



OF NAKHCHIVAN AUTONOMOUS REPUBLIC

THE LAW

Human Rights of Nakhchivan Autonomous Republic

About the Commissioner (Ombudsman).

CHAPTER I

Basis of activity and appointment of human rights commissioner (ombudsman) of Nakhchivan Autonomous Republic

Article 1. Basics of activity of the human rights commissioner of the Nakhchivan Autonomous Republic

1.1. The position of the human rights commissioner of the Nakhchivan Autonomous Republic (hereinafter referred to as the "Commissioner") is the human rights and freedoms stipulated in the constitutions of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic, international treaties to which the Republic of Azerbaijan is a party, and violated by the state and local self-governing bodies and officials of the Nakhchivan Autonomous Republic. is established for the restoration and prevention of human rights violations in the cases specified by this Law.

1.2. The commissioner performs the functions of the national preventive mechanism (hereinafter - the preventive mechanism) in the Autonomous Republic of Nakhchivan provided for in the Optional Protocol to the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". In order to prevent torture and other cruel, inhuman or degrading treatment or punishment, he shall visit places where detainees are unable to leave of their own volition on a regular basis or whenever he deems necessary.

1.3. The commissioner supervises the fulfillment of the duties of state bodies, local self-government bodies and officials who have information, arising from the requirements of the Law of the Republic of Azerbaijan "On Obtaining Information".

1.4. The Commissioner cooperates with local and international organizations in accordance with the directions of activity.

1.5. The activity of the commissioner does not limit or replace the powers of other state bodies that ensure the protection of human rights and the restoration of violated human rights and freedoms.

1.6. The Commissioner coordinates his activities with the Commissioner for Human Rights of the Republic of Azerbaijan on the protection of human rights and freedoms, legal, scientific-analytical, informational and methodical issues.

1.7. Inspection of the activity of the High Official of the Nakhchivan Autonomous Republic, deputies of the Supreme Assembly of the Nakhchivan Autonomous Republic and judges of the Nakhchivan Autonomous Republic does not belong to the powers of the Commissioner.

1.8. The Commissioner may make a proposal to the High Official of the Nakhchivan Autonomous Republic regarding the resolution of amnesty and citizenship issues.

1.9. The commissioner has the right to consider complaints about human rights violations in the courts of Nakhchivan Autonomous Republic related to procrastination, loss and failure to provide documents on time, as well as delay in the execution of court decisions.

1.10. The commissioner's activity is based on the principles of openness, transparency, legality, justice, and impartiality.

Article 2. Election of the Commissioner

2.1. The Supreme Assembly of the Nakhchivan Autonomous Republic elects the candidate submitted by the High official of the Nakhchivan Autonomous Republic to the office of attorney with a majority of 31 votes.

2.2. If the Supreme Assembly of the Nakhchivan Autonomous Republic does not make a decision on the election of the Commissioner, the High Official of the Nakhchivan Autonomous Republic submits the nomination of another person to the Supreme Assembly of the Nakhchivan Autonomous Republic.

Article 3. Requirements for the nomination of the Commissioner

3.1. A citizen of the Republic of Azerbaijan, who is not younger than 30 years old, has a higher education, experience in the field of human rights protection and high moral qualities, and lives in the Nakhchivan Autonomous Republic, can be elected to the position of commissioner.

3.2. Having dual citizenship, having an obligation to other states, serving in the legislative, executive and judicial power systems, engaged in other paid activities, except for scientific, pedagogical and creative activities, whose incapacity has been confirmed by the court, convicted of serious and especially serious crimes a person cannot be a Commissioner.

3.3. The commissioner cannot be represented in the management of any non-governmental organization, engage in political activities and be a member of any political party.

3.4. The person elected to the position of commissioner must stop the activities that are not in accordance with his status within 5 days from the day of his election.

3.5. On the day of being elected to the position, the Commissioner takes the following oath at the session of the Supreme Assembly of the Nakhchivan Autonomous Republic: "I swear that I will fulfill my duties as the human rights commissioner of the Nakhchivan Autonomous Republic with honor and dignity, I will follow the constitutions and laws of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic, and I will act independently and impartially." "

Article 4. Term of office of the commissioner

4.1. Commissioner is elected for 7 years.

4.2. The same person cannot be elected to the position of Commissioner more than twice.

4.3. If a new Commissioner is not elected on the day the Commissioner's term of office expires, he continues to exercise his powers. In this case, his term of office is considered to have expired from the day of the election of the new Commissioner.

Article 5. Guarantees of the commissioner's independence

5.1. The commissioner is independent, subject only to the constitutions and laws of the Azerbaijan Republic and the Nakhchivan Autonomous Republic.

5.2. The following guarantees are given to the independence of the Commissioner:

5.2.1. immutability;

5.2.2. immunity;

5.2.3. The inadmissibility of any state or local self-governing body or official interfering with its activities;

5.2.4. material and social security.

5.3. Declaring a state of emergency or martial law in the Nakhchivan Autonomous Republic does not stop or limit the activities of the Commissioner.

Article 6. Immunity of the commissioner

6.1. The commissioner is inviolable in the Nakhchivan Autonomous Republic during his term of office.

6.2. During the term of office, the commissioner cannot be brought to criminal responsibility, arrested and detained, administrative sanctions can not be applied to him, he cannot be searched and personally examined, except in cases of being caught in the act of committing a crime. If the commissioner is caught in the act of committing a crime, the arresting body must inform the Supreme Assembly of the Nakhchivan Autonomous Republic and the Prosecutor of the Nakhchivan Autonomous Republic about it within 24 hours.

6.3. The immunity of the commissioner can be terminated only on the basis of the decision of the Supreme Assembly of the Nakhchivan Autonomous Republic adopted by a majority of 31 votes based on the presentation of the Prosecutor of the Nakhchivan Autonomous Republic.

6.4. Immunity of the commissioner also extends to his apartment, service room, means of transport and communication, postal and telegraphic correspondence, personal property and documents.

6.5. A person who has worked as a Commissioner is inviolable after leaving office due to his activities and opinions during the period when he exercised the powers of the Commissioner. For the crimes committed during this period and the legal violations for which administrative disciplinary measures are prescribed in the court order, that person is held accountable in the manner specified in Article 6.3 of this Law.

Article 7. Premature termination of powers of the commissioner

7.1. The powers of the commissioner are terminated prematurely in the following cases, according to the decision of the Supreme Assembly of the Nakhchivan Autonomous Republic adopted by a majority of 31 votes based on the presentation of the High official of the Nakhchivan Autonomous Republic or the initiative of the Supreme Assembly of the Nakhchivan Autonomous Republic:

7.1.1. When the requirements related to the commissioner are violated;

7.1.2. When the trustee has completely lost his capacity to exercise his powers.

7.2. When the following cases are announced at the session of the Supreme Assembly of the Nakhchivan Autonomous Republic, the chairman of the Supreme Assembly of the Nakhchivan Autonomous Republic terminates the powers of the Commissioner ahead of time by his order:

7.2.1. When the trustee dies;

7.2.2. If there is a legally binding judgment of the court against the commissioner;

7.2.3. When the Commissioner resigns voluntarily and in writing.

7.3. In the case of early termination of the authority of the Commissioner, the High Official of the Nakhchivan Autonomous Republic submits a candidate for the election of a new Commissioner to the Supreme Assembly of the Nakhchivan Autonomous Republic within 30 days.

CHAPTER II

Consideration of complaints on violation of human rights and implementation of the functions of the preventive mechanism

Article 8. The procedure for filing complaints about human rights violations

8.1. The commissioner examines complaints of citizens of the Republic of Azerbaijan, foreigners and stateless persons, legal entities registered or operating in the Nakhchivan Autonomous Republic (hereinafter referred to as "applicants") regarding human rights violations in the Nakhchivan Autonomous Republic.

8.2. Complaints can be filed by third parties, including non-governmental organizations, with the consent of the person whose human rights have been violated. If it is not possible to obtain the consent of the person whose human rights have been violated (when that person dies, becomes incapacitated, etc.), third parties or non-governmental organizations can file a complaint without obtaining consent.

8.3. State bodies cannot file a complaint with the Commissioner.

8.4. A complaint may be filed within one year from the day the applicant's rights were violated or he became aware of it.

8.5. Complaints addressed by persons detained in penal institutions, detention centers, and temporary detention centers in the Nakhchivan Autonomous Republic must be sent to the Commissioner within 24 hours without any verification.

Article 9. Contents of the complaint about the violation of human rights

9.1. In a complaint about the violation of human rights, the applicant's name, father's name, surname, and address must be indicated, as well as the nature of the decision or action (inaction) that violated the applicant's rights, the place and time of the complaint, and the applicant's signature. If there are other materials related to the complaint or a decision issued by the court, it can be attached to the complaint.

9.2. If the applicant's name, father's name, surname, and address are not specified in the complaint, the application is considered anonymous and those complaints are not considered, except for the cases specified in Article 9.3 of this Law.

9.3. If the circumstances stated in the anonymous complaint are supported by sufficient substantial facts and evidence, those complaints may be accepted for review by the Commissioner.

9.4. When a complaint is submitted orally, an employee of the Commissioner's office records the content of the complaint on a special form and the applicant signs that form.

9.5. At the request of the applicant, the Commissioner shall keep information about him confidential.

Article 10. Adopting a decision on a complaint about violation of human rights

10.1. When a complaint about violation of human rights is received by the applicant, the Commissioner may take one of the following decisions:

10.1.1. to accept the complaint for consideration;

10.1.2. the appeal should be rejected.

10.2. If the commissioner refuses to consider the complaint, he gives the applicant a reasoned answer in writing within 10 days.

Article 11. Grounds for refusing to consider a complaint about violation of human rights

11.1. The commissioner does not consider the complaint in the following cases:

11.1.1. if the requirements of Article 8.4 of this Law are violated;

11.1.2. if the complaint does not belong to the powers of the Commissioner;

11.1.3. if the complaint is anonymous, except for the cases specified in Article 9.3 of this Law;

11.1.4. when there is a court proceeding related to the complaint;

11.1.5. in the absence of new information, facts and evidence in the resubmitted complaint.

Article 12. The procedure for considering a complaint about violation of human rights and implementing the functions of the preventive mechanism

12.1. During the investigation of the cases reflected in the complaint about the violation of human rights, the commissioner should learn the opinions of the body or official against whom the complaint was filed. That consideration must be submitted to the Commissioner within 10 days.

12.2. During the investigation of the cases reflected in the complaint about the violation of human rights and the implementation of the functions of the preventive mechanism, the Commissioner has the following rights:

12.2.1. at any time, without hindrance and without prior warning, to state authorities and local self-government bodies, military units located in the Nakhchivan Autonomous Republic, as well as police stations, temporary detention facilities, pretrial detention centers, penitentiaries, garrison headquarters, psychiatric institutions, and detained persons who cannot leave of their own free will access other places; to meet and talk with detained persons, as well as any other person who can provide relevant information, one-on-one or, if deemed necessary, with the presence of a specialist or an interpreter; to get acquainted with and receive copies of all documents confirming the legality of the detention of detained persons, as well as relating to the treatment of those persons and the conditions of their detention; draw up a deed, to record the progress and results of the actions carried out; to make relevant recommendations to the competent state bodies and receive answers to those recommendations within the specified time;

12.2.2. To receive necessary information, documents and materials from the state authorities and local self-government bodies, officials of the Nakhchivan Autonomous Republic within 10 days;

12.2.3. to get acquainted with legally binding decisions on criminal, civil and administrative cases, as well as materials on the rejection of the initiation of criminal cases;

12.2.4. to receive written references from officials during the investigation of the complaint;

12.2.5. instruct relevant bodies (except for the body or official whose decision or action (inaction) is complained of) to verify the circumstances reflected in the complaint;

12.2.6. To receive an expert opinion from the relevant state bodies and organizations of the Nakhchivan Autonomous Republic;

12.2.7. heads and other officials of state authorities and local self-government bodies, commanders of military units located in the Nakhchivan Autonomous Republic, management of police stations, temporary detention facilities, pretrial detention facilities, prisons, garrison headquarters, psychiatric facilities and other places where detained persons cannot leave voluntarily to be accepted without delay by.

12.3. It is not permissible to put pressure on any person or organization or to harass a person or organization for providing information to the Commissioner.

12.4. With the consent of the person whose human rights have been violated, the Commissioner may conduct an investigation on his own initiative in cases of special public importance or in cases where the interests of persons who are incapable of defending their rights are affected.

12.5. If cases not mentioned in the complaint are discovered during the investigation, and the investigation of such cases is carried out by the Commissioner, if it is within his powers, the materials are sent to other competent state bodies if they are not within his powers.

12.6. The complaint is considered within 30 days. The application review period can be extended by 30 days if it is necessary to conduct an additional inspection or request materials to consider the complaint. With the written consent of the applicant, the application review period can be extended again if it is necessary to conduct an additional inspection.

Article 13. The results of consideration of the complaint on the violation of human rights

13.1. The commissioner informs the applicant in writing about the results of the review of the complaint within 5 days.

13.2. When the commissioner discovers cases of human rights violations during the investigation of the complaint, he can take the following measures:

13.2.1. to demand the restoration of those rights from the state and local self-government bodies and officials who have violated human rights as a result of their decision or action (inaction) (relevant bodies and officials must inform the Commissioner in writing about the measures taken within 10 days. In the event that information is not provided or the Commissioner's requirements are not implemented cases, the Commissioner may apply to the higher body of that organization or other state bodies);

13.2.2. to apply to the relevant authorities of the Nakhchivan Autonomous Republic to initiate a criminal case when signs of a crime are detected;

13.2.3. to make proposals to the relevant bodies of the Nakhchivan Autonomous Republic to bring to disciplinary responsibility the officials who violated human rights as a result of their decision or action (inaction);

13.2.4. to inform the mass media of the autonomous republic about the results of the inspections carried out in connection with the violation of human rights;

13.2.5. in cases where the violation of human rights is of special public importance, if the powers of the commissioner are not sufficient for their restoration, to apply to the High Official of the Nakhchivan Autonomous Republic, to make a report before the Supreme Assembly of the Nakhchivan Autonomous Republic;

13.2.6. Apply to the court for the restoration of the rights violated as a result of the decision or action (inaction) of the state or local self-governing body of the Nakhchivan Autonomous Republic, official;

13.2.7. to apply to the Supreme Court of the Nakhchivan Autonomous Republic when a person's rights are violated by the normative acts in force.

Article 13-1. Peculiarities of considering a complaint about the violation of the right to access to information

13-1.1. The commissioner investigates the cases reflected in the complaint regarding the violation of the right to access information within 10 working days. If the complaint requires clarification or it is necessary to collect additional explanations and documents to investigate the complaint, the Commissioner extends the period of consideration of the complaint by an additional 10 working days by notifying the complainant in writing.

13-1.2. The commissioner does not consider the complaint in the following cases:

13-1.2.1. if the complaint is not about the activity of the state body, local self-government body or official who has specific information;

13-1.2.2. if there is a legally binding decision of the court on that case;

13-1.2.3. if the applicant does not effectively use the opportunities created by the state body, local self-government body or official to obtain information.

13-1.3. The commissioner clarifies whether the following requirements of the Law of the Republic of Azerbaijan "On Access to Information" have been observed by the state body, local self-government body or official who owns the information during the investigation of the cases reflected in the complaint about the violation of the right to access information:

13-1.3.1. registration of an application for obtaining information (hereinafter - an information request);

13-1.3.2. provision of information request in the manner, period and method prescribed by law;

13-1.3.3. that the refusal to execute an information request complies with the requirements of the law;

13-1.3.4. accurate and complete fulfillment of the task of disclosing public information;

13-1.3.5. Meeting the requirements of the law for the creation of Internet information resources;

13-1.3.6. determination of restrictions on obtaining information in accordance with the law.

13-1.4. The commissioner requests the elimination of the violations from the state body, local self-government body or official who has the information in connection with the complaint about the violation of the right to obtain information.

13-1.5. After receiving the commissioner's instructions, the state body, local self-government body or official who has the information must inform the commissioner in writing about the measures taken within 10 days. In cases where information is not provided or the requirements of the Commissioner are not fulfilled, the Commissioner applies to the relevant higher authority.

Article 14. Commissioner's annual report

14.1. No later than 1 month after the end of the current year, the commissioner submits an annual report on the protection of human rights in the Nakhchivan Autonomous Republic to the High Official of the Nakhchivan Autonomous Republic and presents the report to the Supreme Assembly of the Nakhchivan Autonomous Republic.

14.2. In the annual report, the names of state and local self-government bodies and officials who violate human rights and do not comply with the demands of the commissioner are mentioned, and the measures taken in this regard are provided.

14.3. The commissioner's annual report should reflect the general opinion, opinion and recommendations related to the provision of human rights.

14.4. The annual report is sent to the Cabinet of Ministers of the Nakhchivan Autonomous Republic, the Supreme Court of the Nakhchivan Autonomous Republic and the Prosecutor of the Nakhchivan Autonomous Republic.

14.5. The report is published in the "Eastern Gate" newspaper.

Article 15. Confidentiality of certain information by the commissioner

15.1. Protection of information constituting a state secret known to him in connection with the activities of the Commissioner is carried out in accordance with the Law of the Republic of Azerbaijan "On State Secrets".

15.2. During the investigation by the Commissioner of the cases reflected in the complaint, it is not allowed to disseminate the information about the personal and family life of the applicants without their consent.

CHAPTER III Organization and guarantees of the Commissioner's activity

Article 16. Social, financial and other guarantees of the commissioner

16.1. The commissioner receives a salary of 1300 manats.

16.2. The commissioner is exempted from military conscription and military assembly.

16.3. The commissioner is granted leave in accordance with the law.

16.4. The commissioner's term of office is included in his general, special and continuous work experience.

16.5. When the commissioner goes on leave, he is given a monetary guarantee in the amount of one month's salary for his treatment and rest.

16.6. Regardless of the length of time, a person who has worked as a Commissioner receives a pension in the amount of 80 percent of the current salary of the Commissioner upon reaching retirement age.

Article 17. Commissioner's apparatus

17.1. His apparatus is created for the implementation of legal, organizational, scientific-analytical, informational, material-technical, financial and economic support of the commissioner's activity.

17.2 The commissioner's apparatus has stamps and forms with the State coat of arms depicted on it.

17.3 The office operates in accordance with the regulations approved by the Commissioner.

17.4. The structure of the Commissioner's office, the staffing table and estimated costs are determined by the Commissioner.

Article 18. Rights and duties of employees of the office of the commissioner

18.1. Employees of the office of the Commissioner are hired and dismissed by the Commissioner.

18.2. The rights, duties and responsibilities of the employees of the commissioner's office are determined by the Labor Code of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan "On Civil Service" and other legislative acts.

Article 18-1. Preventive group

18-1.1. In order to implement the functions of the preventive mechanism provided for in Article 1.2 of this Law, a Preventive group is created in the Office of the Commissioner. A person who is not younger than 25 years old, has a higher education, experience in the field of human rights protection and high moral qualities is appointed as a member of the Preventive group. The members of the preventive group are appointed by the Commissioner for a period of 3 years based on transparent procedures.

18-1.2. The preventive group has the following rights:

18-1.2.1. to enter at any time, without hindrance and without prior warning, police stations, temporary detention facilities, pretrial detention facilities, prisons, garrison headquarters, psychiatric facilities and other places where detained persons cannot leave of their own free will; to meet and talk with detained persons, as well as any other person who can provide relevant information, one-on-one or in the presence of a specialist or an interpreter if deemed necessary; to get acquainted with and receive copies of all documents confirming the legality of the detention of detained persons, as well as relating to the treatment of those persons and the conditions of their detention; to draw up an act, to record the progress and results of the actions carried out;

18-1.2.2. to be received without delay by the authorities of police stations, temporary detention facilities, pretrial detention centers, penitentiaries, garrison headquarters, psychiatric institutions and other places where detained persons cannot leave of their own free will.

18-1.3. The member of the preventive group cannot be forced to testify about the facts known to him in connection with the performance of his functions or to disclose these facts in any other way. This guarantee remains in effect even after the Preventive group member leaves the group.

18-1.4. A member of the preventive group may not be arrested or detained, searched, or personally examined while performing his duties in places where the detained persons cannot leave of their own free will. It is not allowed to seize, inspect or seize mail, telegraph and other shipments of a member of the preventive group.

Article 19. Funding of the commissioner's activities

19.1. The activities of the commissioner and his staff are financed from the state budget.

19.2. The amount of current expenses in the annual funds allocated for financing the activities of the commissioner cannot be less than the amount provided for this purpose in the previous financial year.

Article 20. Liability for obstructing the commissioner's activity

Persons who are guilty of obstructing the activities of the commissioner shall bear the responsibility stipulated by the legislation.

Nakhchivan Autonomous Republic

Chairman of the Supreme Assembly VASIF TALIBOV

Nakhchivan city, February 20, 2006

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