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

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Working group IV: Improving the work of NHRIs and ways to overcome challenges

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**Madam Moderator,
Ladies and gentlemen's**

Due to democratic, legal reforms carried out in compliance with the Constitution of the Republic of Azerbaijan, institutional mechanisms were established.

One of the indicators of new system on protection of human rights in the country was adoption of relevant Constitutional Law, the legislative basis of the activity of the Commissioner.

On December 28, 2001, adoption of Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan and establishment of the institution of such legal importance gives an opportunity to functioning of effective institutions applied in leading countries in our country and was a turning point in human rights sphere.

Regulation of the Ombudsman's activity by the Constitutional Law, as a indicator of its significance for the society, highlights its difference from other governmental bodies and its exceptional place in general human rights protection system in Azerbaijan and provides guarantees arising from the essence of constitutional legislation. The activity of the Azerbaijani Commissioner is based on the principles such as transparency, publicity, legality, justice, impartiality.

The mandate, strategic and conceptual attitude of the Azerbaijani Ombudsman was also a bit different. Ombudsman considers applications on the violated rights of not only Azerbaijani citizens, as well as of foreigners, persons without citizenship, thus whose rights were violated by state, municipalities or officials. Ombudsman is not satisfied only with restoration of violated rights but also works towards prevention of such violations.

Due to amendments and additions made to the Constitutional Law on Ombudsman on June 24, 2011, new competences were given to the Commissioner.

One of those amendments and additions is related to national preventive mechanism against torture.

According to the Presidential Decree of January 13, 2009 on Implementation of Optional Protocol Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, the Commissioner was designated as an institution fulfilling the functions of National Preventive Mechanism enshrined in OPCAT.

Constitutional Law defines the responsibilities, requirement concerning the members of this group, their immunity and other related issues.

Due to a necessity of establishment of special structural unit within the office in order to provide the efficient work of the NPM, the Commissioner urged in this regard to concerning bodies. After allocation of appropriate financial means the Department consisting of two sectors (the Sector on Visits and the Sector on Legal Analysis and reports) on September, 2012. The staff members of the Department are the members of the NPG.

As a result of undertaken organizational measures, there was compiled out the list of the places of deprivation and restriction of liberty, as well as of penitentiary institutions, temporary detention places and other relevant facilities in the country.

The trainings for increasing the knowledge and capacities of NPG members were conducted on different times with participation of the experts from the UN Sub-Committee on Prevention of Torture (SPT), European Committee for the Prevention of Torture (CPT), Association for the Prevention of Torture (APT), well-known experts from the NPMs network and the activity on this direction was further improved.

The Commissioner struggles against the cases of violation or possible violation of the right of citizens to protect their honor and dignity by the staff of relevant bodies having the powers of compulsion, especially by the law-enforcement agencies.

The information obtained from received appeals, also from human rights defenders and mass media, as well as the facts revealed and information summoned as result of the on-site investigation or the investigation by tasking particular state bodies, as well as the relevance and quality indicators of complaints are used by the NPM when carrying out the visits.

The Commissioner and the National Preventive Group carries out regular scheduled and ad hoc visits without prior notification to the places of restriction of liberty.

During visits of the Commissioner and NPG along with the national legislation, the international legal documents, including International Conventions, the European Standards for Prevention Torture, the Istanbul Protocol for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules, the European Penitentiary Rules, and other documents were invoked.

This should be noted that the number of places of full or partial deprivation of liberty in our country is more than 240.

In order to eliminate the deficiencies and shortcomings that were revealed during the visits, as well as in order to improve the detention conditions the administration of this or that institution, moreover the appropriate state agencies were given proposals and recommendations. The Commissioner has been informed about the measures realized on each proposal and recommendation. The information about the visits has been highlighted in mass media.

According to the new amendments and additions, the Commissioner supervises over execution of duties by the information holding state bodies, municipalities and state officials in accordance with the requirements of the Law of the Republic of Azerbaijan “On access to information”.

During investigation of the cases appearing on complaints about violations of the rights for access to information, the Commissioner clarifies if the government, local executives or the officials holding of the information has been observed the requirement of the Law “Access to information” mentioned below: registration of the request for getting information, providing this inquiry according to the rule, date and method existing on the law, rejecting of the execution of the inquiry according to the requirement of the law, realizing explanation of public information exactly and complete, creating internet information resource.

Connecting to extension of Ombudsman’s mandate, chain of consultations has been held with the participation of media representatives, experts on media sphere and representatives of state bodies holding information.

Simultaneously, the conference was held together with European Council and United Nations on the subject of “Access to information” with the participation of chiefs of media services of state bodies and Serbian Ombudsman as an expert. Booklets named “Know your rights and benefit” were delivered among participants.

The Commissioner for Human Rights together with the Office of UN High Commissioner for Human Rights organizes awareness-raising events for different groups of population as well as for the representatives of media in the capital and different regions of the country. At those events the main attention is paid to the basis of the activities of the UN treaty-bodies, and the individual complaints procedures. In trainings the participants are informed about the essence and main principles of human rights, the international system of human rights protection, human rights protection in the framework of the UN and the Council of Europe, case laws of the European Court of Human Rights regarding the freedom of expression, legal reforms carried out in the country, international legal and national legislative acts in the filed of media rights, the activity of the Commissioner in protection of the freedom of speech and expression.

The trainings and seminars aimed at promotion of provisions of international legal acts on human rights, particularly the European Convention on Human Rights, and national legislation facilitated the raising of awareness of media representatives on human rights.

The round tables entitled “Journalism and Law”, “Behavioral Ethics of Journalists” were organized at the Ombudsman Office for supporting improvement of the professionalism and raising the legal knowledge of the journalists writing on human rights, conduction of awareness raising events, and for strengthening the cooperation with the representatives of mass-media. Conduction of those events was highly appreciated by the country journalists.

Every year traditional competitions among journalist for the best articles on “Rights-for Everybody” and among children for the best paintings on “Me and My Rights” are organized at the Ombudsman Office with the support of the UN Units in the country on the occasion of December 10-World Human Rights Day.

During the activity of the Azerbaijani Commissioner about 3425 press releases were developed, translated into English and sent to the Council of Europe. Moreover, more than 9950 articles and information were published in newspapers and magazines, 130 monthly bulletins were developed, 59 statements were made. The texts of those statements were disseminated by different information agencies, were published in newspapers and magazines, sounded in radio and TV programs.

We would like note that, with the Decree of the President of the Republic of Azerbaijan dated 27 December, 2011, National Action Program was certified and the Ombudsman appointed as the head of working group to provide durability of improving legal protection and legal base, development of legal culture and increasing effectiveness of protection of human rights.

We have held chain of discussions with different state bodies and civil society institutions to execute the principles appearing on the National Action Program.

It should be mentioned that duties on protection of information freedom has also been considered on the Program. The duties could be noted as below:

Preparation of proposals to work on Criminal Code, Chapter “Crimes against computer information” and to adjust it to the Convention on Cybercrime adopted in 23 November 2001; preparation of proposals improving of legislation in order to eliminate criminal responsibility for defamation; to provide government with electron service, to be given to use of electron government portal; to provide government with E-signature; to establish regional electron application terminals and to promote of being used of it; to conduct awareness raising events for explanation of legislation on Access to information; to create websites for state bodies working for human rights. Complex actions are being conducted for execution of these duties together with appropriate state bodies.

According to the Decree of the President of the Republic of Azerbaijan “National Plan for Action for 2012-2015” has been adopted to improve legislation, institutional mechanisms in the field of human rights, to adapt the activities of local and executive powers to the open government principles, to increase transparency in the decision-making process.

In order to make easy to access information some actions has been considered in the Action Plan, such as to identifying responsible persons on freedom of information in state bodies, receiving internal rules of procedures on freedom of information, holding trainings for civil servants, in order to monitor

implementation of the Law “Access to information”, to improve structure of Ombudsman Office, to involve staff of the Office to the specialized trainings.

We believe that the duties set forth in will be executed successfully as the result of the collaboration with state bodies and civil society.

Upon the recommendation of the Commissioner, a number of manuals on human rights were translated from English to Azerbaijan with the support of the UN Office of High Commissioner for Human Rights, OSCE, edited by the Commissioner and published. Moreover, materials on implementation of national Action Plan on Protection of Human Rights, and local and international conferences were published and disseminated among the population. Two educational books “Selected Topics on Hierarchic Education of Child Rights” and Child Rights for All” were published and presented to secondary schools for teaching child rights on the basis of human rights.

International relations play an important role in the activity of the Commissioner. Due to these relations the experience and cooperation of the Commissioner with international organizations increased, some of her initiatives and its results were appreciated as a best practice.

Thus, cooperation with international organizations, including specialized agencies of the UN, UNCPI, UNFPA, UNHCHR, UNICEF, UNESCO, as well as OSCE, the Council of Europe, the European Union and others, also with international NGOs has been extended.

For further improvement of the experience gained in the field of human rights promotion and protection, cooperation with international organizations in this field, ten international conferences were organized with participation of different Ombudspersons in Baku.

Thank you for attention!