



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations
GENEVA**

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the request of Mr. Morris Tidball-Binz, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, dated 23 December 2021, has the honor to transmit herewith the inputs by the Government of the Republic of Azerbaijan to his report on state of knowledge and implementation of the Minnesota Protocol.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 5 pages



Geneva, 18 February 2022

Office of the United Nations
High Commissioner for Human Rights
GENEVA

**Information on issues related to the preparation
of the next report to be submitted to the HRC provided
by the UN Human Rights Council (UNHRC) Rapporteur
on Extrajudicial, Summary or Arbitrary Executions**

Prosecutor General's Office of the Republic of Azerbaijan

AWARENESS

2. *Is any teaching of the Minnesota Protocol provided for the education curricula, including at the undergraduate level, and training of the above-mentioned professionals? Please describe the extent to which this occurs.*

According to information received from the Attorney General's Science and Education Center, no special training programs have been implemented in the prosecutor's offices to study the Minnesota Protocol, and no lectures on this topic have been held in the training programs.

3. *What are the main challenges in your country to a better awareness of the Minnesota Protocol (not available in national/local languages; lack of promotion; not considered relevant, etc.) and what is currently being or could be done in future to overcome them?*

States should take all appropriate steps to incorporate Protocol standards into their domestic legal systems and to promote its use by relevant departments and personnel, including, but not limited to, prosecutors, defence lawyers, judges, law enforcement, prison and military personnel, and forensic and health professionals.

The Protocol is also relevant to cases where the United Nations, armed non-State groups exercising State or quasi-State authority, or business entities have a responsibility to respect the right to life and to remedy any abuses they cause or to which they contribute. The Protocol can also guide the monitoring of investigations by the UN, regional organizations and institutions, civil society and victims' families, and can aid teaching and training on death investigations.

Therefore, the provisions of this document can be used in the training of prosecutors.

4. *The Minnesota Protocol is officially available in English, French, Spanish, Russian, Arabic and Chinese. Is the protocol available in any other language(s) used in your country? If so, and available online, please share the link.*

N/A.

IMPLEMENTATION AND IMPACT

5. *Can you please provide a practical example(s) of successful implementation of the Minnesota Protocol in your country?*

According to the information received from the Republican Military Prosecutor's Office, criminal proceedings are immediately instituted in the military units in connection with such incidents with the participation of territorial military prosecutors, as well as prosecutors-criminologists, investigators, experts and specialists, high-quality inspection of the scene using video recording, examination of the corpse and registration of any injuries and traces of injuries found on the body surface are provided.

In addition, the investigation of death cases will be entrusted to more experienced investigators to ensure a full, thorough and objective investigation, the use of video or audio recording when interrogating suspects or accused. In order to thoroughly analyze and eliminate the circumstances that led to the events that took place during the investigation, representations are provided to the relevant commands of military units and the participation of employees of the territorial military prosecutor's offices in the discussion of these representations.

6. *In your view, has the use of the Minnesota Protocol impacted in any way the quality of death investigations in your country? If so, please briefly explain. Please share specific experiences, best practices and/or barriers to the identification/implementation of those practices, particularly with regard to the prevention of, and accountability for, unlawful deaths and to the provision of reparations for victims.*

Chapter II of the Protocol establishes the obligations of states, general standards and guidelines for possible deprivation of life. The section of the chapter entitled "The International Legal Framework" states that states must ensure and protect the right to life and investigate suspected deprivations of life.

Articles 27 (Right to life) and 31 (Right to a secure life) of the Constitution of the Republic of Azerbaijan establish the supremacy and inviolability of social relations related to human life and security.

It should be noted that a moratorium on the death penalty was introduced in the Republic of Azerbaijan in 1993, and on February 10, 1998, the death penalty was completely abolished and is not currently applied.

Deprivation of illegal life is criminalized under various articles of the Criminal Code of the Republic of Azerbaijan, depending on the nature of the intent and the type of public relations to which the crime is committed.

Thus, Article 103 of the Code provides for genocide, Article 120 for premeditated murder, Article 121 for the premeditated murder of a newborn child, Article 122 for premeditated murder in a state of sudden emotional shock, Article 123 provides for criminal liability and punishment for an act of murder that exceeds the necessary protection threshold or threshold necessary to apprehend the offender, Article 124 negligent homicide, Article 135 euthanasia, Article 214 on terrorism, Article 287 provides for justice or criminal liability and punishment for attempted murder and other acts of a person conducting a preliminary investigation.

Articles 120-125, including article 135 of the Criminal Code of the Republic of Azerbaijan, provide for criminal liability and punishment for socially dangerous acts against human life. Although the Prosecutor General of the Republic of Azerbaijan has the right, in exceptional cases, to transfer the preliminary investigation of a criminal case from the relevant investigative body to another investigative body, in accordance with Article 215.3.1 of the Code of Criminal Procedure of the Republic of Azerbaijan, the investigation is usually carried out by the prosecutor's office.

The investigator or prosecutor providing procedural guidance of the investigation are obliged to immediately record, register and verify the information received by an

individual or legal entity about committed or planned crime, as well as information presented in the media and submitted with supporting documents.

If necessary, within 3 (three) days after receiving information about the committed or planned crime (except for information about obvious crimes), if this is not possible within 10 (ten) days, in connection with the receipt of an expert opinion, or in cases provided for in Article 207.3 of this Code (if it is necessary to check the activities of a legal entity using special knowledge in the field of science, technology, art and other professions when checking information about committed or planned crimes) for a period of more than 30 days in the absence of a preliminary check to determine whether there are sufficient grounds for initiating a criminal case.

In addition, in accordance with Article 209.2 of the Criminal Procedure Code of the Republic of Azerbaijan, the prosecutor conducting the investigation finds a human corpse with traces of murder, an unidentified human corpse, human body parts or their burial places; as well as in cases where people are missing and there are suspicions that they died; immediately initiate criminal proceedings on facts discovered in the presence of signs of mass death, infection or poisoning of people.

7. *The Minnesota Protocol accords special significance to the families of victims and the disappeared. Please describe the interaction between those charged with death investigations and affected families in your country, with examples of good practices and challenges which need to be overcome.*

According to Article 106 of the Code of Criminal Procedure, one of the close relatives of the victim who died as a result of the accident, who expressed a desire to exercise the rights and obligations during the criminal proceedings, is considered the legal heir of the victim.

In the absence of close relatives of the deceased victim, if these persons cannot be considered legal heirs in accordance with Article 106.2 of the Criminal Procedure Code (a person who caused moral, physical or material harm to the victim by an act provided for by criminal law), a lawyer appointed in accordance with Article 87.2 of the Criminal Procedure Code (the rights of the victim are exercised by a lawyer appointed by the head of the legal entity operating in the relevant territory on the basis of the decision of the prosecuting authority) is recognized as the legal heir of the victim in a criminal case.

The legal successor of the victim shall participate in the criminal proceedings instead of the victim. In this case, he may have other rights and responsibilities, except for the right of the victim to testify and the inalienable rights of the person. These rights include getting acquainted with the materials of the case from the moment the preliminary investigation is completed, as well as the termination of the criminal proceedings, and making copies of the necessary documents related to it; have the right to get acquainted with the minutes of the court session and the audio recording attached to it, to participate in the sessions of the courts of first and appellate instance and to get acquainted with the materials of the case.

8. *Is there any other information that you would like to share which would be relevant to the present call for input?*

According to information received from the Investigation Department of the General Prosecutor's Office, during the preliminary investigation of cases of premeditated murder or other similar cases, as a result of the negligence (inaction) of persons responsible for the performance of official duties, by law enforcement officials, as well as as an arrest or detention of persons, as well as in connection with the failure to conduct a preliminary investigation in criminal cases related to the failure of the state to fulfill its obligations to ensure the safety of their lives and other crimes, the abuse of officials by investigative groups on penitentiary and other crimes Over the past 5 years, no criminal cases have been registered. Information about the goals of the Minnesota Protocol was brought to the attention of the staff of the Prosecutor General's Office, i.e. compliance with the rules of conduct and professionalism of employees during the preliminary investigation, tactics and methods of organizing the investigation of such cases, as well as other features. The effective use of the protocol, which is a methodological recommendation, will be applied in the investigation of such crimes In the future.

The Ministry of Internal Affairs of the Republic of Azerbaijan

Brief information on the conduct of forensic investigation

Respective powers in the field of forensic examination are carried out by the Ministry of Health of the Republic of Azerbaijan in the field of forensic medicine (forensic psychiatry); by the Ministry of Justice of the Republic of Azerbaijan in other areas of forensic examination; and also by the Ministry of Internal Affairs in the field of primary and additional forensic dactyloscopic, forensic medical-genetic, forensic explosive-technical and forensic-ballistic examinations according to Article 23 of the Law "On forensic activity" and the sub-paragraph 2 of the Presidential Decree of the Republic of Azerbaijan, dated January 15, 2000 No. 252, on application of the same Law.

From this point of view, pathological and anatomical examination (or pathological and anatomical autopsy) is performed by a physician in order to obtain information on the causes of death and diagnosis of the disease, and the rules of its conduct are determined by the Ministry of Health under Article 41 of the Law of the Republic of Azerbaijan "On protection of public health" and the fourth item of paragraph 2 of the Presidential Decree of the Republic of Azerbaijan about application of the same Law. Circumstances in which pathological examination is mandatory (maternal deaths due to pregnancy and childbirth, infectious diseases and suspected cases, deaths that occur during medical examination and intervention and the causes of which cannot be investigated), suspicion of violent death and legislation in the absence of other circumstances, a pathological-anatomical examination may not be performed at the official request of the family members, relatives or legal representatives of the deceased. An opinion on the cause of death and the diagnosis of the disease shall be given to the family members of the deceased, and in their absence to close relatives or legal representatives and if necessary to law enforcement agencies. Family members of the deceased or in their absence, close relatives or legal representatives may invite a specialist of the relevant profile to participate in the pathological-anatomical examination with his consent. At their request, a forensic medical examination may be conducted in accordance with the legislation. In accordance with the Law "On forensic activity", corpses and their parts are

considered the object of expert examination, and also samples reflecting the characteristics of the corpse (bearing signs) are regarded as examples for forensic investigation (Article 8).

When a human corpse is found with traces of murder, and when an unrecognized human corpse, parts of a human body or their burial places are found, the known facts should also be considered in cases where the prosecutor in charge of the preliminary investigation must immediately initiate a criminal case as provided by Articles 209.2.1-209.2.2 of the Code of Criminal Procedure of the Republic of Azerbaijan.

The Law "On State Dactyloscopic and Genome Registration in the Republic of Azerbaijan" defines the term "unknown corpse" as the body (body parts) of an unidentified deceased person (Article 1.0.11). Since the information obtained as a result of state dactyloscopic registration is also used to identify a person based on an unknown corpse, unidentified corpses must also undergo mandatory state dactyloscopic registration. But biological material (*blood, saliva, hair, nails, skin, sweat, semen, other body secretions, tooth, bone and other tissue samples taken from unknown corpses for DNA analysis*) is taken by the Ministry of Internal Affairs. Thus, pursuant to the sub-paragraph 2.4 of "Rules for the collection, registration, storage, use, transfer and destruction of biological material for the analysis of deoxyribonucleic acid (DNA)" approved by the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No.188 dated April 22, 2019, one or more blood, hair, nails, teeth, bones or other secretions or tissues of the body as biological material from unknown corpses registered in the obligatory state genome are taken by a staff of forensic service of the Ministry of Internal Affairs during the examination of the body at the Forensic Medical Expertise and Pathological Anatomy Association of the Ministry of Health of the Republic of Azerbaijan. Other aspects of the collection, registration, storage, use, transfer and destruction of biological material are regulated by the relevant Rules.

Compiling and sending fingerprints cards (dactyloscopic cards) for state dactyloscopic and genome registration, as well as the formation of dactyloscopic and deoxyribonucleic acid (DNA) databases, registration card index are governed by the "Instructions on conducting state dactyloscopic and genome registration" approved by the decision of the Board of the Ministry of Internal Affairs of the Republic of Azerbaijan No. 012-001-19 dated January 16, 2019.

In addition, bilateral international documents were prepared with a number of countries in the field of forensic science, and multilateral cooperation is being implemented in the framework of universal and regional international mechanisms.

Legislative acts under analysis, as well as international treaties to which the Republic of Azerbaijan is a party, can be found from the State Register of Legal Acts of the Republic of Azerbaijan (www.hugugiaktlar.gov.az) and the unified Internet electronic database of normative legal acts of the Ministry of Justice of the Republic of Azerbaijan (www.e-ganun.az).