



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Fifty-ninth session

16 January – 3 February 2012

## Consideration of reports submitted by States parties under article 44 of the Convention

### Concluding observations: Azerbaijan

1. The Committee considered the combined 3<sup>rd</sup> and 4<sup>th</sup> periodic report of Azerbaijan (CRC/C/AZE/3-4) at its 1672nd and 1673rd meetings (see CRC/C/SR.1672 and CRC/C/SR.1673) held on 17 January 2012, and adopted, at its 1697th meeting, held on 3 February 2012 (see CRC/C/SR.1697), the following concluding observations.

### I. Introduction

2. The Committee welcomes the submission of the State party's combined third and fourth periodic report (CRC/C/AZE/3-4), submitted in accordance with the reporting guidelines of the Committee, as well as the written replies to its list of issues (CRC/C/AZE/Q/3-4). The Committee appreciates the constructive dialogue with the State party's high-level multi-sectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/AZE/CO/1) and under the Optional Protocol on sale of children, child prostitution and child pornography (CRC/C/OPSC/AZE/CO/1).

### II. Follow-up measures undertaken and progress achieved by the State party

4. The Committee welcomes as positive the adoption of the following legislative measures:

- (a) The amendment of the Family Code in 2011 to raise the age of marriage to 18 years;
- (b) The 2011 Law on Social Services which facilitates government collaboration with non-governmental organisations in the provision of social services;

(c) Law # 1058-IIIQ of the Republic of Azerbaijan of June 22, 2010 on Prevention of Domestic Violence;

(d) Law #971-IIIQD of the Republic of Azerbaijan of March 5, 2010, on the provision of free-of-charge physical training-sport services for children from low income families, children without parents and deprived of parental care, children of preschool age and children with disability;

(e) Law #992-IIIQD of April 20, 2010 of the Republic of Azerbaijan, Articles 166.3 and 166.4 which improve the monitoring and enforcement of birth registration by health facilities;

(f) Law # 904-IIIQD of the Republic of Azerbaijan of October 27, 2009, which strengthen the State support provided to families in situations of disadvantage;

(g) Law #833-IIIQ of the Republic of Azerbaijan of June 19, 2009 on Education, which aim at improving the structuring and provision of education.

5. The Committee also welcomes the ratification of or signature of:

(a) Convention No. 183 of the International Labour Organization concerning the revision of the Maternity Protection Convention (revised) in 2010;

(b) Convention No. 156 of the International Labour Organization concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities in 2010;

(c) The Council of Europe Convention on Action against Trafficking in Human Beings in 2010;

(d) The Council of Europe Convention on Protection of Children against Sexual Violence and Sexual Abuse in 2008.

6. The Committee also welcomes the following institutional and policy measures:

(a) The establishment of the State Committee on Family, Women and Children Affairs to help coordinate activities for the implementation of the Convention;

(b) The State programme on “De-Institutionalisation and Alternative Care (2006 – 2015).

### **III. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)**

##### **The Committee’s previous recommendations**

7. While the Committee notes that some of its previous recommendations (CRC/C/AZE/CO/2) have been followed, it is concerned that many of them have not been addressed, particularly the recommendations regarding legislation, independent monitoring, a national plan of action, non-use of the international definition of a live birth, the absence of family-like alternative care for children deprived of a family environment, children with disabilities and the administration of juvenile justice.

**8. The Committee urges the State party to expeditiously take all necessary efforts to effectively address the recommendations contained in the concluding observations**

of the second periodic report that have yet to be implemented, particularly those on legislation, independent monitoring, a national plan of action, non-use of the international definition of a live birth, the absence of family-like alternative care for children deprived of a family environment, children with disabilities and the administration of juvenile justice.

### **Legislation**

9. While noting that the Constitution of the State party accords priority to international ratified treaties over domestic laws and, in principle, allows for the direct application of international treaties, the Committee is concerned that there is lack of judicial practice and precedent which has directly applied the Convention. It also notes with particular concern that there have reportedly been instances in which law-enforcement and judicial bodies have refused to directly apply the provisions of the Convention, particularly in the context of legislation relating to juvenile justice, rights of children with disabilities and children without parental care.

**10. The Committee urges the State party to undertake a comprehensive review of all domestic legislation so as to ensure its full compliance with the Convention and adherence to its standards in the practice of its judiciary and law enforcement bodies. The Committee further recommends that the State party consider enacting a comprehensive Child Rights Act which fully incorporates the provisions of the Convention and its Optional Protocols and provides clear guidelines for their consistent and direct application.**

### **Coordination**

11. While noting the State party's Law #924-IIIQD which aims at further clarifying how and by whom the Convention should be implemented in the State party, the Committee remains concerned that the State party's current system lacks effective coordination between its two principal mechanisms for child rights - the National Commission on Minors and the State Committee on Family, Women and Children's Affairs. The Committee further notes that these mechanisms are not provided with adequate clarity on their respective mandates. Furthermore, while noting that the State party's Committee for Family, Women and Children's Affairs has proposed the establishment of a Coordination mechanism on Children's Rights within the Cabinet of Ministers to coordinate and monitor the implementation of the Convention, the Committee is concerned that there has been no further progress in relation to this proposal.

**12 The Committee recommends that the State party expeditiously takes measures to provide distinct roles for its National Commission on Minors and the State Committee on Family, Women and Children's Affairs. Furthermore, it recommends that the State party consider empowering these mechanisms with adequate authority vis-à-vis the State entities and Ministries it coordinates and ensure that the respective mandates mentioned above are supported by a technically competent organ for the coordination of their activities for the implementation of the Convention. In doing so, the State party is urged to consider establishing a technical secretariat of the National Commission on Minors within the Cabinet of Ministers and a complementing technical working group for addressing cross-sectoral children's rights issues within its State Committee on Family Women and Children's Affairs.**

### **National Plan of Action**

13. While welcoming the establishment of a National Action Plan on Protection of Human Rights, the Committee remains concerned at the absence of a comprehensive and well-structured strategy that specifically addresses the implementation of the Convention.

14. The Committee recommends that the State party, in connection with a Comprehensive Child Rights Act, develop and implement a comprehensive strategy and programme for the realization of the principles and provisions of the Convention. In doing so, it should take into account the outcome document “A World Fit for Children” adopted by the General Assembly special session in May 2002. The Committee further recommends that the State party allocate adequate human, technical, and financial resources for the implementation of its comprehensive strategy for the implementation of the Convention.

#### **Independent monitoring**

15. The Committee notes the efforts undertaken by the Human Rights Ombudsman Institution to record and investigate complaints of children’s rights violations. The Committee also welcomes the submission of the Ombudsman’s first specialised report on children’s rights to the State party’s parliament. However, it remains concerned at the continued absence of a specific commissioner with an adequately authoritative mandate for specifically addressing children’s rights.

16. The Committee recommends that the State party, taking into account the Committee’s general comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), include within the Office of the Ombudsman an identifiable and specialised commissioner or deputy commissioner specifically responsible for children’s rights. In doing so, the State party should empower this commissioner with an authoritative mandate and identical immunities as its Human Rights Ombudsman, and ensure the provision of adequate human, technical, and financial resources for the commissioner to effectively deal with complaints from children in a child-sensitive and expeditious manner as well as provide remedies for violations under the Convention.

#### **Allocation of Resources**

17. While noting that the State party has increased its financial resource allocations for health, education, and addressing the needs of children in an internally displaced situation, the Committee is concerned that overall level of resources allocated for social services remain low. It is further concerned at the absence of a child rights approach to budget allocations in the State party’s national, regional and local budgets.

18. Emphasizing articles 2, 3, 4 and 6 of the Convention, the Committee recommends that the State party increase the level of financial resources allocated to its social services with a view to raising it to, at least, correspond with the average levels of the member States of the Organisation for Economic Cooperation and Development (OECD). Furthermore, it recommends that the State party establish a child-friendly budget process at national, regional and municipal levels, with clear allocations to relevant sectorial areas such as healthcare, education and child-protection, specific indicators and a tracking system. In addition to this, the Committee recommends that the State party establish mechanisms to monitor and evaluate the efficacy and adequacy of resources allocated to the implementation of the Convention for all children equitably.

#### **Corruption**

19. The Committee notes as positive the State party’s efforts to combat corruption, including its adoption of a law to combat corruption in 2004 and the establishment of a national strategy for it. However, the Committee remains gravely concerned at the severity and pervasiveness of corruption among, inter alia, municipal authorities, as well as health care and education professionals in the State party which constitute a serious obstacle to

effective use of the State party's resources and the implementation of the Convention. Furthermore, the Committee is concerned that current sanctions against perpetrators of corruption are not commensurate with the seriousness of the offences.

**20. The Committee urges the State party to expeditiously further strengthen its mechanisms to transparently monitor corruption at all levels and sectors, and improve the awareness of and accessibility to safe channels for reporting it. In doing so, the Committee recommends that in the context of corruption concerning birth registration, health care and education, the State party consider measures for having information on its anti-corruption hotline clearly visible at places where persons may seek such services. The Committee also recommends that the State party consider further strengthening its enforcement laws and mechanisms with a view to ensuring the prompt punishment of perpetrators of corruption with commensurate sanctions.**

#### **Data collection**

21. While noting as positive the State Committee on Statistics publication of a statistical overview of children in Azerbaijan, and recently established databases on children in institutional care and domestic violence, the Committee reiterates its previous concerns on the general continued absence of data necessary for the implementation of the Convention. The Committee remains particularly concerned at the lack of an effective system of disaggregated data collection on infant and child mortality, child malnutrition, children with disabilities, sexual abuse and exploitation, which constitute a severe obstacle to the effective implementation of the Convention.

**22. The Committee urges the State party to provide all necessary human, technical, and financial resources for the establishment of a comprehensive system for data collection, analysis and monitoring, and that the data collected be disaggregated according to age, gender, ethnicity, geographic region and socio-economic background. In doing so, the Committee recommends that it initially prioritises data collection on children suffering from malnutrition, sexual abuse and exploitation as well as children with disabilities, infant and child mortality and maternal mortality.**

#### **Dissemination and awareness-raising**

23. While noting as positive the State party establishment of a children's rights website and the mandatory training on the Convention for its law professionals, the Committee remains concerned that awareness and knowledge of the Convention remains limited, particularly among education professionals.

**24. The Committee recommends that the State party include mandatory modules on human rights and the Convention in its school curriculum and training programmes for all professionals working with or for children, particularly in rural areas, and in situations concerning asylum-seekers, refugees and internally displaced persons. The Committee further recommends that the State party increase media engagement in raising awareness of the Convention in a child-friendly manner, in particular through greater use of the press, radio, television, internet and other media, and the active involvement of children in public outreach activities.**

#### **Training**

25. The Committee is concerned that notwithstanding the key role they play in enacting and considering legislation affecting children, the majority of the State party's members of parliament are not aware of or knowledgeable on the Convention.

**26. The Committee recommends that the State party consider providing training on the Convention available to its members of parliament with a view to improving**

**their capacity to enact and consider legislation with full consideration for the rights of the child.**

#### **Cooperation with civil society**

27. The Committee welcomes the State party's 2011 Law on Social Services which facilitates government collaboration with non-governmental organisations in the provision of social services and the establishment of a State Council for support to non-governmental organisations and its annual funding for small-scale projects. However, it notes that non-government organisations continue to lack adequate support and cooperation from the State party and are not sufficiently consulted on legislative processes.

**28. The Committee encourages the State party to increase the support and recognition provided to non-governmental organizations to facilitate their role as contributors to the implementation of the Convention, including by actively involving them in legislative processes.**

#### **Child rights and the business sector**

29. In light of the Human Rights Council Resolution 8/7 of 2008 adopting the report "Protect, Respect and Remedy" Framework and of Resolution 17/4 of 16 June 2011 requesting the new Working Group to follow-up on this matter, both of which note that the rights of the child be included as part of the relationship between business and human rights, the Committee recommends that the State party take legislative and institutional measures to ensure that the business sector in the country respect child rights, including by:

(a) Providing a legislative framework that requires companies domiciled in Azerbaijan, to pay particular attention to respecting child rights, particularly those related to the extractive and cotton producing industries;

(b) Adopting measures to prevent and mitigate adverse human rights impacts in their operations in the country and abroad, whether by its supply chain or associates;

(c) Promoting the inclusion of child rights indicators and parameters for planning business and reporting on results, including specific assessments on the business' impacts on child rights;

(d) Ensuring that prior to the negotiation and conclusion of free trade agreements, human rights assessments, including child rights are conducted and measures adopted to prevent violations.

### **C. General principles (arts. 2, 3, 6 and 12 of the Convention)**

#### **Non-discrimination**

30. The Committee is deeply concerned about the discrimination frequently experienced by children in vulnerable situations, particularly children with disabilities, children without parental care as well as children in economically disadvantaged households.

**31. In accordance with article 2 of the Convention, the Committee reiterates its previous recommendation (CRC/C/AZE/CO/2, para. 25) to the State party to increase its efforts to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds against all vulnerable groups throughout the territory of the State party.**

### **Best interests of the child**

32. While noting that the State party's legislation does make reference to the best interests of the child, the Committee is concerned by the inadequate application of the principle of best interests within the State party. In the context of judicial proceedings, the Committee is concerned at the lack of capacity in understanding and representing the child's perspective and best interests among law professionals.

**33. The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.**

### **Right to life, survival and development**

34. The Committee is deeply concerned at the high rate of infant mortality in the State party, which is the fifth highest in Europe. Furthermore, the Committee is concerned that the definition of a live birth by the State party is not consistent with the internationally recognised World Health Organisation definition of live births.

**35. The Committee urges the State party to expeditiously strengthen its efforts to reduce infant mortality. In doing so, the State party is urged adopt a definition of live birth which corresponds with the World Health Organisation (WHO) definition<sup>1</sup>.**

### **Respect for the views of the child**

36. The Committee notes the positive steps taken by the State party to establish a Children's Parliament and introduce, on a limited scale, a pilot project on "Child-Friendly" schools which allow for child participation in school management. However, the Committee notes with concern that in the majority of schools, the opportunity for children to participate in decision-making affecting them, particularly in school management, remains limited. The Committee is further concerned that in judicial proceedings, the views of children are not taken into account, having regard to age and maturity.

**37. In the light of article 12 of the Convention and the Committee's general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party:**

**(a) Consider expanding the scope of its "Child-Friendly" schools project along with providing necessary human, technical and financial resource;**

**(b) Encourage and facilitate children expressing their views in all decisions affecting them, particularly in the context of school management and policies, and in judicial proceedings.**

<sup>1</sup> "Live birth refers to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy, which, after such separation, breathes or shows any other evidence of life - e.g. beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles - whether or not the umbilical cord has been cut or the placenta is attached. Each product of such a birth is considered live born." <http://www.who.int/healthinfo/statistics/indneonatalmortality/en/>

**D. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)****Birth Registration**

38. The Committee is concerned about the significant proportion of births which remain unregistered both among new-born infants as well as persons currently under the age of 18. The Committee is particularly concerned about the situation of children born to parents in situations of socio-economic marginalisation and/or living in remote regions as well as to mothers who have been subject to under-aged marriage and are consequently often not officially registered as married. Furthermore, it is concerned at the prevalence of corruption in the birth registration process and the resulting inadequacy and inconsistency in the provision of it in the State party, particularly in its rural and outlying territories.

**39. The Committee recommends that the State party undertake all necessary measures to ensure the availability of universal birth registration for all children regardless of the circumstance of birth and/or the child's parent(s) marital and/or migration status. It also recommends that the State party consider undertaking specific measures for facilitating the birth registration for children of under-aged mothers and/or those in rural areas. Furthermore, the Committee also recommends that the State party undertake specific measures, including legislative measures, to combat corruption among authorities responsible for the provision of birth certificates.**

**Freedom of thought, conscience and religion**

40. With due regard to both articles 14 and 28 of the Convention, the Committee urges the State party to undertake measures that facilitate the empowered and informed exercise of the girl child's freedom of religion while fulfilling her right to education. In doing so, the Committee encourages the State party to give due consideration to context-adapted and flexible alternatives to its school uniform policy which prohibits the wearing of headscarves.

**Protection of privacy**

41. The Committee is concerned at children's privacy being frequently insufficiently respected, particularly at the absence of privacy of personal effects and correspondence of children in alternative care and juvenile justice facilities.

**42. The Committee recommends the State party to take every necessary measure to safeguard the respect of children's privacy and in doing so facilitate the promotion of children as individuals and subjects of rights, including by ensuring that children living outside the family environment are guaranteed adequate privacy for their personal effects and correspondence.**

**Access to appropriate information**

43. While acknowledging the challenges and complexities of the State party's conflict with its neighboring State, the Committee is concerned about the violent material, including on the above mentioned conflict, and pornography that children are exposed to via the television, internet, mobile telephone and/or other media.

**44. The Committee strongly urges the State party to ensure that children are protected from inappropriately violent material, including in the context of its ongoing conflict with its neighboring State. In doing so, the Committee emphasizes the**



need to ensure that all information and media that children are exposed to is appropriate.

### **Corporal Punishment**

45. While noting that the State party has a draft Law on Protection of Children against All Forms of Corporal Punishment under consideration, the Committee is concerned that current legislation fails to explicitly prohibit corporal punishment in all contexts.

**46. The Committee reiterates its previous recommendations (CRC/C/AZE/CO/2 para. 45) and recommends that the State party introduce and fully implement legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. It also recommends that the State party conduct awareness-raising and public education campaigns promoting non-violent, participatory forms of child-rearing and education.**

### **Violence against children, including abuse and neglect**

47. The Committee notes as positive the recently enacted legislation on Domestic Violence, N 1058-IIIQ of June 2010. However, it remains concerned that with regards to child abuse, the legislation:

- (a) Does not adequately address the socio-cultural root causes of domestic violence and violence against children, including in alternative care and the raising of awareness on prevention among the general public;
- (b) Lacks measures for knowledge and capacity building on dealing with child abuse for professionals working with and/or for children;
- (c) Does not provide for the creation and operation of information systems required for effective referral and monitoring mechanisms.

**48. The Committee urges the State party to take all necessary legal and practical measures to strengthen and expand its protection of children from violence by:**

- (a) Undertaking public campaigns, including via the press, media and internet, to raise awareness on domestic violence and violence against children in alternative care and the corresponding channels for reporting such abuse as well as promote socio-cultural attitudes for its prevention;
- (b) Provide mandatory training on dealing with child abuse for all professionals working with or for children; and
- (c) Establish monitoring and referral mechanisms for child abuse, including by creating and operating information systems required for such mechanisms;

With reference to the United Nations Secretary-General's Study on violence against children (A/61/299) and the Committee's general comment no. 13 (2011) on the right of the child to freedom from all forms of violence the Committee further encourages the State party to:

- (d) Prioritize elimination of all forms of violence against children, including by ensuring implementation of the recommendations of the United Nations Study on violence against children, paying particular attention to gender;
- (e) Provide information concerning the implementation by the State party of the recommendations of the Study in the next periodic report, particularly those highlighted by the Special Representative of the Secretary General on Violence against children, namely:

- (i) The development in each State of a national comprehensive strategy to prevent and address all forms of violence against children;
- (ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and
- (iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.

**E. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

**Family environment**

49. While welcoming the State party establishing Family Assistance Centres under the State Committee on Family, Women and Children Affairs, the Committee remains concerned at the inadequacy of local services to support families and prevent the need for them to resort to having their children cared for outside the family environment.

**50. The Committee urges the State party to take all necessary efforts to further improve the quality and availability of local family support services, particularly for families in vulnerable and/or economically disadvantaged situations.**

**Children deprived of a family environment**

51. The Committee welcomes the State party's Master Plan on Transformation of State Children's institutions to provide for de-institutionalisation of children deprived of a family environment. However, the Committee remains concerned about the:

- (a) Majority of children placed in out-of-home care being subject to such placement due to socio-economic hardship, divorce, inadequate or lack of family support services and/or at the specific request of their parents;
- (b) Limited promotion and support of foster parents and kinship carers resulting in there being inadequate availability of such alternatives for children deprived of a family environment;
- (c) Inadequacy of measures undertaken by the State party's Commission on Minors' Affairs, and its residential care institutions to ensure support for children in preparation for the care system, after care services and reintegration into the family while considering the best interests of the child;
- (d) The increasing numbers of children being placed into residential schooling away from home and consequently being deprived of a family environment.

**52. The Committee urges the State party to ensure that the determining factors leading to children being deprived of a family environment are systematically researched and addressed, including by:**

- (a) Ensuring that children are not placed in care out of the family on the sole basis of socio-economic hardship, and strengthening the financial and social services provided for parents to care for their children;
- (b) When placement in out-of-family-care is needed, providing all parents requesting the placement of their child in such care with counseling and support prior to the consideration of the placement request;
- (c) Providing training, supervision and support to foster parents and encouraging placements of children in family-like kinship and foster care;

(d) Allocating all necessary human, technical and financial resources to ensure that children are adequately prepared for leaving the care system and subsequently provided with sufficient follow-up support, primarily for reintegration with their families;

(e) Evaluate the root causes for child placement in residential schooling away from home while reviewing the quality of education and care at these schools with a view to preventing such schooling unnecessarily hindering the right of the child to a family environment; and, providing for regular home visits for children in residential schools, to the greatest extent possible.

### **Adoption**

53. The Committee is concerned that domestic adoption for children deprived of a family environment is not promoted, developed or applied as an alternative to public care, even in situations where it is in the best interests of the child. In this context, the Committee is specifically concerned about:

(a) The low rates of domestic adoption in the State party, particularly for children with disabilities and those who are above five years of age;

(b) The severe limitations in taking into account the best interests of the child during adoption procedures, with the focus being frequently on the child being able to meet the needs and requirements of the prospective parents rather than with taking into full account the best interests of the child concerned;

(c) The inadequacy of support provided to adoptive parents in preparation for adoptions, during the process, as well as for follow-up to facilitate the adopted child's integration into his or her adoptive family;

(d) The absence of follow-up monitoring to ensure the well-being of the adopted child;

(e) The limited capacity of professionals working on child adoptions and the resulting frequent delays in concluding adoption procedures;

(f) There being no measures in place to ensure that children who are adopted are consistently informed of their status and provided with information on their biological parents.

54. The Committee recommends that the State party review its legislation and practices on adoption. In doing so the Committee highlights articles article 3 on the best interests of the child, article 5 on the rights and duties of parents and article 12 on the right of the child to express his/her opinion and recommends that the State party:

(a) Undertake measures to raise awareness on the Convention-compliant practice of adoption as an alternative to State care for children deprived of a family environment, particularly those with disabilities, or older than 5; it also recommends that the State party consider raising its age limit for children to be eligible for adoption;

(b) Ensure that the best interests of the child is the paramount consideration during adoption, in addition to having the child's view taken into account to the greatest extent possible, having due regard to the child's age and maturity;

(c) Ensure the provision of adequate social support and counselling for adoptive parents in preparation to the adoption and to help the integration of the adopted child into the adoptive family;

(d) Monitor and periodically review the implementation of policies and practices concerning the adoption procedure.

(e) Provide training, including on the Convention, for professionals working with adoptions to address the needs of children and apply prompt and effective procedures, taking into account the best interests of the child for selecting adoptive parents;

(f) Undertake legislative and other measures to ensure the preservation of information on the origin of adopted children, in particular information concerning the identity of the biological parents, as well as medical history, and ensure that children are informed about the fact of their adoption and have access to such information at the appropriate age and level of development.

**F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

**Children with disabilities**

55. The Committee welcomes the State party's Master Plan on Transformation of State Children's Institutions to provide for some schools which are currently special education institutions to be developed into inclusive education schools and the establishment of other pilot inclusive education schools. The Committee also notes the income supplement provided to families with children with disabilities. However, the Committee is seriously concerned at:

(a) The prevailing discrimination and stigmatisation that children with disabilities are subject to;

(b) The absence of a clear definition of disability in the State party, including with regard to learning, cognitive and mental disabilities, which is hindering the accurate identification of persons with disabilities and accompanying measures for addressing their needs;

(c) Current legislation allowing parents the option of relinquishing newly born infants and children to State care on the sole basis of him/her having a disability without taking into account the best interests of the child;

(d) The absence of a social model approach to persons with disabilities which is in accordance with the State party's obligations under the Convention on the Rights of Persons with Disabilities;

(e) The inadequacy of services provided to children with disabilities; and, the continued widespread limitations in the availability of inclusive education for children with disabilities, resulting in them frequently being precluded from attending school as well as hindering progress in social attitudes to persons with disabilities and exacerbating the stigmatisation that they frequently face.

**56. Highlighting its General Comment No. 9 on the rights of children with disabilities (CRC/C/GC/9, 2006), the Committee urges the State party to:**

(a) Undertake awareness-raising campaigns for eliminating discrimination against children with disabilities and consider enacting legislation explicitly prohibiting such discrimination;

(b) Establish a clear legislative definition of disability, including for learning, cognitive and mental disabilities, with the aim of being accurate in

identifying children with disabilities to effectively address their needs in a non-discriminatory manner;

(c) Prohibit the relinquishment of newly-born infants and/or children to State care on the sole basis of them having a disability, and complement this prohibition with the strengthening of support measures for parents to care for their children with disabilities, and where such placement in care is considered, that it is done with full regard to the principle of the best interests of the child;

(d) Adopt a social model approach which is in accordance with the Convention on the Rights of Persons with Disabilities, addressing attitudinal and environmental barriers that hinder the full and effective participation of children with disabilities in society on an equal basis, and train all professionals working with or for children with disabilities accordingly;

(e) Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;

(f) Ensure that children with disabilities are able to exercise their right to education and provide for their inclusion in the mainstream education system to the greatest extent possible.

#### **Health and health services**

57. The Committee is gravely concerned at the high child mortality rate, particularly among children in rural areas and economically marginalised situations in the State party. The Committee notes with concern that pervasive corruption among health-care professionals, with the widespread expectation of so-called informal payments, is obstructing access to healthcare. Furthermore, the Committee is concerned that notwithstanding the economic progress in the State party, the provision of primary health care remains inadequate.

58. The Committee urges the State party to allocate all necessary human, technical and financial resources to expeditiously improve the availability and quality of primary health care. In doing so, the State party is further urged to ensure that such health care services are equitably accessible, particularly to children living in rural areas and socio-economically challenged situations. The Committee also recommends that the State party undertake a comprehensive study on the specific causes of child mortality, taking its findings into consideration when implementing measures to reduce and prevent such mortality.

#### **Breastfeeding**

59. The Committee notes with concern that the prevalence of exclusive breastfeeding in the State party is very low. It is further concerned at the absence of information on the implementation and monitoring of the International Code of Marketing of Breastmilk Substitutes. Additionally, it notes that there are insufficient programmes for facilitating the early initiation of breastfeeding and maternity centres which operate in accordance with the Baby Friendly Hospital Initiative. Furthermore, the Committee is concerned the State party's maternity protection legislation excludes wide categories of working women and is only of 2 months duration, which, inter alia, hinders exclusive breastfeeding of new-born infants.

60. The Committee recommends that the State party:

- (a) Consider undertaking specific measures to improve exclusive breastfeeding rates including: policies, promotional activities, training of all health workers;
- (b) Raise awareness about the importance of breastfeeding, good nutrition and the health risks of artificial feeding for infants, including among the health care professionals.
- (c) Pay particular attention to the importance of early initiation of breastfeeding;
- (d) Establish a monitoring and reporting mechanisms to regulate the marketing, sale and distribution of breastmilk substitutes, and disseminate information on access to these mechanisms;
- (e) Strengthen the Baby Friendly Hospital Initiative, including by providing sufficient funds and monitoring the progress its implementation and success rates;
- (f) Continue to strengthen maternity legislation for working women, including by extending the duration of maternity leave provided and the scope of its coverage, as well as developing breastfeeding-friendly workplaces and child care centres;
- (g) Consider amending its maternity protection legislation to be in full compliance with the International Labour Organisation Convention No. 183, including by considering extending the post-birth period of the maternity leave to better enable mothers to exclusively breastfeed.

#### **Adolescent health**

61. While noting that the overall number of human immunodeficiency virus (HIV) infections in the State party is relatively low, the Committee is concerned at the increasing rates of infection, particularly among children in street situations. Furthermore, while welcoming the State party's Committee for Family, Women and Children's Affairs undertaking awareness-raising campaigns on suicide, its risk factors and prevention of it, the Committee notes with concern that the rates of adolescent suicide in the State party continue to increase. Additionally, while noting the efforts of the State party's Ministry of Internal Affairs to conduct inspections against the illicit sale of alcohol and tobacco to children, the Committee is concerned that there continues to be an increase in alcohol and tobacco consumption amongst children.

62. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health:

- (a) Intensify efforts to provide adolescent sex and reproductive health education, particularly with regards to HIV, as well as improve the accessibility of contraception;
- (b) Take more effective measures to address the continued high rate of suicide amongst adolescents, including the allocation of adequate human, technical and financial resources to conduct in-depth research on the root causes, support the development of youth and gender-sensitive and confidential counseling, provide care and rehabilitation facilities;
- (c) Collect comprehensive information on the consumption of alcohol and tobacco amongst children on a systematic basis, and undertake necessary measures for the effective enforcement of the prohibition of the sale of such products to children; the Committee also recommends that the State party consider prohibiting

the promotion of alcohol and tobacco products in media and/or information commonly accessed by children.

## **G. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

### **Education, including vocational training and guidance**

63. While appreciating the measures undertaken by the State party to make pre-school education mandatory from the age of five years, the Committee is concerned at:

(a) The inadequacy of financial resources allocated to education, particularly with regard to early childhood care and pre-school education, which constitute a low percentage of the State party's funding for education and which result in a large proportion of children below the age of five years not receiving early childhood care and/or pre-school education;

(b) The inadequacy of teacher training and the negative impact on the quality of education in the State party's schools;

(c) The salary levels for teachers in the State party being markedly low in relation to its available resources, hindering the best qualified candidates from considering becoming teachers and obstructing the eradication of corruption among teachers;

(d) The relatively high number of children, estimated to be about 8 to 10 per cent, who do not attend schools.

### **64. The Committee recommends that the State party:**

(a) Increase its human, technical and financial resources allocated to providing early childhood care and pre-school education with a view to improving its coverage and quality thus effectively implementing the State party's policy on universal pre-school education;

(b) Revise and strengthen the teacher training and qualification process, including by considering seeking assistance from UNESCO, UNICEF and international experts;

(c) Consider increasing the salaries of teachers with a view to, inter alia, improve the quality of education, attract the best qualified persons to the profession and contribute to the eradication of corruption among teachers; and, establish a reporting and sanctions mechanism that is readily and safely accessible to all child students to address cases of corruption in the education system;

(d) Examine and address the root causes leading to children not attending school and ensure that all children complete basic education.

## **H. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

### **Asylum-seeking and refugee children**

65. The Committee notes with appreciation the significant measures undertaken by the State party to improve the situation of internally displaced persons in its territory. However, the Committee is deeply concerned about the situation of asylum-seeking children. In this context, the Committee is concerned that:

(a) There is no mechanism to provide specific measures of protection and assistance to unaccompanied and separated children seeking asylum, and that there is no application of a consistent and child-sensitive interpretation of the refugee definition;

(b) The current refugee legislation does not explicitly provide for complementary forms of protection for persons, including children of Chechen origin, who are not formally recognized as refugees and unable to return to their country of origin due to unsafe conditions;

(c) The State party does not assume responsibility for legal protection and welfare of asylum-seekers in its territory as envisaged in the 1999 Law on the Status of Refugees. Specifically, asylum-seekers and their children in its territory do not have adequate and reliable access to public health, education, social services and an adequate standard of living due to existing legislative gaps and delays in implementation;

(d) The State party does not provide for the birth registration of infants in an asylum-seeking situation at birth, putting them at risk of statelessness;

(e) The State party's new draft Migration Code lacks provisions on complementary forms of protection and humanitarian status, which would constitute a significant obstacle to children in such situations accessing necessary social services;

**66. The Committee urges the State party to take urgent and necessary measures to adequately address the situation of asylum-seeking children and in doing so take every necessary measure to:**

(a) **Ensure that due consideration is given to asylum claims submitted by children, including under a Refugee Status Determination (RSD) procedure which takes into account the specific needs and rights of children and pays particular attention to unaccompanied and separated children seeking asylum; and ensure that such procedures are child-friendly and in compliance with international refugee and human rights law;**

(b) **Provide protection for children, including those of Chechen origin, not formally recognized as refugees and unable to return to their country of origin due to inter alia severe disturbances of the public order or armed conflict;**

(c) **Fully implement the 1999 Refugee Law and other related legislation and ensure adequate and sufficient access to food, shelter, health care and education for children in an asylum-seeking situation;**

(d) **Provide for all children born on the territory of Azerbaijan, regardless of status, to be registered at birth and receive all necessary documentation;**

(e) **Consider seeking legal expertise and comments in the drafting process, including from UNHCR, in order to assist the Government in seeking permanent solutions for refugee related issues.**

**In considering the above recommendations, the Committee draws the State party's attention to the Guidelines on Child Asylum Claims issued by UNHCR in December 2009.**

#### **Economic exploitation including child labour**

67. The Committee is concerned that there are significant numbers of children, including young children, involved in informal work in the tea, tobacco and cotton agricultural sectors of the State party, including in hazardous situations.

**68. Emphasising article 32 of the Convention, the Committee recommends that the State party establish mechanisms for compiling information on and monitoring the**



conditions of informal work with a view to establishing enforcement mechanisms to ensure the compliance with its legislation and obligations under International Labour Organisation Convention No. 182 on the Elimination of the Worst Forms of Child Labour. Furthermore, the Committee urges the State party to ensure that children are never employed in hazardous situations.

#### **Children in street situations**

69. The Committee is deeply concerned at the inadequacy of measures to address issues regarding children living in street situations and who are exposed to multiple forms of abuse and exploitation. It is further concerned at the severely limited availability of alternative care facilities and the absence of support mechanisms in place for children leaving such care, both of which are substantial factors leading to children being in a street situation. The Committee is further concerned at the heightened risk of such children being subject to abuse and exploitation and the inadequacy of social services for the protection and social reintegration of children in street situations, including to obtain clothing, accommodation, health care and education.

**70. The Committee recommends the State party, in cooperation with national and international non-governmental organizations, to:**

- (a) Undertake a systematic assessment of the conditions of children in street situations in order to obtain an accurate picture of its root causes and magnitude and to provide information to the Committee in the next report;**
- (b) Develop and implement, with the active involvement of the concerned children, a comprehensive policy which should address the root causes in order to prevent and reduce this occurrence;**
- (c) Provide children in street situations with necessary protection, adequate health-care services, education and other social services;**
- (d) Provide children with adequate information on how they can protect themselves, and on how they can lodge complaints against those who exploit them; and**
- (e) Support family reunification programmes, when it is in the best interests of the child.**

#### **Helplines**

71. The Committee notes with appreciation the numerous telephone helplines that the State party has established to address human rights issues, including child rights. However, the Committee is concerned that the large number of different helplines for specific areas may result in children not being able to readily access them, particularly for issues that may involve multiple State entities.

**72. With a view to improving the accessibility and child-friendliness of its telephone helplines, the Committee recommends that the State party consider establishing one consolidated helpline for children, and ensure that the personnel for this helpline be trained on the Convention and its Optional Protocols, and provide child-sensitive and friendly support. The Committee further recommends that the helpline be complemented by a regular and effective monitoring mechanism to ensure the quality of the support and advice provided.**

**Administration of juvenile justice**

73. While noting that the State party has undertaken the provision of some training programmes on juvenile justice for law enforcement professionals and begun attempting to enact legislation on juvenile justice, the Committee remains deeply concerned at the lack of significant improvement regarding the State party's juvenile justice system, despite its recommendations in 1997 (CRC/C/15/Add.77 para. 28, 49) and 2006 (CRC/C/AZE/CO/2 para. 67). It remains particularly concerned that:

- (a) The State party has not adopted legislation on juvenile justice that addresses the situation of children in conflict with the law in accordance with the provisions of the Convention;
- (b) There are no law enforcement personnel specialised in child-related investigations and on interrogation of children in conflict with the law;
- (c) There are offences for which persons below 18 are tried as adults;
- (d) Persons below 18 are often held in pretrial detention for long periods and are not always detained separately from adults, particularly with regard to female detainees;
- (e) Alternatives to the deprivation of liberty are not sufficiently considered and applied, and persons below 18 can be sentenced to detention for a period of up to 10 years;
- (f) The conditions of detention are often poor and inadequate, and overcrowding is frequently a serious problem;
- (g) Recovery, assistance and reintegration services for persons below 18 in conflict with the law are insufficient.

74. The Committee reiterates its previous recommendations and urges the State party to bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, para. 203-238). In this regard, the Committee recommends that the State party:

- (a) Consider enacting a Law on Juvenile Justice through an open consultative process which includes civil society and fully addresses the resource and technical needs for its operation; and, until the establishment of a juvenile justice system, ensure the training of all its legal, penitentiary and law enforcement professionals on the Convention;
- (b) Consider establishing a specialised police service for children, particularly with regards to training on child-sensitive investigations and interrogations;
- (c) Take all necessary measures to ensure that persons below 18 are only deprived of liberty as a last resort and for the shortest appropriate period of time, in particular by developing and implementing alternatives to custodial sentences, including the establishment of diversion centres and/or legal clinics for children in conflict with the law;
- (d) Ensure that all persons below 18, particularly females, in custody are separated from adults as required under article 72.1 of the Penal Enforcement Code;

(e) Take urgent steps to substantially improve the conditions of detention of persons below 18, and bring them into full conformity with international standards;

(f) Provide that persons below 18 deprived of liberty are given a comprehensive programme of educational activities (including physical education);

(g) Train professionals in the area of recovery and social reintegration of children and establish special units within the police for the handling of cases of all persons below 18 in conflict with the law;

(h) Seek technical assistance from the Inter-Agency Coordination Panel on Juvenile Justice and/or the United Nations Office on Drugs and Crime (UNODC), UNICEF and OHCHR among others.

#### **Protection of witnesses and victims of crimes**

75. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children who are victims and/or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that the State party take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).

### **I. Ratification of international human rights instruments**

76. The Committee encourages the State party, in order to further strengthen the fulfillment of children's rights, to accede to all core human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the International Convention for the Protection of All Persons from Enforced Disappearances.

### **J. Cooperation with regional bodies**

77. The Committee recommends that the State party cooperate with the Council of Europe for the implementation of the Convention, both in the State party and in other Council of Europe member States.

### **K. Follow-up and dissemination**

78. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Government, the Parliament, Regional Bodies and to other local Governments, when applicable, for appropriate consideration and further action.

79. The Committee further recommends that the combined third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and its implementation.

**L. Next report**

80. The Committee invites the State party to submit its combined fifth and sixth periodic report by 11 March 2018. The Committee draws attention to its Harmonized Treaty Specific Reporting Guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit their report in accordance with the reporting guidelines. Should a report exceeding the page limitations be submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.

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