

2015 HUMAN DIMENSION SEMINAR

The role of national human rights institutions in promoting and protecting human rights in the OSCE area

WARSAW, 1-3 June 2015

Working group I: Establishing NHRIs and strengthening their independence and effectiveness

AYDIN SAFIKHANLI

**Head of the Office of the Commissioner
for Human Rights (Ombudsman) of the Republic of Azerbaijan**

Mr. Moderator

Ladies and gentlemen's

Significant reforms have been conducted in the field of protection and promotion of human rights since the Republic of Azerbaijan gained its independence. Adoption of the Constitution of independent Azerbaijan in 1995 was the beginning of creation of legal base important for state building processes in the country. Foreign and national policy conceptions of Azerbaijan were developed in compliance with international legal norms, during these years state-building processes have been successfully carried out in all directions, statehood traditions were enriched, necessary actions were taken in the field of ensuring of human rights and freedoms which is the highest objective of our independent state.

One of the most important steps of reforms made in different directions towards the integration process of Azerbaijan Republic into the European legal system was creation of Ombudsman Institution that is an effective human rights protection mechanism.

Ombudsman Institution is considered as an important mechanism on human rights protection in legal system of over hundred world countries and strengthening legality and activity of state bodies.

The main purpose of creating such democratic institution is to achieve restoration of human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the international treaties to which Azerbaijan is a party and violated by governmental and municipal bodies and officials of the Republic of Azerbaijan. Taking into account the competences and activity principles of all ombudspersons in the world, Azerbaijani Ombudsman Office stimulates development of the legal consciousness, opinion and culture.

The Commissioner's activities are regulated under the Constitutional Law which has tremendous place in the field of human rights protection and promotion in Azerbaijan.

This Law has some advantages in compare to other similar legislative acts of other States. Thus, having a constitutional status, this Constitutional Law prevail over other legislative acts. According to the Constitutional Law, Ombudsman is an independent and obeys only the Constitution and laws of the Republic of Azerbaijan.

Furthermore, according to this Law she enjoys of invariability and immunity, any interference with the activities of the Commissioner by any governmental or municipal body or official is inadmissible. Declaration of a state of emergency or martial law does not cease or restrict the activities of the Commissioner.

The advantage of the Azerbaijani legislation is that in compare with some European States it provides the Ombudsman serious guarantees of full independence. The other asset is that Ombudsman may be lodged a complaint by any person under the jurisdiction of the Republic of Azerbaijan, from citizens of the State, foreigners and stateless persons, persons with dual citizenship, asylum seekers, as legal entities without any hindrance.

One of the aspects independence of Ombudsman as stated in the Law is Ombudsman's financial independence. That is, according to the Constitutional Law the annual expenditure allocated for financing the work of the Commissioner may not be reduced in relation to the previous financial year.

Another important and new aspect of this Law is that it guarantees the Commissioner with preventive competences. That is, the Commissioner is also empowered to prevent human rights violations in accordance with additions and amendments made to the relevant Law, along with the restoration of the human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is a party, violated by governmental and municipal bodies and officials of the Republic of Azerbaijan.

Almost according to all legislation of European States courts are independent and subject only to the law. In the legislation of some States the interference of Commissioner into the activities of courts is prohibited. And pursuant to the Constitutional Law on Ombudsman the judges of the Republic of Azerbaijan shall not be subjected to the powers of the Commissioner. However, in line with this Law, the Commissioner may examine complaints on violations of human rights relating to red tape, loss of or delayed delivery of documents in courts as well as delays in the execution of court judgments.

One of the most significant elements of the Ombudsman Office in the building of legal state is the opportunity provided for citizens to appeal the Commissioner directly. That is, there is no need in mediators, lawyers or legal guardians. It is necessary to note the psychological aspect of application made by citizen to Ombudsman. Thus, in capacity of Ombudsman, the person, whose rights are violated, has a possibility to have an independent investigator of his alleged violations committed by the administrative body. So, from this perspective, Ombudsman Office plays a role of a body protecting rights to which all persons of social category can trust. I would like to note that Azerbaijani Ombudsman

appointed the specialized advisers, operating at the Ombudsman Office on public basis, in a view of increasing effectiveness of Ombudsman's activities in the field of human rights protection.

At present, there are advisers appointed by the Commissioner specialized in civil and political rights; economic, social and cultural rights, scientific-analytical activates; in improvement of legislations and environment law; in fighting against corruption and human trafficking; in business and human rights; in freedom of religion and conscience; in prevention of torture; in military rights; in prisoner's rights; rights of older persons, persons with disabilities (PWDs) and mentally ill persons; in child rights; in legal education; in women's rights and gender equality; in rights of refugees, IDPs and migrants and national minorities; in prevention of drug-addition and AIDS; in peace and tolerance; in information access and cooperation with mass media; in international cooperation; in cooperation with civil society and NGOs.

It must be noted that those specialized advisers are regularly responsible for the preparation and provision of Ombudsman with the information in relation to national and international legislative framework, general human rights situation in the country; analyzing applications and complaints, preparation of recommendations and suggestions for the improvement, preparing summaries in the relevant field for the annual reports of the Ombudsman.

As you may know that on 27 October, 2006, the Azerbaijani Ombudsman Office has been accredited with the highest "A" status by the International Coordinating Committee (ICC) on National Human Rights Institutions (NHRIs). This status is determined in accordance with the Paris Principles on independent activities of the NHRIs and empowers the Ombudsman Office of Azerbaijan to better extend its international cooperation, to participate independently in the UN HRC activities, to deliver statements and suggestions, to prepare in the preparing process of State Reports to be submitted to the UN Treaty bodies, also to prepare parallel and alternative reports, and to monitor the implementation of those treaties.

The Commissioner regularly participates in annual sessions of the ICC and delivers statements about different human rights issues, for example, about protection of rights of refugees and IDPs, of PWDs, prohibition of discrimination and ethnic cleansing, activities of the Commissioner carried out in frame of the 60th anniversary of UDHR, and etc.. Those statements have been officially registered.

In 2012, our Office was re-accredited with "A" status and re-approved the compliance of its independent activities with the Paris Principles by the ICC.

In general, as a NHRI, the activities of the Azerbaijani Ombudsman in the field of human rights protection and promotion can be classified as below:

- Ombudsman Office performing practical protection of rights, learns closely the citizens' problems and achieves to their urgent solution;
- Ombudsman analyzing and summarizing the outcome of the practical activities assists renovating and improving of the legislation on protection and promotion of human rights and freedoms;

- Ombudsman Office carries out wide human rights awareness activities with the population of all strata;
- Ombudsman is an advanced human rights mechanism. The establishment of such an institution and providing its effective operation in Azerbaijan accelerate its international and European legal system;
- Ombudsman Office raising issues of incompetent management and abuse of power, acts as a guarantor of fulfillment limits of authorization given to state bodies and their officials;
- Ombudsman being as a bridge between the state and civil society, increases the activeness of citizens and restore democratic values in the society;
- Ombudsman Office being as an independent institution performs as an additional state mechanism for protection and promotion of human rights and freedoms.

One of the aspects of effectiveness of the measures taken for the protection of human rights is Ombudsman's Annual Reports.

According to the Constitutional Law, no later than 2 months after the end of each year, the Commissioner shall submit to the President of the Republic of Azerbaijan an annual report on the protection of human rights in the country and speak with that report before the Parliament of the Republic of Azerbaijan. In the annual reports the name of state and local self-employed institutions as well as of state officials, violated human rights and does not follow the requirements of the Commissioner and show the measures taken in this regard.

Also, the report provides with common opinion and recommendations about ensuring human rights. The Annual Report is submitted to the Cabinet of Ministers, Constitutional, Supreme Court, and the Office of the Prosecutor's General of the Republic of Azerbaijan.

Summarizing the all, the Azerbaijani Ombudsman with 13 year work experience in the restoration of violated human rights and freedoms, protection of human rights and prevention of their violations, and studying the human rights situation, within these years, has created a serious turn not only in this field as a result of the Ombudsman's activities based on principles of independence, transparency, lawfulness, justice, and impartiality, but also in the organization and formation of the institution itself, earn the trust of people, restoration of cooperation ties between the state bodies and civil society, which contributed to the favorable condition for the development of human rights.

Thank you for attention!