



COUNTRY REPORT: AZERBAIJAN

ARMED CONFLICT, PANDEMIC, AND IMMIGRATION DETENTION

OCTOBER 2020



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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover images: (Top) The Azerbaijan-Georgia Border © Journal of Nomads; (Bottom) A detainee in Baku City Detention Centre © Report.az

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GLOSSARY

CPT	European Committee for the Prevention of Torture
EU	European Union
GDP	Global Detention Project
IDP	Internally Displaced Person
SMS	State Migration Service
WGAD	Working Group on Arbitrary Detention



1. INTRODUCTION

After gaining independence in 1991, Azerbaijan became a country of emigration as large numbers of people departed due to political and economic uncertainty in the wake of the Soviet Union's collapse. The country also experienced growing populations of internally displaced persons (IDPs) and refugees, resulting in part from its long-standing conflict with Armenia over the disputed Nagorno-Karabakh territory. As the country's economy revived—largely a result of the growth of the oil and gas sectors—fewer people emigrated and more immigrated, including people from Pakistan, Afghanistan, Iran, India, and other countries in Asia and the Caucasus.¹

The country adopted a “State Migration Management Policy Concept” in 2004, the purpose of which was to formulate a policy that would assess and manage migration. This was subsequently followed by a State Migration Programme (2006-2008), which sought to develop the country's legislation to ensure it met international norms and standards, implement measures to prevent illegal immigration and human trafficking, and introduce quotas within the field of labour migration (among other goals).² In 2013 the country's migration policies were unified and overhauled with the introduction of the Migration Code, which was bolstered in 2014 with a chapter regulating migration detention operations.³

Coinciding with these legal developments was the opening of Azerbaijan's first dedicated immigration detention centres. On 22 November 2012, the State Migration Service announced that newly built immigration detention centres in the cities of Baku and Yevlakh were slated to open.⁴ As of 2020, the [Baku City Detention Centre for Illegal Migrants](#) and [Yevlakh City Detention Centre for Illegal Migrants](#) appear to remain the only specialised migration-related facilities in operation in the country (reports of a third centre in Nakhchivan

¹ Migration Policy Centre, “Migration Facts Azerbaijan,” March 2013, https://migrationpolicycentre.eu/docs/fact_sheets/Factsheet%20Azerbaijan.pdf

² International Organisation for Migration (IOM), “Migration in the Republic of Azerbaijan: A Country Profile 2008,” 2008, https://gfmd.org/files/pfp/mp/Azerbaijan_Profile2008.pdf

³ International Centre for Migration Policy Development (ICMPD), “Baseline Study on Migration in Azerbaijan,” April 2018, https://www.icmpd.org/fileadmin/1_2018/Publications_2018/Baseline_Study_on_Migration_in_Azerbaijan.pdf

⁴ Trend.az, “Centers for Detention of Illegal Migrants will be Opened in Azerbaijan,” 22 November 2011, <https://translate.google.com/translate?hl=en&sl=az&u=https://az.trend.az/azerbaijan/society/1960116.html&prev=search&pto=aue> (Google Translate)

have not been confirmed by the GDP).⁵ Reportedly, 1,237 people were detained at these facilities in 2019, including people from Pakistan, Turkey, and other nearby countries.⁶

Authorities frequently tout what they consider to be the exceptional conditions of, and treatment in, their detention centres, including producing [propaganda videos](#) about them and releasing press bulletins aimed at countering criticism.⁷ However, some reports have presented a starker view. In September 2019, reports circulated recounting several detainees' experiences of abuse and limited access to food in the Baku facility.⁸ Following its visit to the Baku facility in 2017, the Working Group on Arbitrary Detention noted that asylum seekers were "placed in the facility together with convicts who had served their sentence."⁹

At the end of 2019, UNHCR reported that 652,326 IDPs were then residing in Azerbaijan.¹⁰ However, after the renewal of hostilities between Azerbaijan and Armenia in late 2020, observers warned that new "heavy displacement" would likely occur.¹¹

⁵ Republic of Azerbaijan, "Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Third Periodic Report Submitted by Azerbaijan Under Article 73 of the Convention Pursuant to the Simplified Reporting Procedure, due in 2018," 28 April 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fAZE%2f3&Lang=en

⁶ Report.az, "Vusal Huseynov: "Last Year, 1237 Foreigners Were Detained in the Detention Center for Illegal Migrants," 15 January 2020, <https://bit.ly/2TNaO6O> (Google Translate)

⁷ See, for example, <https://www.youtube.com/watch?v=r7ePbVr59Jw>. See, also, Report.az, "DMX Clarified the Information About the Center for Detention of Illegal Migrants," 13 February 2018, <https://bit.ly/3mP8RDv> (Google Translate)

⁸ TimeTv, "Bakıda əcnəbilərə niyə işgəncə verirlər?" 17 September 2020, <https://bit.ly/3mSej8N>

⁹ UN Working Group on Arbitrary Detention, "Report of the Working Group on Arbitrary Detention on its Mission to Azerbaijan, A/HRC/36/37/Add.1," 2 August 2017, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/37/Add.1

¹⁰ UN High Commission for Refugees, "Refugee Data Finder," Accessed 29 October 2020, <https://www.unhcr.org/refugee-statistics/download/?url=Pe1G>

¹¹ International Organisation for Migration, "IOM Azerbaijan: Nagorno-Karabakh Conflict, Situation Update (08 October 2020)," 9 October 2020, <https://reliefweb.int/report/azerbaijan/iom-azerbaijan-nagorno-karabakh-conflict-situation-update-08-october-2020>; International Organisation for Migration, "Potential for Mass Displacement as Conflict Intensifies in Nagorno-Karabakh," 9 October 2020, <https://reliefweb.int/report/azerbaijan/potential-mass-displacement-conflict-intensifies-nagorno-karabakh>



2. LAWS, POLICIES, PRACTICES

2.1 KEY NORMS.

Core pieces of national legislation providing a framework for immigration detention

- Migration Code, Chapter 14
- Code of Administrative Offences
- Constitution of the Republic of Azerbaijan

Chapter 14 of the country’s [Migration Code](#) provides information on the placement and detention of foreigners and stateless persons in detention. It is important to note, however, that the code differentiates between two forms of detention: “forced” and “voluntary.” Those who are forcibly placed in detention face movement restrictions and are permitted just one daily walk, while those placed voluntarily are permitted to enter and exit as they please and move freely within the centre’s territory.

The [Code of Administrative Offences](#) also regulates removals from the Republic, while the country’s [Constitution](#)—which provides that “foreigners and stateless persons staying in the Republic of Azerbaijan shall enjoy all rights and fulfil all duties equally with citizens of the Republic of Azerbaijan, unless otherwise prescribed by law or international treaty to which the Republic of Azerbaijan is a party”—includes various provisions, such as protection from torture and ill-treatment (Article 46 (III)).

2.2 COVID-19 RESPONSE.

Did authorities issue a moratorium on new detention orders?	Unconfirmed
Were deportations ceased?	Unconfirmed

According to Azerbaijan’s State Migration Service (SMS) in its response to the Global Detention Project’s [COVID-19 survey](#) in June, various measures were implemented at the start of the pandemic to protect the health of immigration detainees. The GDP has not received independent verification of these measures.

The country’s immigration body reported that the placement in detention of foreigners and stateless persons found to be irregularly present, and the deportation of non-nationals, was suspended in the wake of the application of a special quarantine regime on 24 March 2020. The immigration authority also indicated that assessments were conducted to identify vulnerable groups in detention who were particularly at risk from COVID-19, and that medical examinations and monitoring of detainees’ health were being carried out. Persons who require medical attention reportedly receive treatment outside of the detention centre, and all detainees were provided with sanitary supplies. Due to measures applied to reduce

the risk of contagion, detainees' daily outdoor walks were being "conducted in accordance with the rules of internal discipline."¹²

Despite noting that no foreigners or stateless persons had been placed in detention since 24 March, the SMS reported that "all foreigners placed in or leaving detention centres undergo a medical examination." The SMS further explained that all sanitary-epidemiological requirements applied to citizens of the Republic also apply to foreigners who have left detention, as well as asylum seekers during their stay in the country.

At the start of the pandemic, authorities ordered all land and air traffic into and out of the country to cease. As of October 2020, borders will remain closed until at least 2 November 2020. With borders closed, authorities temporarily suspended the requirement for non-nationals to apply for an extension of temporary stay.¹³ However, non-nationals whose permits are automatically extended will have to leave the country or apply for temporary residence permits shortly after border restrictions are lifted.

2.3 GROUNDS FOR ADMINISTRATIVE MIGRATION-RELATED DETENTION.

Are grounds for administrative migration-related detention provided in law?

Yes

According to the Migration Code, any foreigner who is found to be in an irregular situation by authorities in Azerbaijan is requested to leave the country within 48 hours (although this time limit can be extended in justified cases). If they do not leave within this time frame, or there are sufficient grounds to believe that they will evade departure, they are placed in one of two detention facilities pending expulsion. According to Article 82.2.3 of the code, such persons can be detained for up to six months.

According to Article 82.1, non-nationals may also apply to be voluntarily placed in a detention facility when: 1) they submit an asylum application; 2) they have been granted refugee status, but require accommodation while they finalise employment and residence (for no longer than three months); or 3) they are issued an expulsion order, but lack a place of residence within the Republic or sufficient funds to meet the needs of them and their families.

According to Article 71.2 of the Migration Code, a migrant worker whose contract is terminated must depart the country within ten days.

¹² State Migration Service of the Republic of Azerbaijan, "Global Detention Project COVID-19 Survey," 29 June 2020, https://docs.google.com/forms/d/e/1FAIpQLSe16r5vVHGhg8AmhOBHG-LzW_wTKk_nIPNt3RiVfjZzapnBsQ/viewform

¹³ Aina Shormanbayeva (International Legal Foundation), Email Exchange with Mario Guido (Global Detention Project), 30 June 2020.

2.4 CRIMINALISATION.

Does the country provide specific criminal penalties for immigration-related violations?	Yes
Can these penalties include prison sentences?	Yes

According to Article 318 Azerbaijan’s [Criminal Code](#), persons found crossing the state border without identification documents or entering the country without passing through a checkpoint face punishment of either a fine of 1,500 to 3,000 AZN (between approximately 880 and 1,760 USD) or imprisonment for up to two years. If these actions are performed by a group of persons with prior agreement or by organised group, or with the use of force or threat of using such force, persons face up to five years’ imprisonment.¹⁴

Article 318 notes, however, that: “The provisions of the present article shall not apply to a foreigner or stateless person arrived in the Republic of Azerbaijan, by violating the rules for crossing the protected frontier of the Republic of Azerbaijan, to use the right of political asylum established by the Constitution of the Republic of Azerbaijan, if his/her acts do not contain elements of another crime.”¹⁵

Azerbaijan has also declared it illegal to visit the disputed territory of Nagorno-Karabakh. The country’s Ministry of Foreign Affairs states, “Any visit without the consent of the Republic of Azerbaijan ... is considered as a violation of sovereignty and territorial integrity of the Republic of Azerbaijan and as a breach of national legislation, as well as relevant norms and principles of international law.”¹⁶

2.5 ASYLUM SEEKERS.

Has the State ratified the 1951 Convention relating to the Status of Refugees?	Yes
Are there reports of <i>refoulement</i> ?	Yes

Azerbaijan acceded to both the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in February 1993, and in 1999 it established a [Law on the Status of Refugees and Internally Displaced Persons \(IDPs\)](#). Article 5 of this law provides for the non-refoulement of refugees to their country of origin (a “refugee can no way be sent or forcibly expelled to the country, where his/her life and freedom is endangered”), and Article 15 provides that an individual who has applied for refugee status cannot be expelled while their application is being assessed by the appropriate executive authority.

¹⁴ Republic of Azerbaijan, “Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Third Periodic Report Submitted by Azerbaijan Under Article 73 of the Convention Pursuant to the Simplified Reporting Procedure, due in 2018,” 28 April 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CMW%2fC%2fAZE%2f3&Lang=en

¹⁵ Republic of Azerbaijan, “Criminal Code,” <https://perma.cc/BF6U-UPJV>

¹⁶ Republic of Azerbaijan Ministry of Foreign Affairs, “Warning for the Foreign Nationals Wishing to Travel to the Occupied Territories of the Republic of Azerbaijan,” <https://mfa.gov.az/en/content/401/travel-information>

While authorities have taken steps—including investing in housing and increasing benefits¹⁷— to protect and improve the situation faced by IDPs, observers have expressed concerns regarding the treatment of refugees and asylum seekers. According to the U.S. State Department, the country’s refugee-status determination system does not meet international standards, due to its inefficiency and lack of transparency.¹⁸ Only a small handful of refugee status applications have been accepted by the government: between 2004 and October 2017, just 130 persons were granted refugee status.¹⁹

Azerbaijan has also repeatedly been accused of refoulement. In 2017, UNHCR registered several instances of refoulement involving asylum seekers being returned to their countries of origin before a decision was made on their asylum application, or before they were able to lodge applications.²⁰ In 2018, the U.S State Department reported that some Turkish citizens had been transferred from Azerbaijan to Turkey—where they were subsequently detained by Turkish authorities—without due process. In February 2018, for example, two individuals—Ayhan Seferoglu and Erdogan Taylor—were reported to have been arrested and detained upon their return to Turkey due to claims that they were followers of the outlawed Turkish cleric Fethullah Gülen.²¹

More recently, in May 2020, the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment issued a joint appeal concerning the collaboration of authorities in Azerbaijan and Turkey in arranging the forced return of Turkish nationals suspected of involvement with the Hizmet/ Gülen movement. In one case, a Turkish national—Mustafa Ceyhan—who had applied for asylum in Azerbaijan was reportedly abducted, ostensibly by Turkish and Azerbaijani intelligence services, after which he was heavily tortured until his deportation to Turkey. At no moment was he able to challenge his deportation.²² Azerbaijan quickly rebutted these claims, “As a result of investigation conducted upon the joint letter the alleged torture of these victims is not confirmed.”²³

Previously, in 2006, UNHCR criticised Azerbaijan for forcing a Kurdish refugee to return to Turkey. The individual had been detained for two years in Azerbaijan, initially on charges of

¹⁷ International Crisis Group, “Tackling Azerbaijan’s IDP Burden,” 27 February 2012, <https://www.crisisgroup.org/europe-central-asia/caucasus/azerbaijan/tackling-azerbaijan-s-idp-burden>

¹⁸ U.S. State Department, “2019 Country Reports on Human Rights Practices: Azerbaijan,”

¹⁹ UN High Commissioner for Refugees, “Submission by the UN High Commissioner for Refugees: Universal Periodic Review, 3rd Cycle, 30th Session: Republic of Azerbaijan,” October 2017, https://www.ecoi.net/en/file/local/1433854/1930_1527682550_5b081e2f4.pdf

²⁰ UN High Commissioner for Refugees, “Submission by the UN High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report, Universal Periodic Review: 3rd Cycle, 30th Session, Republic of Azerbaijan,” May 2018, <https://www.refworld.org/topic,50ffbce5220,50ffbce5247,5b081e2f4,0,,AZE.html>

²¹ U.S. State Department, “2018 Country Reports on Human Rights Practices: Azerbaijan,” 2019, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/azerbaijan/>

²² Working Group on Enforced or Involuntary Disappearances et al, “Letter, Reference AL TUR 5/2020,” 5 May 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25209>

²³ Permanent Mission of the Republic of Azerbaijan to the UN Office and Other International Organisations, “Letter, Ref: 0470/12/19/18,” 24 May 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=34714>

illegal entry into the country, and subsequently on the grounds of an extradition request by an Istanbul court.²⁴

Persons seeking asylum in Azerbaijan are to be issued a document that certifies their status and protects them from deportation. However, the State Migration Service has been dogged by complaints of excessive delays and the failure to provide applicants with paperwork while they await a decision. According to UNHCR, the government also refuses to allow Chechens originating from the Chechen Republic of the Russian Federation to access asylum procedures.²⁵

In 2016, the UN Committee against Torture noted concerns regarding cases of extraordinary renditions based on bilateral extradition agreements, such as the return of Chechens to Russia “where they may face a real risk of torture.” The committee thus urged the country’s government to “take all measures necessary to ensure that individuals who may face a risk of torture in their countries of origin are not returned, extradited or deported to those countries. The State party should ensure that persons whose applications for asylum have been rejected can lodge an effective appeal with suspensive effect.” The committee also encouraged Azerbaijan to provide disaggregated statistics regarding the number of persons who have requested asylum or refugee status, the outcomes of such applications, and the number of expulsions, deportations, and extraditions.²⁶

2.6 CHILDREN.

Is the detention of unaccompanied children provided in law?	Yes
Is the detention of accompanied children provided in law?	Yes
Does legislation require detained children to be separated from unrelated adults?	Yes
Number of children reported in detention on single day	6 (2019)

The Migration Code provides that children—both accompanied and unaccompanied—can be placed in detention. Article 84 of the 2013 Migration Code provides that children are to be detained separately from unrelated adults, and that they are to have access to “special” material and living conditions, medical care, and meals.

In 2018, the government invited journalists from the state news agency “Azertas” to visit the Baku City Detention Centre. In their subsequent report, the agency highlighted the presence of child-friendly rooms, where toys and books were stored.²⁷ During a May 2019 visit to the Baku detention Centre from an oversight body within the SMS called the “Public Council,”

²⁴ UN News, “UN Agency Criticizes Forced Return of Refugee by Azerbaijan,” 14 November 2006, <https://news.un.org/en/story/2006/11/199532-un-agency-criticizes-forced-return-refugee-azerbaijan>

²⁵ UN High Commissioner for Refugees, “Submission by the UN High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report, Universal Periodic Review: 3rd Cycle, 30th Session, Republic of Azerbaijan,” May 2018, <https://www.refworld.org/topic,50ffbce5220,50ffbce5247,5b081e2f4,0,,,AZE.html>

²⁶ UN Committee against Torture, “Concluding Observations on the Fourth Periodic Report of Azerbaijan, CAT/C/AZE/CO/4,” 27 January 2016, <https://bit.ly/2TOu443>

²⁷ Azertas, “Dövlət Miqrasiya Xidmətinin Qanunsuz Miqrantların Saxlanılması Mərkəzi dünya ölkələri üçün yaxşı nümunədir,” 28 February 2018, <https://bit.ly/3oRcPxe>

the SMS reported that there were 25 persons held at the centre, including six children and five women.²⁸

Azerbaijan has been repeatedly criticised for placing children in cells with adults, although this criticism appears to have concerned criminal facilities and it is unclear if similar concerns have been raised in immigration detention centres. After a 2016 visit to Azerbaijan, the European Committee for the Prevention of Torture reported: “Similar to the situation observed during previous visits to Azerbaijan, the delegation received several allegations from detained juveniles, according to which they had been interviewed and made to sign documents (confessions or other statements) without the presence of a lawyer and/or another trusted person. This was of particular concern given that some of the juveniles had alleged having been subjected to physical ill-treatment in the course of the interviews.”²⁹

2.7 LENGTH OF DETENTION.

Maximum length for administrative immigration detention in law

6 months

According to the Migration Code, foreigners can be placed in detention for up to 24 hours when ordered by a relevant executive authority; for up to three days when ordered by a court decision; or for up to six months when ordered by a court in cases in which the foreigner evades departure for 48 hours or there are reasons to suspect that they will evade departure, or when persons are due to be expelled in accordance with international readmission agreements (Article 82, Migration Code).

2.8 PROCEDURAL STANDARDS.

Procedural standards provided in law

- Right to receive Information regarding their detention
- Right to legal counsel
- Right to appeal the lawfulness of detention
- Right to telephone persons to inform them of their detention
- Right to contact their diplomatic representative
- Right engage in recreational activities
- Right to exercise
- Right to use personal items

Articles 87, 88, 89, and 90 of the Migration Code provide various procedural guarantees for persons placed in immigration detention. However, the guarantees afforded to detainees vary depending on whether they are voluntarily or forcibly detained.

²⁸ State Migration Service, “Members of the Public Council under the State Migration Service have visited the Baku Detention Center for Illegal Migrants,” 21 May 2019, https://migration.gov.az/press/news_content/13374

²⁹ European Committee for the Prevention of Torture, “Report to the Azerbaijani Government on the Visit to Azerbaijan Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 29 March to 8 April 2016,” <https://rm.coe.int/16808c5e43>

When a non-national is forcibly placed in detention, they should be permitted to telephone close relatives or other persons to inform of their detention; be informed of their rights and duties, as well as the centre’s internal regulations, in writing in a language that they can understand; meet with a lawyer, legal representative, relatives, or other persons who provide legal assistance; contact their diplomatic representative; have access to literature, and have the ability to engage in games and sports; challenge the validity of their detention; use personal items; and partake in a daily walk. Persons who violate internal regulations will face restrictions on the right to a daily walk, and/or their right to use a telephone, watch TV, play sports, and meet close relatives. They will also be placed in isolation (Article 90)—although only one disciplinary measure will be applied for one violation.

As well as the above rights, persons who are voluntarily placed in the centre are to be permitted to exit and return, and move freely within the territory of the centre (Article 88). Persons who violate internal rules will face restrictions in their ability to use the telephone, watch TV, play sports; will be placed in isolation; and will face removal from the centre (Article 90).

Article 79 provides various guarantees regarding expulsion. Persons are to be given a copy of the expulsion decision, and an interpreter shall be provided when necessary. However, although the code provides that non-citizens can appeal against their expulsion order, such appeals do not have a suspensive effect and authorities are not required to provide access to counselling or legal assistance. In 2014, the Group of Experts on Action Against Trafficking in Human Beings noted that foreigners were often deported without their being able to challenge the deportation order in the courts.³⁰

According to the country’s Ombudsperson, in April 2020 a new decision by the Cabinet of Ministers “improved and expanded the rights of detainees in the places of detention and detention centers for illegal migrants to psychological assistance.”³¹

2.9 DETAINING AUTHORITIES AND INSTITUTIONS.

What authorities are responsible for detention and other migration-control measures?

- State Migration Service
- Ministry of Internal Affairs

The State Migration Service (SMS) is responsible for the management of immigration detention centres. The expulsion of non-nationals can also be ordered by the Ministry of Internal Affairs or a court in relation to foreigners who have infringed relevant legislation. The

³⁰ Group of Experts on Action Against Trafficking in Human Beings (GRETA), “Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan,” 23 May 2014, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630ceb>

³¹ The Commissioner for Human Rights of the Republic of Azerbaijan, Ombudsman, “Legal Reforms Implemented in the Country Expanded the Rights of Detainees,” 10 April 2020, <http://ombudsman.az/en/view/news/1801/legal-reforms-implemented-in-the-country-expanded-the-rights-of-detainees>

SMS was established in 2007 (by [Decree No. 560 of 19 March](#)) and, since the adoption of Decree No. 76 on 8 April 2009, the body has had the status of a law enforcement agency.³²

2.10 REGULATION OF DETENTION CONDITIONS AND REGIMES.

Does domestic law regulate conditions and treatment in detention?	Yes
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Article 84 of the Migration Code provides various regulations regarding conditions in detention centres. Foreigners are to be placed in rooms for “2, 6 or more persons,” and persons forcibly detained are to be held separately from those placed in centres voluntarily; men and women are to be detained separately, except for family members; children are to be separated from adults, except for family members; and pregnant women, women with children, children, and persons in need of medical assistance are to be provided with special material and living conditions, special medical care, and special dietary provisions.

2.11 DOMESTIC MONITORING.

Is the national human rights institution (NHRI) recognised as independent?	No
Does the National Preventive Mechanism carry out visits?	Yes

There appear to be both official and civil society actors that monitor immigration detention centres in Azerbaijan, although the extent and effectiveness of these activities are unclear.

In 2011, Azerbaijan established a National Preventive Mechanism (NPM), as mandated by the Optional Protocol to the UN Convention against Torture, which the country ratified in 2009. The NPM is the [Human Rights Commissioner of the Republic of Azerbaijan](#) [Ombudsperson]), and is empowered to visit all places of detention without prior notification. In an October 2020 meeting with the International Organization for Migration (IOM), the Ombudsperson’s office reported that the State Migration Services’ detention centres are regularly visited in order to assess living conditions, medical services, and food supply.³³

However, observers have repeatedly questioned the NPM’s independence.³⁴ In 2017, the Working Group on Arbitrary Detention (WGAD) said the Ombudsperson had not been effective in addressing problematic issues relating to the prevention of torture and human rights violations. The working group urged authorities to “establish a national system that independently, effectively and regularly monitors and inspects all places of detention without

³² State Migration Service, “*Azərbaycan Respublikası Dövlət Miqrasiya Xidməti: Xidmət Haqqında*,” 2020, <https://migration.gov.az/about/dmx>

³³ Ordu.az, “*Ombudsman Aparatının nümayəndəsi Beynəlxalq Miqrasiya Təşkilatının onlayn tədbirində iştirak edib*,” 23 October 2020, <https://ordu.az/az/news/175347/ombudsman-aparatinin-numayendesi-beynelxalq-miqrasiya-teskilatinin-onlayn-tedbirinde-istirak-edib>

³⁴ Association for the Prevention of Torture (APT), “APT Very Concerned About Azerbaijan’s Obstruction of SPT Visit,” 18 September 2014, http://tortureprevention.ch/en/news_on_prevention/apt-very-concerned-about-azerbaijan-s-obstruction-of-spt-visit/

prior notice, reports publicly on its findings, and raises with the authorities situations of detention conditions or conduct amounting to torture or ill-treatment.”³⁵

In its 2019 Chart of the Status of National Institutions, the Global Alliance of National Human Rights Institutions (GANHRI) classified the Human Rights Commissioner of Azerbaijan as only partly compliant with the [Paris Principles](#), and thus awarded the body “B” status.

According to Azerbaijani law, “Public Councils” were established under various state bodies to provide public participation within state institution’s activities. Since 2015, a Public Council with nine elected members has been in operation under the SMS, and members are reported to have carried out visits to detention facilities. In its third periodic report to the Committee on the Rights of Migrant Workers (CMW), Azerbaijan recounted some of the Public Council’s latest work: “A number of innovative proposals made by the Public Council with the purpose of expanding rights of foreigners and stateless persons in the country, much better protection of their legal interests, regulation and enhancement of migration processes in terms of significance of regular improvement of the normative legal acts in line with the development of society were taken into consideration by SMS. Furthermore, Azerbaijani language courses for refugees and asylum seekers were organized, as well as humanitarian and medical aid was delivered to refugee families through the Public Council under SMS. The Public Council regularly holds meetings with the migrants, conducts their receptions, receives their suggestions, listens to their problems and solves their complaints in collaboration with SMS.”

The GDP has not been able to firmly establish the level of independence of this body or its precise function. In one recent press release on the SMS website, the migration authority notes that, “The unanimous conclusion of the members of the Council was that the activity and conditions of the Baku Detention Center for Illegal Migrants of the State Migration Service were organized in compliance with the principles of ensuring human rights and freedoms, as well as international norms and standards in that sphere.”³⁶ This conclusion appears to contrast some of the observations reported by international monitors, and detainees themselves (see 3.2a Baku City Detention Centre for Illegal Migrants).

Under President Aliyev, authorities have cracked down on freedom of expression, adopting laws that restrict civil society—forcing some organisations to close their doors and silencing most independent media outlets.³⁷ (Such legislation included that introduced in 2012 ahead of the country’s presidential elections, which was designed to restrict foreign funding for Azerbaijani civil society organisations (CSOs.)) Thus, while authorities stated in their third periodic report to the UN Committee on the Rights of Migrant Workers that media

³⁵ UN Working Group on Arbitrary Detention, “Report of the Working Group on Arbitrary Detention on its Mission to Azerbaijan, A/HRC/36/37/Add.1,” 2 August 2017, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/37/Add.1

³⁶ The Republic of Azerbaijan, State Migration Service, “Members of the Public Council Under the State Migration Service Familiarized with the Detention Conditions of Illegal Migrants,” 21 May 2019, https://migration.gov.az/press/news_content/13374

³⁷ International Federation for Human Rights, “Eastern Partnership Summit: 37 Human Rights NGOs Urge EU to Tackle Azerbaijan Rights Crackdown,” 9 November 2020, <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/eastern-partnership-summit-37-human-rights-ngos-urge-eu-to-tackle>

representatives have visited, and reported on, detention centres,³⁸ many of these outlets appear to lack appropriate independence.³⁹

During the COVID-19 pandemic, it appears that authorities used the health emergency to silence critics, including by arresting and detaining persons who criticised conditions in government-run quarantine clinics.⁴⁰

2.12 INTERNATIONAL MONITORING.

Have international monitoring bodies reviewed immigration detention practices?	Yes
Has the European Committee for the Prevention of Torture reviewed immigration detention practices?	No
Has the country prevented monitors from reviewing detention conditions?	Yes

Various regional and international human rights bodies have monitored conditions of detention in Azerbaijan, including the European Committee for the Prevention of Torture (CPT), the UN Working Group on Arbitrary Detention (WGAD), and the UN Subcommittee on Prevention of Torture (SPT).

As a member of the Council of Europe and a party to the European Convention against Torture, which it ratified in 2002, Azerbaijan is subject to periodic and ad hoc visits from the CPT which is mandated to visit all places of detention. As of 2020, the CPT had undertaken four periodic visits and seven ad hoc visits to the country. To date, the CPT does not appear to have fully investigated the issue of migration-related detention in the country. Nevertheless, it has on several occasions remarked that detained foreign nationals claim that they are forced to sign documents in Azeri, which they could not understand (see, for instance, the report on the ad hoc visits in 2017 and the report on the periodic visit in 2016).⁴¹

In 2016, the WGAD visited one immigration detention facility during its visit to the country. The working group issued various recommendations, including using detention as a last resort, for the shortest time, following an individual assessment of necessity and proportionality of detention; ensuring that persons issued with expulsion, deportation, or detention orders are given access to justice and legal assistance to enable them to

³⁸ Republic of Azerbaijan, “Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Third Periodic Report Submitted by Azerbaijan Under Article 73 of the Convention Pursuant to the Simplified Reporting Procedure, due in 2018,” 28 April 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fAZE%2f3&Lang=en

³⁹ In February 2018, for example, authorities invited journalists from the state news agency, Azertan, to visit the Baku City detention facility. See: Azertan, “Dövlət Miqrasiya Xidmətinin Qanunsuz Miqrantların Saxlanması Mərkəzi dünya ölkələri üçün yaxşı nümunədir,” 28 February 2018, <https://bit.ly/3oRcPxe>

⁴⁰ Human Rights Watch, “Azerbaijan: Crackdown on Critics Amid Pandemic,” 16 April 2020, <https://www.hrw.org/news/2020/04/16/azerbaijan-crackdown-critics-amid-pandemic>

⁴¹ European Committee for the Prevention of Torture, “The CPT and Azerbaijan,” <https://www.coe.int/en/web/cpt/azerbaijan>

challenge orders in court; and that persons placed in detention centres are held separately from persons charged with or convicted of criminal offences.⁴²

Previously, in September 2014, the UN Subcommittee on Prevention of Torture (SPT) suspended its visit to Azerbaijan due to obstructions it encountered in carrying out its mandate under the Optional Protocol to the Convention against Torture (OPCAT).⁴³ The delegation were prevented from accessing “several places where people are detained,” but did not clarify if this included immigration detention facilities.

2.13 TRENDS AND STATISTICS.

Number of immigration detainees	1,237 (2019)
Number of refugees	1,109 (2019)
Number of new asylum applications	712 (2019)
Estimated number of undocumented migrants	4,681 (2019)

According to its 2019 annual report, the State Migration Service detained 1,237 people that year. This reportedly represented a 30 percent decrease compared to 2018. Of those detained, 21 percent were from Pakistan, 19 percent from Turkey, eight percent from Iran, six percent from Iraq, six percent from Georgia, and 40 percent of other countries.⁴⁴

These numbers appear to represent a steady detention trend that started in 2013, shortly after the country opened its first dedicated migration-related detention centres in 2012.⁴⁵ In its third periodic report to the UN Committee on the Rights of Migrant Workers, Azerbaijan said that between the start of 2013 and mid-2019, a total of 5,011 foreigners and stateless persons were detained by the State Migration Service (SMS). Of these, “4,491 were placed in the Detention Centers voluntarily and 720 mandatorily.” Reportedly, no persons with disabilities were amongst to be detained.⁴⁶

Also in its 2019 annual report, the State Migration Service reported that 232,692 foreign residents were in the country that year, which contrasts with the 253,887 number reported

⁴² UN Working Group on Arbitrary Detention, “Report of the Working Group on Arbitrary Detention on its Mission to Azerbaijan, A/HRC/36/37/Add.1,” 2 August 2017, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/37/Add.1

⁴³ Office of the High Commissioner for Human Rights (OHCHR), “Prevention of Torture: UN Human Rights Body Suspends Azerbaijan Visit Citing Official Obstruction,” 17 September 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15047&LangID=E>

⁴⁴ Report.az, “Vusal Huseynov: “Last Year, 1237 Foreigners Were Detained in the Detention Center for Illegal Migrants,” 15 January 2020, <https://bit.ly/2TNaO6O> (Google Translate)

⁴⁵ Trend.az, “Centers for Detention of Illegal Migrants will be Opened in Azerbaijan,” 22 November 2011, <https://translate.google.com/translate?hl=en&sl=az&u=https://az.trend.az/azerbaijan/society/1960116.html&prev=search&pto=aue> (Google Translate)

⁴⁶ Republic of Azerbaijan, “Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Third Periodic Report Submitted by Azerbaijan Under Article 73 of the Convention Pursuant to the Simplified Reporting Procedure, due in 2018,” 28 April 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fAZE%2f3&Lang=en

by the UN Department of Economic and Social Affairs.⁴⁷ The annual report also provided estimates concerning the number of people living without authorisation in the country, in addition to other violations. According to a press release, the director of the service said that during 2019, 4,681 foreigners were living illegally in the country, which represented a 31 percent decrease from the year before. He also said that 14,834 foreigners violated migration rules during the year, a 23 percent decrease compared to the previous year.⁴⁸

Azerbaijan hosts significant numbers of internally displaced persons (IDPs)—in 2019, UNHCR recorded a total of 652,236 IDPs of concern—but the number of refugees in the country remains relatively low. In 2019, UNHCR recorded 1,109 refugees under its mandate; compared to 1,130 in 2018, and 1,120 in 2017.⁴⁹ The number of new asylum applications tends to remain relatively low—in 2019, 712 applications were made, compared to 758 in 2018, and 289 in 2017.⁵⁰

2.14 EXTERNALISATION, READMISSION, AND THIRD-COUNTRY AGREEMENTS.

Bilateral/multilateral agreements linked to readmission

- European Union (2014)

In December 2013, Azerbaijan signed a Mobility Partnership with the European Union (EU) and eight EU Member States (Bulgaria, the Czech Republic, France, Lithuania, the Netherlands, Poland, Slovenia, and Slovakia). Shortly after this, in 2014, the EU and Azerbaijan signed an agreement on the “readmission of persons residing without authorisation.” Article 4 of this agreement also provides for Azerbaijan’s readmission of third-country nationals.

Between 2016 and 2019, the International Centre for Migration Policy Development (ICMPD) ran a project entitled “MOBILAZE,” the aim of which was to support the implementation of the mobility partnership between Azerbaijan and the EU, “with a specific focus on strengthening the capacity of the government to develop and implement the national migration policy.” Funded by the European Commission, the project also featured seven co-implementing participants (Bulgaria, the Czech Republic, Latvia, Lithuania, the Netherlands, Poland, and Slovakia).⁵¹

⁴⁷ United Nations Department of Economic and Social Affairs, “International Migrant Stock 2019,” <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>

⁴⁸ Report.az, “Vusal Huseynov: “Last Year, 1237 Foreigners Were Detained in the Detention Center for Illegal Migrants,” 15 January 2020, <https://bit.ly/2TNaO6O> (Google Translate)

⁴⁹ UN High Commissioner for Refugees, “Refugee Data Finder,” Accessed 29 October 2020, <https://www.unhcr.org/refugee-statistics/download/?url=5Ayq>

⁵⁰ UN High Commissioner for Refugees, “Refugee Data Finder,” Accessed 29 October 2020, <https://www.unhcr.org/refugee-statistics/download/?url=5Ayq>

⁵¹ International Centre for Migration Policy Development (ICMPD), “MOBILAZE (Support to the Implementation of the Mobility Partnership with Azerbaijan),” accessed 29 October 2020, <https://bit.ly/2TQxTFK>



3. DETENTION INFRASTRUCTURE

3.1 OVERVIEW.

As of October 2020, Azerbaijan operated two dedicated immigration detention facilities: the [Baku City Detention Centre for Illegal Migrants](#), and [Yevlakh City Detention Centre for Illegal Migrants](#). Previously, in its 2018 baseline study of migration in Azerbaijan, the International Centre for Migration Policy Development (ICMPD) reported that a dedicated facility was also operating in Nakhchivan Autonomous Republic (a landlocked annexe of the Republic of Azerbaijan), however the GDP has been unable to find any additional or more recent information pertaining to this facility.⁵²

Azerbaijani authorities promote a humanitarian narrative about their detention centres, publishing reports that highlight their compassionate treatment of foreigners. In March 2019 for example, the State Migration Service (SMS) reported that it had held a Novruz festival for detainees in the Baku facility. It wrote, “The head of the service said that foreigners and stateless persons in Azerbaijan, which is known as a tolerant, multicultural country in the world, are surrounded by attention and care. The organization of Novruz, our national holiday today, at the Detention Center for Illegal Migrants in Baku is the embodiment of our state's sensitive attitude and care for foreigners.”⁵³ However, reports by independent observers and some media outlets have presented an alternative image of detention conditions, including the placement of asylum seekers alongside convicted criminals, and instances of abuse.

Conditions in Azeri prisons are notoriously poor and have repeatedly been flagged by international observers. In its 2016 Concluding Observations, the UN Committee against Torture noted that it had received several reports of abuses and deaths in detention, some of which had allegedly resulted from torture or ill-treatment,⁵⁴ while in its 2019 report on human rights, the U.S State Department described “harsh and sometimes life-threatening prison conditions,” in which detainees are regularly denied the opportunity to engage in exercise, and guards sometimes punish prisoners with beatings or by placing persons in isolation cells.⁵⁵

⁵² International Centre for Migration Policy Development (ICMPD), “Baseline Study on Migration in Azerbaijan,” April 2018, https://www.icmpd.org/fileadmin/1_2018/Publications_2018/Baseline_Study_on_Migration_in_Azerbaijan.pdf

⁵³ State Migration Service, “The State Migration Service has Organized a Novruz Holiday for Foreigners and Stateless Persons,” 21 March 2019, https://www.migration.gov.az/press/news_content/13236

⁵⁴ UN Committee against Torture, “Concluding Observations on the Fourth Periodic Report of Azerbaijan, CAT/C/AZE/CO/4,” 27 January 2016, <https://bit.ly/2JmLZwD>

⁵⁵ U.S State Department, “2019 Country Reports on Human Rights Practices: Azerbaijan,” 2020, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/azerbaijan/>

3.2 LIST OF DETENTION FACILITIES.

Name	City
Baku City Detention Centre for Illegal Migrants	Baku
Yevlakh City Detention Centre for Illegal Migrants	Yevlakh

3.2A BAKU CITY DETENTION CENTRE FOR ILLEGAL MIGRANTS.

The facility in Baku, which was opened in 2012, was designed to confine 120 persons, and holds persons awaiting deportation as well as asylum seekers. In a report published by state news agency “Azertas,” it was reported that the centre also includes an area for the detention of families, which features a room for children containing toys and books.⁵⁶ The media outlet praised conditions in the facility, lauding it to be a “good example for other countries.”⁵⁷ Following a visit conducted by the SMS’ “Public Council” in May 2019, it was reported that the centre also featured a waiting room for visitors, a meeting room, a room for finger-printing, a room for conducting searches, an interview room, an area for quarantining new arrivals, a sports ground, a library, a children’s playground, and a medical point. According to the report, detainees “expressed satisfaction with the care and attention paid to them.”⁵⁸

During a visit to the country in May 2016, the UN Working Group on Arbitrary Detention visited the facility (referred to in the Working Group’s report as the Detention Centre for Irregular Migrants in Kurdakhani).⁵⁹ The working group met with detainees, who included both asylum seekers whose status had not been settled and convicts who had served their sentences but were awaiting their voluntary return to their countries of origin.⁶⁰ While persons voluntarily present in the facility should be permitted to exit as they wish, the working group noted that “only one of the seven interviewed persons had effectively exited and returned to the facility.” The working group thus urged authorities to ensure that information regarding freedom of movement is provided to the relevant persons in a language that they can understand—“as otherwise such facilities become de facto detention facilities.”⁶¹

⁵⁶ Azertas, “Dövlət Miqrasiya Xidmətinin Qanunsuz Miqrantların Saxlanılması Mərkəzi dünya ölkələri üçün yaxşı nümunədir,” 28 February 2018, <https://bit.ly/3oRcPxe>

⁵⁷ Azertas, “Dövlət Miqrasiya Xidmətinin Qanunsuz Miqrantların Saxlanılması Mərkəzi dünya ölkələri üçün yaxşı nümunədir,” 28 February 2018, <https://bit.ly/3oRcPxe>

⁵⁸ Republic of Azerbaijan, State Migration Service, “Members of the Public Council Under the State Migration Service Familiarized with the Detention Conditions of Illegal Migrants,” 21 May 2019, <https://bit.ly/3mP4J6o>

⁵⁹ Kurdakhani is a suburb of Baku.

⁶⁰ UN Working Group on Arbitrary Detention, “Report of the Working Group on Arbitrary Detention on its Mission to Azerbaijan, A/HRC/36/37/Add.1,” 2 August 2017, <https://bit.ly/3mMiQth>

⁶¹ UN Working Group on Arbitrary Detention, “Report of the Working Group on Arbitrary Detention on its Mission to Azerbaijan, A/HRC/36/37/Add.1,” 2 August 2017, <https://bit.ly/3ejZPLQ>

Several reports by independent media outlets have also alleged that detainees have faced abuse while in detention. In September 2019, it was reported that five Indian nationals had been detained in the Baku detention centre where they had faced abusive behaviour, and where they had been denied food for several days.⁶² A spokesman for the SMS, however, quickly denied these reports, stating that “we do not punish, they are not criminals.”⁶³

⁶² TimeTv, “*Bakıda əcnəbilərə niyə işgəncə verirlər?*” 17 September 2020, <https://bit.ly/2l3wSl6>

⁶³ TimeTv, “*Bakıda əcnəbilərə niyə işgəncə verirlər?*” 17 September 2020, <https://bit.ly/2l3wSl6>



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