



Convention on the Rights of the Child

Committee on the Rights of the Child

Initial report submitted by the Republic of Azerbaijan under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

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I. Introduction

1. The Republic of Azerbaijan devotes particular attention to the protection of human rights and freedoms, especially children's rights and freedoms, as is evidenced by the ratification in 1992 of the Convention on the Rights of the Child.
2. Azerbaijan has acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
3. The sections of the Convention and the Optional Protocols thereto have been reflected in national legislation.
4. This report sets out the general position in Azerbaijan with regard to the Optional Protocols to the above-mentioned Convention.
5. The report was drafted on the instructions of the Cabinet of Ministers from information supplied by the relevant Government bodies.

II. Information on implementation of the provisions of the Protocol

A. Articles 1–4

6. Under article 76 of the Constitution, citizens perform military service as provided by the law. If citizens' beliefs conflict with the performance of active military service, active military service may be replaced with alternative service in cases specified by the law.
7. Pursuant to the Rights of the Child Act, the military authorities must do everything possible to evacuate children from conflict zones to safe places in order to protect their lives and health. The direct participation of children under the age of 15 in military action is prohibited. The rules governing children's enrolment in military training establishments are laid down in the relevant legislation.
8. Pursuant to the Act on the principles governing call-up for military service in the Republic of Azerbaijan, with the exception of persons assigned to alternative service (compulsory labour service), every able-bodied male citizen of Azerbaijan who has reached the age of 18 is obliged to perform active military service in the armed forces for a period of 18 months, or to undergo training for

periods of 1 to 3 months.

9. Female citizens between the ages of 19 and 40, who have medical or other specialist training may, with their consent, be registered with the military authorities and be contracted to serve in auxiliary or other subdivisions of the armed forces.

10. Recruits who have reached the age of 17 may be released from work to undergo one-year's training in educational organizations run by a voluntary military-patriotic or technical-sports association and in technical vocational colleges.

11. Under the Military Service Act, citizens over the age of 17 may be accepted in military training establishments.

12. Citizens who have been accepted by military training establishments are deemed to be on active military service for a fixed period and are called "cadets". They have the duties of persons on active military service for a fixed period. They and the members of their families enjoy the rights of persons on active military service for a fixed period and of the members of their families.

13. The Criminal Code approved by the Act of 30 December 1999 lays down rules for the prevention of crimes related to the recruitment of children in armed conflicts.

14. The Criminal Code thus contains articles penalizing mercenary activities (art. 114), violations of the standards of international humanitarian law during armed conflicts (art. 116) and the establishment of illegal armed formations or groups (art. 279).

15. Under article 116.0.5 of the Criminal Code, the enlistment of minors in the armed forces is qualified as the crime of violating standards of international humanitarian law during armed conflicts and is punished by deprivation of liberty for a term of 7 to 15 years, or life imprisonment. Article 114 (Mercenary activities) states:

"114.1 The recruitment, training and provision of financial or other material support to mercenaries and also their use in an armed conflict or hostilities shall be punishable by deprivation of liberty for a term of 4 to 8 years.

114.2 The same acts if committed by an individual using his or her official position or in respect of a minor shall be punishable by deprivation of liberty for a term of 8 to 15 years.

114.3 Participation by a mercenary in an armed conflict or hostilities shall be punishable by deprivation of liberty for a term of 3 to 8 years."

Note: A mercenary is someone who acts with a view to receiving a material reward, is not a citizen of the State party to the armed conflict or military operations, does not reside permanently in its territory, and has not been assigned to perform official duties.

Article 116 (Violation of the standards of international humanitarian law during armed conflicts) states:

"Violation of the standards of international humanitarian law during armed conflicts' shall be understood to mean:

The use of means of waging war which are capable of causing great destruction

The deliberate causing of widespread, long-lasting, serious damage to the environment

The attacking of personnel assigned to the carrying out of peacemaking measures or to the provision of humanitarian assistance, including such elements as buildings, installations and means of transport, who are wearing the distinctive emblems of the Red Cross or the Red Crescent

The use of famine among the civilian population as a weapon of war

The enlistment of minors in the armed forces

The occasioning of widespread destruction not arising out of military necessity

The attacking of unprotected territories, settlements and disarmed areas

The attacking, without military necessity, of buildings not fulfilling a military purpose, which are clearly visible and distinguishable, including in particular protected historic, religious or educational buildings, works of art, scientific, charitable or medical institutions or collection points for the sick and wounded

The violation of a temporary truce or ceasefire agreement which has been concluded in order to enable the evacuation of the dead and wounded from the combat zone, or the exchanging or transport of these persons

The attacking of the civilian population or of non-combatants

Violence, robbery, the destruction of property and the unlawful removal of property, on the pretext of military necessity, perpetrated against the population in war zones

The attacking of installations the destruction of which is likely to lead to heavy losses among the civilian population, or to cause significant damage to civilian buildings

The attacking of a person, who is known to be guilty, but who has ceased their direct participation in hostilities, an unarmed person, a person who has surrendered and laid down their weapons, or a person who is unable to resist owing to their wounds or for any other reason

The settling of parts of a country's own civilian population in occupied territories

Unwarranted hindering of the return of combatants and civilians to their own country

The use in armed conflicts of weapons, means or methods of waging war which are prohibited by international agreements to which Azerbaijan is party

The commission of other acts related to rape, sexual slavery, forced prostitution, forced sterilization and sexual violence

Arrest or other forms of deprivation of liberty and denial of the procedural rights of the persons referred to in article 115.1 of this Code in breach of provisions of international law shall be punished by deprivation of liberty for a term of 7 to 15 years, or life imprisonment”

Article 279 (The establishment of illegal armed formations or groups) states:

“The establishment of armed formations or groups not provided for in the legislation of the Republic of Azerbaijan, participation in their establishment or activities and supplying them with arms, ammunition, explosive devices or military hardware or equipment shall be punishable by deprivation of liberty for a term of 3 to 8 years

The attacking of enterprises, institutions, organizations or individuals by a member of a formation or group referred to in article 279.1 of the present Code shall be punishable by deprivation of liberty for a term of 7 to 12 years

Where the acts referred to in article 279.2 of the present Code result in the death of an individual, or other serious consequences, they shall be punishable by deprivation of liberty for a term of 8 to 15 years, or by life imprisonment, with or without confiscation of property”

16. Under the legislation of Azerbaijan, able-bodied males who have reached the age of 18 are called up for periodical training lasting from 1 to 3 months. Such persons who have reached the age of 17 may train in higher military schools.

17. In accordance with article 3 of the Protocol, pursuant to the Military Service Act of 3 November 1992, citizens who meet the requirements for serving in the armed forces may receive training in military colleges once they have reached the age of 17. The legislation of Azerbaijan prohibits all forms of forced instruction in these establishments and any person who wishes to receive instruction in them must present the requisite documents.

B. Article 5

18. The legislation of Azerbaijan has been comprehensively supplemented in order to secure children's rights. Thus normative acts have been adopted to regulate all areas of human rights. The legislation of Azerbaijan pays particular attention to guaranteeing human rights. Azerbaijan has also acceded to several international agreements. National instruments in this connection are listed below:

The Constitution of the Republic of Azerbaijan

Act on the prevention of disability, the rehabilitation of the disabled and social protection of 25 August 1992

Pensions Act of 23 September 1992

Education Act of 7 October 1992

Social Protection Act of 18 February 1997

Rights of the Child Act of 19 May 1998

Citizens' Rights Act of 30 September 1998

Labour Code of 1 February 1999

Family Code of 28 December 1999

Civil Code of 28 December 1999

Code of Civil Procedure of 28 December 1999

Criminal Code of 30 December 1999

“Young Family” State programme of 16 February 1999

Act on the status of refugees and displaced persons of 21 May 1999

Act on the social protection of orphans and children without parental support of 22 June 1999

Presidential decree on the State programme regarding youth policy of 29 July 1999

Action Plan to implement State youth policy of 29 July 1999

Administrative Offences Code of 11 July 2000

Code of Criminal Procedure of 14 July 2000

Penal Enforcement Code of 14 July 2000

State programme on improving school education and preparing children to defend their rights of 22 June 2000

List of diseases barring persons from adoption or guardianship of 15 August 2000

Rules concerning children without parental support and adopted children, rules concerning persons who wish to adopt a child and rules concerning foreign and stateless citizens who wish to adopt a citizen of Azerbaijan of 20 September 2000

Employment Act of 2 July 2001

Youth Policy Act of 9 April 2002

Act on the nutrition of babies and very young children of 17 June 2003

Action Plan to assist street and homeless children of 14 April 2003

Development Programme to organize education for children with special needs (with limited physical capabilities) for the period 2005–2009 of 3 February 2005

Act on the prevention of juvenile homelessness and delinquency of 24 May 2005

State Youth Programme for the period 2005–2009 of 30 August 2005

National Action Plan to safeguard human rights of 28 December 2006

Special rules regarding programmes openly broadcasting shows with an erotic or violent content damaging the physical, mental or moral health of minors of 1 March 2006

State programme on the placement of children from children's homes in a family and in alternative care for the period 2006–2015 of 29 March 2006

Action programme to protect maternal and children's health of 15 September 2006

Comprehensive programme to combat domestic violence in a democratic society of 25 January 2007

Azerbaijan is party to the conventions and international instruments listed below:

Convention on the Rights of the Child – Azerbaijan acceded to the Convention under Act No. 236-IIQ of 21 July 1992

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography – Azerbaijan acceded to the Optional Protocol under Act No. 285-IIQ of 2 April 2002

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict – Azerbaijan acceded to the Optional Protocol under Act No. 286-IIQ of 2 April 2002

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime – Azerbaijan acceded to the Protocols under Act No. 435-IIQ of 13 May 2003

1975 European Convention on the Legal Status of Children Born out of Wedlock – Azerbaijan acceded to the Convention under Act No. 832-IIQ of 17 March 2000

Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption – Azerbaijan acceded to the Convention under Act No. 611-IIQ of 30 March 2004

International Labour Organization Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour – Azerbaijan acceded to the Convention under Act No. 832-IIQ of 17 March 2000

Pertinent conventions of the International Labour Organization (ILO)

C.Article 6

19.Article 11 of the Criminal Code is worded:

“Article 11. Application of criminal law to persons who have committed an offence in the territory of the Republic of Azerbaijan

“11.1A person who has committed an offence in the territory of the Republic of Azerbaijan shall incur criminal liability under the present Code. A crime initiated, continued or completed in the territory of the Republic of Azerbaijan shall be deemed to have been committed in the territory of the Republic of Azerbaijan.

11.2 An offence committed in the territorial waters of the Republic of Azerbaijan, the sector of the Caspian Sea belonging to the Republic of Azerbaijan, the airspace above the Republic of Azerbaijan or in its economic zone shall be deemed to have been committed in the territory of the Republic of Azerbaijan.

11.3 A person who has committed an offence on a vessel or aircraft registered in an airport or a seaport of the Republic of Azerbaijan while it is sailing on the high seas or flying in the airspace outside the boundaries of the Republic of Azerbaijan under the flag or registration mark of the Republic of Azerbaijan shall incur criminal liability under the present Code.

...”

20. Article 12 of the Criminal Code is worded:

“ Article 12. Application of criminal law to persons who have committed an offence outside the boundaries of the Republic of Azerbaijan

12.1 Citizens of the Republic of Azerbaijan and stateless persons permanently resident in the Republic of Azerbaijan who have committed a deed (an act or an omission) outside the boundaries of the Republic of Azerbaijan shall incur criminal liability under the present Code if this deed is deemed to be an offence in the Republic of Azerbaijan and in the State in the territory of which it was committed and if these persons have not been convicted in the foreign State.

12.2 Under the present Code criminal proceedings may be brought against aliens and stateless persons who have committed an offence outside the boundaries of the Republic of Azerbaijan if the offence was directed against citizens of the Republic of Azerbaijan, the interests of the Republic of Azerbaijan and in cases stipulated by international treaties to which the Republic of Azerbaijan is party, if they have not been convicted in a foreign State.

...”

21. Citizens of the Republic of Azerbaijan, aliens and stateless persons who have committed any of the crimes referred to in article 12.3 of the Criminal Code, or other crimes which are deemed to be punishable offences under international agreements to which the Republic of Azerbaijan is party, incur criminal liability and are subject to punishment under the Code, irrespective of the *locus delicti*.

22. Under article 27 of the Act on combating trafficking in persons, citizens of the Republic of Azerbaijan, aliens and stateless persons who have committed crimes related to trafficking in persons incur criminal liability by virtue of the Criminal Code of the Republic of Azerbaijan, irrespective of the *locus delicti*.

23. In accordance with articles 502 and 504 of the Code of Criminal Procedure, the prosecutorial authority of Azerbaijan is obliged, at the official request of the competent authority of a foreign State, to prosecute Azerbaijani citizens suspected of having committed offences in the territory of the requesting State, in accordance with the legislation of Azerbaijan. The prosecutorial authority of Azerbaijan with which the request is filed must inform the competent requesting authority of the foreign State of the outcome of criminal proceedings. If the competent requesting authority of the foreign State so requests, it is also sent a copy of the final decision in the case.

D. Article 7

24. The National Coordination Council took steps to coordinate and improve the action of State authorities and voluntary associations teaching children to be upstanding citizens, to formulate State policy on working with children, to fully implement the rights of the child in keeping with the Constitution, the Declaration of the Rights of the Child, the Convention on the Rights of the Child and other international legal standards and to formulate and implement State policy on children for the period 2001–2006.

25. On 19 January 2006 the Committee on the Rights of the Child considered the second periodic report of the Government of Azerbaijan on the implementation of the provisions of the Convention on the Rights of the Child at the national level (CRC/C/83/Add.13).

26. The concluding observations contained some favourable comments accompanied by some recommendations to the State party, one of which was to set up a national coordination council for children's affairs responsible for coordinating the action of Government bodies, NGOs and international organizations concerned with the protection of children's rights.

27. On the instructions of the Cabinet of Ministers, the Republican Coordination Council for Children's Affairs was set up under the auspices of the State Committee for Family, Women and Children's Affairs on 6 April 2007 to implement the above-mentioned recommendations.

28. The Coordination Council comprises representatives of the ministries of education, labour and social protection, health, economic development, finance, justice, national security, internal affairs, foreign affairs, ecology and natural resources, youth and sport, culture and tourism and of the Chief Prosecutor's Office, the children's ombudsman, representatives of the State committees on statistics, refugees and displaced persons and work with religious organizations, as well as representatives of the State Agency for Standardization, Metrology and Patents, local government commissions on minors' affairs, local NGOs and international organizations.

29. Under the auspices of the Coordination Council:

The State Committee on the Family, Women and Children's Affairs drafted an action plan to protect the rights of the child. This plan was submitted to the Council's members for their consideration at their first meeting on 6 April 2007. A final version of the plan was drawn up on the basis of Council members' suggestions and recommendations and submitted to the Cabinet of Ministers.

The needs and problems of children with limited capabilities and of their families are regularly studied with NGOs with a view to safeguarding the rights of children with special needs. Together with these NGOs a package of suggested improvements to the Family Code was drafted and discussed with the members of the Standing Commission on Social Policy of the Milli Meclis (Parliament).

A large-scale project entitled "The reproductive health of young people in the South Caucasus" was carried out at regional level with the support of the United Nations Population Fund (UNFPA) and with the active participation of the Commission on Minors' Affairs. Its aim was to raise awareness of reproductive health and the reproductive rights of young people.

One of the priorities of the Coordination Council's activities is to promote a healthy lifestyle. It has been backed by a large-scale national campaign to combat drug abuse mounted by the State Commission to combat drug abuse and drug trafficking, in which representatives of Government bodies, NGOs and the mass media have played an active part.

The Ministry of Health, the State Customs Committee, the State Committee on Family, Women and Children's Affairs and the Association of Entrepreneurs of Azerbaijan and Turkey carried out a project whose main purpose was to provide high-quality medical services for needy sections of the population throughout Azerbaijan.

The ministries of health and economic development, the State Agency for Standardization, Metrology and Patents, the State Customs Committee and the State Committee on Family, Women and Children's Affairs are joining forces to ensure that imports of children's food, clothing and toys comply with the standards of the World Health Organization (WHO) and the World Trade Organization (WTO).

The Department of Employment at the Ministry of Labour and Social Protection is striving to secure the employment of young people when they leave State institutions.

Government bodies are actively cooperating with the United Nations Children's Fund (UNICEF), the Centre for Educational Innovation, Save the Children (USA) and other organizations.

30. The Commission on Minors' Affairs and the Protection of Minors' Rights is actively cooperating with regional representatives of the relevant Government bodies in order to carry out State programmes adopted in response to the recommendations of the Committee on the Rights of the Child.

31. A commission is being set up as part of the current preparations for the periodic national report to the Committee on the Rights of the Child. It will consist of representatives of the various bodies which are members of the Coordination Council.

32. There are some 40 children's organizations in operation in Azerbaijan.

33. The President, Ilham Aliyev, approved the State youth programme for the period 2005–2009 in Presidential Decree No. 982 of 30 August 2005.

34. The programme's aim was to secure the all-round development of young people in the country in order that they might play their role in the life of society and to create an enabling social, economic, organizational and legal environment for young people. The following actions were carried out to give effect to the programme:

- (a) Artistic and creative events involving gifted children were held (festivals, competitions, contests and exhibitions);
- (b) Summer recreation areas and international children's camps were set up;
- (c) Measures were taken to ensure the rational use of free time;
- (d) Steps were taken to protect children from acts inconsistent with traditions and they were put on their guard against drug abuse, crime and other harmful habits and encouraged to adopt a healthy lifestyle;
- (e) Finance was provided for projects run by children's organizations, children's organizations were helped to engage in international cooperation and international links were forged between children's organizations;
- (f) The social problems of orphans, children from needy families and children without parental support were studied and issues related to the solution of their problems were brought to the attention of the relevant Government bodies;
- (g) Children from martyrs' families were helped with their studies and the appropriate organizations made arrangements for their recreation.

35. In April 2006 the country's first round-the-clock helpline was set up jointly with Initiative Development, a voluntary organization, to provide, among other things, psychosocial counselling for children and teenagers in a crisis situation.

36. Children with health limitations or with psychological and physical disabilities or developmental delays and sick children are not overlooked. These children's psychosocial and educational difficulties were investigated and a special set of measures to address them was drawn up and then implemented.

37. The Ministry organized several events, exhibitions, round tables, activities, recreation camps and New Year celebrations for children being brought up in the families of martyrs, refugees or displaced persons, children without parental support, orphans and children from needy families. At the same time, telethons were held to assist children living and working on the streets.

38. In addition, round tables and training sessions on the issue of violence against children were run with the participation of governmental and non-governmental organizations.

39. Since 2006 the Ministry has been conducting a countrywide research campaign entitled "A healthy family is the foundation of society". As part of the campaign, lectures have been held on youth and children's issues, children's upbringing in the family and the inadmissibility of harmful habits.

40. Many problems are unresolved despite the joint endeavours of governmental, international and voluntary organizations.

41. Hence the use of child labour and the existence of delinquency among children suffering from parental neglect may be regarded as negative factors.

42. Vigorous macroeconomic growth and a booming economy have given citizens a high standard of living. The priority now is to create a socially oriented market economy. In this connection, several important programmes have been devised to improve the population's living standard, a number of which have been put into practice.

43. Analysis showed that in 2006 GDP stood at 17.7 billion manats, an increase of 34.5 per cent over 2005.

44. In order to guarantee steady economic development in recent years, regional development measures were carried out under the Presidential Decree of 11 February 2004 on the State programme for the socio-economic development of the regions of the Republic of Azerbaijan over the period 2004–2008. This led to the creation of 520,000 jobs, 370,000 of which are permanent.

45. The rapid pace of economic development in recent years has improved the population's socio-economic situation. Over this period per capita income rose by 23.4 per cent to 1,189.5 manats per annum.

46. At present, one of the Government's fundamental aims is to strengthen social protection and to boost citizens' standard of living. In 2006, the average monthly wage of a person holding an employment contract went up by 19.8 per cent in comparison with the previous year and amounted to 141.3 manats. In the last two years, wages have increased by 60 per cent, but the value of manufacturing output has expanded by a mere 9.6 per cent.

47. The State budget expanded by a factor of 3.2, while expenditure grew by a factor of 3.1 as a result of the judicious economic policy followed between 2003 and 2006. A large proportion of the budget is being channelled towards an improvement in the population's economic and social status and the country's further economic development.

48. Many programmes for low-income sections of the population are comprehensive in nature; they seek to provide material assistance and to help these people integrate in society by enhancing their ability to compete on the labour market.

49. During the period of Azerbaijan's integration in Europe the country made huge efforts in order to accede to the European Social Charter. For example, it drew up the Minimum Wage Act which is a fundamental gauge of the level of poverty in the country.

50. As the standard of living plays the role of an economic indicator, the Minimum Wage Act was drafted, then examined and adopted by the Milli Meclis. The Government is focusing its attention on poverty and as a result of the energetic measures which it adopted in order to solve this problem the population is earning a living wage. The Government's overall aim was to ensure that minimum indicators matched a minimum standard of living and this was reflected in the State budget. In order to define the poverty line, the plan was to take account of the principal sociodemographic population groups and also of the subsistence level for children up to the age of 15. Wide use was made of international experience when calculating this indicator.

51. In accordance with the Act on the prevention of juvenile homelessness and delinquency, a working group comprising representatives of the relevant authorities was set up to examine standards, with a view to providing institutions in this system with food and other essential resources. Work along these lines is in progress at the moment.

52. In addition, in accordance with a decision of the Cabinet of Ministers, a working group was set up at the Ministry of Labour and Social Protection to identify low-income sections of the population qualifying for targeted assistance. The Act on targeted State social assistance and the corresponding laws and regulations were drafted and approved. The mechanism for disbursing targeted State social assistance was widely discussed with ILO experts and, at the moment, work is being done in cooperation with NGOs and with local and international organizations. The implementation of policy on targeted State social assistance is linked to the improvement of the laws and regulations on which it rests, to making the process of allocating assistance automatic and to writing the necessary software for the relevant survey.

53. Intensive regional economic development helps to reduce poverty. In order to achieve the Millennium Development Goals, the Government is pursuing measures to reduce poverty. The President of the Republic signed the decision of 20 June 2005 concerning the formulation of the State programme to secure stable development and reduce poverty over the period 2006–2015. The basic aim in implementing socio-economic policy is to raise the population's standard of living and provide it with social protection.

54. There is little statistical data on destitute minors. According to data for 2002, 46.7 per cent of the population and 52.8 per cent of children under the age of 15 were living in poverty. In 2004 these indicators worked out at 40.2 per cent and 46.1 per cent respectively. In 2005 among children under the age of 15 this indicator stood at 29 per cent and in 2006 at 20 per cent.

E. Article 8

55. The Government took all the necessary steps to prepare the initial report on the implementation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. For the purposes of drafting this report various authorities supplied essential data on the instructions of the Cabinet of Ministers. This report was drawn up on the basis of the data received from the ministries of justice, foreign affairs, internal affairs, economic development, education, health, labour and social protection, youth and sport, communications and information technology and culture and tourism, and also from the

television and radio broadcasting company and the Committee on Family, Women and Children's Affairs.

F.Articles 9 and 10

56.The Optional Protocol was ratified by the Milli Meclis through the adoption of Act No. 285-IIQ of 2 April 2002.

G.Article 11

57.Azerbaijan has taken no steps with respect to the denunciation of this Protocol.

H.Article 12

58.Azerbaijan has not proposed any amendments to this Protocol.