

**THE DECISION OF THE CABINET OF MINISTERS
OF THE REPUBLIC OF AZERBAIJAN**

№ 252

September 10, 2013 Baku city

"The rules on repatriation of victims of Trafficking in Human Beings"

In order to ensure execution of Article 1.4 of the Decree No.887 (May 7, 2013) of the President of Azerbaijan Republic on implementation of the LAW No. 609-IVQD (19 April, 2013) on amendments to the Law of the Azerbaijan Republic "On Combating Trafficking in Human Beings",

The Cabinet of Ministers of the Republic of Azerbaijan DECIDES:

- 1. Approve "The rules on the repatriation of victims of trafficking in human beings" (attached hereto).**

A. Rasi-zade,

The Prime Minister of the Republic of Azerbaijan

**Approved by the decision
dated by September 10, 2013 Nr.: 252
of the Cabinet of Ministers
of the Republic of Azerbaijan.**

Rules on repatriation of victims of trafficking in human beings (THB)

1. General Provisions

- 1.1. This Rules have been prepared in accordance with the "National Action Plan on Combating Trafficking in Human Beings of the Republic of Azerbaijan (covering 2009-2013 years)" which was approved by the President of the Republic of Azerbaijan with the order No. 133 dated by February 6, 2009 as well as with Council of Europe Convention "On Action against Trafficking in Human Beings" and it regulates the issues of repatriation of foreigners and stateless persons.
- 1.2. The purpose of these Rules is to coordinate the activities of the relevant state agencies for the repatriation of foreigners and stateless persons who are victims of THB (hereinafter - the victims) and to prevent their re-victimization.
- 1.3. Repatriation of victims is provided on the basis of the principle of voluntariness and it is one of the main elements of system of measures for the protection of victims. This guarantees the realization of their rights to receive assistance as a victim of THB as well as reintegration into society and creates conditions for them to return to normal life.
- 1.4. These Rules serves for improving the efficiency of combatting THB conducted by the government agencies who are members of the Interdepartmental Commission for implementation of the National Referral Mechanism, as well as by the members of civil society.
- 1.5. Azerbaijan Republic cooperates with other countries in the field of combatting THB and with their relevant law-enforcement agencies, also with international organizations combatting THB in accordance with international treaties to which Azerbaijan Republic is a Party.
- 1.6. International cooperation in relation to repatriation of the victims of the THB shall be guided by the UN Convention Against Transnational Organized Crime, as well with Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and with Council of Europe Convention "On Combatting THB".

2. General Terms of repatriation of victims of THB

- 2.1. Victim of THB are entitled to 30 days of recovery and reflection period to ensure that they escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities.
- 2.2. During recovery and reflection period victim of THB may use the services of special institutions prescribed in Article 12 of the Law of the Azerbaijan Republic "On Combating Trafficking in Human Beings" for his/her security and protection needs as well as for the physical, psychological and social recovery. During Recovery and Reflection period victim of THB shall not be subject to administrative deportation (expulsion) outside of the borders of Azerbaijan.
- 2.3. Foreigner or stateless persons who were victims of THB shall be given 1 year of temporary residence permit at their request following the Recovery and Reflection period.
- 2.4. Upon completion of Recovery and Reflection period or during the period of temporary residence, if victims wish to leave Azerbaijan, then their repatriation is carried out.
- 2.5. In case of absence of relevant documents (ID documents, travel document and etc.) of victims who are going to be repatriated, acquisition of relevant documents is carried out in the manner prescribed by law.
- 2.6. Victims to be repatriated are assisted with payment of necessary expenses related to transport and repatriation of victims.
- 2.7. Necessary measures must be taken to ensure protection of rights of victims, their security and fair treatment during repatriation, without undue or unreasonable delay.
- 2.8. Upon organizing repatriation, it is necessary to verify whether the victim of the THB is national or has the right of residence in the returning country. Relevant measures are taken to avoid other possible problems that may occur.
- 2.9. Relevant agreement on return of victims is concluded for facilitating the repatriation and cooperation between receiving and sending countries are established. Following repatriation of victims, international cooperation with regard to the returned victims can be continued in the interest of the victim.
- 2.10. At the time of arrangement of the repatriation of the victim of the THB, **the risk and danger shall be assessed with regard to the risk of re-victimization or persecution by the trafficker** following repatriation of the victims to their countries of origin and results of this assessment shall be taken into account.

2.11. Risks and danger shall be assessed vis-à-vis the following indicators:

2.11.1. Possibility of re-victimization of the victims following repatriation;

2.11.2. Possibility of facing persecution by the trafficker following repatriation;

2.11.3. If destination country (to which the victim of the THB is repatriating) is a country of origin, transit and, destination for trafficked persons;

2.11.4. Checking on availability of rehabilitation or reintegration programs for victims of THB in the destination countries (to which the victim of the THB is repatriating);

2.11.5. Potential opportunities of governmental and non-governmental organizations for showing necessary social assistance to victims in the destination countries (to which the victim of the THB is repatriating);

2.11.6. Determination of the level of the readiness to combat the THB crime and level of available necessary assistance to be accorded to the victim at the destination country (to which the victims of the THB is repatriating);

2.11.7. Other issues which are valid at the time of evaluation of risk and threat level.

2.12. Victims shall be provided counseling on measure they should take to reduce the risk of being victim of THB in the repatriated country. If available, they shall be provided with contact details of the law-enforcement agencies, NGOs, human rights defendants, social institutions of host country which could assist them there.

2.13. Victims of the THB returning to Azerbaijan shall be provided with the opportunities and conditions to advance or acquire professional/occupational skills, engage/pursue education, integrate into labor market and shall be included in social rehabilitation scheme to facilitate their return to the normal life style. These measures are taken in the framework of the Law of the Azerbaijan Republic "On Combating Trafficking in Human Beings", "Implementation of social rehabilitation of THB victims"(approved with decision No. 62 dated by 06.03.2006 by the Cabinet of Ministers of Azerbaijan) and "The National Referral Mechanism Rules regarding Victims of Human Trafficking" (approved with decision No. 123 dated by 11.08.2009 by the Cabinet of Ministers of Azerbaijan).

2.14. Members of civil institutes, professional and qualified NGOs in the THB sphere can be involved into the process of repatriation of victims especially for implementation of the measures indicated in the article 2.13 of this Rules.

2.15. For the protection of confidentiality associated with the repatriation of the THB victims the following issues must be kept under control:

- 2.15.1 Confidential information regarding personal and family life of victim of THB mustn't be disseminated;
- 2.15.2 Information that could cause threat to the life or health of victims of THB, their close relatives, also people who are involved in combatting THB crime shall be considered confidential and shall not be disseminated;
- 2.15.3 Illegal collection of information about security measures imposed to victims of THB or information about them, or intentionally dissemination of this information shall be subject to liability in accordance with the legislation of the Republic of Azerbaijan.

3. Repatriation of children who are victims of human trafficking

- 3.1. Children victims of THB are not subject to administrative deportation (expulsion) outside of the borders of Azerbaijan. The State Migration Service cannot take decision on their deportation.
- 3.2. Return of children victims of THB to their host country or back to their parents can be arranged if there is no risk of re-victimization of child. Relevant measures shall be taken to locate and identify their families and legal representatives.
- 3.3. The opinion of a child above 10 years old shall be taken into account while taking decision to arrange a return of child-victim of the THB to his/her host country or back to their parents.
- 3.4. If repatriation of children victims of THB considered contradictory to their best interests then repatriation shall not be arranged. In this case necessary measures shall be taken to provide these children with conditions for legal residence (legalization of their residence in the country, provision of documents, social rehabilitation) in the country.
- 3.5. During repatriation, realization of the following rights of children upon their return shall be taken into account: 1) possibility to benefit from the right to education of children suffered from THB; 2) access to necessary care; 3) acceptance by families or 4) access to the relevant care institutions.
- 3.6. Decision to accompany children-victims of THB shall be also considered to ensure more effective and safe repatriation.
- 3.7. While providing assistance to children-victim of the THB, necessary measures have to be taken for protecting their rights and legal interests in accordance with Azerbaijan Laws on the "Rights of Child", "Juvenile neglect and delinquency prevention" and UN Convention on the Rights of Child as well as other Laws of Azerbaijan and international agreements and treaties to which Azerbaijan is a party

4. Ensure living of Foreigners or stateless persons who are victims of human trafficking in the Republic of Azerbaijan

- 4.1. Administrative deportation (expulsion) outside of the borders of Azerbaijan as well as decisions on deportations of the State Migration Service shall not be applied against the victims of THB for the term of 1 year.
- 4.2. Administrative deportation (expulsion) outside of the borders of Azerbaijan as well as decisions on deportations of the State Migration Service shall not be applied against the victims of THB upon expiration of the period of time mentioned in the Article 4.1 of this rule, if the victim provides assistance in investigation of the THB criminal case to the relevant prosecution agency until the end of the criminal proceedings.
- 4.3. Victim has a right to apply for the residence permit in Azerbaijan following the granted 1 year period in an order established by the relevant Azerbaijan legislation.
- 4.4. While checking application for residence permit as mentioned in the 4.3 article of this rule, the following circumstances must be taken into account:**
- 4.4.1. Cooperation of victim of the THB with prosecution agencies;
- 4.4.2. Physical and moral torments that victim of THB faced;
- 4.4.3. Period of his/her being a victim of THB;
- 4.4.4. The risk of re-victimization or persecution by the trafficker after repatriation of victims of THB to their country**
- ~~4.5. Victim of THB granted for living in Azerbaijan gets immigrant status and accordingly could use all the rights and obligations arising from this status.~~

5. Coordination of the state agencies In arranging repatriation of victims of the THB

- 5.1. The following measures shall be taken by the public authorities in order to improve protection and social rehabilitation of the victims of the THB:
- 5.1.1. For the Ministry of Internal Affairs and the State Migration Service of the Republic of Azerbaijan:**
- 5.1.1.1. *Establishment of the identities of the victims who are willing to leave Azerbaijan, providing them with relevant documents; provision of assistance in covering expenses related to transportation and repatriation; taking measure to ensure*

that risk of becoming the victim of the THB, in the receiving country, is reduced to the minimum;

5.1.1.2. *To enhance relations with the relevant government authorities of the countries of origin with a view of facilitating provision of assistance to victims of THB in repatriation.*

5.1.1.3. *Providing victims of the THB with the temporary residence permit as prescribed by the Azerbaijani legislation.*

5.1.2. For the State Committee for Family, Women and Children Affairs, Ministry of Internal Affairs of the Republic of Azerbaijan, Ministry of Foreign Affairs of the Republic of Azerbaijan, guardianship and patronage agencies, commissions on protection issues and rights of juveniles:

5.1.2.1. *To identify guardians in the country of origin for children victims of THB while repatriating them to their own country;*

5.1.2.2. *Safe repatriation of children victims of THB*

5.1.3. For the Ministry of Foreign Affairs of the Republic of Azerbaijan:

5.1.3.1. *Improvement of cooperation with agencies combatting human trafficking in the countries where diplomatic missions and consulates of the Republic of Azerbaijan are located;*

5.1.3.2. *To provide assistance to the victims of the THB for returning to Azerbaijan and issuing documents giving them the right to return to Azerbaijan in a short period of time by the diplomatic missions and consulates of the Republic of Azerbaijan.*

5.1.4. By the Ministry of Education of the Republic of Azerbaijan:

5.1.4.1. To facilitate attendance by a child - victim of THB of a secondary educational institution in accordance with the place of his temporary residence;

5.1.4.2. If it is established that child over 10 years old hasn't been involved in education at all, then to organize special education commission at the city/region education department/branch for determining knowledge and skills of child as well as the class and school where he/she is going to get education;

5.1.4.3. To provide education for children living in the temporary shelters at those places with a view of their security or for children having rehabilitation depending on their psycho-social situation;

- 5.1.4.4. In order to prevent discrimination of child (who was victim of THB) at school during his/her education process, to keep confidentiality of information regarding the background of this child by the administration of educational institution.