

# HUMAN RIGHTS AND MIGRATION

informative brochure



The Commissioner for Human Rights  
(Ombudsman) of the Republic of Azerbaijan





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*Migration is the movement of persons away from their place of usual residence, either across an international border or within a State.*

*The brochure has been prepared in cooperation between the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan and the UN Migration Agency - International Organization for Migration (IOM).*

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## INTRODUCTION

This brochure provides information on the rights and duties of individuals participating in migration processes, the regulation of their legal status, legal protection mechanisms, and procedures.

The present brochure was developed in conformity with provisions of the Universal Declaration of Human Rights (UDHR), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), European Convention on Human Rights (ECHR), and other international documents, and the Constitution of the Republic of Azerbaijan, the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, Migration and Administrative Offences Codes, the Law on the Status of Refugees and Displaced Persons (internally displaced persons), which are in effect at the date of publication of this print material and other legal and normative acts.

For more information, you may look at these legislative acts.

## GENERAL INFORMATION

According to the UDHR, all human beings are born free and equal in dignity and rights.

According to International Covenants on Economic, Social and Cultural Rights, and Civil and Political Rights and ECHR, all participating states undertake to ensure the rights recognized in the noted treaties without distinction of any kind, such as race, color, language, religion, political or other opinions, national or social origin, property, birth or another status.

Article 25 of the Constitution of the Republic of Azerbaijan established the right to equality for all human and civil rights and freedoms as a primary goal of the state.

The legislation of the Republic of Azerbaijan provides the right of foreigners and stateless persons to enjoy all rights equally with citizens of the Republic of Azerbaijan.

Since 2001, the Republic of Azerbaijan has been a member of the IOM.

Azerbaijan has also joined the “Global Action Plan” accepted in the frame of the United Nations High Commissioner for Refugees (UNHCR) Campaign “Ending Statelessness Within 10 years”. Azerbaijan has ratified the CMW in 1999 and in 2018 voted in favor of adoption of the Global Compact on Safe, Orderly, and Regular Migration.

Azerbaijan has established national UN Network on Migration aiming to support implementation of 23 objectives of Global Compact for Migration has been established in. IOM is performing the role Network Coordinator and Secretariat.

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On 28 December 2001, the Constitutional Law of the Republic of Azerbaijan "On the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan" was enacted.

The Office of the Human Rights Commissioner of the Republic of Azerbaijan shall be set up to restore the human rights and freedoms of the citizens of the Republic of Azerbaijan, foreigners and stateless persons, and legal entities 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.

The Ombudsman Institution has been operating in Azerbaijan since 2002.

The Ombudsman undertakes measures to protect the rights of citizens of Azerbaijan, including former internally displaced persons (IDPs), who are in the territory of the Republic of Azerbaijan, and/or under its jurisdiction, as well as those who are temporarily or permanently living in foreign countries, and those who are engaged in labor activities. The protection of the human rights of those persons is carried out at all stages of the migration cycle based on universally recognized principles and norms, international documents, to which the State of Azerbaijan is a party, domestic laws, and other normative acts.

## MIGRATION LEGISLATION OF THE REPUBLIC OF AZERBAIJAN

The migration legislation of Azerbaijan covers the Constitution of Azerbaijan, the Migration Code, various national laws, and international treaties by which Azerbaijan is bound and legal and normative acts, enacted in line with them.

Migration Code of Azerbaijan regulates the departure and entering of citizens of the Republic of Azerbaijan from and in a country, entering and leaving of foreigners and stateless persons to the Republic of Azerbaijan, temporary residence in the country, issuing of temporary and permanent residence permits, registration of them, rights and duties of participants of migration processes, labor migration, state control over migration and relations in the field of irregular migration.

The issues related to the status of refugees, citizenship, and readmission (eng. “readmit” – the return) are governed by the Law on the Status of Refugees and internally displaced persons (displaced persons within the country), the Law on Citizenship of Azerbaijan, the Agreement on the readmission of persons residing without authorization between the Republic of Azerbaijan and European Union, and other official documents.

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***The State Migration Service (SMS)*** is a central executive body, which implements the state policy in the field of migration, and the competencies defined by the legislation of the Republic of Azerbaijan in the management and regulation of migration processes.

## CITIZENS, STATELESS PERSONS & PERSONS WITH DUAL CITIZENSHIP

According to the UDHR, everyone has the right to nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

*A National of the Republic of Azerbaijan* - a citizen of the Republic of Azerbaijan is a person who belongs to the Azerbaijan State and has legal and political relations, as well as mutual rights and obligations to it (State). A person who is born in the territory of the Republic of Azerbaijan, or by a citizen of the Republic of Azerbaijan shall become a citizen of the Republic of Azerbaijan. A person of whose parents are a citizens of the Republic of Azerbaijan shall become a citizen of the Republic of Azerbaijan.

*Statelessness (apatrism)* – is a legal status of a person characterized by the fact that he/she does not enjoy citizenship of any state.

*A stateless person (apatride)* – is a person who is not considered a national by any State under the operation of its law.

According to the 1954 UN Convention relating to the Status of Stateless Persons, every stateless person has duties to the country in which he finds himself, which require in particular that he conforms to its laws and regulations as well as to measures taken for the maintenance of public order.

*Dual citizenship (bipatrism)* – is a legal status of a person characterized by the fact that he/she enjoys the citizenship of two or more countries.

*A person with dual citizenship (bipatride)* – an individual is a citizen of two or more countries.

Affiliation of the Azerbaijani citizens to the citizenship of a foreign state shall not be recognized, except for cases provided by international treaties of the Republic of Azerbaijan, or cases treated under paragraph 32, Article 109 of the Constitution of the Republic of Azerbaijan.

A citizen of the Republic of Azerbaijan, who has adopted citizenship of a foreign country, shall provide written information to the SMS within a month.

Voluntary admittance of a citizen of the Republic of Azerbaijan citizenship of another country can be a ground for the termination of the citizenship of the Republic of Azerbaijan.

## FOREIGNERS

According to the UDHR, everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.

*Foreigner* - a person who is not a citizen of the Republic of Azerbaijan and has the citizenship of another state.

The foreigner's or stateless person's wife (husband), children under 18 years of age, disabled children who have reached the age of 18, and parents dependent on him/her are considered *family members of a foreigner or stateless person*.

A father, mother, husband (wife), child, brother, sister and their children, grandfather, grandmother, the father and mother of the grandfather (grandmother), grandchild, the parents, brother and sister of husband (wife) are considered *close relatives of a foreigner or stateless person*;



*Migrant worker* - a natural person who migrates legally from one country to another intending to carry out paid labor activity.

Migrant workers or their family members shall not be subjected to forced or compulsory labor.

Every able-bodied foreigner and stateless person who has reached the age of 18 can work in the Republic of Azerbaijan after obtaining a working permit through legal entities, natural persons dealing with entrepreneurial activity without establishing a legal entity, and branches and representations of foreign legal entities that employ him/her in the order and under conditions established by this Code.

A work permit shall be issued for 1 year or a lesser period of signing of the employment contract. The duration of a working permit can be extended each time for a maximum period of 1 year.

It shall be prohibited for legal entities, and natural persons dealing with entrepreneurial activity without establishing a legal entity and branches and representations of foreign legal entities to collect and keep passports or other identity documents of foreigners and stateless persons whom they employ.

An employment contract can be concluded without submitting a labor book with employees who are forcibly displaced, a person treated as equal to them, or who have refugee status, as well as workers who have started working for the first time in the Republic of Azerbaijan, foreigners, and stateless persons.

*A person staying in the Republic of Azerbaijan temporarily* - a foreigner or stateless person who does not possess a permit to reside in the Republic of Azerbaijan, but entered the Republic of Azerbaijan legally for tourism, private, business purposes, and in other similar cases which have temporary nature.

Foreigners or stateless persons who stay in the Republic of Azerbaijan temporarily for more than 15 days have to register at their place of stay (to this end relevant notice in Azerbaijani, Russian and English languages shall be issued at the state border checkpoints to foreigners and stateless persons entering the country).

*A person residing in the Republic of Azerbaijan temporarily* - a foreigner or stateless person who received a permit to reside in the Republic of Azerbaijan temporarily.

A permit for temporary residence in the territory of the Republic of Azerbaijan shall be issued for not more than 1 year and can be extended each time for a period not exceeding 2 years if there is a relevant ground for it.

A permit for temporary residence in the territory of the Republic of Azerbaijan shall be issued to foreigners and stateless persons, who invested at least AZN 500,000 in the economy of the country for the period indicated in their application, but not more than 3 years and can be extended each time for the period not exceeding 3 years if there is relevant ground for it.

*A person residing in the Republic of Azerbaijan permanently* - a foreigner or stateless person who received a permit to reside in the Republic of Azerbaijan permanently.

Foreigners and stateless persons who reside based on the relevant permit for at least 2 years temporarily in the territory of the Republic of Azerbaijan without interruption (excluding those, who holds work permit; those, who study full-time in higher and vocational education institutions and secondary schools in the Republic of Azerbaijan; those, who carry out professional religious activities at religious associations registered by the state, and foreigners and stateless persons who are considered victims of human trafficking) can apply to obtain a permit for permanent residence in the territory of the Republic of Azerbaijan. A permit for permanent residence in the Republic of Azerbaijan shall be issued for 5 years.

The permanent residence permit can be extended for the next 5 years based on an application of a foreigner or stateless person submitted at least 3 months before its expiration. The number of extensions shall not be limited.

## RIGHTS & DUTIES OF FOREIGNERS & STATELESS PERSONS

Every foreigner irrespective of his national and state affiliation becomes a subject of law and migration relations once he entered the territory of the Republic of Azerbaijan.

### *The Rights of Foreigners & Stateless Persons*

The foreigners and stateless persons who stay in the Republic of Azerbaijan shall enjoy all the rights equally with the citizens of the Republic of Azerbaijan unless otherwise provided by law or international treaties to which the Republic of Azerbaijan is a party.

Irrespective of their social and property status, race and ethnic origin, sex, language, religion, nature and type of activities, and other circumstances foreigners and stateless persons shall be equal before the law and courts in the Republic of Azerbaijan.

Foreigner or stateless person detained or arrested in the order established by the laws of the Republic of Azerbaijan shall be immediately informed about the reasons for such a measure and his/her rights.

Except for cases provided for in the Labor Code of the Republic of Azerbaijan, migrant workers shall enjoy the same rights as the citizens of the Republic of Azerbaijan in terms of applying working conditions created and fixing wages paid in the order established by the legislation of the Republic of Azerbaijan.

Note: The rights and freedoms of foreigners or stateless persons residing permanently or staying temporarily in the territory of the Republic of Azerbaijan shall be restricted only following the norms of international law and national laws of the Republic of Azerbaijan.

### ***Duties of Foreigners & Stateless Persons***

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- ✓ During their stay in the Republic of Azerbaijan the foreigners and stateless persons shall fulfill all duties along with citizens of the Republic of Azerbaijan unless otherwise provided by law or international treaties to which the Republic of Azerbaijan is a party.
- ✓ The rights and freedoms shall be realized by foreigners and stateless persons in a manner that does not contradict the national interests of the Republic of Azerbaijan. Foreigners and stateless persons shall not violate the requirements of the Constitution, laws of the Republic of Azerbaijan, and other legislative acts, and respect the customs and traditions of the Azerbaijani people.
- ✓ Foreigners and stateless persons who stay in the territory of the Republic of Azerbaijan shall comply with the declared purposes of their visit to the country and leave the territory of the country after the expiration of the established period.
- ✓ Based on the lawful requests of representatives of the relevant executive authority foreigners and stateless persons shall present their identity documents, as well as documents confirming their stay or residence in the territory of the Republic of Azerbaijan on legal grounds.
- ✗ In cases, where the occupation of definite positions and definite types of activity is stipulated by the citizenship of the Republic of Azerbaijan, foreigners and stateless persons cannot occupy such positions and deal with such business.
- ✗ It shall be prohibited for foreigners and stateless persons to conduct religious propaganda.

## ADMINISTRATIVE & CRIMINAL LIABILITY ISSUES OF FOREIGNERS & STATELESS PERSONS

### Administrative liability

Foreigners and stateless persons for the administrative offenses made in the territory of the Republic of Azerbaijan are subject to administrative responsibility following general practice.

According to international treaties by which the Republic of Azerbaijan is bound, the question of responsibility for the administrative offenses made in the territory of the Republic of Azerbaijan by foreigners who use immunity in the Republic of Azerbaijan is allowed according to rules of international law.

The judge or the SMS shall administratively extradite foreigners or stateless persons outside the borders of the Republic of Azerbaijan in the cases stipulated by the Code of Administrative Offenses of the Republic of Azerbaijan.

The right to return to the Republic of Azerbaijan for foreigners or stateless persons administratively extradited outside the borders of the Republic of Azerbaijan is limited to a period of 1 to 5 years.

Foreigners or stateless persons considered to be victims of human trafficking shall not be administratively deported outside the borders of the Republic of Azerbaijan for a period of 1 year, and for foreigners or stateless persons providing assistance to criminal prosecution bodies until the criminal prosecution is completed.

The following administrative disciplinary measures are applied for the violation of the migration legislation in the Code of Administrative Offences:

- ✘ For violation of the special rules applied for the arrival of citizens of the Republic of Azerbaijan, foreigners, and stateless persons to the Republic of Azerbaijan and departure from the Republic of Azerbaijan - a fine is in the amount of 150 (one hundred and fifty) to 300 (three hundred) manats.

- ✘ For the loss or intentional damage of documents of foreigners and stateless persons for temporary or permanent residence in the territory of the Republic of Azerbaijan - a fine is in the amount of 30 (thirty) manats .
- ✘ For residing without the documents which gives right to exist or live in the Republic of Azerbaijan, or without registration; existing or living in the Republic of Azerbaijan with invalid documents; engaging in the activities irrelevant to the stated purpose of his/her arrival in the Republic of Azerbaijan during the period of temporarily existing and temporarily or permanently residing in the territory of the Republic of Azerbaijan; in case of a work permit is required, engaging in a paid labor activity in the territory of the Republic of Azerbaijan without permit; failure to comply with the rules of registration on existing or residing places while moving from one place to another; avoiding to leave after expiration of existing or living period; failure to comply with the rules of passing by transit through the territory of the Republic of Azerbaijan , foreigners or stateless persons with or without administrative removal outside the borders of the Republic of Azerbaijan are fined in the amount from 300 (three hundred) to 400 (four hundred) manats.
- ✘ For re-entering of foreigners or stateless persons, who were previously deported from the borders of the Republic of Azerbaijan and whose entry was restricted for a certain period of time, by deliberately changing their documents during that period, foreigners and stateless persons are administratively deported outside the borders of the Republic of Azerbaijan with a fine of 500 (five hundred) manats .

### ***Criminal liability***

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The persons who have committed crimes shall be equal before the law and shall be subjected to criminal liability irrespective of race, nationalities, creeds, language, origin, property and official position, belief, belonging to political parties, trade unions, and other public associations, and also other circumstances.

Foreigners or stateless persons who have committed a crime outside the borders of the Republic of Azerbaijan and are in the Republic of Azerbaijan, can be given to a foreign state for bringing them to criminal responsibility or executing the prescribed punishment in accordance with the Law of the Republic of Azerbaijan "On Surrendering (Extradition) of Persons Who Have Committed Crimes", other legislative acts of the Republic of Azerbaijan and international agreements to which the Republic of Azerbaijan is a party.

The penalty of forced deportation outside the borders of the Republic of Azerbaijan is imposed on foreigners or stateless persons sentenced to imprisonment for more than 1 year, and it is executed after they have served the main type of punishment.

Foreigners or stateless persons sentenced to imprisonment for a term of not more than 1 year, or a punishment not related to imprisonment, may be imposed on a penalty of forced deportation outside the borders of the Republic of Azerbaijan, considering the nature and degree of public danger of the crime committed, the identity of a culprit, as well as mitigating and aggravating circumstances, and the effect of the imposed punishment on the reformation of the person and the living conditions of his family.

## **FEATURES OF ACQUIRING THE CITIZENSHIP OF THE REPUBLIC OF AZERBAIJAN OF FOREIGNERS & STATELESS PERSONS**

Change in husband's (wife) citizenship shall not be a reason for the change in wife's (husband's) citizenship.

A child born in the territory of the Republic of Azerbaijan, and whose one parent is a foreigner, and the other is a stateless person, is not considered a citizen of the Republic of Azerbaijan.

If one of the parents of a child living in the territory of the Republic of Azerbaijan has acquired the citizenship of the Republic of Azerbaijan, and the other parent is a stateless person, then this child shall acquire the citizenship of the Republic of Azerbaijan.

If one of the parents of a child living outside the territory of the Republic of Azerbaijan has acquired the citizenship of the Republic of Azerbaijan, and the other parent is a stateless person, then this child may acquire the citizenship of the Republic of Azerbaijan upon application of the parent, who has acquired the Azerbaijani citizenship, and with the consent of the other parent, who is a stateless person.

If citizens of the Republic of Azerbaijan adopt a foreign or stateless child, then this child shall acquire the citizenship of the Republic of Azerbaijan.

If one of the spouses, who adopt a foreign child, is a citizen of the Republic of Azerbaijan, and the other one is a stateless person, then this child shall be provided with the citizenship of the Republic of Azerbaijan.

If one of the spouses, who adopt a stateless child, is a citizen of the Republic of Azerbaijan, and the other one is a stateless person, then this child shall be provided with the citizenship of the Republic of Azerbaijan.

If one of the spouses, who adopt a stateless child, is a citizen of the Republic of Azerbaijan, and the other one is a foreigner, then this child may acquire the citizenship of the Republic of Azerbaijan upon agreement of the persons who adopt this child.

If both of the spouses, who adopt a child citizen of the Republic of Azerbaijan, are stateless persons, or one of them is a citizen of the Republic of Azerbaijan, and the other one is a stateless person, then this child shall retain the citizenship of the Republic of Azerbaijan.

A child born in the territory of the Republic of Azerbaijan, whose both parents are foreigners is not considered a citizen of the Republic of Azerbaijan.

A child born in the territory of the Republic of Azerbaijan, whose both parents are stateless persons is considered a citizen of the Republic of Azerbaijan.

A child whose both parents are unknown, and who is located in the territory of the Republic of Azerbaijan, shall become a citizen of the Republic of Azerbaijan.



## ADMITTANCE & RESTORATION OF THE CITIZENSHIP OF THE REPUBLIC OF AZERBAIJAN

### *Admittance to the citizenship of the Republic of Azerbaijan*

A foreigner or a stateless person who permanently lives in the territory of the Republic of Azerbaijan on the legal grounds for the last 5 years without interruption and who has a legitimate source of income, is obliged to comply with the Constitution and laws of the Republic of Azerbaijan, who submits a document certifying his/her knowledge of the state language may be admitted to the citizenship of the Republic of Azerbaijan upon his/her own application consistent with the relevant Law, regardless of his/her origin, race and nationality, sex, educational background, religious views, political and other convictions.

Foreigners and stateless persons may be admitted to the citizenship of the Republic of Azerbaijan regardless of 5 years in the following circumstances:

- when the person has high achievements in the fields of science, technology, culture, or sports;
- when a person is of special interest to the Republic of Azerbaijan and in other exceptional cases.

If a person applying for citizenship of the Republic of Azerbaijan calls for forcible change in the state structure set by the Constitution of the Republic of Azerbaijan, for disturbing its territorial integrity; performs activities that cause damage to state security, protection of public tranquility, the health and morality of the population; propagandizes racial, religious and national exception; has relations with terrorist activities, then such application for citizenship shall be rejected.

## Oath of persons admitted or restored to the citizenship of the Republic of Azerbaijan and reached the age of 14

” I (full name Lastname, name, and patronymic), as a citizen of the Republic of Azerbaijan declare, on oath, that I do not carry any obligation as a citizen of another state, that I will obey the Constitution and laws of the Republic of Azerbaijan, that I will faithfully serve the state of Azerbaijan, that I will protect its independence, sovereignty, and territorial integrity, and that I will respect the traditions and culture of the Azerbaijani people.

### Restoration of the Citizenship of the Republic of Azerbaijan

A person, who has been previously a citizen of the Republic of Azerbaijan, or whose citizenship has been terminated, may have his/her Azerbaijani citizenship restored through an application.

Applications on the restoration of citizenship of the Republic of Azerbaijan addressed to the President of the country shall be submitted by persons living in the territory of the Republic of Azerbaijan to the SMS, and persons living in foreign countries to diplomatic missions or consular offices of the Republic of Azerbaijan.

## REFUGEES & INTERNALLY DISPLACED PERSONS

*Refugee* – shall apply to a person who owing to a 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.

According to the 1951 Refugee Convention, a State shall not return a refugee to a country, where he/she faces serious threats to his/her life and freedom.

In the Republic of Azerbaijan, a person who has been granted refugee status and his/her family members are issued a refugee card, as well as a travel document entitling him/her to travel outside the Republic of Azerbaijan. 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 person who has received the status of a refugee enjoys the rights and duties provided for foreigners and stateless persons in the legislation of the Republic of Azerbaijan.

Persons who were not citizens of the Republic of Azerbaijan or another state before January 1, 1992, but were registered with the place of residence in the Republic of Azerbaijan, and refugees who settled in the territory of the Republic of Azerbaijan from January 1, 1988, to January 1, 1992, are considered citizens of Azerbaijan.

In the following cases, refugee status shall not be granted to a person who:

- ✗ voluntarily re-use the protection of the state of which he is a citizen or permanent resident;
- ✗ he is deprived of his/her citizenship and regains it voluntarily;
- ✗ 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;
- ✗ voluntarily re-settles in the state in which he/she left or stayed abroad for the fear of persecution;
- ✗ 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 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);
- ✗ as a stateless person is able to return to the country where he/she usually resides due to the elimination of the circumstances which caused 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 towards that refugee are lost from the moment he crosses the state border of the Republic of Azerbaijan.

When a decision is made to review a person's petition for "Refugee" status, within 24 hours, the SMS provides him and his family members with a temporary certificate prepared in a special form confirming their identity until the petition is reviewed.

Information about family members under the age of 16 is recorded in the certificate of one of the parents, and in the absence of parents, the guardian, or one of the relatives who have reached the age of 18 and voluntarily take responsibility for behavior, education, and guardianship.

*An asylum seeker* – is a citizen of another country or a stateless person who seeks international protection and a “refugee” status (or someone who has applied for refugee status, but no final decision has been made).

*Displaced person (an internally displaced person) (IDP)* – a 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, or natural or technogenic disaster.

The status of "forced displaced person" (as well as the corresponding confirmation card) is granted to the following persons:

- citizens of the Republic of Azerbaijan whose permanent residence was in that region until the occupation of the region in which they were a resident;
- citizens of the Republic of Azerbaijan who has been temporarily registered as IDPs after the occupation of the region where they live, have gone directly to the CIS countries and lived there temporarily;

- persons who were called up for active military service at their permanent residence before the occupation of their region and were in active military service during the occupation;
- residents of the occupied district who entered the military service and were in military service in the occupied region during the occupation (after discharge from the military service);
- persons who studied in higher, secondary, and vocational schools in the Republic of Azerbaijan and the CIS countries when their district was occupied and were temporarily registered in the city (district) where the educational institution is located, without registering from their permanent residence in their district during their studies;
- children whose father has the IDP status and whose both parents are permanently registered in the occupied district (city) and who have received an ID card from the Republic of Azerbaijan;
- women who were married to a resident of the occupied district (displaced person) before the circumstances that caused forced displacement, but who did not unregister from their district, and who were registered at the place of residence of their husband after the occupation;
- those who have lost their parents with IDP status and obtained the identity card of the Republic of Azerbaijan.

A citizen loses IDP 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.

## OMBUDSMAN & PROTECTION OF THE RIGHTS OF MIGRANTS

### *Mandate of the Ombudsman*

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- ◆ Investigates complaints on the violations of the rights and freedoms committed by the state authorities, self-governing bodies, and state officials of the Republic of Azerbaijan.
- ◆ Functions as a national preventive mechanism as stipulated in the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and therefore, conducts regular or ad-hoc visits to the places which detained people cannot leave on their own will.
- ◆ Has oversight of the obligations arising from the Law of the Republic of Azerbaijan on Access to Information by information holding state bodies, self-governing bodies, and state officials.
- ◆ Examines complaints on violations of human rights relating to red tape, loss of or delayed delivery of documents in courts as well as delays in the execution of court judgments.
- ◆ Applies to the Constitutional Court of the Republic of Azerbaijan in cases where the rights and freedoms of a person are violated by legislative acts in force.
- ◆ Submits motions to the President of the Republic of Azerbaijan with regard to granting pardon, citizen ship, and political asylum.
- ◆ Submits motions to the Parliament of the Republic of Azerbaijan with regard to the adoption, abolition, or amending of laws with a view to ensuring human rights and freedoms.
- ◆ Cooperates with national, regional, and international organizations in line with activity directions.

## **ACTIVITY DIRECTIONS OF THE OMBUDSMAN RELATED TO THE PROTECTION OF THE RIGHTS OF MIGRANTS RESIDING IN THE TERRITORY OF THE REPUBLIC OF AZERBAIJAN**

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- ◆ Investigates the applications (applications, complaints, and proposals) of migrants regardless of their citizenship and migration status, examines the applications sent by national human rights institutions (including ombudspersons) and diplomatic missions of foreign countries, conducts on-site investigations, and provides legal advice if deemed necessary.
- ◆ Assists to migrants in our country in collecting the necessary documents and submitting them to the relevant institutions for their effective legal integration and makes suggestions to state institutions regarding the regulation of their legal status and other issues.
- ◆ Conducts monitoring in protecting human rights in detention centres for illegal migrants.
- ◆ To more reliably ensure the rights of migrants, Ombudsman carries out activities to improve the professional capacities of relevant institutions and legislation.
- ◆ Carries out awareness-raising activities with the aim of increasing the level of awareness about the rights and duties of migrants, legal protection mechanisms, and procedures.
- ◆ Cooperates with the UN, European Union, Council of Europe, International Committee of the Red Cross, and specialized international organizations such as the UNHCHR, UNHCR, IOM, International Center for Migration Policy Development, International Labor Organization, etc.

## **THE PARTICIPATION OF THE OMBUDSMAN IN IMPLEMENTING MIGRATION PROCEDURES**

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The Ombudsman participates in the protection of migrants' rights at the national and international levels, ensuring transparency and inclusiveness in this area, and furthermore, in the legal and prompt implementation of the migration procedures listed below:

- Determination of citizenship;
- Admittance, restoration, and termination of citizenship of the Republic of Azerbaijan;

- Failure to register in migration;
- Issuance of work permits and other permit documents;
- Integration (reintegration)
- Adaptation (readaptation);
- Repatriation;
- Readmission;
- Legal regulation of migration status;
- Granting asylum;
- Determination of refugee status;
- Expulsion from the borders of the Republic of Azerbaijan and restriction of entry into the country for a certain period;
- Extradition;
- Crossing-border;
- Registration of return certificates and etc.

### ***Admissibility criteria for the complaints to the Ombudsman***

- ◇ A complaint shall set out: the full name and address of the applicant; the essence of a decision or an act (or an omission) allegedly having violated his or her rights; the place and date of writing the complaint; and the signature of the applicant. Any other materials or judicial decisions relating to the complaint may be added to that complaint.
- ◇ A complaint may also be lodged by a third person or a non-governmental organization with consent of the person's human rights of whom have allegedly been violated. If it is impossible to obtain the consent of the person's human rights of whom have allegedly been violated (if that person died, lost his or her legal capacity, etc.), a complaint may be lodged by a third person or a non-governmental organization without consent.
- ◇ A complaint may be lodged with the Commissioner within a period of 1 (one) year from the date on which an alleged violation of rights of the applicant occurred or he or she became aware of that violation.
- ◇ Complaints addressed by persons held in penitentiary institutions, investigation isolators, or temporary detention centers shall be delivered to the Commissioner within 24 hours without being subjected to any kind of censorship.

Note: With the consent of the person whose human rights have been violated, the Commissioner may carry out investigations on his or her own initiative in cases of special public importance, or in cases, where the interests of persons who are not capable to vindicate their rights themselves are affected.



### **The Ombudsman does not review complaints:**

- x if a complaint is still pending before the court of law;
- x if the re-submitted petition does not contain any new information, facts or evidence;
- x if the complaint is related to the investigation of the activities of the President of the Republic of Azerbaijan, deputies of the Parliament of the Republic of Azerbaijan and judges of the Republic of Azerbaijan;
- x if the requirements for submitting complaints are violated.

*Complaints about violation of the right of access to information are not investigated in the following cases:*

- x if the complaint is not about the activity of the state body, local self-government body, or official who has specific information;
- x if there is a legally binding final decision of the court on that case;
- x if the applicant does not effectively use the opportunities created by the state body, local self-government body, or official to obtain information.

### **Time limits for consideration of complaints by the Ombudsman**

- ◆ Complaints are investigated for 30 days. If additional investigation or materials are required, this term may be extended for 30 days. With the consent of an applicant, if it is necessary to conduct additional investigation, this term may be re-prolonged for 30 days.
- ◆ Applicant is informed in writing about measures taken in respect of his or her complaint, and the results of the investigation within 5 days.
- ◆ Ombudsman investigates the circumstances reflected in the complaint related to the violation of the right to obtain information within 10 working days. If the complaint requires specification or additional explanation and documents are needed for the investigation of the complaint, with prior written notice to the complainant the Commissioner can extend the time of consideration of the complaint for extra 10 working days.




## INFORMATION ON THE OFFICE & REGIONAL CENTERS OF THE OMBUDSMAN

### **Ombudsman Office**


-  AZ 1000, Baku, Street 80 Uz. Hajibeyli, Government House, Entrance II
-  Government House, Citizens' Reception Center
-  Mondays and Thursdays: 10:00 a.m.-1:00 p.m.  
Tuesdays and Fridays: 2:00 p.m.-5:00 p.m.
-  Call Center: 916
-  (+99412) 493-74-22
-  (+99412) 498-85-31
-  [www.ombudsman.az](http://www.ombudsman.az)
-  [ombudsman@ombudsman.az](mailto:ombudsman@ombudsman.az)
-  [apparat@ombudsman.az](mailto:apparat@ombudsman.az)
-  [ombudsman.az](https://www.facebook.com/ombudsman.az)
-  [@az\\_ombudsman](https://twitter.com/az_ombudsman)
-  [ombudsman\\_azerbaijan](https://www.instagram.com/ombudsman_azerbaijan)
-  Ombudsman of Azerbaijan

### **Regional Centers of the Ombudsman**


#### **Western Regional Center of the Ombudsman**

-  AZ 2000, Ganja city, Haydar Aliyev Square, Administrative building of the Ganja City Executive Power Office, 1<sup>st</sup> floor
-  During work days, Office of the Regional Center
-  (+99422)2560565  
(+99422)2546853

### ***North-West Regional Center of the Ombudsman***

 AZ 5500, Sheki city, Mahammad Amin Rasulzade Avenue,  
139 A, Administrative building of the Sheki City  
Department of Statistics , 2<sup>nd</sup> floor


 During work days, Office of the Regional Center.

 (+99424)2440133  
(+99424)2451535


### ***Northern Regional Center of the Ombudsman***

 AZ 4000, Guba city, Yusif Gasimov 68 str.


 During work days, Office of the Regional Center.

 (+99423)3351599  
(+99423)3352322

### ***Southern Regional Center of the Ombudsman***

 AZ 4400, Masalli city, Haydar Aliyev Avenue,  
Masalli "ASAN Life" complex

 During work days, Office of the Regional Center

 (+99425)2151916  
(+99425)2152350

