



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

Recommendation CP(2018)24 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan

*adopted at the 23rd meeting of the Committee of the Parties
on 9 November 2018*

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;

Recalling Committee of the Parties' Recommendation CP(2013)10 of 7 July 2014 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan and the report of the Azerbaijan authorities on measures taken to comply with this recommendation, submitted on 28 June 2016;

Having examined the second report concerning the implementation of the Convention by Azerbaijan adopted by GRETA at its 32nd meeting (9-13 July 2018), as well as the comments of the Azerbaijan Government received on 13 October 2018;

1. Welcomes the progress made since the first round of evaluation in the following areas:
 - the further development of the legislative framework for combating trafficking in human beings (THB), through amendments to the Criminal Procedure Code;
 - the adoption of a new National Action Plan on Combating Trafficking in Human Beings, covering the period 2014-2018, and paying particular attention to preventing child trafficking;
 - the updating of the Rules on the National Referral Mechanism and the Rules (Indicators) on the Identification of Victims of Trafficking in Human Beings;
 - the updating of the Programme on Elimination of Social Problems Creating Conditions for Human Trafficking, which pays particular attention to persons and groups vulnerable to human trafficking, such as children deprived of parental care, young persons leaving institutional care, and unemployed or homeless persons.

- the efforts made to provide training on human trafficking to relevant professionals, with the involvement and funding of international organisations;
- the practical application of Article 17.7 of the Law on Combating Trafficking in Human Beings, which provides that victims of THB shall be exempt from civil, administrative and criminal penalties for offences committed under coercion or intimidation.

2. Recommends that the authorities of Azerbaijan take measures to address the following issues for immediate action identified in GRETA's report:

- develop a comprehensive statistical system on trafficking in human beings by compiling reliable statistical data on presumed and formally identified victims of THB from all main actors, including specialised NGOs and international organisations, as well as on the investigation, prosecution and adjudication of human trafficking cases, allowing disaggregation concerning sex, age, type of exploitation, and country of origin and/or destination. 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;
- take measures to prevent trafficking for the purpose of labour exploitation by:
 - raising awareness amongst the general public and migrant workers regarding the risks of THB for the purpose of labour exploitation;
 - training labour inspectors as well as law enforcement officers, prosecutors and judges on combating THB for the purpose of labour exploitation, identifying victims of trafficking for labour exploitation, including among irregular migrants, and the rights of victims;
 - reintroducing work place inspections by labour inspectors and strengthening the mandate of labour inspectors with a view to preventing THB;
 - regulating and monitoring the functioning of recruitment and temporary work agencies to prevent THB;
 - reviewing the regulatory system concerning migrants working as domestic workers and ensuring that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;
- take the following additional measures to prevent trafficking in children:
 - improve the protection of children in vulnerable situations and paying particular attention to children in street situations, children from rural areas at risk of child labour and, children placed in or leaving child care institutions;
 - strengthen the prevention of child, early and forced marriages;
 - strengthen the role and capacity of the child protection systems to prevent trafficking in children and alert other relevant stakeholders to possible cases of trafficking;
 - ensure that all children are registered at birth;
- ensure that victims of THB are identified as such, in compliance with Article 10 of the Convention, and in particular :

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- 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 labour inspectors, social workers, educational staff and medical staff, in victim identification;
 - guarantee that, in practice, identification is dissociated from the presumed victim's co-operation in the investigation;
 - ensure that the application of the Rules (Indicators) on Identification of Victims of THB and the Rules on the National Referral Mechanism is duly monitored and evaluated;
 - increase efforts to proactively identify victims of THB for the purpose of labour exploitation in the sectors most at risk, such as construction, agriculture and domestic work, by involving labour inspectors and trade unions;
 - review the mandate of labour inspectorate 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 and asylum seekers through a proactive approach which requires regular training on THB and the rights of victims for immigration and asylum officials, including staff working in the detention centre for irregular migrants, and by allowing specialised NGOs to access facilities where such persons are held;
- improve the identification and referral to assistance of child victims of trafficking, including by:
 - setting up a specific identification mechanism based on inter-agency co-operation and accompanied by standard operation procedures, 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;
 - ensuring that relevant actors (police, child protection authorities, social workers, health care staff, teachers, NGOs,) are adequately trained and provided with guidance for the identification of child victims so that they can take a proactive approach and increase their outreach work to identify child victims of THB;
 - ensure effective access to compensation for victims of THB, including by:
 - reviewing current criminal and civil procedures regarding compensation with a view to improving their effectiveness and making State compensation effectively accessible to victims of THB;
 - ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation in criminal and civil proceedings, and the procedures to be followed;
 - enabling victims of THB to exercise their right to compensation by guaranteeing their effective access to legal aid, building the capacity of legal practitioners to support victims to claim compensation and including compensation in existing training programmes for law enforcement officials and the judiciary;

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- removing the restrictions as regards which lawyers can provide legal assistance to victims of THB;
- strengthen efforts to ensure that crimes related to THB for all types of exploitation are proactively investigated, prosecuted promptly and effectively, and lead to proportionate and dissuasive sanctions, in particular by:
 - stepping up proactive intelligence-based investigations and engaging in international co-operation to uncover trafficking networks;
 - making effective use of special investigation techniques and financial investigations;
 - providing training and encouraging prosecutors and judges to develop expertise in dealing with cases of THB;
 - strengthening efforts to investigate and prosecute cases of THB for the purpose of labour exploitation, including of children;
 - increasing the co-operation between labour inspectors and the police;
 - systematically carrying out financial investigations in human trafficking cases with a view to seizing and confiscating criminal assets;
 - 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;
 - build strategic partnerships with civil society actors and the private sector with the aim of achieving the purpose of the Convention, and ensure that NGOs engaged in anti-trafficking action have effective access to adequate funding and are enabled to participate in the prevention of THB and victim protection and assistance, as envisaged in Articles 5, 12 and 27 of the Convention.
3. Requests the Government of Azerbaijan to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by **9 November 2019**.
4. Recommends that the Government of Azerbaijan take measures to implement the further conclusions of GRETA's second evaluation report.
5. Invites the Government of Azerbaijan to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.