

**The responses to the questionnaire about
“Role of national human rights institutions in facilitating access
to effective remedy for business-related human rights abuses”
by the Commissioner for the Human Rights (Ombudsman) of
the Republic of Azerbaijan**

**1. In what ways could NHRIs facilitate-both directly and indirectly-
access to effective remedies for business-related human rights
abuses? Please provide concrete examples if possible.**

NHRIs could facilitate access to effective remedy for business-related human rights abuses by the following ways:

- By investigating received relevant complaints within the mandate and sending requests to responsible bodies for elimination of violations :
- By coordinating human rights stakeholders working on business issues and creating working group for achieving concrete results through joint discussions;
- By analyzing the legislative framework as well as making recommendations with regard to its improvement;
- By learning international experience and documents, their application into legislation and practice;
- By drafting and implementing national action program in the concerned field;
- By arranging awareness raising events for vulnerable groups of population, public bodies, business and civil society organizations and also by preparing advertisements and publishing materials.

According to the Constitutional Law on the Commissioner For Human Rights (Ombudsman) of the Republic of Azerbaijan, the post of the Commissioner is set up to restore the human rights and freedoms, enshrined in the country Constitution and international treaties to which Azerbaijan is a party and rights violated by governmental and municipal bodies and official. Bearing in mind this norm, the Ombudsman is unable to be directly involved in any complaints received from the business sector, because such complaints are out of her mandate.

However, Ombudsman receives business and human rights related complaints and ensure that legal measures are taken for their resolving through the competent governmental bodies.

The Ombudsman contacts the relevant state bodies in respect of the

complaint and urges them to take part in the complaint-handling or investigation processes. Once the Ombudsman receives responses from the relevant state bodies, it verifies the facts and accuracy of the response (the monitoring process), and replies to the complainant.

In some cases, when there is a concern of human rights violation, verification of facts or monitoring may be conducted on the spot with representatives of relevant local bodies. An act is drawn up in every monitoring. Following the monitoring and depending on situation, the Ombudsman's Office can urge the relevant body to take direct action towards the issue.

In most cases, complaints are resolved during the monitoring process on the spot. If the state body cannot resolve the situation, the Ombudsman's Office can urge the superior body to take into account the results of the investigation.

Sometimes in the case of violation of his/ her rights, the person files suit in court. The Commissioner cannot review the activities of judges according to the Constitutional Law, but may examine complaints on red tape, loss of or delayed delivery of documents to courts as well as delays in the execution of court judgments.

Since 2013, the study of existing international documents in the field of business and human rights and their implementation is one of the priorities of the Azerbaijani Ombudsman activities.

So, on the initiative of the Commissioner, the Working Group on Business and Human Rights (hereafter WG) was created under the Ombudsman. The WG members contains of representatives of relevant public bodies and non-governmental organizations. Membership in the Group is voluntarily. Representatives of parliament, international organizations, as well as of other relevant governmental bodies and business organizations also take part in WG meetings.

During 2013-2019, WG organized 17 roundtables dedicated to the protection of rights of children, women, persons with disabilities, labor migrants, consumer rights, corporate social responsibility, food, safety in construction, as well as environmental problems from the Business and Human Rights protection perspective.

During the meetings, WG discussed the related issues, put forward recommendations on how to improve the work concerned, also regarding the concrete cases. Eventually, the proposals are made and submitted to relevant governmental agencies.

Most of the proposals are considered during preparation of various state programs and reforms.

One of the main activities of the WG is to take the necessary measures to implement the United Nations "Guiding Principles on Business and Human Rights" and other international instruments in this area.

With the initiative of Ombudsman this document and the Commentary, thereto, UN Global Compact and Edinburgh Declaration were translated into

Azeri language and distributed among WG members and placed on the Commissioner's Official website.

It should be noted that the Ombudsman plays an exceptional role in the preparation and implementation of the National Action Plan and National Action Program on raising the effectiveness of Protection of Human Rights and Freedoms. The Ombudsman supervises the activity of the Working Group on Monitoring, Evaluation and Coordination of the Implementation of the relevant Program.

The Ombudsman Office receives information relating to the status of the implementation of the noted above Program twice a year, the first on the occasion of 18 June-National Human Rights Day and 10 December – International Human Rights Day from the responsible for the execution of the Program state bodies, as well as analyses them and releases to the public through mass media. During the events devoted to the implementation of the Program, the representatives of non-governmental organizations, mass media and civil society institutions, along with the parliamentarians representing the corresponding cities and districts, local executive bodies, judiciary and law-enforcement authorities, municipalities, constituency election commissions also participated and joins the discussions.

In general, public hearings held to promote and monitoring the status of the Program implementation, pave the way for increasing legal awareness of the population and participation of civil society institutions, promotion of everyone's right to participation, democratization of the public administration, and for increasing efficiency and better improvement of the public control function of the local non-governmental organizations.

2. What measures should be taken to strengthen the mandate, role and capacity of NHRIs in facilitating access to remedy for business-related human rights abuses?

To strengthen the mandate, role and capacity of NHRIs, it is important to provide National Human Rights Institutions with the additional powers to ensure their direct access to this area. The activities in this field also require financial and technical allocation and additional human resources. Besides that, learning international experience, getting support by international organizations and cooperation with them is of particular importance.

3. How could the current interplay between the role of NHRIs and other judicial or non-judicial remedial mechanisms (e.g. courts, labor tribunals, National Contact Points and operational level grievance mechanisms) be improved to facilitate access to remedy?

In this regard, it is important to carry out awareness-raising, activities campaigns with the participation of international and local experts and to establish the working groups.

For information, Azerbaijan Ombudsman also cooperates with the

Academy of Justice under the Ministry of Justice, Ministry of Internal Affairs and Prosecutor General's Office. Therefore, Ombudsman and her staff deliver lectures on human rights issues for candidates to new judges, lawyers and staff of the Ministries of Justice and Internal Affairs, also prosecutors.

Except that, staff members of the Ministry of Justice and other related organizations are actively involved in the work of the WG on Business and Human Rights under Ombudsman.

4. What are the main challenges that NHRIs face dealing with complaints concerning human rights abuses implicating parent and subsidiary companies, business operations in other jurisdictions or the supply chain of a company?

See answer to the question 2.

5. What could be done to strengthen the role of NHRI in dealing with alleged business related human rights abuses with a transnational or cross-border dimension?

NHRIs could be empowered by law and involved on the necessary logistical base and additional human resources. Also, it is important to learn the relevant international practice and apply them into legislation and activities, to get necessary technical support from International organizations in this regard. Public awareness and legal education capacities should be strengthened.

6. Can you share any good practice examples in which your organization or institution was able to work collaboratively with NHRIs to facilitate, directly or indirectly, effective remedies for business-related human rights abuses?

7. Are you aware of any good practices related to NHRIs supporting civil society and human rights defenders (including women human rights defenders) working to secure access to effective remedy for business-related human rights abuses?

The information about cooperation between NHRIs and governmental organizations has been already partly provided above.

Azerbaijani Ombudsman Office also closely co-operates with the state bodies and civil society institutions in the field of human rights protection and promotion. The Council of Independent Experts under Ombudsman consisting of non-governmental organizations is the good example in a view to achieving efficient co-operation.

Aside this, the Resource Centers of Ombudsman – called “Azerbaijan Child and Youth Peace Network operating under the NGO with special consultative status at UN ECOSOC - “Azerbaijan Women and Development Center”, “ Resource Center for Older Persons” focusing on youth affairs and

child rights, women rights, rights of older persons, also contributes to the activity of the WG.

As well as, the Ombudsman Office and its four Regional Offices, covering 35 rayons of the country regularly invite non-governmental organizations to their conferences, seminars, trainings and to other awareness raising events.

The Commissioner appointed specialized advisors in order to increase efficiency of the activity in the field of protection of the rights of various categories of population. Those advisors co-operate with the specialized non-governmental organizations, as well as with the National Confederation of Entrepreneurs (Employers) Organizations and Azerbaijan Woman Entrepreneurs Association, throughout their activity. In addition, representatives of the non-governmental organizations were involved in joint investigation and monitoring conducted by the Ombudsman Office together with UNICEF Country Office. The Commissioner collaborates with the non-governmental organizations while performing her functions as a National Preventive Mechanism (NPM) as well.

Moreover, the complaints received from NGOs are investigated in accordance with the law and the NGOs are provided with the relevant information.

As mentioned above, in 2013 the Commissioner has created the WG to coordinate the activities of relevant government agencies and NGOs in the field of business and human rights, to study international experiences, to improve activities in this direction and to make and submit proposals to the relevant authorities. Currently, more than 20 state bodies and NGO members are represented in the WG. Proposals made by the Group have been summarized and submitted to various government organizations, including Parliament; and have been incorporated into the annual reports of the Commissioner. Most of these proposals have been considered during state programs and applied in public reforms.

Regarding the accomplishments of the WG, it must be noted that by considering the recommendations in relation to improving labor legislation, amplifying the control over employment contracts made by the WG, necessary amendments have been made to the Labor Code of Azerbaijan and Electronic Information Database was developed within the Ministry of Labor and Social Protection of Population.

In terms of passing new laws, the adoption of the Law "On regulation of the inspections which are carried out in the field of entrepreneurship and protection of the rights of entrepreneurs" and the Law "On Suspension of inspections in the field of entrepreneurship" as well as the development of single Registry System of inspections in the field of entrepreneurship are of particular importance.

Measures taking for developing know-how and skills of youth, promotion entrepreneurship and employment opportunities, raising awareness about the labor market, specializations and vocational trainings and others that stated in

“The State Program on Azerbaijani Youth in 2017-2021” have been included in the document on the basis of recommendations made by the WG during its meetings.

Set of proposals made by WG with regard to the Law on "Protection of consumers' rights" of Azerbaijan based on the legislation and international experience was submitted to the competent Committee of the Parliament.

Overall, proposals on building network of relevant stakeholders and centralizing their management; simplifying procedures; giving priority to national architectural style during construction projects; using skills of local architectures; strengthening safety issues in construction and others that have been discussed in one of the WG meetings dedicated to safety issues in construction, have been also considered in the Presidential Decree on “Enhancing the Management in Urban Planning” dated 1 august, 2018.

Proposals on simplification of tax policy for entrepreneurs considering the deductions from their profits, allocated for the realization of state's priority goals and for charity activities have been made and submitted to the relevant authority.

8. How could NHRIs collaborate better with regional and international human rights monitoring mechanisms (including UN special procedures, treaty bodies and the Universal Periodic Review) to facilitate access to remedy for business-related human rights abuses?

In order to support the implementation of the recommendations of regional and international monitoring mechanisms by countries, these recommendations should be jointly discussed with relevant government agencies and NGO representatives; proposals for bringing legislation into compliance with international legal norms and principles should be made; monitoring of implementation of recommendations must be carried out and periodic reports are submitted to relevant international bodies.

The Azerbaijan Ombudsman actively participates in the Universal Periodic Review process, together with the UN High Commissioner for Human Rights, organizes trainings for NGO representatives on alternative reporting to UN treaty bodies.

9. What role should NHRIs have under a National Action Plan on Business and Human Rights to facilitate access to effective remedy in case of business-related human rights abuses?

NHRIs shall coordinate the work of state authorities, follow up the implementation of national action program, get executive reports from authorities responsible for execution of the national action program, analyze it and make necessary recommendations and hold large scale awareness events and public hearings for effective access to legal protection mechanism within the Business and human rights national action program with participation of the civil society, human rights defenders, local communities, employers, employees, consumers and other stakeholders' representatives.