

**Information submitted by the State Migration Service of the Republic of Azerbaijan
on the Questionnaire of the Special Rapporteur on the human rights of migrants:
pushback practices and their impact on the human rights of migrants**

Reply to Question 1:

In 1992, the Republic of Azerbaijan has acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. On the basis of these international documents, the Law of the Republic of Azerbaijan "On the Status of Refugees and IDPs (internally displaced persons)" was adopted (*text in Azerbaijani and unofficial translation into English are attached*). In relation to the application of this law the rules of processing the applications for refugee status were set up by the relevant Decree on approval of the "Rules of consideration on applications for refugee status" in 2000.

The legislation of the Republic of Azerbaijan guarantees the right to seek asylum for those in need and ensures that all asylum claims are reviewed individually and in accordance with due process, regardless of race, religion, nationality, political convictions, or affiliation with any social group.

Furthermore, the Republic of Azerbaijan actively participated in adoption of the New York Declaration on Refugees and Migrants, and joined both "Global Pact for Safe, Orderly and Regular Migration" and "Global Compact on Refugees" in 2018.

Reply to Question 2:

Pursuant to paragraph 1 of the "Rules of consideration on applications for refugee status", a foreigner or stateless person intending to obtain refugee status in the Republic of Azerbaijan can apply, for refugee status, to the State Migration Service (SMS) of the Republic of Azerbaijan directly at border checkpoints, as well as while being within the country, or through the government authorities (Ministry of Internal Affairs, State Security Service, State Border Service and their structural units, as well as local executive bodies). In case asylum application is made through other government authorities, those applications are sent to SMS within 3 working days for review and investigation. If a person is unable to apply due to health or other reasons, he/she can submit the application through his/her authorized representative (guardian, lawyer, etc.).

When it is revealed that a person under 18 arrived unaccompanied or became unaccompanied after arrival, information about that person is referred to the Guardianship and Trusteeship Authority. The Guardianship and Trusteeship Authority shall determine whether an unaccompanied child enters the territory of the country or remains unaccompanied after arrival and in case of his/her intention to obtain refugee status, application is filed to the SMS. Until the issue of granting refugee status to an unaccompanied child is resolved, the guardianship and custody authorities place him/her in a social service facility. Unaccompanied children in the country is treated equally as children who have lost their parents and are deprived of parental care, and their social

protection is ensured by the state, and their rights and benefits are protected in accordance with the law.

Regardless of any immigration status of the foreigner or stateless person, their applications to SMS for refugee status are registered in a timely manner and their fingerprints (over 18 years old) are taken, individual interviews are held with those persons and their applications are responded within 3 months. Failing to provide an identity document does not affect the outcome of the reviewing process of the asylum application. Interviews with minors, women and vulnerable applicants are carried out by the specially trained employees of SMS.

Asylum applicants and their family members are provided with a Temporary Certificate with 3-month validity by SMS. Holders of Temporary Certificate issued according to Article 11 of the Law "On the Status of Refugees and IDPs (internally displaced persons)" and Article 64.0.15 of the Migration Code are entitled to employment without the need for a work permit during the period of consideration of their application.

The asylum applicants (with their accompanying family members), excluding unaccompanied children, can be provided with voluntary accommodation at the Detention Centers for Illegal Migrants of SMS, which have separate facilities for voluntarily and compulsorily placed persons, until the issue of granting "refugee" status is resolved.

In the event of a decision is made on refusal to grant refugee status to a foreigner or a stateless person, decision on refusal is provided to the applicant within 5 days with explaining the right to appeal against that decision in administrative or judicial way within one month and they are explained in a language clear to them. Conditions are created for asylum seekers to appeal with the suspension effect. In order to secure the right to appeal, the validity of their expired Temporary Certificates are extended.

Reply to Question 3:

All asylum applications by foreigners and stateless persons are accepted regardless of their citizenship, religion, race, nationality, social group, no restrictions are applied and relevant decisions are made in accordance with the requirements of the legislation in the Republic of Azerbaijan.

Reply to Question 4:

The Republic of Azerbaijan has taken all necessary measures to eliminate any restrictions or obstacles to the entry of asylum seekers into the country and to prevent refoulment, extradition or deportation of individuals at risk in their countries of origin.

Moreover, rejected applicants are provided with the opportunity to legally enter another country to seek asylum in accordance with the Paragraph 3 of Article 32 of the 1951 Convention and to be resettled in a third country with the assistance of the UNHCR.

Reply to Question 5:

During the first days of the COVID-19 pandemic Azerbaijan built his migration policy on maximum convenience of foreigners, reducing administrative procedures almost close to zero and broad promotion of digitalization. After the restriction on transportation of passengers between Azerbaijan and other states was applied, borders, especially with neighbouring states, have been kept open under special conditions for the crossing of citizens, while other states organized charter flights. During this period, temporary staying period of foreigners in the country who did not want to go back to their countries due to various reasons was extended until opening of the borders and no additional document was required for this. In other words, no citizen of any country was forced to leave the country and no administrative procedure was applied to them in this regard.

In Azerbaijan applications for obtaining the refugee status was not stopped during the pandemic. The processing of asylum seekers' applications was postponed and validity of relevant permits for their stay in the territory of the country was extended. Those who were refused granting refugee status prior to COVID-19 were not required to leave the country or were not forcibly placed in detention centers.

Reply to Question 6:

In order to protect the rights and freedoms of migrants, asylum seekers and refugees residing in the country, to provide social support to vulnerable groups SMS regularly partners with non-governmental organizations and civil society institutions operating in the country, and implements social assistance projects with their close participation. In this regard, the establishment of the Public Council under SMS currently consisting of 7 NGOs extends these efforts considerably. The Public Council holds regular meetings with migrants, studies their proposals and problems, and resolves complaints in cooperation with the Service. The Public Council also supports the activities of SMS in raising awareness of foreigners about the existing migration legislation, its requirements, and changes in legislation. In addition, Azerbaijani language courses were organized for refugees and asylum seekers through the Public Council, as well as humanitarian and medical assistance was provided to refugee families.

Furthermore, social assistance activities for the vulnerable migrants have been extended during the pandemic. With support of SMS migration volunteers provided food assistance to low-income families living in Azerbaijan with refugee status, asylum seekers. SMS also cooperates with the IOM and UNHCR to provide necessary assistance to migrants such as food, hygiene, temporary housing and medical care during the pandemic.

LAW OF THE REPUBLIC OF AZERBAIJAN
On the status of refugees and IDPs (Internally Displaced Persons)

CHAPTER I
GENERAL PRINCIPLES

Article 1. Basic concepts used in this Law

The basic concepts used in this Law have the following meanings:

The term "**Refugee**" shall apply to person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return;

The term **Internally Displaced Person** (IDP) shall apply to any person who has moved to another place being forced to leave his/her permanent residence within the territory of the Republic of Azerbaijan in connection with military aggression, natural or technogenic disaster.

The IDP status can be granted according to decision of relevant executive authority to the citizen of the Republic of Azerbaijan, being forced to leave the place of the permanent residence in the other country and coming to the Republic of Azerbaijan by the reasons, indicated in part 1 of this Article.

Article 2. Cases when refugee status is not granted

Refugee status shall not be granted to a person who:

- is determined to have committed a crime against peace, a war crime, or a crime against humanity and mankind as defined in the international law;
- has committed a serious or especially serious non-political crime outside of the Republic of Azerbaijan prior to his/her arrival in its territory;
- found guilty of committing acts contrary to the purposes and principles of the United Nations.

Article 3. Granting political asylum to foreigners and stateless persons in the Republic of Azerbaijan

Political asylum shall be granted to the foreigners and stateless persons in accordance with Part 1 of Article 70 and Paragraph 21 of Article 109 of the Constitution of the Republic of Azerbaijan.

Article 4. Admission of the persons willing to apply for the refugee status to the territory of the Republic of Azerbaijan

A person willing to apply for the refugee status shall be admitted to the territory of the Republic of Azerbaijan through the border checkpoints in compliance with the legislation of the Republic of Azerbaijan.

Article 5. Non-application of liability for illegal arrival. Non-refoulement of refugees to the country of origin

A person who illegally entered the Republic of Azerbaijan from another state for the reasons specified in the first part of Article 1 of this Law and applied to the relevant competent authority as soon as possible shall be exempted from liability provided by the legislation of the Republic of Azerbaijan.

A refugee shall not be sent or forcibly returned to a country where his life or liberty is endangered for the reasons specified in the first part of Article 1 of this Law.

CHAPTER II

THE LEGAL STATUS OF REFUGEES AND IDPs (INTERNALLY DISPLACED PERSONS)

Article 6. Rights and obligations of the refugees and IDPs (internally displaced persons)

Unless otherwise is provided by the Constitution of the Republic of Azerbaijan, this Law and other legislative acts, refugees enjoy the same rights and freedoms with the citizens of the Republic of Azerbaijan and have the same duties with them.

A person who has been granted refugee or IDP (internally displaced person) status shall be provided with the following guarantees in accordance with the established procedure:

- to come and transport the property from the temporary residence free of charge;
- to receive necessary medicines and medical care in temporary accommodation and hospitals for the elderly, children, persons with disabilities, low-income persons and persons who have lost breadwinner of the household in accordance with the procedure established by the relevant executive authority;
- to get education;
- to purchase food and industrial goods in the settlements on the same basis with the permanent residents;
- to obtain one-time and other aid determined by the state;
- to get priority in placement in special social security institutions for pensioners and persons with disabilities who are unable to take care of themselves due to illness, disability or old age, as well as do not have able-bodied relatives or legal representatives who are able to provide care and assistance to the person (family);
- to obtain refugee or IDP (internally displaced person) status within the term established by this Law;
- to raise the issue of compensation for material and other damage;

- to apply to the court to protect his/her violated rights;
- the right to return to previous places of residence.

Foreigners and stateless persons who have obtained refugee status in the Republic of Azerbaijan can leave the Republic of Azerbaijan and enter the Republic of Azerbaijan without a visa on the basis of a "Travel Document" issued to them to travel outside the Republic of Azerbaijan.

A person who has obtained refugee status enjoys the rights and bears the responsibilities envisaged by the legislation of the Republic of Azerbaijan for foreigners and stateless persons.

A person who has obtained refugee status can be placed voluntarily in the detention centers of illegal migrants of the relevant executive authority in accordance with the procedure established by the Migration Code of the Republic of Azerbaijan for a period not exceeding 3 months.

Article 7. Integration and naturalization of refugees, providing them with humanitarian assistance

Conditions are created for refugees to integrate, naturalise, learn the language, and get acquainted with their rights and responsibilities.

Refugees can use humanitarian aid.

A refugee acquires the citizenship of the Republic of Azerbaijan in accordance with the Law of the Republic of Azerbaijan "On Citizenship of the Republic of Azerbaijan".

Article 8. Sending foreigners and stateless persons to another country

A person who cannot be granted refugee status and asylum in accordance with this Law can be sent from the Republic of Azerbaijan to another country.

CHAPTER III

OBTAINING REFUGEE OR IDP (INTERNALLY DISPLACED PERSON) STATUS. LOSS OF REFUGEE STATUS

Article 9. Bodies dealing with granting of refugee and IDP (internally displaced person) status and depriving of refugee status

Decisions on granting of refugee and IDP (internally displaced person) status and depriving of refugee status are made by the appropriate executive authorities of the Republic of Azerbaijan.

Article 10. Procedure for applying for refugee and IDP (internally displaced person) status

The persons willing to obtain the status of refugee should apply to the relevant executive authority of the Republic of Azerbaijan with an application for obtaining refugee status. Persons willing to obtain IDP (internally displaced person) status should be registered in the relevant executive authority of the Republic of Azerbaijan.

Procedures of processing the applications are established by the relevant executive authority of the Republic of Azerbaijan.

Article 11. Rights and obligations of the persons applying for refugee status

A person who has applied for refugee status shall be granted the following rights:

- to reside temporarily in the territory of the Republic of Azerbaijan;
- to use interpreter's service free of charge;
- to get employed temporarily;
- to get medical assistance;
- to be voluntarily placed and accommodated in the detention centers of illegal migrants of the relevant executive authority in accordance with the procedure established by the Migration Code of the Republic of Azerbaijan together with the family members accompanying him/her until the issue of granting refugee status is resolved;
- to freely practice his/her religion;
- to contact with representative of the United Nations High Commissioner for Refugees.

A person who has applied for the refugee status is required to:

- submit the necessary information to the relevant body of the Republic of Azerbaijan to resolve the issue of granting refugee status;
- follow the rules for staying within the territory of the Republic of Azerbaijan established by the existing legislation;
- pass mandatory state dactyloscopic registration;
- undergo a medical examination at the request of the health authorities.

A person who submits an application for refugee status but refuses to provide information about him/her or deliberately gives false information about the reasons for applying for refugee status, is rejected to granting refugee status.

Article 12. Procedure for consideration of an application for granting refugee or IDP (internally displaced person) status to a person

Decision on granting refugee or IDP (internally displaced person) status is made within three months from the date of registration of the application for refugee status by the relevant executive authority of the Republic of Azerbaijan and within a month from the date of registration of the IDP (internally displaced person) in the relevant executive authority of the Republic of Azerbaijan.

A person who has been granted refugee status and his/her family members are issued a refugee card, samples of which are approved by the relevant executive authority of the Republic of Azerbaijan, as well as a travel document entitling him/her to travel outside the Republic of Azerbaijan in accordance with the 1951 Convention relating to the Status of Refugees. A state fee in the amount established by the Law of the Republic of Azerbaijan "On State Fee" is charged for the issuance of a refugee card and a travel document.

A refugee card issued in accordance with the established procedure is a document confirming the identity of the refugee, his/her registration at the place of residence and enabling him/her to stay legally in the territory of the Republic of Azerbaijan.

Article 13. Refusal to grant the refugee status

If a person is refused to grant refugee status, he/she is notified in writing within five days from the date of the decision, stating the reasons for the refusal and the procedure for appealing the decision.

The relevant executive authority organizes the sending of a person in respect to whom a decision refusal to grant refugee status has been made, from the territory of the Republic of Azerbaijan.

The decision on refusal to grant refugee status can be appealed administratively and (or) in court.

Unless otherwise provided by the law, the filing of a complaint by a person suspends the actions related to the organization of sending him/her from the territory of the Republic of Azerbaijan.

Article 14. Loss of refugee and IDP (internally displaced person) status

A person loses refugee status in the following cases:

- in case he/she voluntarily re-use the protection of the state of which he is a citizen or permanent resident;
- in case he/she is deprived of his/her citizenship and regains it voluntarily;
- in case he/she acquires the citizenship of the Republic of Azerbaijan or of another state and using the protection of the state of which he is a new citizen;
- in case he/she voluntarily re-settles in the state which he/she left or stayed abroad for the fear of persecution;
- in case he/she is no longer able to renounce the protection of the state of which he/she is a citizen due to the elimination of the circumstances which caused to his/her recognition as a refugee (except for refugees who can provide sufficient grounds arising from previous persecutions for renouncing the protection of the State of which he/she is a citizen);
- in case a stateless person is able to return to the country where he/she usually resides due to the elimination of the circumstances which caused to his/her recognition as a refugee (except for refugees who can provide sufficient grounds arising from previous persecutions for returning to the country of their previous residence).

When a refugee leaves the territory of the Republic of Azerbaijan for permanent residence, the obligations of the Republic of Azerbaijan with respect to that refugee is eliminated from the moment he/she crosses the state border of the Republic of Azerbaijan.

A citizen loses IDP (internally displaced person) status in the following cases:

- in case he/she returns to his/her usual place of residence or is provided with another place of residence free of charge in that region in the certain measures;
- if the first is not possible, in case he/she is provided with accommodation at a certain level established by a special decision of the state.

Article 15. Deprivation of refugee status and prohibition of sending, extraditing or forcibly returning of refugees to another country

A person is deprived of refugee status in the following cases:

- In case he/she threatens state security or public order;
- In case the refugee status was obtained as a result of deliberately submitting false information or forged documents;
- In case he/she is sentenced to imprisonment for a term determined by a court decision which has entered into force, or to life imprisonment for committing a serious or especially serious crime.

A person applying for refugee status cannot be sent, extradited or forcibly returned until his/her issue is resolved by the relevant executive authority.

The decision on deprivation of refugee status, as well as on sending, extraditing or forcibly returning a refugee, as well as a person seeking refugee status, is made by the court on the basis of an application of the relevant executive authority. The relevant executive authority does not make a decision on expulsion of foreigners and stateless persons who have been granted refugee status, as well as those granted political asylum by the Republic of Azerbaijan, from the territory of the Republic of Azerbaijan.

Article 16. Recruitment of refugees and IDPs (internally displaced persons)

Relevant executive authorities assist refugees and IDPs (internally displaced persons) in choosing a job.

Restoration of uninterrupted length of service is carried out at the new place of work in accordance with the legislation.

When a refugee or IDP (internally displaced person) leaves his/her position due to professional development or learning a new profession, he/she is paid the average salary for the new profession in the new job. In connection with the change of specialization without leaving the position, the difference in salary for the entire working period is paid to the refugee or IDP (internally displaced person) by the department, enterprise or organization which concluded an employment contract with him/her.

Foreigners and stateless persons who have applied for refugee status, obtained refugee status or been granted political asylum, are not required to obtain a work permit to engage in paid labour activity in the territory of the Republic of Azerbaijan.

Article 17. Provision of refugees and IDPs (internally displaced persons) with accommodation

Provision of refugees and IDPs (internally displaced persons) with temporary or permanent accommodation shall be carried out by the relevant executive authority of the Republic of Azerbaijan in a way established by the existing legislation.

Costs borne by refugees and IDPs (internally displaced persons) related with moving from temporary accommodation to permanent accommodation or workplace shall be paid back to them in the established way and amount.

Upon desire of refugees and IDPs (internally displaced persons) targeted interest-free loan for the period of ten years, as well as land plot for use in the size and way established by the legislation depending on their place of residence shall be granted to them.

When refugees and IDPs (internally displaced persons) purchase apartment or house operations shall be implemented without payment of notary fees.

Article 18. Taxation of refugees

Refugees shall only be involved to taxes and fees imposed on the citizens of the Republic of Azerbaijan.

Part 1 of this Article shall not apply to fees related with issuance of relevant administrative documents.

CHAPTER IV FINAL PROVISIONS

Article 19. Liability for violation of this Law

Officials shall bear liability envisaged by the legislation of the Republic of Azerbaijan for violation of this Law.

Article 20. International cooperation on refugee problems

The Republic of Azerbaijan shall cooperate with other states, international organizations, in the first place with UN High Commissioner for Refugees for the purpose of elimination of root-causes of refugee and IDP (internally displaced person) problems, improvement of their financial situation and enhancement of their legal status, as well as voluntary return of refugees to the country of their permanent residence.

Article 21. The procedure of entry into force of this Law

This Law shall enter into force from the day it is published.

President of the Republic of Azerbaijan HEYDAR ALIYEV

Baki city, May 21, 1999
№ 668-IQ