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PERMANENT MISSION OF THE REPUBLIC OF AZERBAIJAN TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS AT GENEVA



AZƏRBAYCAN RESPUBLİKASININ BMT-nin CENEVRƏ ŞƏHƏRİNDƏKİ BÖLMƏSİ VƏ DİGƏR BEYNƏLXALQ TƏŞKİLATLAR YANINDA DAİMİ NÜMAYƏNDƏLİYİ

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No 188/12/N

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the latter's Note (Reference: G/SO 214 (107-9)) dated 27 April 2012, has the honor to transmit herewith the information of the Government of the Republic of Azerbaijan on the questionnaire of the UN Special Rapporteur on the situation of human rights defenders on the subject of "The use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders".

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 Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 3 pages.

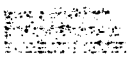


THE OFFICE OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS GENEVA

OHCHR REGISTRY

25 JUN 2012

Recipients : S.P.D.



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INFORMATION

On questionnaire of the UN Special Rapporteur on the situation of human rights defenders

Paragraph 1:

The National Action Plan on Protection of Human Rights in the Republic of Azerbaijan adopted in 2006 has been instrumental in elevating the process of human rights protection to a qualitatively new level, developing new cooperation strategy at universal and regional levels and establishing the relations of partnership between the State and civil society.

In order to raise effectiveness of protection of human rights and freedoms, promote legal culture and ensure sustainability of activities to improve the regulatory and legal framework and the human rights protection system "the National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan" was approved by Presidential Order dated December 27, 2011. The institutions responsible for the execution of the National Program for Action were instructed to cooperate closely with civil society institutions in implementation of the Program by Paragraph 5 of the Order.

"Regulations on public participation in correction of prisoners and public supervision over the penitentiary" was approved by the Order of the Minister of Justice dated 25 April 2006 №4-T. The present Regulations are developed taking into account the European Penitentiary Rules and other international instruments in this field. The Regulations provide for legal basis of the public participation (NGO, religious organizations, human rights activists and public figures) in ensuring legally provided rights and freedoms of prisoners who are detained in the institutions for serving sentences.

According to the Regulations the Public Committee consisting of the representatives of civil society was set up based on transparent and objective procedures in September 2006. The Ministry of Justice undertakes necessary measures so as to enable Public Committee to carry out its duties as appropriate.

Thus, Members of the Committee were provided with special identification cards signed by the Minister of Justice, which enabled them to visit periodically penitentiary facilities and hold meetings with prisoners. During the period of approximately six years of their activity members of the Committee conducted 290 visits to different penitentiary facilities, developed reports reflecting relevant recommendations. Representatives of mass media and other NGOs, who are not members of the Committee were also involved in monitoring process. Relevant survey form was developed by the Ministry in order to simplify the reporting process. Based on the reports of the Committee the Ministry has carried out necessary measures and human rights defenders have been periodically informed about this.

At the same time with a participation of professional lawyers the Committee rendered legal aid to prisoners, organized awareness raising campaigns and cultural events in penitentiary facilities, enriched library funds of these facilities with legal and art literature.

During its activity the Public Committee made contributions to the process of protection of prisoners' rights, proved itself as a model of mutual dialog and cooperation between civil society and law enforcement agencies.

It should be mentioned that according to Article 10.2 of the Code of Criminal Procedure no one may be incriminated or charged with a view to prosecution as a

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suspect or accused person, detained, arrested, searched, taken by force or subjected to other coercive procedural measures, nor convicted, punished or subjected to other limitations of rights and liberties other than on the basis of the rules and principles established by the laws of the Republic of Azerbaijan which are in force and published.

Paragraph 3:

According to Article 71 of the Constitution of the Republic of Azerbaijan no one may restrict implementation of rights and liberties of a human being and citizen. To observe and to protect rights and liberties of a human being and citizen specified in the Constitution—is responsibility of bodies of legislative, executive and judicial power.

Rights and liberties of a human being and citizen on the territory of the Republic of Azerbaijan have the direct power.

According to Article 127 of the Constitution justice shall be implemented based on equality of citizens before the law and law court.

In consideration of legal cases judges must be impartial, fair, they should provide juridical equality of parties, act based on facts and according to the law.

Also according to Article 8.1 of the Criminal Code punishment and other measures of criminal - legal nature instituted to the person, who has committed a crime, shall be fair, and shall correspond to nature and a degree of public danger of a crime, circumstances of committing it and nature of a guilty person.

At the same time it should be mentioned that specified time of the proceedings on criminal prosecution and other cases as well as their extension are determined by the legislation of the Republic of Azerbaijan and relevant agencies carry out the control over the compliance with these time limits.

Paragraph 4:

The state registration of non-governmental organizations, their activity and financing are regulated by laws "On the non-governmental organizations (public associations and funds)", "On state registration and state registry of legal entities".

The drafts of those laws were prepared together with relevant bodies of the Council of Europe. That's why it is supposed that the mentioned laws are suitable with international standards in the field of human rights.

Paragraph 5:

There is no restriction for NGOs' operating without state registration and according to legislation there are no sanctions for this activity.

Paragraph 6:

According to Article 50 of the Constitution of the Republic of Azerbaijan everyone is free to look for, acquire, transfer, prepare and distribute information by legal way.

At the same time according to Article 2 of the Law "On obtaining Information" the obtaining of information is free in the Republic of Azerbaijan. Everyone has the right directly or through its representative to apply to possessor of information, to choose the kind of information and its form of obtaining.

Everyone who applies to possessor of information has following rights:

- to find out whether the possessor has the requested information, when that information is absent, to attain auxiliary information for having it,
- when the possessor has the requested information, the person has the right to obtain it freely, without obstacles and in equal conditions for everyone.

Also according to Article 1 of the Law "On mass media" mass information is free in the Republic of Azerbaijan.

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Freedom of media is based on state guarantees given to citizens as to the right to seek, obtain, prepare, transfer, produce and distribute of information by legal way.

Paragraph 7:

The National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan provides elaboration of proposals on improving the legislation in order to decriminalize defamation.

***Ministry of Justice of
the Republic of Azerbaijan***