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Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview of Right to Entry and Exit

In correspondence with the Research Directorate, a representative from the International Organization for Migration (IOM) office in Baku stated that "[e]ach citizen of the Azerbaijan Republic has the right to free exit from the country and entry into the country through the checkpoints" (IOM 21 June 2017). Articles 9.1 and 9.2 of the Migration Code of the Republic of Azerbaijan provide the following:

9.1 Every citizen of the Republic of Azerbaijan (hereinafter referred to as the citizen) is entitled the right to free entry to or exit from the country, by crossing the border checkpoints of the country.

9.2 No citizen may be deprived from the right to entry to and exit from the country. (Azerbaijan 2013)

2. Exit Procedures

Articles 10, 11, and 12 of the Migration Code provide the following:

Article 10 Enforcement of the right of a citizen to entry and to exit from the country

10.1 The right of a citizen to entry to and exit from the country is implemented through the passport of the citizen of the Republic of Azerbaijan. Issuance of the passport is regulated by an applicable law.

10.2 The right of a citizen working as a seaman at ships registered in the Republic of Azerbaijan and being used for the navigation purpose to entry to and exit from the country is implemented through the identification card of the seaman. Citizen [*sic.*], who individually exit from the country with the aim to reach to the ship where they work at, shall present together with the identification card of the seaman, the document certifying the existence of the seamen within a crew (an extraction from the designed registry of the ship) while crossing a border checkpoint. Issuance of the identification card of a seaman is regulated by an applicable law.

10.3 The right of a citizen of the Republic of Azerbaijan, who lost his/her passport abroad, whose passport is stolen or whose passport becomes useless, whose passports are invalid due to the end of the expiry date, and his/her child who is a citizen of the Republic of Azerbaijan and returns back to the Republic of Azerbaijan, who is under the age of 18 or who reached the age of 18 abroad, to entry to the Republic of Azerbaijan is implemented through an exit certificate to the Republic of Azerbaijan. Issuance of the exit certificate to the Republic of Azerbaijan is regulated by a pertinent law.

Article 11 Exit of a minor citizen from the country

11.1 Except the cases set forth in Article 11.2 of this Code, a minor citizen may exit from the country with his/her parents, adopter, guardian or custodian.

11.2 When the minor citizen exits from the country together with one of his/her parents, a written permission of the other parent, approved by a notary office shall be required. When the minor citizen exits from the country by yourself [*sic.*], written permission of his/her parents approved by a notary office shall be required. If the minor citizen is parentless, a written permission of his/her guardian or custodian, approved by a notary office, shall be required. If any of those persons does not give his/her permission, the exit of the minor citizen shall be decided through a court rule.

11.3 If there is the certificate of death of one of the parents of the minor citizen, a court ruling on the declaration of one of the parents as a dead or missing person or on deprivation of his/her from parenthood, or a certificate approving that the data on the father included in the record of the birth certificate granted by the competent executive authority were written on the instructions of the mother, the written permission of the other parent shall not be required. The minor citizen presenting the written permission of his/her other parent in addition to the mentioned documents, may exit from the Republic of Azerbaijan.

11.4 A minor who is a citizen of the Republic of Azerbaijan, adopted by foreigners or stateless persons, may only exit from the country in the order set forth by the applicable laws and regulations, by presenting the court ruling on his/her adoption, entered into force, and the certificate on adoption.

11.5 The parents, adopters, guardians or custodians of the minor citizen who exists from the Republic of Azerbaijan are liable for his/her life and health, and for protection of his/her rights and legal interests abroad.

11.6 When minor citizens exit from the country in a team form, without accompaniment of their parents, adopters, guardians or custodians, the leader of that team shall be liable for executing of the obligations of a legal representative.

Article 12 Exit of an incapable citizen

A citizen whose incapability is certified on the basis of an application by the parents, adopters, guardians or custodians approved by a notary office, may exit from the country with accompaniment of another adult person. (Azerbaijan 2013)

The IOM representative indicated that

[t]he passport is issued to persons having reached 18 in an order envisaged by the legislation, and in exceptional cases to citizens of the Azerbaijan Republic [who are] under the age of 18 and going abroad for [education], participation in international events, or medical treatment. The same rules/procedures apply for all entry/exits (by land, air, or sea). (IOM 21 June 2017)

In correspondence with the Research Directorate, a representative of the Embassy of Azerbaijan in Ottawa stated that "[a] valid passport and required documents (i.e. visa) by receiving country are required. The required documents do not differ depending on type [(land, sea, or air)] of travel" (Azerbaijan 16 June 2017).

2.1 Whether Passports are Scanned and Interviews Conducted

The embassy representative indicated that "[a]ll passports are swiped by border guards upon exit" (Azerbaijan 16 June 2017). The representative further indicated that interviews are not generally conducted for citizens exiting the country, "but interviews could be held under specific circumstances (i.e. suspicious acts or items, flagged persons, etc.)" (Azerbaijan 16 June 2017). The IOM representative stated that

[n]ormally, no interview is conducted by officials [for citizens] leaving the country, only in suspicious cases or if the individual [did not] declare the cash excessed amount or permitted quantity of jewelry, etc. According to the rules of Central Bank of Azerbaijan Republic, residents may export hard currency in an amount up to the equivalent of USD 10,000 [approximately 17,000 Azerbaijani New Manat] without any documentation, except a declaration to the customs authorities. (IOM 21 June 2017)

3. Entry and Exit Registration Systems in Azerbaijan

The International Centre for Migration Policy Development (ICMPD) [1] reports that "all those who exit and enter Azerbaijan are registered through [the Entry-Exit and Registration Interagency Automated Information Search System (IAMAS)]" (ICMPD Oct. 2016, 22). The IOM representative similarly stated that "[d]ata related to the entry and exit of all citizens is always stored at Interagency Automated Information-Retrieval System by State Border Service. These procedures cover all citizens regardless of their passport type" (IOM 21 June 2017).

ICMPD further reports that IAMAS is operated by the State Border Service of the Republic of Azerbaijan (SBS) at airports and border crossings and that it

stores data and biometric information on both Azerbaijani and foreign nationals, and [has] several sub-systems on various areas such as national identity cards, passports, visas, residence permits, registration of vehicles, border alert lists, INTERPOL alerts, etc. (ICMPD Oct. 2016, 16)

A 2012 article published on ABC.AZ, an Azerbaijani business information and news portal (ABC.AZ n.d.), indicates that

IAMAS infrastructure covers state bodies connected to it, departments on registration and issuance of IDs by police bodies, structure conducting registration on domiciliary, regional passport centers of police bodies, border control points, Azerbaijan's diplomatic representative bodies and councils. (ABC.NZ 16 Jan. 2012)

The same source further explains the functioning of IAMAS as follows:

Through IAMAS one can arrange, check and analyze IDs, passports, visas and other documents in electronic form, provided by the system charter, through entrance of private information about citizens, their biometric data, marital status, etc. on special forms, the automatic record of which is conducted by "Accounting form" resource.

Private information about citizens, recorded in forms, is sent to IAMAS's local server and then transferred to the complex of central servers.

The image of citizens' faces and other biometric information provided by legislation is received through stationary or mobile scanners of IAMAS. The faces are identified on the basis of biometric information included in "Azerbaijani Republic citizens" resource on individual identification numbers in IAMAS which is also integrated with State registry of Azerbaijani population and "Electronic Health Card" system which enables automatic check of information accuracy.

The information not presented in application form but required for ID reception is taken in electronic form (synchronized) from information systems connected to IAMAS and included in Azerbaijani citizens registry. (ABC.AZ 16 Jan. 2012)

Article 9.6 of the Migration Code provides the following:

9.6 Information on the citizens whose right to entry to and exit from the country is restricted shall be included in restriction registries of automatized information and research system and the active status of the information shall be changed if pertinent grounds are eliminated. (Azerbaijan 2013)

3.1 Registration of Citizens Living Abroad

The website of the Ministry of Foreign Affairs of Azerbaijan indicates that one of the ministry's "main duties" in relation to migration is "to keep the register of Azerbaijani citizens who live in foreign countries on a permanent or temporary basis" (Azerbaijan 26 Feb. 2013). Article 13 of the Migration Code provides the following:

Article 13 Registration of citizens who exit from the country to reside abroad temporarily or permanently by consular offices

13.1 Citizens who exit from the country to reside abroad temporarily or permanently are registered with the pertinent consular office of the Republic of Azerbaijan abroad through the Interoffice Automatized Information and Research System for Entry/Exit and Registration. The citizens residing in the foreign countries (territories) where there are not any consular offices of the

Republic of Azerbaijan may provide information on their places of residence electronically to pertinent executive authorities.

13.2 When the citizens annul their registrations on their place of residence abroad and return back to the Republic of Azerbaijan, they shall be excluded from the registry by the consular office of the Republic of Azerbaijan abroad through the Interoffice Automatized Information and Research System for Entry/Exit and Registration. (Azerbaijan 2013)

4. Restrictions on the Right of Citizens of Azerbaijan to Exit the Country

Article 9.3 of the Migration Code provides the following:

9.3 The right of the citizen to exit from the country may only be restricted temporarily in the following cases:

9.3.1 If the citizen is arrested in compliance with the Criminal Procedural Code of the Republic of Azerbaijan or if any sanction is chosen about him/her, until his/her release, the termination date of the sanction or the termination of the sanction;

9.3.2 If the citizen is imprisoned, until his/her release from serving the main punishment determined in compliance with the Criminal Code of the Republic of Azerbaijan or his/her release from the punishment excluding the case set forth in Article 9.3.4 of this Code;

9.3.3 If medical obligatory measures are chosen about him/her in compliance with the Criminal procedural Code of the Republic of Azerbaijan, until the termination of application of the medical obligatory measures;

9.3.4 If s/he is sentenced provisionally, by charging him/her with the obligations set forth in the Criminal Code of the Republic of Azerbaijan or if s/he is released from serving his/her punishment provisionally earlier, respectively until the termination of the probation period or non-served part of the punishment, or until earlier and complete termination of the provisional sentencing or the charged obligations;

9.3.5 If he is recruited for limited compulsory military service, during the period of the limited compulsory military service or until being released from that service in compliance with the applicable laws;

9.3.6 If there is a court ruling on limited temporary restriction of the citizen to exit from the country due to the reason of non-execution of the executive document granted on the basis of a court ruling timely and without any justification, until a decision is made on the elimination of the restriction

9.3.7 According to international medical sanitary rules or the international agreements, during entry/exit to the countries where prophylactic vaccination is required - until implementation of the prophylactic vaccination. (Azerbaijan 2013)

An article about Azerbaijani reporters being prevented from leaving the country, published by the Institute for War and Peace Reporting (IWPR), cites lawyer Alaskar Mammadli as stating that suspects in investigations can be banned from leaving the country, but not those who are "liable to be called as witnesses" (IWPR 13 Jul. 2015). Meydan TV, "a non-profit digital media platform delivering independent news to Azerbaijan" (Meydan TV 13 Apr. 2017), that is based in Berlin (*FP* 18 Oct. 2016), similarly reports that "according to the law, witnesses in criminal cases cannot be banned from leaving" (Meydan TV 7 Mar. 2017).

Without providing further detail, the same source cites lawyer Fariz Namazli as indicating that entrepreneurs owing taxes can also be prevented from travelling abroad, but that in some cases, they can "attain the right to leave the country by going through the necessary procedures" (Meydan TV 7 Mar. 2017). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Whether Persons Wanted by Authorities Can Exit the Country

The IOM representative indicated that "[i]f the citizen is on the wanted list of authorities, [it is] most [likely that] he/she will not be able to leave the country. Certainly, [the citizen's] exit will be suspended/stopped by the system (i.e. Automated Information-Retrieval System)" (IOM 21 June 2016).

5.1 Reports of Persons Prevented from Exiting Azerbaijan

5.1.1 Persons Wanted by Authorities

Turan Information Agency, a news agency in Azerbaijan, citing an SBS press release, reports that the border service "detained 391 people declared wanted by passing them to the authorities" during the month of February 2016 (Turan Information Agency 14 Mar. 2016). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Azeri-Press Agency (APA), "an independent, private information agency" (APA n.d.), reports that in March 2017, Elgun Ismail Necat, an Azerbaijani citizen wanted by Interpol was apprehended by the SBS after he tried to illegally cross the border into Georgia (APA 22 Mar. 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5.1.2 Persons Involved in Ongoing Investigations

Human Rights Watch reports that from August 2015 to January 2016, activist "Nigar N." was not allowed to travel abroad while the prosecutor's office conducted an investigation into charges of illegal entrepreneurship and tax evasion concerning an organization she directed (Human Rights Watch 20 Oct. 2016, 43).

The same source reports that in April 2016, authorities opened a criminal investigation into Meydan TV (Human Rights Watch 20 Oct. 2016, 53). Sources further report that "at least seven" Meydan TV journalists (Human Rights Watch 20 Oct. 2016, 53), or "at least 15 freelance journalists who filed material with Meydan TV" (US 3 Mar. 2017, 26) were prevented from travelling abroad (Human Rights Watch 20 Oct. 2016, 53; US 3 Mar. 2017, 26). An article by openDemocracy, a non-profit "independent global media platform" (openDemocracy n.d.), reports that three journalists affiliated with Meydan TV, Sevinj Vagifqizi, Aytan Farhadova, and Izolda Aghaeva, were detained at the airport in Baku in September 2015 and informed that they were banned from leaving the country (openDemocracy 27 Sept. 2016). The same source cites Vagifqizi as noting that the travel ban was instituted because they had been called as witnesses in a criminal case against Meydan TV, and reports that another reporter, Natig Javadly, was also informed he was banned from travelling abroad when he was called as a witness in the same case (openDemocracy 27 Sept. 2016). A March 2017 Meydan TV article reports that 15 journalists were currently restricted from travelling abroad due to being witnesses in criminal cases (Meydan TV 7 Mar. 2017).

The openDemocracy article reports that a journalist subject to a travel ban, Guler Mehdizade, attempted to test the ban by crossing the Azerbaijan-Georgia border on 13 February 2016, but was turned back at the border (openDemocracy 27 Sept. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5.1.3 Persons with Suspended Sentences

The United States Department of State's *Country Reports on Human Rights Practices for 2016* reports that "[c]itizens charged with or convicted of criminal offenses but given suspended sentences were also not permitted to travel abroad" (US 3 Mar. 2017, 26). Amnesty International reports that human rights lawyer Intigam Aliyev was "unable to travel abroad without a special permission" after being given a five-year suspended sentence in March 2016 (Amnesty International 16 June 2016, 2). The Institute for Reporters' Freedom and Safety (IRFS), an NGO in Azerbaijan that "is committed to unlimited access to a diverse and independent news media" (IRFS 18 Dec. 2012), reports that while under an international travel ban after having his sentence suspended, Aliyev received permission to travel abroad for a ten day period in June 2016 (IRFS 5 June 2016).

Sources report that journalist Khadija Ismayilova was given a five-year travel ban in May 2016 following a suspension of her sentence (*The Guardian* 25 May 2016; Amnesty International 16 June 2016, 3; IRFS 8 Dec. 2016).

Radio Free Europe/Radio Liberty (RFE/RL) reports that on 11 March 2016, the Court of Appeals in Baku ruled that two human rights activists, Leyla Yunus and Arif Yunus, were not permitted to travel to Germany to seek medical treatment due to having suspended prison terms (RFE/RL 11 Mar. 2016). The same source indicates in an April 2016 article, however, that the two activists were later permitted by authorities to travel to the Netherlands (RFE/RL 20 Apr. 2016). Human Rights Watch reports that the two were allowed to leave after their health deteriorated while in prison (Human Rights Watch 20 Oct. 2016, 46).

Human Rights Watch also reports that a suspended sentence on drug charges issued in April 2016 for Nazim Agabeyov, brother-in-law of the founder of Meydan TV Emin Milli, included a travel ban (Human Rights Watch 20 Oct. 2016, 52). The US *Country Reports for 2016* similarly indicates that "Emin Milli's brother-in-law Nazim Agabeyov" was prevented from travelling outside of Azerbaijan (US 3 Mar. 2017, 26).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] The International Centre for Migration Policy Development (ICMPD) is "an international organisation with 15 Member States (Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, The former Yugoslav Republic of Macedonia, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Sweden and Switzerland)." It receives funding from its "Member States, the European Commission, the UN and other multilateral institutions, as well as bilateral donors" and holds UN observer status. Its purpose is "to promote innovative, comprehensive and sustainable migration policies and to function as a service exchange mechanism for governments and organisations" (ICMPD n.d.).

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