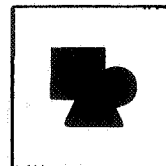


Dansk Flygtningehjælp

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ARMENIEN (85)

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TELEFAX

Dato: 09-03-01

Til: Flygtningenævnet, att.: Egil Husum

Fax nr.: 33 91 94 00

Fra: Claus Juul

Vedr: Dansk Flygtningehjælps forespørgsel til UNHCR om azeriers tilbagevenden til Armenien

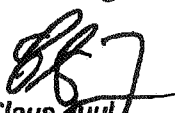
Antal sider: 5 Inklusive denne forside.

Meddelelse: Kære Egil Husum

Ved fax af 22. februar 2001 fremsendte jeg kopi af Dansk Flygtningehjælps høring af s.d. til UNHCR vedrørende azerier i Armenien.

Jeg fremsender hermed UNHCRs memorandum af 28. februar 2001 samt UNHCRs svar af 7. marts 2001.

Med venlig hilsen


Claus Juul
Asylafdelingen

Tlf: 33 73 52 63

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UNHCR Memorandum

A/To: Thomas Birath, Representative, UNHCR BO Yerevan
Lawrence Mgbangson, Protection Officer, UNHCR BO Yerevan
De/From: Bayisa Wak-Woya, Senior Legal Officer, Bureau for Europe
Dossier/File Code: bww/2001/08
Date: 28 February 2001
Objet/Subject: returnability of ethnic Azeris to Armenia

Dear colleagues;

As promised, please find below the series of questions I said would raise in order for the Bureau to draw guidelines regarding the group under discussion. In view of the fact that some asylum countries are anxiously awaiting for the reply, I would highly appreciate if you could prepare the draft and send it to me at your earliest convenience.

Please note that all the issues raised in the questionnaire are referring to situation in Armenia after it gained independence.

THE QUESTIONS:

1. In UNHCR's opinion, what is the current approximate number of ethnic Azeris who remained in Armenia? Any approximate figure of mixed couples?
2. Do you think that ethnic Azeris who remained in Armenia for reasons of ill health, or marriage, face any sort of discrimination by the authorities and / or the community? Or do they enjoy the same rights similar to ethnic Armenians, including access to citizenship?
3. Can an ethnic Azeri who migrated from Armenia for whatever reason and sought asylum abroad can return to his/her places of origin in Armenia? If yes, can s/he upon return be granted the same rights (including access to citizenship) and obligations similar to other citizens who remained?
4. Is it possible for an ethnic Armenian who lived all his life in Azerbaijan, (and possibly migrated from there) to return to Armenia, even though s/he is not in a possession of Armenian citizenship?
5. Is it possible for an ethnic Armenian, without Armenian citizenship, to return to Armenia with his/her spouse of Azeri origin with no Armenian citizenship? Would the return be easier (for the couple) had the spouse who is ethnic Armenian has already been granted Armenian citizenship?
6. Is there a case known to UNHCR where ethnic Azeris have been repatriated to Armenia with or without the assistance of UNHCR? If yes, how are they treated both by the government and the community?
7. In some of the reports, it is repeatedly stated that, ethnic Azeris who remained in Armenia "do not face much difficulty... due to their low profile and/or concealed ethnicity". What will happen if an ethnic Azeri refused to conceal and wanted to express his/her views as a minority? Any known case to UNHCR?
8. Any other points you would like to add.

Best regards.

cc: Karrenbrock, Dureaux, Ljungdel, Brandt, Leye, Sherif-Nor

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07 March, 2001

TO: Mr. Bayisa Wak-Woya, Senior Legal Officer, Bureau for Europe, HQs.
Thr. Mr. Thomas Birath, UNHCR Representative in Armenia.
FR: Lawrence Mgbangson, Protection Officer, UNHCR Armenia.

SU: Returnability of ethnic Azeris to Armenia.

Dear Mr. Wak-Woya,

Reference is made to your message as of the 28th of February 2001, in which you requested BO Yerevan to prepare answers to the questions you raised concerning the possible returnability of ethnic Azeris to Armenia. Please find the answers as follows:

1. The UNHCR BO Yerevan does not have a number of mixed Azeri/Armenian couples or Armenian citizens of ethnic Azeri origin who might presently be living in Armenia. The figure quoted in the Eligibility Guidelines of 6th June 2000 is "speculative" as there are no proper registration system in the country, as well as no research conducted either by the Armenian government, UNHCR or an independent expert on this subject. On the 2nd of March 2001 UNHCR had some discussions with Directors of three local NGOs working in the areas of human rights (Fund Against Violation of Law (FAVL), Sakharov Foundation on Human Rights and Helsinki Association), to seek their opinion on the situation of possible mixed Armenian/Azeri couples or Armenian of Azeri origin living in Armenia. The NGOs were also blank

on the question of approximate figure of this group of people. One can question if it even exists and if it does, the number is so limited that it can not be described as a group. This BO has no record of any Azeri living in the country and has not been approached by anyone. This goes back until summer of 1997 when the present Representative arrived. Prior to that there are no records shown in Protection Unit that it was contacted by Azeris. Over the years a few cases for Emergency resettlement due to security reasons has been effectuated of Azeri refugees in the country. Four POWs who feared to return to their country of origin and presently an Armenian woman with two children from a mixed marriage with an Azeri husband, who deceased, are being proposed for resettlement. Besides these ICs no other Azeri asylum-seekers and refugees have been registered by this BO.

2. The ethnic Azeris who might remain in Armenia, either because of ill health or marriage combined with old age should be regarded as Armenian citizens according to the Article 10 of the Armenian Citizenship Law as of 24th of November 1995. According to this Article, citizens of the former Armenian Soviet Socialist Republic permanently residing on the territory of the Republic of Armenia are regarded as citizens of the Republic of Armenia.

Theoretically, all citizens of Armenia, including possible ethnic Azeris as well as other minorities living in the country are supposed to enjoy all the rights of Armenian citizenship as embedded in the Citizenship Law. As can be understood from what has been said about possible remaining of Azeris in the country, UNHCR has not recorded any case of discrimination by the Armenian authorities or by the population against Azeris who might remain in the country. UNHCR believes that the non-discrimination against this group is simply because it does not exist or the remaining Azeris are keeping low profile and are able to conceal their ethnic identity. (See: point 4.1 of the Eligibility Guidelines of June 2000.) In other words, if the ethnic Azeris are not able to keep low profile and are not able to conceal their ethnic identity, they may face discrimination or persecution.

3. A hypothetical question because they can not/should not return due to security reasons. In theory according to the paragraph 2 of the Article 13 of the Armenian Citizenship Law, a citizen who migrated from Armenia could be re-admitted into the country and return to his/her place of origin.
4. Reference is made to the question, whether an ethnic Armenian who lived all his/her life in Azerbaijan and wants to return to his/her "historical motherland", even though he/she is not in possession of Armenia citizenship. According to the provision of the Article 13 of the Citizenship Law, a person with no citizenship of the Republic of Armenia can be granted the citizenship of the Republic of Armenia without the condition of the term of residence (three years), if he/she is an Armenian by his/her origin and is residing in the territory of the Republic of Armenia. Again, if the person is not in possession of Armenian citizenship and wants to settle in Armenia, Article 21 of the Law on Legal Status of Foreigners (which covers also the stateless persons)

stipulates the possibility to grant to a foreigner or stateless person of Armenian origin the special status of residence, which is granted for a ten-year period. However, they are subjected to all immigration requirements applicable to all foreigners coming to Armenia. However the possibility to settle in Armenia for ethnic Armenians must be seen in its historical context. It gives a possibility for those Armenians who wish for emotional/historical reasons to settle in the newly independent Republic of Armenia. But it would be wrong to use this possibility as a pretext to "deport" any Armenian to the country. Particularly when they never previously have been in the country as well as they have no will to go there.

5. Theoretically and hypothetically, the return of the ethnic Armenians without Armenian citizenship or with his/her ethnic Azeri spouse is possible, although it should obviously not take place for severe risks involved. Their stay in Armenia is regulated by the Law on Legal Status of foreigners, as mentioned above. On the other hand, if the person has already acquired the Armenian citizenship his/her spouse is eligible to obtain Armenian citizenship under the requirements of Article 13 (point 1), which stipulates that a person with no citizenship of the Republic of Armenia can get the citizenship of the Republic of Armenia without the condition of the term of residence, if he/she marries a citizen of the Republic of Armenia.
6. UNHCR BO Armenia is not aware of any case where an ethnic Azeri repatriated to Armenia. If this were to happen, UNHCR believes that, such a person would face discrimination and most surely persecution.
7. If this report is to give answers to the concerns expressed by various governments regarding the question of return or re-entry into Armenia, Armenians of ethnic Azeri origin or mixed couples, one should bear in mind the following:
 - That theory and practice operate in different levels where practice may not necessary equal to theory.
 - That, in the past there was discrimination and persecution of ethnic Azeris and of mixed couples, where one spouse is an Azeri and the other Armenian. But this discrimination and persecution currently are not taking place because this group of people does not basically exist and the possible few are maintaining a low profile, and are able to conceal their ethnic background.

Best regards.

