

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	349
Land:	Aserbajdsjan
Kilde:	European Commission against Racism and Intolerance (ECRI)
Titel:	Report on Azerbaijan (sixth monitoring cycle)
Udgivet:	21. juni 2023
Optaget på baggrundsmaterialet:	16. april 2024

ECRI REPORT ON AZERBAIJAN

(sixth monitoring cycle)



Adopted on 29 March 2023

Published on 21 June 2023

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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 8 December 2022; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fifth cycle report on 17 March 2016 on Azerbaijan, progress has been made and good practices have been developed in a number of fields.

In the field of inclusive education, human rights related topics have been integrated into the content of several subjects taught across curricula since 2020.

The authorities' efforts to regularise the legal status of migrants irregularly present in Azerbaijan, including awareness-raising events organised by the State Migration Service (SMS), and calls for legalising residence before the regional migration offices, have yielded positive results: the number of these persons in the country decreased by ten percent in 2021.

In order to counter online racist hate speech, the Law on Information, Informatisation and Protection of Information was amended in 2020 with a view to prohibiting Internet providers and individuals from distributing any information promoting violence, religious extremism or inciting hatred. Such illegal content must be now taken down and removed within eight hours.

Multiculturalism and tolerance are historically integral components of the Azerbaijani society and positive attitudes among the population towards people from diverse backgrounds, such as the Jewish community, are common.

The authorities have invested significant efforts into improving the integration and inclusion of migrants and their access to public services and benefits available to them. Among others, 24/7 toll-free helpline was set up and a special trilingual website was made operational.

The issuance of work and residence permits were also simplified and accelerated by electronic procedures. Migrant workers with permanent residence enjoy the same social protection rights as Azerbaijani nationals while refugees are entitled to access the labour market since 2020.

ECRI welcomes these positive developments in Azerbaijan. However, despite the progress achieved, some issues give rise to concern.

There is still not any comprehensive anti-discrimination legislation and effective legal remedies available to the victims. Concerns

related to the institutional independence of the Commissioner for Human Rights (Ombudsman) have also remained.

Despite the very low level of social acceptance of LGBTI persons, the authorities have not taken any initiative to increase awareness on LGBTI issues. Azerbaijan still does not have a LGBTI strategy or action plan to address in a comprehensive manner issues of discrimination and intolerance vis-à-vis LGBTI persons nor has any legal framework on legal gender recognition and gender reassignment.

Persistent adversarial narrative against Armenia, which is rooted in the context of the long-lasting conflict and confrontations related to Nagorno-Karabakh, have continued and the public discourse has been marked by the use of inflammatory rhetoric in public statements by politicians, including at the highest political level, and other public figures, as well as by the wide dissemination of hateful content, in traditional and social media.

Anti-LGBTI statements have become a common occurrence. The prevalence of stereotypes and prejudice against LGBTI persons have exposed them to hate motivated violence, which resulted in several fatal incidents.

There is still no systematic data collection on the number of reported incidents of racist (or LGBTI-phobic) hate crime, including criminal hate speech, and any police investigations, prosecutions and sentencing. The legal framework on hate speech falling within criminal law remains limited and criminal action is almost never taken. The legislation continues to lack provisions on hate motivations, including on motivation based on sexual orientation, gender identity or sex characteristics as an aggravating circumstance, which makes the responses of the Azerbaijani authorities to hate incidents and hate crimes not fully adequate.

Notwithstanding the steps taken by the authorities to strengthen the capacity in the area of integration of migrants and refugees, the current design of integration measures falls short of addressing the different needs of different target groups (refugees, migrant workers, temporary residents).

There is no reliable data about the inclusion of Roma even though their situation remains characterised by high levels of social exclusion and stigmatisation.

In this report, ECRI requests that the authorities take action in a number of areas and makes a series of recommendations, including the following.

The authorities should bring the competences, independence and effectiveness of the Commissioner for Human Rights (Ombudsman) fully in line with ECRI's revised General Policy Recommendation No. 2 on equality bodies to combat racism and intolerance at national level. This should be done by i) ensuring a transparent selection and appointment procedure of the Ombudsman; ii) establishing a separate unit or department within the structure of the Ombudsman's Office which is dedicated to deal with non-discrimination and equality related work and complaints; iii) increasing the capacity of the staff of the Ombudsman's Office, including those in regional offices, by providing them with ongoing training and developing awareness-raising activities on non-discrimination and equality.*

The authorities should adopt an effective general anti-discrimination legislation covering all grounds and all areas of life, in line with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and other ECRI standards on legislation to combat intolerance and discrimination on the grounds of sexual orientation, gender identity and sex characteristics.

The authorities should adopt and implement an action plan to address intolerance and discrimination based on sexual orientation, gender identity and sex characteristics. This plan should include the objectives of raising public

awareness about LGBTI people and their living conditions.

The current legal framework on gender recognition and gender reassignment should be amended with a view to bringing it in line with Council of Europe relevant standards.

Public figures, including high-level officials, politicians, and religious, economic and community leaders, should be strongly encouraged to take a prompt, firm and public stance against the expression of racist and LGBTI-phobic hate speech and react to any such expression with strong counter-speech messages and alternative speech.

The authorities should reinforce their responses against hate speech by setting up an inter-institutional working group to develop a comprehensive strategy to tackle effectively racist and LGBTI-phobic hate speech, including online.

The authorities should set up a comprehensive data collection system offering an integrated and consistent view of cases of racist and LGBTI-phobic hate speech and hate crime, with fully disaggregated data by category of offence, type of hate motivation, target group, as well as judicial follow-up and outcome and that this data is made available to the public. *

The authorities, in close cooperation with local authorities and civil society organisations, should adopt a comprehensive integration strategy for migrants, including persons who are seeking or have been granted international protection.

The authorities should evaluate the situation of the Roma community with a view to developing a Roma-specific strategy.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. In its last report (§ 20), ECRI strongly recommended that the authorities establish a separate specialised body to combat racism and discrimination in both the private and public sector. To date, this recommendation has not been implemented and there is still no such body in Azerbaijan which is in full compliance with ECRI's revised General Policy Recommendation (GPR) No. 2 on equality bodies to combat racism and intolerance at national level. However, some of the competences of an equality body are embedded in the mandate of the Commissioner for Human Rights (Ombudsman). The office was set up by the Constitutional Law on the Commissioner for Human Rights (Ombudsman) ("CLO") in 2001² as a typical ombudsman and functions as the only multi-mandated national human rights institution in the country. The Ombudsman has four regional offices in Northern, North-western, Western and Southern regional centres and the opening of a fifth regional office is planned in Shusha.
2. Azerbaijan does not yet have anti-discrimination legislation and effective legal remedies available to the victims, as recommended §§ 4 to 17 in ECRI's GPR No. 7 on national legislation to combat racism and racial discrimination.³ The authorities informed ECRI that a comprehensive anti-discrimination law was being prepared by the Government. Furthermore, they indicated that in 2022, the Office of the Ombudsman had proposed a legislative amendment to the CLO, empowering it to request information from any State agency on any alleged acts of discrimination.⁴ In January 2023, the draft amendments to the CLO proposed by the Ombudsman were still being examined in Parliament. ECRI encourages the authorities to finalise their work and take steps towards the adoption of an effective general anti-discrimination legislation as soon as possible. In this connection, ECRI invites the authorities to consider in due course adopting an action plan on preventing and combating discrimination with a view to ensuring the full implementation of the future legislation once it entered into force.
3. As indicated in ECRI's previous report (§ 19) and expressed by other international bodies, including the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD),⁵ concerns related to the institutional independence of the Ombudsman have remained. This is particularly due to the procedure for the selection and appointment of the Ombudsman,⁶ that is based on a presidential pre-selection power which lacks a transparent and participatory process. These shortcomings were also cited by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI)⁷ in 2018 while downgrading the Ombudsman from status "A" to "B", which signifies only partial

¹ The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

² Constitutional Law on the Commissioner for Human Rights (Ombudsman) (hereafter "CLO") as adopted on 28 December 2001. No further legislative changes have taken place since June 2011, when the CLO was revised with several legal amendments.

³ See ECRI (2016): §§ 10-16.

⁴ This proposal includes the possibility to request information from any State agency on any alleged acts of discrimination within five days of a report on the incident being made and setting out the obligation of the relevant agency to inform it of all measures taken in response to such acts.

⁵ UN Committee on the Elimination of Racial Discrimination (CERD) (2022a), Concluding observations on the combined tenth to twelfth periodic reports of Azerbaijan, 22 September 2022, CERD/C/AZE/CO/10-12; §§14-15. See similar United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR) (2021), Concluding observations on the fourth periodic report of Azerbaijan, 2 November 2021, E/C.12/AZE/CO/4; §§ 8-9.

⁶ As stipulated in Article 2 of the CLO.

⁷ GANHRI [Accreditation Status](#)

compliance under the UN Principles relating to the Status of National Institutions (Paris Principles).

4. As extensively covered in ECRI's last report,⁸ the Ombudsman has a wide range of powers and competences. However, its authority is limited to the public sector and does not cover the private sector. Since the Ombudsman is not entrusted with a specific equality mandate, it is competent in matters of discrimination only when examining complaints against public authorities as stipulated in its founding act.⁹ In addition, it can neither support judicial proceedings on behalf of persons who are exposed to discrimination nor undertake strategic litigation as per § 14 and 15 of GPR No. 2.
5. The Office of the Ombudsman has seen a steady increase in the number of complaints received in recent years: 20 400 cases in 2018, 25 500 in 2019 and 27 500 in 2020.¹⁰ However, there is no available data regarding the breakdown of cases on grounds of discrimination or groups affected by such cases. ECRI was informed that there were hardly any such cases in recent years. On a positive note, a 24/7 toll-free victim helpline (call centre 916) was set up in early 2020. This helpline was described as useful for reporting incidents during the Covid-19 pandemic.¹¹
6. ECRI notes that there is no separate department or unit within the Ombudsman's Office to deal with anti-discrimination and equality related work¹² and that its annual reports do not have a dedicated chapter on discrimination cases. During its contact visit, the ECRI delegation was informed by the representatives of the institution that there was an interest among staff in having a specific equality and non-discrimination mandate and receiving further training¹³ to increase their awareness and capacity on issues pertaining to these fields. ECRI understands that pursuant to Article 17 of the CLO, the Ombudsman decides on the structure and staffing needs of the Office of the institution. Accordingly, without any changes to the CLO, the Ombudsman might consider restructuring its current office with a view to strengthening its equality and non-discrimination mandate. This could, for instance, be done through setting up a new department.¹⁴ However, a mandate to cover the private sector might require specific legislative measures.
7. Against this background, ECRI considers that action is required with a view to ensuring that the Ombudsman has an explicit mandate and the necessary competences in the promotion of equality and the fight against racism and discrimination in all areas. In ECRI's view, should such an expansion of its mandate be possible, the relevant co-operation and advisory structures established at the Ombudsman's Office could help to develop more synergies with civil society organisations, while the regional offices of the Ombudsman could engage in systemic awareness raising activities covering their respective regional population and support victims in ensuring their effective access to justice. The delegation of ECRI was able to observe for itself the positive engagement of the Ombudsman during the visit to its Ganja office.

⁸ ECRI (2016): §§ 18-20. See also Article 13 of the CLO.

⁹ According to Article 1.1 of the CLO, the Ombudsman is tasked to restore the human rights and freedoms enshrined in the [Constitution of Azerbaijan](#) and in the international treaties to which Azerbaijan is a party. Article 8.1. of the CLO further stipulates that the Commissioner shall examine complaints on violations of human rights from citizens of Azerbaijan, foreigners and stateless persons, as well as legal entities.

¹⁰ [Annual Reports](#) of the Ombudsman.

¹¹ [2020 Annual Report](#) of the Ombudsman.

¹² Such cases are dealt by the Human Rights Protection Department.

¹³ ECRI was informed that the staff of Ombudsman's office had training course on European anti-discrimination standards.

¹⁴ According to the authorities, the draft amendments to the CLO foresee the establishment of a separate department or unit within the Ombudsperson's Office to deal with anti-discrimination and equality-related work.

8. ECRI strongly recommends, as a matter of priority, that the authorities bring the competences, independence and effectiveness of the Commissioner for Human Rights (Ombudsman) fully in line with ECRI's revised General Policy Recommendation No. 2 on equality bodies to combat racism and intolerance at national level. This should be done by i) ensuring a transparent selection and appointment procedure of the Ombudsman; ii) establishing a separate and properly resourced unit or department within the structure of the Ombudsman's Office which is dedicated to deal with non-discrimination and equality related work and complaints; iii) increasing the capacity of the staff of the Ombudsman's Office, including those in regional offices, by providing them with ongoing training and developing awareness-raising activities on non-discrimination and equality.
9. ECRI recommends in this connection that the authorities adopt an effective general anti-discrimination legislation covering all grounds and all areas of life, in line with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and other ECRI standards on legislation to combat discrimination on the grounds of sexual orientation, gender identity and sex characteristics. The legislation should also provide for effective, proportionate and dissuasive sanctions for discrimination cases. If necessary, Council of Europe support should be sought.

B. Inclusive education

10. This section deals with education policies¹⁵ whose aims are to combat exclusion and marginalisation through an inclusive education devised for all, and to create a tolerant multicultural society in accordance with sections II and III of ECRI's GPR No. 10 on combating racism and racial discrimination in and through school education.¹⁶
11. In its GPR No. 10, ECRI recommends that human rights education is an integral part of the school curriculum at all levels and across all disciplines. ECRI notes that the Law of the Republic of Azerbaijan on Education (Article 4) defines respect for human rights and liberties as one of the main goals of education. While there is no separate human rights class taught across curricula, since 2020¹⁷, some human rights related topics have been integrated into the content of several subjects, such as 'knowledge of life', language, literature, history and geography, as well as into extracurricular activities, at the general education level (schooling up to age 14).
12. The authorities informed ECRI that human rights are addressed in several training courses for teachers and that teachers have participated in projects, such as "Enhancing the Knowledge of Teachers on Inclusive Education" between 2018 and 2020.¹⁸ Furthermore, the Baku International Multiculturalism Centre held training sessions for teachers on multiculturalism in 2021 and a special training programme¹⁹ on conflict resolution was carried out in the same period in order to increase teachers' skills to work in multicultural settings, of which ECRI takes positive note. However, considering the sporadic nature of these initiatives, ECRI recalls that human rights should be an integral part of teachers' initial and in-service training and be provided in a systemic and sustainable manner. During its visit to a youth centre in Ganja, the delegation of ECRI heard similar considerations from

¹⁵ This section relates to education for all children and young people. Specific measures for the education of migrants and children belonging to minority groups are dealt with under the heading of integration and inclusion.

¹⁶ ECRI General Policy Recommendation N°10 on combating racism and racial discrimination in and through school education.

¹⁷ State Standards on General Education in the Republic of Azerbaijan (Resolution No. 361 of the Cabinet of Ministers, 29.9.2020).

¹⁸ This Project was jointly implemented by the Ministry of Education, UNICEF, and Regional Development Union and approximately 1100 primary school teachers, 250 principals, and 400 professors were involved in inclusive education trainings. The authorities also informed ECRI on the State Program on Development of Inclusive Education for Persons with Disabilities (2018-2024). ECRI notes that the ground of disability is not covered under ECRI's mandate.

¹⁹ More than 5 000 primary and secondary school teachers participated to this special programme – 'Classroom Management' training programme- across the country.

the representatives of youth organisations who also emphasised the necessity to well-equip both pupils and teachers on human rights education.

13. Several interlocutors have expressed concerns to ECRI about the presence of discriminatory language in school textbooks, particularly against Armenians, as had been also pointed out by the Council of Europe's Commissioner for Human Rights²⁰ and the CERD²¹. In this context, ECRI is deeply concerned that the use of hate speech linked to the long-lasting conflict and confrontations with neighbouring country Armenia, has been observed among young people in and outside schools and could eventually provide a breeding ground for further hostilities. Given the crucial role of schools in the transmission of social skills and fundamental values, such as human dignity, tolerance and respect for others, ECRI considers that there is a need to engage with the younger generation through an education that promotes the very idea of human rights. Furthermore, in view of the multi-ethnic, multicultural and religiously diverse composition of the Azerbaijani population, ECRI deems it essential that the authorities increase their efforts to raise public awareness on the importance of the diversity and plurality of society. In doing so, teaching materials should be free from any discriminatory content and reviewed to reflect diversity in the Azerbaijani society while history teaching should provide a narrative that foster an equality culture. In this regard, ECRI strongly encourages the authorities to take steps towards Azerbaijan's membership in the Observatory on History Teaching in Europe.
14. ECRI recommends that the authorities adopt suitable measures in the education system with a view to tackling all forms of racism and intolerance and involving the youth in the development of a diverse and inclusive society. In particular, they should: i) include human rights education in the mandatory parts of school curricula; ii) provide initial and in-service teacher training on issues relating to human rights; and iii) remove any references reinforcing prejudice, stereotyping or other discriminatory content from school textbooks. In this regard, the authorities should draw inspiration from its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
15. Reports indicate that bullying in schools in Azerbaijan remains an issue. According to the results of the OECD Programme for International Student Assessment (PISA) of the Organisation for Economic Co-operation and Development (OECD) in Baku, 36% of students reported having been bullied at least a few times a month, compared to 23% on average across OECD countries.²² Referring in particular to bullying on the grounds of sexual orientation, gender identity or sex characteristics, it is reportedly common for students to insult each other using LGBTI-phobic insults.²³ A case was reported by civil society organisations about a teenage girl who committed suicide as a result of such remarks at school.²⁴ In this regard, ECRI stresses that providing factual, non-stigmatising information on sexual orientation and gender identity is imperative to preventing and combating LGBTI-phobia, at school and beyond, and to creating a safer and more inclusive learning environment for all.²⁵ In ECRI's view, this is particularly important in a country where the social acceptance of LGBTI persons is significantly low (see section I.D below).

²⁰ Council of Europe (CoE), Commissioner for Human Rights (CommDH) (2021), Memorandum on the humanitarian and human rights consequences following the 2020 outbreak of hostilities between Armenia and Azerbaijan over Nagorno-Karabakh, CommDH(2021) 29, § 84.

²¹ UN Committee on the Elimination of Racial Discrimination (CERD) (2022a), *op.cit.*, §§ 34-35.

²² OECD, Programme for international student assessment (PISA), Results from Pisa 2018, Country note Baku (Azerbaijan): 6.

²³ Global Voices (2021a); Mahmudova, L. (2019); ILGA (2022a).

²⁴ Minority (2019); ILGA (2020).

²⁵ See similar, United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR) (2021), *op.cit.*, § 47; LGBT Azerbaijan Alliance/Minority Azerbaijan/AZAD LGBT Collective (2019): 10-11; Nafas LGBT Azerbaijan Alliance (2019): 3, 11.

16. The authorities informed ECRI that, while there is no system in place to monitor racist incidents at schools, several programmes, such as the project “Friend of Pupil”²⁶ has been implemented, which ECRI considers as **a promising practice**. Being aware of the pernicious effects of hate-motivated bullying, where it exists, and the potential harm to victims as well as to their families and broader communities, ECRI considers that a robust mechanism to monitor and counter such incidents could be a very useful contribution to preventing hatred and, building on the already existing projects such as ‘Friend of Pupil’, provide helpful information and guidance to pedagogical staff. Moreover, ECRI notes that the Ombudsman could also possibly play a positive role in the prevention of bullying in schools in view of the cases it has already examined on the matter.²⁷
17. ECRI recommends that the authorities set up a system to monitor and counter racist and anti-LGBTI incidents in schools.

C. Irregularly present migrants

18. In its GPR No. 16²⁸ on safeguarding irregularly present migrants from discrimination, ECRI calls for the creation of effective measures (“firewalls”) to ensure the fundamental human rights of irregularly present migrants in fields such as education, health care, housing, social security and assistance, labour protection and justice. Such firewalls should separate the activities of immigration control and enforcement from the provision of services, so that irregularly present migrants do not refrain from accessing their rights due to fear of deportation (see in particular §§ 3, 11 and 12 of GPR No. 16).
19. According to the authorities’ database, the Unified Migration Information System (UMIS),²⁹ as of July 2022, the number of “irregular migrants” in Azerbaijan was 5 517. The majority of them are from Georgia, Iran, the Russian Federation, Turkey and Ukraine. They have mainly come to work or for family reunification.
20. The authorities informed ECRI about their efforts to regularise the legal status of migrants irregularly present in Azerbaijan. These include awareness-raising events organised by the State Migration Service (SMS) across the country and calls for legalising residence before the regional migration offices, which allegedly led to a ten percent decrease in the number of these persons in 2021.
21. While “reporting firewalls” exist between the Ministry of Education and the State Migration Service about the migration status of children,³⁰ several interlocutors stated that parents with an irregular migration status do not send their children to school for fear of detection by the authorities dealing with migration issues.³¹ ECRI invites the authorities to ensure that all children, irrespective of their status, enjoy access to education.
22. Despite recent international reports pointing to the lack of information about the “firewalls” in access to healthcare,³² the authorities stated that there is a “reporting firewall” between the healthcare providers and the State Migration Service and that

²⁶ According to the authorities, currently the project covers 226 general education institutions in Baku and the Absheron peninsula by which its independent experts communicate with students on a regular basis and provide necessary assistance.

²⁷ The Commissioner for Human Rights (Ombudsman) (2021), 2020 Annual Report, p. 54 (Case no. 1606-20).

²⁸ See §§ 3, 4, 11 and 12 of the GPR and §§ 3, 4, 11 and 12 of its Explanatory Memorandum.

²⁹ Unified Migration Information System (UMIS) is a database on foreigners and stateless persons temporarily staying, working and residing in the country, including those irregularly present in the country.

³⁰ ECRI notes that the Constitution of Azerbaijan guarantees the right to education only to its citizens (Article 42) and that the legislative framework guarantees access to education only to migrant workers in a regular situation and members of their families. The authorities indicated that no information on migrant status of both children and their parents is shared between the Ministry of Education and the State Migration Service.

³¹ See similar UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) (2021), Concluding Observations on Azerbaijan, 2 November 2021, CMW/C/AZE/CO/3; § 47.

³² Ibid; § 43.

migrants may have access to emergency and specialised medical care without any restriction or discrimination. ECRI was also informed that during the Covid-19 pandemic, vaccines were made available to everyone in the country irrespective of their migration status, which ECRI welcomes.

23. Although a National Action Plan for the Prevention of Informal Employment was adopted by a presidential decree in 2017, informal employment in the country remains high, which was also already underlined in ECRI's last report. It was brought to ECRI's attention that migrants irregularly present in Azerbaijan, who are mostly employed in construction and domestic work, often find themselves vulnerable to serious forms of exploitation. ECRI notes with concern that the Code of Administrative Offences penalises, along with their employers, migrant workers in an irregular situation who engage in labour activity without the necessary work permit, even though it is the obligation of the employer to obtain it.³³ It should be noted that in a recent judgement in 2021, the European Court of Human Rights found Azerbaijan in violation of Article 4 (forced labour) holding that the authorities failed to conduct effective investigation into the arguable claims made by migrant workers – who were in an irregular situation – of cross-border human trafficking and forced labour.³⁴
24. The authorities indicated that there is a “reporting firewall” between the courts and the State Migration Service. However, ECRI remains concerned about reports, as also expressed by the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) in 2021,³⁵ that migrants irregularly present in Azerbaijan may not resort to legal remedies for fear of losing their employment, being detained or facing expulsion if they approach a court. Recalling § 30 of its GPR No.16³⁶, ECRI considers that the authorities should refrain from threatening irregularly present migrants with expulsion in cases of exploitative labour conditions and take robust action to counter such cases.
25. ECRI recommends that the authorities establish effective mechanisms to allow migrant workers who are irregularly present in Azerbaijan to lodge complaints in respect of labour standards against employers and obtain effective remedies without the risk of their personal data or other information being shared with immigration authorities for the purposes of immigration control and enforcement.

D. LGBTI equality³⁷

26. There are no official data on the size of the lesbian, gay, bisexual, transgender and intersex (LGBTI) population and their living conditions in Azerbaijan. On the Rainbow Europe Map 2021 reflecting European countries' legislation and policies guaranteeing the human rights of LGBTI persons, Azerbaijan remained in the last place out of 49 countries scored, with an overall score of 2.41%.³⁸ ECRI regrets to note that there has not been any tangible improvement regarding the equality and access to rights of these persons in the country.
27. The information gathered by ECRI reveals the persistence of stereotypes about LGBTI people in Azerbaijan and the lack of awareness on this issue in society at large.³⁹ An international research report published in 2021 lists Azerbaijan as one

³³ The employer must pay the annual fee of AZN 1 000 (about 595 Euros) per employee for obtaining work permits.

³⁴ *Zoletic and Others v. Azerbaijan* (no. 20116/12, 7 October 2021). This case concerned 33 undocumented migrants from Bosnia and Herzegovina who worked at state construction sites in Baku. The execution of this judgement is pending and according to the [last update](#), the Azerbaijani Government is expected to send an Action Plan.

³⁵ UN CMW (2021), *op.cit.*, §§ 27-28; See also UN CERD (2022a), *op.cit.*: §§ 32-33 for similar concerns on access to justice.

³⁶ Recommendation 30 of ECRI's GPR No. 16 and Explanatory Memorandum thereto. See also ECRI's GPR No. 14 on combating racism and racial discrimination in employment and UN CMW (2021), §§ 61-62.

³⁷ For terminology, see the definitions set out in ECRI's Glossary.

³⁸ [Country Ranking | Rainbow Europe \(rainbow-europe.org\)](#).

³⁹ ILGA-Europe (2022a); Eurasian Coalition on Male Health (2019):9-10.

of the least “socially accepting” countries for LGBTI people and it seems that the society has become even more intolerant over the years.⁴⁰ Especially in rural areas, oppressive social norms and exacerbating pressure from family are prevalent, and being LGBTI remains a major taboo and is considered as “unacceptable and horrifying”, as some of ECRI’s interlocutors put it during the visit.

28. Hence, a vast majority of LGBTI people still prefer to hide their sexual orientation or gender identity and to keep a low profile in order to avoid social stigma, hate speech and violence.⁴¹ Although there seems to be a slightly more tolerant atmosphere for LGBTI persons in Baku, where they can live more anonymously and get in touch with other members of the LGBTI community, overall few LGBTI people in Azerbaijan are open about their sexual orientation and most are not visible as such to the outside world. In an online survey conducted in 2021, only 12.5% of respondents said that their colleagues knew about their sexual orientation, and only 8.5% of them said that their parents knew.⁴²
29. Despite ECRI’s observations in its fifth report (§ 84), no legislative or policy measures have been taken to ensure the equality of LGBTI people. Sexual orientation, gender identity and sex characteristics are still not set down in any legislation in Azerbaijan as specific grounds on which discrimination is prohibited.⁴³ Same-sex couples do not have any kind of legal recognition, in the form of either civil partnerships or same-sex marriages.
30. In the absence of anti-discrimination legislation or any sectoral legislation (for example in the areas of employment or health), discrimination against LGBTI people is reported to be a regular occurrence. According to civil society organisations, the Covid-19 pandemic further exacerbated the vulnerable situation of LGBTI people due to loss of income, having to move back to unsafe family homes or difficulties in accessing social benefits. Between January and August 2021, 130 complaints relating to discrimination in the labour market were reported to NGOs, with many pointing to grounds of their sexual orientation or gender identity.⁴⁴
31. Despite ECRI’s recommendation in its last report (§ 85), the authorities informed ECRI that they have not adopted an action plan regarding discrimination and intolerance vis-à-vis LGBTI persons in the country. During ECRI’s contact visit, the authorities stated that due to the cultural tradition of the country where society is conservative and LGBTI issues are regarded as “western values”, the general public opinion is not ready for any measures regarding LGBTI issues. ECRI considers that the absence of any legislative framework and policies can lead to various forms of discrimination and could pave the way for further intolerance and violence (see section II.B) against LGBTI persons. ECRI also regrets to note that the authorities have not taken any initiative to make the public opinion progress on LGBTI issues nor to develop more positive attitude towards this vulnerable group by the society. In this regard, ECRI strongly encourages the authorities to take specific measures in order to recognise the equality of LGBTI people and to prevent and combat anti-LGBTI hatred, drawing inspiration from the recommendations in Resolution 2418 (2022) of the Parliamentary Assembly (PACE) of the Council of Europe.⁴⁵

⁴⁰ UCLA School of Law, Williams Institute (November 2021): 21.

⁴¹ *ibid*: 46-47; Eurasian Coalition on Male Health (2019): 10-11.

⁴² JAM News (2021).

⁴³ See ECRI (2016), Report on Azerbaijan § 83 and UN, CESCR (2021), § 19 (a).

⁴⁴ See ILGA-Europe (2022a).

⁴⁵ Parliamentary Assembly of the Council of Europe (CoE) [Resolution 2418 \(2022\)](#) on alleged violations of the rights of LGBTI people in the Southern Caucasus, § 9.5.

32. ECRI strongly recommends that the authorities adopt and implement an action plan to address intolerance and discrimination based on sexual orientation, gender identity and sex characteristics. This plan should include the objectives of raising public awareness about LGBTI people and their living conditions and promoting understanding of LGBTI persons to make their right to equal treatment a reality.
33. ECRI's interlocutors stated that legal gender recognition remains a persistent issue and transgender people often face discrimination in healthcare.⁴⁶ It seems that few doctors in the country are willing to prescribe hormonal treatment. As a result, transgender people usually rely on the black market to obtain medication. While gender reassignment surgery is available, there is no regulation governing the procedure nor does the law provide for gender recognition after this surgery. This results in consequent challenges including the obligation for transgender women to serve in the military as men.⁴⁷ Some also eventually engage in sex work, which is a criminal offence that in addition renders these people further vulnerable to extortion and trafficking.
34. Reportedly, there were individual cases where transgender people were able to change their identity cards, but this was only possible through court proceedings and upon submitting proof of gender reassignment surgery as well as sterilisation.⁴⁸ ECRI considers, therefore, that the legal framework needs to be developed as regards both legal gender recognition and gender reassignment. For example, gender reassignment should not be a prerequisite for gender changes in personal documents. In this respect, ECRI encourages the authorities to take inspiration from international standards on the right to self-determination of transgender persons,⁴⁹ such as those referred to in Resolution 2048 (2015) and Recommendation 2116 (2017) of the Council of Europe's Parliamentary Assembly (PACE)⁵⁰, and other relevant standards⁵¹ as well as the case law of the European Court of Human Rights⁵² to ensure the legal recognition of a person's gender reassignment in a quick, transparent and accessible way. In this respect, reference should also be made to the recent Resolution 2418 (2022) adopted by PACE, which addresses recommendations for Azerbaijan on this very matter.⁵³
35. ECRI recommends that the authorities adopt measures to bring the legal framework on gender recognition and gender reassignment in line with Council of Europe relevant standards, including the case-law of the European Court of Human Rights.
36. Under the present monitoring cycle, ECRI also covers the situation of intersex persons, who are born with chromosomal, hormonal or anatomical characteristics that do not match strict medical definitions of male or female.⁵⁴ Many of these persons suffer as a result of medical interventions, which are in most cases non-consensual and medically unnecessary, and have irreversible consequences. ECRI understands that there is a lack of data on the issue that renders the

⁴⁶ See similar, UN, CESCR) (2021), *op.cit.*, § 18-19.

⁴⁷ See § 35 of [Report](#) of the Committee on Equality and Non-discrimination of the Parliamentary Assembly of the Council of Europe (CoE), Explanatory Memorandum to the Assembly's [Resolution 2418 \(2022\)](#), *op.cit.* On a related note, civil society organisations indicated to ECRI that LGBTI persons also risk not passing military service medical examinations. Some therefore try to keep their sexual orientation secret because it is necessary to perform military service to obtain a military card that employers usually ask about in the context of job interviews.

⁴⁸ LGBT Azerbaijan Alliance/Minority Azerbaijan/AZAD LGBT Collective (2019):6.

⁴⁹ See www.Yogyakartaprinciples.org 2017: Principle 31.C.i.

⁵⁰ Parliamentary Assembly of the CoE (PACE), Resolution 2048 (2015): § 6.2.1/6.3.1; PACE, Recommendation 2116 (2017), § 7.3.

⁵¹ CoE, Committee of Ministers (2010): §§ 20-22.; CoE, Sexual Orientation and Gender Identity Unit (2015); CoE, CommDH(2009).

⁵² See - *inter alia*, Christine Goodwin v. the United Kingdom [GC] (no. 28957/95), §§ 72-73 and 89-91, 11.7. 2002; S.V. v. Italy (no. 55216/08), §§ 54-59; 11.10. 2018; X v. the former Yugoslav Republic of Macedonia, (no. 29683/16), §§ 38-39 and 66-71, 17.1.2019.

⁵³ CoE, PACE [Resolution 2418 \(2022\)](#) , *op.cit.*, § 9.7.

⁵⁴ EU FRA (2015): 2.

assessment of the situation difficult. Nonetheless, the authorities informed ECRI that the Law on ‘Compulsory Dispanserization of Children’⁵⁵ is of relevance to the situation of intersex children, even if there is no medical protocol regarding their treatment. Reports⁵⁶ suggest that so-called “normalising” surgeries performed on intersex children still take place. In this connection, ECRI recalls the position of a growing number of international bodies that children’s right to physical integrity and bodily autonomy should be effectively protected and that medically unnecessary sex-“normalising” surgery and other treatments should be prohibited until the child is able to participate in the decision, based on the right to self-determination and on the principle of free and informed consent.⁵⁷ ECRI strongly invites the authorities to take steps to enact legislation that prohibits unnecessary surgery and therapies on intersex children.

II. HATE SPEECH AND MOTIVATED VIOLENCE

A. Hate speech⁵⁸

Data

37. According to the information provided by the authorities, charges were brought under Article 283 of the Criminal Code (incitement to national, racial, social or religious hostility⁵⁹) in a total of nine cases in the last five years: two cases in 2016, only one case in 2017 and 2018, two cases in 2020 and three cases in 2021.⁶⁰ Out of these cases, only one person was convicted.⁶¹ The authorities have also provided information regarding remedies available under the amended provisions of the Code of Administrative Offences (under Article 388 § 1 on liability for dissemination through internet⁶²). Out of 43 persons prosecuted in 2020, 33 had administrative detention⁶³ (up to one month), while ten persons were issued administrative fines (five hundred manats, which amounts to 295 euros). In 2021, only one person received an administrative fine. Unfortunately, ECRI is not able to refer to the exact nature of these offences.

Public discourse

38. The authorities repeatedly stressed to ECRI that multiculturalism and tolerance were historically integral components of the Azerbaijani society, which ECRI welcomes. During its visit, the ECRI delegation also heard accounts of intercultural tolerance and positive attitudes among the population towards people from diverse backgrounds, such as the Jewish community, which is reassuring. Nonetheless, ECRI notes with concern that people can still easily become subject to hate speech for different reasons, including their political position or gender identity. Many interlocutors have confirmed that ethnic and linguistic minorities, such as Armenians, as well as sexual minorities were the groups that were most targeted by hate speech.

⁵⁵ The purpose of this Law is to implement measures aimed at protecting and strengthening the health of children, reducing the level of sickness, disability, and death among children, and protecting children from diseases.

⁵⁶ Nafas LGBT Azerbaijan Alliance (2019): 10.

⁵⁷ European Parliament (2019); CoE Parliamentary Assembly (2017); CoE, CommDH (2015).

⁵⁸ See definitions of hate speech and hate crime in [ECRI's Glossary](#).

⁵⁹ In case they are found guilty of inciting hatred and enmity in the media, on ethnic, religious, racial or social grounds, perpetrators may face a fine ranging between 8,000–12,000 manats (corresponding to some 4 700 to 7 000 euros), correctional labour for up to two years, or up to four years of imprisonment. In cases where these crimes are committed using violence, or with threats of violence, perpetrators can face up to 5 years of imprisonment.

⁶⁰ Ministry of Internal Affairs and the General Prosecutor's Office initiated one case each while the remaining cases were initiated by the State Security Service.

⁶¹ See also UN, CERD (2022a), *op.cit.*: § 16 (a).

⁶² [Azərbaycan Respublikasının İnzibati Xətlər Məcəlləsi \(e-qanun.az\)](#). These amendments came into force in 2020 in parallel to the amendments concerning the Law on Information, Informatisation and Protection of Information (See § 48).

⁶³ Administrative detention (for up to 30 days) does not require a public hearing prior to sentencing.

39. In its fifth report (§ 29), ECRI recommended that political leaders at all levels refrain from hate speech towards Armenians. ECRI notes that persistent adversarial narrative against Armenia is rooted in the context of the long-lasting conflict and confrontations related to Nagorno-Karabakh.⁶⁴ The authorities underlined on many occasions during the ECRI visit that the resentment on the part of Azerbaijani society is not against persons of Armenian origin but against Armenian decision-makers. However, the boundary lines between the Azerbaijani political and other public discourse against Armenian decision-makers and hate speech towards Armenians as an ethnic or national community are blurred and practically impossible to discern.⁶⁵ This narrative also escalated during the hostilities that erupted in and around Nagorno-Karabakh on 27 September 2020 and that ended on 9 November 2020 (the so-called 44 days war) with the “Trilateral Statement” on a complete ceasefire.
40. Before, during and after these hostilities, the public discourse has been marked by the use of inflammatory rhetoric in public statements by politicians, including at the highest political level, and other public figures, as well as by the wide dissemination of hateful and dehumanising content, in traditional and social media.⁶⁶ The opening of the Baku Trophy Park in April 2021, where Armenian military equipment and personnel were portrayed very negatively, also raised a lot of criticism.⁶⁷ ECRI shares the grave concerns⁶⁸ expressed by other international bodies, including the Commissioner for Human Rights of the Council of Europe and the CERD about the language of “aggression” and regular resort to adversarial narratives that propagates racist stereotypes and perpetuates animosities.

⁶⁴ ECRI notes that nothing in this report can be interpreted as being contrary to the full respect of the sovereignty and territorial integrity of Armenia and Azerbaijan within their internationally recognised borders, the provisions of the UN Security Council Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) and the Statement by the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation of 9 November 2020 (“Trilateral Statement”).

⁶⁵ See similar CoE Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM)(2017), Fourth opinion on Azerbaijan, § 40, ACFC/OP/IV(2017)006.

⁶⁶ UCLA School of Law, The Promise Institute for Human Rights (2022). By way of illustration, in October 2020, the then head of the press service of “Qarabag” football club of Azerbaijan, published a Facebook post, which stated, *inter alia* “...We must kill the Armenians. It does not matter whether [it is about] a woman, a child, an old man. We must kill everyone we can and whoever happens.” He was subsequently banned for life by the Union of European Football Associations (UEFA), which considered it as “racist behaviour.” See [Decision](#) of the UEFA Control, Ethics and Disciplinary Body (26 November 2020).

⁶⁷ Council of Europe (CoE), Commissioner for Human Rights (CommDH) (2021), Letter from the Commissioner for Human Rights to the President of Azerbaijan, CommHR/DM/sf 018-2021. ECRI notes that displays in the Trophy Park included Armenian military equipment taken during the war, which showed dehumanising scenes, such as mannequins depicting dead and dying Armenians soldiers. The Azerbaijani authorities have since removed these mannequins. See OC Media (2021b).

⁶⁸ CommDH(2021) 29, *op.cit.*, § 76; UN, CERD (2022a), *op.cit.*, § 4 (c).

41. ECRI understands the suffering of the Azerbaijani population, including of the many internally displaced persons, in the context of the long-standing conflict and confrontations. However, it considers that efforts should now focus on promoting sustainable peace and genuine reconciliation between the affected populations. In this regard, during its contact visit, ECRI's delegation took positive note of the openness and willingness of the Azerbaijani authorities for concerted action into this direction. In this regard, ECRI recalls the importance of engaging in confidence-building measures, preferably with the involvement of civil society, media and other relevant non-political actors (including ombudsman-type institutions) and to involve the youth to the greatest possible extent in the promotion of peaceful and inclusive societies. In this context, reference can be made to two events involving civil society representatives and media professionals from Armenia and Azerbaijan organised in 2022 by the Council of Europe.⁶⁹ It therefore refers to its statement on preventing and combating ultra-nationalistic and racist hate-speech and violence in relation to confrontations and unresolved conflicts in Europe and the recommendations contained therein,⁷⁰ as well as the relevant recommendations by the Commissioner for Human Rights of the Council of Europe.⁷¹
42. Anti-LGBTI statements have also become a common occurrence in Azerbaijani political discourse and members of the LGBTI communities are frequently portrayed as posing a threat to the country's tradition and to national identity and values⁷² (see also section I.D). LGBTI persons have been the subject of increasing stigmatisation and a high level of offensive language by political leaders, including the board member of the Civil Unity Party, who expressed regret that "Hitler did not wipe out all gays"⁷³ in 2020 and the Deputy Chairman of the Human Rights Committee of the Azerbaijani Parliament, who advocated for "revolting" against sexual minorities in 2021.⁷⁴ ECRI regrets to observe that LGBTI persons have also been used as a rhetorical tool to insult political opponents. In addition to political fora, examples of LGBTI-phobic statements by other public figures remain relatively unchallenged.⁷⁵
43. Online hate speech against LGBTI persons is also widespread. According to a monitoring report on online hate speech published in 2021, in the period between January and December 2020, 286 out of 412 media content monitored used stereotyping and discriminatory language against LGBTI persons.⁷⁶ During police raids against LGBTI persons in 2017 (see also § 92), there was a peak of LGBTI-phobic hate speech in social media⁷⁷. This trend seems to have continued with other incidents, including a well-known blogger's repeated and blatant calls for

⁶⁹ [Exploratory meeting on "Confidence-building measures to restore dialogue between civil societies of Armenia and Azerbaijan" - Directorate of Political Affairs and External Relations \(coe.int\); Civil society representatives from Armenia and Azerbaijan, met at the initiative of the Council of Europe to discuss ways to develop young journalists' skills on balanced reporting on sensitive issues - Directorate of Political Affairs and External Relations \(coe.int\)](#). A first meeting between civil society representatives from Armenia and Azerbaijan took place in Venice (Italy) from 16 to 18 May 2022. A second, follow-up, meeting was held in Tbilisi (Georgia) from 8 to 9 December in order to develop young journalists' skills on balanced reporting on sensitive issues. The participants agreed to continue their dialogue in 2023.

⁷⁰ ECRI [Statement](#) on preventing and combating ultra-nationalistic and racist hate-speech and violence in relation to confrontations and unresolved conflicts in Europe (March 2021).

⁷¹ CommDH (2021)29, op.cit, §§76-87.

⁷² OC Media (2022).

⁷³ ILGA-Europe (2021).

⁷⁴ ILGA (2022a).

⁷⁵ OC Media (2022).

⁷⁶ QueeRadar (2021b).

⁷⁷ QueeRadar (2020).

violence against members of the LGBTI communities, transgender persons in particular, on her Instagram account.⁷⁸

Responses to hate speech

44. ECRI deplors the fact that there are no measures in place in Azerbaijan that aim to combat hate speech by developing a counter-narrative. Regrettably, hate speech by political actors has persisted (see §§ 39-40). Immediate and public condemnation of hate speech is very seldom and result mostly from initiatives of civil society organisations. Rare good examples include the condemnation of the promotion of the Nazi persecution of gay men by the leader of a political party (see §42) expressed by NGOs in a joint statement.⁷⁹ Furthermore, in 2020, the head of the press service of a state agency had to resign after his hateful remarks on the death of a gay activist who died in the armed conflict over Nagorno-Karabakh, which caused national uproar.⁸⁰
45. ECRI recommends that public figures, such as high-level officials, politicians, and religious, economic and community leaders, be strongly encouraged to take a prompt, firm and public stance against the expression of racist and LGBTI-phobic hate speech and react to any such expression with strong counter-hate speech messages and alternative speech, and promote understanding between communities, including by expressing solidarity with those targeted by hate speech. Elected bodies and political parties should adopt appropriate codes of conduct that prohibit the use of hate speech, call on their members and followers to abstain from engaging in, endorsing or disseminating it, and provide for sanctions. In this respect, ECRI refers to its General Policy Recommendation No. 15 on combating hate speech, Recommendation CM/Rec (2022)16 of the Committee of Ministers to member States on combating hate speech and the Charter of European political parties for a non-racist and inclusive society as endorsed by the Parliamentary Assembly of the Council of Europe in its Resolution 2443 (2022).
46. As for victim support, ECRI is pleased to note the ongoing process to draft the Law on Free Legal Aid. While ECRI does not have the full details of the draft, it was informed that migrants/refugees are among those who were defined as beneficiaries, which ECRI welcomes. In ECRI's view, providing free legal aid constitutes an important step to remove obstacles to redress and may encourage those targeted by the use of hate speech from exercising their rights, given that judicial proceedings are part and parcel of the process to seek the discontinuation of the unlawful interference caused by it and/or the removal of its effects.⁸¹
47. As regards self-regulation in audio-visual media and the press, ECRI notes that the self-regulatory body, the Press Council, which also covers electronic media, has adopted a Code of Ethics, according to which a journalist shall not criticise persons, among others, for their citizenship, race, gender, religion and language and that a journalist shall not highlight any such data. The Press Council may issue warnings after examining complaints. ECRI was informed that no case was lodged with the Press Council on grounds related to ECRI's mandate. In view of blatant LGBTI-phobic hate speech incidents in the media, ECRI considers that prohibiting stigmatising and discriminatory comments and adding the grounds of sexual

⁷⁸ Meydan TV (2021); Minority (2021); OC Media (2021a); The Gender Resource Center (2021).

⁷⁹ Minority (2020), Joint Statement of Nafas LGBT Azerbaijan Alliance, Minority Azerbaijan and AZAD LGBT Collective; ILGA-Europe (2021).

⁸⁰ In this incident, the head of press service said on social media: "...What a shit an LGBT person that dares to go and protect our land? Why do you remember them with such respect? It's so insignificant to remember them. You could find a normal source, type, person to compare. [...] Do not equate them with our heroic martyrs." See ILGA-Europe (2021).

⁸¹ ECRI GPR No. 15, Explanatory Memorandum, § 111 and 154.

orientation and gender identity in the Code of Ethics⁸² could facilitate to tackling racist and LGBTI-phobic hate speech in media coverage.

48. As for countering online hate speech, ECRI notes with satisfaction the 2020 amendment to the Law on Information, Informatisation and Protection of Information to combat racist hate speech by prohibiting Internet providers and individuals from distributing any information promoting violence and religious extremism or inciting national, racial or religious hatred and enmity, including on the Internet and social media.⁸³ According to this amendment, illegal content must be taken down and removed within eight hours. The authorities also indicated that anti-cybercrime institutions were established within the Ministry of Internal Affairs and that action was taken to provide them with the necessary equipment and qualified staff. ECRI encourages the authorities to ensure that anti-cybercrime institutions are properly resourced to effectively monitor, prevent and combat online hate speech. In this connection, ECRI also invites the authorities to sign and ratify the First Additional Protocol to the Cybercrime Convention concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.⁸⁴
49. As regards legal remedies, Article 283 of the Criminal Code appears to be the main remedy against the use of hate speech in the public sphere. ECRI notes with concern that this provision is rarely invoked and hardly ever successfully, which in ECRI's view, sends a strong message to the public that hate speech is not effectively punishable and can be engaged in with impunity. For instance, in the case of internet blogger (§ 43), no charges were pressed.⁸⁵ In this context, Article 283 covers incitement to hatred and discrimination. However, it neither criminalises incitement to violence nor explicitly cover the grounds of colour, language, citizenship and ethnic origin, in contradiction with GPR No. 7 on national legislation against racism and racial discrimination. In addition, it does not include the grounds of sexual orientation, gender identity and sex characteristics. ECRI therefore reiterates its recommendation that the authorities bring their criminal law into line with ECRI and other Council of Europe standards with a view to criminalising incitement to violence as well as including the grounds of colour, language, citizenship, ethnic origin, sexual orientation, gender identity and sex characteristics in all criminal law provisions aimed at combating racism and discrimination.
50. Several interlocutors also pointed to the potential arbitrary interpretation of Article 283 of the Criminal Code and even more so, of Article 388 § 1 of the Code of Administrative Offences (§ 37), which could lead to misuse of hate speech legislation, as also underlined in ECRI's previous report (§ 34). ECRI is particularly concerned about allegations of retaliatory procedures initiated by law enforcement officials against persons denouncing acts of discrimination as a consequence of their work to promote and protect the rights of persons belonging to groups vulnerable to racial discrimination, such as human rights defenders, members of civil society organisations and journalists.⁸⁶
51. On a related note, concerns have been raised after the adoption of the new Law on Media in December 2021. Many of ECRI's interlocutors during the visit, as well as the Council of Europe's Commissioner for Human Rights⁸⁷ and the Venice

⁸² See also CoE, PACE [Resolution 2418 \(2022\)](#), *op.cit.*, § 9.2.

⁸³ Article 13 (2). These amendments were made in parallel with amendments to the Code of Administrative Offences.

⁸⁴ Azerbaijan CoE Treaty List – [Country Status](#)

⁸⁵ OC Media (2021a).

⁸⁶ See also UN CERD (2022a), *op.cit.*; §§ 22-23.

⁸⁷ CoE, Commissioner for Human Rights (CommDH) (2022), Letter from the Commissioner for Human Rights to the President of Azerbaijan, CommHR/DM/sf 002-2022.

Commission,⁸⁸ shared their concerns about the risks that restrictions on content (article 14) poses for violating the right to freedom of expression. ECRI recalls in this regard that any efforts to tackle hate speech should never exceed the limitations to which freedom of expression, as a qualified right, can legitimately be subjected, while in some cases, it can be effectively responded to without restricting freedom of expression. For this reason, as pointed out by ECRI in its GPR No. 15, to effectively prevent and combat hate speech, action is required in a number of areas, including awareness-raising, prevention and counter-speech, victim support, self-regulation, the use of regulatory powers and, as a last resort, criminal investigations and punishment. ECRI therefore considers that the authorities should take a more strategic and co-ordinated approach to preventing and combating hate speech.

52. ECRI recommends that the authorities reinforce their responses against hate speech by setting up an inter-institutional working group to develop a comprehensive strategy to tackle effectively racist and LGBTI-phobic hate speech, including online. This group should include the relevant authorities, the Commissioner for Human Rights (Ombudsman), civil society organisations and, as much as possible, media representatives. When developing such a strategy, due consideration should be given to ECRI's General Policy Recommendation No.15 on combating hate speech and the Committee of Ministers' Recommendation CM/Rec(2022)16 on combating hate speech.

B. Hate-motivated violence

Data

53. Crime statistics are collected and consolidated by the Ministry of the Interior. ECRI regrets to note that Azerbaijan has not reported information and statistics to the OSCE/ODIHR hate crime database since 2011.⁸⁹ The limited information provided by the state authorities to ECRI suggests that no cases were prosecuted under Articles 109 (discrimination), 111 (racial discrimination/apartheid) and 154 (violation of citizens' right to equality) of the Criminal Code in the last five years.⁹⁰ The authorities did not provide any information on the application of Article 61.1.6 (aggravating circumstances).⁹¹
54. According to the data submitted by civil society organisations to the OSCE/ODIHR, there were five hate-motivated incidents in 2020, six in 2019, one in 2018 and five in 2017. These included violent attacks against LGBT persons in 13 cases and threats against Armenians in three cases. Various interlocutors informed ECRI that hate crime is generally under-reported⁹² by victims due to a lack of trust in the willingness or ability of the authorities to investigate these cases effectively.
55. Despite its recommendation in its previous report (§ 33), ECRI observes that there is still no systematic data collection on the number of reported incidents of racist (or LGBTI-phobic) hate crime, including hate speech, investigations carried out or prosecutions and sentencing. The lack of integrated and comprehensive data regarding these incidents makes an assessment of the response to such acts by law enforcement agencies, prosecution services and courts very difficult. Furthermore, ECRI understands that articles of the Criminal Code are divided according to procedural acts and that some of them, including, for example, Article

⁸⁸ CoE, Venice Commission, Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Law on Media, adopted by the Venice Commission (17-18 June 2022), CDL-AD(2022)009-e, in particular §§ 21-25; §§ 52-53.

⁸⁹ Azerbaijan | HCRW (osce.org)

⁹⁰ As regards hate speech cases brought under Article 283 of the Criminal Code, see paragraph 37.

⁹¹ Article 61.1.6 stipulates that "the commission of an offence motivated by ethnic, racial or religious hatred or fanaticism is an aggravating circumstance".

⁹² See similar UN, CERD (2022a): *op.cit.*, § 18.

283, falls under the investigative powers of the State Security Service, rendering public access to data on cases where this criminal provision was invoked virtually impossible.⁹³ In this regard, ECRI recalls that publicly acknowledging the existence of hate crime and its impact helps to establish trust in law enforcement authorities among victims of and witnesses to hate crime, as well as in the criminal justice system as a whole. ECRI therefore considers that the authorities should increase their efforts with a view to setting up a comprehensive data collection system, which should include bias motivation.

56. ECRI recommends, as a matter of priority, that the authorities set up a comprehensive data collection system offering an integrated and consistent view of cases of racist and LGBTI-phobic hate speech and hate crime, with fully disaggregated data by category of offence, type of hate motivation, target group, as well as judicial follow-up and outcome, and that this data be made available to the public.

Manifestations of hate-motivated violence

57. ECRI has received numerous reports with graphic accounts of violence against Armenians, including wilful killings or the extensive destruction of their property during and after the 2020 armed conflict and confrontations in and around Nagorno-Karabakh.⁹⁴ Whilst these reports are of a very serious nature and should be the subject of effective investigations, ECRI underlines that the general issue of war crimes and treatment of both servicemen and civilians in times of armed conflict goes beyond ECRI's mandate, is primarily subject to the general principles of public international law and international humanitarian law and is dealt with by other international bodies, including of a judicial nature. In this regard, ECRI refers to the interim measures taken at the international level, notably by the European Court of Human Rights⁹⁵ and the International Court of Justice,⁹⁶ pertaining to the pending cases before these bodies.
58. LGBTI and human rights activists agree that the prevalence of stereotypes and prejudice against LGBTI persons expose them to violence in Azerbaijan. In an online survey conducted in 2021, among 447 LGBTI respondents, 92.4% of the respondents indicated that they had been victims of violence because of their sexual orientation or gender identity.⁹⁷ The survey also highlighted that transgender people have been particularly at risk of discrimination and violence during the Covid-19 pandemic, and that the police did not provide any effective support in these cases.⁹⁸
59. ECRI deplores the fact that several fatal incidents against LGBTI persons have taken place in recent years. These include the stabbing of a transgender woman in 2020⁹⁹ as well as the case of another transgender woman whose burned body

⁹³ The authorities informed ECRI that data on the application of Article 283 is sent to prosecutor's office every six months.

⁹⁴ See also, CommDH (2021)29, op.cit, §§ 52-75.

⁹⁵ On 27 September and 27 October 2020, the Court received requests for interim measures, lodged respectively by Armenia and Azerbaijan. On 29 September 2020, it granted an interim measure under Rule 39 of the Rules of Court. Taking the view that the developing situation gave rise to a risk of serious violations of the Convention, it called upon both Armenia and Azerbaijan to refrain from taking any measures, in particular military action, which might entail breaches of the Convention rights of the civilian population, including putting their life and health at risk, and to comply with their obligations under the Convention, notably in respect of Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment). In a statement of 4 November 2020, the Court clarified that the States were under an obligation to respect also the Convention rights of those captured during the conflict and those whose rights might otherwise be violated. On 12 May 2021, the Chamber of the Court to which the inter-State cases Armenia v. Azerbaijan (no. 42521/20) and Azerbaijan v. Armenia (no. 47319/20) had been allocated, has relinquished jurisdiction in favour of the Grand Chamber of the Court. These cases are still pending.

⁹⁶ See the order on provisional measures, dated 7 December 2021, of the International Court of Justice, in the case concerning the "Application of the International Convention on the Elimination of All Forms of Racial Discrimination" (Armenia v. Azerbaijan).

⁹⁷ Jam News (2021).

⁹⁸ QueeRadar (2021a).

⁹⁹ ILGA (2021).

was found in 2021.¹⁰⁰ Most recently, in February 2022, a well-known LGBTI rights activist and journalist, Avaz Hafizli, was brutally murdered in a so-called “honour-killing” by his cousin,¹⁰¹ which ignited a fury among the LGBTI communities. According to ECRI’s interlocutors, blatant hate language and call for violence used by the blogger referred to earlier in this report openly targeting two victims had played a role in the incitement of these cases.

Responses to hate-motivated violence

60. Similar to other international bodies,¹⁰² ECRI is deeply concerned about the insufficient application of available legal framework and the remaining shortcomings. As stated earlier (§ 55), bias motivation is not always specified, and aggravating circumstances are rarely applied in practice. In fact, the majority of cases reported have been treated as ordinary offences, even when there was evidence of more serious criminal behaviour. For instance, in the case of Avaz Hafizli (§ 59), the perpetrator was sentenced on account of deliberate murder (Article 120.1 of Criminal Code). However, the complaint of hate crime was simply dismissed by the court.¹⁰³ In this regard, ECRI notes that sexual orientation, gender identity and gender characteristics are not stipulated among the grounds of aggravating circumstances under Article 61.1.6 of the Criminal Code (§ 53).
61. ECRI recommends that the authorities include the grounds of sexual orientation, gender identity and sex characteristics to criminal legislation as aggravating circumstances for any ordinary offence.
62. Reiterating the crucial importance of effective investigation and prosecution as well as the deterrent sanctioning of perpetrators of hate crime, ECRI considers that the lack of prosecution (as in cases mentioned earlier in this report) might contribute to the emergence of a general feeling of impunity for abuses committed against members of certain communities. In this respect, ECRI is of the view that determined action should be taken to ensure the effective functioning of the criminal justice system against any form of hate crime and refers to the case-law of the European Court of Human Rights, which places an obligation on state parties to take all reasonable steps to establish whether violent incidents were racially motivated.¹⁰⁴ ECRI also recalls the recent Court judgment against Azerbaijan and Hungary in which the Court found unjustified failure to continue to enforce prison sentence for ethnic hate crime on part of the Azerbaijani authorities.¹⁰⁵
63. ECRI recommends that the authorities ensure that police and prosecution services effectively investigate all cases of alleged hate crime and ensure that potential bias motivation is consistently taken into consideration in police reports and investigations, as well as in any further judicial proceedings.
64. While ECRI takes positive note of the efforts¹⁰⁶ in increasing knowledge on hate speech and hate-motivated violence, it has frequently been stressed to ECRI that the police, the prosecution service and the judiciary continue to experience problems in identifying and addressing hate crimes and that the in-service training to remedy this situation is often insufficient. In this context, ECRI underlines the

¹⁰⁰ Global Voices (2021b); ILGA (2022a).

¹⁰¹ ILGA (2022b); ILGA (2022c); Global Voices (2022).

¹⁰² UN, CERD (2022), op.cit: § 18; CoE, PACE Resolution 2418 (2022), op.cit, § 9.4 and 10.3.

¹⁰³ Baku Court of Grave Crimes sentenced the perpetrator to nine years and six months in prison, which is a low sentence (the maximum under this article is 14 years, while the deliberate murder with aggravating circumstances could be up to 25 years or life in prison). See ILGA (2022b); ILGA (2022c); Global Voices (2022).

¹⁰⁴ Nachova and others v. Bulgaria [GC], (nos. 43577/98, 43579/98, 6.7.2005), §§ 160-168.

¹⁰⁵ *Makuchyan and Minasyan v. Azerbaijan and Hungary* (no.17247/13, 26.5.2020), §§ 213-221.

¹⁰⁶ The authorities informed ECRI that the implementation of Article 283 has been included in the curricula of trainings organized for the prosecutor's office staff. Furthermore, over 100 judges participated in training offered on various articles, including Article 14 (prohibition of discrimination) of the European Convention on Human Rights.

importance of improving expertise among law enforcement officials and other criminal justice actors in understanding and recognising hate crime dynamics. Moreover, ECRI emphasises that establishing a dialogue and co-operation between the police and vulnerable groups, such as the LGBTI communities, would be a positive step in tackling the problem of under-reporting caused by insufficient trust in law enforcement agencies and enhance the accessibility of reporting/complaints channels.

65. ECRI recommends that the authorities provide further training for police, prosecutors and judges on how to deal with racist and LGBTIphobic acts of violence. This should include improved procedures for recognising bias motivations. In order to address the problem of under-reporting, the authorities should also initiate dialogue between the police and vulnerable groups, in particular the LGBTI communities.

III. INTEGRATION AND INCLUSION

General overview

66. The 2009 census results list 16 “nationalities” living on the territory of Azerbaijan: 180 324 Lezgins (2.02%), 120 306 Armenians (1.36%), 119 307 Russians (1.35%), 111 996 Talysh (1.26%), 49 838 Avars (0.56%), 37 975 Meshketian Turks (0.43%), 25 911 Tatars (0.29%), 25 218 Tats (0.28%), 21 509 Ukrainians (0.24%), 12 189 Sakhurs (0.14%), 9 912 Georgians (0.11%), 9 084 Jews (0.1%), 6065 Kurds (0.07%), 4 344 Kryzs (0.05%), 3 821 Udins (0.04%), 2 233 Khynalygs (0.03%), 1001 Budugs (0.013%). Azerbaijan has an inclusive approach with regard to the recognition of minorities, which implicitly includes all persons who have identified themselves in the 2009 population census as belonging to an ethnic group other than Azerbaijani. In this context, ECRI refers to the work of the Council of Europe’s Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM)¹⁰⁷ for details on the protection of minority rights, in particular with regard to national minorities’ expression of a separate identity.
67. ECRI notes that the results of the population census conducted in 2019 were presented to the United Nations Statistics Division in September 2022.¹⁰⁸ That said, equality data on groups of concern to ECRI are still lacking, as confirmed by various interlocutors during the visit. ECRI therefore invites the authorities to make ample use of the results of 2019 census in order to clarify the extent of the needs of these groups and design more targeted policy responses.
68. It should be recalled that Azerbaijan is home to almost 700 000 internally displaced persons (IDPs) as a result of the long-lasting armed conflict and confrontations in and around Nagorno-Karabakh.¹⁰⁹ The authorities provided extensive information to ECRI on the policies¹¹⁰ they have developed for improving the living conditions of IDPs and ensuring the provision of social protection. While the IDPs do not fall under groups of concern within ECRI’s mandate,¹¹¹ ECRI invites the authorities to draw inspiration from these measures in developing and implementing integration measures for groups of concern to ECRI in the country.

¹⁰⁷ For its last report, please see the [Fourth Opinion](#) on Azerbaijan (2017) of the Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM), ACFC/OP/IV(2017)006.

¹⁰⁸ www.stat.gov.az; [UNSD — Demographic and Social Statistics](#).

¹⁰⁹ This also concerned seven administrative regions adjacent to Nagorno Karabakh: Kalbajar, Lachin, Qubadli, Jabrayil, Zangilan, Agdam and Fuzuli.

¹¹⁰ According to the information provided by the authorities, 54 decrees/orders by the President, 11 laws by the Parliament, and 194 government decisions/orders, have been signed since 2003 when 700 000 IDPs returned to Azerbaijan after the first Nagorno-Karabakh war in 1994. Furthermore, State Programmes and Action Plans have been adopted. Among others, social and educational allowances, tax incentives and housing free of charge were provided.

¹¹¹ For an extensive account of the situation of IDPs in Azerbaijan, please see Council of Europe (CoE), Commissioner for Human Rights (CommDH) (2019), Report following her visit to Azerbaijan from 8 to 12 July 2019; CommDH (2019)27, §§ 97-133.

69. In this section, ECRI focuses on two specific groups and their integration and inclusion into Azerbaijani society: migrants/refugees and Roma.

A. Migrants

Data

70. As of 1 July 2022, there were 168 155 foreign nationals and stateless persons in Azerbaijan (total population of 10 160 648).¹¹² Migration statistics in Azerbaijan¹¹³ refer to immigrants as foreigners who entered the country for permanent stay¹¹⁴ (which is only granted after two years of temporary residence and is valid for five years).¹¹⁵ The authorities informed ECRI that, by the end of 2021, there were 11 989 foreign nationals who possessed valid permanent residence in the country. Furthermore, as the immigration of foreigners is largely driven by labour migration, the number of those who hold work permits is also significant. As of 31 December 2021, this number was 7 626. In this regard, ECRI notes that work permits are not required for those who hold a permanent residence permit.¹¹⁶
71. According to UNHCR data¹¹⁷, as of February 2022, there were 1 603 refugees, 42 asylum seekers and 3 585 stateless persons. Afghanistan was the leading country of origin as regards refugees (1 109 persons), followed by the Russian Federation (324) and Iran (45).¹¹⁸ The authorities stated that, from February to December 2022, 16 418 persons fleeing Ukraine arrived in Azerbaijan as a result of the aggression of the Russian Federation against Ukraine and that most of these persons have families or relatives in the country. According to UNHCR data, there were 3,944 people recorded as refugees from Ukraine in November 2022.¹¹⁹ ECRI notes that Azerbaijan does not provide international protection under subsidiary protection.
72. On a different note, ECRI welcomes the decrease in the number of persons with stateless status and considers that the measures taken by the authorities, including the setting-up of a Working Group on Statelessness and legislative changes adopted in February 2018, have been important factors.¹²⁰

Policy framework and measures taken by the authorities

73. Despite ECRI's recommendation in its last report (§ 51), ECRI regrets to note that there is still no separate strategy or plan that specifically covers the topic of migrant integration in Azerbaijan. That being said, ECRI was informed at the time of the visit that the State Migration Service (SMS) runs a pilot project, namely "Support to the development of the Migrant Integration Strategy", which is implemented under the Migration EU Expertise (MIEUX+) Initiative, and one of its expected outcomes is the development of a migrant integration strategy and action plan.

¹¹² UN CERD (2022b), Summary record of the 2903rd meeting, § 40-41.

¹¹³ All relevant data on foreigners and stateless persons temporarily staying, working and residing in Azerbaijan is stored in the Unified Migration Information System (UMIS) maintained by State Migration Service.

¹¹⁴ International Centre for Migration Policy Development (ICMPD) (2018), *Baseline Study on Migration in Azerbaijan*:13. There are also persons under temporary residence permit (which allows stay up to one year). These permits may be extended for another two years multiple times (three years for investors) (Article 49 of the Migration Code)

¹¹⁵ Article 52.1 of the Migration Code.

¹¹⁶ Ibid, Article 64.

¹¹⁷ ECRI notes that until 1 July 2020, rejected asylum seekers had the possibility of applying to UNHCR for asylum in Azerbaijan (and those recognised were given "UN mandate refugee" status). In consultation with the Azerbaijani authorities, UNHCR decided to stop this practice since Azerbaijan has a national asylum procedure and is a party to the UN Refugee Convention.

¹¹⁸ UNHCR (2022a), Azerbaijan Factsheet (February 2022).

¹¹⁹ Situation Ukraine Refugee Situation (unhcr.org).

¹²⁰ UNHCR (2022b), *The Campaign to End Statelessness, April – June 2022 Update* The authorities informed ECRI that from 1 February 2018 to 25 December 2022, 108 persons, whose statelessness and permanent residence statuses were determined by court have applied to the State Migration Service for the acquisition of the Azerbaijani citizenship. 98 of them have been granted citizenship, nine applications are pending, and the processing of one application is terminated due to the death of the applicant.

While the timeline of the adoption of these documents is unknown, the completion of this project is foreseen for September 2023.

74. ECRI also notes the ongoing work of the SMS on developing the “National Migration Profile” in the country¹²¹, in cooperation with the International Organisation on Migration (IOM) and considers it as a **promising development**. This mapping activity contains a comprehensive data analysis covering the years from 2013 to 2021 (the first ten months) and is expected to facilitate the development of more targeted and tailored policy measures, including the integration and inclusion of migrants. ECRI encourages the authorities to ensure the timely completion of these activities and the prompt adoption of a long-awaited integration strategy and action plan for migrants (including refugees and asylum seekers).
75. While there are no specialised integration courses, refugees are provided with assistance after individual assessment of their situation.¹²² Migrants also have access to basic services. In this regard, ECRI welcomes the work of the Public Council, which is operational under SMS, with the participation of nine civil society organisations. The Public Council has been instrumental in offering Azerbaijani language courses for refugees, as well as in providing humanitarian and medical aid. It also holds regular meetings with groups of refugees to inquire about their needs. During 2018-2021, 187 persons from Afghanistan benefited from language courses organised by the Public Council, where 100 children were supported in accessing education. A total of 715 families (2502 persons) from Afghanistan, the Republic of Moldova, Pakistan, Syria, and Turkmenistan have received humanitarian aid. Integration support included legal counselling and psychological support as well as cultural integration programmes.¹²³ The authorities further informed ECRI during the visit that since October 2016, the SMS Training Centre had also provided free Azerbaijani language courses for foreigners intending to reside permanently in the country (one hour for three times a week for a duration of one month) as well as history, culture, and civic education. Up until the end of 2021, 5 276 persons attended these courses.
76. On a related note, ECRI notes with satisfaction the efforts made by the authorities in reaching out to impacted groups to raise their awareness about services and benefits available to them. For example, the SMS has a special trilingual (Azerbaijani, English, Russian) website¹²⁴ to share information along with a 24/7 free of charge helpline, which ECRI considers as a **good practice**.
77. Regarding employment, ECRI welcomes the fact that migrant workers permanently residing in the country enjoy the same social protection rights as Azerbaijani nationals. Several interlocutors expressed that the implementation of the employment strategy of Azerbaijan for 2019–2030, which, inter alia, aims at strengthening the social protection of migrant workers have a positive impact on their living conditions.¹²⁵ At the same time, ECRI was pleased to learn that since 2020, refugees are entitled to access the labour market. Data on such persons were integrated into the electronic information system, allowing them access to public services.¹²⁶ In this regard, ECRI takes positive note of the efforts made by the authorities to simplify and accelerate the procedures for the issuance of work

¹²¹ Government of the Republic of Azerbaijan (2022).

¹²² As part of the Action Plan of the State Migration Service of the Republic of Azerbaijan in the field of solving the socio-economic problems of refugees which was adopted in June 2018.

¹²³ Government of the Republic of Azerbaijan (2022).

¹²⁴ www.migration.gov.az

¹²⁵ See similar, UN CMW (2021), op.cit, § 15.

¹²⁶ UNHCR, (2022a), Azerbaijan Factsheet (February 2022).

and residence permits, including by electronic means through the so-called ASAN service¹²⁷ and in multiple languages.¹²⁸

78. ECRI regrets to note, however, that migrant workers have to leave the country within 10 working days of the termination of their employment contract with one month's notice, unless there are other grounds to stay, making their immigration status entirely dependent on the employer, which ECRI had also expressed concerns about in its previous report (§ 49).¹²⁹ ECRI reiterates its concern and recalls that migrant workers in such a situation should be able to avail themselves of legal remedies in ample time and without fear of expulsion.
79. As regards education and health care, ECRI understands that refugees have access to free primary and secondary education and primary health care. Migrant children enjoy the same rights to education and health care as their Azerbaijani peers. Reportedly,¹³⁰ a number of refugee students benefit from the DAFI Scholarship Programme¹³¹ and most of them receive tuition support and cash assistance from UNHCR. ECRI is not aware of any national special support programmes provided for refugee or migrant children in the areas of education and health.¹³² There are also no available data regarding the educational attainment of these children. Based on the upcoming results of the "National Migration Profile", ECRI invites the authorities to conduct an impact assessment on the specific needs of children, especially in education, and to step up their efforts in this direction.
80. Regarding participation in public life, ECRI notes that foreigners, who have lived at least five years in the country, have the right to vote in the municipal elections held in Azerbaijan,¹³³ which ECRI regards as **good practice**.
81. In view of the above considerations, while ECRI takes due note of the actions taken, it considers that the authorities should work further on capacity-building in the area of integration of persons who have been granted international protection and make concerted efforts to facilitate the integration of migrants in general.¹³⁴ This is particularly necessary in view of increasing labour migration to the country, which requires tailored measures addressing the various needs of different target groups (refugees, migrant workers, temporary residents). Furthermore, the allocation of roles and competences between institutions and other partners, including local authorities and civil society organisations should be defined and well-coordinated. The long-term sustainability of integration measures should be ensured by clearly earmarking a suitable portion of the national budget for them and making other financial resources available for all stakeholders involved.
82. ECRI recommends that the authorities, in close cooperation with local authorities and civil society organisations, adopt a comprehensive integration strategy for migrants, including persons who are seeking or have been granted international protection, covering among others the issues of language and integration classes, support in education, equality in employment, health and housing, with goals and

¹²⁷ Currently, 24 "ASAN Service" centres operating across the country offer 360 services provided by 15 public services, including the State Migration Service, and 30 private organisations.

¹²⁸ UN CMW (2021), op.cit, § 51.

¹²⁹ ECRI (2016); UN CMW (2021), op.cit, § 51 (a).

¹³⁰ UNHCR, (2022a), Azerbaijan Factsheet (February 2022).

¹³¹ The DAFI (Albert Einstein German Academic Refugee Initiative) Scholarship Programme is part of UNHCR's action plan for improving the lives of refugees by providing them access to quality higher education.

¹³² In this connection, it should nevertheless be noted that tuition fees of the refugees enrolled in higher education institutions are covered by the state. In the academic year 2020/2021, two students with refugee status and, in the 2021/2022 academic year, one student with refugee status, were awarded to study in higher education institutions on a free basis.

¹³³ Article 12.1 of the Election Code.

¹³⁴ In this context, the authorities informed ECRI that a pilot project implemented within the framework of the MIEUX+ initiative will support the development of a tailor-made training course on integration for public officials from all government agencies providing services for migrants.

targets, time-frames, funding, success indicators and a monitoring and evaluation mechanism.

B. Roma

83. The authorities estimate that the population of Roma ('*Qaraçı*' in Azerbaijani) is composed of approximately 6 000 persons. The community is present mostly in Yevlakh (3140 persons) and Agdash (2800 persons) and lives in settlements, in addition to several families living in Agsu (48 families) and Barda (53 families).¹³⁵
84. ECRI notes that there is no reliable data about the inclusion of Roma despite the seeming difficulties they experience in their daily life. Most public officials met by the ECRI delegation believed that the socio-economic marginalisation of Roma was the result of poverty and of their "certain way of living". ECRI considers that overlooking the discrimination dimension of the problems experienced by Roma entails a risk of reinforcing the stigma and negative stereotyping¹³⁶ against them and hinders the development of adequate policy responses by the state authorities.
85. Despite the lack of desegregated equality data, many interlocutors mentioned to ECRI that Roma face high levels of unemployment and low levels of educational attainment among children (especially in 10th and 11th grade classes).¹³⁷ Reportedly, a number of Roma settlements in Yevlakh were put under compulsory quarantine during the Covid-19 pandemic, ostensibly to protect public health and safety.¹³⁸ Furthermore, Roma still encounter obstacles to obtaining identity documents, which has an adverse impact on their access to rights, which ECRI notes with concern. Access to health care by Roma women remains particularly problematic.¹³⁹ ECRI recalls that Roma women are vulnerable to experiencing intersectional discrimination, based on their gender and ethnicity, and that their empowerment is crucial for the inclusion of this community.
86. Against this background and in the absence of data on the living conditions of the Roma, ECRI considers that the authorities should conduct a needs assessment to identify policy gaps in close collaboration with the Roma community and adopt targeted measures with an intersectional¹⁴⁰ perspective. In this respect, ECRI notes that the recruitment of Roma mediators, who would establish a constructive dialogue between the community and local authorities, may yield tangible results in the social integration of Roma.
87. ECRI recommends that the authorities evaluate the situation of the Roma community with a view to developing a Roma-specific strategy. This strategy should cover the inclusion of Roma in all areas of life, including measures aimed at eliminating discrimination and prejudice, with goals and targets, success

¹³⁵ UN CERD (2022b), Summary record of the 2903rd meeting, § 54, CERD/C/SR.2903. ECRI notes that there were only 49 persons identified as Roma in the 2009 census. The discrepancy is often explained by the reluctance among Roma to self-identify for fear of stigmatisation and discrimination.

¹³⁶ In this respect, ECRI was informed that administrative fines amounting to approximately \$30 are issued to Roma families who force their children to beg.

¹³⁷ According to the information provided by authorities, three students from Agdash, two from Barda and one from Qakh had been admitted to colleges and technical schools in the last three years, and a student from Barda had been admitted to higher education, which suggests progress when compared with the situation in previous years. On another positive note, ECRI refers to the research conducted by the State Committee for Family, Women and Children Affairs, in cooperation with UNICEF, regarding Roma children living in two western regions of Azerbaijan (Gazakh and Aghstafa), which eventually led to the implementation of a project to prevent the involvement of children in begging, exploitation of labour and to increase their access to education, health and social services.

¹³⁸ BBC News Azərbaycanca (2020). ECRI also recalled in a public statement, which was adopted in May 2020 on the impact of the Covid-19 pandemic and related government responses on groups of concern to ECRI, that adequate safeguards should be put in place to ensure that the restrictions imposed on vulnerable people on public health grounds must be non-discriminatory as well as ensure the principles of lawfulness, necessity and proportionality.

¹³⁹ See similar UN CERD (2022a), *op.cit.*, §§ 28-29.

¹⁴⁰ ECRI notes that intersectional discrimination refers to a situation where several grounds interact with each other at the same time in such a way that they become inseparable, and their combination creates a new ground; (§ 1 of the Explanatory Memorandum to ECRI's General Policy Recommendation No. 14 on combating racism and racial discrimination in employment).

indicators and a monitoring and evaluation system and be carried out in close cooperation with members of the Roma community.

IV. TOPICS SPECIFIC TO AZERBAIJAN

A. Action taken to implement previous interim follow-up recommendations

88. ECRI recalls that in its fifth report (§ 37), one of the two priority recommendations was made in the context of the state crackdown on non-governmental organisations (NGOs), particularly through legal restrictions on registration and receiving foreign funding. This situation was considered to the disadvantage of members of vulnerable groups who turn to such organisations in order to receive aid and assistance in cases of hate speech and other instances of racism and discrimination, as well as compromising the NGOs' independence. In its 2019 interim follow-up conclusions, despite the simplification of certain rules through the 'single window' procedure, ECRI pointed out that neither the legal requirement for NGOs to register grants nor the unlimited discretion of the authorities to decide on grant registration had changed. It therefore concluded that this recommendation had not been implemented.
89. Views expressed by a number of other international bodies¹⁴¹ suggest that the space for civil society actors to operate remains restricted, including for those working with and supporting groups of concern to ECRI. It appears that the continuing use of restrictive regulations by the authorities still fail to offer favourable conditions for the proper and independent functioning of NGOs and leads, in some cases, to these organisations being unable to resume their work. This was expressly underlined by several partners to ECRI's delegation during its country visit. Emphasising the crucial role that the civil society hold for promoting human rights and assisting victims of discrimination, ECRI strongly invites the authorities to eliminate legal and administrative provisions (such as registration obligations)¹⁴² unduly hampering NGO actions and refrain from putting their vital work at risk.
90. In its fifth report (§ 77), ECRI also recommended that the authorities fulfil the undertaking given upon accession to the Council of Europe to enact legislation on alternatives to military service as already foreseen in Article 76 of the Azerbaijani Constitution. In its 2019 interim follow-up conclusions, ECRI noted that this recommendation had not been implemented. Since then, no further steps have been taken.
91. ECRI notes that concerns regarding the situation of conscientious objectors have remained. Reportedly, there are cases where persons belonging to a religious minority were imprisoned as a result.¹⁴³ In this regard, referring to the 2019 judgment of the European Court of Human Rights in the case of *Mushfig Mammadov and others v Azerbaijan*,¹⁴⁴ ECRI strongly encourages the authorities to consider the observations made by the Court under Article 46 of the Convention, which called for legislative action on civilian service as an alternative to military service in Azerbaijan.¹⁴⁵

¹⁴¹ EU (2022): 28; UN, CERD (2022), *op.cit.*, §§20-21; COE, Parliamentary Assembly (PACE) (2021), Resolution 2362 (2021) on Restrictions on NGO activities in Council of Europe member States: § 4 in particular; COE, PACE AS/Mon (2019): §§ 57-60.

¹⁴² ECRI notes that there is a group of cases ([Ramazanova and Others v Azerbaijan](#)) before the Committee of Ministers on the registration of associations which supervises their execution. The latest information suggests that the Government of Azerbaijan has submitted an [action plan](#) in relation to this in September 2022.

¹⁴³ Forum 18 (2022); European Association of Jehovah's Witnesses (2022).

¹⁴⁴ *Mushfig Mammadov and others v Azerbaijan* (nos 14604/08, 45823/11, 76127/13 et 41792/15, 17.10.2019), §§91-99, §§102-103. The Court observed that the criminal prosecutions and convictions of the applicants on account of their refusal to perform military service had stemmed from the fact that there was no alternative service system under which individuals could benefit from conscientious objector status. That amounted to an interference which had not been necessary in a democratic society and violation of Article 9 of the Convention. The execution of this judgment is still pending and action plan is awaited.

¹⁴⁵ The authorities informed ECRI that a parliamentary working group has been established for the purpose of drafting a law on alternative service.

B. Preventing and combating any racist or LGBTIphobic abuse by law enforcement officials

92. ECRI received reports of police raids and allegations of unlawful use of force by law enforcement officials against LGBTI persons, which resulted in administrative detention of the latter in 2017¹⁴⁶ and 2019. Reportedly, some LGBTI people were subjected to serious abuse during and after apprehension.¹⁴⁷ In this connection, reference is made *inter alia* to the observations and recommendations made by the Parliamentary Assembly of the Council of Europe in its Resolution 2418 (2022) and related report.¹⁴⁸
93. During the visit, the ECRI delegation also heard accounts of potential racial profiling practices during stop-and-account police operations targeting Roma people.
94. ECRI invites the authorities to review police practices in the light of the above comments and to ensure that whenever a case involving allegations of LGBTIphobic or racist police abuse comes to light, it is the subject of an effective investigation by an appropriate body. In this context, due consideration should be given to ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

¹⁴⁶ Human Rights Watch (2017); NBC News (2017); OHCHR (2017); Eurasian Coalition on Male Health (2019), *op.cit.*: 12; Global Voices (2022). ECRI notes that the members of the LGBTI community who were arrested during the 2017 raid lodged a case before the European Court of Human Rights on account of their arrest and administrative detention being unlawful and arbitrary, and based solely on their actual or perceived sexual orientation. See A and 24 other applications v Azerbaijan (no. 17184/18, communicated on 26 February 2019).

¹⁴⁷ NBC News (2017); ILGA (2020).

¹⁴⁸ CoE, PACE Resolution 2418 (2022), *op.cit.*, § 12 and its Explanatory Memorandum, *op.cit.*, §§36-38.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Azerbaijan are the following:

- (§8) ECRI strongly recommends that the authorities bring the competences, independence and effectiveness of the Commissioner for Human Rights (Ombudsman) fully in line with ECRI's revised General Policy Recommendation No. 2 on equality bodies to combat racism and intolerance at national level. This should be done by i) ensuring a transparent selection and appointment procedure of the Ombudsman; ii) establishing a separate unit or department within the structure of the Ombudsman's Office which is dedicated to deal with non-discrimination and equality related work and complaints; iii) increasing the capacity of the staff of the Ombudsman's Office, including those in regional offices, by providing them with ongoing training and developing awareness-raising activities on non-discrimination and equality.
- (§56) ECRI recommends that the authorities set up a comprehensive data collection system offering an integrated and consistent view of cases of racist and LGBTI-phobic hate speech and hate crime, with fully disaggregated data by category of offence, type of hate motivation, target group, as well as judicial follow-up and outcome, and that this data be made available to the public.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§8) ECRI strongly recommends, as a matter of priority, that the authorities bring the competences, independence and effectiveness of the Commissioner for Human Rights (Ombudsman) fully in line with ECRI's revised General Policy Recommendation No. 2 on equality bodies to combat racism and intolerance at national level. This should be done by i) ensuring a transparent selection and appointment procedure of the Ombudsman; ii) establishing a separate and properly resourced unit or department within the structure of the Ombudsman's Office which is dedicated to deal with non-discrimination and equality related work and complaints; iii) increasing the capacity of the staff of the Ombudsman's Office, including those in regional offices, by providing them with ongoing training and developing awareness-raising activities on non-discrimination and equality.
2. (§9) ECRI recommends in this connection that the authorities adopt an effective general anti-discrimination legislation covering all grounds and all areas of life, in line with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and other ECRI standards on legislation to combat discrimination on the grounds of sexual orientation, gender identity and sex characteristics. The legislation should also provide for effective, proportionate and dissuasive sanctions for discrimination cases. If necessary, Council of Europe support should be sought.
3. (§14) ECRI recommends that the authorities adopt suitable measures in the education system with a view to tackling all forms of racism and intolerance and involving the youth in the development of a diverse and inclusive society. In particular, they should: i) include human rights education in the mandatory parts of school curricula; ii) provide initial and in-service teacher training on issues relating to human rights; and iii) remove any references reinforcing prejudice, stereotyping or other discriminatory content from school textbooks. In this regard, the authorities should draw inspiration from its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
4. (§17) ECRI recommends that the authorities set up a system to monitor and counter racist and anti-LGBTI incidents in schools.
5. (§25) ECRI recommends that the authorities establish effective mechanisms to allow migrant workers who are irregularly present in Azerbaijan to lodge complaints in respect of labour standards against employers and obtain effective remedies without the risk of their personal data or other information being shared with immigration authorities for the purposes of immigration control and enforcement.
6. (§32) ECRI strongly recommends that the authorities adopt and implement an action plan to address intolerance and discrimination based on sexual orientation, gender identity and sex characteristics. This plan should include the objectives of raising public awareness about LGBTI people and their living conditions and promoting understanding of LGBTI persons to make their right to equal treatment a reality.
7. (§35) ECRI recommends that the authorities adopt measures to bring the legal framework on gender recognition and gender reassignment in line with Council of Europe relevant standards, including the case-law of the European Court of Human Rights.
8. (§45) ECRI recommends that public figures, such as high-level officials, politicians, and religious, economic and community leaders, be strongly encouraged to take a prompt, firm and public stance against the expression of racist and LGBTI-phobic hate speech and react to any such expression with strong counter-hate speech messages and alternative speech, and promote

understanding between communities, including by expressing solidarity with those targeted by hate speech. Elected bodies and political parties should adopt appropriate codes of conduct that prohibit the use of hate speech, call on their members and followers to abstain from engaging in, endorsing or disseminating it, and provide for sanctions. In this respect, ECRI refers to its General Policy Recommendation No. 15 on combating hate speech, Recommendation CM/Rec (2022)¹⁶ of the Committee of Ministers to member States on combating hate speech and the Charter of European political parties for a non-racist and inclusive society as endorsed by the Parliamentary Assembly of the Council of Europe in its Resolution 2443 (2022).

9. (§52) ECRI recommends that the authorities reinforce their responses against hate speech by setting up an inter-institutional working group to develop a comprehensive strategy to tackle effectively racist and LGBTI-phobic hate speech, including online. This group should include the relevant authorities, the Commissioner for Human Rights (Ombudsman), civil society organisations and, as much as possible, media representatives. When developing such a strategy, due consideration should be given to ECRI's General Policy Recommendation No.15 on combating hate speech and the Committee of Ministers' Recommendation CM/Rec(2022)¹⁶ on combating hate speech.
10. (§56) ECRI recommends, as a matter of priority, that the authorities set up a comprehensive data collection system offering an integrated and consistent view of cases of racist and LGBTI-phobic hate speech and hate crime, with fully disaggregated data by category of offence, type of hate motivation, target group, as well as judicial follow-up and outcome, and that this data be made available to the public.
11. (§61) ECRI recommends that the authorities include the grounds of sexual orientation, gender identity and sex characteristics to criminal legislation as aggravating circumstances for any ordinary offence.
12. (§63) ECRI recommends that the authorities ensure that police and prosecution services effectively investigate all cases of alleged hate crime and ensure that potential bias motivation is consistently taken into consideration in police reports and investigations, as well as in any further judicial proceedings.
13. (§65) ECRI recommends that the authorities provide further training for police, prosecutors and judges on how to deal with racist and LGBTIphobic acts of violence. This should include improved procedures for recognising bias-motivations. In order to address the problem of under-reporting, the authorities should also initiate dialogue between the police and vulnerable groups, in particular the LGBTI communities.
14. (§82) ECRI recommends that the authorities, in close cooperation with local authorities and civil society organisations, adopt a comprehensive integration strategy for migrants, including persons who are seeking or have been granted international protection, covering among others the issues of language and integration classes, support in education, equality in employment, health and housing, with goals and targets, time-frames, funding, success indicators and a monitoring and evaluation mechanism.
15. (§87) ECRI recommends that the authorities evaluate the situation of the Roma community with a view to developing a Roma-specific strategy. This strategy should cover the inclusion of Roma in all areas of life, including measures aimed at eliminating discrimination and prejudice, with goals and targets, success indicators and a monitoring and evaluation system and be carried out in close cooperation with members of the Roma community.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Azerbaijan

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Azerbaijan on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 8 December 2022, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

**Comments of the Government of Azerbaijan
on the sixth monitoring report of the
European Commission against Racism and Intolerance on Azerbaijan**

Summary

The Government of the Republic of Azerbaijan appreciates that the progress and good practices in a number of fields registered in the country since the adoption of the fifth monitoring report of the European Commission against Racism and Intolerance (ECRI) in 2016 have been recognized by ECRI in its sixth monitoring report.

The people of Azerbaijan are proud of the fact that Azerbaijan has been a land of tolerance where representatives of multi-ethnic and multi-religious communities could co-exist peacefully for centuries. While strongly rejecting discrimination in all its forms and manifestations, Azerbaijan has been actively taking measures to counter all possible propagation of hatred and animosity threatening the mutual understanding and respect among its population composed of people of different ethnic and religious backgrounds. The Government of Azerbaijan is also a steadfast supporter of the intercultural and interreligious dialogue at the regional and global levels.

At the same time, the Azerbaijani authorities take this opportunity to present both factual corrections and general standpoint on several issues of importance.

It is worth underlining that draft law "On the Prevention and Elimination of Racial Discrimination", as well as on the amendments to the Criminal and Criminal Procedure Codes of the Republic of Azerbaijan were prepared by the Ministry of Justice in 2021.

The current legislation of the Republic of Azerbaijan also envisages pertinent norms aimed at combating discrimination and effective legal remedies for victims. The Constitution of the Republic of Azerbaijan guarantees the rights and the fundamental freedoms of everyone and the elimination of discrimination. The largest chapter III, from Article 24 to Article 71 of the Constitution, is devoted to the provision of fundamental human and civil rights and freedoms. Article 25 of the Constitution provides for the "right to equality." According to Article 44 (Right to Nationality) of the Constitution, everyone has the right to preserve their nationality, and no one can be forced to change his or her nationality. Article 45 (Right to use mother tongue) states that everyone has the right to use his or her mother tongue. Everyone has the right to be brought up and educated in any language, to engage in creativity. According to Article 69 (Rights of Foreigners and Stateless Persons) of the Constitution, "Foreigners and stateless persons, while in the Republic of Azerbaijan, may enjoy all the same rights as the citizens of the Republic of Azerbaijan, unless otherwise provided by law or an international agreement to which the Republic of Azerbaijan is a party."

The Law "On Guarantees of Gender (Men and Women) Equality" adopted on October 10, 2006 specifically prohibits the discrimination in the respective areas. The purpose of this Law is to ensure gender equality by eliminating all forms of discrimination based on gender and creating equal opportunities for men and women in political, economic, social, cultural and other areas of public life.

According to Article 16 (Inadmissibility of discrimination in labor relations) of the Labor Code, employment relations are based on citizenship, gender, race, religion, nationality, language, place of residence, property status, social origin, age, family status, beliefs, political views, allowing no discrimination between employees due to membership in trade unions or other public associations, service position, as well as other factors not related to the employee's business qualities, professional competence, and the results of his or her work, directly or indirectly granting privileges and concessions on the basis of those factors determination, as well as limitation of rights is strictly prohibited.

Then, according to Article 8 (Equality before the law and the court) of the Civil Procedure Code, justice in civil cases and commercial disputes is carried out on the basis of the principle of equality before the law and the court. Regardless of race, nationality, religion, language, sex, origin, property status, service position, belief, affiliation to political parties, trade unions and other public associations, place of legal entity, subordination, form of ownership and other differences not provided by law, the court shall treat all participants equally (Article 8.2). The principle of equality before the law and the court is provided in the Civil Procedure Code, the Civil Code, the Criminal

Procedure Code, and the Criminal Code and other normative legal acts of the Republic of Azerbaijan.

The Criminal Code provides for criminal liability for violation of the right to equality (Articles 154.1, 154.2). Any person may file a complaint, written or oral form, with a criminal investigator or prosecutor regarding a case of discrimination. The complaint will be registered and the applicant will be informed of the relevant results.

According to paragraph 1 of Article 57 of the Constitution, "Citizens of the Republic of Azerbaijan have the right to personally apply to state bodies, as well as to send individual and collective written applications. Military personnel can use this right only individually. Each application must be answered in writing and within the time limits established by law."

According to the Law "On Citizens' Appeals", citizens of the Republic of Azerbaijan may apply in person or by representative to state and municipal bodies, legal entities and budget organizations that are owned by the state or municipality or whose shares belong to the state or municipality, or their officials in written or oral form, individually or collectively. Citizens exercise their right to appeal freely and voluntarily. A citizen's exercise of his or her right to appeal should not violate the rights and freedoms of other persons. It is prohibited to limit the right of a person to apply due to race, nationality, religion, language, gender, origin, property status, service position, belief, affiliation to political parties, trade unions and other public associations.

In addition, there are opportunities to appeal to the President of the Republic of Azerbaijan with a complaint. The relevant state bodies must inform the applicant in writing about the decisions made as a result of considering his or her complaint. In the event of a violation of the law, the relevant state bodies can cancel the decisions of the lower administrative bodies or impose on them the obligation to comply with the relevant legislation.

A person who claims to have been discriminated against can apply to the Human Rights Commissioner (Ombudsperson) of the Republic of Azerbaijan about violations of his or her rights, including discriminatory ones. The activity of the Ombudsperson is regulated by the Constitutional Law of the Republic of Azerbaijan "On the Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan". According to the law, the Commissioner examines the complaints of citizens of the Republic of Azerbaijan, foreigners and stateless persons, legal entities regarding the violation of human rights.

The Republic of Azerbaijan has ratified major international human rights treaties, with relevant provisions on combating discrimination.

The independence of the Ombudsperson is guaranteed by the Constitutional law on the Commissioner for Human Rights of the Republic of Azerbaijan (hereinafter CLO). As such Article 5.1 states that "the Commissioner shall be independent and obey only the Constitution and laws of the Republic of Azerbaijan." According to the Article 1 of the CLO the Ombudsperson restores the human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is a party violated by governmental and municipal bodies and officials of the Republic of Azerbaijan and to prevent violation of human rights in cases envisaged by this Constitutional Law. This mandate also covers the restoration of human rights related to the discrimination and ensuring the equality enshrined in the national legislation of the country as well as in the international treaties to which Azerbaijan is party.

In 2021, Ombudsperson submitted to the Parliament the draft amendments to CLO. Amendments enshrine establishment of independent monitoring mechanism for prevention of discrimination under the Ombudsperson's Office. As of 2022, the draft amendments already passed three readings at the Parliament.

With regard to the expression "Nagorno-Karabakh" mentioned through the report, the Decree of the President of the Republic of Azerbaijan dated July 7, 2021 "On the new division of economic regions in the Republic of Azerbaijan", approved the division of the economic regions of the Republic of Azerbaijan and the Karabakh economic region was established. Therefore, the legal name of this locality is the Karabakh economic region of Azerbaijan, which consists of the city of Khankandi and the districts of Aghjabadi, Aghdam, Barda, Fuzuli, Khojaly, Khojavand, Shusha and Tartar. There is no administrative unit called "Nagorno-Karabakh" and the use of expression

“Nagorno-Karabakh” is perceived as disrespect for the territorial integrity and sovereignty of the Republic of Azerbaijan.

Concerning the allegation of hate speech, ECRI recognises itself in the report the suffering of Azerbaijani population, including the internally displaced persons who were deprived of their homelands due to military occupation by Armenia of the Azerbaijani territories for almost 30 years. Even during the period of occupation of the Azerbaijani territories by Armenia, the persons of Armenian origin have always enjoyed all rights enshrined in the Constitution of Azerbaijan, whereas Azerbaijanis were expelled not only from Armenia, but also from their own territories by the occupying Armenian forces. After the liberation of its territories in 2020, Azerbaijan expressed at the highest political level the view that ethnic Armenians living in the Karabakh region of Azerbaijan are the citizens of Azerbaijan and enjoy equal rights and freedoms. The President of Azerbaijan Ilham Aliyev made the following statement at the 2023 Munich Security Conference: *“Karabakh Armenians are Azerbaijani citizens, are minority. Azerbaijan is a multi-ethnic country. And all minorities in Azerbaijan enjoy the same rights and privileges, including cultural, linguistic, and other and also security. And we are ready to start practical communications with representatives of the Armenian community in Karabakh.”*¹⁴⁹

The Government of Azerbaijan believes that the confidence-building measures launched by the Council of Europe (CoE) in 2022 will contribute to the normalization process, establishing trust between Azerbaijani and Armenian societies and reducing cases of mutual hate speech in the future. In addition to two meetings held in the framework of the confidence-building measures mentioned in ECRI's report, the third meeting between Azerbaijani and Armenian participants of the relevant project of the Council of Europe took place in Istanbul, Türkiye in March 2023.

The anti-discrimination activities remain one of the important areas of cooperation between Azerbaijan and the CoE. As such, under the second CoE/Azerbaijan Action Plan an anti-discrimination/equality platform bringing together 13 civil society organisations and experts was established with a view to reinforcing the role of civil society in the area of anti-discrimination and enhancing dialogue between the civil society and the public institutions, such as the Ombudsperson. Moreover, the staff in the Ombudsperson's Office during the reporting period improved skills due to a training course on the European anti-discrimination standards within the regional project on “Strengthening access to justice for victims of discrimination, hate crime and hate speech,” funded by the European Union (EU) under the Partnership for Good Governance programme. It included also training of trainers which should ensure the sustainability of capacities of the staff of the Ombudsperson's Office both at central and regional levels.

Besides, the activities on “strengthening access to justice for victims of discrimination, hate crime and hate speech” have been also included into the third CoE Action Plan for Azerbaijan for the period of 2022-2025 aimed at, among others, further improving the legislation in this field, as well as enhancing the role of civil society in fighting the discrimination.

One of the essential pillars of addressing and most importantly preventing the possible discrimination remains education. Important projects have been put in place in this field. In 2021-2022, within the “Promoting gender transformative approaches in primary and secondary education in Azerbaijan” project funded by the United Nations Population Fund (UNFPA) and the EU, seven textbooks were reviewed in terms of gender equality, intersectionality and inclusivity. As a result, a set of recommendations was provided to support a balanced and equitable approach to gender in all teaching and learning materials. “Friend of Pupil” project implemented by the Ministry of Science and Education of the Republic of Azerbaijan is the mechanism to monitor and prevent incidents in schools.

According to estimates, 96 percent of Azerbaijan's population are Muslims, and 4 percent are Christians, Jews and representatives of other religions. The Government has always paid special attention to the protection of the rights of national-ethnic minorities living in the Republic of Azerbaijan. The stability of the religious situation in the country, the high level of tolerance and the absence of any discrimination between citizens based on their religious beliefs create favorable conditions for the religious institutions to freely operate as legal entities in their houses of worship, to perform religious rites, to hold religious holidays and ceremonies.

¹⁴⁹https://azertag.az/en/xeber/Plenary_session_on_security_issues_in_South_Caucasus_was_held_as_part_of_Munich_Security_Conference_President_Ilham_Aliyev_attended_the_session_VIDEO-2496440

Finally, Azerbaijan looks forward to cooperating with ECRI in a constructive manner for implementation of its appropriate recommendations.

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies

(Paragraph 2) To ensure implementation of the relevant ECRI recommendations, draft laws "On the Prevention and Elimination of Racial Discrimination", as well as on amendments to the Criminal and Criminal Procedure Codes of the Republic of Azerbaijan were prepared by the Ministry of Justice in 2021. Furthermore, the draft amendments to the CLO proposed by the Ombudsperson have passed three readings at the Parliament.

(Paragraph 3) The mentioned amendments to the CLO have been drafted by taking into consideration the recommendations of the GANHRI's Sub-Committee on Accreditation. The issue of the election of the Ombudsperson is also taken into account in the draft amendments.

(Paragraph 4) According to new amendments to CLO the position of Ombudsperson is set up to restore the human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is a party and violated by governmental and municipal bodies, *as well as legal entities (including public legal entities) owned by the state or municipality or whose shares are controlled by the state or municipality* and budget organizations of the Republic of Azerbaijan, as well as to prevent violation of human rights in cases envisaged by the given Constitutional Law. Thus, this amendment will modify the Article 1.1 of the Constitutional Law.

(Paragraph 5) After the draft amendments to CLO enters into force and equality mechanism is established, a separate section in the annual report will be dedicated to the work carried out in the field of combating discrimination and accordingly, data regarding the breakdown of cases on grounds of discrimination will be provided.

(Paragraph 7) The explicit mandate and the necessary competences in the promotion of equality and the fight against racism and discrimination is enshrined in the draft amendments to CLO that have already passed three readings at the Parliament. The Ombudsperson's Office already cooperates with civil society organizations (CSO). In 2020 the Department on Cooperation with International and Civil Society Organizations was established at the Ombudsperson's Office. Furthermore, there is a Council of Experts consisting of the representatives of different CSOs and independent experts functioning at the Ombudsperson's Office. Consultations are regularly held by the Council of Experts with regard the solution of existing problems in the field of human rights protection.

Along with the staff of the Ombudsperson's Office, members of different CSOs also were involved in Training of trainers (ToT) course in order to increase their knowledge and skills in the field of fighting discrimination and promoting equality. In addition, a 2-day training was organized by international and local experts of the Council of Europe in the city of Lankaran both for the representatives of the Ombudsperson's Office, its regional centers and CSOs.

(Paragraph 8) Amendments to the CLO envisage these recommendations.

(Paragraph 9) To ensure implementation of the relevant ECRI recommendations draft laws "On the Prevention and Elimination of Racial Discrimination", as well as on amendments to the Criminal and Criminal Procedure Codes of the Republic of Azerbaijan were prepared by the Ministry of Justice in 2021. To guarantee equal opportunities for the exercise of human and civil rights and freedoms, measures aimed at preventing and eliminating all forms of racial discrimination in relation to all areas of public life, including labor, employment, social protection, education, housing, health protection, economic activity, public service and provision of services, have been determined in the draft law "On the Prevention and Elimination of Racial Discrimination".

Article 283 of the Criminal Code, stipulating liability for inciting national, racial, social or religious hatred and enmity, in the draft law on the amendment to the Criminal Code, also stipulates liability for actions aimed at degrading the dignity of any person due to his/her race, skin color, language, religion, origin or ethnicity, including the spread of such ideology, making calls to violence against

those persons, spreading information in this context, refusing to provide the same services in service areas to a person due to his/her race, skin color, language, religion, origin or ethnicity and etc. At the same time, conduct of these acts by officials is considered as one of the descriptive circumstances of the crime.

B. Inclusive education

(Paragraph 12) In 2021-2022 within the “Capacity building for selected schools to deliver inclusive education to children with disabilities” project implemented in cooperation with UNICEF, trainings on inclusive education were organized with the participation of 213 teachers and special education specialists from 18 schools, and 91 members of the Psychological-medical-pedagogical commissions of 10 regions.

Additionally, 672 persons from pedagogical and administrative staff of 18 schools participated in the meetings on the formation of the culture of inclusion.

In 2021-2022, within the “Promoting gender transformative approaches in primary and secondary education in Azerbaijan” project funded by the United Nations Population Fund (UNFPA) and the European Union (EU) 7 textbooks were reviewed in terms of gender equality, intersectionality, and inclusivity. As a result, a set of recommendations was provided to support a balanced and equitable approach to gender in all teaching and learning materials. Moreover, in order to create a more gender-inclusive culture and a gender responsive learning environment in classrooms by embedding gender equitable perspectives in different modalities of teaching and learning, a capacity-building program for teachers was developed. The program consists of five modules and covers topics such as "Gender equality and education policy at school", "Gender and content", "Gender and learning environment", "Gender and pedagogical strategies", "Gender and planning". Additionally, gender-sensitive topics were integrated into the School Improvement Plan to ensure a sensitive approach to gender issues in many activities such as lesson planning, class management, organization of work with students, in-school assessment, and creation of a supportive environment.

(Paragraph 13) Ministry of Science and Education of the Republic of Azerbaijan is particularly sensitive to the content during the textbook renewal process, which is carried out every 4 years. While in 2021/2022 textbooks for the 3rd, 7th and 10th grades, in 2022/2023 textbooks for the 4th, 8th, 11th grades were renewed, relevant changes were made.

However, the language used in the Armenian textbooks to describe historical relations of Armenia with neighboring Georgia, Azerbaijan as well as Iran and Turkey reflect the state's current political stance towards these countries. Republic of Armenia's National Security Strategy (NSS) document penned by the Ministry of Defense states Azerbaijan as *hakarakord* (հակառակորդ), which is translated as adversary or rival. Azerbaijan is regarded in this document as security threat to Armenia (NSS, 2020). In Armenian history textbooks while the acts by Azerbaijan are presented as massacres and slaughters, the Armenian violence in “Zangibasar, Oltu, Artashat, Nakhichevan and Sevan against its Muslim population” is presented as ‘pacification’ of the region. This example is very illustrative to the points that present the glorified ideal heroes, and “others” as predatory and treacherous enemies.

(Paragraph 16) Awareness-raising events are regularly carried out with the aim of preventing violence against children, including bullying in educational and other institutions with the participation of pedagogical staff, students and people working with children. During Child Rights Month-long campaign held upon the initiative of the Ombudsperson in 2022 (20 October-20 November), educational social advertisements were broadcasted, the billboards with slogans on the protection of children from violence, also bullying, as well as applying to the Ombudsperson regarding child rights violations were displayed at the central streets and avenues of the city.

Relevant measures are taken regarding the appeals submitted to the Ombudsperson on violence, as well as bullying against children. Moreover, information obtained from the mass media and social networks related to the violation of children's rights, including bullying is promptly investigated and kept under control by the Ombudsperson. At the same time, the National Preventive Mechanism Group (NPM) of the Ombudsperson conducts visits to child institutions without prior notice to investigate the status and treatment of the children.

(Paragraph 17) "Friend of Pupil" project implemented by the Ministry of Science of Education of the Republic of Azerbaijan is the mechanism to monitor and prevent incidents in schools. Authority, including principals, of the schools not covered by the mentioned project is responsible for ensuring the hatred free atmosphere in the educational institutions.

C. Irregularly present migrants

(Paragraph 23) In order to promote obtaining work permits for labor migrants by the employers, regular improvements have been carried out in the legislation, the procedure and complaint mechanisms have been simplified. According to Article 76.3 of the Migration Code foreigners and stateless persons staying on the territory of the Republic of Azerbaijan should observe the declared purposes of their entry. Foreigners and stateless persons intending to reside temporarily and engage in paid labour activity on the territory of the Republic of Azerbaijan should obtain a work permit in addition to the temporary residence permit.

The procedure for hiring labor migrants on the basis of work permits, the implementation of labor activities is regulated by the Migration Code of the Republic of Azerbaijan, the Labor Code and other regulatory legal acts and within their framework, **with no exception provided in this regard**. According to the legislation, foreigners and stateless persons have the same labor rights as citizens of the Republic of Azerbaijan. These rights are protected by the law which is enforced by the relevant state authorities. If any fact related to the violation of rights is discovered, measures are taken in accordance with the legislation.

The State Labor Inspection Service under the Ministry of Labor and Social Protection of Population considers applications received from foreigners and stateless persons on violation of labor rights, in accordance with the requirements of the Law of the Republic of Azerbaijan "On Citizens' Appeals". According to the requirements of Article 17 of the Labor Code, it is prohibited to force an employee to perform work (service) that is not included in the labor function by using coercion by any method, as well as threatening to terminate the employment contract. According to Article 193 of the Code of Administrative Offenses of the Republic of Azerbaijan in terms of violation of these requirements (forcing an employee to perform work (service) not included in the labor function) under the threat of termination of the employment contract or deprivation of his/her benefits and privileges provided for by the collective agreement, a fine in the amount of one thousand manats to two thousand manats is imposed on the employer. At the same time, foreigners and stateless persons can file their complaints about the violation of labor rights by employers directly to the Ministry or through the 142-Call Center of the Ministry. Upon receipt of such complaints the State Labor Inspection Service under the Ministry promptly investigates them and takes appropriate measures.

"Action Plan to prevent informal employment in the Republic of Azerbaijan" was approved by the Decree of the President of the Republic of Azerbaijan No. 3287 dated October 9, 2017. Migrant workers are legally free to change jobs and work for another employer subject to obtaining a relevant work permit. Migrant workers working on the basis of a work permit are not limited in the right to work for another employer by obtaining a new work permit in the event of the expiration of the work permit or early termination of the employment contract.

Migrant workers are also granted a temporary residence permit on the basis of a work permit. In addition, a fine of three hundred to four hundred manats is applied to foreigners and stateless persons for engaging in paid labor activity on the territory of the Republic of Azerbaijan without such a permit in cases where a work permit is required (Article 575.1.4.), a fine in the amount of three thousand to four thousand manats is imposed on officials, and from fifteen thousand to twenty thousand manats on legal entities for employing a foreigner or a stateless person without obtaining a work permit in violation of the requirements of the Migration Code of the Republic of Azerbaijan, if the same violation is made in relation to three or more foreigners or stateless persons - a fine in the amount of five thousand to seven thousand manats is imposed on officials, and a fine in the amount of thirty thousand to thirty five thousand manats on legal entities (Article 578.1.).

In accordance with Article 568 of the Code of Administrative Offenses, during the issuance of visas to foreigners and stateless persons, their registration in the territory of the Republic of Azerbaijan, the extension of their temporary stay, the provision of temporary or permanent residence permits and work permits, officials are also fined for delaying the consideration of the application (extension of the term), requesting additional documents not specified in the Migration

Code of the Republic of Azerbaijan, or unreasonable refusal to consider the application.

(Paragraph 24) According to Article 10 of the Law "On Courts and judges" foreign citizens and stateless persons residing in the territory of the country are entitled to judicial protection of their rights and freedoms envisaged by the Constitution of the Republic of Azerbaijan and other laws, as well as legal interests of juridical persons from any conspiracies and infringements in any phase of the court proceeding, along with citizens of the Republic of Azerbaijan. No one can be deprived from the right to judicial protection. Therefore, no information on migratory status of migrants is exchanged between the courts and SMS.

(Paragraph 25) According to Article 74.1 of the Migration Code of the Republic of Azerbaijan, foreigners and stateless persons, while staying in the Republic of Azerbaijan, may enjoy all the same rights as the citizens of the Republic of Azerbaijan, unless otherwise provided for in the law or international agreements to which the Republic of Azerbaijan is a party.

Except for the cases stipulated in the Labor Code of the Republic of Azerbaijan, the same conditions defined by legislation for citizens of the Republic of Azerbaijan regarding labor conditions are applied to labor migrants and payment of their labor is carried out in the manner established by legislation for the citizens of the Republic of Azerbaijan.

At the same time, according to Article 74.4 of the Code, foreigners and stateless persons shall be equal before the law and courts of the Republic of Azerbaijan, regardless of their social and property status, race and nationality, gender, language, religion, type and nature of their activities and other circumstances.

II. HATE SPEECH AND MOTIVATED VIOLENCE

A. Hate speech

Responses to hate speech

Public discourse

(Paragraph 38) No specific evidence has been presented regarding the allegation of hate speech against ethnic and linguistic minorities in Azerbaijan. Possible hate speech against minorities in the media is punished according to the relevant legislation.

(Paragraphs 39 and 40) Prior to the territorial claims of Armenia against Azerbaijan at the end of the 20th century, it is impossible to find any sign against Armenia in the public opinion of Azerbaijan in general, in contrast to the other side. Unlike Armenia, Azerbaijan was and is a multi-ethnic state, and it did not implement systematic activities to have a mono-ethnic structure.

Since the restoration of its independence, 20 percent of Azerbaijani territories had been occupied by Armenia, which had resulted in one million refugees and internally displaced persons, as well as losses of lives of thousands. Accordingly, all these severe developments have had its consequences on the minds of population who have been directly or indirectly affected by the results of the long-lasting conflict. This in its turn has made inevitable the strong indignation against the policy of Armenia in the Azerbaijani society.

With regard to alleged persistent adversarial narrative against Armenia, during the Second Karabakh War some key expressions such as "terrorists," "bandits," "barbarians," and "devils" began to be used both by the regular Armenian population and politicians and officials, as well as some celebrities towards Azerbaijan. Simultaneously, the officials were also promoting the narrative of Azerbaijanis being "non-human" or "subhuman." During the 44-day war the website of the Ministry of Defense of Armenia, in the section covering "Purchases," allocated a tender request for 20 million (meaning rubles) for spreading images demoralizing Azerbaijan and the Azerbaijani people.

The same narrative can also be found on Armenian news portals which intend to target and subjectively humiliate the Azerbaijani people and nation. However, the Armenians are not denigrated by Azerbaijanis as a nation in reaction to these claims.

(Paragraph 41) Azerbaijan welcomed the initiative put forward by the Secretary General on the confidence-building measures between Armenia and Azerbaijan in 2021, and the Council of Europe's participation in this process. While "ECRI recalls the importance of engaging in

confidence-building measures, preferably with the involvement of civil society, media and other relevant non-political actors" it somehow omits to mention in the report the confidence-building measures between Azerbaijan and Armenia implemented by the Council of Europe during the reporting period. As such, two confidence-building measures were organized between two countries in 2022. The first meeting between civil society representatives from Armenia and Azerbaijan took place in Venice, Italy from 16 to 18 May. As a follow-up to the first exploratory meeting, the second confidence-building measure was held in Tbilisi, Georgia from 8 to 9 December 2022 between civil society representatives from Azerbaijan and Armenia aimed at developing young journalists' skills on balanced reporting on sensitive issues. The third meeting between Azerbaijani and Armenian participants of the relevant project of the Council of Europe took place in Istanbul, Türkiye in March 2023. These confidence-building measures initiated by the Council of Europe demonstrate the engagement of Azerbaijan in dialogue necessary for creating a mutual trust. In general, these meetings between the representatives of the Armenian and Azerbaijani societies are expected to contribute to normalization and reconciliation process in our region.

Responses to hate speech

(Paragraph 45) In the draft amendments to the Criminal Code, liability is also provided for committing crimes of insult, defamation or insult by demonstrating massively in the internet information resource by using fake usernames, profiles or accounts with the intention of racial, national, religious enmity and hostility. See also comments on paragraph 9.

(Paragraph 48) Azerbaijan joined the Budapest Convention on Cybercrime of the Council of Europe on July 1, 2010. The Criminal Code was amended on June 29, 2012 in order to implement the obligations arising from that Convention in the national legislation, and crimes in the field of computer information were grouped in a separate chapter called "Cybercrimes" (Chapter 30). Institutions to fight cybercrime were established within the Ministry of Internal Affairs and structure of its relevant services. Currently, activities are being continued to strengthen the technical infrastructure of these institutions, equip them with qualified personnel, and increase their professional training.

B. Hate-motivated violence

Data

(Paragraphs 53, 55 and 56) The Ministry of Internal Affairs has not received any request regarding the submission of statistical data to the OSCE/ODIHR.

The Ministry of Internal Affairs maintains unified statistics of crimes pursuant to subparagraph 3.1.5 of the Regulations approved by Decree of the President of the Republic of Azerbaijan No. 518 dated June 30, 2001, and currently records all illegal actions envisaged by the Criminal Code of the Republic of Azerbaijan. All the statistical data of crimes collected by the bodies that conduct the criminal proceedings on the crimes are registered in the database, regardless of their category.

In the last 5 years, no crimes of harassment, racial discrimination, violation of the right to equality (Articles 109, 111, 154 of the Criminal Code) have been registered, and only 7 crimes related to incitement religious hatred and enmity have been committed (Article 283 of Criminal Code).

Manifestations of hate-motivated violence

(Paragraph 57) In stark contrast to Azerbaijan's prompt actions with a view to ensuring respect for international humanitarian law, including swift investigation into all allegations of international humanitarian law violations, no similar action has ever been taken by Armenia throughout the past 30 years, including in the context of the First Karabakh War and 44-Day Patriotic War.

As such, culture of impunity still prevails in Armenia, as this country continues to disregard its international obligations and commitments, including the call by the Parliamentary Assembly of the Council of Europe to investigate war crimes committed by its servicemen (Resolution 2391/2021).

As a result, horrific war crimes, crimes against humanity and acts of genocide that have accompanied Armenia's armed aggression against Azerbaijan, including those committed in Khojaly, Bashlibel, Malibayli, Gushchular, Aghdaban remain unaddressed. No single investigative action has ever been taken by Armenia with respect to serious allegation of war crimes, crimes against humanity as documented also by several independent third parties. On the contrary, the perpetrators have been glorified in Armenia and decorated with state awards.

Several mass graves have already been identified in areas recently liberated from Armenian occupation. The facts collected thus far by investigative institutions of Azerbaijan provide enough ground to conclude that the Azerbaijani captives, be it military or civilian, were subjected to cruel treatment and torture leading to death.

Deliberate targeting densely populated residential areas, located far away from the combat zone, such as the cities of Ganja, Barda, Tartar of Azerbaijan, with ballistic missiles, multiple-launch rocket systems and cluster munitions by the armed forces of Armenia in the course of 44-Day War that resulted in brutal killing of around 100 Azerbaijani civilians, including 12 children, still remain unpunished.

A total of 900 settlements, 150,000 houses, 7,000 public buildings, 693 schools, 855 kindergartens, 695 medical institutions, 927 libraries, 44 temples, 473 historical sites, palaces and museums, 40,000 museum exhibits, 6,000 industrial and agricultural enterprises, 160 bridges and other infrastructure facilities were razed to the ground by Armenian armed forces in Karabakh in 1988-1993. Armenia destroyed 65 out of 67 mosques situated in the formerly occupied territories, while the remaining two mosques were seriously damaged and used to keep pigs and cows.

(Paragraph 58) Measures related to the complete exclusion of cases of discrimination and intolerance towards citizens, prevention of exposure to illegal acts by persons belonging to the risk group, and the provision of the right to equality established in Article 25 of the Constitution of the Republic of Azerbaijan are carried out consistently under strict control.

During the special quarantine regime, the personnel of the internal affairs bodies switched to a strengthened work regime and ensured compliance with the requirements of the quarantine regime, the protection of the rights and freedoms of all groups of people, regardless of race, religion, gender and the results of the activities in this direction were welcomed by civil society. This is confirmed by numerous letters of thanks, telegrams sent to the Ministry of Internal Affairs, as well as received e-mails.

(Paragraph 59) Amrulla Gulaliyev was charged with Article 120.1 (deliberate murder) and sentenced to 9 years and 6 months deprivation of liberty for murder of his cousin Avaz Shikhmammadov (Hafizli). A.Gulaliyev confessed that they had fierce argument, which resulted in killing of A.Shikhmammadov.

Responses to hate-motivated violence

(Paragraph 63) All complaints received by the police authorities regarding crimes and incidents are fully, comprehensively and objectively investigated and necessary measures are taken in accordance with the national legislation. In accordance with paragraph 3 of the Decree of the President of the Republic of Azerbaijan No. 387 dated August 25, 2000 on the application of Code of Criminal Procedure, it isn't within the competence of the internal affairs bodies to conduct an investigation under Article 283 of the Criminal Code, which stipulates responsibility for hate crime. When information on such cases is received or discovered, it is immediately forwarded to the relevant competent authorities for making a decision under the national legislation.

The information related to the investigation is collected and systematized in the database, as mentioned in paragraph 3.

(Paragraphs 64 and 65) Increasing the professional training of the personnel, which is important in the successful fulfillment of the tasks of ensuring human rights and freedoms, in line with modern requirements, international experience and norms, is always in the spotlight. Subjects on ethical behavior rules, service discipline, protection of human rights and freedoms are trained in professional training sessions held once a week in the Ministry of Internal Affairs and its subordinate institutions. Those topics were given detailed consideration in initial, professional development and retraining courses involving 13,530 employees, as well as in 17 trainings held

in videoconference format with external service personnel with extensive use of visual aids. Teaching of special subjects for police cadets of the Police Academy is also continued on the basis of educational programs on ethical behavior.

Information and reports on educational events and other activities related to ethical behavior issues are posted on the website of the Ministry of Internal Affairs (www.mia.gov.az) and are regularly updated.

III. INTEGRATION AND INCLUSION

General overview

(Paragraph 67) In accordance with the "Calendar Plan for the preparation and conduct of the population census in the Republic of Azerbaijan in 2019", approved by the Order of the State Statistical Committee of the Republic of Azerbaijan dated 17 January 2017, No. 01/05s a publication of 30 volumes containing data on the results of the population census had been released in August 2022 and presented to users as well as to the United Nations Statistics Division on 26 September 2022.

(Paragraph 68) to modify the sentence as "(IDPs) as a result of the former conflict between Armenia and Azerbaijan".

A. Migrants, refugees and asylum seekers

Policy framework and measures taken by the authorities

(Paragraph 78) In accordance with the Migration Code a temporary residence permit is issued to foreigners and stateless persons who have been granted a work permit. In case of early termination of the employment contract the State Migration Service investigates the other grounds for the migrant's stay in the Republic of Azerbaijan. At the same time, an opportunity is given for employment of a migrant worker by another employer. According to the Administrative Procedure Code a complaint can be filed against the decision on cancellation of residence permit with a possibility of suspension of the order to leave the country, with a court-issued protection of a temporary nature as an interim measure.

(Paragraph 79) According to the amendments made to the laws of the Republic of Azerbaijan "On the status of refugees and internally displaced persons (persons displaced within the country)" and "On the rights of children" on December 7, 2018, opportunities have been created for foreigners and stateless persons who have received refugee status in the country to study at all stages of education in the Republic of Azerbaijan. The right to education, which is one of the main privileges, of persons seeking asylum and receiving refugee status in Azerbaijan, and their family members, has been fully resolved. Refugees registered with the State Migration Service, asylum seekers, as well as persons under the protection of the UNHCR and their children are provided with free education in public schools of the republic and in higher education institutions in accordance with the current legislation. SMS, in cooperation with Ministry of Education, assisted electronic registration of documents of 17 children under the protection of the UNHCR Representation in Azerbaijan in the first grade of general education schools for 2021-2022 academic year. 2 Afghan citizens were electronically registered in the "Student-graduate system" of the State Examination Center with the temporary certificate issued by the SMS to participate in the final exam of the secondary school.

In accordance with pledge undertaken by the government of Azerbaijan at the First Global Forum on Refugees held in Geneva in December 2019, tuition fees of the refugees who are enrolled in higher education institutions are covered by the government. In the academic year 2020/2021, two students with refugee status were awarded to study in higher education institutions of Azerbaijan on a free basis. In the 2021/2022 academic year, one student with refugee status was awarded such an opportunity.

(Paragraph 81) "Support to the development of the Migrant Integration Strategy, related Action Plan and Training Curriculum" pilot project implemented within the MIEUX+ initiative will also support the development of a tailor-made training course on integration for public officials from all government agencies providing services for migrants, as well as provide a specific approach on putting integration into practice in Azerbaijan aligned with the new Strategy and its Action Plan. As of December 2022, capacity and training needs assessment are being conducted as the first

activity of the project.

B. Roma

(Paragraph 85) In line with Article 5 of the Law on Education, the State guarantees equal access and opportunities to education for each citizen regardless of their ethnicity, including that of Roma people.

The up-to-date information related to the educational attainment of Roma people is described in the table below:

Primarily settled areas	Yevlakh, Aghdash, Aghsu, Aghstafa, Balakan, Barda, and Gakh districts in Azerbaijan
Number of students involved in general education	892 school-age children from 657 Roma families settled in 7 districts (Yevlakh - 294, Aghdash - 98, Aghsu - 13, Agstafa - 36, Balakan - 85, Barda - 53, Gakh - 78)
Number of schools involved	35 secondary schools
Classification across grades	492 students - I-IV grades 343 students - V-IX grades 57 students - X-XI grades.

As of June 2022, 31 (3.5%) school-age Roma children (Aghstafa - 24, Balakan - 2, Aghsu - 5) are not attending the education institutions due to the nomadic lifestyle of their families. 88 (9.9%) Roma students (Aghstafa - 12, Aghdash - 18, Barda - 3, Aghsu - 6, Gakh - 3, Yevlakh - 35, Balakan - 11) do not attend classes on a regular basis.

IV. TOPICS SPECIFIC TO AZERBAIJAN

A. Action taken to implement previous interim follow-up recommendations

(Paragraphs 88 and 89) In line with the Law "On Public Participation", public councils, comprising civil society representatives are established under the central and local executive authorities, and local self-government authorities. Public councils collect the proposals of civil society institutions aimed at addressing issues of public importance, and submit them to the central and local executive authorities, and local self-government authorities thus facilitating involvement of the civil society members into the decision-making process.

The public legal entity "Agency for State Support to Non-Governmental Organizations of the Republic of Azerbaijan" was established in April of 2021 to stimulate partnerships and mutual cooperation between state and non-governmental organizations and to promote the activities of non-governmental organizations in public control.

As of June 2022, 4,848 non-profit legal entities (including 65 political parties and more than 4,500 non-governmental organizations) have been state-registered throughout the country. 314 of these organizations specialize in the protection of fundamental rights and freedoms.

In Azerbaijan:

- Association in NGOs is free and voluntary. Anyone can form a public association without notifying any public authority in advance. State registration is voluntary. Due to voluntary character of registration, as well as the temporary establishment of some NGOs, there are also NGOs operating without official state registration. Among them are NGO networks and coalitions created by NGOs.
- State registration is a right and not an obligation. State-registered public associations receive the status of non-profit legal entities.
- A public association whose activities are terminated by a court decision loses only the status of a legal entity. There is no legal impediment to the continued operation of an NGO whose legal status is revoked.

Note: By legislation, the NGOs (all legal entities) have the power to temporarily suspend their activities by themselves. There are cases when inactive NGOs submit an electronic declaration to temporarily suspend their activities. There is no need for any notifications to reactivate such

NGO. A legal entity that has temporarily suspended its activities can start operating at any time, and its activity is considered to be automatically renewed when presenting a declaration to the tax authorities during the next quarter.

(Paragraphs 90 and 91) In accordance with Part I of Article 76 of the Constitution of the Republic of Azerbaijan, "defence of Motherland is the duty of every citizen. The citizens shall serve in the Armed Forces as prescribed by law". Part II of Article 76 of the Constitution stipulates that if military service is contrary to a citizens' convictions, then, in cases prescribed by law, it may be permissible to replace regular military service with alternative service. Statute "On the Procedure for alternative service (labor obligation) of citizens of the Republic of Azerbaijan" was approved by Decree No. 94 of the President of the country dated July 31, 1992. In that Statute, issues related to citizens' alternative service (labor obligation) are regulated.

The working group has been established in the Milli Majlis for the purpose of drafting the law "On Alternative Service".

B. Preventing and combating any racist or LGBTI-phobic abuse by law enforcement officials

(Paragraphs 92, 93 and 94) According to the information of the Ministry on Internal Affairs, in the last 2 years, there have been no incidents of torture, cruel, inhuman or degrading treatment and punishment, as well as racial profiling. 70 facts related to the violation of human rights and freedoms were determined, as a result, 127 employees were brought to disciplinary responsibility for bringing citizens to the police without grounds, detaining them, and allowing cruel treatment.

According to the Constitution, everyone in our country is equal before the law and the court, but in recent years, representatives of the sexual minority who have committed some illegal act in our country are trying to avoid responsibility by stressing on their orientation. Relevant issues are resolved in Azerbaijan only within the framework of legislative acts that have passed the legal expertise of relevant international organizations. Law enforcement agencies and other relevant institutions are guided by the international obligations, the Constitution and internal legislative acts of our country in approaching such issues.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.