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

GENEVA

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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 Note Verbale dated 1 October 2024, Ref: ROLDS/SW/NK/eg, has the honour to transmit herewith the information received from the relevant authority of the Republic of Azerbaijan on the contribution of transitional justice measures to the realization of the 2030 Sustainable Development Agenda.

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.

Geneva, 5 November 2024

Enclosure: 4 pages

Office of the United Nations
High Commissioner for Human Rights
GENEVA

The contribution of transitional justice measures, initiatives and processes to the realization of the 2030 Sustainable Development Agenda, in particular Sustainable Development Goal 16, on peace, justice and strong institutions, including by promoting the rule of law and ensuring access to justice for all, developing accountable institutions and ensuring participatory decision-making at all levels.

According to Part I of Article 12 of the Constitution of the Republic of Azerbaijan, ensuring human and civil rights and freedoms is the highest purpose of the State. According to Article 71 of the Constitution, the legislative, executive and judiciary powers shall have the duty to observe and to protect human and civil rights and freedoms set forth in the Constitution. Human and civil rights and freedoms shall have direct effect on the territory of the Republic of Azerbaijan. No one may restrict the exercise of human and civil rights and freedoms. Everyone's rights and freedoms shall be restricted on the grounds provided for in the Constitution and laws, as well as by the rights and freedoms of others. Restriction of rights and liberties shall be proportional to the result expected by the State.

Chapters 16 and 17 of the Criminal Code provide for liability for crimes against peace and humanity, as well as war crimes, respectively. Crimes against peace and humanity include planning, preparation, initiation or conduct of aggressive war, genocide, incitement to genocide, destruction of population, racial discrimination (apartheid), etc., while war crimes include mercenary service, violation of war laws and customs, violations of international humanitarian law norms, and others.

Article 154 of the Code prescribes liability for violation of a person's right to equality by harming his/her rights and lawful interests based on race, nationality, religion, language, sex, origin, property status, service position, beliefs, membership in political parties, trade unions and other public associations.

In order to improve the quality and efficiency of justice, further expand access to justice, increase the transparency of courts, increase the efficiency of court proceedings, eliminate red-tape and other negative factors, the President signed the 3 April 2019 No. 604 Decree "On Deepening Reforms in the Judicial and Legal System".

The Decree included directives such as: the Supreme Court of the Republic Azerbaijan to form a unified judicial practice and the mechanism of its implementation in order to ensure the stability of the approach of courts to the resolution of legal issues and a predictable legal position on the application of normative legal acts; to improve the mechanisms for preventing interference in the work of courts as to ensure the independence of judges, and to increase liability for such interference; to conduct uninterrupted audio recordings of all court hearings to ensure more complete objectivity of court proceedings; to conduct forensic examinations in civil cases, as well as cases on administrative offenses, commercial and administrative disputes, and to specify deadlines for expert opinions, to expand the rights of the parties to the proceedings in connection with the appointment of forensic experts, to prepare draft normative legal acts on alternative mechanisms of forensic examination, including examination by private entities and on other issues, as well as other measures.

Thus, in connection with the above, relevant amendments were made to the Administrative Offenses, Civil Procedure, Criminal Procedure, and Administrative Procedure codes, as well as to the laws "On Administrative Proceedings", "On Lawyers and Advocacy Activity", "On Courts and Judges", "On State Forensic Examination Activity", "On Service in Justice Bodies", and to other normative legal acts.

The issues arising from the Decree are also aimed at making the justice system more accessible for all, transparent, fast and independent, in accordance with the purposes of the Sustainable Development Goals. In order to facilitate citizens' access to information, provide information and transparent services, modern ICTs are widely used in the new court buildings, administrative and public zones are separated, which eliminates the relationship between judges and participants outside the courtroom. The work done in this area serves to facilitate citizens' access to justice and to reliably ensure human rights. The "Regulation on the Electronic Court information system" was approved by the 1 June 2020 Decree of the President of the Republic of Azerbaijan.

The application of the information system contributes to the effective protection of human and civil rights and freedoms, expanding access to justice, increasing the efficiency and transparency of administration of justice, preventing red-tape and abuse, ensuring openness and promptness, increasing the effectiveness of control over the execution of judicial decisions, providing electronic clerical work and electronic document circulation.

The Criminal Procedure Code and the Civil Procedure Code were amended by relevant laws, allowing the conduct of judicial proceedings electronically in criminal, civil and commercial disputes. Also, in accordance with the amendment, the procedural documents and other information to be provided to the persons participating in these proceedings shall be placed in their electronic accounts and they shall be informed about it electronically (via e-mail and SMS) through the "Electronic Court" information system. In addition, changes were made to the above-mentioned codes regarding the implementation of procedural actions in the relevant proceedings using the videoconferencing system.

When there is a real threat to the life and health of persons specified in Article 51-2.1 of the Criminal Procedure Code *(suspect or accused, civil plaintiff, civil defendant, victim, legal successor of the victim and accused, special prosecutor, their legal representatives and representatives, representative of the legal entity in respect of which criminal proceedings are instituted, witness, expert, specialist, translator, or convict),* when there is a need to ensure their safety, as well as to prevent external impact on them, when the state of health or other valid reasons make it impossible for them (except the suspect, accused or convict) to participate directly in the relevant proceedings, if it is necessary to protect the interests of a minor, if as a result of natural or man-made disasters, epidemics, emergencies or force majeure such persons are not able to participate directly in the relevant proceedings, the criminal justice proceedings may be carried out by the use of videoconferencing.

According to Article 10-2 of the Civil Procedure Code, when persons involved in the case, their representatives (legal representatives), lawyers, witnesses, experts, specialists, translators are outside the country or in another city (district) within the country, when for good reason, it is impossible for them to attend the court hearing in person; when one of the parties is on conscription in the Armed Forces and other armed formations of the Republic of Azerbaijan or are involved in other state duties, are on a long-term service secondment or are in a medical institution and if the proceedings are not terminated; when persons involved in the case, their legal representatives and witnesses are unable to attend the hearing in person due to deprivation of liberty or detention, as well as in other cases provided for in the Article, the court proceedings can be carried out by videoconferencing communication system without the direct attendance in the courtroom of the representative (legal representative), lawyer, witness, expert, specialist, and translator.

Also, in accordance with the Regulation, a "Hotline" was established in order to eliminate the difficulties associated with the application of the system and to carry out the necessary instructional work.

In accordance with the relevant regulations, the "Specialized Electronic Cabinet" was created in the "Electronic Court" information system for the structural units of the General Prosecutor's Office working with the courts, including the Anti-Corruption Department General under the Prosecutor General, the Department for Proceedings outside Criminal Prosecution, and the Department for the Protection of Public, which shall include information on court cases and provide for electronic document exchange. The prosecution employees using the Cabinet have the opportunity to obtain electronic information on the number of the case, the date of receipt, the name of the court, the type of proceedings, the type of case, the judge, the status of the case's examination, and the status of the case, as well as to get acquainted with the procedural documents posted in the Cabinet by the court.

At the same time, joint measures are being taken with the General Prosecutor's Office to organize the integration of the "Electronic Prosecution" information system with the "Electronic Court" information system, which is planned to be formed in accordance with the 7 May 2021 Presidential Decree.

The "2020-2022 National Action Plan for the Promotion of Open Government" was approved by the 27 February 2020 Decree of the President of the Republic of Azerbaijan. The main factors driving the adoption of the National Action Plan are to further expand the application of the principles of openness, transparency and accountability, increase financial transparency, increase the means of ensuring access to information, support civil society institutions and strengthen public control, and ensure continuity of measures taken to promote open government.

To ensure the sustainability of measures taken to combat human trafficking, the 22 July 2020 Presidential Decree approved the "2020-2024 National Action Plan to Combat Human Trafficking in the Republic of Azerbaijan". The purpose of the National Action Plan is to ensure sustainability of measures taken to protect the individual and society from all forms of human trafficking, in particular to prevent exploitation of women, children and other vulnerable groups, to identify and eliminate the causes of human trafficking and the conditions conducive to human trafficking, to reduce the risk of persons becoming victims of human trafficking, to identify and ensure social protection of groups vulnerable to human trafficking, to detect and prevent all forms of human trafficking, as well as eliminate its consequences, to ensure protection of victims of human trafficking, restoration of their rights and social rehabilitation, to take necessary measures to create necessary conditions for improving the living standards of victims and potential victims of human trafficking and to identify citizens of the Republic of Azerbaijan who have been trafficked abroad.

The Public Committee, consisting of representatives of non-governmental human rights organizations, operates under the Minister of Justice since 2006. The Public Committee exercises public control in the penitentiary establishments, is involved in the application of the institution of parole, execution of pardon and amnesty acts, and is actively represented in the Commission on the application of conditional early release of sentenced persons. The members of the Committee also regularly participate in the meetings of the Plenary Board and the Board of Appeals of the Ministry, in the recruitment examinations, international events, press conferences and meetings.

The most recent major development regarding the judiciary was the amendment to the Law on Judicial Legal Council, the body that is responsible for judicial appointments, transfers, evaluation and disciplinary action. Thus, the Law of 9 June 2023 provides for the new composition of the Judicial Legal Council as follows:

- three judges of the cassation instance court elected by the conference of judges;
- three judges of appellate courts elected by the conference of judges;
- three judges of first instance courts elected by the conference of judges;
- Judge appointed by the Constitutional Court of the Republic of Azerbaijan;
- a person appointed by the Milli Majlis of the Republic of Azerbaijan;
- a person appointed by the relevant executive authority of the Republic of Azerbaijan;
- a lawyer appointed by the Bar Association of the Republic of Azerbaijan;
- legal scholar appointed by the National Academy of Sciences of the Republic of Azerbaijan;
- a representative of the legal community elected by the conference of judges.

Thus, accordingly, 10 out of 15 members of the Judicial Legal Council are judges elected by their peers. There is only 1 representative of the executive branch among the remaining 5 members of the Council. The chairman of the Council is elected from among judges – members of the Judicial Legal Council (before that the Minister of Justice was the chairman of the Council).