***To***: OHCHR Anti-Racial Discrimination Section

***From***: Office of the Commissioner for Human Rights

(Ombudsman) of the Republic of Azerbaijan

***Date:*** May 1, 2023

**RESPONSE TO THE CALL FOR INPUTS FOR THE PREPARATION OF THE REPORT OF THE UN SECRETARY-GENERAL PURSUANT TO THE UN GENERAL ASSEMBLY RESOLUTION 77/205**

* ***Extent and impact of systemic racism and effective legal, policy and institutional measures that address racism beyond a summation of individualized acts (paragraph 20)***

The main legal development in this field is the draft amendment proposed to the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.[[1]](#footnote-1) This draft Constitutional Law on amendments have been developed on the 20th anniversary of the Office of Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan (*hereinafter the Ombudsman*) and presented to the Parliament on the legislative initiative of the President in 2022. This draft Constitutional Law has already passed the first voting in December, 2022, and according to the national legislation constitutional laws are submitted for the second voting after 6 months.

According to this draft Law, a new article (1.3-1) shall be added to the Constitutional Law which is also granting the Ombudsman the power of implementing the independent monitoring mechanism functions over ensuring the right to equality, monitoring and promotion of anti-discrimination.

Another legal measure taken during the reporting period has been the adoption of a Decision (dated 13 January 2023) by the Cabinet of Ministers of the Republic of Azerbaijan on the Approval of Rules on Ensuring Equality for Children in Their Safe Access to Education, Social and Other Services in Emergency Situations, Pandemic and Other Special Circumstances. According to the provision 1.2. of the Rules, children’s equal and safe access to services in special circumstances shall be ensured regardless of the race of children, their parents or the persons representing them.

In order to develop the effective measures to fight racism and discrimination, the Ombudsman cooperates with relevant international and regional mechanisms, in particular the European Commission against Racism and Intolerance (ECRI). The recommendations made by the ECRI in relation to the Ombudsman Institution are analyzed and considered.

* ***Hate speech, incitement to racial discrimination, hostility and violence; (preambular paragraph 6)***

Azerbaijan has suffered the negative consequences of the long-lasting conflict due to the occupation of nearly 20% of its internationally recognized territories by the neighboring Armenia, therefore this paragraph is very relevant in our case.

In 2021, the Republic of Azerbaijan has instituted proceedings against the Republic of Armenia before the International Court of Justice concerning violation of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Azerbaijan referred to the facts of Armenia’s ethnic cleansing and racial segregation, inciting hatred against persons of Azerbaijani national or ethnic origin, as well as failure to investigate such vilations against ethnic Azerbaijanis and alleged that Armenia has not fulfilled its obligations arising from the Articles 2-7 of the CERD in the application.

In its judgement adopted on 7 December 2021, the Court decided that “*The Republic of Armenia shall, in accordance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, take all necessary measures to prevent the incitement and promotion of racial hatred, including by organizations and private persons in its territory, targeted at persons of Azerbaijani national or ethnic origin*”.[[2]](#footnote-2)

The Ombudsman of Azerbaijan has addressed this issue in order to prevent the spread of hatred and to call for supporting peace. Thus, the Ombudsman has issued two reports on the hate crimes and hate speech against Azerbaijanis.[[3]](#footnote-3),[[4]](#footnote-4) In addition, a video clip was prepared by the Ombudsman Institution about the Azerbaijanophobia policy of Armenia which includes many examples of hate speech by Armenia’s high-level politicians and social media users.[[5]](#footnote-5) The Ombudsman also expressed her concern on special incidents glorifying racism or fueling ethnic hatred.[[6]](#footnote-6),[[7]](#footnote-7)

In order to develop the institutional measures to address discrimination and hate speech, the Ombudsman Institution participates in the project on “Strengthening the access to justice through non-judicial redress mechanisms for victims of discrimination and hate crime and hate speech in the Eastern Partnership Countries” organized by CoE and funded by EU. The staff members of the Ombudsman Institution have participated in several online and in person capacity-building training,[[8]](#footnote-8) as well as visited Strasbourg, France[[9]](#footnote-9) within the framework of this project.

* ***Reparatory justice initiatives regarding slavery, the slave trade, the transatlantic slave trade, colonialism, apartheid, genocide and past tragedies contributing to the development and recognition of the dignity of the affected States and their people (paragraph 16)***

With regard to genocide and past tragedies the Ombudsman issues statements and appeals on the eve of the anniversaries of acts of genocide committed against Azerbaijanis, namely the Khojaly Genocide[[10]](#footnote-10) and the Day of Genocide of Azerbaijanis[[11]](#footnote-11). The Ombudsman regularly calls on the international community to support recognition of Khojaly Genocide and the punishment of the perpetrators in order to prevent impunity.

* ***Participatory and inclusive design and implementation processes that contribute to halting, reversing and repairing the lasting consequences and ongoing manifestations of systemic racism; and the role of people and communities of African descent and young people in these processes (paragraph 19)***
* ***Promotion and protection of the human rights and fundamental freedoms of Africans and of People of African descent against excessive use of force and other human rights violations by law enforcement officers (paragraph 24)***
* ***Racial discrimination and inequality experienced by children and youth of African descent in all areas of life, including the administration of justice, law enforcement, education, health, family life and development (paragraph 20)***

Azerbaijan is known for its state-level multiculturalism policy and tolerance of the population. There are ethnic minorities and believers of different religions living peacefully and friendly in Azerbaijan.

People of African descent also visit or reside in Azerbaijan mainly for educational and occupational purposes. We have not encountered cases of racial discrimination against them.

* ***Racism, racial discrimination, xenophobia and related intolerance targeting migrants and refugees (preambular paragraphs 9 and 10)***

The Ombudsman’s activities for the protection of the rights of migrants and refugees include handling individual or collective applications from these groups of population, promoting their rights through legal awareness events, preparing educational materials, cooperation with relevant national and international bodies, conducting visits to the detention centers of irregular migrants etc.

All these activites are also aimed at contributing to the prevention of occurrence of the cases of racial discrimination, xenophobia, intolerance against migrants and refugees in our country. However, we have not received any applications on these grounds during the reporting period.

As part of legal awareness events, in 2022, on the eve of 20 June - World Refugee Day, the Ombudsman Institution held an awareness-raising event in cooperation with the State Migration Service for the refugees and asylum-seeking families.[[12]](#footnote-12) The representatives of the Ombudsman held face-to-face meetings with the asylum seekers, held awareness talks and distributed educational materials to them in various languages.

In November 2022, an event was organized for the children from refugee families and their parents to support those children’s education, harmonious development, and raising their legal awareness.

The children and parents were informed about the guarantees of their rights, legal protection mechanisms, as well as the Ombudsman’s mandate and activity. The questions of the participants were also answered. [[13]](#footnote-13)

1. <https://www.meclis.gov.az/news-layihe.php?id=1810&lang=az&par=4> [↑](#footnote-ref-1)
2. <https://www.icj-cij.org/sites/default/files/case-related/181/181-20211207-ORD-01-00-EN.pdf> [↑](#footnote-ref-2)
3. <https://www.ombudsman.az/upload/editor/files/Hate_speech_report_Ombudsman_Azerbaijan.pdf> [↑](#footnote-ref-3)
4. [https://www.ombudsman.az/upload/editor/files/Report%20on%20Hate%20crimes%20and%20hate%20speech%20against%20Azerbaijanis%20(2nd%20part).pdf](https://www.ombudsman.az/upload/editor/files/Report%20on%20Hate%20crimes%20and%20hate%20speech%20against%20Azerbaijanis%20%282nd%20part%29.pdf) [↑](#footnote-ref-4)
5. <https://www.youtube.com/watch?app=desktop&v=zruscFONC6w> [↑](#footnote-ref-5)
6. <https://www.ombudsman.az/en/view/news/2506/statement-of-the-azerbaijani-ombudsman-in-support-of-the-implementation-of-the-un-resolution-on-combating-glorification-of-nazism-neo-nazism-and-other-practices-that-contribute-to-fuelling-contemporar/> [↑](#footnote-ref-6)
7. <https://www.ombudsman.az/en/view/news/3872/statement-of-protest-of-the-ombudsman-concerning-the-promotion-of-the-policy-of-ethnic-hatred-in-armenia-> [↑](#footnote-ref-7)
8. <https://www.ombudsman.az/en/view/news/3270/ombudsman-awarded-certificates-to-the-participants-of-the-training-on-combating-discrimination> [↑](#footnote-ref-8)
9. <https://www.ombudsman.az/en/view/news/3442/staff-of-the-ombudsman-office-participated-in-the-council-of-europe-training-in-strasbourg> [↑](#footnote-ref-9)
10. <https://ombudsman.az/en/view/pages/84> [↑](#footnote-ref-10)
11. <https://ombudsman.az/en/view/pages/85> [↑](#footnote-ref-11)
12. <https://www.ombudsman.az/en/view/news/3268/an-awareness-raising-meeting-was-held-with-the-families-seeking-asylum-in-azerbaijan> [↑](#footnote-ref-12)
13. https://www.ombudsman.az/en/view/news/3523/an-event-was-held-for-the-children-from-families-qualified-for-refugee-status [↑](#footnote-ref-13)