

THE 2009 HUMAN DIMENSION IMPLEMENTATION MEETING Warsaw, 28 September to 9 October 2009

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Working session 5.

THE PROVISION OF THE RIGHT TO NON-DISCRIMINATION IN THE REPUBLIC OF AZERBAIJAN AND THE ROLE OF THE OMBUDSMAN IN THIS FIELD

*Mr. Chairman
Ladies and Gentlemen,*

Azerbaijan as a multinational and poly-confessional state supports the principle of “unity and diversity”. We are proud that there was not any case of intolerance and discrimination on the ground of ethnic belonging, religion, language and culture at any stage of the century-old history of Azerbaijan.

National minorities fully enjoy their rights in the sphere of establishing of their national centers, associations and other agencies. Tens of newspapers and magazines are published, radio and TV programs are aired in their languages everyday.

In the frames of its resources the state allocates financial support from its budget and Presidential fund to these organizations and helps to strengthen mutual understanding, tolerance and respect among their representatives irrespective of belonging to culture or language and ethnicity or faith. Active participation of national minorities in the life of society, as well as at the joint events, held at state level, is an obvious indicator of respect and tolerance existing in Azerbaijan.

Relevant state bodies paying particular attention to national minorities and migrants in order to prevent discrimination, combat racism, xenophobia in the frames of their competences take necessary preventive measures.

The Republic of Azerbaijan is a member of the UN from 1992, and of the Council of Europe from 2001. Azerbaijan has signed more than 250 international conventions, half of which are related to the protection of human rights and freedoms.

One of the international conventions Azerbaijan has signed that assumes great importance is the Framework Convention for Protection of National Minorities. The Frame Convention that came into force in 1998 is the first convention aimed at protection of the rights of persons belonging to national minorities.

The Republic of Azerbaijan that adhered to the above mentioned Convention in June 16, 2000 improved its national legislation in compliance with the principles that

were determined by the Framework Convention in the sphere of protection of the rights of national minorities.

The rights and freedoms of all nations are regulated by the Constitution of the Republic of Azerbaijan and adopted normative legal acts.

The Article 25 of the Constitution of the Republic of Azerbaijan affirms the equality of all before the law and court. The State guarantees the equality of the rights and freedoms of every person irrespective the race, nationality, religion, language, sex, origin, property status, service position, belief, belonging to political parties, trade unions and other public organizations and prohibits any kind of discrimination.

According to the Article 47 everyone has the right to protection of freedom of expression and speech. According to Law nobody can be forced to explain or change her/his thought and religion. Agitation and propaganda causing race, national, social enmity and animosity is prohibited.

Criminal Code of the Republic of Azerbaijan and other legal acts determine responsibility for the crimes committed at the national ground and other legal offences and violation of rights of national minorities.

In September, 1992, the President of the Republic of Azerbaijan signed a Decree "On State support for protection the rights and freedoms and development of languages and culture of national minorities, small numbered peoples and ethnic groups living in the Republic of Azerbaijan" with the purpose of creation auspicious conditions for their free development and improvement of their language and culture.

It should be noted that the importance of the role Ombudsman play in the fight against discrimination is recognized worldwide.

The role of the Ombudsman in combat against discrimination in the frames of his competences was emphasized in the recommendations adopted at the third meeting of Intergovernmental Working Group for implementation of Durban Declaration and Action plan.

Seven years have passed since the establishment of the Ombudsman Institution - one of the main mechanisms in protection of human rights and freedoms in Azerbaijan. In the reviewed period one of the directions of many branched activity of the Ombudsman in protection of human rights and freedoms was fight against discrimination, elimination of such factors, and conduction of awareness-raising actions in this field.

Under the provisions of Constitutional law on the Human Rights Commissioner, everyone living in the country has the right to appeal to the Commissioner irrespective their race, nationality, religion, language and other factors.

According to the Article 8.1 of the Constitutional Law on the Commissioner for Human Rights of the Republic of Azerbaijan the Ombudsman shall examine the complaints of the citizens of the Republic of Azerbaijan, foreigners and stateless persons, as well as legal entities related to the violation of their human rights.

The Commissioner for Human Rights of the Republic of Azerbaijan held awareness-raising campaigns on promotion of human rights and freedoms enshrined in national legislation, international conventions to which Azerbaijan is a party, as well as International Convention "On Elimination of all forms of racial discrimination".

There were held numerous events with the purpose of provision of the rights and freedom of conscience of national minorities. At the events conducted in her own

initiative the Commissioner made several constructive proposals for religious tolerance, moral education and mutual relations between people having various religious views.

The provision and protection of freedom of conscience of national minorities is in the focus of attention of the Commissioner.

The Commissioner paid close attention to the issues related to freedom of conscience during the visits to penitentiaries and she made proposals on improvement of detention conditions of the sentenced persons belonging to different religions and national minorities, different nourishment, organization of meetings with relevant religious figures, their provision with praying rooms and special literature.

The Ombudsman held a number of meetings with population in different regions of Azerbaijan where mainly national minorities live, training-seminars were organized for their legal enlightenment.

The Commissioner visited Guba region where Jewish national minorities vastly settled, also Khinalig village - the most remote settlement in this region, met local residents belonging to national minorities, got acquainted with their problems.

The Commissioner held meetings with the participation of Georgian Ombudsman and representatives of Georgian Embassy in the Republic of Azerbaijan and local executive powers in Gakhingiloy settlement where national minorities Georgians by origin do live and learned the situation with provision of their rights.

The Commissioner has close relations with the Council of Russian community in Azerbaijan, holds regular meetings with them. At these events the Commissioner noted that Russians were never exposed to national and religious discrimination for the period they lived in Azerbaijan, they actively participated in the social-political, scientific-cultural and economic life of the country preserving their ethnic identity, traditions, language and culture, the Council of Russian Community in Azerbaijan was succeeded with public activeness in civil society building process during the years of activity.

The Commissioner holds regular meetings with the representatives of the Tatar, Jews, Georgians, Russians and other communities in Azerbaijan in her own initiative or on their invitation.

During the term in her position the Commissioner took a number of measures for the provision of rights and freedom of religion of national minorities.

The religious tolerance, mutual relations of persons having different religious views, peace culture by the means of religion, the role of national and religious tolerance in this sphere, improvement of intercultural dialog and interreligious cooperation, conduction of awareness-raising events at the educational institutions for explaining religious tolerance to children and the youth, participation of religious and theologian scientists at these events, development of international, inter-civilization cooperation, interreligious dialog serving to establishment of peace, and improvement of peace movement in Azerbaijan, introduction of tolerance policy at the national and international levels, involvement of the whole society, state bodies, civil society, religious communities (Muslim, Christian, Jewish) to these processes and other topics were discussed at local and international events conducted in the initiative of the Commissioner.

The Commissioner recommended to use the book titled “Peace culture from the education-gender perspective” translated in her initiative into the Azerbaijani and Russian languages and distributed among the educational institutions and NGOs for promotion of peace culture and deeper understanding of knowledge in this sphere.

Regional Centers of the Commissioner for Human Rights were opened in four regions of the Republic of Azerbaijan where national minorities live more compactly: Guba (covers 6 regions), Sheki (covers 6 regions), Jalilabad (covers 9 regions) and Ganja (covers 12 regions).

It should be noted that strengthening and improvement of coordination among international, regional and local organizations as well as human rights protection mechanisms functioning in this sphere for more active and efficient application of international documents reflecting the provisions on the protection of human rights, elimination and prevention of discrimination remain as a priority.

It should be mentioned that, during her term in this position the Commissioner for Human Rights (Ombudsman) established collaboration with international and regional organizations having great experience in the sphere of human rights and freedoms protection.

It is a result of efficient collaboration that the Ombudsman received a number of appeals related to proposals on resolutions and other documents of such nature, as well as on the future action strategy of those bodies in relevant sphere.

On the basis of the received appeal the Commissioner prepared relevant information and proposals on the Resolution “On Strengthening of the activity of the United Nations in the sphere of Human Rights by promotion of international cooperation and impartiality, objectiveness and unacceptability of discrimination” No. 58/168 adopted at the 58th session of the UNGA, the implementation methods of best practice gained in combat against impunity on the basis of the “Impunity” Resolution No. 2005/81 of the UN Human Rights Commission and Collection “Of the Principles of promotion and protection of Human Rights by combating impunity” in the country, the activity carried out by the Azerbaijani Ombudsman in compliance with “The Recommendations adopted during the third meeting of Intergovernmental Working Group for efficient implementation of Durban Declaration and Action Program on combat against racism in the Internet” on the basis of received appeal from Human Rights High Commission, as well as on “The Strategy on Human Rights, Combat Against Racism and Discrimination” that were sent to respective state bodies.

The Commissioner sent appeal to the Parliament, the Ministries of the Foreign Affairs and Education on prevention of discrimination in the sphere of provision of human rights and freedoms, as well as on ratification of the Convention of UNESCO “Against discrimination in Education” dated December 14, 1960 considering the necessity of signing this Convention and this Convention was ratified by the Parliament.

The Commissioner also addressed to the Parliament the proposal for accelerating the process of ratification of Protocols No. 12 and 14 to the European Convention on Human Rights that were devoted to prohibition of discrimination.

During her term in office the Ombudsman signed bilateral agreements on mutual collaboration with ten Ombudsmen Institutions (Federal Ombudsman of Russia and regions, Ukraine, Georgia, Uzbekistan and Poland). In these agreements along with

mutual exchange of experience, directions of joint participation of nations living in both countries in solution of existing problems, as well as in provision of human rights and freedoms reflected in international conventions were enshrined.

It should be noted that, the Commissioner and staff members of the Office participated at a number of international conferences as well as at the meetings of OSCE on human dimensions, international conference on “Ombudsmen Network on protection of the rights of minorities” conducted in the initiative of European Center for the issues of minorities, delivered speeches on civil and political rights, humanitarian problems, freedom of expression, tolerance, elimination of discrimination, promotion of peace culture and other urgent topics, made proposals aimed at determination of action strategy that OSCE and other international organizations carry out in this sphere.

The role of State Programs, Strategies and National Action Plans in increase of efficiency of measures taken in the sphere of human rights protection and organized events in this sphere can not be denied.

As a logical continuation of the reforms carried out in the direction of more efficient ensuring of human rights National Action Plan (NAP) on Protection of Human Rights in the Republic of Azerbaijan was approved by the Decree of the President of the Republic of Azerbaijan dated December 28, 2006.

Existence of NAP is very important for our country that moves forward on a way of legal and democratic state building from the standpoint of efficient organization of the protection of fundamental human rights and freedoms enshrined in international legal acts and national legislation.

NAP on Protection of Human Rights in the Republic of Azerbaijan consisting of 5 parts and 48 paragraphs embraces improvement of legislation of a great importance from the standpoint of human rights protection, collaboration with the international organizations dealing with human rights, strengthening of the protection of the rights of different groups of population, improvement of work of state bodies from the point of provision of human rights and important measures in realization of tasks such as education, enlightenment, scientific-analytical and co-operation in human rights sphere.

The paragraph 11 of NAP enshrines protection and development of cultural heritage of national minorities, the paragraph 39 enshrines conduction of awareness actions in cities and regions of Azerbaijan Republic for the development of legal sense and legal culture, the elimination of discrimination, and promotion of peace and tolerance culture. In the past period significant measures were taken by respective state bodies in this direction.

Working Group was established for coordination of the implementation of NAP and it is functioning successfully under the guidance of the Ombudsman.

Public hearings were held in 54 districts of the country in the initiative of the Commissioner with the purpose of monitoring of promotion and implementation of NAP. These events were attended by deputies elected from certain regions, heads of local executive powers, court and law enforcement bodies, municipalities, local NGOs, mass-media, District Electoral Committees and representatives of local communities of national minorities.

During the conduction of public hearings the Commissioner visited the places where national minorities live compactly in different regions of Azerbaijan, met with representatives of religious communities, and people, learned their daily living condition, provision of their rights, got acquainted with religious monuments and construction works on the spot.

June 18 of each year is appointed as National Human Rights Day by the Decree of the President of the Republic of Azerbaijan dated June 18, 2007 taking into consideration the proposal of the Ombudsman.

On the eve of the National Human Rights Day month-long campaigns were conducted in the whole country in the initiative of the Azerbaijani Ombudsman. State bodies and representatives of civil society joined this process with great enthusiasm. These events were held covering all regions of the country.

I would like particularly to mention that as a result of foreign aggression for more than 20 years, 5/1 part of our territory was occupied, more than one million Azerbaijanis including national minorities became refugees and IDPs.

It should be stressed that, ten thousands of Armenians live in Azerbaijan and their rights are equally ensured. Azerbaijani citizens belonging to Armenian nationality appealed to the Ombudsman Institution during its activity and those appeals were investigated according to Law.

As a National Human Rights Institution of the Republic of Azerbaijan guiding with international documents adopted in the sphere of combat against discrimination we consider that National Human Rights Institutions and other human rights organizations should include fight against racism, racial discrimination, xenophobia and related intolerance in past and present such as, anti-Semitism, Islamophobia, other forms of discrimination based on religious grounds, apartheid, racially and culturally motivated genocides, ethnic cleansing, discrimination against migrants and refugees, discrimination against ethnic minorities, as well as discrimination based on decent into the priorities of their activity, should join efforts aimed at elimination of mentioned grave crimes resulting in rough violation of human rights and freedoms claiming the punishment of the states committing such criminal acts.

Thank You for Your attention!