

DECISION
No. 131
of the
CABINET of MINISTERS
of the Republic of Azerbaijan
Baku, September 3, 2009

on the ratification of “Rules (indicators) for identification of victims of trafficking in human beings”

The Cabinet of Ministers of the Republic of Azerbaijan makes a **DECISION** on execution of the Item 3 of the “Plan of Measures (2009-2013) to carry out the National Action Plan on struggle against trafficking in human beings” of the “National Action Plan (2009-2013) of the Republic of Azerbaijan on struggle against trafficking in human beings” ratified under the Order No. 133 of the President of the Republic of Azerbaijan dated to February 6, 2009:

1. To ratify the “Rules (indicators) for identification of victims of trafficking in human beings” (supplement).
2. This decision enters into force from the date it is signed.

**Prime Minister of the
Republic of Azerbaijan:**

A. Rasi-zade

**Approved by the Decision No. 131
of the Cabinet of Ministers of the
Republic of Azerbaijan,
dated to September 3, 2009**

THE RULES (indicators)

for identification of victims of trafficking in human beings

1. General Provisions

1.1. These Rules were prepared according to the “National Action Plan of the Republic of Azerbaijan (2009-2013) on struggle against trafficking in human beings” ratified under the Order No. 133 of the President of the Republic of Azerbaijan dated to February 6, 2009 and defines mechanisms to identify victims of trafficking in human beings (hereinafter referred to as “victims”).

1.2. Identification of victims is an integral part of the system of measures over the protection of trafficked persons and ensures their right to access necessary assistance and this is one of the principal factors to provide their reintegration to the society and to their normal lifestyle as well as to reduce their likelihood of being a victim of trafficking in human beings again.

1.3. The objective of these Rules is to facilitate the disclosure of victims, implement urgent measures for protection of their rights, train the officials of competent authorities with necessary knowledge with regard to identification of victims of trafficking in human beings.

1.4. These Rules serves to increase the effectiveness of struggle against trafficking in human beings realized by the representatives of internal affairs, national security, prosecutor’s office, customs, border and migration authorities as well as diplomatic representatives of the republic in foreign countries and other government bodies and NGOs.

2. Legal aspects of victims` identification

2.1. One of the principal methods of identification of victims is to compare the committed socially dangerous act with objective and subjective cases under the criminal legislation. This kind of identification enables to determine whether a person is a victim, to specify the actions of attraction, transport and other illegal actions and to define pressure (threat, deception etc.) and forms of exploitation (sexual, labor etc) against them.

2.2. “Trafficking in human beings” means the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other means of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation under the Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in human beings, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime approved with the Law 435 – IIQ of the Republic of Azerbaijan dated to May 13, 2003. Exploitation includes at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

In accordance with the Law of the Republic of Azerbaijan on “Struggle against the trafficking in human beings” the “Trafficking in human beings” means 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 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; (recruitment, obtaining, keeping, harboring, transporting, giving or receipt of a minor for purposes of exploitation shall be considered trafficking in persons even if the means set forth in this provision are not used);

Trafficking in human beings which is making arrangements for sale, procurement or possession of a person, or smuggling a person across the borders of the Republic of Azerbaijan for the purpose of exploitation or involving, obtaining, harboring, concealing, transporting, delivering or receiving a person to other persons for the same purpose under the Article 144-1 of the Criminal Code of the Republic of Azerbaijan.

3. Victims` indicators

3.1. The followings are characterizing the indicators of victims will be considered during the identification of victims:

3.1.1. general indicators:

victim thinks that he/she is obliged to work against his/her own will, of impossibility of discharge;

and thinks that his/her actions are under control, has no freedom of activity or is limited;

feels fear and uncomfortable;

she/he, his/her family members, relatives are constantly or sometimes undergone to violence or threat of violence;

is affected from impacts characteristic for effective measures limiting freedom of activity, exploitation, violence;

meets with the threat of handover to the government;

doesn't have identification card or traveling documents as his/her documents are kept by others and owns forged documents;

uninformed about the address of his/her workplace and residence and doesn't know the local language;

acts under the instruction of others, works under the terms defined by them, and earns very little instead of his/her works or he/she is unpaid at all;

lives in a condition that doesn't meet general living standards;

limits to access medical and social services and get into contact with their families and other relatives;

3.1.2. a child who is victim of trafficking in human beings in most cases:

is involved in works that is not for them;

doesn't get into contact with his/her parents and protectors;

is not given a chance to contact with a strange child, to get education, to play with toys;

is separated from other children and lives in a condition that doesn't meet general living standards;

3.1.3. is a victim of sexual exploitation in most cases:

is younger than the age 30;

frequently changes the place of his/her exploitation and works in various places of work; works and acts under control;

carries tattooing and other signs on himself/herself showing his/her relation with exploiter;

is provided with a short day off or works without a break;

lives in his/her place of work;

3.1.4. a victim of labor exploitation (service exploitation) in most cases:

is exploited in the fields of agriculture, industry, service and entertainment;
 lives in a group in the place of work and he/she usually has action limit;
 his/her place of work doesn't meet proper standards and is not provided with necessary equipment and overalls;
 he/she doesn't have labor contract, works above the planned rate, earns very little instead of his/her works or is not paid at all, faces food problems;
 works under the control of employer and has action limit;
 is exposed to continuous violence, threats of force, insults, indecent acts and is injured in several cases;
 he/she has no experience on the work involved in;

3.1.5. is a victim of forced housemaid in most cases:
 eats separately from the family members although he/she lives in the family and faces food problems;
 goes out of the house in rare cases or doesn't go out at all, or leaves under control;
 has not got his/her own residence, sleeps in the places under common usage which don't meet proper requirements;
 is exposed to continuous violence, threats of force, insults, indecent acts and is injured in several cases;

4. Methods for victims` identification

4.1. Sometimes a victim doesn't inform about the acts he is undergone because of his/her psychological state and the information given by other sources is not usually thorough. In this case the person conducting the interrogation must be informed about average statistical psychological portrait of a victim and collect information about his/her relatives and other contacts.

4.2. Average statistical psychological portrait of a victim includes his/her gender and age, social origin, education, profession, marital status, occupation and income level.

4.3. Scatter brain, consciousness confusion, sleep and memory disorder, high wakefulness, impulsive treatment, psychological and other factors form the average statistic psychological portrait of the persons exposed to trafficking in human beings.

4.4. The following ways (measures) are applied in identification of victims:

4.4.1. proactive ways (measures) mean important and effective measures by the government bodies to provide active operation in the immediate disclosure of victims. Preventive measures include:

strengthening measures on coordination of information exchange among the corresponding government bodies to identify victims in a short period of time;

implementation of complex measures by the law – enforcement bodies towards the identification of victims of trafficking in human beings in destination, transit and other countries.

raid in public catering institutions, entertainment entity and other places for the identification of victims suspected to be used for the sexual services;

conduct monitoring in construction sites, markets, stations and other this kind of places;

raid in "black labor exchanges" where migrants are predominantly seen;

monitor advertisements displayed on mass-media, internet and other places;

inform special police body about the information gained by the representatives of labor and social protection of the population, education and health authorities as well as non-governmental organizations in connection with a victim or suspected victim;

4.4.2. reactive ways (measures) mean passive discover of the persons affected.

In this case they apply to law-enforcement bodies on their own. The persons affected must entrust to state structures to provide the effectiveness of this method and be informed about his/her rights and address of the organization to be applied. The principal goal of information-

consultation services of “Hot line” is to assist victims of trafficking in human beings, especially women and children and the service must be used broadly. The operator of the service talks with the subscriber respectfully, carefully and favorably, elucidates the motive of appeal and directs the subscriber when she/he can't come to a decision.

Furthermore, reactive measures include the following:

to raid, investigate and take steps to discover separate crimes;

appeal of the third party (such a “party” can be non-governmental organizations, social workers, representatives of educational institutions and other organizations, legal persons etc. who were informed about the suspected victim of trafficking in human beings.)

obtain information covered on mass media.

5. Identification methodology

5.1. The following parameters are analyzed in identification of victims;

5.1.1. age - the possibility to be a victim of trafficking in human beings decreases as he/she grows up;

5.1.2. gender – the importance of gender of a victim depends on the country of destination and kind of exploitation;

5.1.3. citizenship – the factors of poverty, material needs, racial discrimination are taken into consideration;

5.1.4 documents – the existence of identification cards, passports, temporary or permanent residence and traveling documents are the focus of attention. The geographical scale of trafficking in human beings has an influence on the use and importance of documents;

5.1.5. The place where victim is appeared for the last time – the identification of the place where a victim is appeared for the last time prior to the place of his/her discovery is important;

5.1.6. discovery cases – identification of the persons affected by the representatives of police, border and migration service within their authorities in the bawdy houses and illegal workplaces and by the representatives of border service in the borderland during the raids testifies that they are victims of trafficking in human beings;

5.1.7. indicators of physical and psychological violence – a person is examined to identify the indicators of any physical and psychological trauma;

5.1.8. preliminary information of legal and physical entity that a victim handed by must be taken into consideration as an important factor for the victim's identification method of specialist acting in the field of struggle against trafficking in human beings during the general evaluation.

6. Inquiry for identification

6.1. A person must be treated carefully and his/her rights must be followed during the inquiry notwithstanding that he/she is a victim or illegal migrant.

6.2. The specialized protection measures must be taken for the children suspected to be victim of trafficking in human beings. The inquiry must be limited to the extent of clarification of biographic information. A child is inquired with the participation of his legal representative, if required, doctor, psychologist, patronage or protecting bodies.

6.3. The following are recommended for the effective inquiry;

the inquiry must be based on principal of “taking important information only”;

a child must be interrogated in a separate and closed room to prevent interference of other persons;

if required, the participation of a lawyer and psychologist must be provided;

if an interrogated person doesn't know local language his/her access to interpreter will be provided;

the use of technical means must be ceased (mobile phone, TV and radio-receiving mechanisms must be turned off.);

if there is no separate room, the interrogator must choose an appropriate place to prevent interference of other persons.

6.4. The first stage of the inquiry;

the interrogator must be certain about the comfort and safety of victims;

the needs of the interrogated person for medical assistance is specified;

if a victim needs medical assistance, the inquiry will be continued following the assistance;

the questions to be asked about his/her private life will be disclosed beforehand;

victims are given time for contemplation and cessation;

victims who give more information will be explained about the simplicity of this or that assistance;

a victim is explained about the possibility of asking questions and clarification whenever he/she wants;

in this stage a victim is asked whether he/she has a question;

the interrogated person is asked whether he/she is consent for the inquiry;

6.5. The second stage of the inquiry;

a victim is explained about the objective, subject and course of inquiry;

the personality of a victim is identified;

the information given by a victim is compared with his/her biography;

the information given by a victim in connection with committed act is concerned thoroughly;

the cause of the present situation of a victim is identified, time and space indicators of the act is paid special attention, efforts are made to determine whether there are witnesses over the facts and episodes of the committed acts.

6.6. The third stage of the inquiry;

a victim is informed about the possible indicators of the crimes related to trafficking in human beings;

the speech of a victim on this indicators is carefully heard;

guiding and checking questions arranged previously over the list are used, if required;

6.7. The fourth stage of the inquiry;

a victim can be informed about the chances on alternatives after he/she is heard;

a victim (including foreigner and stateless person) is informed about his/her rights set forth on the legislation, as well as about the body they will be handed over, powers of the bodies and the following possible procedural actions;

other features necessary to be examined are identified and the features are interrogated;

the future actions and measures to be implemented under the mutual agreement will be identified and specified;

opinions of a victim on the inquiry is asked and the methods of future cooperation with him/her is determined and the inquiry is completed.

6.8. The suspected victims are provided with manuals in 3 languages (Azerbaijan, English and Russian). Such manuals are considered secondary means to have intercourse in the preliminary stage.

7. Questions for evaluation

7.1. Victims are asked about the following facts for assessment;

7.1.1. establishment of relations between the interrogated person and trafficker (by the trafficker or his/her relatives or through the announcements about the provision of employment abroad);

7.1.2. a victim is asked whether he/she is exposed to violence when he/she is taken to a foreign country to be exploited;

7.1.3. concrete residence of a victim in a foreign country (district, town, country etc.);

- 7.1.4. a victim is asked whether he/she has applied to the local government and law-enforcement bodies or medical institutions;
- 7.1.5. exploitation of a victim by the organized band or group and identification of their criminal relations;
- 7.1.6. work offered to a victim in his/her motherland or abroad (his/her previous place of work is compared with the present one);
- 7.1.7. work condition and salary offered to a victim in a country of destination;
- 7.1.8. whether advance payment is made to the attracting person;
- 7.1.9. payment of travel expenses (a victim of sexual exploitation is out of cash to meet travel costs in most cases);
- 7.1.10. getting across the state border (legal or illegal, whether forged documents are used, opening visa);
- 7.1.11. issue related to where are the of victim's documents (documents of victims are taken in most cases);
- 7.1.12. period of residence and kind of activity of a victim in a transit country (victims are usually taken to a country of destination indirectly, they are kept in different transit countries for a period of several weeks or month or exposed to forced exploitation);
- 7.1.13. type of activity of a victim after arrival at a country of destination;
- 7.1.14. period of exploitation of a victim after arrival at a country of destination (definition of the exact time is of great importance. A person will be considered as a victim if he/she is exposed to a short period exploitation as the traffickers intend to make an immediate profit on victims. If a long period has passed since the residence of a person in the country, he/she can be considered as an occasional victim.);
- 7.1.15. facts and forms of subjection to any forced activity;
- 7.1.16. earnings of an interrogated person in the period of activity (in most cases the victims can't get their money or get just a little of their earnings);
- 7.1.17. debt or amount paid under the force by victims to the traffickers or their accomplices;
- 7.1.18. work condition that a victim is forced to work;
- 7.1.19. opportunities whether a victim is provided with any free action (in most cases a victim is not entitled to act freely during the service or working hours).

8. Supplementary confirmative materials

The following can be used in the capacity of supplementary confirmative materials:

- documents presented by police or migration bodies;
- traveling documents or tickets;
- migration cards to be filled in during the take off of airplane and landing;
- health report about injury, biological or surgery operation;
- labor contract or copy of announcement;
- letters or daybooks of victims;
- visa documents.

9. Additional recommendations concerning questionnaire of victims of trafficking in human beings

9.1 Questionnaires are of great importance in the investigation and generalization of struggle against trafficking in human beings, identification and prevention of motives of trafficking in human beings, definition of factors that exert influence on its development. In this case analysis of achieved information allows the development of suggestions over the

improvement of system on struggle against trafficking in human beings as well as prevention of related – crimes, protection and support of victims, bringing the accused to responsibility.

9.2 The following issues must be indicated at standard form to inquire the suspected victims of trafficking in human beings:

information about the needs of victim for the preparation of an individual rehabilitation plan;
threats as a result of explanations given against the accused, opportunities for the arrangement of safety, information about the applied defense measures;

other information about victim (his/her education, place of residence, income source, methods of criminal organization, including involvement methods, arrangement to leave country etc.).
