



**Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings**

**Recommendation CP(2014)10
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Azerbaijan**

*adopted at the 14th meeting of the Committee of the Parties
on 7 July 2014*

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as “the Convention”), acting under the terms of Article 38(7) of the Convention;

Having regard to the purposes of the Convention to prevent and combat trafficking in human beings, while guaranteeing gender equality, protect the human rights of victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, ensure the effective investigation and prosecution of the offences related to trafficking in human beings, and promote international co-operation;

Bearing in mind the provisions of Article 36(1) of the Convention concerning the monitoring role of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the implementation of the Convention;

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Azerbaijan on 23 June 2010;

Having examined the Report concerning the implementation of the Convention by Azerbaijan, adopted by GRETA at its 19th meeting (17-21 March 2014) in the framework of the first evaluation round;

Having examined the comments of the Government of Azerbaijan on GRETA’s report, submitted on 17 May 2014;

Welcoming the measures to combat trafficking in human beings taken by the authorities of Azerbaijan, and in particular:

- the establishment of the National Co-ordinator on Trafficking in Human Beings, the Working Group on Combating Trafficking and specialised anti-trafficking structures within the police and the prosecution;
- the adoption and periodic updating of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the adoption of comprehensive national anti-trafficking action plans;
- the efforts made to prevent trafficking in human beings through awareness raising, education and training of relevant professionals;

- the development of a national referral mechanism for victims of trafficking in human beings and indicators for their identification;
- the setting up of the Assistance Centre for Victims of Trafficking.

Taking note of the areas where further action is required in order to improve the implementation of the Convention by Azerbaijan, in particular:

- strengthening action to prevent and combat trafficking for the purpose of labour exploitation, in particular in sectors at risk such as construction, agriculture and domestic work;
- developing the aspect of prevention through social and economic measures for groups vulnerable to human trafficking, securing the registration of all persons, as well as discouraging demand for services from trafficked persons;
- further improving the identification of victims of trafficking, in particular by strengthening the involvement of specialised NGOs and other frontline actors in victim identification, and improving the detection of victims of trafficking among children and irregular migrants;
- strengthening efforts to provide assistance to victims of trafficking and facilitate their reintegration into society, including by securing funding for assistance measures provided by NGOs;
- adopting further measures to facilitate victims' access to compensation;
- improving further the knowledge and sensitivity of investigators, prosecutors and judges about human trafficking and the rights of victims, with a view to ensuring that human trafficking cases are investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions;
- making full use of the measures available to protect victims, witnesses of trafficking and NGOs supporting victims to ensure that they are adequately protected from potential retaliation and intimidation.

1. Recommends that the Government of Azerbaijan implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Azerbaijan (see addendum);

2. Requests the Government of Azerbaijan to inform the Committee of the Parties of the measures taken to comply with this recommendation by 7 July 2016;

3. Invites the Government of Azerbaijan to continue the ongoing dialogue and co-operation with GRETA and to keep GRETA informed of the measures taken in response to its proposals.

Addendum

List of GRETA's proposals concerning the implementation of the Convention by Azerbaijan

Definition of "trafficking in human beings"

1. GRETA considers that the Azerbaijani authorities should continue to inform all law enforcement officials, prosecutors and judges about the fact that internal trafficking is covered by Article 144-1 of the Criminal Code.

Comprehensive approach and co-ordination

2. GRETA considers that the Azerbaijani authorities should acknowledge the phenomenon of THB for labour exploitation and adapt their policy and practical measures to the new situation in Azerbaijan.

3. GRETA urges the Azerbaijani authorities to take further steps to ensure that the national action to combat THB is comprehensive, and in particular to:

- increase co-ordination of the activities of public bodies and civil society involved in the implementation of anti-trafficking measures, both at the national and at regional level;
- further involve NGOs, trade unions and other members of civil society in the development and implementation of anti-trafficking policy, including evaluation of anti-trafficking efforts;
- reinforce the interagency and multi-disciplinary approach in designing and implementing prevention and assistance measures by involving more stakeholders with a social rather than a law-enforcement background;
- strengthen action to prevent and combat THB for the purpose of labour exploitation, in particular in sectors at risk such as construction, agriculture and domestic work.

4. Further, GRETA considers that the Azerbaijani authorities should introduce an independent evaluation of the implementation of the National Action Plan on Combating THB as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB. GRETA also invites the authorities to consider the establishment of an independent National Rapporteur or designate another independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

5. GRETA urges the Azerbaijani authorities to take further steps to improve the knowledge and sensitivity of relevant professionals, in particular police officers, prosecutors and judges, about the complex nature of THB and the rights of victims. Future training programmes should be designed for specific target groups with a view to improving the knowledge and skills of relevant professionals, which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers. Training programmes should be tailored to fit the specific role in combating THB of each group of professionals. Particular attention should be paid to THB for the purpose of labour exploitation.

Data collection and research

6. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Azerbaijani authorities should continue their efforts in developing and maintaining a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

7. GRETA considers that the Azerbaijani authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where research may shed more light on the extent of the problem of THB include trafficking for the purpose of labour exploitation, trafficking in children, trafficking for the purpose of the removal of organs and internal trafficking (i.e. within Azerbaijan).

International co-operation

8. GRETA considers that the Azerbaijani authorities should further develop international co-operation on criminal matters, in particular through the conclusion of agreements on parallel investigations and/or joint investigative teams concerning THB offences. Further, the Azerbaijani authorities should seek to remove existing difficulties in international co-operation with countries of destination of victims of trafficking.

Measures to raise awareness

9. While welcoming the awareness-raising initiatives taken or supported by the government, GRETA considers that the Azerbaijani authorities should design future actions in the area of raising awareness in the light of impact assessment of previous measures and on the basis of research. Awareness-raising campaigns, education in schools and training of relevant professionals should aim at promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking. Further, more information campaigns for migrants living in Azerbaijan and in particular migrant workers should be conducted to inform them about their rights and the danger of THB for labour and sexual exploitation.

10. GRETA also invites the Azerbaijani authorities to contribute to awareness-raising and other prevention activities in the main countries of origin of victims trafficked to Azerbaijan, in co-operation with these countries, in order to alert potential victims of THB-related risks.

Measures to discourage demand

11. GRETA urges the Azerbaijani authorities to strengthen their efforts to discourage demand for services from trafficked persons as regards all forms of exploitation, with a particular emphasis on labour exploitation, in partnership with the private sector and civil society.

12. Further, GRETA invites the Azerbaijani authorities to consider establishing as a criminal offence the use of services which are the object of exploitation, with the knowledge that the person is a victim of trafficking in human beings.

Social, economic and other initiatives for groups vulnerable to THB

13. GRETA urges the Azerbaijani authorities to ensure the registration of all children at birth and to provide persons who are stateless or living without legal documents in Azerbaijan with the appropriate documents, as well as to secure the registration of persons from vulnerable groups for social services, both as a prevention measure and in order to avoid re-trafficking.

14. Further, GRETA considers that the Azerbaijani authorities should:
- take further steps to identify persons and groups vulnerable to THB, and to address them through targeted social, economic and other initiatives;
 - increase their efforts to address the root causes of THB for sexual exploitation, such as stereotypes and prejudice against women, domestic violence and violence against women;
 - take measures to empower migrant workers who are already on the Azerbaijani territory by providing them with the relevant documents, informing them of their rights, and facilitating their access to legal redress in case of abuse of their rights.

Border measures to prevent THB and measures to enable legal migration

15. GRETA considers that the Azerbaijani authorities should make further efforts to:
- detect cases of THB and identify victims of trafficking in the context of border and migration-related controls;
 - provide employees of the State Migration Service, State Border Service and State Customs Service with training in order to increase their capacity to proactively detect cases of human trafficking and identify trafficked persons. Such training should underscore the difference between human trafficking and smuggling of migrants;
 - review the system for licensing of recruitment agencies.
16. Further, GRETA considers that the Azerbaijani authorities should continue their efforts to provide written information to foreign nationals planning to travel to Azerbaijan, in a language that they can understand, in order to alert them to the risks of THB, inform them of where they can go for help and advice, and provide them with information on their rights.

Identification of victims of trafficking in human beings

17. GRETA urges the Azerbaijani authorities to:
- ensure that the application of the Rules on indicators and the Rules on the National Referral Mechanism used for the identification of victims of trafficking is duly monitored and evaluated;
 - reinforce the National Referral Mechanism and the multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as medical staff;
 - guarantee that in practice identification is dissociated from the presumed victim's co-operation in the investigation;
 - increase efforts to proactively identify victims of THB for the purpose of labour exploitation in particular among foreign workers and in the sectors most at risk such as construction, agriculture and domestic work, by involving all relevant stakeholders such as labour inspectors and trade unions;
 - review the mandate of labour inspectors so that they can inspect other workplaces than those of registered companies (e.g. premises where domestic workers are employed) and effectively identify victims of THB;
 - improve the detection and identification of victims of trafficking among irregular migrants through a proactive approach which requires regular training on THB and the rights of victims for immigration, border and customs officers, including staff working in detention centre for migrants in an irregular situation;
 - improve the detection and identification of child victims of trafficking, including by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration;
 - increase efforts to proactively identify male victims and victims of internal THB (i.e. within Azerbaijan).

Assistance to victims

18. GRETA urges the Azerbaijani authorities to strengthen their efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that the needs of victims and possible victims of THB are met throughout Azerbaijan. Particular attention should be paid to ensuring emergency and safe accommodation for victims of THB who are not willing or able to co-operate with the law enforcement authorities and for possible victims of THB before their formal identification;
- ensure that assistance measures provided for in law are not made in practice dependent on the victims' willingness to co-operate with law enforcement agencies;
- provide the Assistance Centre for Victims of THB with all the necessary human and financial resources to fulfil its mission.

19. Further, GRETA considers that the Azerbaijani authorities should continue their efforts to facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with access to education, vocational training, and the labour market.

Recovery and reflection period

20. GRETA considers that the Azerbaijani authorities should take further steps to ensure that all relevant stakeholders are familiar with the recovery and reflection period, in particular the special police unit, prosecutors, judges, lawyers, labour inspectors, and staff of shelters.

21. Further, GRETA urges the Azerbaijani authorities to ensure that victims and possible victims of trafficking are systematically informed of the possibility of benefiting from a recovery and reflection period and are actually granted such a period.

Residence permits

22. GRETA considers that the Azerbaijani authorities should clarify the legislation concerning the possibility for victims of THB to obtain a temporary residence permit in Azerbaijan, including when they are not in a position to co-operate with the authorities.

Compensation and legal redress

23. GRETA urges the Azerbaijani authorities to provide information to all victims of trafficking concerning possibilities to obtain compensation and to ensure that they have effective access to compensation from the traffickers and/or the State, including by ensuring effective access to legal assistance. In this context, GRETA stresses the importance of ensuring the financing of the Assistance Fund.

Repatriation and return of victims

24. GRETA considers that the Azerbaijani authorities should continue to develop the institutional and procedural framework for the repatriation and return of victims of THB, with due regard to their rights, safety, dignity and protection. Particular attention should be paid to ensuring that appropriate risk assessment is carried out prior to the return in compliance with the state's obligations on *non-refoulement*, and that the return of child victims would not be against the best interests of the child.

Substantive criminal law

25. GRETA considers that the Azerbaijani authorities should examine the reasons why no legal entities have been prosecuted for trafficking-related acts to date and, in the light of their findings, take the necessary measures to ensure that the liability of legal entities can be acted upon in practice.

Non-punishment of victims of trafficking in human beings

26. GRETA considers that the Azerbaijani authorities should assess the implementation by the judicial and other relevant authorities of Article 26 of the Convention on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so.

Investigation, prosecution and procedural law

27. GRETA urges the Azerbaijani authorities to strengthen their efforts to ensure that crimes related to THB for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

28. Further, GRETA urges the Azerbaijani authorities to continue improving the specialisation and training of judges, prosecutors, police investigators and lawyers regarding the seriousness of THB and the severe impact of exploitation on victims and the need to respect the rights of victims of THB.

29. GRETA invites the Azerbaijani authorities to issue guidelines for prosecutors and judges dealing specifically with THB and explaining the phenomenon of THB, in particular for labour exploitation, the rights of the victims and the non-punishment provision.

Protection of victims and witnesses

30. GRETA urges the Azerbaijani authorities to make full use of all measures available to protect victims of THB, witnesses and NGOs supporting victims and to prevent retaliation and intimidation during investigation as well as during and after the court proceedings. Particular attention should be paid to the current system of protection of child victims and witnesses of THB, in particular by improving the procedures for interviewing them during the investigation and court hearings.