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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva presents its compliments to the Secretariat of the Human Rights Council Advisory Committee and has the honor to transmit herewith the responses of the State Migration Service of the Republic of Azerbaijan to the questionnaire of the Advisory Committee on the global issues of unaccompanied migrants children and adolescents and human rights, pursuant to Human Rights Council resolution 29/12.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva avails itself of this opportunity to renew to the Secretariat of the Human Rights Council Advisory Committee the assurances of its highest consideration.

Enclosure: 9 pages.



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**Human Rights Council
Advisory Committee
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Answer of State Migration Service to UN Human Rights Council Advisory Committee's questionnaire on unaccompanied migrant children and adolescents and human rights

Question 1.1

The number of foreign and stateless children arriving in the territory of the Republic of Azerbaijan was 139.154 in 2014, and 114.416 in 9 months of 2015.

Permits for temporary residence to 7.232 foreign and stateless children, and permanent residence to 94 were issued in 2014, permits for temporary residence to 5.673 children and permanent residence to 140 were issued in 9 months of 2015.

10 children (7 foreign citizens, 3 stateless persons) were admitted to the citizenship of the Republic of Azerbaijan during 2014.

No application by unaccompanied children, including application related with granting refugee status was recorded within the abovementioned periods (2014 and 9 months of 2015).

Question 1.2

Unaccompanied minors and adolescents have not applied to State Migration Service of the Republic of Azerbaijan so far.

Question 1.3

According to Article 15 of the Migration Code of the Republic of Azerbaijan foreigners and stateless persons can enter to and exit from the Republic of Azerbaijan by crossing the border checkpoints on the basis of their passports or other border crossing documents.

In case visa is required to enter the Republic of Azerbaijan, foreigners and stateless persons should obtain a visa in a way envisaged by the Migration Code.

Foreigners and stateless persons can enter the Republic of Azerbaijan without a visa, if relevant international agreements have been concluded with foreign states, as well as in cases defined by the President of the Republic of Azerbaijan.

Foreigners and stateless persons obtained permit for temporary or permanent residence in the Republic of Azerbaijan can exit from the Republic of Azerbaijan and return back to the Republic of Azerbaijan without a visa on the basis of their passports or other border crossing documents and the temporary residence or permanent residence permits issued by the relevant executive authority of the Republic of Azerbaijan.

Foreigners and stateless persons obtained refugee status in the Republic of Azerbaijan can exit from the Republic of Azerbaijan and return back to the Republic of Azerbaijan without a visa on the basis of the Travel document granted to leave the Republic of Azerbaijan.

According to Article 19 of the Migration Code entry of a foreigner or stateless person to the territory of the Republic of Azerbaijan from any state and his/her departure to a third country by moving on the territory of the Republic of Azerbaijan on a determined route is considered as his/her transit via the territory of the Republic of Azerbaijan.

A foreigner or stateless person crossing the territory of the Republic of Azerbaijan on transit is issued a transit visa in a way envisaged by Articles 34-37 of the Migration Code.

In the following cases, no transit visa is required for transit of foreigners and stateless persons:

- In case foreigners or stateless persons are granted other visas authorizing them to pass the state border of the Republic of Azerbaijan;
- In case air transport passengers fly through the territory of the Republic of Azerbaijan as a transit area without changing aircraft;
- In case foreigners or stateless persons go to a destination country changing an aircraft at the airport of the Republic of Azerbaijan - providing that the passengers have necessary documents authorizing them to enter the destination country and airline tickets confirming their departure time from the airport where they landed to

change their aircraft, and their stay in the territory of the Republic of Azerbaijan is not more than 24 hours. In this case, the passengers cannot leave the specially designated area on the territory of the airport;

- In case of transit by the citizens of a country having an agreement with the Republic of Azerbaijan on visa-free entry/exits.

According to Article 45 of the Migration Code of the Republic of Azerbaijan foreigners and stateless persons can be issued permit for temporary residence in the Republic of Azerbaijan in case they are in close relationship with a citizen of the Republic of Azerbaijan, in case they are family members of foreigners and stateless persons temporarily or permanently residing on the territory of the Republic of Azerbaijan, in case they invest at least 500 000 manats in the economy of the country, in case they possess real estate which is worth at least 100 000 manats on the territory of the Republic of Azerbaijan or funds in the same amount in the banks of the Republic of Azerbaijan, in case they are highly qualified specialists in the spheres of economy, industry, defense, science, culture, sports, etc., in case they hold positions of head or deputy head in the branch or representation of a foreign juridical person in the Republic of Azerbaijan, in case they engage in entrepreneurship activity in the Republic of Azerbaijan, in case they obtain work permit in a way envisaged by this Code to carry out paid labor activity on the territory of the Republic of Azerbaijan, in case they are engaged in professional religious activity at officially registered religious institutions, in case they get full-time education at institutions of higher education and technical schools and in case they get education at secondary schools in the Republic of Azerbaijan.

Temporary residence permit for a child under the age of 18 is obtained upon the application of his/her parent or other legal representative.

Permit for permanent residence in the Republic of Azerbaijan is obtained for a minor under the age of 14 upon application of his/her parent or other legal representative,

for a minor between age of 14-18 upon application of his/her parent or other legal representative with the consent of the minor.

Question 1.4

No information has been received by State Migration Service on violation of the rights of any unaccompanied minors or adolescents so far.

Moreover we would like to state that the rights of children are protected in the Republic of Azerbaijan in accordance with the Constitution of the Republic of Azerbaijan, Law of the Republic of Azerbaijan on the Rights of the Child and norms of international law and they possess the same rights and bear the same obligations as peer citizens of the Republic of Azerbaijan, unless otherwise is envisaged by the legislation.

Question 2.1

According to relevant articles of the Law of the Republic of Azerbaijan "On the Rights of the Child" and UN Convention on the Rights of the Child necessary conditions have been created for foreigners and stateless persons, as well as foreign children to apply for refugee status. The petitions of all persons applying with the intent of obtaining refugee status are registered, individual interview is conducted with the applicant, and the information provided by them is examined. Interviews with adolescents (*if necessary with minors*) are conducted while considering the applications. Attention is attached to gender issues during interviews and the conversation with female applicant is carried by female employees of the State Migration Service. More experienced and specially trained employees are involved in the interviews with children, as well as age limit, psychological condition, health, needs and wants of the child are taken into consideration in these cases.

At the same time according to the Law of the Republic of Azerbaijan "On fight against trafficking of human beings" expulsion in administrative order from the territory of the Republic of Azerbaijan is not applied to children who became victims of human trafficking. Return of children who became victims of human trafficking to their countries or parents is allowed only if there is no assumption that the child will again become the

victim of human trafficking. When working on the issue of return of children who became victims of human trafficking to their countries or parents, the opinion of children above 10 is asked about the issue and taken into account.

Question 2.4

According to the Article 3.0.3 of the Migration Code of the Republic of Azerbaijan minor is a person under the age of 18.

Question 3.1

Migration Code of the Republic of Azerbaijan establishes norms concerning implementation of the state policy in the sphere of migration in the Republic of Azerbaijan, regulation of migration processes and legal status of foreigners and stateless persons in the Republic of Azerbaijan.

According to the Article 74 of the Migration Code of the Republic of Azerbaijan unless otherwise is envisaged by the Law and the international agreements which the Republic of Azerbaijan is a party to, foreigners and stateless persons enjoy equally all of the rights as the citizens of the Republic of Azerbaijan while staying in the Republic of Azerbaijan. They are equal before the law and courts of the Republic of Azerbaijan regardless of their property or social conditions, race, nationality, gender, language, religion, type and character of his/her activity and other cases.

Furthermore, it should be noted that refugee children are protected in the Republic of Azerbaijan. These rights are envisaged by Article 39 of the Law of Azerbaijan Republic "On the Right of the Child". As the right of children for getting relevant status, appropriate urgent measures taken by state in order to ensure them with necessary protection and humanitarian aid, organization of tracing of parents of such children, cooperation with international organizations with this purpose are envisaged by that Article.

According to Article 6 of the law of the Republic of Azerbaijan "On status of refugees and internally displaced (persons displaced within the country) persons" unless otherwise is envisaged by the Constitution of the Republic of Azerbaijan, present Law and

other legislative acts, the refugees use the rights and freedoms of the citizens of the Republic of Azerbaijan and have the same obligations with them.

Question 3.2

Persons (family members came with him/her) applying for refugee status or who have already obtained refugee status are voluntarily placed in Detention Centers for Illegal migrants of the State Migration Service in Baku and Yevlakh cities in case they do not have any other place to live. Conditions in accordance with international standards have been set up for asylum seekers in the centers taking into account European countries' practice. Asylum seekers and their family members, minors are provided with 3 times nutrition a day, special medical assistance, etc. besides housing space. Necessary condition was created for them to learn Azerbaijani language and spend their leisure time interestingly. Special game rooms, playgrounds are established for children and the rooms are provided with toys, child books, drawing sets, television and other equipment.

The Commissioner for Human Rights (Ombudsman) or the members of the National Preventive Group have the rights to access, at any time without hindrance and prior notification, to the Center and to meet and to interview with the voluntarily and compulsorily placed foreigners and stateless persons and any other person who can provide necessary information, in private or if necessary, with the participation of the expert or an interpreter, to get familiar with all the documents confirming the legality of his/her accommodation and detention, as well as related to his/her detention conditions and treatment, and to obtain copies thereof, to prepare an act and to draft protocol regarding the visit and its results, to be received without delay by the chief of the Center, and the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has the rights to give recommendations and to get answers to those recommendations in a defined period, as well.

Question 3.3

So far negative challenges or obstacles have not been recorded in the Republic of Azerbaijan not only regarding unaccompanied minors and adolescents, but also regarding migrants from other categories.

Question 3.4

Taking into consideration Article 22 of the “Convention on the Rights of Child”, Article 39 of the Law of the Republic of Azerbaijan, as well as recommendations of UNHCR on “Principles and procedures of work with unaccompanied asylum seeking children” the “Rules on organization of processing applications for refugee status of unaccompanied children (children who came to the Republic of Azerbaijan without parent and guardian)” have been drafted by the State Migration Service. The aforementioned Rules envisages measures in cooperation with Red Cross and Azerbaijan Red Crescent Societies functioning in the Republic of Azerbaijan for tracing family members of unaccompanied minors, rehabilitation of children who have been subject to torture, inhumane or degrading treatment, violation or suffered from military conflicts, providing to them medical assistance, drawing attention to issues such as the age, sex, living environment, culture, exposition to exploitation, etc. during interview.

Moreover, State Migration Service acceded to the project on “Asylum Systems Quality Initiative in Eastern Europe and South Caucasus” financed by European Union and implemented by UNHCR and actively participated in the activities held in the frame of the project.

Question 3.5

The Republic of Azerbaijan attaches great importance to international cooperation in order to study the experience of developed countries for ensuring better protection of the rights of migrants and their family members, prevention of illegal migration, management and forecasting of migration processes. For the purpose of studying international practice State Migration Service cooperates with UN, UNHCR, IOM, ICMPD, CIS and other international organizations.

Relevant state authorities have close cooperation with UNHCR Office in Azerbaijan in the spheres of voluntary return of asylum seekers to countries of origin, dispatch of refugees to third countries for residence, statistic data exchange, etc.

Other forms (additional protection) of international protection are not envisaged by current legislative acts of the Republic of Azerbaijan on refugees. Necessary conditions have been set up for filing application to UNHCR Office in Azerbaijan and benefiting their protection by foreigners. Foreigners and stateless persons who are under protection of UNHCR Office in Azerbaijan are not expelled from the territory of the country.

Decision on expulsion is not made on foreigners and stateless persons who have been granted with refugee status.

For the purpose of protection of children's rights the Republic of Azerbaijan acceded to UN Convention on the Rights of the Child, International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families, Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as well as to the Convention on Legal Status of Migrant Workers and Members of Their Families of the Participating States of Commonwealth of Independent States and Agreement on Cooperation of the Participating States of Commonwealth of Independent States on Issues of Returning Minors to the Countries of Permanent Residence.

Question 4.1

According to Article 4 of the Law of the Republic of Azerbaijan "On the Rights of the Child" protection of child rights in the Republic of Azerbaijan should be ensured by relevant executive bodies, court and prosecutor authorities, municipalities, as well as public unions, trade union organizations. These bodies, unions and organizations should prefer the principle of the higher protection of child rights in their activities.

Cooperation with non-governmental organizations in the spheres of ensuring rights of the unaccompanied children and covering their social needs is taken into account in the

“Rules on organizing work of processing petitions of unaccompanied children (children arriving in the Republic of Azerbaijan without parent and guardian) related with granting refugee status”.

Question 4.2

Employees of the State Migration Service participated in the trainings on persecution specific to children, conducting interviews with accompanied and unaccompanied children and asylum seekers, assessment of applications of children, involving psychologist in the interviews, which were organized by UNHCR Office in Azerbaijan.

Moreover, discussion on access to the court by internally displaced persons, refugees, minors, women and other vulnerable group of population was held in the meeting organized within the Project on “Progressive justice services and modern judicial infrastructure” jointly funded by the Government of Azerbaijan and World Bank and implemented by the Ministry of Justice of the Republic of Azerbaijan.

The employees of the State Migration Service participated at the meeting on unaccompanied minor asylum seekers organized within Panel on Migration and Asylum of European Union Eastern Partnership and got acquainted with the international practice in this area.