

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: Fourth Cycle, 44th Session

REPUBLIC OF AZERBAIJAN

I. BACKGROUND INFORMATION

Azerbaijan is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the *1951 Convention*). Azerbaijan has also acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Internal displacement resulting from the conflict over the Karabakh region remains a key issue of concern for the Government of Azerbaijan. The initial conflict, dating back over 30 years, resulted in the displacement of over 600,000 internally displaced persons (IDPs), registered by the Government and of some 250,000 ethnic Azeri refugees from Armenia, who were recognized as *prima facie* refugees in 1992 and naturalized in the late 1990's. Internally displaced persons (IDPs) live in all administrative districts of Azerbaijan, with the majority having settled in the capital Baku and its surroundings. One of the current priorities of the Government is large-scale demining and construction activities following the 44-Day War.

Azerbaijan's national asylum procedure is implemented by the State Migration Service (SMS) and the procedure became operational in 2004. Most refugees in the country were recognized by UNHCR pursuant to its mandate. However, UNHCR stopped conducting refugee status determination under its mandate in 2020.

At the end of 2022, the overall number of refugees, asylum-seekers and persons in refugee-like situations enrolled for assistance purposes with UNHCR in Azerbaijan was 1,880 individuals, of whom 76 were refugees recognized by the Government of Azerbaijan (less than 5% of the overall number) and 1,592 were mandate refugees recognised by UNHCR. Afghan nationals represent the majority of persons enrolled for assistance purposes, amounting to almost 70% of the total number, followed by nationals of the Russian Federation, Pakistan and Iran.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 141.99: "Grant all asylum seekers access to the asylum system, by ensuring that the definition of refugees is compatible with article 1 of the 1951 Convention relating to the Status of Refugees (Netherlands)"

Achieving progress in expanding the protection space for refugees and asylum-seekers in Azerbaijan has remained one of the key aims of UNHCR collaboration with the Government. In this regard, a number of concrete positive developments have been recorded in recent years, in particular, in the area of registration and documentation of asylum-seekers. For example, since 2018, UNHCR has not received indication that asylum-seekers have been denied access to the asylum procedure. As mentioned above, UNHCR has phased out from refugee status determination under its mandate in 2020. The Government of Azerbaijan has now full ownership over all status determination processes. Special focus has been given to the timely registration of asylum applications by the Government, without discrimination, as well as the possibility to appeal negative first instance decisions in court.

UNHCR also notes that asylum-seekers are issued with documentation confirming their legal status in Azerbaijan, for the full period of consideration of their claim, including during judicial appeal processes.

Linked to 3rd cycle UPR recommendation no. 141.98: “Implement a non-discriminatory asylum policy (Switzerland)”

UNHCR has noted improvements in the application of national legislation on asylum and has not received any recent reports of lack of or unequal access to the national asylum procedure. The number of asylum-seekers applying through the Government asylum procedure was 669 persons in 2018, 683 persons in 2019, 93 persons in 2020, 19 persons in 2021, and 298 persons in 2022. The number of applicants in 2020 and 2021 decreased due to COVID restrictions as the land border remained closed during the period. All asylum applications have been accepted and assessed by the refugee status determination Department of State Migration Service.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Adoption of protection mechanisms for persons fleeing situations of armed conflict, generalized violence or severe disturbances of public order and whose expulsion could result in violation of their right to life, freedom from torture and security of person

Although the Government of Azerbaijan has put in place an asylum procedure in accordance with the refugee definition of the *1951 Convention*, there are no administrative procedures or legislation in place to provide protection for individuals fleeing situations of armed conflict, generalized violence, or severe disturbances of public order and whose expulsion could result in violation of their right to life, freedom from torture and security of person.

Establishing this type of formal protection mechanism is essential to ensure effective protection of individuals who may not fall under the scope of the *1951 Convention* refugee definition but nevertheless have international protection needs.

In this regard, the Committee on the Rights of the Child in its Concluding Observations (06 February 2023, CRC/C/AZE/CO/5-6) recommended Azerbaijan “*to strengthen its measures to ... include complementary forms of protection in the legislation, as previously recommended*”.

Recommendations:

UNHCR recommends that the Government of Azerbaijan:

- a) Amend national legislation to ensure that persons fleeing situations of armed conflict, generalized violence or severe disturbances of public order and whose expulsion could result in violation of their right to life, freedom from torture and security of person in their country of origin have access to an additional protection ground to be examined in the context of the national asylum procedure.

Issue 2: Ensuring a legal status for UNHCR mandate refugees

UNHCR placed an increased focus on ensuring legal status for UNHCR mandate refugees. Refugees which have been previously recognized under UNHCR mandate do not have a clear entitlement of legal status under domestic law. A draft Law on Amendments to the Migration Code of the Republic of Azerbaijan has been proposed, whereby persons recognised by UNHCR would be eligible to receive residence permits. Currently the Government allows mandate refugees recognized by UNHCR to access social services including employment, health and education. While UNHCR is grateful to the Government

for this important policy decision, the issuance of legal residency status would provide further safeguards and secure their legal situation.

Recommendations:

UNHCR recommends that the Government of Azerbaijan:

- a) Amend the Migration Code of the Republic of Azerbaijan to ensure there is a possibility to grant legal residency status to UNHCR mandate refugees and to enable them to fully exercise their basic rights.

Issue 3: Developing a legal and procedural framework to address statelessness

UNHCR has supported the Government of Azerbaijan's efforts on confirmation of nationality for those entitled to it as a mean to prevent statelessness. Efforts were also made on strengthening identification of stateless persons and facilitating their access to naturalization. At the High-level Segment on Statelessness (HLS) in 2019, the Government of Azerbaijan committed to carry out measures aiming at ensuring access to naturalization for documented stateless persons permanently residing in the territory of Azerbaijan.

The Government has made significant progress towards its commitments at the HLS, including through the organization of awareness raising sessions on the importance of documentation jointly conducted with UNHCR and the establishment of a dedicated working group on statelessness. This group consists of the State Migration Service (SMS), the Ministry of Foreign Affairs (MFA), Ministry of Internal Affairs (MIA), State Security Service, Foreign Intelligence Service, Office of Ombudsperson, as well as International Organization for Migration, International Centre for Migration Policy Development and Public Council under the SMS as an observer. The Working group focuses on coordinating measures taken by relevant entities to support the government in achieving its pledge and reducing statelessness in Azerbaijan.

Despite these positive developments, without a simplified or accelerated route to naturalization for stateless people and people at risk of statelessness, these persons will continue to experience challenges in establishing or confirming their legal status.

In this regard, the Committee on the Elimination on Racial Discrimination in its Concluding Observations (30 August 2022, CERD/C/AZE/CO/10-12) recommended Azerbaijan *"to develop and adopt a legislative framework for statelessness determination procedure, to enable all stateless persons, without discrimination, to have their status ascertained and obtain identity documents. ..."*

Recommendations:

UNHCR recommends that the Government of Azerbaijan:

- a) Enhance facilitated naturalization procedures for stateless people and people at risk of statelessness, which take into account the special needs of these people.