

## PARALLEL REPORT

### **of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan on Implementation of the Recommendations in relation to the Report of the Republic of Azerbaijan submitted on 4th February 2009 in the frame of the Universal Periodic Review Mechanism of the UN Human Rights Council**

Taking into consideration the importance of the Universal Periodic Review (UPR) mechanism, also fair fulfillment of the state obligations in the field of human rights, as an independent National Human Rights Institution accredited with “A” status by the International Coordinating Committee (ICC) under the UN Office of the High Commissioner for Human Rights (OHCHR), the Commissioner pays a precise attention to this issue.

The Commissioner held systematic events with participation of the representatives of the UN OHCHR and wellknown international experts in this field in order to prepare the State Report for the UPR of high quality, promote full awareness of both public authorities and representatives of civil society on review, on the rules and methodology of preparation of the report, in particular.

Accordingly, the complementary report for UPR was prepared by the Commissioner and it was sent to the UN OHCHR.

In general, in relation to UPR, Azerbaijan was given recommendations consisting of 32 paragraphs. 25 of them were responded positively, 2 were denied, and 5 were partly accepted by the Azerbaijan Republic.

The Commissioner as an independent monitoring mechanism of the UPR process, organized systematically joint discussions on recommendations with participation of public authorities, also non-governmental organizations (NGOs), involved in preparation of the report, to determine measures to be held for elimination each of shortages mentioned, with joint efforts within a short period and consequently, the majority of recommendations were successfully implemented.

The Commissioner states the followings on the situation of the implementation of the recommendations:

**Paragraph 2 of the Recommendations** – the Republic of Azerbaijan joined to the UNESCO “Convention on the Protection and Promotion of the Diversity of the Cultural Expressions” by the Law dated 26 November 2009.

In purpose of the implementation of para.2.2.7 of the “State Program on development of library-information section in 2008-2013 in Azerbaijan Republic”, activities on establishment of legal-information centers under the city and regional central libraries of the Republic were conducted. Taking into consideration the Commissioner’s recommendations, “National Program for Action to Raise of Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan” was approved by President’s Order dated 27 December 2011.

The National Program for Action was approved in order to raise effectiveness of protection of human rights and freedoms, to improve legal culture of society and to promote sustainability of measures for improvement of normative-legal base and legal protection. The Commissioner, leading the work of the Working group on coordination of the implementation of the Programme, held public hearings for effective implementation of the document with participation of local executive bodies, law-enforcement authorities, municipalities, civil society, communities and representatives of national minorities in all cities and regions of the country.

**Paragraph 3 of the Recommendations** – 12 new regional courts began operating from January 2011. Also, number of vacancies for judges was increased 25 percent.

For simplification of population court application procedure, new courts -regional courts of grave crimes in four regions of the country on the basis of the Court for Grave Crimes were established and administrative-economic courts were also created in seven regions to fulfill strictly human rights by public authorities and also, military court system was improved.

At legislative initiative of the President, the Law on Related Additons and Amendments to the Legislation on Implementation of the Court Judgements dated 18 June 2010, was adopted and the same Law came into force by the Presidential Decree dated 15 July 2010.

In the frame of the “State Program on Poverty Reduction and Sustainable Development in the Republic of Azerbaijan for 2008-2015”, the Ministry of Justice established 16 regional legal consultation centers in the country regions for promotion of free legal assistance to population, particularly to low-income categories of population and for their awareness raising. Simultaneously, the same Programme determines the strategic aims of continuation of institutional reforms as well as improvement of state governance.

The country President of the Republic of Azerbaijan issued Decree on “Some Measures for the Establishment of the Electronic Services by the State Bodies” dated 23 May 2011, for increasing transparency in activities by the state bodies and eliminating circumstances causing corruption.

In accordance with Presidential Decree, dated 11 March 2011, the general number of employees of the Department of Fight Against Corruption of the General Prosecutor’s Office of Azerbaijan was increased from 60 up to 100 personnel. On 18 March 2011, the Parliament of Azerbaijan empowered the Department of Fight Against Corruption of the General Prosecutor’s Office with operation-investigation power applying amendments to the Laws on “Operative-Investigation” and “Prosecutor’s Office” of the Azerbaijan Republic.

The country President signed a Decree on “The Establishment of the State Agency for Public Services and Social Innovations under the Azerbaijani President and Measures on Improvement of Services to Citizens by State Bodies” dated 13 July 2012.

The abovementioned state body is established to manage service centers stated in the third paragraph of that Decree, to coordinate activity of the staff of state bodies working in these centers, to monitor and evaluate, to deal with mutual integration of data bases of state bodies, to accelerate organization process of electronic-services and to improve management system in this field.

This should be noted that “ASAN service” under the Agency renders creating a new approach on courteous treatment towards citizens in activity by state officials and building the state official and citizen mutual relationship in a new qualified stage in the country. The activities of the centers are based on the principles of operativeness, transparency, courtesy, responsibility and tranquility.

The Cabinet of Ministers of the Republic of Azerbaijan approved a Decision on “Requirements for management and development of information web-resources of the governmental bodies” dated 4 September 2012.

The document defines the approaches to ensure information web-resources programme of governmental bodies, design, management, information security and continuous operation.

Futhermore, the President approved the “National Action Plan on Promotion of Open Government for 2012-2015 Years” as well as the “National Action Plan on Fighting Corruption for 2012-2015 Years” by his Decree dated 5 September 2012.

The Commissioner welcomes the taken measures on increasing transparency, fighting corruption and steps taken in other areas and the complex activities in this direction shall be **continued**.

**Paragraphs 6, 7, 8 and 9 of the Recommendations-** the Commissioner who always draws her attention to issues on women rights and gender equality, also to elimination of discrimination against women, submitted several recommendations concerned and addressed her suggestions to public authorities, including the Parliament. Also, the Commissioner proposed some recommendations on full elimination of violence against children in order to improve the legislation. Recommendations on adoption of the the Law on “Domestic Violence” and application of additions and amendments to the Family Code to determine 18 as a marriage age for women and men can be exemplified as such.

By the way, on 22.06.2010, the Law on “Domestic Violence” of the Republic of Azerbaijan was already adopted by the Parliament.

Taking into account the recommendation of the Commissioner, according to the Law of the Republic of Azerbaijan dated 11 May 2010, our country joined to the ILO “Convention No. 156 concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities”.

The Commissioner thinks that since of lack enshrining of the principle of gender equality in the labor legislation and of discrimination in this field, the comprehensive norms, driven from the abovementioned international treaty, shall be reflected in the national legislation.

**Paragraphs 9, 10, 11, 12 and 26 of the Recommendations-** a great attention are always given to protection of the rights of women and children.

The Ombudsman Office prepared the Draft Law on “the Protection of Children from Corporal Punishment” to strengthening fighting against violence and submitted to the Parliament. This Draft Law regulates the issues on elimination of corporal punishment against children, the legal and organizational bases of fighting against all forms of corporal punishment, including the legal situation of children subjected to corporal punishment, protection of and assistance to children subjected to corporal punishment in the Republic of Azerbaijan.

For awareness raising of society in this field, visual aids, advocated inadmissibility of corporal punishment of children, were prepared and disseminated with support of the UNICEF.

When child rights are violated, a 24-hour service of "916" hotline was created in Ombudsman Office with the support and technical assistance of the Ministry of Communication and Information Technologies in order to address the Commissioner urgently by them and their parents. The related information and poster were broadly spread through public and city and regional executive bodies and hanged on in each police station, media and etc., in all cities and settlements of the country. The establishment of this service renders more reliable, effective and urgent protection of child rights in our country.

The “Regulations for the implementation of the state control over children's rights” was approved by the Presidential Decree dated 8 May 2012. These Regulations ensure state organization and control over implementation of child rights according to article 51.7 of the Family Code of the Republic of Azerbaijan.

The aim of the state control is to protect the child rights and interests enshrined in the Constitution of the Republic of Azerbaijan and in national laws, to establish favourable environment for ensuring child rights and to eliminate situations caused and to be caused child rights violations.

The Commissioner addressed the Parliament concerning the acceleration of the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse which was proposed by the Commissioner and signed on 17 November by the country Parliament.

The first prepared Specialized Report on child rights that reflects the current situation on child rights, Ombudsman’s activity, recommendations and suggestions for better improvement of the status of children in future was published and in order to take the necessary measures on these recommendations and suggestions, it was sent to competent public bodies, UN Child Rights Committee, CoE, European Network of Ombudsmen for Children (ENOC) and to other international organizations. Moreover, the document was placed on the webpage of the ENOC and Child Rights International Network (CRIN) that has a broad database on child rights ([www.crin.org](http://www.crin.org)).

The Commissioner analyzed the “Program of Measures on Protection of Mother and Child Health” and proposed preparing a new State Programme, taking into consideration the expiring date of its implementation.

From the perspective of more effective ensuring human rights, within last years, the Ombudsman also held public hearings on the draft Law on “Reproductive health and family planning” as one of the legislative norms. The Commissioner thinks that the adoption the draft Law is necessary in the next future.

From the perspective of effective implementation of recommendations on UPR, the Commissioner thinks that it is advisable to adopt the Law on “The Protection of Children from

Corporal Punishment” and to take other necessary measures, driven in the international treaties, to which our country is a party to in the next future.

**Paragraph 13 of Recommendations** – in purpose of promotion of implementation of the “National Action Plan of the Republic of Azerbaijan to Combat Trafficking in Persons for 2009-2013 years” approved by Presidential Decree dated 6 February 2009 and “Plan of Measures to carry out the National Action Plan on Struggle against Human Trafficking for 2009-2013 years”, the Cabinet of Ministers of the Azerbaijan Republic issued Decisions on approval of the “Rules for identification of victims of human trafficking (indicators)” dated 3 September 2009, a Decision on the “National Directive Mechanism Rules regarding victims of human trafficking” dated on 11 August 2009 and Decision on the “Rules of Replacing and Keeping the Victims of Child Trafficking in Shelters” dated 19 November 2009

The Inter-Agency Council was created to implement the National Directive Mechanism Rules regarding victims of human trafficking in accordance with the Decision on “Certification of Rules of National Referral Mechanism on victims of human trafficking” of the Cabinet of Ministers dated 11 August 2009.

From the perspective of establishment of coordination of mutual relations with NGOs and other public unions operating in Azerbaijan and of better improvement, the Memorandum of Agreement on cooperation between NGO Coalition against Human Trafficking coordinating 45 NGOs and the Ministry of Internal Affairs (MIA) was signed and Special Action Programme was prepared and implemented.

In regions, numerous conferences and meetings concerning problems of abuse were held with participation of the competent ministries, state committees, representatives of the Ombudsman Institute and its regional offices.

Holding awareness raising in this field is reflected as one of the main measures on fighting against human trafficking in the “National Action Plan of the Republic of Azerbaijan to Combat Trafficking in Persons for 2009-2013 years”. The Ombudsman was designated as one of the institutions among those bodies implemented this measure.

The Cabinet of Ministers approved the “Program on Elimination of Social problems causing Human Trafficking” by Decision # 81 dated 20 May 2011.

The aims of the Program are to eliminate social problems causing human trafficking, to create favourable conditions for better livelihood for victims and potential victims of human trafficking, but duties are to ensure social protection of vulnerable groups subjected to human trafficking, including orphans, neglected children and adolescents, also citizens who had left boarding schools and alternative care facilities due to age limit.

Holding awareness raising and its precise organization are one of the main measures towards fighting against human trafficking. Thus, joint operation of the competent public authorities, including the Ombudsman Institute, the State Customs Committee, State Migration Committee, Department for Combat with Human Trafficking under the MIA, specialized NGOs, and media as a single network and also establishment of public monitoring group consisting of representatives of these bodies in order to increase effectiveness of fighting against human trafficking are advisable.

**Paragraphs 14-15 of the Recommendations-** the Commissioner made proposals to the Parliament about effective ensuring the right to freedom of expression and speech, about measures of improvement of mass media and reliable protection of rights of journalists, about adoption of the relevant conception accordingly, about preparation of the state program and about adoption of the Law on “Defamation”. The latter’s discussions are underway.

It is worthy that the responsible bodies are obliged to implement obligations, driven out of the international human rights treaties, to which Azerbaijan is a party and to bring national normative-legal acts into compliance with those international legal documents which are stated in the paragraph 1.2 of the Chapter I entitled “Improvement of the Regulatory and Legal Framework” of the National Program for Action from 2011.

For elimination of criminal liability for defamation that stated in the subparagraph 1.2.7 of the NAP, and preparation of recommendations for improvement of the legislation is under the consideration.

The Commissioner encourages eliminating the criminal liability for defamation and thinks enshrining of such a norm in the legislation as advisable.

One of the last additions and amendments to the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan dated 08.08.2011, is about ensuring of access to information. According to article 1.3. of the Constitutional Law, "The Commissioner supervises over execution of duties by information holding state bodies, municipalities and state officials in accordance with the requirements of the Law of the Republic of Azerbaijan "On Access to Information" As regards the extension of Ombudsman's mandate and the new responsibilities given to her, range of consultations are held and preparative events are conducted with representatives of mass media, experts specialized in media rights, members of information holding state bodies, and heads of the press services of the information holding state bodies.

**Paragraph 16 of the Recommendations** – the Commissioner draws a great attention to the conditions of the prisoners, including the accused keeping in investigation isolators and also to journalists detaining in places of detention and meets with them conducting regular visits to such places in person or with staff of the Office.

The Commissioner also drew attention to existence of alternative methods in international practice on reproaching representatives of mass media for the committed action and legal violations and recommended to take into account the detained journalists among persons to be pardoned. Consequently, some journalists were pardoned and released from prison.

**Paragraph 18 of the Recommendations** – the Commissioner drawing attention of relevant public authorities warning them in advance to everyone's rights to peaceful assembly, meetings, demonstrations, street marches, etc., gave several recommendations for improvement of the Law on "Freedom of Peaceful Assembly", including deleting of the provision stated "with consent in advance" from the Law within last period.

Taking into account the recommendation of the Venice Commission, the previous edition of the related Law about the "consent in advance" was substituted with the provision on "written warning in advance".

In 2010 on the eve of the Parliament elections, question on ensuring the right to freedom of assembly was at the center attention of the public hearings on NAP held by Ombudsman in cities and regions of the country. Related closed as well as open places in every city and region were determined to implement the right to freedom of assembly.

**Paragraph 19 of the Recommendations** – several times, necessary additions and amendments were applied to the Law on "Freedom of Religious Belief of the Republic of Azerbaijan" which regulates guarantees of implementation of the right to freedom of religious belief in compliance with the national Constitution and international treaties to which our country is a party, determines status, rights and duties of religious bodies and regulates relations created as a result of activities of religious bodies. During her meetings, the Commissioner closely interested in situation about ensuring the freedom of conscience in various regions of the country and also met with competent religious communities.

The Ombudsman calls journalists to be responsible and sensitive while writing on freedom of religion and conscience, to try building interreligious bridges and recommended conducting seminars for journalists writing on religion, underlining the significant role of mass media in development of intercultural dialogues and interreligious cooperation.

Moreover, the Commissioner also proposed teaching secular religions in both secondary and higher education establishments. More than 80 ethnic and national groups are living by centuries in the peaceful as well as tolerant environment in Azerbaijan.

**Paragraphs 20, 21 of the Recommendations** – the Commissioner was designated as an institution carrying out functions of National Preventive Mechanism (NPM) by the Presidential

Decree on executing “UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment” dated 13 January 2009.

This provision was enshrined in the Constitutional Law on “the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” by the Constitutional Law of the Republic of Azerbaijan dated 24 June 2011 that serves ensuring the Ombudsman’s independence and extension of her mandate.

From the perspective of efficiency and saving time, NPM Group, consisting of 17 persons of staff members of the head Office and its regional offices, was established by the Ombudsman until the establishment of structural division. Necessary vacant positions are determined for creating the relevant Department in the Ombudsman Office by the Decision of the Cabinet of Ministers and a new “Department on Prevention of Torture” is created. The Department consists of two units- “Monitoring Unit” and “Legal Analyzes and Reports Unit”.

The NPM Group conducts scheduled and ad-hoc visits to places of detention.

The Ombudsman’s Report on “the Activity of the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for 2009-2010 years” was prepared and translated into Azeri and English languages, also placed on webpage of the Office and sent to the related public bodies, society and to specialized international bodies. Furthermore, the Report concerned for 2011 was already prepared.

This should be noted that the Law on “Provision of rights and freedom of the persons kept in prisons” of the Republic of Azerbaijan dated 22 May 2012 was adopted. This Law regulates the issues on ensuring rights and freedoms of persons detained or imprisoned in places of detention according to the Criminal-Procedural Code of the Republic of Azerbaijan.

**Paragraphs 22-30 of the Recommendations** - one of the broad activity directions of the Ombudsman is to campaign human rights and freedoms and awareness raising. The “Hierarchic Education Project on Child Rights” was carried out in secondary schools covering all districts of Baku city and some regions by the Ombudsman with consent of the Ministry of Education and this was assessed as the best practice on child rights education.

Children are trained as trainers in the frame of the Hierarchic Education Project. First Child Rights Education Centers were created in those educational establishments to promote sustainability of the project.

By the way, the paragraph 4.4 of the NAP determines “Enhancing of teaching of human rights at specialized vocational and higher education institutions and develop hierarchic education on child rights in secondary schools”.

**Paragraph 23 of the Recommendations** – the Commissioner made several recommendations for increasing effectiveness of the “the State Program on de-institutionalization and alternative care for children in the Republic of Azerbaijan for 2006-2015 years” approved by the Presidential Decree dated 29 March 2006. As relevant examples it can be noted recommendations such as organization and strengthening of social protection of orphans and children deprived of parental care and establishment of Social Rehabilitation Centers with possibilities of de-institutionalization, Crisis Centers for children subjected to violence, shelters for children and adolescents, and network of organization and services under the state social bodies by creating care centers for children deprived of parental care and other similar recommendations.

The Commissioner thinks that the efforts concerning implementation of the abovementioned programme shall be increased.

The Ombudsman carried out monitoring to those facilities jointly with the UNICEF to investigate cases of violence against children. Such investigations were conducted in facilities where orphans, children deprived of parental care, children with health problems and in conflict with the law are kept. The outcome of the monitoring as well as suggestions on elimination of the existed problems were sent to the competent bodies and to UNICEF.

**Paragraphs 24 and 25 of the Recommendations** – within last years, the Commissioner recommended establishment of legal consultation offices financed by the state budget, taking into account opportunities of low-income citizens.

By the way, according to the “State Program on Poverty Reduction and Sustainable Development in the Republic of Azerbaijan for 2008-2015”, regional free of charge consultations offices were created by state for legal assistance to the low-income families.

The Ombudsman, simultaneously, recommended studying situation of population groups needed social security and making related amendments to the legislation.

The amount of the basic part of the pension of age was determined as 85 manat from 1 September 2010 by the Presidential Decree dated 31 August 2010.

According to the Presidential Order on “Increase of social allowances” dated 26 December 2011, sums of determined social allowances was increased from 1 percent to 10 percent from 1 December 2011, by the Presidential Order on “Measures to strengthen social protection of the low-income people” # 324 dated 8 September 2010.

By the Presidential Order on “Strengthening the social security of a range of categories of the population” dated 26 December 2011, the amount of monthly social allowances was increased from 1 December 2011.

The Commissioner recommended to the Parliament to increase regularly the minimum of monthly wages, pensions and allowances in the frame of the existed capacities and employment of persons with special needs, including persons with disabilities, also to eliminate the existed challenges in order to strengthen social protection of low-income populations and poverty reduction.

“The State Programme on Implementation Employment Strategy for 2011-2015 years” was approved by the Presidential Decree dated 15 November 2011.

The Commissioner proposed taking of the necessary measures on protection of social security of the vulnerable groups of population, refugees, IDPs, persons with disabilities, children with health problems, orphans and children deprived of parental care, the alone elderly persons, who need a state care due to the social risk since of physical or social-demographic reasons.

It is remarkable that, improving of social services for advancing social protection of the abovementioned groups of population and raising of effectiveness, also taking of other necessary measures in this field were specified in the “State Program on Poverty Reduction and Sustainable Development in the Republic of Azerbaijan for 2008-2015 years” approved by the country President’s Decree #3043 dated 15 September 2008.

Within last years, as a result of the taken measures for reduction of poverty in the country, the rate of poverty was decreased from 49% to 7.6%.

Specialized Report on International Covenant on Economic, Social and Cultural Rights was prepared and sent to the relevant UN Committee by Ombudsman. The report was placed on the official webpage of the UN.

The Commissioner prepared the “State Program on Protection of Social Rights of the Elderly Citizens for 2012-2015 years” and the draft of measures of its implementation and recommended its adoption. The main goals of the State Program are to achieve strengthening the protection of social rights of the elderly and creating social-economic and organizational-legal environment for ensuring their active participation in society.

The Ombudsman taking into account the importance of the European Social Charter role in development of social-economic situation of the country and the bringing of national laws concerning protection of labor and social security rights of population into compliance with international standards, recommended in her annual Reports joining to article 23 of the abovementioned document about right to social protection of the elderly.

**Paragraph 27 of the Recommendations** – the amount of monthly allowance for food to the internally displaced persons (IDPs) was increased 10 percent from 1 September 2011, by the Presidential Decree dated 23 December 2011.

Measures of solving problems of IDPs by the State, including measures over 30 stated in the State program were constantly implemented. New settlements for refugees and IDPs were set up in cities and regions of the country, they were moved to those new settlements, new education, medical, cultural and communication constructions were opened and the relevant infrastructure was created. The rate of poverty was decreased among IDPs to 18 percent.

In general, 4.68 billions USD was allocated to solution of social problems of refugees and IDPs within 1993-2011 years.

The Commissioner regularly visits IDPs' settlements and various housing areas, meets and familiarized with their living conditions, also with problems, acquainted with situation on ensuring their rights to education, health and etc., also makes proposals to the responsible authorities concerning the disclosed challenges during those meetings and takes the necessary measures.

The NPM Group of the Ombudsman regularly conducts long-term visits to detention places for illegal migrants of the Passport, Registration and Migration Office of the MIA, explain them their rights and necessary measures are taken.

Simultaneously this should also be noted that the President signed a Decree on "Application of "single window" principle in the management of migration processes" dated 4 march 2009, which eliminates such problems occurred in this area.

**Paragraph 32 of the Recommendations** – the Commissioner drawing attention to the implementation of UPR recommendations from the begining, regularly held discussions and consultations on effective implementation of the recommnedations with participation of the competent state officials, NGOs, also with representatives of the OHCHR.

The Commissioner carried out her activity regarding the implementation of the recommendations jointly as a network with responsible public authorities, international organizations, civil society, especially with NGOs and communities.