



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

GENEVA

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the letter of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, dated 4th April 2019, has the honour to transmit herewith the information of the relevant authorities of the Government of the Republic of Azerbaijan in response to the call for inputs.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 4 pages



Geneva, 31 May 2019

**Office of the United Nations
High Commissioner for Human Rights
GENEVA**

Information submitted by the Government of the Republic of Azerbaijan due to the inquiry of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on safeguards for the protection of the rights of children born from surrogacy arrangements:

The Republic of Azerbaijan is a party to different kind of international treaties as well as to the UN Convention against Transnational Organized Crime, the Convention on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, UN Convention on the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and etc.

All necessary actions are taken to protect children's rights and legal interests in compliance with the Law of the Republic of Azerbaijan "On the Rights of the Child", the UN Convention on the Rights of the Child, as well as other laws of and international treaties the Republic of Azerbaijan is party to.

Definition of the Human Trafficking (child trafficking) is prescribed in the Law of the Republic of Azerbaijan on Combating Trafficking in Human Beings, at the same time this act causes criminal responsibility in accordance with the article 144-1 (Human Trafficking) of the Criminal Code of the Republic of Azerbaijan.

Trafficking in human beings – recruitment, obtaining, keeping, harboring, transporting, giving or receipt of a person by means of threat or use of force, intimidation or other means of coercion, abduction, fraud, deception, abuse of power [influence] or a position of vulnerability, or by giving or receiving payments or benefits, privileges or concessions to achieve the consent of a person having control over another person, for purposes of exploitation.

According to the article 144-1 (note part) of the Criminal Code of the Republic of Azerbaijan, exploitation of a person is considered as forced labor (servitude), sexual servitude, slavery, practices similar to slavery and related conditions of servitude, illegal pull out of human organs and tissues, illegal biomedical research on a person, use of a woman as a surrogate mother, engagement in unlawful activities (including criminal activities).

Recruitment, obtaining, keeping, harboring, transporting, giving or receipt of a minor for purposes of exploitation shall be considered as trafficking in human beings even if the means set forth in this provision (article 144-1 of the Criminal Code of the Republic of Azerbaijan) are not used.

Use of a woman as a surrogate mother by the way of recruitment, obtaining, keeping, harboring, transporting, giving or receipt of a person by means of threat or use of force,

intimidation or other means of coercion, abduction, fraud, deception, abuse of power [influence] or a position of vulnerability, or by giving or receiving payments or benefits is considered as a form of exploitation and as well as accepted as a human trafficking crime.

In accordance with the article 11 of the Law of the Republic of Azerbaijan on "Combat against human trafficking", system of measures on prevention of human trafficking (child trafficking) includes reinforcement of legal and social protection of children; establishment and efficient use of system on social, legal, pedagogic and other measures oriented to the identification and elimination of reasons and cases creating condition for the neglect and orphanage of children; detection of children deviated from education, taking measures for upbringing and education of them; establishment and implementation of special programs in other organizations and enterprises fulfilling the prevention of neglect of state institutions, children's homes, boarding schools and the neglect of minors and violation of law.

As the result of the finalized "National Action Plan on Combat against Trafficking in Human Beings in the Republic of Azerbaijan for 2014-2018" approved by the Decree dated July 24, 2014 and No 667 of the President of the Republic of Azerbaijan, following measures on children were implemented:

1. Taking measures for ratification of Convention of European Council "On the protection of children against sexual exploitation and sexual abuse;
2. Preparation of proposal in the direction of reinforcement of legal and social protection of women and children included vulnerable group, in order to mitigate the risk of becoming human trafficking victim;
3. Preparation of proposal with the aim of provision of secure use of internet and mobile telephone by children;
4. Reinforcement of measures on implementation of obligations arising out of the international conventions on child labor, as well documents of International Labor Organization;
5. Reinforcement of relevant efforts for identification of victims of human trafficking and forced labor, as well as children, foreigner and stateless persons became victim of human trafficking within the Republic;
6. Protection of the rights and interests of children who are the victim or potential victim of human trafficking, and implementation of social rehabilitation of them by the guardianship and trusteeship bodies, and commissions on protection of affairs and rights of minors, in accordance with the legislation.
7. Ensuring opportunities for the children became the victims of human trafficking to continue their education, reinforcement of measures for adoption of them to the general secondary schools in a temporary place of residence;
8. Provision of social-legal and social-psychological services and social-consultation support in order to prevent the children under the protection of State to enter to the group of human trafficking risk after adulthood period.

9. Depending on the psychological-social state, organize the children living in temporary shelters to continue their education in close places, if they are rehabilitated or their security should be ensured;
10. Taking measures for prevention of discrimination against the victims of human trafficking at schools during the education period;
11. Conduction of monitoring on deviation of children from education or dilapidation, implementation of measures on rehabilitation of children deviated from education and vulnerable socially.
12. Conduction of monitoring in families of children adopted, provided with foster-care, and establishment of monitoring groups for this purpose;
13. Implementation of measures for provision of relevant documents to the children who don't have document certifying identity;
14. Implementation of relevant measures in the direction of formation of social work institution working with children;
15. Reinforcement of cooperation with relevant non-governmental organizations and international organizations on combat against negligence of minors and social rehabilitation of them;
16. Distribution of educative materials, prepared for prevention of human trafficking, especially women and children trafficking, as well prevention of forced labor, on border and custom checkpoints;
17. Continuation of awareness measures on protection of children from the threats related to the human trafficking and exploitation of child labor, at education and training institutions;
18. Conduction of relevant advocacy and awareness works in private organizations in order to avoid exploitations of child labor;

The National legislation of the Republic of Azerbaijan does not set out specific mechanism in relation to the protection of the rights of children born from surrogacy arrangements. In addition, definition of 'surrogate mother' is not elaborated under the national law.

However, according to the Article 29 of the law on 'Protection of people's health care' in Azerbaijan, every mature woman has right to artificial insemination and embryo implantation. Artificial insemination and embryo implantation can be carried out with the official consent of the husband and wife (a single woman). Artificial insemination, embryo implantation and donor's identity are doctor's oath of secrecy. A woman has right to obtain information regarding medical and legal consequences of artificial insemination and embryo implantation, as well as medical-genetic examination, donor's nationality and physical appearance. This information is provided by the doctor who is involved in this process. The people who are pleaded guilty for illegal artificial insemination and embryo implantation bear responsibility by the law.

Besides, women are entitled to information on artificial insemination, medical and legal consequences of embryonic implantation, medical genetic examination, nationality of the donor, and this information is being provided by the doctor who is involved in the medical intervention.

Moreover, according to the Article 46.4 of the Family Code of the Republic of Azerbaijan, parents who are married and have official consent for artificial insemination and embryo implantation and if they have child born from surrogate mother, they are registered as the parents of child with the consent of surrogate mother.

There is no specific article concerning the citizenship of children born from surrogacy arrangements in the law on 'Citizenship of the Republic of Azerbaijan'. However, pursuant to the Article 1 of the law, a person born in the territory of the Republic of Azerbaijan, or of a citizen of the Republic of Azerbaijan shall become a citizen of the Azerbaijan Republic. A person one of whose parents is a citizen of the Azerbaijan Republic shall also become a citizen of the Azerbaijan Republic.

Furthermore, in accordance with Article 10 of Azerbaijani law on Children's Rights, every child is registered after their birth in line with the national legislation and granted Azerbaijani citizenship according to the law on 'Citizenship of the Azerbaijan Republic' except the following cases:

A child born in the territory of the Republic of Azerbaijan and both parents of who are foreigners shall not be a citizen of the Republic of Azerbaijan.

A child born in the territory of the Republic of Azerbaijan and one parent of whom is a foreigner and the other one is a stateless person will not be a citizen of the Republic of Azerbaijan.

Regarding to the safety of newborns it should be noted that all newborns are registered in medical institutions at birth, and information on the territorial children's polyclinics and medical registration certificates are issued to the district registration offices.

According to the article 166.1 of the Family Code of the Republic of Azerbaijan, birth registration is carried out at the place of birth of the child or at the place of registration of the parents or one of them.

During the registration of a birth, it is not permitted to restrict the rights of citizens neither for social, racial, national, religious nor linguistic origin.