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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 Office of the United Nations High Commissioner for Human Rights and, with reference to the latter's Note Verbale Ref: RRDD/HRESIS/JS/PO/CH/is dated 22 October 2015, has the honor to transmit herewith the relevant information of the State Migration Service of the Republic of Azerbaijan with regard to Resolution A/HRC/29/2 on "Protection of the human rights of migrants: migrants in transit", which was adopted by the Human Rights Council on 2 July 2015.

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.

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Information of the State Migration Service related to the questionnaire of the Office of the United Nations High Commissioner for Human Rights on the situation of migrants in transit, including unaccompanied children and adolescents, as well as women and girls

A. In the modern period protection of rights and liberties of foreigners and stateless persons, particularly women and unaccompanied minors is one of the crucial issues and activity directions are determined in order to effectively ensure these rights. A number of important measures in this direction and joint projects with international organizations for the purpose of protect rights of this group of persons have been implemented by State Migration Service.

Constitutional Law of the Republic of Azerbaijan "On Regulation of implementation of human rights and liberties in the Republic of Azerbaijan", "National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan", Law of the Republic of Azerbaijan "On the Rights of the Child", Law of the Republic of Azerbaijan "On Combating Trafficking in Human beings", "National Action Plan on Combating Trafficking in Human beings", Law of the Republic of Azerbaijan "On status of refugees and internally displaced (persons displaced within the country) persons" and other document was adopted in order to raise effectiveness of protection of human rights and liberties in the Republic of Azerbaijan, to develop legal culture in society, ensure continuity of measures in the direction of improvement of legal and regulatory framework and law enforcement system, to define core principles of human rights and liberties and state policy thereon, duties of state authorities, physical and juridical persons on protection thereof.

At the same time, the Republic of Azerbaijan acceded to European Convention "on Protection of human rights and freedoms", UN Convention "on the Rights of the Child", 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".

In "State Migration Management Policy Conception of the Republic of Azerbaijan" which was approved with the Decision of the Cabinet of Minister of the Republic of Azerbaijan, taking into account significance of defining state policy on management of migration processes, protection of rights and liberties of all migrants in accordance with the law considering international legal norms and principles, assurance of migrants' rights, defending them from mandatory acts, xenophobia, discrimination, all types of trafficking in human beings, particularly in women and children, addressing problems of migrants from different categories,

providing financial and legal assistance to persons intending to obtain refugee status, asylum seekers and other forced migrants by international organization and the state, creating conditions for self-sufficiency of migrants, organizing voluntary return to their country and leaving for a third country, realizing government assistance to forced migrants and stimulating their voluntary return to permanent place of residence are identified as the core principles in regulation of migration processes in the Republic of Azerbaijan.

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 relations arising in this sphere and legal status of foreigners and stateless persons in the Republic of Azerbaijan.

a. In Article 19 of Migration Code of the Republic of Azerbaijan rules for Transit of foreigners and stateless persons through the territory of the Republic of Azerbaijan were determined. Thus, in in case the persons passing the territory of the Republic of Azerbaijan get sick, emergency stop of foreigners and stateless persons in the territory of the Republic of Azerbaijan more than the period indicated in the legislation is possible according to reference of a doctor certifying that the continuation of transit is dangerous for the health of the sick person. In this case if there are close relatives of the sick person together with him/her, emergency stop applies to them as well.

Furthermore, persons detained in the detention (accommodation) centers for migrants are provided with medical and psychological assistance, medical – sanitary provision, checkup, placement and accommodation at medical institutions, at the same time pregnant women or women with children, people under the age of 18, as well as persons in need of medical care are provided with special medical care.

As well as opportunity is created for elderly people, children, disabled persons, persons with low income and who lost heads of their families, persons obtained refugee status to receive necessary medicine and medical care in a way prescribed by law.

b. State Migration Service has not received any information about sexual and gender-based violence against, abuse and exploitation of migrants on transit until today.

Moreover, in order to abolish all forms of discrimination on gender, to create equal opportunities for men and women in political, economic, cultural and other fields of public life, to guarantee gender equality (as well as among foreigners and stateless persons) Law of the Republic of Azerbaijan “On Guarantees of Gender (Men and Women) Equality” was adopted on October 10, 2006.

c. State Migration Service of the Republic of Azerbaijan has not received any application by both foreigners and stateless persons and citizens of the Republic of Azerbaijan regarding protection and provision of interests of children on transit travelling with or without parents/guardians.

According to the Law of the Republic of Azerbaijan "on the Rights of the child", Convention on "the Rights of the Child", as well as other laws and international agreements which the Republic of Azerbaijan is a party to, when assisting children their interests prevail and all the measures are conducted in order to protect rights and legal interests of them.

At the same time according to the Law of the Republic of Azerbaijan "On fight against trafficking in human beings" 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.

If the victim of human trafficking is willing to leave the boundaries of the Republic of Azerbaijan, the person is assisted in obtaining relevant documents, covering costs related with transportation and other expenses, advised on eradicating danger of becoming trafficking victim in the country of destination, as well as, if possible, provided with the contact details of law enforcement authorities, non-governmental organizations, lawyers and social welfare authorities which can be of help to him/her.

e. According to Administrative Offences Code of the Republic of Azerbaijan authorized officials of State Migration Service of the Republic of Azerbaijan can detain foreigners and stateless persons in an administrative order in case they violate rules of stay in the Republic of Azerbaijan or they avoid implementation of decision on administrative expulsion from the territory of the Republic of Azerbaijan. In this case foreigners and stateless persons can be detained in an administrative order for up to 24 hours in order to determine circumstances of the offence, as well as to establish his/her identification or up to 3 days in case of absence of identification documents of the perpetrator of the offence with the decision of the judge by the person who runs the case on administrative offence for residence without registration or illegal stay in the Republic of Azerbaijan, as well as for violating rules on stay in the country.

Foreigners and stateless persons are voluntarily or forcedly placed in Detention Centers for Illegal Migrants of State Migration Service functioning in Baku and Yevlakh cities in cases determined by the Migration Code.

According to the Migration Code foreigners and stateless persons are placed in compulsory order in the Detention Center for Illegal Migrants of State Migration Service up to 24 hours if there is a decision of State Migration Service on detention in administrative way; up to three days if there is a court decision on detention in administrative way; for the period indicated in decision, but not more than 6 months if foreigners or stateless persons are avoiding to leave the territory of the Republic of Azerbaijan or if there are sufficient grounds to assume such

avoidance, at the same time if they are to be expelled in accordance with the agreements on readmission of persons residing without authorization which the Republic of Azerbaijan is a party to, in a way and for the period defined by this Code in compliance with the court decision issued on the basis of appeal from State Migration Service.

f. In case a foreigner or stateless person is considered to be a victim of human trafficking according to the Law of the Republic of Azerbaijan "On Fight against Human Trafficking" administrative expulsion from the territory of the Republic of Azerbaijan is not applied on him/her for the period of 1 year.

In case a foreigner or stateless person assists the prosecuting authorities involved in criminal cases on human trafficking upon expiration of the period envisaged by the aforementioned Law administrative expulsion from the territory of the Republic of Azerbaijan is not applied on that person till the end of the prosecution.

Administrative expulsion from the territory of the Republic of Azerbaijan is not applied on minor victims of human trafficking.

Furthermore decision on expulsion is not applied with regard to foreigners and stateless persons who are granted refugee status.

Information inquiries are sent and necessary information is obtained through relevant databases, if there is necessity to run verification on identities of foreigners and stateless persons to be expelled from the territory of the Republic of Azerbaijan.

In case foreigners and stateless persons do not possess any identification documents (due to loss, hiding, etc.), relevant documentation is carried out and measures are taken towards verification of their identities by applying directly in case there is a relevant agreement between State Migration Service and competent government authorities of foreign countries, and in all other cases via Ministry of Foreign Affairs.

State Migration Service issues travel document to foreigners and stateless persons who do not possess border crossing documents in cases envisaged by international agreements of the Republic of Azerbaijan, as well as in case it is not possible to obtain border crossing document from countries of origin for those persons.

When foreigners or stateless persons are expelled from the Republic of Azerbaijan, they are escorted by the representatives of the State Migration Service till the border checkpoints of the Republic of Azerbaijan and handed over to the employees of the State Border Service at the crossing points of the state border.

B. State Migration Service of the Republic of Azerbaijan was established with the Decree of the President of the Republic of Azerbaijan dated

from March 19, 2007 "On Establishment of State Migration Service of the Republic of Azerbaijan" in order to implement state policy in the migration field, develop management system, regulate and forecast migration processes, as well as coordinate activity of relevant state agencies in this field .

State Migration Service sets its activity on principles of respect to human and civil rights and freedoms, rule of law and humanism, participates in preparation and implementation of activities for prevention of illegal migration in cooperation with relevant state agencies. Moreover, investigating cases on violation of migration legislation takes measures together with relevant state agencies in order to reveal illegal migrants and prevent illegal migration by transferring data on them via Unified Migration Information System of State Migration Service of the Republic of Azerbaijan to "Entry-Exit and Registration" interagency automated data-search system.

a. One of the forms of migration processes management is keeping migration record of foreigners and stateless persons. It is directed towards ensuring rights and freedoms of each foreigner and stateless person, legally residing in the territory of the Republic of Azerbaijan, which are defined by the Constitution of the Republic of Azerbaijan, on free movement, choosing place of stay and residence in the territory of the country, etc., as well as implementation of national interests of the Republic of Azerbaijan in migration sphere and prevention of illegal migration.

According to Article 339 of the Administrative Offences Code of the Republic of Azerbaijan foreigners and stateless persons are fined in the amount from 300 manats up to 400 manats either with or without application of administrative expulsion from the territory of the Republic of Azerbaijan for violation of rules on stay, residence in the Republic of Azerbaijan or transit passing through the territory of the Republic of Azerbaijan.

Every year implementation of relevant activities is continued by employees of State Migration Service of the Republic of Azerbaijan in order to prevent illegal migration, including violation of rules on stay and residence in the Republic of Azerbaijan by foreigners and stateless persons. In 9 months of 2015 **20.400** cases on violation of administrative legislation by foreigners and stateless persons were revealed as a result of implemented activities. Residence of more than **1560** persons in the country was legalized due to existence of relevant ground, decisions were adopted on administrative expulsion from the territory of the country on **3708** foreigners. At the same time voluntary departure from the territory of the Republic of Azerbaijan of more than **15 000** migrants illegally resided in the territory of the country was ensured.

According to Article 318-1 of the Criminal Code of the Republic of Azerbaijan on organization of illegal migration following punishments are envisaged for organization of foreigner's or stateless person's illegal arrival in the Republic of Azerbaijan, illegal stay in the territory of the Republic of Azerbaijan,

illegal transit passing through the territory of the Republic of Azerbaijan or illegal departure of any person from the Republic of Azerbaijan: a fine in the amount from 2 000 manats up to 5 000 manats or correctional activities up to 2 years or imprisonment up to 3 years, in case the same actions is perpetrated by organized group, by official using his/her service position, in a way which is dangerous for human life and repeatedly, imprisonment from 2 years up to 5 years either with or without application of deprivation from holding certain position or involvement in certain activity.

b. According to the Migration Code of the Republic of Azerbaijan unless otherwise is envisaged by the law or 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. Foreigners and stateless persons 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.

Unless otherwise is envisaged by the legislative acts, refugees enjoy rights and freedoms of the citizens of the Republic of Azerbaijan and carry out same duties with them.

According to the Criminal Code racial discrimination (apartheid) is considered as a crime. The acts accomplished with a purpose of the organization and provision of superiority of one racial group for destroying of other racial group, denying of a members right of racial group or groups on life and freedom, that is murder of members of racial group or groups, drawing of heavy harm to their health or serious harm to mental faculties, torture or cruel, inhuman or degrading treatment, realization of any legislative or other action with a purpose of hindrance to participation of racial group or groups in political, social, economic and cultural life of the country, to development of such group or groups by denying belonging of rights and freedom of a person, including a right to work, creation of trade unions, education, departure and entrance to the country, citizenship, a freedom to move and choose residence, of expression and speech, associations and assemblies, to members of this group or groups and etc. creates criminal liability.

The Republic of Azerbaijan acceded to "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" with a purpose of protection of all individuals from torture and other cruel, inhuman or degrading treatment and punishment and increasing effectiveness of campaign regarding with these issues, as well as "International Convention on the Elimination of All Forms of Racial Discrimination" in order to succeed in encouraging and development of universally respected fundamental human rights and freedoms regardless of race, gender, language, religion.

No application on acts of commitment regarding with xenophobia, racism and religious intolerance against migrants in the Republic of Azerbaijan was received by the State Migration Service.

c. Definition of migrant smuggling does not exist in the legislation of the Republic of Azerbaijan.

According to the Article 318 of the Criminal Code on illegal border crossing, crossing of protected state border of the Republic of Azerbaijan without established documents or outside of check points of state border establishes criminal liability.

Note: Foreigners and stateless persons arriving in the Republic of Azerbaijan with a purpose of obtaining refugee status may apply to the State Migration Service for receiving refugee status even without any identification documents. Thus, according to the paragraph 1 of the "Rule of processing application on obtaining refugee status" approved by the Decree of the President of Azerbaijan Republic dated from November 13, 2000 person willing to obtain refugee status who doesn't have relevant identity documents or grounds for entering to the territory of the Republic of Azerbaijan passes identification and dactyloscopy procedures. Information about such people immediately is sent to the Ministry of Foreign Affairs of the Republic of Azerbaijan.

Besides, according to the Article 318-1 of the Criminal Code on organization of illegal migration criminal liability was envisaged for illegal arrival, stay, transit of foreigners and stateless persons or organizing illegal departure of any individual from the Republic of Azerbaijan.

d. No information about migrants, who died, injured or became victim of crime while trying to cross international borders, was received by the State Migration Service.