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Social and economic rights of refugees and displaced persons in Azerbaijan

Alovsat Aliyev

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Introduction

Patronage of the country is not limited to identifying the status of a refugee and displaced person and providing them with certain documents; it also deals with ensuring and protecting their social and economic rights. Azerbaijan is a post-Soviet country with a lot of refugees and displaced persons: 300 thousand naturalized refugees, 760 thousand displaced persons, around 2 thousand persons seeking political asylum and thousands of persons whose status is unclear¹. From the first days of independence, the Republic of Azerbaijan has been taking steps to improve legislation and strengthen government agencies that are involved in legal relations with asylum seekers, refugees and displaced persons and are in charge of their social protection.

This report aims to analyze current situation from the standpoint of legislation in the field refugee rights, namely right to labor and certain labor conditions, right to social protection and social security, access to public service, right to be provided with meals, clothes and residence, right to medical care, rights in the field of family relations and right to education.

Azerbaijan acceded to all UN Conventions relating to refugees and introduced certain changes into national legislation in accordance with these conventions. In addition to that, Azerbaijan is making efforts to solve the problems of displaced persons relying on UNHCR Guiding Principles.

In addition to the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”², which is the main law regulating rights of refugees and displaced persons, Azerbaijan also adopted some normative acts to enforce that law³.

On May 21, 1999 the law “On social protection of displaced persons and persons⁴ equalized to them” was adopted. This law defines obligations of government bodies regarding accommodation of displaced persons and persons equalized to them (hereinafter referred to as displaced persons), their social protection etc.⁵.

1. Right of refugees and displaced persons to labor and certain labor conditions

A person who was granted refugee status has rights and obligations envisaged in legislation for foreigners and stateless persons. Article 6 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons” defines rights and obligations of refugees. Refugees enjoy the rights and freedoms of Azerbaijani citizens and have the same obligations, if it is not otherwise stipulated by the Constitution, the present law and other legal acts of the Republic of Azerbaijan.

Under the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”, corresponding executive bodies assist refugees and displaced persons in finding a job. Uninterrupted work record is recovered at a new place of work according to the procedure envisaged by the legislation. During the period of being off the job due to advanced training or training for a new profession refugees or displaced persons get paid average salary typical for the new profession and the new job. Difference in salary over the whole work period due to the on-the-job change of profession is

¹ Collection of normative legal documents on refugees and displaced persons, Baku 2005, p. 3

² Adopted on May 21, 1999

³ “Rules of examination of refugee status applications” approved by the Decree of the Azerbaijani President “On application of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”.

⁴ Persons who left their place of permanent residence as a result of ethnic cleansing carried out in Armenia or other states and settled in Azerbaijan are equalized to displaced persons

⁵ Article 1 of the law “On social protection of displaced persons and persons equalized to them”

compensated to the refugee or displaced person (person displaced within the country) by an institution, enterprise or organization that concluded a labor contract with them⁶.

This law gives persons who applied for refugee status a right to temporary employment⁷. However, both persons who filed such applications and persons who were granted refugee status face problems when seeking employment. At the moment there are no new approved forms of refugee certificates in Azerbaijan, so the State Migration Service issues notes for extension of old certificates every three months to refugees who have such certificates. These certificates are valid only when presented together with a note and are the only documents proving refugee's identity. However, employers refuse to sign labor contracts with refugees on the basis of those certificates.

Employment of **displaced persons** is ensured by corresponding executive bodies in accordance with the government program⁸. The government creates favorable conditions for independent employment of displaced persons and for their commercial and entrepreneurial activities.

Displaced persons are provided with employment by way of setting a quota at public institutions and organizations, by creating new jobs etc. When it is impossible to provide displaced persons with permanent jobs, temporary or seasonal jobs are provided by corresponding executive bodies.

Displaced persons do not have to present their work record books when getting employed. In case of redundancy at an institution or organization displaced persons have a preferential right to keep their positions.

Bank loans can be given to displaced persons engaged in commercial and entrepreneurial activities according to the procedure established by corresponding executive bodies⁹.

Azerbaijani Migration Code does not recognize refugees as participants of migration processes¹⁰.

2. Right to social protection and social insurance

Persons who were granted refugee or displaced person status (status of a person displaced within the country) have a right to the following social security types:

- i. up to three months of free-of-charge accommodation at dedicated facilities until they get employed or settle in their place of residence;
- ii. free-of-charge provision of senior persons, children, disabled, and poor, as well as families who lost their providers, with necessary pharmaceuticals and medical assistance in places of temporary residence and hospitals;
- iii. education of children at preschool instructional institutions, and children and youth at corresponding educational institutions;
- iv. acquisition of food and industrial goods on a par with citizens permanently residing at localities;
- v. one-time and other types assistance set by the government;

⁶ Article 16 of the law "On status of refugees and forcibly displaced (persons displaced within the country) persons";

⁷ Article 11 of the law "On status of refugees and forcibly displaced (persons displaced within the country) persons"

⁸ Decree of Azerbaijani President on approving "The State Program for improvement of accommodation conditions and increase in employment of refugees and displaced persons"

⁹ Article 7 of the law "On social protection of displaced persons and persons equalized to them"

¹⁰ Article 5 of the Migration Code does not recognize refugees and asylum seekers as participants of migration processes. List of documents (Article 65 of the Code) to be submitted when applying for a work permit does not include refugee certificate, as far as refugees are equalized to foreigners permanently residing in Azerbaijan and they do not need a work permit.

- vi. priority accommodation of retirees and legally incompetent disabled persons who have no family at special social security institutions¹¹.

Under the law “On social protection of displaced persons and persons equalized to them”, the following social protection measures are applied to displaced persons:

- vii. providing temporary housing space;
- viii. providing a job;
- ix. social security;
- x. medical support;
- xi. ensuring the right to education;
- xii. preferential use of transport and housing and public utilities;
- xiii. tax benefits¹².

3. Right of access to public service

Azerbaijani legal acts regulating legal relations with refugees and displaced persons do not envisage any norms regulating their right of access to public service. Under the law “On public service”, only citizens of the Republic of Azerbaijan have a right to enter into public service¹³.

In that case, unlike displaced persons, refugees cannot enter public service, as far as they are foreign nationals or stateless persons.

4. Right to be provided with meals, clothes and accommodation

Corresponding authorities of Azerbaijan provide refugees and displaced persons (persons displaced within the country) with temporary or permanent accommodation, following rules established by the legislation currently in force. Expenses incurred by a refugee or displaced person (person displaced within the country) due to relocation from temporary residence to permanent residence and workplace are reimbursed in the amount set and according to the established procedure¹⁴.

The right to be provided with meals, clothes and accommodation is regulated by articles 5 and 9 of the law “On social protection of displaced persons and persons equalized to them”. Under article 5, a corresponding executive body is in charge of displaced persons’ accommodation. For that purpose they use residential, administrative and accessory buildings that are suitable or can be made suitable for accommodation. If it is impossible to place displaced persons to such buildings or if population density in some localities does not allow that, displaced persons are placed in camps specifically arranged for them. These camps must meet certain accommodation requirements. Displaced persons are allowed to take care of their own temporary placement, if that does not violate the rights and legal interests of other persons. Otherwise, corresponding executive bodies are to resettle displaced persons to another living space within the given locality.

Under article 9, one-time and regular monetary allowance is paid and displaced persons are provided with food and industrial goods, according to the procedure established by the corresponding self-government body.

¹¹ Article 6 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”

¹² Article 4 of the law “On social protection of displaced persons and persons equalized to them”

¹³ Article 27 of the law “On public service”

¹⁴ Article 17 of the law “On status of refugees and forcibly displaced (persons displaced within the country) persons”

Legal and physical persons, as well as international organizations are independent in rendering material assistance and humanitarian aid to displaced persons.

5. Right to medical assistance and education

Medical assistance to displaced persons is provided directly by medical institutions in the territories where they are placed. Medical assistance to displaced persons placed outside localities is arranged by a corresponding self-government body. Displaced persons are put in public medical institutions on a preferential basis and enjoy all types of medical care free of charge. They are provided with pharmaceuticals free of charge, according to the procedure identified by corresponding self-government bodies¹⁵.

Preschool and secondary education of children of displaced persons settled in camps created outside localities is arranged by a corresponding self-government body, in accordance with relevant educational standards. Children of displaced persons studying at general schools are provided with textbooks and school supplies free of charge.

Displaced persons undergoing education at higher or specialized secondary education institutions are exempt from tuition. Private higher and specialized secondary education institutions can offer certain preferences to displaced persons¹⁶.

Legislation does not envisage any norms regarding the right of displaced persons to get married.

¹⁵ Article 10 of the law “On social protection of displaced persons and persons equalized to them”

¹⁶ Article 11 of the law “On social protection of displaced persons and persons equalized to them”