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Report on roving attaché mission to

Azerbaijan, Armenia and Russia

14 June - 1 July 2000

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1. Terms of reference

The Danish Immigration Service carried out a roving attaché mission to Azerbaijan, Armenia and Russia from 14 June to 1 July 2000, with the following terms of reference:

Following meetings with the relevant authorities, international and national organisations, lawyers, NGOs etc, the delegation was to report on the following:

- The general human rights situation for Azeris in Armenia and Armenians in Azerbaijan, persons in mixed marriages and those of mixed ethnic origin.
- The legal position for Azeris in Armenia and Armenians in Azerbaijan, persons in mixed marriages and those of mixed ethnic origin as regards residence permits, citizenship, refugee status and the issue of documents.
- The situation as regards the issue of documents in the Armenian enclave of Nagorno-Karabakh in Azerbaijan, including which authorities are responsible for issuing documents.
- The general human rights situation in Russia for those who have fled from Azerbaijan and Armenia.
- The legal position in Russia for refugees from Azerbaijan and Armenia, their ability to obtain legal residence, including refugee status, residence permits (including registration or "propiska") and citizenship, and the consequences of illegal residence, including the possibility of deportation.
- Conditions for entering and leaving Azerbaijan and Armenia, including the situation for refused asylum seekers entering the country.
- The general human rights and legal position and conditions for Jehovah's Witnesses in Armenia, including military service and possible alternatives to military service, and the usual practice as regards punishment in the case of refusal to perform military service.
- The general human rights and legal position and conditions for homosexuals in Azerbaijan and Armenia. The delegation held meetings with embassies, international organisations, national human rights organisations and authorities in Baku and Sumgait in Azerbaijan, Moscow in Russia and Yerevan in Armenia, and with the authorities in Stepanakert in Nagorno-Karabakh (see the maps of Azerbaijan, Armenia and Nagorno-Karabakh in Annexes 1, 2 and 3). The delegation could not meet the OSCE's ¹ representatives in Nagorno-Karabakh as it had wished, as they were away following the recent election there.

¹ OSCE – Organisation for Security and Cooperation in Europe.

The delegation was well received everywhere. Interpreters were used for most meetings with authorities and with national human rights organisations. In Azerbaijan one Western Embassy wished to remain anonymous, as did another in Armenia.

2. Historical and political background

Following the October Revolution in 1917, Armenia, Azerbaijan and Georgia were part of the short-lived Transcaucasian Federation. In 1918 the countries became independent, although Azerbaijan was partly occupied by British troops who withdrew in August 1919. However, all three countries were occupied by the Red Army, and in 1922 they were united in the Transcaucasian Soviet Federal Socialist Republic. This existed until 1936, when the countries each became a separate Soviet Socialist Republic. With the collapse of the Soviet Union in 1991, Georgia became independent in April, Armenia in September and Azerbaijan in October of that year.

In April 1921, as part of a friendship agreement between Soviet Russia and Turkey, it was agreed that the enclave of Nakhichevan which lies between Armenia and Iran should become part of Azerbaijan and have the status of autonomous region (oblast).

Nagorno-Karabakh, which before the conflict had a population of 170 000, of whom 120 000 were Armenians and the remainder Azeris ¹, had been a disputed area until the establishment of the Transcaucasian Soviet Republic. Despite a decision by the Soviet Bureau for Caucasian Affairs in June 1921 that in future the area should belong to Armenia, it still became part of Azerbaijan, in which it obtained the status of autonomous region (oblast) ² in 1923. Subsequently, the inhabitants asked the central authorities in Moscow several times to let them become part of Armenia, without success.

In 1988, as the Soviet Union was beginning to fall apart, Nagorno-Karabakh once again asked the Supreme Soviets in Armenia, Azerbaijan and Russia to allow it to become part of Armenia. When this application was again rejected, widespread demonstrations were held in both Karabakh and in Yerevan, the capital of Armenia. Azeris began to leave Armenia, and when rumours began to spread that they were being attacked by Armenians as they left, anti-Armenian pogroms took place as revenge in the city of Sumgait (Sumquyit in Azerbaijani), in which 26 Armenians were murdered. Continuing demonstrations and strikes in Karabakh and the introduction of a state of emergency in Baku, the capital of Azerbaijan, led to the departure of 14 000 Armenians from Azerbaijan and of 80 000 Azeris from Armenia by the end of 1988. Because of this unrest the Soviet Government removed the local authorities in Karabakh in January 1989 and replaced them with a Special Administration Committee, which was responsible directly to the Soviet Council of Ministers and not to the Azerbaijani Government. This did not stop Karabakh declaring itself an independent state, and on 1 December 1989 the Supreme Soviet in Armenia declared that Karabakh was Armenian territory. Azerbaijan reacted by imposing an economic blockade on Karabakh and Armenia, which in particular had far-reaching consequences for energy supplies.

¹ A distinction is made between Azeris, which is the name of the ethnic group, and Azerbaijanis, the name given to the citizens of Azerbaijan, who are not necessarily ethnic Azeris but may also be Armenians.

² According to official history in Karabakh, the area was recognised as an independent state within Azerbaijan in December 1920, after Azerbaijan had been occupied by the Red Army. The decision was taken again on 5 July 1921 by the Soviet Bureau for Caucasian Affairs under the Central Committee of the Bolshevik Party. (See *The Nagorno-Karabakh Conflict: Facts and Evidence*. Published by Nagorno-Karabakh. No indication of date of publication.)

During 1991 the violent clashes in Karabakh and in neighbouring regions increased, despite attempts at mediation by the Soviet Union, which was itself beginning to collapse. When the Soviet Union was finally dissolved in December 1991 and Armenia and Azerbaijan became independent sovereign states the same year, the violent conflicts intensified. Azerbaijani troops attacked Stepanakert, the capital of Karabakh, and Armenian troops besieged the city of Shushi (Shusha) which was mainly inhabited by Azeris. In an offensive in May 1992 Karabakh's troops succeeded in reconquering Stepanakert and Shushi, and in conquering the Lachin valley. This opened a corridor creating direct access between Karabakh and Armenia.

In a counter-offensive in the period up to October 1992, Azerbaijani troops reconquered parts of northern and eastern Karabakh, but not the Lachin corridor. On the other hand, troops from Karabakh began to conquer areas west and south of Karabakh in February 1993.

Armenia blamed Azerbaijan for waging war without making a declaration of war, and called on the signatories to the collective security agreement between the CIS countries to intervene. In June 1993 the "Minsk group", which consisted of nine OSCE countries under Italian leadership, was formed, and a peace plan – which soon lost its significance – was signed by Karabakh, Armenia and Azerbaijan. Internal political conflicts in Azerbaijan, which weakened the country politically, and led to Heydar A. Aliyev becoming President, meant that Karabakh could continue its conquests to the west and south so that its troops reached the Iranian border. Despite several truces, direct negotiations between Karabakh and Azerbaijan, UN resolutions which had also recognised Karabakh as an independent negotiating partner in the conflict, and calls from the Minsk group, Karabakh did not lay down its weapons until May 1994. A truce was agreed in connection with the "Bishkek declaration", which has generally been maintained since then, but a peace agreement could not be reached. Despite attempts to mediate by the international community and the Minsk group, and despite several high-level meetings between the Presidents of Azerbaijan and Armenia, in July 2000 no peace agreement had yet been achieved to clarify Karabakh's future political status ¹.

In June 1995 Karabakh held elections to its national assembly, which has 33 members, and also established the post of President. Robert Kocharian was elected as President and remained in the post until he was chosen as the Prime Minister of Armenia in March 1997, where he subsequently became President in 1998. The President of Karabakh is now Arkadii Gukassian. On 18 June 2000 new elections to the national assembly were held in Karabakh.

¹ Sources for this section are as follows: Eastern Europe and the Commonwealth of Independent States 1994, London 1994; David G. Lewis in Eastern Europe and the Commonwealth of Independent States 1999, London 1999; Edmund Herzig in the same volume; and David D. Laitin and Robert Grigor Suny, "Armenia and Azerbaijan: Thinking a Way Out of Karabakh", in Middle East Policy Council Volume VII, October 1999.

3. Azerbaijan

3.1. The refugee situation

The International Organisation for Migration (IOM) reported that during the conflict 220 000 Azeris fled Armenia and 500 000 Azeris fled Nagorno-Karabakh and the occupied areas surrounding it.

The International Federation of the Red Cross stated that between 1989 and 1992 approximately 800 000 Azeris fled from Armenia, Nagorno-Karabakh and the occupied areas. Refugees from Karabakh and the occupied areas are defined as internally displaced persons (IDP). They are still living in the camps in which they were originally housed, since although seven or eight years have passed there is still a political desire to repatriate them. Within the last two years approximately 6000 families have been repatriated to the border areas, which the Red Cross saw as a positive first step.

The International Rescue Committee confirmed that small-scale repatriation had begun to two communes, namely Agcabedi and Naftalan (Armenian: Shahumian and Martinu) which had been partly reconquered by Azerbaijan.

The Red Crescent Society of Azerbaijan reported that the majority of the internally displaced persons come from the occupied areas, and about 20% from Nagorno-Karabakh. They are still living in camps, where conditions are extremely hard.

The Department for Migration said that of 300 000 internally displaced persons who were fit for work, only 100 000 have employment.

According to the Danish Refugee Council, internally displaced persons cannot obtain citizenship but have full social rights including free medical assistance, and they can buy land. As refugees they receive a monthly payment equivalent to US \$5.

3.2. Emigration

The IOM, which has just published a study of the migration situation in Azerbaijan ¹, reported that many Azerbaijanis of working age have left, mainly for Russia, Ukraine, other countries of the CIS, Turkey and Western Europe. IOM estimates that between 600 000 and 650 000 Azeris are in Russia alone, as illegal workers. (An extract from the report is attached as Annex 4).

The International Federation of the Red Cross confirmed that following Azerbaijan's independence there had been large-scale migration of Azerbaijanis to other countries. The organisation believed that between 600 000 and 800 000 Azerbaijanis had gone to Russia, and 100 000 to Turkey.

¹ International Organisation for Migration: Pathways to Europe from Azerbaijan. A Study of Migration Potential and Migration Business. June 2000.

The International Federation of the Red Cross believed that emigration was mainly for economic reasons, but some may also leave because of political persecution.

The Red Crescent Society of Azerbaijan believed that Azerbaijanis left the country because of the poor economic situation and high unemployment, which was increasing every year.

3.3. Corruption

Several sources, including the Danish Refugee Council, national NGOs and a Western Embassy which wished to remain anonymous, claimed that Azerbaijan was one of the most corrupt countries in the world. Corruption was widespread, no attempt was made to conceal it, it was institutionalised, and public appointments were either bought or obtained through influential connections ¹. As an example of this institutionalised corruption, the Danish Refugee Council reported that a traffic policeman would buy his position for US\$ 500 to 10 000, and that to keep it he would have to pay US\$ 200 a month to his superiors. As he only earned US\$ 100 a month, this resulted in drivers being stopped and asked for money without any legal grounds. Public sector pay was generally very low. Thus a doctor earned only US\$ 80 a month, which meant that in practice everyone had to pay for medical treatment even though it was meant to be free. The International Federation of the Red Cross confirmed that everything had to be paid for, including services which were free according to the law.

3.4. The general human rights situation for Armenians in Azerbaijan

3.4.1. Demography

The number of ethnic Armenians in Azerbaijan was estimated by the Department for Migration to be between 30 000 and 40 000, and mainly to be women who all had Azerbaijani citizenship. The Red Crescent Society of Azerbaijan believed that there were currently about 20 000 Armenians in Baku and the surrounding areas, including both Armenian women married to Azeri men and Armenian men married to Azeri women. The Human Rights Center of Azerbaijan did not believe that reliable statistics were available for the number of Armenians in the country, but thought that the figure was around 30 000. The organisation believed that there were about 1 500 living in Baku, 1 200 of whom were women. However, as some Armenians had changed their Armenian names so that their ethnic identity was not immediately apparent, the organisation believed that there might be more. According to the Society for Humanitarian Researches the official figure for Armenians in Azerbaijan was 30 000, but the organisation was not sure that this was correct as in their experience there were only about 100 to 200 Armenians in Baku. The International Federation of the Red Cross had no concrete figures for the number of Armenians in the country. However, the organisation did not believe that there were many, and thought that they mainly consisted of Armenian women who were or had been married to Azeri men, and the children of such couples.

¹ According to the 1999 Corruption Perceptions Index drawn up by Transparency International (TI), Azerbaijan was, jointly with Indonesia, the third most corrupt country out of 99 investigated.

The IOM explained that Armenians mainly lived in rural areas.

The Society for Humanitarian Researches believed that Armenians mainly lived in the regions of Semkir and Goranboy (in western Azerbaijan, north of Nagorno-Karabakh). There were no problems for Armenians in those regions. The Armenians worked in agriculture, and did not draw attention to their ethnic background. The Humanitarian Center YUVA reported that the situation for Armenians in the town of Ganja (north of Karabakh) was stable, and that it was better than elsewhere in Azerbaijan as there were no refugees from Armenia there.

The local NGO Sulh from Sumgait reported that there were about 100 Armenians living in Sumgait. The local authorities had a complete list of Armenians in Sumgait. As there had always been an obligation to register in Azerbaijan, the respective local authorities would always have such lists available, and so the exact number of Armenians in Azerbaijan should be known to the authorities. Sulh also reported that the lists were strictly confidential and would not be given out by the authorities.

The IOM stated that there were no Armenians in Nakhichevan.

The IOM and a Western Embassy which wished to be anonymous said that all the Armenians remaining in Azerbaijan were elderly women, who were or had been married to Azeri men. The IOM added that Armenian men had left the country during the conflict because of the risk of being called up for military service. The Humanitarian Center YUVA also believed that there were no Armenian men in Baku but only women.

It is relatively easy to change surname in Azerbaijan. According to our sources, including the Danish Refugee Council and a Western Embassy which wished to be anonymous, many Armenian women had therefore changed their Armenian surnames to Azeri ones to conceal their ethnic background, and had then changed their passports. Often the last syllable of the Armenian surname, which identifies a person as an Armenian, namely "-jan", is simply removed ¹.

The Human Rights Center of Azerbaijan explained that at elections the names of those entitled to vote are made public in voters' lists, which are displayed at polling stations. An individual's ethnic identity may therefore be seen from these lists, which exposes those who are Armenians. This was one of the reasons why many Armenians changed their surnames.

However, the Danish Refugee Council considered that although Armenians change their surnames so that their ethnic identity is not revealed, everyone still knows that they are Armenians.

Several sources including a Western Embassy which wished to be anonymous, and the Humanitarian Center YUVA, pointed out that several senior members of the government and officials have Armenian mothers and/or wives.

The Humanitarian Centre YUVA reported that the President had been born in Armenia but had grown up in the enclave of Nakhichevan. This also applied to several members of the government and of the parliament.

The Human Rights Center of Azerbaijan explained that children from mixed marriages had to choose which of their parents' ethnic identities they wanted to have, when they had documents issued for the first time at the age of 16.

¹ This is the Danish transliteration; in English this is "-yan" or "-ian".

Children from mixed Azeri and Armenian marriages generally choose the ethnic identity of the Azeri parent, so that henceforward they are shown in their documents as ethnic Azeris. Once ethnic identity has been determined at the age of 16 it cannot be changed again. A Western Embassy which wished to be anonymous believed that since the children of mixed marriages customarily took their Azeri father's surname, in most cases the outside world did not know that those children were half Armenian.

3.4.2. Social position

The IOM said that ethnic Armenians were not denied official assistance. Personally, the head of IOM Joost van der Aalst believed that if Armenians experienced problems with the system it was because of their low social status rather than their ethnic background. The Human Rights Center of Azerbaijan believed that Armenians had problems in obtaining their social rights from the authorities. However, if the Armenians had enough money then their rights would be respected. A Western Embassy which wished to be anonymous shared this opinion and suggested that the problems which Armenians might have were linked to their social position and only to a lesser extent to their ethnic identity. However, Armenians might experience discrimination in the form of a lack of housing opportunities.

The Society for Humanitarian Researches added that housing was a particular problem for the ethnic minorities, including Armenians. It was possible to pay bribes to buy lists of the inhabitants of particular properties with the aim either of buying their apartments, or of having them evicted and then taking the apartment over oneself, which could also be done by bribery. This phenomenon was particularly prevalent in the big cities. The reason why this affected the ethnic minorities, including particularly the Armenians, was that they often did not have any social network in the form of relatives who could help them, or that they could not obtain protection against eviction from the authorities.

The Humanitarian Center YUVA also knew of cases of apartments being taken from Armenian women for no reason, but did not believe that this was because of their ethnic background but because Armenian women did not have any social network to protect and help them. It was easier to take an apartment from an elderly Armenian woman than from those with more resources behind them.

The Human Rights Center of Azerbaijan reported that there were problems with pensions not being paid.

An Armenian family whom the delegation met in Sumgait said that one Armenian woman had not received her pension since the change of President in October 1993, but that this failure to pay was not because of her ethnic background but because of a change in the law.

The Armenian family also reported that there had been no problem in getting the children into school. From 1949 until 1988 teaching had been in Armenian in some schools. However, Armenian classes are no longer found, as the younger generation has not shown an interest in such classes. The Armenian family did not believe that there were problems in getting medical assistance, which was officially free, but in practice had to be paid for, including by Azeris. One member of the family said that the family's children had been born at a nearby hospital.

The Humanitarian Center YUVA believed that there was discrimination on the labour market as Armenians found it difficult to get employment.

The Armenian family in Sumgait did not believe that there was discrimination against Armenians as regards housing and job opportunities.

Regarding the position for children of mixed marriages, the IOM considered that this generally depended on the father's position in society. If the father had high status there were no problems for his Armenian relatives, but if his status was low then they might have difficulties. However, this also applied to Azeris.

3.4.3. The human rights position

The International Federation of the Red Cross believed that there was strong political animosity towards Armenians, which was expressed through holding remembrance days for crimes committed against Azeris by Armenians during the conflict. However, this was not apparent at a normal daily level, and the organisation had not heard of any recent attacks on Armenians. Nor had it been approached by Armenians who had problems because of their ethnic background. The organisation believed that discrimination did not take place on a daily basis, but that discrimination did occur as regards access to more senior positions of power within the judicial and political systems. The Red Crescent Society of Azerbaijan did not believe that Armenians there had security-related problems.

According to a Western Embassy which wished to remain anonymous, the authorities did not systematically persecute Armenians. The Embassy was not aware of any physical attacks on Armenians either. It believed that the security situation was satisfactory and that physical attacks were generally not common. The Embassy added that Azerbaijan was a tolerant country, and was not nationalistic. However, because of the continuing occupation of Azerbaijani territory, the conflict with Armenia was still a profound concern of the Azeri people.

The IOM, the Danish Refugee Council and national NGOs did not know of cases of persecution of ethnic Armenians in Azerbaijan, and the same sources did not know of any individual physical attacks on Armenians solely because of their ethnic identity. The International Rescue Committee was likewise not aware of Armenians having problems with persecution in Azerbaijan. The sources also added that Armenians generally kept a very low profile and did not publicly draw attention to themselves.

According to the Humanitarian Center YUVA, no guarantees could be given about the reaction of an individual Azeri to an Armenian, but generally the fear of attack was psychological and emotional, and not rationally founded. There was no hatred between Azeris and Armenians, but a feeling of unease. Armenians in Baku had a greater need of protection than they did elsewhere in the country.

The Danish Refugee Council believed that Armenians and Azeris were like brothers when they met abroad, but that there could be friction in their own country. However, the Council felt that the problems had more to do with social factors in the country than with ethnicity.

The Human Rights Center of Azerbaijan stated that Azeris generally believed that if the Armenians disappeared then so would their problems. However, many Azeris had Armenian friends.

The IOM suggested that Armenians in Azerbaijan were either completely integrated in society so that they were not recognised as ethnic Armenians, or were completely isolated. Except in some local areas, the Armenians did not practise their religion in public ¹ or use their own language.

Armenians who stated their views in public, and these conflicted with local norms, could risk having problems, since freedom of expression was in practice very limited. A Western Embassy which wanted to remain anonymous confirmed that there was not really any freedom of expression for Armenians, and that they were not able to practise their religion or culture openly.

Sulh, a local NGO in Sumgait, and Armenian representatives there reported that there were special radio programmes in Armenian. These were transmitted from Azeri stations owned by the government. Transmissions lasted for one or two hours a day. It was not possible to obtain information on the content of the programmes. There are no Armenian-language newspapers. Sulh believed that the population of both Azerbaijan and Armenia wanted peace but that the political system and the political climate hindered any genuine reconciliation.

The Armenian family in Sumgait explained that nowadays there was no longer antagonism between Armenians and Azeris in Azerbaijan. Their neighbours knew their ethnic identity and they had good relations with them. Their neighbours helped them, if help was needed.

An Armenian woman married to an Azeri, who worked for the Humanitarian Center YUVA, did not believe that conditions were any worse for Armenians than for other inhabitants, and she did not feel threatened. The IOM said that ethnically Armenian women whose Azeri husbands were dead were in a difficult position, but this was because of the general family structure in the country rather than the women's ethnic identity.

Sulh, the local NGO in Sumgait, reported that it and many other NGOs cooperated with NGOs in Armenia concerning refugees etc, and that they met both in and outside their countries. The NGOs were also in daily contact with one another via the Internet. It was planned that NGOs from Nagorno-Karabakh should also be involved in this cooperation in future.

3.5. Other ethnic minorities

The Humanitarian Center YUVA reported that ethnic minorities generally enjoyed the protection of the authorities, and that there were excellent laws regulating the position of the minorities, but that there could be moral problems. According to the IOM, the higher levels of Government in the country were very interested in creating good conditions for ethnic minorities.

The Human Rights Center of Azerbaijan considered that everyone, notwithstanding their ethnic background, was equal before the law. However, a case of slander had been brought for an accusation that someone was an Armenian. The court let the case be heard and decided that the accusation was slanderous.

¹ Armenians are Christian, Azeris Muslim.

According to a census held in 1979, there were approximately 35 000 Jews in Azerbaijan. The IOM, the International Federation of the Red Cross and a Western Embassy which wished to remain anonymous considered that there was no discrimination against Jews and that they were not persecuted. The IOM reported that there were large Jewish communities in the country which practised their religion freely, and that synagogues had been built in several places. In the northeastern part of the country there were communities which were entirely Jewish, where a great deal of investment was taking place. The IOM believed that those Jews who left Azerbaijan generally did so for economic reasons. As long as Jews could document the fact that they were Jewish using their birth certificates, they were able to leave for Israel.

A Western Embassy which wished to remain anonymous added that Jews were accepted in the country and that they were probably in a better position in Azerbaijan than elsewhere in the former Soviet Union. The International Federation of the Red Cross reported that both Jewish Tat ¹ and Mountain Jews ² were found in Azerbaijan. Jews were well integrated into society and generally had a strong position in the Caucasus. The organisation did not believe that Jews had problems but felt that there might be some political discrimination. According to the Israeli Embassy Jews did not have problems in Azerbaijan.

The Meskhetians ³, of whom there are about 50 000 to 100 000 in Azerbaijan, had no problems with either the authorities or the rest of the population, according to the IOM. According the International Federation of the Red Cross neither the Talysh ⁴ minority in the south nor the Lezghi ⁵ minority in the north had any problems, and they added that these minorities were well integrated into society.

¹ The origin of the Jewish Tat is unclear, but it is believed that they have lived in the eastern Caucasus since the fifth century. As they speak an Iranian language it is assumed that they are the descendants of a group which was originally Iranian. The majority are Shia Muslims and the rest are either Christian (Armenian-Gregorian) or profess Judaism. The last time the Jewish Tat were included in a census as a separate people was in 1926. That census showed that there were 28 000 of them.

² The Mountain Jews, who are often grouped with the Jewish Tat, profess only Judaism and are only a very small group in Azerbaijan. They come originally from north western Iran and, like the Jewish Tat, they speak an Iranian language. In the fifth and sixth centuries AD they settled in the mountains of Dagestan and only moved to the lowlands by the Caspian coast in the 19th century.

³ For the Meskhetians' origin and position in the Caucasus, see the Report from the roving attaché mission to Georgia, 16 to 21 November 1998. Danish Immigration Service, February 1999.

⁴ The Talysh (or talishi) minority are believed to be originally a Caucasian people. The last time the Talysh minority was included in a census as a separate people was in 1926, when there were 77 000 Talysh. Today there are believed to be 30 000 to 100 000. The language of the Talysh minority belongs to the Iranian group of Indo-European languages. The Talysh are largely Shia Muslims.

⁵ The Lezghi minority, which includes a number of ethnic subgroups, are a Caucasian mountain people who live in Dagestan and Azerbaijan, where according to the 1989 census there were 171 000. The Lezghi speak a Caucasian language and are usually Sunni Muslims.

3.6. The general human rights and legal situation for homosexuals

The Human Rights Center of Azerbaijan reported that the parliament had adopted a new Penal Code on 28 May 2000, which would come into force in September 2000. Under the new Code, homosexuality would no longer be punishable. This was confirmed by the Society for Humanitarian Researches.

A Western Embassy which wished to remain anonymous explained that homosexuality was still a crime, but homosexuals were left alone.

The Danish Refugee Council pointed out that although homosexuality was disliked by people at large, there was a large homosexual scene in Baku.

The Society for Humanitarian Researches informed us that homosexuals have a home page on the Internet called *Blue guys*, and that in 1997 there had been a bar for homosexuals which had now closed.

The Society also reported that homosexuality was not discussed in society and that homosexuals could not talk or write about their sexuality or problems publicly. Thus no factual information appeared in the media. However, some journalists had written articles expressing views on homosexuality. The Humanitarian Center YUVA said that homosexuals had occasionally been interviewed on TV or by newspapers.

The Human Rights Center of Azerbaijan believed that homosexuals now had more problems with the health services than with the police, and that homosexuals were maltreated in the armed forces and in the prisons.

According to a Western Embassy which wished to remain anonymous, the Humanitarian Center YUVA and the Society for Humanitarian Researches it was possible to have a sex change, but transsexuals could have problems in connection with performing military service and changing their documents, including their national passport. The Humanitarian Center YUVA added that the problems were caused by antagonism or a lack of cooperation by the local authorities. However, a Western Embassy which wished to be anonymous observed that anything, including a new passport, could be bought for money.

3.7. The law

3.7.1. The judicial system

The Azerbaijan Research Institute of Judicial Examination offered the following explanation of the Azerbaijani judicial system: in 1995 a new Constitution was adopted, which reformed the previous system and brought about the separation of the legislature, executive and judiciary. A constitutional amendment in 1998 led to the establishment of a Constitutional Court. At the same time, laws were adopted concerning judges and their powers. According to the law the courts are independent of the government and other organs of the State and thus cannot receive instructions from Ministers or others. In practice there is no control. The Institute therefore believed that the courts themselves could decide whether they wanted to be independent.

According to current laws, judges are appointed by a Council for the Appointment of Judges. The Council is appointed by the President and consists of the Minister of Justice and the leaders of the Supreme Court, the Constitutional Court and a range of special courts.

To be appointed as a judge, a candidate must be at least 35 years old, must have practised for more than five years, and must have passed a written and oral examination. Those candidates who do not pass are able to continue as lawyers in private practice. Sitting judges have to pass examinations to remain in their positions

The current legal system applies to the whole country and consists of 80 regional courts, which are the courts of first instance, and a High Court, which is the court of appeal. Judges at the regional courts sit for a period of five years at a time. High Court judges are selected for a ten-year period with the possibility of re-selection. In the new legal system there are 350 judges' posts. There is no consolidated administration of justice act, but a new law on lawyers and their activities and on the rights of the accused came into force on 15 January 2000. New versions of the Penal Code and of the Civil Code come into force on 1 September 2000. Finally, the Institute believed that since independence many reformed laws had been adopted, which meant that the legal basis for something was often not transparent.

The Human Rights Center of Azerbaijan considered that none of the courts in the country was independent, and that the courts were open to bribes. Although the organisation felt that the legislation was satisfactory, its implementation was not, especially at the lower levels.

The Humanitarian Center YUVA felt that as long as a case was not political, and a known NGO was involved, then the chance of a fair trial would be good.

3.7.2. Citizenship

The Azerbaijan Research Institute of Judicial Examination reported that the current citizenship law came into force on 6 October 1998. If one of his parents had Azerbaijani citizenship, a child would automatically receive Azerbaijani citizenship. Applications for citizenship were decided on by the President and his officials. Dual nationality was not possible.

The Society for Humanitarian Researches confirmed that citizenship was decided by the President, but believed that citizenship was granted on arbitrary grounds.

The Humanitarian Center regarded it as difficult to obtain citizenship; about 1 000 stateless Azeris from Iran had lived in Azerbaijan for many years without being able to obtain citizenship.

According to a Western Embassy, which wanted to be anonymous, some people had lost their Azerbaijani citizenship under the current legislation because they did not have a registered address in the country when the law came into force. However, the Embassy believed that it was relatively easy for Azeris who did not have a registered address in the country when the law came into force to regain their citizenship, whereas it was generally not possible for Armenians.

The Azerbaijani Research Institute of Judicial Examination confirmed that an Azeri who had lived abroad for a number of years and who did not have an address in Azerbaijan when the law came into force would not have any difficulty in regaining Azerbaijani citizenship.

The Department for Migration explained that Azeri refugees from Armenia did not usually have Azerbaijani citizenship, but nonetheless they had the same rights as citizens. They could possibly apply for and obtain Azerbaijani citizenship but the question was very political as repatriation was very much the preferred option.

The IOM confirmed that Azeri refugees from Armenia could obtain Azerbaijani citizenship if they wanted it. If not, and as long as they had documented refugee status, they had a right to the same welfare benefits as other residents.

3.8. Documents

The Azerbaijan Research Institute of Judicial Examination observed that passport issue presupposed Azerbaijani citizenship. In 1999 new Azerbaijani passports came into use. However, the earlier Soviet internal and external passports were still valid. No deadline had been set for the exchange of old Soviet passports. New Azerbaijani diplomatic and external passports were issued by the Ministry of Foreign Affairs. The new Azerbaijani passports, which met international security standards, contained no information on ethnic identity.

The Humanitarian Center YUVA explained that internal passports had generally been issued at the age of 16. However, internal passports were no longer issued. Old internal passports, which contained one's address and other personal details, including ethnic group, were still used for registration with the local authorities. Instead of an internal passport young people were issued with a paper stating their address and other personal details, or they got an external passport.

The Department for Migration explained that internally displaced persons from Nagorno-Karabakh and the occupied areas and Azeri refugees from Armenia had special ID cards which indicated their legal status. It was possible for refugees to obtain refugee/Convention travel documents.

A Western Embassy which wished to remain anonymous reported that Armenians could have difficulties with local authorities over the issue of documents. However, as Azeris could also experience difficulties, it was impossible to generalise that these problems were only connected with ethnic background. However, these problems were often because the authorities demanded payment for documents to be issued, without any legal basis for this. The Human Rights Center of Azerbaijan added that ethnic Russians could also have problems.

The Humanitarian Center YUVA reported that in 1997 a friend of the leader of that organisation had married an Armenian woman. When they married they had had difficulties in getting registered, and the wife, who took her husband's surname, had still not obtained a new passport.

The IOM stated that refused asylum applicants from Azerbaijan who no longer possessed any documents could get travel documents issued through Azerbaijani Embassies. On their return they had to fill out "form No 9", and the missing documents would then be reissued. However, IOM also said that in their experience most returnees to Azerbaijan did have their personal documents.

A Western Embassy which wished to remain anonymous did not believe that an Armenian from Azerbaijan who had lost his Azerbaijani travel documents would be able to get new Azerbaijani documents issued to him, and would therefore not be able to return to Azerbaijan.

Azerbaijan did not have a propiska system¹, and permission was not required to live in a particular area of the country. However, there was and always had been an obligation to register.

¹ For a description of the propiska system see section 6.2.2 on Russia.

It was thus always possible to check the identity of someone who claimed to have lost his documents with the local authorities, as long as the person gave the correct personal details and last address.

The Embassy also stated that there were many false documents in circulation. Most of the documents presented to the Embassy were false, and the forgeries were often very primitive. It was possible to obtain all sorts of documents through bribery. It was also possible to buy a newspaper article with a fabricated story which might form the basis for an asylum application abroad.

The Embassy reported that both the Roman and the Cyrillic alphabet were used in official documents ¹. This was confirmed by the Danish Refugee Council, which added that old stamps were still in use and that all birth certificates were issued in Cyrillic.

3.9. Conditions for entry and departure

The IOM, which is working with the Azerbaijani authorities to establish an effective border control system which meets international standards, said that frontier guards were responsible for immigration control and that there was no real central immigration authority.

The IOM stated that Azeris who had been living abroad for some time generally did not have problems in entering Azerbaijan. However, if they had carried out criminal activities in Azerbaijan before their departure they might have difficulties in entering the country. Returned asylum seekers did not risk persecution on their return and retained all the usual civil rights of citizens of the country.

The Department for Migration said that there was no difficulty in entering Azerbaijan after a stay abroad for those who had fled in connection with the earlier conflict. According to the Azerbaijan Research Institute of Judicial Examination there were also no problems for members of other ethnic groups entering the country.

The IOM explained that for travel to and from the Azerbaijani enclave of Nakhichevan via Iran and Turkey a special passport had to be used, but this was easy to obtain. However, Turkey had changed its border control procedure so that a national passport now had to be shown.

The IOM also believed that Azerbaijan was often used as a transit country where false documents were obtained for the onward journey.

¹ The official language of the country is Azerbaijani which is closely related to Turkish as spoken in Turkey. Until 1920 the Arabic alphabet was used, in 1930 it was replaced with Cyrillic, and in 1992 the Constitution instituted the use of the Roman alphabet. In 1993 five extra letters were added to represent sounds which are used in the language. These letters are used irrespective of whether the Cyrillic or Roman alphabet is otherwise being used. Differences in personal and place names may arise in transliterating from Cyrillic with the five extra letters, depending also on the target language.

4. Armenia

4.1. The refugee situation, including citizenship

The UNHCR ¹ reported that in 1999 the Armenian parliament had adopted a refugee law meeting international standards, in order to fulfil its obligations under the UN Convention relating to the Status of Refugees, to which Armenia had acceded in 1993.

The UNHCR told us that 200 000 Armenians who fled from Azerbaijan during the conflict were now living in Armenia.

The Norwegian Refugee Council stated that there were 215 000 refugees in Armenia, of whom 197 000 came from Azerbaijan and 18 000 from the former Soviet Union. According to official figures there were also 17 000 internally displaced persons from the former small Armenian enclave in Azerbaijan (see note on the map of Armenia in Annex 2). There were no actual refugee camps or centres in Armenia as the refugees were housed in apartments on their arrival and were thus integrated into the population. However, in the city of Sevan refugees were living in hotels and abandoned factories and conditions were particularly difficult.

The Department for Migration and Refugees stated that in 1989 approximately 420 000 Armenians arrived from Azerbaijan and more than 300 000 of these were still in Armenia. Some of them lived in very poor conditions in hotels, derelict factories and abandoned houses.

The Department for Migration and Refugees also said that the refugees had been offered Armenian citizenship but that even though it was easy to obtain and no costs were involved, only 15 000 had taken up the offer. According to the Department the reason was that the refugees believed they would lose the welfare rights they had as refugees, that they would lose their housing, and that they would lose the right to their former property in Azerbaijan, which was not correct ².

The UNHCR confirmed this, and in a pamphlet for refugees has set out the rights they will have as Armenian citizens compared with the rights they have as refugees (the pamphlet is attached as Annex 8). The UNHCR also explained that refugees may not vote in Presidential elections but may do so in local ones. They also have the right but not the obligation to perform military service. In fact most do choose to perform military service.

In their projects assisting with the renovation of housing for refugees, the Norwegian Refugee Council has made it a requirement that the refugees apply for Armenian citizenship.

The Norwegian Council also pointed out that refugees and internally displaced persons have the same rights to welfare benefits as other citizens.

¹ UNHCR – the United Nations High Commissioner for Refugees.

² Several NGOs in Azerbaijan and Armenia said that some Armenian and Azeri refugees had sorted out their property situation amongst themselves, by exchanging their homes.

The most vulnerable, about 120 000 people, received welfare payments of US\$ 6 per family per month, plus US\$ 3 per person per month. However, these payments were often made several months late.

The Department for Migration and Refugees has undertaken a comparison of the standard of living of refugees and of citizens. According to the Department, this study showed that the standard of living of refugees was three times lower than that of citizens, which the organisation believed would encourage refugees to seek citizenship.

4.2. Emigration

According to the most recent census, in 1989, there were 3,8 million people living in Armenia. Of these 93% were ethnic Armenians, 2,6% (about 100 000) were Azeris, 1,5% were Russians, 1,7% were Muslim Kurds and the rest were Assyrians, Greeks, Jews etc. Because of large-scale emigration the number of inhabitants has fallen dramatically in the last 10 years. According to the IOM, 850 000 Armenians have officially emigrated abroad. The figure is based on the number of plane tickets sold, but as those Armenians who have left by car, bus or train are not included in the statistics the unofficial figure is nearer 1,3 or 1,5 million, which means that the number of inhabitants has fallen to fewer than 2,5 million.

The Department for Migration and Refugees stated that 20% of the population of the country had emigrated since independence, of which 15 to 20% had emigrated to Western countries. According to IOM a census was planned for 2001, but because of the lack of economic resources in the country there was a risk that it would be postponed.

The UNHCR confirmed that many Armenians had left Armenia, and there was still a strong desire to emigrate. There were currently 9 000 Armenians seeking asylum in Western Europe. According to the UNHCR, the reason for this exodus was poor economic and social conditions at home. This large-scale emigration is causing concern amongst politicians, the authorities, and human rights and humanitarian organisations.

One of the first tasks for the Department for Migration and Refugees, which is a newly established body, has been to work out a programme to regulate emigration; it has published a document entitled "Concept on the State Regulation of the Population Migration in the Republic of Armenia" which analyses the reasons for this emigration and gives recommendations for resolving the underlying problems (an extract from the report is attached as Annex 5).

The National Center for Democracy and Human Rights has drawn up a "Project on Prevention of Illegal Migration" which is seeking money from donors and cooperation with NGOs in countries where Armenians are staying illegally (a description of the project is attached as Annex 6 1).

¹ Further information may be obtained from Vladimir Karmirshalyan, Chairman of the National Center for Democracy and Human Rights and Ambassador Extraordinary and Plenipotentiary of the Republic of Armenia to the Kingdoms of Sweden, Denmark, Norway and the Republic of Finland, via email address cdhr@armico.com.

In its annual report to the President on human rights in Armenia, the Human Rights Commission under the President of the Armenian Republic commented that emigration must be attributable to the unsatisfactory human rights situation, including social conditions. (The report is attached as Annex 7).

As regards social conditions, the Sakharov Armenian Human Rights Foundation reported that the average wage is US\$ 10 to 12 per month, and that on average citizens have an income of 0,25 cents per day. About 80% of the country's inhabitants have an income which lies round about the poverty line established by the World Bank, and 20-25% of these fall below that line. The unemployment rate is 75%, of which 65% are women. The country survives on aid from abroad, and a calculation of capital transfers from abroad via banks shows that US\$ 300 to 400 million flow into the country annually. By way of comparison, Armenia's annual national budget is US\$ 300 million.

The UNHCR commented that when the Soviet Union collapsed so did the Armenian economy. It has never recovered and is still at a very low level. This has led to widespread cynicism and apathy amongst Armenians, who emigrate if they get the chance.

4.3. Corruption

Several sources, including the Norwegian Refugee Council, the Helsinki Assembly and the A. D. Sakharov Armenian Human Rights Foundation, reported that there was a very high level of corruption in the country and that nepotism was widespread.

4.4. The general human rights situation for Azeris in Armenia

At the 1989 census the population of Armenia was 3 287 677, of whom 2,6% were Azeris, i.e. about 85 000 people. No sources could give accurate information on the number of Azeris nowadays. The UNHCR believed that there were perhaps a few hundred, and that there were more Armenians in Baku than there were Azeris in the whole of Armenia. The UNHCR also reported that the Azeris were mainly women who were or had been married to Armenian men, and that there were no Azeri men in Armenia. The Norwegian Refugee Council stated that there were Azeris in Armenia but they were very few, and were mainly people living in mixed Armenian/Azeri marriages. The Sakharov Armenian Human Rights Foundation believed that there were a few Azeris, most frequently Azeri women married to Armenian men.

The President's advisor on ethnic minorities, Razmik Davojan, and the OSCE said that Azeris were not registered as a minority group.

The Department for Migration and Refugees did not believe that Azeris had security problems in Armenia or that they were persecuted or discriminated against. Minor problems might arise with neighbours but these would not lead to physical violence. The Department considered that if Azeris were afraid this was for psychological reasons and not because of security problems.

The UNHCR commented that Azeris in Armenia were tolerated but that they kept a low profile. The OSCE shared this opinion. The UNHCR was not aware of attacks by the authorities.

The UNHCR felt that the Azeris did not really have any problems but might do so if they actively expressed their ethnic identity.

The Norwegian Refugee Council was not aware of any persecution of Azeris in Armenia although Azeris did not conceal their ethnic identity. The Council considered that Azeris who had fled during the conflict would be able to return without particular difficulties. The Armenians showed no animosity towards Azeris.

The Helsinki Association had no information about Azeris in the country and no knowledge of any difficulties they might have.

The Sakharov Armenian Human Rights Foundation did not believe that Azeris had problems in Armenia. The same applied to the Iranian Azeris, many of whom were Azeris from Azerbaijan who had emigrated to Iran and then came to Armenia to do business in the free trade zone on the border with Georgia. They bought goods and sold them on in Yerevan. They spoke Azeri, without that causing any problems. There was no hatred of Azeris in the country. Any antagonism came from the political establishment. However, the situation between Azeris and Kurds was tense despite their having the same religious background.

The representative of the Russian minority did not believe that Azeris were discriminated against. He himself had an Azeri neighbour.

The UNHCR did not know the number of children from mixed marriages. The UNHCR believed that the situation was perhaps better for the children of mixed marriages but could not be sure as the organisation did not have knowledge of them.

It was common for Armenian asylum applicants in Western Europe to claim to be persecuted ethnic Azeris from Armenia.

4.5. Other ethnic minorities

The President's advisor on ethnic minorities, Razmik Davojan, described how following the collapse of the Soviet Union the ethnic minorities had founded their own organisations, which, if chaotic, had been very active and done a great deal for their people. The government had only received very little information, and therefore only a few problems had been solved. The government had sought contacts, as there was a need to discuss problems and their solutions together at a higher level. A centralised dialogue with the minorities had only begun in the last year.

A Board Committee on Minorities had recently been established, and through the Committee it was now easier to have an impact in parliament (see the presidential decree which is attached as Annex 9). There were 22 representatives on the Committee, with each of the 11 registered ethnic minorities in Armenia being represented by two people. The Committee not only looked after the interests of those minorities which were represented, but also worked for those which were not registered. In total there were 30 different ethnic minorities in the country. For those minorities which had a home country, such as e.g. the Jews, contact had been made with the respective Embassies through the Ministry of Foreign Affairs, and those countries supported e.g. education for the respective minority in Armenia. Razmik Davojan also explained that the Committee was an advisory body which, since no law on minorities existed, had given the preparation and adoption of such a law the highest priority. Those minority groups which were not registered would not have any problems in becoming registered if they wished to do so.

The representative of the Assyrian ¹ community, Irina Gasparyan, felt that the Armenian people had always been friendly towards minorities and that the Armenians did not want to cause problems as regards opportunities for education or anything else. She did not want the lack of legal regulation of the minorities' situation to be brought up by Western countries, as that could lead to unnecessary conflict. There had not been problems between Armenians and the minorities to date, but international demands for a law to be drawn up and debate about its content could cause internal disagreements. She wanted Armenia itself to discuss and draw up the draft law on minorities.

The representative of the Russian community, Yuri Yakovenko, considered that the government was encouraging minorities to find their ethnic roots, which had been repressed in the time of the Soviet ideal of a *homo sovieticus* ². He also felt that the difficulties experienced by the minorities were those of everyone in the country, and were linked to social and economic conditions.

The representative of the Yezidi ³ community, Hassan Tamoyan, stated that there were 70 000 Yezidis in Armenia. He believed that Armenia's policy towards minorities could be a model for other European countries. Armenia did not have national conflicts as did e.g. Yugoslavia or Ireland. The Yezidis regarded Armenia as their homeland, because only in Armenia could they live as and feel themselves to be Yezidis. He felt that there was no need for a law on the position of minorities, as such a law was to protect rights and the rights of the ethnic minorities were not violated in Armenia. Such a law might create conflicts which would otherwise not have arisen. The representative of the Greek ⁴ community, Slava Rafayelidis, said that 12 000 Greeks lived in Armenia and that they had the same problems as other citizens of Armenia.

The representative of the Jewish community, Rabbi Gersh-Meir-Burshtein, did not believe that there was currently any discrimination or persecution of Jews by the authorities, although Judaism was very different from the Armenian faith. During the Soviet years, the Armenians showed great tolerance towards the Jews, as the Armenians were also anti-Communist. In 1992 and 1993, after the independence of Armenia, some negative newspaper articles had been written about the Jews. These articles provoked a number of contributions from Armenians in defence of the Jews.

¹ The Assyrians, who are Christians, believe themselves to be the direct descendants of the Assyrian kingdom which existed in the Middle East from 2500 to 600 BC. At the census in 1989 the total number of Assyrians in the Soviet Union was 9600.

² The name of the ideal communist man, who had internalised (taken over the group norms of) communist ideology, and for whom ethnic identity etc was irrelevant.

³ The Yezidi Kurds are distinct from the Muslim Kurds because of their religion, which includes aspects of both Judaism and Christianity. They have been called devil, angel and sun worshippers. In 1926 the total number of Yezidis in the whole Soviet Union was 15 000.

⁴ Greeks have lived in the Caucasus for the last two thousand years, and speak a variant of modern Greek. Under Stalin and during the Second World War the Greeks were deported, mostly to Kazakhstan. At the 1989 census the total number of Greeks in the Soviet Union was 91 700. However, during the 20th century many Greeks emigrated to Greece.

The Armenians have no tradition of anti-Semitism, but Armenians who go to Russia to work experience anti-Semitism and bring those experiences and impressions back with them to Armenia. Rabbi Gersh-Meir-Burshtein felt that a law on minorities was important. He also informed us that the mayor of Yerevan was married to a Jewish woman.

The Norwegian Refugee Council pointed out that former President Levon Ter-Petrosyan was married to a Jewish woman.

All the representatives agreed that there was no persecution of ethnic minorities in Armenia, that all were able to practise their religion freely, and that people from ethnic minorities who left Armenia primarily did so because of poor economic and social conditions.

The UNHCR observed that in terms of population, Armenia was a homogeneous country. The UNHCR had not heard of either Kurds or Yezidis having problems. Muslim Kurds had taken part in public demonstrations in support of Öcalan, the leader of the banned Kurdish PKK party who was now imprisoned in Turkey. They were well accepted and had their own television and radio programmes. The Jewish community had good relations with the government. The Assyrians did not have any problems either. As for Muslims in Armenia, there was no tradition of them practising their religion, but a mosque was currently being renovated.

The Human Rights Commission under the President of the Armenian Republic observed that any difficulties experienced by ethnic minorities were not linked to their ethnic background but to the economic and social conditions, which also applied to the Armenians. The ethnic minorities were equal to and had the same rights as Armenians.

The Norwegian Refugee Council did not believe that the ethnic minorities in Armenia were persecuted. The Council confirmed that Muslim Kurds had been able to take part in public demonstrations in Yerevan in connection with Öcalan's arrest without any difficulty.

The A. D. Sakharov Armenian Human Rights Foundation observed that any difficulties the ethnic minorities might have were the same as those of the rest of the population. There might be conflicts of interest between the ethnic groups in relation to funds from donors, but there was no other conflict, and none in relation to the authorities or the government.

4.6. General human rights and legal situation for homosexuals

The Commission for Human Rights under the President of the Armenian Republic pointed out that homosexuality was still prohibited under Article 116 of the Soviet Penal Code which still applied, but that no cases had been brought against homosexuals in recent years. The Commission also remarked that both the general and special sections of the Penal Code were under discussion by the parliament. Homosexuality was regulated in the special section, and had been dropped in the new proposal for amendments. The special section had been through three readings and thus needed another four before its final adoption. The general section had already been through two readings. The Helsinki Association observed that as one of the conditions for Armenia's membership, the Council of Europe had demanded that Article 116 of the Penal Code be repealed.

A Western Embassy which wished to remain anonymous observed that Article 116 would still be contained in the Penal Code but that it would be amended to protect minors involved in homosexual activities.

The Embassy reported that there had been four convictions under Article 116 in 1995, seven in 1996, seven in 1997 and four in 1998. The Embassy had not been able to obtain any information on whether these cases had involved minors or violence.

The Norwegian Refugee Council did not believe that the law would be enforced although homosexuality was still punishable until the new Penal Code was adopted.

The Helsinki Association stated that in 1999 a vote had been held in parliament on an amnesty for those who had been imprisoned under Article 116. The amnesty was rejected in the first round, but after the Ministry of Justice had explained that it was necessary for full Armenian membership of the Council of Europe that the amnesty should be approved, the proposal was agreed. However, four people were still in prison because of convictions under Article 116.

The OSCE said that three persons were still imprisoned who had been convicted under Article 116. However, the OSCE had no information on the basis for the convictions.

According to the Norwegian Refugee Council there were officially no homosexuals in the country. The subject was taboo. However, the Council knew of a bar for homosexuals in Yerevan. A Western Embassy, which wished to remain anonymous, believed that there was a lively scene for homosexuals in Yerevan with several homosexual cafés and restaurants, and a particular underground station was known as their haunt. The police did not interfere.

However, the Helsinki Association produced the example of four homosexuals who had been blackmailed by the police to avoid criminal cases being brought against them. When being questioned by the police one of the four had also been assaulted. The homosexuals had paid about US\$ 10 000 to avoid criminal cases and thus their sexual orientation being revealed to their families and friends.

4.7. Participation in electoral fraud

The Sakharov Armenian Human Rights Foundation was not aware of anyone being prosecuted for participation in electoral fraud in connection with the Presidential election in March 1998 or the general election in May 1999. One case had been brought before the court but had been rejected as too unclear. Any cases could be avoided by bribing the judges. It was difficult to say anything definite about electoral laws, as a new law was adopted before each election.

The Human Rights Commission under the President of the Armenian Republic observed that there had been five electoral laws in ten years and that another one was on the way.

A Western Embassy which wished to be anonymous had gathered information from the local electoral commissions about claims of cases involving electoral fraud and had ascertained that not a single court case had been brought for participation in electoral fraud.

The OSCE was also not aware of any court cases in connection with electoral fraud and referred to its report on the general elections.

4.8. The military situation

In 1997, Soldier's Mother started a project to stop the emigration of Armenian citizens. One aspect of the project was to study how great a proportion of emigration by young men in the period 1993-1997 was for military-related reasons. The results of the investigation showed that 18% of the young men who had left the country had done so to avoid military service. Many of these young men would willingly return to Armenia. The organisation had therefore set up a project in which it met these young men at the airport and helped them on arrival. It had also produced a handbook called "Our son and the national army" which contains advice in connection with call-up and military service and relevant extracts from the legislation. The handbook has 80 pages; it was first published in 1998 with support from the IOM, and has been updated and reissued twice since then, most recently in 2000. At the request of the ethnic minorities amongst others the handbook is now also published in Russian ¹.

The UNHCR explained that call-up for military service happens twice a year, in the spring and autumn. Once someone has been called up for military service they must not leave the country and controls at the airport are strict. It is possible for someone who has been called up to get a passport issued to them, but in practice it is very difficult.

Several sources including the UNHCR, the Helsinki Association and the Norwegian Refugee Council believed that it was possible to bribe one's way out of having to perform military service. The Norwegian Refugee Council believed that the payment could be up to US\$ 1 000. Several sources, including the Norwegian Refugee Council and the Helsinki Association, observed that conditions within the armed forces were what made many young men avoid military service. The Norwegian Refugee Council added that there had been several suicides because of the hard conditions and that there had been several cases of people dying during initiation ceremonies. The Helsinki Association believed that occasionally the police or army would round up young men, including refugees, who had not been called up in the normal way. The organisation also knew of examples of relatives being detained until a conscript had turned up. However, it considered that the number of such cases was falling, and also thought that it would be possible to go to court; the organisation would offer free help in these cases.

Soldier's Mother could not confirm that forced recruitment using irregular call-up methods took place as it had done in 1992 and 1993. Relatives, friends, neighbours etc of conscripts who had disappeared or of deserters were also no longer detained, as had again been the case in 1992 and 1993.

Similarly, the Norwegian Refugee Council was not aware of any forced conscription from the streets without call-up since 1995.

¹ Нас сын и национальная армия. Армянский Благотворительный Комитет "Зинвори Майр", Yerevan 2000.

For military service in Nagorno-Karabakh, see the section on Nagorno-Karabakh.

4.8.1. Amnesty and penalties

Soldier's Mother reported that, for young people of military service age who were staying abroad in order to avoid it, the President had issued an amnesty to 30 June 2000 and 30 December 2000 respectively. If the conscript came back and reported to the military authorities before the end of those periods he would not be prosecuted. There would also be no prosecution if someone who had deserted from the armed forces returned to his unit voluntarily within one month, and if there was also a valid reason for his absence. According to Soldier's Mother, convicted deserters are held in special disciplinary units for up to three years.

Soldier's Mother explained that if young men are sentenced for draft evasion they are not sent to an ordinary prison but to a prison for young people. Sentences for evading the draft can be up to three years. Once the sentence has been served, the individuals in question have to complete their military service.

The Commission for Human Rights under the President of the Armenian Republic commented that on average eight people a year are detained and convicted for avoiding the draft. First-time offenders are usually sentenced to between one and three years in prison. In practice sentences are usually two years. Soldier's Mother said that families were able to visit every Sunday.

Soldier's Mother observed that there was no difference in conditions in the armed forces for Armenians and those from other ethnic groups.

4.8.2. Alternatives to military service

The Commission for Human Rights under the President of the Armenian Republic told us that a proposal had been made in parliament in 1998 for alternatives to military service. The proposal was put forward as an amendment to existing laws. However, the proposal was not adopted by parliament on the grounds that the majority of the young men of conscription age would apply for the alternative, which would lead to a weakening of the country's security; and also this change in the law presupposed peace in the region and Azerbaijan lifting its economic blockade of Armenia. Since then no further proposals had been submitted on the subject, but in its annual report for 1999 the Commission had urged the government to table one again.

In 1997 the Helsinki Association drew up a new draft law on military service, but the organisation received no reply from the authorities. The Association did not believe that there were any pacifists in the country and so there had never been any court cases involving a refusal to perform military service on grounds of conscience.

The OSCE observed that according to the Council of Europe's Committee on Legal Affairs and Human Rights, Armenia should adopt a law on alternatives to military service within the next two years in connection with its acceptance into the Council of Europe ¹.

The Norwegian Refugee Council believed that a law on alternatives to military service was being prepared.

¹ Armenia became a member of the Council of Europe on 28 June 2000, during the delegation's visit.

4.8.3. Jehovah's Witnesses and military service

No source could provide information on the number of Jehovah's Witnesses in the country. According to that organisation's home page on the Internet, in 1999 there were 543 baptised members there¹. The home page states that the organisation does not have an office in Armenia. Soldier's Mother observed that Jehovah's Witnesses were not registered as a religious community in Armenia.

A Western Embassy which wished to remain anonymous commented that in Armenia, the Jehovah's Witnesses were regarded as a sect. Their statutes were in accordance with the Armenian constitution but since they had carried out missionary activities without permission they could not be registered. The Jehovah's Witnesses had not disputed this in court and so the question had not been tested. The Embassy also commented that several events related to the organisation's activities had aroused public indignation. For example, the head of a higher educational institution had demanded that new students should convert and become Jehovah's Witnesses before they could be admitted.

The Norwegian Refugee Council felt that Jehovah's Witnesses were not popular but had not heard of any being arrested. Jehovah's Witnesses carried out their activities without any particular difficulties. It had been reported on Armenian television that several young people had killed themselves because of the promise of life after death. This had not increased sympathy for the Jehovah's Witnesses in the population at large.

According to the Commission for Human Rights under the President of the Armenian Republic, someone who refused to perform military service for religious reasons would risk prosecution; this would include Jehovah's Witnesses who refused to perform military service.

The Helsinki Association believed that 21 Jehovah's Witnesses were currently in prison because of their refusal to perform military service. The organisation also thought that as well as saying that Armenian legislation should offer an alternative to military service within two years, the Council of Europe had also demanded that imprisoned Jehovah's Witnesses should be released within a year. Despite this, two more people had been convicted and imprisoned.

The OSCE was not sure of the figures, but believed it knew of eight or nine cases of Jehovah's Witnesses being convicted and imprisoned for refusing to perform military service. Usually sentences were for between six weeks and three years. In practice it was possible for those other than Jehovah's Witnesses who did not want to bear arms to perform their military service in unarmed positions. Soldier's Mother confirmed that if a conscript did not want to bear arms it was possible to serve in unarmed positions.

This was confirmed by a Western Embassy which wished to be anonymous. The Embassy stated that the problem with Jehovah's Witnesses was that they refused military service altogether and so did not just refuse to bear arms. The authorities had tried without much success to persuade Jehovah's Witnesses to serve in unarmed positions such as the administration, the kitchens etc. Soldier's Mother was not aware of Jehovah's Witnesses being convicted for refusal to perform military service because they were Jehovah's Witnesses.

¹ By way of comparison Denmark is said to have 261 baptised members.

However, the organisation observed that Jehovah's Witnesses were campaigning energetically amongst young people in the country to enrol them as members and get them to refuse to perform military service.

4.9. Fidai groups and the Pan-Armenian National Movement

The A. D. Sakharov Armenian Human Rights Foundation explained that the word "fidai" went back to the Middle Ages, when it was the term used for a knight or nobleman. During the conflict, when Armenia did still not have its own armed forces, the word was used for local paramilitary groups. The groups did not have a central leadership. They might be well-intentioned or otherwise, and their members included a number of criminals. When the Armenian armed forces were set up some of the groups were integrated into them. The rest disbanded and fidai groups had not existed for long. The Armenian armed forces had a short history, and initially because of the fidai groups there were many criminals in the military, including people in senior positions, who tried to introduce their own rules. They had now left the armed forces and some had been imprisoned.

The Norwegian Refugee Council confirmed that the fidai groups no longer existed and that they had been a mixture of gangs and paramilitaries.

The Pan-Armenian National Movement ¹ was the driving force politically behind Nagorno-Karabakh's split from Azerbaijan. The President of the Party was the former Armenian President Levon Ter-Petrosyan, and its Chairman was former Minister for the Interior Vano Siradeghian, who had now disappeared after losing his parliamentary immunity. Siradeghian was accused of incitement to murder, black marketeering and corruption. During the conflict the party, which was still legal, was in government with a 90% majority. At the last general election in 1998 it achieved under 2% of the votes. The party was now being held responsible for the disappearance of US\$ 400 million, largely consisting of donations received by Armenia from abroad following the 1988 earthquake. On 14 June 2000 an ad hoc committee set up by the parliament presented its final report, in which the former governing party was held responsible for the documented misappropriation of US\$ 200 million. During the delegation's visit the affair was the subject of lively discussion in the media.

4.10. The law

4.10.1. The judicial system

The OSCE reported that the old Soviet Penal Code was still in force. Armenia had a two-tier court system, namely courts of first instance and of appeal. Opportunities to appeal against a case and to have it handled by the court of appeal were limited.

The Commission for Human Rights under the President of the Armenian Republic explained that a new Constitution had been under discussion for many years, and that the parliament had set up a committee which had been preparing a draft amendment to the Constitution for the last ten months. The committee was still working on the section covering the court system.

¹ The Armenian name is Haiots Hamazgaien Sharjoun. The party changed its name from Armenian Pan-National Movement in 1995.

As regards corruption in the judicial system, the OSCE felt that a general improvement there would require officials and judges to be reasonably paid, and an improvement in legislation and its implementation.

The Sakharov Armenian Human Rights Foundation did not believe that it was possible to get a fair trial in Armenia, but that this was not because of the laws but because of corruption. If a person had problems with the police he could avoid the case being brought to court by paying a bribe on the spot. A judge received a salary of US\$ 100-200 a month. However, he could earn up to US\$ 30 000 to 40 000 with one case by taking bribes.

4.10.2. The death penalty

The Commission for Human Rights under the President of the Armenian Republic explained that the death penalty was still a possible sanction under the law but that it had not been used since 1992. A draft amendment to the Penal Code had been drawn up and as soon as it had been adopted the death penalty would be abolished. Since 1992 those who were liable to receive the death penalty had been given other sentences such as life imprisonment.

The OSCE confirmed that the death penalty had not been used since independence. However, 32 people were still on death row and the OSCE had no information on whether any of them had had their sentences commuted to life imprisonment. The OSCE confirmed that the death penalty would be abolished in the new Armenian Penal Code but that this had not yet been adopted.

4.10.3. The ombudsman

The Commission for Human Rights under the President of the Armenian Republic pointed out that a draft law establishing the institution of ombudsman had been ready for a year. The draft had been examined and accepted by the Ministry of Justice and other relevant Ministries. It had also been put before parliament. The Commission had now told the President that if the current parliament did not push this matter forward it would abandon its work. If the draft is adopted the Commission will be the organisation on which the institution of ombudsman is conferred.

4.11. Documents

The Department for Migration and Refugees explained that new Armenian national passports are now being issued which technically meet international standards. They are valid for five years. Stamps in the passport give information on blood type and address, and the passport is also used as an internal passport. No information is given on ethnic identity. The old Soviet passports are valid until 1 July 2000. After that date they must be exchanged for Armenian passports. As the exchange process is time-consuming and expensive it is possible that this deadline will be extended.

The Department also stated that refugees have a red ID card, of the same size as a passport. The card is issued by the Armenian passport-issuing authorities and may only be used inside the country's borders. The ID card contains information about ethnic identity, civil status, the father's name and information on any children.

Refugees may also be issued with a Convention passport (see UNHCR pamphlet attached as Annex 10).

A Western Embassy which wished to be anonymous observed that many false documents were in circulation. It could be difficult to establish a person's identity. However it was possible, if a person gave his correct former address, to have his identity checked by the local authorities.

4.12. Conditions for entry and departure

The Department for Migration and Refugees stated that the Law on the Legal Status of Foreigners in Armenia included rules on entry and departure for foreigners.

The Department also said that there was currently no law regulating entry and departure for Armenian citizens, as the Department had mentioned in its report "Concept on the State Regulation of the Population Migration in the Republic of Armenia". In the report the Department had also pointed out that there was a need for such regulation.

According to the Department, no exit permit was required. If an Armenian citizen travelled to a country in the CIS no visa was required. Countries outside the CIS usually required a visa. According to the IOM there were several possible ways of leaving Armenia by land. One was via Georgia where the border could previously be crossed without showing any documents, but where Armenian citizens now had to show their passports. The second was via Azerbaijan. This was, however, not really possible as the border was closed and the border area had been mined. The third possibility was to leave via the free trade area in north-east Armenia, which covers part of Armenia and Georgia (see note on the map of Armenia in Annex 2). Once in the free trade area Armenians took a taxi, often driven by Azeris ¹. It was also possible to leave via Iran.

The Department for Migration and Refugees confirmed this information about the free trade area and agreed that crossing the borders in that area was not difficult.

The IOM stated that the border between Armenia and Turkey was closed. As for entry, the IOM believed that it was very easy to obtain a visa and entry permit for Armenia. These were issued at Embassies or even at the airport in Yerevan.

The Department for Migration and Refugees did not believe that there would be a problem with entering the country after a long stay abroad. Nor would there be a problem for an Armenian citizen married to an Azeri. However, there was a requirement that if the marriage had been performed abroad it must be legalised by an Armenian diplomatic mission abroad.

¹ The Georgian region of Kvemo Kartli which borders Armenia and Azerbaijan is inhabited by a large Azeri minority. See Report by the roving attaché mission to Georgia, 16 to 21 November 1998. Danish Immigration Service, Copenhagen 1999.

The OSCE contacted the International Advocates' Union of Armenia, which stated that if an Armenian citizen married a foreigner while overseas then no special permission or documents were needed to enter and settle in Armenia.

A Western Embassy which wished to be anonymous reported that on arrival an accompanying spouse would be given a residence permit valid for three days. This would be extended by OVIR¹ for one month, then for six months and finally for three years, after which it was possible to apply for citizenship. The citizenship application procedure was straightforward and took about three months. Even if the authorities were not well-disposed towards the entry of mixed Armenian/Azeri couples, there was nothing in law to prevent it. It made no difference whether the man or the woman was an Azeri and the Embassy had had no negative experiences of such couples entering the country. Besides, it would always be possible to take the matter to court or to pay a bribe.

The IOM reported that there was no special procedure for entry into Armenia by refused asylum applicants. Even though they could not become citizens of the country the same procedure applied as for Armenian citizens entering the country. Refused asylum applicants entering the country were not liable to be arrested etc. by the authorities. The problem was more that before departure they would have sold everything they owned, and that on return they would have nowhere to live etc.

The IOM was willing to help such people, but were rarely approached for assistance.

The UNHCR believed that problems might arise for young men liable for conscription (aged 18 to 27), as the military police at the airport investigated such people. The UNHCR also reported that Armenia and Russia had reached an agreement on the mutual return of criminals including draft-evaders.

The IOM pointed out that those with refugee status could travel on a refugee travel document and that refugees believed that with these documents they could travel to, e.g., the countries of Western Europe.

The Norwegian Refugee Council said that on entering and leaving the country Armenians risked having their currency improperly confiscated by the border police.

¹ OVIR - Одел Виз и Регистрасии, Directorate of Visas.

5. Nagorno-Karabakh

5.1 The military situation

The Ministry of Foreign Affairs in Karabakh explained that since 1992 Karabakh had had its own army under the responsibility of its Ministry of Defence. The armed forces were regulated in the Military Code.

Only people from Karabakh served in the armed forces. Armenians were not recruited into the army by force. In 1992 when the army was set up between ten and 50 volunteers from the Soviet Union and Armenia had joined up. Those people were originally from Karabakh.

The age of conscription was 18 to 20, and military service was for two years. For the first six months to a year, conscripts were instructed in the use of weapons at a military academy. The rest of their military service was spent out in the field. Experienced conscripts were also sent to the border area with Azerbaijan, but within the borders of Karabakh, and they were relieved regularly. Military service was performed under normal conditions.

In time of war, those aged between 18 and 60 could be called up for military service but there was no forced recruitment. During the conflict people aged under 18 and over 60 had joined the army voluntarily.

Some groups were able to avoid military service. These included teachers and other professionals who were needed by society. It was possible to perform military service in sections where weapons were not carried and attention was paid to the health of the individual. Alternative service was also possible if an individual did not want to perform military service for religious reasons.

There was still occasional shooting on the border with Azerbaijan. It was a "sniper war". Soldiers from Karabakh had received instructions to stay within the border and out of sight, so that there was no provocation. They had also received instructions not to shoot. In 2000 there had been no deaths. Once a month the area was inspected by a delegation consisting of representatives from the Ministry of Foreign Affairs and the OSCE.

The International Rescue Committee, which ran a number of refugee projects in Azerbaijan near the border with Nagorno-Karabakh and the occupied areas, said that the border areas were relatively quiet. There was occasional shooting but no-one had been killed recently and the security situation was relatively stable.

The OSCE in Yerevan confirmed that Karabakh had its own army and that Armenian citizens could not legally be obliged to serve. Previously illegal forced recruitment had taken place in Karabakh but no longer did so. Soldier's Mother also confirmed that Karabakh had its own armed forces with its own military regulations. For example, conscripts in Karabakh received more pay. The UNHCR was not aware of Armenians having to perform military service in Karabakh. The Norwegian Refugee Council had also not heard of cases of forced recruitment for military service in Karabakh in recent years. Soldier's Mother stated that no Armenian conscripts were sent to serve in Karabakh but said that they were sent to serve in Armenian border areas.

A Western Embassy which wished to be anonymous said that it was officially denied that the Armenian army was involved in military matters in Karabakh. However, the Embassy could confirm that conscripts in the Armenian armed forces participated voluntarily in the reconstruction of Karabakh and that as volunteers in Karabakh they were paid a better salary.

The Helsinki Association believed that Armenia had armed forces in Karabakh and in the occupied areas and that it was quite normal for Armenian soldiers to perform their military service in those areas.

5.2. Citizenship

Nagorno-Karabakh's representative in Armenia explained that although the international community had not recognised Karabakh as an independent country the concept of citizenship was used. Thus a person would have citizenship in Karabakh if he lived in the area when independence was declared, or lived in Karabakh now and wanted to become a citizen.

The Ministry of Foreign Affairs in Karabakh explained that because of the lack of international recognition there was no actual citizenship law, but said that citizenship was obtained on the basis of established principles. If a person came from Karabakh originally the authorities regarded him as a citizen. Karabakh also accepted dual nationality. Both aspects were problematic in relation to the outside world given Karabakh's political situation.

The President of Karabakh granted citizenship.

5.3. Documents

Nagorno-Karabakh's representative in Armenia pointed out that the question of documents, including passports, was problematic, as Karabakh had not been internationally recognised as an independent State. Although according to international law there was a requirement that people have the right to leave without restriction, the inhabitants did not really have that right. For a long time they had issued the old Soviet passports as they had had a large stock of them. However, those passports could no longer be used. Therefore, if a resident wanted to leave he did so on an Armenian passport, issued by the Armenian authorities. On page 5 of the Armenian passport there was a stamp stating the holder's address in Nagorno-Karabakh. However, citizens of Karabakh were not issued with proper Armenian passports but with a sort of temporary passport for travel which had to be handed in on return.

The Ministry of Foreign Affairs explained that as Karabakh citizenship was not recognised by the international community, there were no authorities which could issue national passports. Until 1 June 2000 the old Soviet passports had been used.

If citizens needed to leave the area, for example if they were ill (there are no hospitals in Karabakh), if they were diplomats and had to go abroad, or if they were students, they had an Armenian passport issued by the Armenian authorities in Armenia. In reality even with such a passport citizens did not have freedom of movement as they risked being refused entry to any country when its authorities realised they came from Nagorno-Karabakh.

5.4. Conditions for entering and leaving

It is possible to travel to and from Karabakh via Armenia, either by air in a helicopter or by the motorway A317 via Goris in Armenia and through the Lachin corridor in the occupied area to Shushi (Shusha) in Karabakh.

Armenian citizens do not need a visa, but there is a visa requirement for foreign nationals including those from the CIS countries. Visas may be applied for at Karabakh's missions in Yerevan, Moscow, Washington, Sydney and Beirut. A visa costs US\$ 25.

The Karabakh authorities check passports of persons crossing the Armenian border into the occupied areas.

6. Russia

6.1. The general human rights situation for the Azeri and Armenian minorities

Our sources, including the UNHCR, the Danish Refugee Council and the Memorial Human Rights Center in Moscow, had no knowledge of Armenians being attacked by Azeris in Russia.

The UNHCR believed that there was racism amongst the civilian population in Moscow but that as far as the UNHCR was aware this had not resulted in physical violence.

The Danish Refugee Council and the UNHCR had no knowledge of organised groups systematically attacking people of foreign origin.

The IOM was of the opinion that although Caucasians, including Armenians, were the target of racism, no systematic persecution took place.

The UNHCR also reported that the authorities did not persecute Armenians or Azeris in Russia but the number of cases of police harassment of people who looked foreign had increased within the last year, probably because of the situation in Chechnya.

The International Federation of the Red Cross in Azerbaijan believed that the situation for Caucasians in Russia had become more difficult because of the Chechen conflict.

6.2. The law

6.2.1. Refugee status

The Russian immigration authorities distinguish between the following categories: forced migrants, a term only used to describe Russians from the former countries of the CIS, internally displaced persons, which includes people from e.g. Chechnya, CIS refugees and refugees from other countries.

The Moscow Migration Service estimates that between 1989 and 1993, 51 000 people from Armenia and Azerbaijan arrived as a consequence of the conflict. The majority were ethnic Armenians, predominantly people in mixed marriages who could not stay in Azerbaijan or Armenia. The Memorial Human Rights Center confirmed this and added that the Azeris fled to Azerbaijan and not to Russia. The Moscow Migration Service also explained that on arrival in Russia the refugees were housed in Moscow and in surrounding towns. The refugees received refugee status, and in time they were allocated apartments around the country, but not in Moscow itself nor in distant regions, e.g. Siberia. They were also offered the opportunity to apply for citizenship. Moscow Migration Service estimated that there were still 6 000 Armenians who had been living in hotels in Moscow since 1989 and who did not want to leave Moscow, but did not want Russian citizenship. The authorities did not know what to do with this group.

Of those Armenians and Azeris who had come to Russia in recent years, the Federal Migration Service said that only a few had applied for asylum. The Federal Migration Service believed that the reason was that there was generally no persecution in those countries now. Often the reason for seeking asylum was a claim of political persecution. The cases were processed but most were refused asylum, as was confirmed by the Moscow Migration Service. The Federal Migration Service believed that nowadays most Armenians and Azeris came to Russia for economic reasons. They also said that in processing asylum applications there was no discrimination against certain nationalities. All applications were processed and assessed according to the same criteria, and an individual, concrete assessment was made in each individual case.

The UNHCR believed that there were great problems with the asylum procedure, but that it was those from non-CIS countries who had the greatest difficulties.

The Moscow Migration Service said that there were no asylum centres in Moscow itself as this would be very expensive. The centres were in the surrounding areas.

According to the Moscow Migration Service, persons with refugee status were entitled to schooling, medical assistance and other social benefits such as a pension. The Memorial Human Rights Center confirmed this and added that people with refugee status were entitled to work, but that in practice they found it difficult to get a job as employers did not want to employ them.

According to the UNHCR, asylum applicants had a right under a law of 1992 to an identity card, which documented their status as an asylum seeker in the country and was issued by the Russian immigration authorities. However, UNHCR observed that there were many difficulties with the implementation of this law, which meant that many asylum applicants did not possess this document. The first asylum cards were issued in May 2000.

6.2.2. Residence permits and registration

When the Declaration on Rights and Freedoms of Man and Citizen came into force in September 1992 and the Constitution was adopted in 1993, the legal basis for freedom of movement was established. At the same time the old Soviet propiska system was declared by the Constitutional Court to be contrary to the Constitution ¹. In accordance with the new Constitution, the Law on the Rights of Citizens to Freedom of Movement and Choice of Temporary and Permanent Residence fundamentally altered the former propiska system. The requirement for permission to live in a particular place was abolished and replaced with an obligation to register one's residential address ². This obligation means that an individual has to register his residential address in the town where he is living. A distinction is made between temporary and permanent registration.

According to the Federal Migration Service, people from Armenia and Azerbaijan may stay legally on Russian territory with either temporary or permanent registration. OVIR, the IOM, the Danish Refugee Council and the Memorial Human Rights Center confirmed that temporary registration was sufficient for a legal stay on Russian territory.

¹ Propiska means registration in Russian. It is the substantive from the noun propisat', which means to enrol, register and notify.

² The information at the beginning of this section comes from: Russian Federation. Failure to Protect Asylum Seekers. Amnesty International, April 1997.

OVIR explained that as there was not a visa requirement for Azerbaijani or Armenian nationals, they were not required to obtain a residence permit in order to be able to stay legally in Russia.

There was only a requirement to register. If a visa requirement were to be introduced for those countries it would mean that nationals of those countries would either have to apply for residence permits or for citizenship in order to reside legally in Russia. At one time there was talk of introducing a visa requirement but this was not implemented and OVIR did not expect a visa requirement to be introduced for Armenians or Azerbaijanis in the near future.

OVIR also explained that the local police were responsible for registration and that this was a straightforward procedure which did not raise any difficulties. There was no discrimination in the obligation to register. The obligation also applied to Russian citizens who wanted to settle in a town where they had not previously been registered.

The UNHCR observed that there could be problems in registering with the local authorities who administered the procedure. There was discrimination and in some cases people suffered harassment when their application for registration was being processed. Some achieved registration, but others did not. The UNHCR explained that a further problem was that unofficial instructions were given about registration which were contrary to the law.

6.2.2.1. Temporary registration

According to the Federal Migration Service and OVIR, temporary registration was initially for six months and must be renewed when it expired in order to continue to stay legally. The Danish Refugee Council said that registration cost US\$ 10.

OVIR explained that the requirements for temporary registration were that an application was made and a passport presented, and that the applicant could prove that he had a place to live. This could be either a rental agreement or permission from relatives or friends to live with them.

As regards rental agreements, UNHCR added that the landlord must prove that he was the legal owner of the property. If the applicant was staying in a hotel, OVIR said that it was sufficient for the hotel owner to confirm that he was staying there.

According to the IOM and the Federal Migration Service the registration was renewed without any other conditions having to be fulfilled, and there were no limits on the number of times it could be renewed. The IOM also pointed out that it could be difficult to get a registration renewed in time as the application could take a long time to process. Often this meant that as soon as someone obtained temporary registration for the first time he had immediately to apply for its renewal.

According to the Moscow Migration Service the authorities did not make it more difficult to obtain temporary registration in Moscow than in other towns or regions. The difficulty might lie in finding a landlord who was prepared to prove that someone was renting accommodation from him. The reason was that landlords often wished to avoid paying tax on their rental income.

The Danish Refugee Council believed that it was very difficult to obtain registration in Moscow and St. Petersburg.

The IOM explained that temporary registration gave a limited right to welfare rights such as medical care. In practice people with a temporary registration risked being denied the medical assistance they were entitled to. The Danish Refugee Council added that temporary registration gave an entitlement to free emergency medical assistance and to the possibility of free emergency admission to hospital for up to three days. Thereafter the individual had to pay for himself if he was not a Russian citizen or had no insurance.

According to the Moscow Migration Service there were Armenians and Azeris who had lived in Russia since 1989 on temporary registrations.

6.2.2.2. Permanent Registration

The Federal Migration Service informed us that the main requirement for obtaining permanent registration was ownership of property. The IOM confirmed this and added that it was also possible to obtain permanent registration if one had a job; citizens of the CIS must also hold a valid passport. The Moscow Migration Service believed that it was easy to obtain citizenship if one had a permanent registration.

The IOM observed that applications for permanent registration in Moscow were seldom accepted. This applied both to Russians and to people of other nationalities. At most 200 applications a year were approved. According to the IOM, it was easier to obtain permanent registration in the Moscow region than in Moscow itself, but it was still not easy. However, in other areas such as Pskov and the northern regions, permanent registrations were given out "like sweets". The OVIR explained that if an application for permanent registration was approved the local police issue a registration certificate. The Danish Refugee Council added that the registration certificate contained information about citizenship and passport number, but did not indicate the holder's ethnic identity.

According to OVIR many more people from both Armenia and Azerbaijan were registered in Russia than people from non-CIS countries. Russia was more welcoming and positive towards people from the former CIS countries than towards those from non-CIS countries. According to OVIR, this was because those from the CIS countries came to Russia for education and work and did not commit crimes.

The Federal Migration Service explained that with a few exceptions, which were enshrined in the Russian Constitution, permanent registration gave the same social and civil rights as Russian citizens enjoy. This was confirmed by the IOM and the UNHCR. One exception was that those who did not have Russian citizenship could not stand for election as President. According to the IOM, the legislation stated that there should be free medical treatment for Russian citizens and those with permanent registration, but in practice medical treatment often had to be paid for. The Memorial Human Rights Center explained that to have full access to welfare benefits required permanent registration.

The Memorial Human Rights Centre added that there was no federal legislation regulating the use of foreign labour, but in contrast with other regions Moscow demanded a work permit, which in Moscow again presupposed permanent registration.

An employer could be punished if his firm employed foreign labour without work permits.

The Danish Refugee Council observed that the procedure for the issue of a work permit was often long drawn out.

The Memorial Human Rights Centre added that it would also be difficult for Russians to find work in Moscow without a permanent registration.

The Danish Refugee Council said that in practice it was possible to work in local markets without a work permit. Although the local authorities knew that illegal work went on they took bribes to keep their eyes shut. However, this would not be possible in large firms or in more senior positions.

6.2.3. Citizenship

The OVIR and the Federal Migration Service explained that according to the current citizenship law of 6 February 1992, all those who were permanently registered in Russia when the law came into force automatically obtained citizenship. The Federal Migration Service confirmed that it was possible to renounce the right to citizenship.

The OVIR also stated that those who either were born in the country or had close relatives in Russia could obtain citizenship relatively easily.

However, the Memorial Human Rights Center did not consider that it was always so easy to get Russian citizenship even if all the legal requirements were apparently fulfilled. In March the organisation helped approximately 2 000 people with court cases concerning their right to citizenship. The courts found that those concerned were entitled to citizenship and thus to Russian passports. The judgment would particularly affect Armenians and Meskhetians. However, the organisation pointed out that despite the court ruling the people concerned had still not received their documents.

OVIR receives 300 to 400 citizenship applications per day. The majority of these are submitted by Ukrainians, but applications are also received from Armenians and Azeris.

The IOM stated that many of the Armenians living in Russia had Russian citizenship.

The Moscow Migration Service commented that only a few of the 51 000 refugees from Armenia and Azerbaijan had applied for Russian citizenship, despite the fact that the 1992 law made it easy for these people to obtain citizenship. Those who did not want citizenship still had refugee status in Russia.

The Moscow Migration Service believed that the reason why so few of those refugees wanted citizenship was that foreign Embassies helped them to move on to other countries, which was an economic advantage for the refugees, and that those who were covered by the Law on Refugees were not liable for conscription in Russia.

The Moscow Migration Service also pointed out that without Russian citizenship it was possible to travel to and fro between one's home country and Russia and receive welfare benefits in both countries. Once people became Russian citizens they would have a Russian passport and would not be able to receive welfare payments in both countries. Refugees had Soviet passports, which did not show that they had refugee status in Russia.

6.2.4. Documents

The Federal Migration Service explained that as the old Soviet passports expired they would be replaced with new Russian passports. The Federal Migration Service estimated that this would take three or four years; the Ministry of the Interior was responsible. If a person did not have Russian citizenship when his Soviet passport expired it would not be possible for him to obtain a Russian passport legally.

The Memorial Human Rights Centre described how the replacement of the old Soviet passports was happening at different times in different regions. Those who had obtained Russian citizenship but had not yet received a new Russian national passport had proof of their citizenship pasted inside their passports. Refugees from the CIS countries who were staying in Russia on old Soviet passports would have major difficulties when these expired or became invalid because of the replacement programme, since they could not get Russian passports and could not get new passports issued in their countries of origin either. The Memorial Human Rights Center said that the Russian authorities were aware of the problem but had not yet thought how to resolve it.

The Danish Refugee Council observed that it was possible to obtain documents through bribery. It was not always easy, but generally anything could be bought for the right amount of money. Russian newspapers advertised help in obtaining registration certificates and work permits for a fee.

6.2.5. Monitoring arrangements and the judicial consequences for those residing illegally

The Federal Migration Service believed that between 50 000 and 700 000 people were at present in Russia illegally. The IOM estimated the figure to be 800 000, and said that including Chinese it could be over a million. The Moscow Migration Service commented that the population of Moscow was 8,26 million, plus a daily migration of about three million including those who were working there illegally.

The Memorial Human Rights Center estimated that approximately 20 000 Armenians and an unknown number of Azeris were living in Russia illegally.

According to UNHCR it was possible to stay in Russia illegally for a very long time, but sooner or later it would lead to arrest. Both UNHCR and the Memorial Human Rights Center believed that it was possible to stay illegally for ten years or more if one paid bribes to the local police. However, bribery was no guarantee against arrest. The Moscow Migration Service added that it was often easy to bribe the police in the regions to tolerate illegal residence.

The UNHCR was not aware of cases of illegal residence by Armenians or Azeris leading to deportation.

The UNHCR also reported that Russia regarded all those countries which had acceded to the Geneva Convention as safe third countries.

The Danish Refugee Council observed that police harassment and deportation were possible consequences of illegal residence in Russia but the organisation was not aware that Armenians or Azeris had been deported.

The IOM confirmed this and added that those who stayed illegally were fined but their illegal stay was tolerated.

OVIR explained that if people did not get themselves registered in the town where they were actually living they could be subject to penalties. These were imposed on both Russians and foreigners.

The Memorial Human Rights Centre reported that the penalty was one to five days' imprisonment. OVIR wondered why Armenians and Azeris wanted to stay illegally in Russia since they had only to apply for registration and did not need residence permits. OVIR believed that the only people who might have any interest in staying in Russia illegally were criminals.

The Federal Migration Service doubted whether it was possible for people from Armenia and Azerbaijan to stay illegally in Russia for more than ten years. They agreed that it was possible but felt that Russia was then being used as a transit country. According to the Federal Migration Service the fact that Armenians and Azerbaijanis were able to stay in Russia illegally for long periods should be seen in the light of the fact that they did not require visas for Russia. There was no monitoring of journeys in and out in the form of stamps in their passports.

6.3. Conditions for entry and departure

The Federal Migration Service explained that there was no entry or exit control in the form of stamps in passports belonging to CIS nationals. Armenians and Azeris had been able to go in and out of Russia for the last ten years in connection with work, including illegal work, without this being recorded.

The IOM said that there was much travel between Armenia and Russia. About 200 000 Armenians and an unknown but large number of Azerbaijanis took seasonal work in Russia.

7. List of sources

7.1. Azerbaijan

An Armenian family in Sumgait City.

Azerbaijan National Committee of Helsinki Citizen's Assembly (ANC HCA): Àrzu Abdullayeva, Chairwoman, and staff.

Cabinet of Ministers of the Azerbaijan Republic, Department for Migration: Ilham A. Mazanly, Deputy chief of Department, and staff.

Danish Refugee Council; Gert Holtze, Country Director, and staff.

Human Rights Center of Azerbaijan: Eldar E. Zeynalov, Director (associated with International Helsinki Federation).

Humanitarian Center – YUVA: Pervana Mamedova, Chairwoman, and staff.

International Federation of Red Cross and Red Crescent Societies: Börje Sjökvist, Head of Delegation, and Knut Kaspersen, Programme Coordinator.

International Rescue Committee: Charlie Kaften, Country Director.

IOM (International Organisation for Migration): Joost van der Aalst, Head of Office, Ahmed Shirinov, National Programme Officer, and Sarat Dash, CDMC Project Manager.

Ministry of Justice, Azerbaijan Research Institute of Judicial Examination: Fouad M. Javadov, Director, and staff.

Red Crescent Society of Azerbaijan: Jawanshir A. Alkhasov, Secretary General, and Baylar Talybov, Population Movement Co-ordinator.

Society for Humanitarian Researches: Hasanov Avaz, Director, and staff (collaborate with the Danish Refugee Council).

Sulh - Non-Governmental Humanitarian Organisation, Sumgait City: Dilshad Agalarova, Chief of Organisation, and staff (collaborate with the Danish Refugee Council).

Western Embassy.

7.2. Armenia

Davojan, Razmik: Adviser to the President (on National Minorities)

Department for Migration and Refugees by the Government: Gagik K. Eganyan, Head, and staff.

Helsinki Association: Mikael Danielyan, Chairman, and staff.

Human Rights Commission to the President of the Republic of Armenia: Parouir Airikian, President, and staff.

IOM International Organisation for Migration: Nilim Baruah, Chief of Mission, and staff.

National Center for Democracy and Human Rights: Vladimir Karmirshalyan, Chairman and Ambassador Extraordinary and Plenipotentiary of the Republic of Armenia to the Kingdoms of Sweden, Denmark, Norway and the Republic of Finland.

Norwegian Refugee Council: Jan Willumsen, Resident Representative, and Tim Straight, Project Coordinator International Department.

OSCE (Organisation for Security and Co-operation in Europe) Office in Yerevan: Christine Mardirossian, First Secretary Human Rights Officer.

Representative for the Assyrian Minority: Irina Gasparyan.

Representative for the Greek Minority: Slava Rafayelidis.

Representative for the Jewish Minority: Rabbi Gersh-Meir Burshtein.

Representative for the Russian Minority: Yuri Yakovenko.

Representative for the Yezidi Minority: Hassan Tamoyan.

Sakharov, A.D., Armenian Human Rights Foundation: Levon Nersisyan, Director.

Soldier's Mother (Zinvoir Mair): Gretta Mirzoyan, President, and staff.

UNHCR: Thomas Birath, Representative UNHCR Branch Office Yerevan, and staff.
Western Embassy.

7.3. Nagorno-Karabakh

Permanent Representation of the Republic of Mountainous Karabakh in Armenia: Karan Mirzoyan, Representative.

Foreign Ministry of Nagorno-Karabakh: Ashot Ghujlian, Deputy of Foreign Ministry, and Masis Mayilian, Head of the political department.

7.4. Russia

Danish Refugee Council, Maria M. Olsen, Representative in the Russian Federation, and staff.

Federal Migration Service of Russia: Vladimir Aleksandrovich Voloch, Stats-sekretar' and Director, and Vladimir O. Yakovlev, Head of Department for International Cooperation.

IOM International Organisation for Migration: Edwin P. McClain, Chief of Mission, and Mark Alan Brown, Operations Officer.

Memorial Human Rights Center: Svetlana Gannuskhensch, Director, and Tatjana Kassatkina, Executive Director.

Moscow Migration Service: Tatjana Misakovna Matvienko, Deputy Director, Vasily A. Kudryashov, Deputy Chief, Alexander S. Novikov, Chief of Labour Migration, Eduard Avgustovic Rusman, Deputy Chief, and staff.

OVIR, Directorate of Visas: Vladimir Petrovich Ivanov, Head of the Department, and staff.

Royal Danish Embassy: Ina M. Svendsen, Consul.

UNHCR: Anna Johansson, Associate Protection Officer.

8. Annexes – *The annexes are available on request*

Annex 1: Map of Azerbaijan

Annex 2: Map of Armenia

Annex 3: Map of Nagorno-Karabakh

Annex 4: Extract from the report "Pathways to Europe from Azerbaijan. A Study of Migration Potential and Migration Business". International Organisation for Migration. June 2000.

Annex 5: Extract from the report "Concept on the State Regulation of the Population Migration in the Republic of Armenia". Cabinet of Ministers of the Azerbaijan Republic, Department for Migration. [Yerevan, 2000].

Annex 6: Project on Prevention of Illegal Migration. National Center for Democracy and Human Rights. [Yerevan, 2000]

Annex 7: The Condition of Human Rights in the Republic of Armenia. 1999 Annual Report of the Human Rights Issues Committee under the RA President.

Annex 8: How to apply for Armenian citizenship. UNHCR, Armenia.

Annex 9: Agreement by the President of the Armenian Republic to a committee to coordinate activities by ethnic minority national and cultural associations in the Armenian Republic, 15. June 2000.

Annex 10: Convention Travel Document: Questions & Answers. UNHCR BO Armenia 1999.