services and, if possible, to facilitate their return to their places of origin.
6. **Mr. Botero Navarro** said that he wished to know whether the State party was taking steps to ensure that detention of migrants was used only as an exceptional measure, in line with the Committee’s general comment No. 5 (2021) on migrants’ rights to liberty, freedom from arbitrary detention and their connection with other human rights. He would appreciate information on the procedures established by law for the detention of migrants, especially migrants in an irregular situation, and a description of how they were implemented in practice. It would be helpful to know what steps the Government was taking to prevent acts of xenophobia and discrimination against Armenians and migrants of other nationalities. The Committee had received reports of the demonization and dehumanization of Armenians, especially in Artsakh.
7. **Mr. Huseynov** (Azerbaijan) said that illegal crossing of the border, which was the only migration-related offence under the Criminal Code, was classified as a minor offence. State Border Service officials were well informed about the various circumstances that led people to migrate, including their socioeconomic circumstances or a desire to seek asylum, and took such circumstances into account when carrying out their duties. The only individuals whose cases were brought to court were those who intentionally crossed the border in an illegal manner, for instance by entering the country at locations other than designated border crossings, which raised security concerns. The courts could decide to dismiss the case, fine the persons in question or, in the most serious cases, order their imprisonment. The fact that Azerbaijani territory had been occupied for many years might have influenced the decision to make such illegal entry an offence under the Criminal Code. Legislative amendments could

be introduced in the future to replace references to “illegal migrants” with “irregular migrants”.

8. If the labour rights of migrant workers were challenged, their trade unions were able to seek assistance from the country’s well-established, higher-level trade union confederations. No distinction was made between migrant workers and other employees in the application of the labour law.

9. Under the law on protection of public health, public health-care services were provided free of charge, including to migrants, on the basis of individuals’ needs. Such services ranged from routine consultations to surgical operations and long-term treatment.

10. Migration officers could detain people for 24 hours. In exceptional cases, if ordered by a court, detention could be extended for up to 6 months. Over the preceding three years, there had been only two or three cases in which the State Migration Service had requested that a court issue a detention order. Most of the migrants at detention centres were there voluntarily, as they lacked other accommodation. Others were held either pending execution of court-ordered deportation measures, if migration officers believed there was a risk of flight, or owing to a repeated violation of the migration rules.

11. The level of xenophobia in Azerbaijan was very low. Migrant workers, including Armenians, were not at risk of discrimination and were generally treated with respect and tolerance. In recent years over 90,000 migrant workers and members of their families had resided in Azerbaijan. To date, 1,783 Azerbaijani nationals had returned to the country under readmission agreements. The vast majority of those persons had been readmitted from Germany under the agreement with the European Union. A project aimed at strengthening readmission management in Azerbaijan through the provision of training and the establishment of an electronic case management system was being implemented in collaboration with the International Organization for Migration (IOM). Foreign nationals in Azerbaijan were entitled to file legal complaints and to challenge administrative decisions. They enjoyed the same legal protection as Azerbaijani nationals.

12. **Mr. Jafarov** (Azerbaijan) said that, although the Government was supportive of international mechanisms designed to protect the rights of migrant workers, it was not yet in a position to recognize the competence of the Committee to receive and consider communications submitted by States parties or individuals under articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The authorities would appreciate it if the Committee would provide clarification on certain aspects of the communications procedure. For example, it was not clear how the Committee dealt with situations where the laws of two States parties differed but were both compatible with the Convention.

13. **Mr. Garibli** (Azerbaijan) said that the diplomatic missions of Azerbaijan in the Russian Federation reported that over 93,000 Azerbaijani nationals were living there. Their rights were protected by the consular services, in cooperation with the authorities of the Russian Federation. For example, in 2021, the missions had provided free legal assistance in around 1,000 cases involving Azerbaijani citizens. During the coronavirus disease (COVID-19) pandemic, 80 Azerbaijani migrants in an irregular situation had been arrested and detained by the authorities of the Russian Federation for violating the country’s laws and regulations, and the Government of Azerbaijan had worked with the authorities of the Russian Federation to organize their repatriation over land borders that would otherwise have been closed.

14. **Ms. Sabitova** (Azerbaijan) said that a number of training courses, conferences and seminars on the rights enshrined in the Convention had been organized for judges and lawyers in recent years. For example, the Academy of Justice, in collaboration with IOM, had held training activities for future trainers on international migration law on 4 and 8 June 2018. Training sessions on combating trafficking in persons had been organized in various regions of the country and had been attended by around 70 judges and lawyers. Candidates for admission to the Bar Association were required to attend lectures on international migration law, including six hours of lectures on freedom of movement. Since the beginning of 2019 some 560 candidates had attended such lectures. In September 2019, the Academy of Justice had organized training for 30 judges on improving access to justice for women. In 2019, IOM

had donated 50 books to the library of the Academy of Justice for subsequent distribution to court and law libraries. Various activities had been carried out as part of a project aimed at building capacities for combating trafficking in persons, including the preparation of guidance for criminal investigation bodies and the creation of video lessons on topics such as the labour rights of stateless persons, asylum seekers, refugees and internally displaced persons. In cooperation with IOM, the Academy of Justice had prepared and published a textbook for lawyers on international migration law. The initial training course for trainee judges included a lecture on issues relating to the Convention.

15. The right of parents to register their children's birth could not be restricted on the basis of factors such as race, ethnicity, language or origin. A system for the issuance of electronic birth certificates was being developed. Free legal assistance was provided by the Ministry of Justice to parents wishing to register children who had been born at home. In the first half of 2021, 1,175 children born to foreign nationals had been registered.

16. **Mr. Babayev** (Azerbaijan) said that, while so far no migrant workers had been identified as victims of human trafficking, the Government was continuing to monitor the situation of migrants and was working with civil society organizations to determine the conditions that led to sexual and labour exploitation in order to prevent migrants from falling into the hands of traffickers. Among the specific measures it had taken was the distribution to migrants of an awareness-raising booklet in Azeri, Russian and English at all border crossings. In accordance with the law on combating human trafficking, all trafficking victims were provided with support and rehabilitation services, including accommodation for 30 days, regardless of their nationality and their willingness to cooperate with the Government or testify against the traffickers. Foreign nationals and stateless persons who had been identified as victims of human trafficking were exempt from expulsion for one year. Victims of human trafficking were not held liable under civil or criminal law for entering the country illegally. In the shelters that had been established for them, the living conditions were decent and they had access to food, medical care, economic support and legal assistance. In addition, special facilities had been set up to refer them to various entities that could assist them and protect their rights. The Government was aware that there was more work to be done in terms of awareness-raising, capacity-building and cooperation at the national and international levels in order to combat human trafficking.

17. **Mr. Jabbarov** (Azerbaijan) said that child labour was not particularly widespread in Azerbaijan. Thanks to the electronic employment contract information system, contracts involving persons under age 18 years were subjected to close scrutiny. Where irregularities were observed, steps were taken to bring the contracts and working conditions into line with domestic legislation.

18. **Mr. Huseynov** (Azerbaijan) said that the detention centre run by the State Migration Service was equipped to receive families of up to six people, and children under the age of 12 were able to stay with their parents. The centre had a library, leisure room and playground. There were more than one million internally displaced persons and refugees in Azerbaijan and, while meeting their needs had been a heavy burden for the Government during the occupation, all necessary measures had been taken to compensate them for their loss of homes, employment and land. Many had been resettled, and the number living in poverty had declined sharply. Efforts were under way to make the formerly occupied territories habitable. It was difficult to get a clear picture of how many Azerbaijani nationals were living abroad, though some information was available from international organizations and Azerbaijani diplomatic missions.

19. **Ms. Diallo** said that she was ill at ease with the concept of people living in detention on a voluntary basis. She would appreciate further details about the impact of the Nagorno-Karabakh conflict on the fate and living conditions of migrants who had become stranded on one side or the other of the border. She would like to know whether the authorities collaborated with the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees to adopt measures for such migrants, and specifically to provide them with legal aid and judicial training. Lastly, she wished to know the national origins and living conditions of the approximately 700 stateless persons in Azerbaijan and suggested that the authorities should consider establishing cooperation with the Institute on Statelessness and Inclusion to address their needs.

20. **Mr. Corzo Sosa** said that the delegation's description of people voluntarily choosing to stay in detention centres seemed like a euphemism. People would opt for such a solution only in the absence of any better alternatives.

The meeting was suspended at 11.30 a.m. and resumed at noon.

21. **Mr. Huseynov** (Azerbaijan) said that the 30 years of occupation of Azerbaijani territory had had an adverse effect on internal migration, had had a negative impact on the basic human rights of the people there and had contributed to statelessness. He wished to clarify that there was no such territory as Artsakh. While a puppet regime had been in place in the occupied territories of Azerbaijan, no State had ever recognized it. Care should be taken to use the correct terms.

22. The detention centre consisted of three buildings, one of which was for people residing there on a voluntary basis, who were typically migrants in an irregular situation who had been given a certain amount of time to leave the country and who chose to remain at the centre for that period. They were free to come and go, and most preferred the centre to other accommodation.

23. Although there had only been few cases where the authorities had needed to work with the International Committee of the Red Cross, effective communication and cooperation mechanisms were in place. Some 680 individuals, including some who had fled during the conflict with Armenia, had been recognized as stateless, which entitled them to identification documents. The Commission on Citizenship Issues was working to reduce the number of people in situations of statelessness. The authorities would consider working with the Institute on Statelessness and Inclusion to assess the situation of statelessness in Azerbaijan.

24. **Mr. Charef** said that he would welcome further information on the Government's position on the Global Compact for Safe, Orderly and Regular Migration. Noting that levels of migration in the region had increased as a result of recent events, including those in Afghanistan, he wished to know whether the Government was cooperating with neighbouring States to promote the ratification and implementation of the Convention.

25. **Mr. Huseynov** (Azerbaijan) said that Azerbaijan had been one of the first countries to support the Global Compact for Safe, Orderly and Regular Migration. The Government attached great importance to the implementation of the Global Compact and had submitted a voluntary report on the measures it had taken to implement it. It had also applied to participate in the "champion countries" initiative organized by the United Nations Network on Migration.

26. Although no Afghan asylum seekers had attempted to enter Azerbaijan since the recent change of Government in Afghanistan, a number of Afghan nationals had submitted electronic communications to Azerbaijani diplomatic missions to enquire about asylum procedures. Over 1,200 Afghan refugees or asylum seekers were currently living in Azerbaijan, and many maintained family ties and other relations with people in Afghanistan. The Bar Association's legal aid and training centres provided legal assistance to any migrants who had legal issues or considered that their rights had been violated.

27. **Mr. Babacar**, noting that migrant workers were given 10 days to leave the country if their employment contracts were terminated, said that he wished to know whether workers in that situation had access to any legal remedies that would allow them to extend their stay in Azerbaijan and, if so, what their status was while those proceedings were under way.

28. **Mr. Huseynov** (Azerbaijan) said that, under the Labour Code, employers who wished to terminate workers' contracts were required to inform them at least one month in advance. When a migrant worker's contract was terminated, the employer was also required to inform the State Migration Service, which took steps to determine whether the worker had any legitimate grounds for remaining in the country. Migrant workers whose contracts had been terminated were entitled to submit a complaint to the State Migration Service and could bring their case before a court. They also had the option of challenging their employer's decision if they felt that their contract had been terminated unjustly. Workers were allowed to remain in the country while their complaints or appeals were being considered. All persons with work permits, irrespective of their nationality, were entitled to receive all government social benefits.

29. **Mr. Jabbarov** (Azerbaijan) said that the Government had recently introduced mandatory medical insurance and pensions, that migrant workers were included in those schemes and that some 80 migrant workers were currently receiving pensions. Persons involved in recruitment were required to register employment information with the Ministry of Labour and Social Protection and, through the electronic employment contract information system, provide the Ministry with details of the persons that they recruited.

30. **Mr. Huseynov** (Azerbaijan) pointed out that migrant workers whose contracts were terminated were given 10 working days, rather than 10 days, to leave the country.

31. **The Chair**, noting that under the Migration Code appeals against expulsion orders did not have a suspensive effect, said that he wished to know whether migrant workers who appealed against expulsion orders actually had the right to remain in the country while their appeals were being considered.

32. **Mr. Huseynov** (Azerbaijan) said that migrant workers facing expulsion were sometimes granted additional time to prepare their departure from the country but were still required to leave before the new deadline. Migrant workers whose contracts had been terminated but who were able to demonstrate that they had legitimate grounds for remaining in Azerbaijan were not expelled. However, in some cases they might have to leave the country for a short period before being allowed to return and resume their stay. Since the outbreak of the COVID-19 pandemic almost no migrant workers had been placed in detention pending their expulsion from the country.

33. He wished to thank the Committee members for their questions and comments, which would help to shape the Government's approach to migration issues over the next few years. The Government was planning to adopt a new strategy on migration, which all agencies involved would work together to implement. Where migration issues were concerned, it was worth noting that the Government would shortly be taking measures to facilitate the return of many internally displaced persons to the areas from where they had been displaced. It was hoped that the Committee would be supportive of that process.

The meeting rose at 12.40 p.m.