



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations
GENEVA**

Ref: 0493/12/17/19

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the Joint Urgent Appeal by the Working Group on Arbitrary Detention, the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, dated 09 October 2017, has the honor to transmit herewith the information provided by the Ministry of Interior of the Republic of Azerbaijan regarding the questions raised in the abovementioned Joint Appeal.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 4 pages

Geneva, 09 November 2017



Office of the United Nations
High Commissioner for Human Rights
GENEVA

Information on the joint appeal of the Rapporteur on the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent Expert on the protection against violence and discrimination based on sexual orientation and gender identity; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

1. Please provide any additional information or any comment you may have on the above-mentioned allegations:

We received numerous complaints in the course of this year about administrative offenses against the public order and public safety by different group of people, including idlers, pilferers, beggars as well as sexual minority representatives who demonstrated obvious disrespect for society in the center of the city and, in particular, offered sexual services for money to local and foreign citizens and tourists, insulting those who refused and provoking conflicts.

These wrongful acts of regular nature, especially crimes of violence committed by these sexual minority representatives against Baku residents and foreign citizens, including robbery and plunder, caused serious dissatisfaction of aggrieved persons and people living in the areas close to their usual gathering places.

In view of the above, appropriate preventive measures were taken by the police authorities of the city of Baku in the period from September 15 to 30 during which appropriate sanctions were applied to about 600 persons for administrative offences against the peace and public security. In particular, only 83 persons of hundreds of sexual minority representatives, who gather in various parts of the city, were detained for gross violation of public order, disorderly conduct and willful insubordination to legal requirements of on-duty police officers. All necessary documents were properly executed in accordance with a procedure prescribed by law.

Taking into account that the court established the guilt of the offenders, 56 of them were placed in administrative detention for various short periods under Article 510 of the Code of Administrative Offences (disorderly conduct) and 535.1 (willful insubordination to legal requirements of police officers) (46 persons on September 16, 5 persons on September 18, and 5 persons on September 26), 18 persons were fined and 9 persons received notices.

Based on appeals of lawyers who protected rights of the detained persons, they were referred to a relevant health care facility for examination. According to the results of the performed medical and laboratory examinations, various sexually transmitted

diseases were detected in 32 persons including syphilis (16 persons), AIDS (6 persons), HIV (6 persons), acute urethritis, Candida albicans and trichomoniasis (2 persons) and Hepatitis C virus (2 persons).

Official letters were received from the Ministry of Health of the Republic of Azerbaijan and Dermatovenerologic Dispensary regarding the diseases detected in each of the detained persons.

In light of this, for the purpose of treatment of these persons according to principles of humanity and taking into account the sufficient detention period for correctional rehabilitation of other 24 persons with no diseases detected, they were released early by courts on October 2.

As regards the issue of violation of rights of sexual minority representatives, it should be noted that there is no cause to file such claims. The only purpose of detention of the above mentioned persons was to detect and prevent any facts which cause discontent of citizens as well as to protect human and civil rights and freedoms, public health, sanitary and epidemiological wellness, public order and security.

2. Please provide information on the legal grounds for the arrest, detention, and forced medical examinations for the individuals and how these measures are compatible with Azerbaijan's international human rights obligations:

Detained sexual minority representatives were held liable under Articles 510 of the Code of Administrative Offences (disorderly conduct) and 535.1 (willful insubordination to legal requirements of police officers).

According to Article 510 of the Code of Administrative Offences, disorderly conduct is an act disturbing public order but not involving violence or threat of violence against individuals or others' property destruction or damage. Such act incurs penalty in the amount of fifty to hundred manats. If the above mentioned penal measure is considered insufficient, administrative arrest for a period of 15 days is applied with due consideration of the circumstances of the case and personality of the offender.

According to Article 510 of the Code of Administrative Offences, individuals who are intentionally insubordinate to legal requirements of on-duty police officers are subject to a penalty in the amount of 200 manats or, if the above mentioned penal measure is considered insufficient, administrative arrest for a period up to one month is

applied with due consideration of the circumstances of the case and personality of the offender.

According to Articles 88 and 89 of the Code, the persons who committed petty crimes (disorderly conduct) may be placed in administrative detention for 24 hours and the persons who are intentionally insubordinate to legal requirements of on-duty police officers may be placed in administrative detention for 48 hours in order to provide correct and timely consideration of the administrative offence case as well as the execution of a decision on the administrative offence case.

According to Clause 2.3 of the Regulations on Delivery of Medical and Psychological Aid to Detained or Arrested Persons and Keeping in Medical Setting approved by Resolution #67 of the Cabinet of Ministers of the Republic of Azerbaijan dated 18.04.2013, arrested individuals should be medically examined for sexually transmitted diseases, blood group and HIV (human immunodeficiency virus) and results of such examinations should be registered in a special medical book.

Measures taken by the police authorities of the city of Baku in respect of sexual minority representatives in the period from September 15 to 30 fully conform to the national legislation and commitments of the Republic of Azerbaijan in the sphere of international human rights. In particular, according to clauses (c) and (e) of Part 1 of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms ratified by the Republic of Azerbaijan on December 25, 2001 (Freedom and right to integrity), it is permitted to arrest or detain the person reasonably suspected of committing an offence to provide his (her) appearance before the court or to prevent spread of contagious diseases.

3.4. Please provide the details, and where available the results, of any investigation carried out in relation to the allegations of unlawful arrests, detention, torture or ill-treatment, and forced medical examinations of sex workers, men and transgender persons on the basis of their actual or perceived sexual orientation or gender identity. If no inquiries have taken place, or if they have been inconclusive, please explain why. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions undertaken so far:

Legal proceedings on administrative offences were initiated in accordance with Articles 75, 88, 89, 99 and 100 of the Code of Administrative Offences in respect of the persons detained by the police authorities of the city of Baku in the period from September 15 to 30. The court's orders of detention for 24 and 48 hours were issued,

the infringement notices were made based on other evidences important for ascertainment of guilt and appropriate solution of cases, and collected materials were submitted to the court for examination of the cases on their merits.

Detainees' guilt was determined with the participation of witnesses and fully proved in the course of judicial proceedings. Due to lack of the event of a crime in acts committed by sexual minority representatives no further investigation was conducted in this respect.

5. Please provide information about any measures taken to ensure the protection of the rights to physical integrity, liberty? Security and privacy of persons perceived to be gay or transgender in Azerbaijan. If no specific protection measures have been granted, please explain why;

6. Please indicate what measures have been taken to combat discrimination and violence against persons based on sexual orientation and gender identity; to prevent, investigate and prosecute violence against them; and to provide effective remedy, protection and support to victims;

7. Please provide information on the measures taken to implement the recommendations related to sexual orientation and gender identity made by the international human rights mechanisms;

The rights of all groups of persons in Azerbaijan are ensured without any restriction and the current situation in our Republic in respect to the sexual minorities does not differ from the situation in most European states.

According to the article 25 of the Constitution of Azerbaijan Republic, the state guarantees the equality of rights and freedoms of everybody not depending on the race, nation, religion, language, sex, origin, property status, service position, faith, belonging to political parties, trade unions and other public unions. Also the Criminal Code of Azerbaijan Republic provides for separate norms on the crimes against the sexual immunity and sexual freedom of the personality, and defines punishment measures in respect to actions connected with obligatory sterilization or sexual violence.

As being contrary to the principle of equality defined in the Constitution, no special protection measures are applied in our country in respect to the representatives of sexual minorities. The state guarantees their rights and freedoms without distinguishing from other persons.

But, the representatives of the sexual minorities who committed unlawful actions in our country for recent years try to get rid of the liability by appealing their sexual orientation. Such issues are solved in Azerbaijan within the legislative acts that passed legal examination of relevant international organizations. That's why, commission by the representatives of sexual minorities of any unlawful actions cannot release them from the liability and in all instances the principle of inevitability of the punishment is ensured for the action committed by taking into account the constitutional norm stating the equality of everybody before law and the court.

On the other hand, as we know, Azerbaijan is one of the countries contributing to development of multiculturalism and tolerance. One of the obvious proofs of this – is holding multiple forum and conferences in our republic in relevant field. But, it is undeniable reality that tolerance and patience should be proportionate to compliance with the legislation and respect to it.

Azerbaijan government, its law enforcement authorities and other related bodies continue their works by directing to the international obligations of our country, its Constitution and internal legislative acts in approach to such issues, they protect the public order in reliable manner. At the same time, the recommendations given by international human rights mechanisms on sexual orientation and gender identity not contradicting to the constitution and legislation of the country directed to improvement of the activity in related fields are taken on board and directed to the execution, and regular official reports are given to the related authorities on their results.