

ADVANCE QUESTIONS TO AZERBAIJAN-ADD 2

ARMENIA

1. International obligations

Armenia is concerned that Azerbaijan does not act in compliance with UPR procedure and rules. During its previous review, Azerbaijan claimed the Armenian recommendations to be irrelevant and factually incorrect, while providing no proof or rejection of the facts mentioned by Armenia which was a politically motivated action and undermined cooperation spirit and interactive dialogue stipulated by HRC Resolution 5/1. All of the recommendations by Armenia were based on the proposals of the UN Human Rights Treaty bodies and other international monitoring mechanisms.

UPR intention is for the states to cooperate and try to find solutions for the existing human rights violations in their respective countries through cooperation and compliance of the UPR rules. The recommendations and observations from Armenia are aimed at helping Azerbaijan to become a state that respects and protects human rights and fulfills its obligations according to their international commitments and obligations.

What steps have been undertaken by Azerbaijan since the previous review in order to comply with the UPR rules and procedure, as well as to cooperate with all states in constructive manner, with the aim of improving the human rights situation in Azerbaijan?

2. National Minorities

Human Rights Committee (HRC) noted with concern the absence of clarification by the state party on the steps taken to address minority issues, in its concluding observations on the report of Azerbaijan in 2009. HR Committee states that Azerbaijan should ensure that members of minorities enjoy their rights in full compliance with article 27 of the Covenant.

Committee on the Elimination of Racial Discrimination (CERD) in 2009 also noted with concern the information provided by Azerbaijan that there have been very few complaints or court decisions concerning acts of racial discrimination during the reporting period, which may be the result of lack of effective remedies enabling victims to seek redress, victims' lack

of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. According to resolution CM/ResCMN(2008)11 on the implementation of the Framework Convention for the Protection of National Minorities, Azerbaijan must take all appropriate measures to ensure that persons belonging to national minorities can freely exercise their rights to freedom of expression, of association and of peaceful assembly and to combat all manifestations of hostility directed against persons and organizations promoting minority rights.

What steps has the Government of Azerbaijan undertaken in realization of these recommendations?

3. Freedom of Religion

NRW noted that despite the accepted recommendation of the previous UPR regarding the right to freedom of religion, Azerbaijan introduced further restrictions: constitutional amendments passed in 2009 and 2011 tightened restrictions on all religious activity, requiring all religious communities to reregister, dramatically increasing fines for unauthorized religious activity and requiring all religious groups to seek prior authorization to gather.

Human Rights Committee remains concerned that no legal provision regulates the status of conscientious objectors to military service.

The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length be adopted at an early date in compliance with article 18 of the ICCPR and the Committee's general comment No.22 (1993) on article 18.

European Commission against Racism and Intolerance (ECRI) in its 2011 report also notes certain restrictive practices and legislative provisions with respect to religious communities have been tightened following the enactment of amendments to the law on freedom of religion in 2009, and religious communities whose applications for registration are still pending are exposed to a risk of arbitrary treatment.

We also note the concerns of the civil society that the freedom of religion is constantly being violated in Azerbaijan through reportedly monitoring and unwarranted raids that continue to take place across Azerbaijan, closing down various houses of worship and fining members of

their congregations, confiscating the religious materials and harassing and detaining members of Muslim and Christian groups.

In December 2011 Criminal Code Article 168.1 came into force, which punishes "Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it".

What steps has the Government of Azerbaijan undertaken for the adoption of law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length?

What is Azerbaijan doing to address the concerns on the violations of freedom of religion mentioned above, mainly on ending the requirement of registration and practices of unwarranted raids and religious discrimination? Is Azerbaijan considering changing Article 168.1 of the Criminal Code and bringing it in compliance with the standards of international human rights law?

4. The freedom of expression/freedom of information

Human Rights Committee has raised concern over reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists. Furthermore, the Committee is concerned at reports of killings or beatings of journalists which have not been elucidated.

European Parliament in its 2012 resolution on the human rights situation in Azerbaijan (2012/2654(RSP) notes that press and media freedom are often flouted, and unrestricted digital freedom, including the freedom of expression and assembly online, is not guaranteed in practice. It "calls on the Azerbaijani authorities to immediately stop all actions aimed at suppressing the freedom of expression and assembly, as this is incompatible with Azerbaijan's commitments regarding democracy, the protection of human rights and fundamental freedom...".

Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, in the report following his visit to Azerbaijan on March 1-5, 2010, stated that he is particularly concerned by cases of threats, harassment, and violence against journalists or human rights activists which have not been investigated.

Armenia notes the concerns of the Human Rights Committee, European Parliament, UN High Commissioner for Human Rights, Council of Europe Commissioner for Human Rights and the civil society about the ban on the realization of the freedom of expression and freedom of information in Azerbaijan, especially in the context of the realisation of the right to the truth. The civil society reports many cases of harassment and suppression human rights defenders, journalists, writers, who have the courage to seek the truth against the views that try to mislead not only the international community, but also citizens of Azerbaijan themselves.

What is being done by the government of Azerbaijan for the realization of the freedom of expression and the freedom of information implying the right to seek and know the truth and to stop the harassment and intimidation of people who express their own views that are different from that of the imposed by the authorities of Azerbaijan?

What is being done to ensure the exercise of freedom of expression in the country? What is being done to release the journalists that were imprisoned for expressing their views? What is being done to investigate and punish the cases of harassment and intimidation of journalists?

5. Arbitrary Detention

Human Rights Committee is concerned about the arrest and detention on remand of individuals who had expressed opinions in non-conventional media, no explanation was provided as to why the arrest took place after the individuals had reported to the police attacks on themselves and why the judicial proceedings against them for hooliganism were not held in public.

Committee against Torture is also concerned over the inadequate legal safeguards for detainees, which include, inter alia, restricted access to independent doctors and public defenders and failure to notify detainees of their rights at the time of detention, including their rights to contact family members. The Committee is also concerned at the shortage of public defenders in the State party, and at allegations that the quality of legal aid is low as a result of inadequate resources. In addition, the Committee notes with concern allegations that suspects are purposefully detained for delayed periods as witnesses and are thus denied basic legal safeguards, and only later have their status changed to that of a suspect.

Human Rights Watch in its 2012 report stated that imprisonment on politically motivated charges is a continuing problem in Azerbaijan. The authorities still refuse to grant a visa to the Council of Europe Parliamentary Assembly's Rapporteur on Political Prisoners in Azerbaijan, who has never been allowed to visit Azerbaijan since being appointed in March 2009.

What is being done to release the political prisoners and combat arbitrary detention?

When will Azerbaijan allow the Council of Europe Parliamentary Assembly's Rapporteur on Political Prisoners to visit the country?

6. Torture/Ill-treatment

Committee against Torture notes with concern the allegations of widespread and routine use of torture or ill-treatment of detainees in police custody, including before their official registration and during pretrial detention. CAT is also concerned at the reported prevalence of violence and ill-treatment of conscripts in the army, commonly called *Dedovshchina* (hazing or bullying), which has reportedly led to serious injuries, and of a large number of unexplained deaths of conscripts, including suicides.

The civil society brings numerous examples of the existence of ill-treatment and torture in custody that continue with impunity in Azerbaijan – people were brutally beaten, while later claimed to die of certain diseases. In many cases, no investigation is conducted into the deaths of the prisoners and detainees.

What is the Government doing to stop torture and ill-treatment in custody? Were investigations conducted and what concrete examples can you provide?

7. Women's Rights

Committee on the Elimination of Discrimination against Women (CEDAW) expresses its concern about the deep-rooted patriarchal attitudes subordinating women and the strong stereotypes regarding their roles and responsibilities in the family and society, which constitute a significant impediment to the implementation of the Convention and are a root

cause of women's disadvantaged position in political life, the labor market, education and other areas.

The Committee remains concerned about the prevalence of violence perpetrated against women and girls in Azerbaijan, including domestic violence and other forms of sexual abuse. The Committee is concerned that such violence appears to be at times socially legitimized by a culture of silence and impunity and is socially accepted. It is also concerned about the lack of sufficient shelters and a comprehensive network of referral and rehabilitation centers for victims of violence.

CEDAW remains concerned at insufficient access to adequate general health-care services and reproductive health-care services for women, especially for those living in rural and remote areas, and internally displaced and refugee women; high maternal and infant mortality rate; and rise in abortion rate.

Are there any studies or campaigns aimed at combating gender stereotyping and discrimination in Azerbaijan? What steps are taken by the country to empower women?

What statistics can you provide on the cases of investigation and punishment of the violence against women?

What is Azerbaijan doing to improve reproductive health and decrease the maternal and infant mortality in the country?

8. Refugees and IDPs

Armenia is concerned about the situation of refugees and IDPs in Azerbaijan. We are concerned about the politicization of IDPs which is a frequently-used tactic by the government of Azerbaijan, the aim of which is incitement of hatred towards Armenia and Armenians. Very often, the authorities use the plight of IDPs as an excuse against the international criticisms on the government's poor human rights record. We strongly condemn any use of IDPs and refugees in the political interests by Azerbaijani Government.

400 thousand Armenian refugees have fled Azerbaijan and are still waiting for the lawful compensation by the Azerbaijani authorities. Many of those who were not killed during the pogroms and massacres in Sumgait, Baku, Kirovabad and elsewhere, had to flee the country overnight, leaving behind all their savings, personal belongings, movable and immovable property.

What is being done to integrate the IDPs and refugees in the Azerbaijani society?

What steps are taken to combat and avoid the use of refugees and IDPs for political purposes?

What steps is the Government of Azerbaijan planning to take for the compensation of the refugees that have fled Azerbaijan?

9. Corruption

Human Rights Committee notes the reports that corruption within the judiciary remains a problem. The civil society, reporting the cases of corruption in judicial system, is also concerned that in the result of high rates of corruption, the judicial system and justice become ineffective and biased in Azerbaijan.

The Committee on the Rights of the Child expresses grave concerns about the severity and pervasiveness of corruption among, *inter alia*, municipal authorities, as well as health-care and education professionals in the State party, which constitute a serious obstacle to the effective use of the State party's resources and the implementation of the Convention. Furthermore, the Committee is concerned that current sanctions against perpetrators of corruption are not commensurate with the seriousness of the offences.

Freedom House notes that 2011 anticorruption campaign was a loosely veiled attempt to improve the regime's image and prevent the type of mass antigovernment protests. The campaign required state agencies to dismiss officials guilty of engaging in corrupt practices and publish lists of dismissed offenders. However, the media reported that some dismissal lists contained the names of dead or retired civil servants. High-level officials were neither forced to disclose their assets, nor held accountable when implicated in corrupt activities. Owing to the continued lack of transparency in oil revenue expenditures and a lack of political will to genuinely address systemic corruption, Azerbaijan's corruption rate is disturbing.

What specific steps are taken to combat corruption in the country, including among the high-ranking officials and the judicial system?

10. Armenians as a Vulnerable Group, Armenia as a Targeted State

1. In its September 2009 report Committee on the Elimination of Racial Discrimination (CERD) raises concerns about the ongoing discrimination against ethnic Armenians living in Azerbaijan, noting that the information provided by Azerbaijan in this regard contradicts the information received by numerous national and international non-governmental sources. The Committee recommends that the State party takes steps to prevent and combat hostile attitudes towards ethnic Armenians living on its territory, including through information campaigns and education of the general public. Furthermore, in light of its general recommendation No. 19 on article 3 of the Covenant, the Committee encourages the Azerbaijan to monitor all tendencies which may give rise to racial or ethnic *de facto* segregation and endeavor to combat the negative consequences of such tendencies.

What specific steps were undertaken by Azerbaijan to implement the recommendations by CERD to prevent and combat hostile attitude towards Armenians living in Azerbaijan?

What “information campaigns and education of general public” has been undertaken by Azerbaijan in this regard?

2. In the same report the Committee on the Elimination of Racial Discrimination (CERD) is also concerned that despite numerous ethnic Armenians living on the territory of Azerbaijan, no information was provided as to whether education and instructions are provided in the Armenian language in schools. The Committee recommends that Azerbaijan establishes a public school network offering teaching *inter alia* in Armenian language. Besides, Azerbaijan is also party to the Council of Europe Framework Convention on the National Minorities, which provides that the state parties shall ensure, *inter alia*, “that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.”

What steps have been or are being undertaken by Azerbaijan to implement CERD recommendation, as well as its obligations under the Council of Europe Framework Convention for National Minorities to provide education in Armenian language in schools?

3. European Commission against Racism and Intolerance (ECRI) in its 2011 Report on Azerbaijan is concerned that the constant official and media negative discourse concerning the Republic of Armenia sustain a negative climate of opinion regarding people of Armenian

origin, who remain vulnerable to discrimination. ECRI also underlines that the assertions by the authorities of Azerbaijan about tolerant attitude towards the Armenians living in Azerbaijan does not correspond to the civil society reports that note that Armenians in Azerbaijan encounter discrimination in their daily lives.

ECRI urges “the authorities to work actively to improve the climate of opinion concerning Armenians under Azerbaijan's jurisdiction”, if there are any left. ECRI strongly encourages Azerbaijan to influence the media, without encroaching on their editorial independence. It is paramount to ensure that any relevant reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any group coming within ECRI's mandate. It again recommends that the authorities engage in a debate with the media and other relevant players on how this could best be achieved.

It underlines that all the political parties must take a firm stance against all forms of racism, discrimination and xenophobia and convey a clear political message in favor of diversity and pluralism; they must also avoid addressing issues of relevance to the Armenians in a negative light.

Have any concrete measures been undertaken by the Government to implement ECRI recommendations mentioned above to engage in a debate with media and other relevant players to avoid addressing the issues relating to Armenians in constant negative light?

What steps have been undertaken to combat the official negative discourse by political parties and state officials directed against Armenians?

4. In 2004 during a NATO Partnership for Peace training program in Budapest the Azerbaijani officer Ramil Safarov brutally axed the Armenian officer Gurgen Margaryan, while the latter was asleep. Ramil Safarov was sentenced to life imprisonment in Hungary. In August 2012 Hungary extradited the convicted murderer to Azerbaijan but despite the diplomatic assurances given by Azeri authorities to Hungary that Safarov would continue his imprisonment if extradited, Azerbaijan's President pardoned the murderer upon his arrival in Baku. Elmira Suleymanova, the human rights commissioner (ombudsman) of Azerbaijan, declared that Safarov's punishment was far too harsh and that "Safarov must become an example of patriotism for the Azerbaijani youth."

The international community, including the UN Secretary General, OSCE Minsk Group Co-Chairs, President of the European Parliament, Secretary General of Council of Europe,

Commissioner for Human Rights of the Council of Europe, President of the Parliamentary Assembly of the Council of Europe and many other officials, states and civil society representatives condemned the act of glorification of the convicted murderer by the Azerbaijani authorities as a major human rights violation, leading to impunity for murderers and further extends the atmosphere of hatred and racial discrimination, xenophobia towards Armenians.

OHCHR expressed “serious concern that the President had pardoned Ramil Safarov.” OHCHR further stated “that international standards regarding accountability for serious crimes should be upheld, and ethnically motivated hate crimes of this gravity should be deplored and properly punished, not publicly glorified by leaders and politicians”.

All of these calls by the international community remain ignored by the Azerbaijani authorities up to date.

What was or is being done to bring Azerbaijani policies in line with universal values and human rights, which in its turn would guarantee inadmissibility of impunity, glorification of crimes and criminals, in order to avoid making the case of pardoning a very dangerous precedent in Azerbaijan?

5. Civil society and media continuously reported about the harassment of the writer Akram Aylisli and the escalation after the publication of his book. His novel includes a description of violence by ethnic Azeris against Armenians during the late 1980s and beginning of 1990s. Aylisli told that he saw the novel as an appeal for friendship between the two nations. The book caused a new wave of hate speech, xenophobia against Armenians.

Besides the fact that the son and the wife of the writer were fired from their jobs, Hafiz Hacıyev, the leader of the pro-government political party Muasir Musavat said his party would pay \$13,000 to anyone who would cut Aylisli's ear off. This is a clear indication and fact which reveals the existing human rights situation in the country and the hatred and xenophobia, *inter alia*, of the political parties of Azerbaijan towards Armenians.

What is being done by the Azerbaijani government to end the hostile campaign of intimidation against the writer Akram Aylisli and investigating people responsible for making threats against the writer and ensuring his personal safety and security?

6. In 2006 Azerbaijan destroyed the Armenian medieval monuments “khachkars” (cross-stones) in Julfa, Nakhijevan. The destruction is well documented in video and photo materials. This act was not only the violation of cultural rights of Armenians, but also violation of their freedom of religion as Julfa cemetery and cross-stones were part of the Christian faith of Armenians that once lived in Nakhijevan. Since 2006 despite the criticism of the international community, no efforts were made to investigate and punish those who destroyed the medieval cultural heritage of Armenians, simultaneously violating their freedom of religion.

What is being done by the Government to investigate and punish those who have issued relevant orders for the destruction of the thousand year old monuments and those responsible for the brutal and complete destruction of Armenian cultural heritage and for the violation of religious and cultural rights of the Armenians living in Azerbaijan?

7. After the tragic Armenian massacres in Baku, Sumgait, Kirovabad and the collapse of the Soviet Union, people of Nagorno-Karabakh, realizing they can no longer live being discriminated and attacked, being subject to violence and human rights violations, having all the rights prescribed by laws of the Soviet Union, after conducting the referendum in accordance with all democratic standards and norms, proclaimed in 1991 independence, thus realizing their right to self-determination.

The Human Rights Committee in its concluding observations in 1994 has expressed regret for the position adopted by Azerbaijan in its first report submitted under the ICCPR, regarding the principle of self-determination. The Committee has recalled that under Article 1 of the Covenant, the principle applies to all peoples.

When will Azerbaijan fulfill its obligations under ICCPR, in particular Article 1, aimed at the recognition of the right to self-determination of the people of Nagorno-Karabakh?

SPAIN

- ¿Se ha aprobado alguna medida para garantizar el pleno disfrute por parte de toda la población, especialmente grupos étnicos en zonas rurales y de difícil acceso a los derechos económicos, sociales y culturales?

Has any measure been adopted in order to ensure the full enjoyment on the part of all the population, but especially on the part of ethnic groups living in rural, difficult access areas, to the economic, social and cultural rights?

SWEDEN

- Could the Government of Azerbaijan elaborate on how it intends to reinforce the respect for and application of article 58 of the Republic's Constitution, and ensure the implementation of recommendation A-18 from the Universal Periodic Review in 2009?

- Could the Government elaborate on how it ensures that actions are not taken by agents of public authorities which are in contradiction with the principle of freedom of expression?