



# EVALUATION REPORT

## AZERBAIJAN

### Third evaluation round

Access to justice  
and effective remedies  
for victims of trafficking  
in human beings

#### **GRETA**

Group of Experts  
on Action against  
Trafficking  
in Human Beings

GRETA(2023)06  
Published on 6 June 2023



COUNCIL OF EUROPE



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## Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims’ access to justice and effective remedies, which is essential for victims’ rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim’s stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA’s previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA’s findings and analysis of these topics are presented in a separate chapter.

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## Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Azerbaijan has continued to develop the legislative, institutional and policy framework for action against trafficking in human beings. The legislative changes concerned in particular the right of foreign victims of trafficking to remain in Azerbaijan and work, victims' access to psychological assistance and the exemption of Azerbaijani victims from state duty for the issuance of a certificate enabling them to return to Azerbaijan. A new National Action Plan on Combating Trafficking in Human Beings was adopted for the period 2020-2024. Further, in April 2022, amendments were made to the duties and decision-taking procedures of the Inter-agency Commission implementing the National Referral Mechanism for victims of trafficking.

Azerbaijan remains predominantly a country of origin of victims of trafficking in human beings, but is also to some extent a country of destination. The number of victims identified in 2018-2022 was 472, of whom 94% were women trafficked for the purpose of sexual exploitation. Only nine children were identified as victims of trafficking. The vast majority of the victims were Azerbaijani citizens exploited abroad, primarily in neighbouring countries (Türkiye, the Russian Federation, Iran). There were four foreign victims identified (from Tajikistan, Uzbekistan, Nigeria and the Russian Federation).

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

In Azerbaijan, the legal representation of victims of trafficking in criminal proceedings is in practice in the hands of one single lawyer, who receives a monthly payment to this end, in accordance with an agreement concluded between the Ministry of Internal Affairs and the Bar Association. GRETA urges the Azerbaijani authorities to review the legislation in order to guarantee access to justice for victims of human trafficking by ensuring that they have access to a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking.

Furthermore, GRETA considers that the Azerbaijani authorities should take further steps to strengthen effective access to the labour market for victims of human trafficking and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships.

No victims of trafficking have been awarded compensation by criminal or civil courts, which could be attributed to failure to inform victims of the right to seek compensation and to ensure that they are provided with legal aid, as well as failure to carry out effective financial investigations in order to identify and seize proceeds of crime. Further, the law imposes advance payment of state fees for filing a compensation claim in criminal or civil proceedings without any possibilities for victims of human trafficking to apply for an exemption. Considering the major difficulties experienced by victims of trafficking to receive compensation, GRETA urges the Azerbaijani authorities to adopt measures to guarantee effective access to compensation for victims of trafficking, including by ensuring that the collection of evidence about the harm the victim has suffered is part of the criminal investigations, by ensuring that state compensation is effectively accessible to victims of human trafficking, and by further strengthening awareness on compensation among lawyers, prosecutors and judges.

GRETA welcomes the increase in the number of sentences issued in human trafficking cases and the decrease in the number of suspended sentences. However, it urges the authorities to strengthen efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation, including by increasing co-operation between labour inspectors and the police, and to systematically carry out financial investigations in human trafficking cases with a view to seizing and confiscating criminal assets.

Azerbaijani legislation contains a specific provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. However, there have reportedly been cases where victims of trafficking were fined for prostitution, and foreign migrant workers displaying indicators of trafficking were deported without being screened. GRETA considers that the Azerbaijani authorities should continue strengthening their efforts to ensure compliance with the non-punishment provision, by raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment principle to all offences which victims of trafficking were compelled to commit, including administrative and immigration-related offences.

Azerbaijani legislation provides for a number of protection measures that could be applied to victims and witnesses of human trafficking. However, GRETA was informed that victims of human trafficking are usually interviewed in the presence of defendants in the courtroom. GRETA urges the Azerbaijani authorities to make full use of the measures available to protect victims and witnesses of trafficking in order to prevent retaliation or intimidation by the perpetrators during the investigation and during and after the court proceedings.

The report examines progress made on the implementation of previous GRETA recommendations on selected topics. Noting that limited progress has been achieved since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA once again urges the Azerbaijani authorities to reintroduce workplace inspections by labour inspectors, to review their mandate to cover non-registered companies, and to ensure that adequate human and financial resources are made available to them to fulfil their mandate. The authorities should also review the regulatory framework for the employment of migrant workers to reduce their vulnerability to human trafficking, exploitation and abuse, and regulate and monitor the functioning of recruitment and temporary work agencies.

While welcoming the steps taken to improve the detection of human trafficking victims, GRETA notes with concern the lack of proactive identification efforts in Azerbaijan. The vast majority of the identified victims were exploited abroad. Moreover, GRETA considers that the efforts made to identify trafficking victims among irregular migrants and asylum seekers are inadequate. GRETA therefore calls on the Azerbaijani authorities to further improve the identification of victims of human trafficking, including by reinforcing the multi-agency involvement in victim identification and by increasing efforts to proactively identify victims of internal trafficking, in particular among migrant workers, irregular migrants and asylum seekers.

Furthermore, GRETA considers that the Azerbaijani authorities should strengthen their efforts to ensure that victims of trafficking receive support and assistance for as long as necessary in order to facilitate their reintegration and recovery. The authorities should ensure that assistance measures, including accommodation in the state shelter for victims of trafficking, are not made dependent on the victims' willingness to co-operate with the law enforcement authorities.

Noting the low number of child victims of human trafficking and the continuing lack of capacity of social services centres to protect children exposed to the risk of human trafficking, GRETA urges the Azerbaijani authorities to step up their efforts to prevent and combat the trafficking of children, identify child victims of trafficking, and provide appropriate assistance to them.

Finally, GRETA is deeply concerned that the restrictive legislation regulating the activities and funding of NGOs in Azerbaijan may unduly impede their ability to engage in preventing human trafficking, as well as detecting and assisting victims of human trafficking. Consequently, GRETA once again urges the Azerbaijani authorities to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention, and to ensure that NGOs engaged in anti-trafficking action have effective access to registration and adequate funding, including from foreign donors, and are enabled to participate in the prevention of human trafficking and victim protection and assistance.

## I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Azerbaijan on 1 October 2010. GRETA’s first evaluation report<sup>1</sup> was published on 23 May 2014, and the second evaluation report<sup>2</sup> on 23 November 2018.

2. On the basis of GRETA’s second report, on 9 November 2018 the Committee of the Parties to the Convention adopted a recommendation to the Azerbaijani authorities, requesting them to inform the Committee of measures taken to comply with the recommendation within a one-year period. The report submitted by the Azerbaijani authorities was considered at the 26th meeting of the Committee of the Parties (12 June 2020) and was made public.<sup>3</sup>

3. On 6 October 2021, GRETA launched the third round of evaluation of the Convention in respect of Azerbaijan by sending the questionnaire for this round to the Azerbaijani authorities. The deadline for submitting the reply to the questionnaire was 4 February 2022 and the authorities’ reply was received on 10 February 2022.<sup>4</sup>

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Azerbaijani authorities, the above-mentioned report submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to Azerbaijan took place from 5 to 9 September 2022 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Ia Dadunashvili, member of GRETA;
- Mr Georgios Vanikiotis, member of GRETA;
- Mr Mesut Bedirhanoglu, Administrator in the Secretariat of the Convention;
- Ms Parvine Ghadami, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation held consultations with Mr Azimov Seyfulla Sattar oglu, First Deputy Minister of Internal Affairs and National Co-ordinator on Combating Trafficking in Human Beings, as well as with officials from the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Labour and Social Protection, the Ministry of Health, the Ministry of Digital Development and Transport, the Ministry of Culture, the Ministry of Youth and Sport, the Ministry of Education, and the Ministry of Foreign Affairs. Meetings were also held with officials from the State Migration Service, the State Security Service, the State Border Service, the State Committee for Family, Women and Children’s Affairs, the Commission on Protection of Affairs and Rights of Children, the Guardianship and Trusteeship Body, the State Tourism Agency, the Agency for State Support to Non-Governmental Organisations under the Auspices of the President of the Republic of Azerbaijan, as well as with prosecutors from the Prosecutor General’s Office and judges from regional Courts for Serious Crimes. Furthermore, the GRETA delegation met representatives of the Office of the Commissioner for Human Rights (Ombudsperson) and members of the Azerbaijani Parliament’s Committees on Human Rights and on Legal Policy and State-building.

6. In addition to holding meetings in Baku, the GRETA delegation travelled to Ganja where it held meetings with relevant officials from the regions of Ganja and Sheki, including police officers, prosecutors, judges, labour inspectors and representatives of the State Employment Agency.

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<sup>1</sup> <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630ceb>

<sup>2</sup> <https://rm.coe.int/greta-2018-17-fgr-aze-en/16808f11a5>

<sup>3</sup> <https://rm.coe.int/cp-2019-01-azerbaijan/16809eb4f7>

<sup>4</sup> <https://rm.coe.int/annex-2-to-the-reply-from-azerbaijan-to-the-questionnaire-for-the-eval/1680a62bfb>

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7. In the course of the visit, the GRETA delegation visited the State shelter for victims of trafficking in human beings in Baku, two shelters for women victims of violence (in Baku and Ganja), a shelter for vulnerable children in Baku, and a centre for irregular migrants in Baku.
8. Separate meetings were organised with representatives of non-governmental organisations (NGOs), lawyers and victims of trafficking in human beings. The GRETA delegation also met representatives of the International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the United Nations International Children's Emergency Fund (UNICEF), the European Union Delegation in Baku, and the United States Agency for International Development (USAID).
9. The list of national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
10. GRETA wishes to place on record the co-operation provided in the preparation and conduct of the visit by Mr Samir Garayev, Head of Division of the Main Department on Combating Human Trafficking of the Ministry of Internal Affairs and contact person appointed by the authorities to liaise with GRETA.
11. The draft version of the present report was approved by GRETA at its 46th meeting (14-18 November 2022) and was submitted to the Azerbaijani authorities for comments. The authorities' comments were received on 9 January 2023 and were taken into account by GRETA when adopting the final report at its 47th meeting (27-31 March 2023). The report covers the situation up to 31 March 2023; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.



## **II. Overview of the current situation and current trends in the area of trafficking in human beings in Azerbaijan**

12. Azerbaijan remains primarily a country of origin of victims of trafficking in human beings (THB), but is also to some extent a country of destination. The statistics on formally identified victims of THB registered by the Ministry of Internal Affairs show an increase compared to the period covered by GRETA's second report: 98 victims in 2018, 91 in 2019, 94 in 2020, 95 in 2021 and 94 in 2022.<sup>5</sup> About 94% of the identified victims were women trafficked for the purpose of sexual exploitation. The male victims were trafficked for the purpose of labour exploitation. Only nine children (two boys and seven girls) were identified as victims of THB. The vast majority of the victims were Azerbaijani citizens exploited abroad, primarily in neighbouring countries (77% in Türkiye, 8% in the Russian Federation and 4% in the Islamic Republic of Iran), but also in Qatar and the United Arab Emirates. The authorities identified as victims of THB only four foreign nationals exploited in Azerbaijan (from Tajikistan, Uzbekistan, Nigeria and the Russian Federation). As for internal trafficking, one Azerbaijani victim was identified in 2018, three in 2019, one in 2021 and 10 in 2022. In addition to the formally identified victims of THB, there were 11 presumed victims of THB in 2018, 6 in 2019, 16 in 2020, 8 in 2021 and 8 in the first nine months of 2022.<sup>6</sup>

13. GRETA notes that the scale of human trafficking in Azerbaijan is probably higher than the above-mentioned figures of formally identified victims suggest, due to the lack of proactive efforts to detect foreign victims and victims of internal trafficking (see paragraphs 97 and 161). No victims of THB have been identified among asylum seekers or refugees.<sup>7</sup>

## **III. Developments in the legal, institutional and policy framework for action against trafficking in human beings**

14. Since GRETA's second report on Azerbaijan, the legislative framework related to action against THB has evolved. The Law on Psychological Assistance of 7 December 2018 provided for the right of victims of trafficking to receive free psychological assistance. Moreover, in June 2019, several provisions were added to the Migration Code, clarifying the conditions under which foreign and stateless victims of THB can stay in Azerbaijan, and releasing them from the obligation to obtain a work permit.

15. A new provision was also introduced in Article 1 of the Law on Youth Policy in March 2019 in order to include young persons who are victims of THB (up to the age of 28) into the list of young persons considered at risk.

16. Further, amendments were made to the Law on State Duty in May 2020, exempting Azerbaijani citizens who are victims of THB from the obligation to pay a state fee for issuance of a return certificate, which is required for persons who do not have a valid passport to return to Azerbaijan.

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<sup>5</sup> As noted in paragraph 12 of GRETA's second report on Azerbaijan, 54 victims of THB were identified in 2014, 63 in 2015, 70 in 2016, and 71 in 2017. About 95% of them were women trafficked for the purpose of sexual exploitation. All male victims were trafficked for the purpose of labour exploitation. Only two children were identified as victims of THB.

<sup>6</sup> In Azerbaijan, a presumed victim of THB is a person who has been identified by the police unit of the Main Department on Combating Trafficking in Human Beings of the Ministry of Internal Affairs, but who has decided not to co-operate in the criminal proceedings or no criminal investigation was launched into the alleged THB case. A potential victim of THB is a person who was detected by other agencies, but refused to have his/her case referred to the police unit of the Main Department on Combating Trafficking in Human Beings.

<sup>7</sup> As of 31 December 2021, Azerbaijan hosted 1,694 refugees (mostly Afghans and Chechens) and 58 asylum seekers (<https://www.unhcr.org/azerbaijan.html>). As the 1999 Law on Refugees and Internally Displaced Persons does not contain provisions for complementary protection, applications of refugees fleeing conflict and generalised violence (including from Syria and Ukraine) are routinely rejected. 104 persons applied for refugee status to the State Migration Service in the first half of 2022, of whom none was recognised as a refugee, 19 persons applied in 2021, of whom three were recognised as refugees, and 93 persons applied in 2020, of whom one was recognised as a refugee. Although the closure of Azerbaijan's land borders since March 2020 has drastically limited the arrival of migrants, it is still possible to lodge an asylum application at the border.

17. Furthermore, Decree No. 387 of 10 December 2018 of the President of the Republic of Azerbaijan on Ensuring Continuous and Effective Activities of the Social Service Agency provides for the social rehabilitation of victims of THB by the Sustainable and Operative Social Security Agency.

18. The institutional framework related to action against THB remains mostly unchanged. The National Co-ordinator on Combating THB, who is the First Deputy Minister of Internal Affairs, is supported by the Working Group on Combating THB, composed of representatives of relevant ministries. NGOs participate in the Working Group with the status of observers. The National Co-ordinator submits an annual report on combating THB in Azerbaijan to the President of the Republic of Azerbaijan, the Parliament and the Ombudsperson.<sup>8</sup>

19. The Inter-agency Commission implementing the National Referral Mechanism (NRM) for victims of THB comprises representatives of the Ministries of Internal Affairs, Justice, Health, Education, Foreign Affairs, Labour and Social Protection, Youth and Sport, and Culture, as well as the Prosecutor General's Office, the State Customs Committee, the State Committee for Family, Women and Children's Affairs, the State Security Service, the State Border Service, the State Migration Service, and the State Tourism Agency.<sup>9</sup> Pursuant to Decision No. 174 of 26 April 2022 of the Cabinet of Ministers, the Rules on the NRM were amended, the duties and decision-taking procedure of the Commission were defined in detail, and provision was made for the inclusion of specialised NGOs in the composition of the Inter-agency Commission. The amendments also authorised the representative offices of international organisations specialised in the field of combating THB to be involved in the work of the Inter-agency Commission. According to the Rules on the NRM, the Inter-agency Commission should meet at least once a year under the direction of the National Co-ordinator. Due to the COVID-19 pandemic, there were no physical meetings of the Inter-agency Commission in 2020-2021, but online discussions were held among some members of the Commission. In their comments on GRETA's draft report, the Azerbaijani authorities indicated that in January 2023, draft rules on the selection of NGOs to be included in the composition of the Inter-agency Commission were submitted to the Cabinet of Ministers for adoption. Due to the fact that no NGOs have yet been selected, the Inter-agency Commission has not met since the amendment of the Rules on the NRM in April 2022. **GRETA welcomes Decision No. 174 of 26 April 2022 of the Cabinet of Ministers and invites the Azerbaijani authorities to finalise the selection process of NGOs without further delay.**

20. According to the Azerbaijani authorities, since the National Co-ordinator and bodies operating under it monitor state institutions' anti-trafficking actions, there is no need to establish a National Rapporteur on THB. As noted in GRETA's second report on Azerbaijan, the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **Reiterating its recommendation from the second evaluation report, GRETA considers that the Azerbaijani authorities should re-examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

<sup>8</sup> The reports of the National Co-ordinator on combating THB are available in English at <https://www.insanalveri.gov.az/?/en/menu/17/>

<sup>9</sup> Article 2.2. of the Rules on the NRM for victims of trafficking in human beings.

21. Upon request of the Main Department on Combating Trafficking in Human Beings of the Ministry of Internal Affairs (hereinafter: Anti-Trafficking Department), in January 2018 the International Centre for Migration Policy Development (ICMPD) prepared a report<sup>10</sup> analysing the third National Action Plan (NAP) on Combating THB for the period 2014-2018 and making suggestions for the development of the fourth NAP. The report concluded that the content of the NAP generally complied with relevant international standards, but made suggestions to improve the structure and the formulation of strategic goals, objectives and activities. In particular, it suggested having a National Anti-trafficking Strategy on the basis of which a National Action Plan is drafted. Further, it recommended that the next NAP include activities related to the identification of THB victims, data collection, victim support during the reflection period and court proceedings, support specifically for foreign victims of trafficking, as well as evaluation indicators and a budget for each activity.

22. The fourth NAP on Combating Trafficking in Human Beings for the period 2020-2024, prepared in consultation with relevant NGOs and international organisations, was approved by Presidential Decree No. 2173 of 22 July 2020.<sup>11</sup> It consists of a chapter on the purpose and main principles of the implementation of the NAP, a chapter on the funding of the implementation of the NAP, and a chapter titled "Activity Plan" providing a description of the 69 activities grouped under nine sections: 1) improvement of the legal framework and institutional mechanisms; 2) prevention; 3) prosecution; 4) social rehabilitation and protection of victims of human trafficking; 5) assistance and protection of child victims of human trafficking; 6) development of co-operation with other states, NGOs, international organisations and the private sector; 7) training; 8) awareness raising; and 9) co-ordination of the actors involved in the implementation of the NAP, support and resources mobilised in the fight against human trafficking.

23. GRETA notes that the current NAP does not follow many of the recommendations made in the above-mentioned ICMPD report. By way of example, while each activity is assigned an executive body and implementation timeframe, there is no specific budget. The implementation of the measures specified in the NAP are to be financed by funds allocated from the state budget to each responsible ministry or agency, extra-budgetary funds, grants and "other sources not prohibited by law". According to the Azerbaijani authorities, it is not realistic to determine a specific budget for the implementation of anti-trafficking activities because it is not possible to predict the amount of funds needed for the implementation of the NAP and the amount of extra-budgetary funds to be received. GRETA notes that the NAP does not include evaluation indicators, nor does it foresee any specific measures to improve the detection of, and assistance to, foreign victims of trafficking. The monitoring of the implementation of the NAP is carried out by the Department of State Control under the Presidential Administration which can instruct the responsible state bodies to implement actions left unimplemented at the end of the period covered by the NAP.

24. **GRETA considers that the Azerbaijani authorities should allocate appropriate funds in the state budget to action against THB, and conduct an independent evaluation of the implementation of the National Action Plan on Combating THB upon its expiry, as a tool for assessing the impact of the activities and for planning the next National Action Plan.**

<sup>10</sup> The report is available in English at: [ICMPD\\_Report\\_on\\_the\\_National\\_Action\\_Plan\\_2014-2018.pdf](#).

<sup>11</sup> Available in Azerbaijani at: <https://e-qanun.az/framework/45470>

## IV. Access to justice and effective remedies for victims of human trafficking

### 1. Introduction

25. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right of access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

26. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.<sup>12</sup>

27. According to the *Basic principles on the right to an effective remedy for victims of trafficking in persons*,<sup>13</sup> the right to an effective remedy is considered to include restitution,<sup>14</sup> compensation,<sup>15</sup> rehabilitation,<sup>16</sup> satisfaction<sup>17</sup> and guarantees of non-repetition.<sup>18</sup> All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,<sup>19</sup> and the Council of Europe Committee of Ministers

<sup>12</sup> *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

<sup>13</sup> UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 6 August 2014, A/69/269, available at: <https://undocs.org/A/69/269>

<sup>14</sup> Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

<sup>15</sup> Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, childcare or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

<sup>16</sup> Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

<sup>17</sup> Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

<sup>18</sup> Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

<sup>19</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: [https://www.unicef-irc.org/portfolios/documents/472\\_un-declaration-crime.htm](https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm)

Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime,<sup>20</sup> which outline the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.

28. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to them. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

29. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.<sup>21</sup>

30. Civil society, such as NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.<sup>22</sup> In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons and Justice at Last - European Action for Compensation of Victims of Crime,<sup>23</sup> which aim to enhance access to compensation for trafficked persons.

31. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.<sup>24</sup> The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.<sup>25</sup> States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

32. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

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<sup>20</sup> Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime, available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680aa8263](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680aa8263)

<sup>21</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8.

<sup>22</sup> OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

<sup>23</sup> <http://lastradainternational.org/about-lsi/projects/justice-at-last>

<sup>24</sup> United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

<sup>25</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

## 2. Right to information (Articles 12 and 15)

33. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to escape their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

34. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.<sup>26</sup>

35. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.<sup>27</sup>

36. In Azerbaijan, according to Article 4 of the "Rules of transfer of human trafficking crimes to a special police unit for combating trafficking in human beings", any state authority which detects persons who may be victims of THB must inform them of their rights and subsequent procedural actions. The same information should be given to victims during the identification interview conducted by the Anti-Trafficking Department.<sup>28</sup> Potential victims are given a consent form, available in Azerbaijani, English, Russian and Uzbek, containing the list of the rights of victims of THB (namely, safe and free shelter, free legal assistance, free medical assistance, psychological counselling, confidentiality and anonymity, compensation, a monthly allowance, and not being punished for offences committed under coercion or intimidation while being a victim of THB). In addition, persons who decide to co-operate with the investigation authorities have the right to use a pseudonym, request closed court proceedings, enjoy protection measures, including the use of a videotaped statement and testifying through videoconference. In the form, the following additional rights are listed for foreign victims: a reflection and recovery period, non-expulsion until the completion of the criminal proceedings provided that the person continues to co-operate with the investigation authorities, access to a residence permit, and a safe return to the home country. If the form is not available in a language spoken by the victim, the victim is verbally informed through an interpreter contracted by the Anti-Trafficking Department. GRETA was informed that the interpretation company which is used is instructed on the necessity to protect the confidentiality of interviews and victims' personal data, and to take into account their vulnerability.

37. As regards victims who are not accommodated in the shelter for THB victims, the Assistance Centre for THB victims, described in detail in GRETA's first report,<sup>29</sup> must provide them with information on the administrative and legal procedures for the protection of their rights and interests.<sup>30</sup>

<sup>26</sup> See Explanatory Report on the Convention, paragraphs 160-162.

<sup>27</sup> See 8th General report on GRETA's activities, paragraphs 168-169.

<sup>28</sup> Article 6.7 of the Rules (Indicators) for Identification of Victims of Human Trafficking.

<sup>29</sup> See paragraph 26 of GRETA's first report on Azerbaijan.

<sup>30</sup> Article 14.1 of the Law on Combating THB.

38. Victims of THB who take part in criminal proceedings receive a document listing the rights guaranteed to the victims in criminal proceedings (namely, to give statements, present evidence, raise objections to the acts of the prosecuting authorities, be informed of the decisions taken which affect their rights and legal interests and receive, upon request, copies of these decisions, appeal against them, attend the court hearings, receive compensation from the State, be reimbursed for the costs incurred during the proceedings, and appoint and dismiss a representative). Pursuant to Article 26.2.2 of the Criminal Procedure Code (CPC), persons who do not know the language in which criminal proceedings are conducted shall be informed by the prosecution authorities of their right to use the help of an interpreter during the preliminary investigation and court hearings, to get fully acquainted with the materials related to the criminal case after the completion of preliminary investigation, and to speak in court in their native language. The interpretation is provided by in-house court interpreters or external interpreters engaged at the expense of the state budget.

**39. GRETA welcomes the steps already taken and considers that the Azerbaijani authorities should ensure the systematic provision of information to presumed and formally identified victims of trafficking, in a language they can understand, regarding the implications of being identified as a victim of trafficking, the specific rights of victims of THB, the services available and how to access them. This concerns in particular the right to claim compensation (see also paragraph 71). Public officials who may come into contact with victims of trafficking, including law enforcement officers, social workers, and officials dealing with irregular migrants, should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state.**

### **3. Legal assistance and free legal aid (Article 15)**

40. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedures are often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law<sup>31</sup> also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

41. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.<sup>32</sup>

42. In Azerbaijan, pursuant to Article 3.1 of the Rules on the NRM, victims of human trafficking must be informed by the police and NGOs of their right to free legal assistance and the organisations providing it. Pursuant to Article 20 of the Law on Lawyers and Legal Practice, free legal assistance is to be provided to persons without sufficient financial means. The legal representation of victims of trafficking in criminal proceedings is in practice in the hands of one single lawyer, who receives a monthly payment to this end, in accordance with an agreement concluded in 2015 between the Anti-Trafficking Department and the Bar Association. According to data provided by the authorities, in the period 2018 to mid-2022, 184 victims of THB received free legal assistance by the previously mentioned lawyer during the investigation phase, and 246 received it during the trial phase before regional Courts for Serious Crimes. If need be, the latter can

<sup>31</sup> *Airey v. Ireland* judgment, 9 October 1979.

<sup>32</sup> 8<sup>th</sup> General report on GRETA's activities.

also represent victims in civil proceedings. The authorities indicated that victims who do not want to be represented by this lawyer can apply to the Bar Association to be assigned an *ex officio* lawyer. They are not required to submit a proof of their financial resources but only to sign a declaration on the honour. However, *ex officio* lawyers are appointed to represent victims only in criminal proceedings. Moreover, GRETA was informed that there were only a few lawyers with experience in THB cases and that there was no training module on THB as part of the continuous training of lawyers. In their comments on GRETA's draft report, the Azerbaijani authorities indicated that THB is included in the one-month mandatory training of candidate lawyers. In addition, in 2022, the Bar Association, the Ministry of Internal Affairs, and the State Tourism Agency jointly held a series of training sessions on the topic of human trafficking.

43. The Bar Association and the legal clinic of the Academy of Justice provide free legal advice to vulnerable and disadvantaged groups of the population, including victims of THB. The lawyer of the Assistance Centre for Victims of THB<sup>33</sup> and NGO lawyers also provide legal advice to victims, but cannot represent them in court proceedings because they are not members of the Bar Association. In that case, they can refer the victim for legal assistance to the lawyer contracted by the Bar Association without going through the Anti-Trafficking Department.

44. GRETA was informed that a draft Law on Legal Aid was in process of approval by the Government. It is expected to facilitate access to free legal aid for victims of THB and other vulnerable and disadvantaged groups. **GRETA would like to be kept informed of developments in this respect.**

45. GRETA notes that access to legal assistance is important during the investigation because a lawyer can assist the victim in preparing a detailed written complaint or submission about the crime, which may limit the number of times a victim is questioned by the police. The lawyer can accompany the victims during police interviews and ensure that their procedural rights are respected, helping to prevent any degrading treatment of the victim. Furthermore, the lawyer can assist the victim to join the criminal proceedings as injured party and claim compensation, and can also ask that the defendant's assets be frozen with a view to guaranteeing compensation.

46. **GRETA urges the Azerbaijani authorities to review the legislation in order to guarantee access to justice for victims of THB by ensuring that they have access to a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not to co-operate with the authorities and/or make an official statement.**

47. **Further, GRETA considers that the Azerbaijani authorities should raise awareness among Bar Associations of the need to encourage the training and specialisation of lawyers to provide legal aid to trafficking victims and ensure that trafficking victims are systematically assigned a specialised lawyer.**

#### **4. Psychological assistance (Article 12)**

48. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence that they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.<sup>34</sup>

<sup>33</sup> According to the official data, the Assistance Centre provided legal assistance to 32 officially identified victims in 2018, 21 in 2019, 5 in 2020 and 15 in 2021. The Centre also provided legal assistance to potential or presumed victims of THB referred by NGOs: 19 in 2018, 20 in 2019, 6 in 2020 and 4 in 2021.

<sup>34</sup> OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.



49. As noted in paragraph 14, the 2018 Law on Psychological Assistance guarantees the right of victims of human trafficking to receive free psychological assistance, which can also be provided during the recovery and reflection period. Pursuant to Articles 4.12 and 4.13 of the Rules on the Procedure and Conditions of Free Psychological Aid, approved by Decision No. 398 of 16 October 2020 of the Cabinet of Ministers, psychological assistance to victims of THB is provided in special institutions (i.e. shelters for THB victims and the Assistance Centre for Victims of THB) at the expense of the state budget and in accordance with an individual social rehabilitation plan. Eleven medical facilities have been designated by the State for providing medical assistance, including psychological assistance, to THB victims. There is also a Memorandum of Understanding concluded by the authorities and the NGO Clean World in order to guarantee the provision of these services. In their comments on GRETA's draft report, the Azerbaijani authorities indicated that the Ministry of Health organises annual training on psychological assistance to victims of human trafficking, without specifying who follows the training.

50. According to data provided by the authorities, the Assistance Centre for Victims of THB provided psychological assistance to 47 identified victims in 2018, 36 in 2019, 5 in 2020 and 29 in 2021. The Centre also provided psychological assistance to potential or presumed victims of THB referred by NGOs (17 in 2018, 24 in 2019, 9 in 2020 and 5 in 2021). The State shelter for victims of THB, visited by GRETA, employs a psychologist who meets all the victims upon their arrival in the shelter and later if necessary.

51. Pursuant to Articles 4.13.1 and 4.13.2 of the Rules on the Procedure and Conditions of Free Psychological Aid, psychological assistance is provided to foreign and stateless persons at the expense of the state budget in the Detention Centre for Irregular Migrants by the psychologists of the Centre. With the permission of the Centre's management, psychological help can also be provided by an external psychologist.

**52. GRETA invites the Azerbaijani authorities to continue to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have experienced, and to achieve a sustained recovery and social inclusion.**

## **5. Access to work, vocational training and education (Article 12)**

53. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.<sup>35</sup> GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.<sup>36</sup>

54. A provision was added to Article 64 of the Migration Code of Azerbaijan by Law No. 1623-VQD of 27 June 2019, allowing foreigners considered to be victims of THB to work without having to apply for a work permit.

55. The Assistance Centre for Victims of THB is entrusted with the task of assisting victims of THB in their social rehabilitation by helping them continue their education, receive vocational training, and find employment. Pursuant to Article 14 of the Law on Combating THB, these services should be provided to all persons who present themselves as victims of THB and, regardless of whether or not they are willing to co-operate with the investigation or prosecution. The support should be provided confidentially, and the victim's personal details cannot be communicated to any state authority without the victim's consent. According to official statistics, the Centre referred to the State Employment Service 13 identified and 9 presumed/potential victims of THB for their enrolment in vocational training courses in 2018, 9 identified

<sup>35</sup> Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

<sup>36</sup> 8<sup>th</sup> General report on GRETA's activities.

and 7 presumed/potential victims in 2019, 1 identified and 7 presumed/potential victims in 2020, 1 presumed/potential victim in 2021, and 2 identified and 1 presumed/potential victims in the first half of 2022. Further, the Centre referred to the State Employment Service 10 identified and 10 presumed/potential victims of THB for assistance in their employment in 2018, 11 identified and 1 presumed/potential victims in 2019, 2 identified and 3 presumed/potential victims in 2020, 1 presumed/potential victim in 2021 and 1 identified and 2 presumed/potential victims in the first half of 2022.

56. Education of children living in the shelters accommodating victims of THB is provided at the request of the shelter manager by the local schools. The State shelter for victims of THB has a classroom allowing children who cannot attend school to receive education in the shelter. The Assistance Centre also provides in-kind support and assistance for assuring education to the victims' children.<sup>37</sup>

57. According to civil society actors, victims' access to labour market and vocational training is challenging and the risk of re-victimisation for unemployed victims is very high. Victims need to have a secondary school degree to be able to enrol in a vocational school. There are vocational training courses organised by the State Employment Agency, but the number of persons who can be enrolled in them is limited and the courses sometimes take place in locations far from the shelters. In the past, some training courses were organised in the shelter for THB victims. Further, some victims have been recruited directly by NGOs, for example as operators for an NGO-run hotline, and GIZ has recently provided to the NGO Tamas sewing machines to allow victims accommodated in its shelter in Ganja to earn income. Such ad hoc initiatives contribute to the rehabilitation of victims by facilitating their access to the labour market, but they remain insufficient to eliminate the risks of re-trafficking of victims.

58. The "Rules on the application of quotas for citizens in need of social protection and who have difficulties in finding employment", approved by Decision No. 213 of 22 November 2005 of the Cabinet of Ministers, provide for an employment quota for some categories of the population, such as persons under the age of 20, persons with disabilities, parents raising children with disabilities, former prisoners, refugees, and war veterans. According to civil society actors met by GRETA, the inclusion of THB victims in that list, together with more systematic vocational training accessible to them, would considerably reduce the risk of re-trafficking.

59. **While welcoming the provision allowing foreign victims of trafficking to work in Azerbaijan without the requirement of a work permit, GRETA considers that the Azerbaijani authorities should take further steps to strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for all victims of trafficking.**

60. **Further, GRETA invites the Azerbaijani authorities to include victims of human trafficking in the list of persons for whom there is an employment quota.**

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<sup>37</sup> In 2018, 27 children were provided with school supplies, 25 were enrolled in pre-school education, and 13 received a birth certificate; in 2019, 56 children were provided with school supplies, 22 were enrolled in pre-school education, and 18 received a birth certificate; in 2020, 27 children were provided with school supplies, 12 were enrolled in pre-school education, and 14 received a birth certificate; in 2021, 23 children were provided with school supplies, 14 were enrolled in pre-school education, and 15 received a birth certificate.

## 6. Compensation (Article 15)

61. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which when compensation is not fully available from other sources the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

62. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of human rights violations.

63. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. Therefore, state parties should consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

64. The legislation regarding compensation of victims of THB in Azerbaijan has not changed since the first evaluation by GRETA.<sup>38</sup> Under Article 3.6 of the Rules on the NRM, victims are entitled to lodge a compensation claim in criminal proceedings or before civil courts for material and moral damages resulting from a criminal act. A compensation claim should be filed until the beginning of the appearance of the parties in the criminal proceedings. In case of incapacity or limited capacity of a person entitled to file a compensation claim, the prosecutor shall file it on behalf of the victim. However, the prosecutor can file a claim for moral damages only at the request of the victim (Article 181 of the CPC). During the criminal proceedings, the investigator, prosecutor or court must take measures to secure the compensation claim which is filed or may be filed in the future (Article 185 of the CPC). The criminal court must decide on the compensation claim filed by the victim when issuing the first instance verdict (Article 187 of the CPC). In exceptional cases where a person is deprived of the opportunity to personally defend his/her rights in court proceedings, if the documents and evidence on the criminal case allow it, the court can take a decision at its own discretion on the compensation of damage caused to such person (Article 188 of the CPC). The authorities have not provided any examples of THB cases in which compensation was claimed by the prosecutor or awarded by the court in application of these articles. Neither have the authorities provided information on any victims of THB who claimed and obtained compensation in criminal proceedings.

<sup>38</sup> See paragraphs 155-159 of GRETA's first report on Azerbaijan.

65. Pursuant to Article 180 of the CPC, if a victim did not file a compensation claim during the criminal proceedings, he/she can claim compensation before a civil court. GRETA was informed by the authorities that no compensation claim had been filed by victims of THB before civil courts due to the difficulties in enforcing compensation decisions in trafficking cases as traffickers do not have any assets registered on their names that can be confiscated.

66. GRETA was informed that until 2019 most of the traffickers were prepared to compensate victims through a "friendly settlement", because this was considered by courts as a mitigating circumstance and would result, in most cases, in traffickers being given suspended sentences.<sup>39</sup> The amount of the compensation to be paid was determined between the lawyers of the victims and the defendants, and, in exchange for the agreed compensation, the victims would withdraw their complaints and wave any compensation claims. The amounts agreed upon were usually less than AZN 10 000 (approximately EUR 5 800). However, GRETA was informed that in recent years courts had become more unlikely to give suspended sentences on the grounds of the withdrawal of the victim's complaint. As a result, offenders are reportedly no longer prepared to pay compensation to victims. The authorities could not provide the number of victims of THB who have received compensation through a friendly settlement.

67. There is an Assistance Fund for Victims of Human Trafficking, established in 2008 under the Ministry of Internal Affairs, which can be used to pay the material and moral damages awarded to victims by courts (Article 5.1.4 of the Statute of the Assistance Fund). However, this Fund relies primarily on donations as there is no state budgetary allocation for it. At the time of the evaluation visit, there were only AZN 3 200 (approximately EUR 1 800) in the Fund. Although traffickers' confiscated assets can be transferred to the Fund, this has never happened as there has been no judgment in THB cases resulting in the confiscation of assets. GRETA was informed that under an EU twinning project, draft amendments were prepared on the basis of examples from Belgium and Lithuania for introducing civil confiscation into Azerbaijani legislation. At the time of the visit, the draft law was under consideration by the Government. These amendments would allow the authorities to initiate civil proceedings for confiscation of the instrumentalities and proceeds of human trafficking offences without the traffickers being convicted by a criminal court. **GRETA would like to be kept informed of progress made in this respect.**

68. Another barrier with regard to victims' access to compensation is the state duty (fee) victims have to pay to file a compensation claim in criminal and civil proceedings. The fee was previously up to a maximum of AZN 30 (approximately EUR 17), but following amendments to the Law on State Duty of 9 September 2021, victims are now required to pay a percentage of the value of the claim.<sup>40</sup> Article 9 of the Law on State Duty exempts some types of claims (e.g. claims for alimony and unpaid wages, claims in relation to the violation of consumers' rights, claims made by the prosecutor about compensation of material damage caused to the State), but not claims for material and moral damages made by victims of crimes. That being said, the Azerbaijani authorities stated that for identified victims of THB all the court fees, including the state fee to file a compensation claim, are paid by the Anti-Trafficking Department.

69. Further, under Article 191 of the CPC, victims can claim compensation from the State for prejudice suffered as a result of a criminal act before criminal courts. However, the Azerbaijani authorities stated that this provision has never been applied.

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<sup>39</sup> Article 59 of the Criminal Code (CC) considers as a mitigating circumstance the full or partial compensation of the victim for the damages suffered as a result of the crime. Pursuant to Article 155.2.4 of the CPC, the reconciliation of the victim and the accused and the compensation of the former by the latter should be taken into account by the court in the determination of the sentence. Article 70.2 of the CC allows the court to suspend a sentence on the basis of mitigating circumstances and other factors, such as the nature of the committed crime, the degree of public danger and the personality of the convict.

<sup>40</sup> Pursuant to Article 8 of the Law on State Duty, a state fee of AZN 30 (about EUR 17) is levied on a compensation claim in criminal or civil proceedings if its value is less than AZN 1 000; AZN 30 and 1% of the value of the claim if its value is more than AZN 1 000; and AZN 120 and 0,3% of the value of the claim if its value is more than AZN 10 000.

70. As noted in GRETA's previous reports, victims of THB are entitled to a one-off compensation payment from the State Assistance Fund for Victims of THB. In accordance with Decision No. 256 of 4 June 2019 of the Cabinet of Ministers, and in line with the recommendation of made by GRETA in its second report,<sup>41</sup> the amount of this compensation was increased from AZN 400 (about EUR 234) to AZN 700 (about EUR 410). GRETA was informed that in 2017-2018, 166 victims of THB were granted AZN 400 (68 in 2017 and 98 in 2018) whereas in 2019-2022, 341 victims were granted AZN 700 (91 in 2019, 91 in 2020, 95 in 2021 and 64 until September 2022). Further, in 2017-2021, the Assistance Fund provided a one-off payment in the amount of AZN 50 (about EUR 29) to 412 presumed and identified victims of THB. The payment of these sums does not preclude the victim from claiming damages from the perpetrator or the State.

71. GRETA is concerned that no victims of trafficking have been awarded compensation by criminal or civil courts, which could be attributed to failure to inform victims of the right to seek compensation and to ensure that they are provided with legal aid, as well as failure to carry out effective financial investigations in order to identify and seize proceeds of crime. Furthermore, the law imposes advance payment of state fees for filing a compensation claim in criminal or civil proceedings without any possibilities for victims of human trafficking to apply for an exemption. Considering the major difficulties experienced by victims of trafficking to receive compensation from perpetrators, the amount of one-off compensation paid by the State Assistance Fund for Victims of THB remains insufficient to guarantee compensation for victims of human trafficking in accordance with Article 15, paragraph 4, of the Convention. Therefore, **GRETA urges the Azerbaijani authorities to adopt measures to guarantee effective access to compensation for victims of THB, including by:**

- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **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;**
- **amending Article 9 of the Law on State Duty to provide the possibility for victims of human trafficking to be exempted from state fees required for filing a compensation claim;**
- **ensuring that state compensation is effectively accessible to victims of THB, by applying in practice Article 191 of the Criminal Procedure Code;**
- **further increasing the amount of one-off payment from the State Assistance Fund for Victims of THB;**
- **further strengthening awareness on compensation among lawyers representing victims of human trafficking, prosecutors and judges, including by introducing this topic in the training programmes provided to them, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB.**

72. **GRETA also considers that the Azerbaijani authorities should take steps to ensure that compensation awarded in criminal proceedings is paid in advance from the Assistance Fund for Victims of Human Trafficking, the State taking the responsibility to recover the amount from the offender.**

<sup>41</sup> See GRETA's second report on Azerbaijan, paragraph 145.

## 7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

73. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to intimidation so as to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations, which aim at fighting trafficking in human beings or the protection of human rights, the possibility to assist and/or support the victim (subject to his or her consent) during criminal proceedings concerning the offence of trafficking in human beings.

74. Article 23 requires Parties to match their actions to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

75. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

76. The penalties envisaged for the offence of THB in Azerbaijan remain as described in the previous GRETA reports, namely the basic offence under Article 144-1 of the Criminal Code (CC) is punishable by an imprisonment term of five to 10 years, while in the presence of aggravating circumstances as listed in Article 144-1.2 of the CC,<sup>42</sup> the offence may be punished by eight to 12 years' imprisonment. Under Article 144-1.3 of the CC, when the acts mentioned in Articles 144-1.1 and 144-1.2 of the CC result in the death or other severe consequences for the victim due to negligence, they are punishable by 10 to 15 years' imprisonment.

77. In addition to being part of the purposes of exploitation related to THB under Article 144-1 of the CC, "forced labour" is criminalised independently under Article 144-2.1 of the CC.<sup>43</sup>

78. Under Article 99.4 of the CC, legal entities may be held liable for THB offences committed in their name and on their behalf. The sanctions envisaged are a fine, special confiscation, deprivation of the right to exercise certain types of activity, and termination of the legal personality (Article 99.5.1 of the CC). The authorities have indicated that, to date, there have been no convictions regarding legal entities for THB offences. **GRETA considers that the Azerbaijani authorities should strengthen the application of the legal provisions concerning corporate liability for THB with a view to**

<sup>42</sup> The listed aggravating circumstances are the following: the offence being committed against two or more persons; against a child; against a pregnant woman whose pregnancy is known by the perpetrator; by transporting a victim of human trafficking through the state border of Azerbaijan; by a premeditated group of persons, an organised group and/or a criminal organisation; when committed through abuse of power (which includes cases where the offence is committed by a public official in the performance of their duties); by using force endangering the life and health and/or by using threat of using such force; by torturing the victim or treating that person in a cruel, inhuman or degrading way; or for the purpose of using the organs and tissues of the victim.

<sup>43</sup> Article 144-2.1 of the CC criminalises "forcing a person to fulfil any work (service) by threatening this person, using force or a threat of using force against this person, or by restricting freedom of a person except in specific cases provided for by law".

**ensuring effective investigation and prosecution of any suspected offences related to THB committed by legal entities.**

79. During the second evaluation round, GRETA was informed that amendments to the CC criminalising the knowing use of services of victims of THB had been submitted to the Presidential Administration for approval. In their comments on GRETA's draft report, the Azerbaijani authorities indicated that the amendments in question were re-drafted by the Ministry of Justice. The new draft amendments were reviewed by the Anti-Trafficking Department and returned to the Ministry of Justice on 25 December 2022. **GRETA would like to be kept informed of developments in this respect. GRETA once again invites the Azerbaijani authorities to adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.**

80. Plea bargaining does not form part of the legal system of Azerbaijan. However, pursuant to Article 59.1.10 of the CC, the fact that a person pleads guilty, actively contributes to the solution of the case, the detection of other participants in the crime, and the search and detection of proceeds of crime, is taken into account as a mitigating circumstance, which allows the court to release the accused from criminal responsibility (Article 72.1 of the CC), issue a suspended sentence (Article 70.2 of the CC) or a sentence lesser than the minimum punishment (Article 62.1 of the CC). GRETA was informed that defendants very rarely plead guilty in THB cases. On the other hand, under Article 155.2.4 of the CPC, the reconciliation of the victim and the defendant and the compensation of the former by the latter should be taken into account by the court in the determination of the sentence. The reconciliation may be considered by the criminal court as a mitigating circumstance and result in traffickers being given suspended sentences. As noted in paragraph 66, in practice the reconciliation involves the withdrawal of complaint and waiver of any claims for compensation by the victim in exchange for the payment of a sum of money by the defendant. The amount of the sum to be paid is determined by the lawyers of both parties through a friendly settlement process which takes place outside of the criminal proceedings. GRETA is concerned that the application of the reconciliation procedure in human trafficking cases, without adequate safeguards, carries the risk of exposing victims to intimidation and pressure from perpetrators to reach reconciliation with a view of receiving a suspended or lighter sentence.

81. Any police officer who receives information about the occurrence of a THB offence has the duty to inform the police unit of the Anti-Trafficking Department, which is specialised in investigating THB offences. The Main Department on Combating Organised Crime of the Ministry of Internal Affairs is involved in investigating THB offences. The police can use special investigation techniques when investigating THB, including phone tapping, interception of electronic communication, secret surveillance, and undercover operations and informants. GRETA was informed that the police unit of the Anti-Trafficking Department had used phone tapping in 20 cases of THB and forced labour during a six-month period in 2022.

82. Financial investigations can be carried out in accordance with Articles 177 and 259 of the CPC. The Ministry of Internal Affairs, the State Security Service and the Financial Monitoring Service are involved in the detection and freezing of proceeds of crime. The latter can conduct a financial investigation prior to, or following, the initiation of the criminal procedure. Within the General Prosecutor's Office, a special department of co-ordination of confiscation activities was set up in 2020 to improve the monitoring and tracing of properties of the accused. The authorities indicated that no financial investigation was conducted in THB cases in 2018-2021 because the preliminary investigations showed that there was no property or financial transactions registered on the traffickers' name.

83. According to the statistics provided in the National Co-ordinator's 2021 annual report on THB, there has been an increase in the number of THB offences registered by the law enforcement authorities: 174 in 2017, 183 in 2018, 186 in 2019, 200 in 2020, and 202 in 2021.<sup>44</sup> As for criminal charges brought against perpetrators, 91 persons were prosecuted for THB for the purpose of sexual exploitation (33 in 2018, 28 in 2019, 18 in 2020 and 12 in 2021) and 7 for forced labour under Article 144-2.1 of the CC (1 in 2018, 2 in 2019, 3 in 2020 and 1 in 2021).

84. As regards convictions, 88 persons were convicted of THB for the purpose of sexual exploitation (22 in 2018, 40 in 2019, 14 in 2020 and 12 in 2021) and 5 for forced labour (1 in 2018, 2 in 2019, 1 in 2020 and 1 in 2021).

85. As regards the length of the prison sentences in THB and forced labour cases, in 2018, one person received eight years' imprisonment, and another received four years' imprisonment; in addition, 20 persons received suspended sentences and one sentence was postponed. In 2019, four persons were sentenced to from one to four years' imprisonment, seven persons to from five to eight years' imprisonment, three persons to from eight and a half to 10 and a half years' imprisonment, and 28 persons received suspended sentences. In 2020, three persons received from three to five years' imprisonment, nine persons received from eight to nine years and six months' imprisonment, three perpetrators received suspended sentences. In 2021, 12 persons received from seven to 10 years' imprisonment, and the sentence of one person was postponed until her child reached the age of 14. GRETA notes positively the increase in the number of convictions and the decrease in the number of suspended sentences. According to civil society actors, judges are more sensitised and have a better understanding of THB cases.

86. GRETA was provided with copies of two judgments issued by the Ganja Court for Serious Crimes and three judgments issued by the Sheki Court for Serious Crimes, concerning THB for the purpose of sexual exploitation of a total of eight women and two girls, all nationals of Azerbaijan, who had been deceived by false promises of employment in Türkiye or Russia. Four of the victims declared to the court that they had been reconciled with the alleged perpetrators and did not have any complaints and compensation claims against them. The courts took into account the reconciliation and withdrawal of the complaint as well as the guilty plea of the accused as mitigating circumstances in respect of three of the alleged perpetrators. By judgments of 14 June 2018, 25 October 2018, and 27 July 2021, the courts convicted them of THB and handed down, respectively, a suspended sentence of eight years' imprisonment, a sentence of four years' imprisonment, and a sentence of eight years' imprisonment. In another case, although the victims had been reconciled with the offender and withdrawn their complaints, no mitigating circumstances were applied by the Sheki Court for Serious Crimes, which by judgment of 22 April 2022 sentenced the offender to eight years' imprisonment. In yet another case, the victims did not withdraw their complaints against the offender. The Ganja Court for Serious Crimes took into account the fact that the offender was a woman with a child in her care as a mitigating circumstance and, by judgment of 22 January 2019, sentenced her to five years and six months' imprisonment. In no case were perpetrators' assets confiscated.

87. GRETA was also provided with the copy of a judgment concerning THB for the purpose of labour exploitation, issued on 26 December 2019 by the Ganja Court for Serious Crimes. The case concerns a Russian woman who was exploited between 2006 and 2016 by an Azerbaijani family to take care of their cattle and do other domestic tasks. She was deprived of her passport and threatened that if she leaves the house or communicate with outsiders she would be reported to the police for illegally staying in Azerbaijan. She was regularly beaten and raped. The Court considered the fact that the victim had no complaint and compensation claim against the offenders as mitigating circumstances and sentenced the

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<sup>44</sup> The number of THB offences registered in the reporting period is broken down as follows: in 2018, 144 offences of THB, 4 offences of forced labour (Article 144-2.1 of the CC) and 35 offences of illegal acts relating to travel or identity documents for the purpose of human trafficking (Article 144-3 of the CC); in 2019, 146 offences of THB, 4 offences of forced labour and 36 offences of illegal acts with documents; in 2020, 155 offences of THB, 5 offences of forced labour and 40 offences of illegal acts with documents; and in 2021, 156 offences of THB, 3 offences of forced labour and 43 offences of illegal acts with documents.



three perpetrators to between one year and eight years and six months' imprisonment for THB and forced labour committed by an organised group and for retaining the victim's passport for the purpose of THB.

88. The length of criminal proceedings in THB cases depends on several factors, in particular the number of defendants and witnesses to be heard and the evidence to be examined, whether the defendant is in pretrial detention or pleads guilty. Court proceedings were protracted during the COVID-19 pandemic because the courts' activities were suspended. Since trafficking in human beings falls within the category of grave and especially grave crimes, the period of pre-trial investigation, which covers the period from the initiation of criminal investigation until the decision of referring the case to the court or dropping it, must be completed within a maximum of 19 months (Article 218 of the CPC). GRETA was informed that the pre-trial period usually lasts up to one year, while the trial period lasts between one month and one year.

89. GRETA was informed by representatives of the law enforcement authorities that the main challenge they face in THB cases is the reluctance of victims to come forward and file a complaint against traffickers because they fear the police or retaliation from the traffickers. GRETA stresses that close co-operation of the law enforcement forces with specialised NGOs is essential to gain the trust of the potential victims of human trafficking. In this context, GRETA was informed of the case of a 12-year-old child, victim of forced begging, who was detected by the authorities in 2018 as a result of the co-operation with NGOs. The offenders were sentenced to seven years and six months and eight years' imprisonment for forced labour by judgments of 17 December 2019 and 30 October 2020 of the Baku Court for Serious Crimes. The victim was placed in the state shelter for victims of THB and was enrolled in school.

90. GRETA was also informed of two cases detected in 2022. The first case concerns a 16-year-old Nigerian girl who had been brought to Azerbaijan with the promise of studying but was sexually exploited by a Nigerian citizen during the period August-November 2021. In May 2022, the perpetrator was indicted for human trafficking; the case is still pending. The second case concerns two Azerbaijani children, aged 14 and 15, who had fallen victims to trafficking for the purpose of domestic servitude and sexual exploitation. The criminal investigation is ongoing.

91. In its previous reports on Azerbaijan, GRETA referred to a case involving the exploitation of men from Bosnia and Herzegovina, Serbia and North Macedonia by a construction company, Serbaz Design and Construction LLC, on construction sites in Azerbaijan.<sup>45</sup> On 22 March 2012, an application was made to the European Court of Human Rights by 33 Bosnia and Herzegovina nationals who had worked for that company. In its judgment in the case *Zoletic and Others v. Azerbaijan*, issued on 7 October 2021,<sup>46</sup> the Court found that the totality of the applicants' arguments and submissions made both before the Azerbaijani courts in their civil claim and before the Court (concerning forced excessively long work shifts, lack of proper nutrition and medical care, physical and other forms of punishments, retention of documents and restriction of movement) constituted an "arguable claim" that the applicants had been subjected to human trafficking and forced labour. The Court found that the failure of the Azerbaijani authorities to institute and carry out an effective investigation into the applicants' claims constituted a violation of Article 4, paragraph 2, of the European Convention on Human Rights under its procedural limb. Following the judgment of the Court, GRETA was informed by the Azerbaijani authorities that while the process of payment of EUR 5 000 awarded by the Court to each applicant was ongoing, the initiation of criminal investigations concerning the applicants' allegations, requires a decision of the Supreme Court of Azerbaijan, pursuant to Articles 455-459 of the CPC, which has not yet been taken.

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<sup>45</sup> See paragraphs 195-196 of GRETA's first report on Azerbaijan and paragraph 176 of GRETA's second report on Azerbaijan.

<sup>46</sup> *Zoletic and Others v. Azerbaijan*, Application no. [20116/12](#).

92. GRETA was informed that in case of ineffective investigation and prosecution, victims can apply to the Commissioner for Human Rights (Ombudsperson), regardless of whether they are nationals, foreign citizens or stateless persons. Third parties, including NGOs, may file such complaints with the consent of the victim. When it is impossible to obtain the victim's consent (in the event of the death, disability, etc. of the victim), a complaint may be filed without the latter's consent. Victims of THB taking part in the criminal procedure and their representatives have also the right to appeal against any decision or acts of the investigator, prosecutor and court.

93. **While welcoming the increase in the number of sentences issued in THB cases, the decrease in the number of suspended sentences, and the severity of sentences imposed in some THB cases, GRETA urges the Azerbaijani authorities to strengthen their efforts to ensure that THB offences 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 investigation of THB cases, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, including evidence gathered through special investigative measures, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims;**
- **strengthening efforts to investigate and prosecute cases of THB for the purpose of labour exploitation, including by increasing 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.**

94. **Further, GRETA considers that the Azerbaijani authorities should continue to provide training to prosecutors and judges in order to sensitise them to the rights of victims of human trafficking and encourage them to develop expertise in dealing with cases of THB.**

## **8. Non-punishment provision (Article 26)**

95. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the State's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the State's obligation to investigate and prosecute those responsible for THB.<sup>47</sup> Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

96. In Azerbaijan, pursuant to Article 17-7 of the Law on Combating THB, persons subjected to THB are exempted from criminal, administrative and civil responsibility for offences committed under coercion or intimidation while they were victims of THB. GRETA was informed that, in the period 2018-2020, this provision was applied in seven cases, all concerning victims of THB for the purpose of sexual exploitation. One of them concerned a woman who had been taken to Türkiye with false promises of employment and forced into prostitution. Under the threat of her family being informed that she was engaged in prostitution, she was compelled to recruit girls from Azerbaijan for prostitution in Türkiye, but was not prosecuted for this offence.

<sup>47</sup> See GRETA's 2nd General Report, paragraph 58.

97. The Azerbaijani authorities stated that as the non-punishment provision is clear enough, there is no need to provide investigators, prosecutors and judges with guidance or training on its implementation. However, during the reporting period, there have reportedly been cases where victims of trafficking were fined for prostitution, and foreign migrant workers displaying indicators of trafficking were deported without being screened. GRETA notes that lack of proactive identification amongst persons engaged in prostitution and irregular migrants (see paragraph 161) increases the risk for victims of trafficking being prosecuted and punished. In this context, GRETA emphasises the importance of ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences and/or deported.

98. **GRETA considers that the Azerbaijani authorities should continue strengthening their efforts to ensure compliance with the non-punishment provision, by raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment principle to all offences which victims of THB were compelled to commit, including administrative and immigration-related offences.**

### **9. Protection of victims and witnesses (Articles 28 and 30)**

99. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

100. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 address extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Right and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

101. According to Article 18 of the Law on Combating THB, the safety of victims must be ensured during the pre-trial investigation, the court proceedings and after them until the danger is eliminated and in compliance with the 1998 Law on the State Protection of Persons Participating in Criminal Proceedings. The protection measures foreseen under Article 7 of the latter Law include court hearings which are closed to the public, the physical protection of witnesses and victims, changing their place of employment, study and/or residence, informing them of any known danger, protecting the confidentiality of information concerning them, and changing their identity and/or external appearance. The prosecution authorities must inform the victim about the available protection measures and the measures taken to protect them. Under Article 316.1 of the CC, the disclosure of confidential information about the security measures applied to a victim in criminal proceedings entails criminal liability. Further, on 24 April 2020, a new provision was added to Article 23-1 of the Regulation to implement the Law on Registration at the Place of Residence and Stay, providing for the registration of foreign citizens and stateless persons who are considered to be victims of THB at the address of the Public Prosecutor's Office.

102. Although under Article 199.4 of the CPC evidence disclosing personal or family secrets must be examined in non-public hearings, Article 24.1 of the Law on Combating THB leaves it to the discretion of the criminal court whether a THB case should be considered in a closed court session. GRETA received contradictory information on the application of these provisions in THB cases. The Azerbaijani authorities indicated that a decision to conduct court proceedings in camera was taken in all THB cases adjudicated by a court of first instance in the period 2020-2022. However, according to an NGO report, some THB cases were tried in public hearings and the identity and exploitation details of THB victims were reported in the media, which posed additional challenges to the victims and in some cases constituted a serious threat to their lives and health.<sup>48</sup> GRETA notes that under Article 316-1 of the CC, the illegal collection or dissemination of confidential information<sup>49</sup> about victims of THB is punishable by up to five years' imprisonment. In this respect, the representatives of the Office of Human Rights Commissioner met by GRETA stressed the need to sensitise media professionals on how to report THB cases as in some cases confidential information about the victims had been diffused in the media.

103. Further, according to a report issued by the NGO Women Reformers and Innovation, all judicial acts are sent to the official address of the victim taking part in court proceedings, which is usually the address of the victim's parents, even when the victim is accommodated in a shelter. This is a breach of the abovementioned Article 316-1 of the CC as it endangers the life and health of victims, who are usually hiding their exploitation from their families for fear of their reaction.<sup>50</sup> Therefore, the report suggests that all judicial acts regarding victims of THB be sent either to the shelter where they are accommodated or to the Anti-Trafficking Department.

104. GRETA was informed by civil society actors that while victims and their families are subjected to psychological intimidation and physical violence by traffickers during the investigation and trial, none of the abovementioned protection measures had been applied to them.<sup>51</sup> According to the authorities, taking into account the accommodation of victims of THB in safe shelters and the pre-trial detention of traffickers, there was no need to take a decision to apply further protection measures.

105. The General Prosecutor's Office indicated that victims of THB are informed by their lawyers of the release of the offenders from pre-trial detention. As for the conditional release of a perpetrator before the end of the prison sentence, the written consent of the victim is required.

106. Article 24.2 of the Law on Combating THB provides that, in order to ensure the safety of victims of THB and prevent them from being influenced by traffickers, and taking into account their physical and psychological condition, the possibility to testify using technical means (teleconference, video recording, etc.) may be offered to the victim. Pursuant to Article 51-2.1 of the CPC, the interview of victims or witnesses of crime can be conducted through a videoconferencing system in the event of real threats to their life and health, when it is necessary to prevent external influences on them, when they are unable to participate directly in the criminal proceedings due to their state of health or other valid reasons (e.g. natural or man-made disasters), and when it is necessary to protect the interests of children.

107. GRETA was informed that the Anti-Trafficking Department has a special room for interviewing victims, with equipment for audio-video recording. The interview conducted during the pre-trial investigation is recorded with the agreement of the victim and added to the investigation file for later use in court. Victims are not obliged to attend the hearing to testify and the video recording can be viewed by the court. Each Court for Serious Crimes dealing with THB cases has separate rooms for interviewing victims of crime, equipped to conduct audio-video recording. However, GRETA was informed by civil

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<sup>48</sup> NGO Women Reformers and Innovation, *Proposals for Improving the Law on Combating Human Trafficking*, 2021, p. 11.

<sup>49</sup> "Confidential information" is defined by the same Article as any information, the dissemination of which would endanger the life and health of a person affected by human trafficking, his close relatives, as well as persons providing assistance in the fight against human trafficking.

<sup>50</sup> NGO Women Reformers and Innovation, *Proposals for Improving the Law on Combating Human Trafficking*, 2021, pp. 19 and 20.

<sup>51</sup> *Ibidem*, pp. 20 and 21.

society actors that victims are usually interviewed in the presence of defendants in the courtroom.<sup>52</sup> The videoconferencing is only exceptionally used because of technical problems the regional Courts for Serious Crimes had encountered in the past while conducting interviews through videoconferencing. GRETA notes that none of the judgments analysed by GRETA mentioned that victims had been interviewed via videoconferencing. On the other hand, it appears from those judgments that in at least two cases tried by Ganja Court for Serious Crimes, adult victims were interviewed in the presence of the defendants in the courtroom. In this respect, judges met by GRETA during the evaluation visit stated that the interview of the victim in the presence of the defendant was a more efficient way to establish the truth as this allowed to see both parties' reactions.

108. **GRETA urges the Azerbaijani authorities to:**

- **make full use of all measures available to protect victims and witnesses of THB and to prevent retaliation, intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of audio-video equipment and other suitable means to avoid face-to-face cross-examination of victims and alleged perpetrators;**
- **ensure the protection of the private life and identity of victims of trafficking, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals. This should include sending all judicial acts regarding victims of THB to the address indicated by them.**

109. **Further, GRETA considers that the authorities should take measures to encourage the media to protect the identity and private life of victims of THB through self-regulation or regulatory/co-regulatory measures.**

## **10. Specialised authorities and co-ordinating bodies (Article 29)**

110. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and co-ordinating bodies should, as far as possible, include both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

111. As explained in the previous GRETA reports, there is a police unit specialised in investigating THB offences within the Anti-Trafficking Department of the Ministry of Internal Affairs. It consists of two police investigators and 20 police officers who have been trained on THB. GRETA was informed that the unit investigates between 10 and 15 THB cases per year, which is, according to the authorities, a reasonable workload for two investigators. Moreover, as noted in paragraph 81, the Main Department on Combating Organised Crime is also involved in investigating THB offences. Further, GRETA was informed that all the law enforcement agencies involved in combating THB have appointed police officers trained on THB who act as co-ordinators to ensure interaction with the police unit of the Anti-Trafficking Department.

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<sup>52</sup> Ibidem, pp. 18 and 19.

112. In addition, the Anti-Trafficking Department, which is operating under the supervision of the National Co-Ordinator against THB, has an information and analysis unit in charge of an anti-trafficking hotline and the collection and analysis of data on human trafficking, as well as an operative actions unit dealing with the detection of crimes and a victim support unit for assisting victims and working with specialised NGOs. The latter unit is responsible for the Assistance Fund for Victims of Human Trafficking and the state shelter for THB victims. The staff of the Department is composed of 80 persons, which represents an increase compared to the first GRETA evaluation, when there were 64 staff.

113. GRETA was informed that a cybercrime division had recently been established at the Ministry of Internal Affairs, consisting of experts in the field of information technology who can assist the Anti-Trafficking Department in investigating THB committed online.

114. There is no formal specialisation of prosecutors to deal with THB cases, but the department of the Prosecutor General's Office dealing with organised crime covers THB offences. These offences are adjudicated by the five regional Courts for Serious Crimes (in Baku, Ganja, Sheki, Lankaran and the Nakhchivan Autonomous Republic).

115. During the reporting period, the educational institutions of the Ministries of Internal Affairs and Justice, the State Border Service and the State Customs Committee, as well as the training centre of the State Migration Service, have continued to provide training on THB. By way of example, in 2019, a series of seminars on THB was held by the Anti-Trafficking Department of the Ministry of Internal Affairs for the heads of crime detection services of 22 territorial police agencies in Guba, Lankaran and Ganja. In 2021, 348 employees of the State Migration Service participated in 16 training sessions on human trafficking and forced labour. Further, 76 employees of the State Labour Inspectorate took part in training on the identification of victims of human trafficking among irregular migrants, homeless persons and refugees. Several training sessions and other events on THB were held for judges, lawyers and staff members of the Prosecutors' Offices. The training sessions covered indicators for the identification of THB victims, prosecution of THB cases, case-law of the European Court of Human Rights related to human trafficking, protection of victims and witnesses in THB cases, and compensation to victims of THB. A total of 142 judges, 178 lawyers, 12 staff members of the Prosecutors' Offices, 8 employees of the Ministry of Internal Affairs and 10 law officers took part in these training sessions. In addition, since 2017, THB has been included in the compulsory training for new recruits of Prosecutors' Offices, the forensic examinations centres of the Ministry of Justice, the Penitentiary Service, the Bar Association as well as in the initial training courses for candidate judges.<sup>53</sup> A total of 131 candidate judges and 109 new recruits of Prosecutors' Offices participated in these courses. Nevertheless, GRETA notes that the police officers met in Ganja and Sheki as well as some prosecutors and judges met by GRETA delegation had not received training on THB since 2018.

116. A training manual on THB was developed as part of the project "Increasing the capacity and strengthening the co-operation for effectiveness of action to combat trafficking in human beings – Phase VI", jointly organised by IOM and the Justice Academy. In addition, several videos were recorded on THB and included in the "Moodle" platform created within the scope of the project "Electronic training modules for support to the Justice Academy of the Ministry of Justice – Phase II".

**117. While welcoming the training provided, GRETA considers that the Azerbaijani authorities should take additional steps to ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of child victims of THB and victims for labour exploitation, forced begging and forced criminality. Such training should be embedded in the core training curricula of relevant professionals and be provided to law enforcement officers, prosecutors, judges, border guards, immigration officials, staff working in refugee reception**

<sup>53</sup> For more information, see Azerbaijan's reply to the third round questionnaire, available at: <https://rm.coe.int/annex-2-to-the-reply-from-azerbaijan-to-the-questionnaire-for-the-eval/1680a62bfb> as well as 2021 report of the National Co-ordinator.

**centres and detention centres for irregular migrants, child welfare staff, health-care staff, social workers, labour inspectors and diplomatic and consular staff.**

### **11. International co-operation (Article 32)**

118. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to engage in extensive co-operation with one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the Convention neither cancels nor replaces relevant international or regional instruments<sup>54</sup> on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

119. As already noted in GRETA's previous reports, Azerbaijan is party to a number of multilateral and bilateral agreements on mutual legal assistance in criminal matters.<sup>55</sup> According to the National Co-ordinator's 2020 report, the Ministry of Internal Affairs signed over 100 agreements with the relevant state agencies of about 40 countries which yield concrete results in the swift identification of the location of Azerbaijani citizens who become trafficking victims in other countries, collection of data on perpetrators and implementation of co-ordinated measures.

120. On 12 October 2018, a law approving the Joint Action Plan for Strategic Partnership in Combating THB between Azerbaijan and Serbia was adopted. Further, the Protocol on co-operation in combating organised crime in the Caspian Sea to the Agreement on Co-operation in the Field of Security in the Caspian Sea was approved by a law of 12 February 2019. The Protocol provides for the co-operation of law enforcement agencies in combating crimes related to THB.

121. In September 2022, Azerbaijan concluded a co-operation agreement with Eurojust, following which a person responsible for liaising with Eurojust was appointed in January 2023. Azerbaijan has not concluded an agreement with Europol. The Azerbaijani authorities frequently use Interpol when searching for people accused or convicted of THB.

122. Azerbaijan has not participated in any joint investigation teams (JIT) set up in THB cases. In their comments on GRETA's draft report, the authorities indicated that Azerbaijani law enforcement authorities collected sufficient evidence to convict perpetrators and there was no need to set up JITs in THB cases.

123. According to information provided by the authorities, three requests for mutual legal assistance in relation to THB were submitted to Türkiye in 2018 and 2019, which received positive responses. A request submitted to Pakistan in 2019, and two requests submitted to Türkiye in 2021, are still pending. In 2018 Ukraine and in 2019 the United Arab Emirates extradited suspected perpetrators of THB to Azerbaijan. Azerbaijan received one extradition request from Cyprus in 2019 and one request from Türkiye, and in both cases the persons accused of THB were extradited. There are currently 11 persons suspected of THB against whom a red notice has been issued by Interpol upon the request of the Azerbaijani authorities. GRETA was informed that the Turkish authorities had rejected the extradition of the seven of these persons on the grounds that they had Turkish citizenship, although the citizenship had been acquired after the commission of the offence. Since Azerbaijan does not accept double citizenship, the Azerbaijani authorities have rejected the Turkish authorities' request to send the criminal investigation files of the suspects for

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<sup>54</sup> For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

<sup>55</sup> See paragraphs 72-73 of GRETA's first report on Azerbaijan and paragraphs 184-186 of GRETA's second report on Azerbaijan.

them to be prosecuted in Türkiye. Another case concerns an Iranian doctor against whom criminal charges were brought in 2017 in Azerbaijan for THB for the purpose of organ removal.<sup>56</sup> His extradition was rejected by the Islamic Republic of Iran because of his Iranian citizenship. The remaining persons live in Pakistan and Georgia.

**124. GRETA welcomes Azerbaijan’s participation in multilateral and bilateral international co-operation in the fight against THB and considers that the Azerbaijani authorities should continue and intensify their efforts as regards investigating cases of transnational THB, making use of the available tools of international co-operation in criminal matters, including joint investigation teams, and exploring further possibilities for co-operation with countries of destination of victims of trafficking.**

## 12. Cross-cutting issues

- a. gender-sensitive criminal, civil, administrative and employment proceedings

125. As noted in the Committee on the Elimination of Discrimination against Women (CEDAW) General recommendation No. 33 on women’s access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.<sup>57</sup> The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.<sup>58</sup> GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women’s access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one’s legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or childcare.<sup>59</sup> Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women’s access to justice, as well as in the publication “Women’s Access to Justice: Guide for Legal Professionals”.<sup>60</sup>

126. The current National Action Plan on Combating THB foresees the inclusion of gender aspects of human trafficking in the training programmes on human trafficking and the strengthening of the legal and social protection of vulnerable women with the aim of mitigating the risk of becoming victims of THB. GRETA was informed that on 21 July 2022, a training on the “Application of a gender approach in the field of combating trafficking in human beings” was organised for judges by the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

<sup>56</sup> For more details on this case, see GRETA’s second report on Azerbaijan, paragraph 79.

<sup>57</sup> CEDAW General recommendation No. 33 on women’s access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015.

<sup>58</sup> Council of Europe Gender Equality Strategy 2018-2023, pp. 24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

<sup>59</sup> Council of Europe training manual for judges and prosecutors on ensuring women’s access to justice, p. 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

<sup>60</sup> Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>



127. Furthermore, GRETA was informed that more than half of the staff of the Anti-Trafficking Department's victim support unit dealing with the Victim Assistance Fund and the state shelter for victims of THB are women, and more than one-third of all the staff members of the Anti-Trafficking Department are women. Representatives of the police departments of Ganja and Sheki met during the visit indicated that although they do not have women investigators, they invite women psychologists to assist them when interviewing women victims of human trafficking.

**128. GRETA considers that the Azerbaijani authorities should promote a gender-responsive approach to access to justice for victims of THB, including through gender mainstreaming and training.**

b. child-sensitive procedures for obtaining access to justice and remedies

129. Article 5 of the Law on the Rights of the Child obliges all state authorities, individuals and legal entities to prioritise the interests of children in their activities and create conditions for ensuring their rights. Pursuant to Article 228.2 of the CPC, the questioning of child witnesses of crime who are under the age of 14 must be conducted with the participation of a pedagogue, and if necessary, a doctor and the child's legal representative. For children who are between 14 and 16 years of age, the application of this provision is at the discretion of the investigator in charge of the case. However, GRETA was told by the representatives of the Anti-Trafficking Department that in almost all the cases where they had to interview children under the age of 16 a psychologist and a pedagogue had been present. A doctor is also invited in case the child had health problems that may require medical intervention during the interview. Staff members of the Anti-Trafficking Department are regularly involved in training on how to interview children.

130. There are no child-friendly interview rooms at the Anti-Trafficking Department or at police stations. Representatives of law enforcement agencies met by GRETA indicated that whenever an interview is conducted with children at a police station, the necessary measures are taken to ensure the confidentiality of the conversation and the presence of a psychologist and a pedagogue. GRETA was informed that child victims may also be interviewed in the state shelter for THB victims or at their school in the presence of a teacher and a psychologist to prevent further trauma to them.

131. The interview conducted with the child during the pre-trial investigation can be recorded with the agreement of the child's legal representative and used in court in lieu of the child's testimony. Since 2019 there are child-friendly interview rooms at the Baku, Ganja, Sheki, and Lankaran Regional Courts for Serious Crimes, with hidden microphones and cameras, allowing to interview child victims or witnesses through a videoconferencing system. The use of the videoconferencing is at the discretion of the court. Guidelines on child-friendly legal aid endorsed by the Azerbaijani Bar Association in 2020, as well as guidelines on child-friendly communication and procedures in judicial proceedings, have been prepared and distributed to lawyers, investigators, prosecutors and judges. GRETA was informed by lawyers met during the evaluation visit that, compared to the previous reporting period, judges are more sensitised to the conduct of child-friendly proceedings.

132. Whilst welcoming the steps taken to ensure child-sensitive procedures for obtaining access to justice and remedies, GRETA is concerned by absence of a child-friendly room at the Anti-Trafficking Department as well as by reports that in some possible THB cases children were interviewed without a child psychologist or a lawyer. **GRETA therefore considers that the Azerbaijani authorities should strengthen their efforts to ensure that all child victims of THB (i.e. all persons up to the age of 18) are in practice afforded special protection measures. This should include measures to prevent contacts between child victims and defendants and ensure that child victims are interviewed in a child-friendly room, by adequately trained investigators, prosecutors and judges and in the presence of trained child psychologists. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.**<sup>61</sup>

c. role of businesses

133. The General Collective Agreements for 2018-2019 and 2020-2022 signed between the Cabinet of Ministers, the Trade Union Confederation and the National Confederation of Entrepreneurs' Organisations of Azerbaijan list, among the measures to be implemented with a view of ensuring the social protection of the rights of the citizens, the support of state social programmes ensuring the elimination of child labour, forced labour and THB, as well as the organisation of joint monitoring.

134. By Resolution No. 157 of 11 April 2019 of the Cabinet of Ministers, the theme "information on prevention and combating THB" was included in the training of drivers working in international and national passenger and freight transportation by road. The Ministry of Digital Development and Transportation provided some training sessions on THB to the drivers and other relevant staff of international transportation companies until March 2020, when Azerbaijan decided to close the land borders with all the neighbouring countries due to the outbreak of the COVID-19 pandemic. Further, in 2021 the State Tourism Agency provided employees of hotels and travel agencies with training on how to detect and refer victims of THB, during which awareness-raising materials on THB were distributed.

135. GRETA was not informed of any specific initiatives to prevent and eradicate trafficking from companies' supply chains or to support the rehabilitation and recovery of its victims. Nevertheless, GRETA notes that the National Action Plan 2020-2024 envisages the preparation of proposals, to be submitted to the National Co-ordinator, on the assessment, detection and elimination of all risks of THB and forced labour at all stages of production and services up to the consumer, on the joint anti-trafficking actions of the relevant state authorities and on how to strengthen strategic partnership between state authorities and the private sector in combatting THB.

136. **GRETA considers that the Azerbaijani authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights<sup>62</sup> and the Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,<sup>63</sup> and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,<sup>64</sup> with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies.**

<sup>61</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

<sup>62</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>63</sup> [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

<sup>64</sup> [Recommendation CM/Rec\(2022\)21](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and [Explanatory Memorandum](#), adopted by the Committee of Ministers on 27 September 2022 at the 1444<sup>th</sup> meeting of the Ministers' Deputies.

d. measures to prevent and detect corruption

137. Trafficking in human beings may be engaged in by organised criminal groups, which frequently use corruption to circumvent the law and money laundering to conceal their profits, but it can occur in other contexts. Consequently, other Council of Europe legal instruments are also relevant to combating human trafficking, in particular those designed to combat corruption, money laundering and cybercrime. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

138. As per the Transparency International's Corruption Perception Index (CPI) 2021, Azerbaijan was at the 128th place out of 180 countries, which puts it in the category of highly corrupt countries.<sup>65</sup> Azerbaijan has serious corruption problems, among other sectors, in the judiciary.<sup>66</sup> In its fourth report on Azerbaijan (2015),<sup>67</sup> which focuses on corruption prevention in respect of members of parliament, judges and prosecutors, GRECO recommended, *inter alia*, that the asset disclosure regime applicable to judges and prosecutors be put into effect and accompanied by adequate sanctions for non-compliance with the rules. GRECO also recommended that dedicated training be provided to judges and prosecutors on the application of the rules on conflicts of interest, asset disclosure and ethical conduct, and that compliance with the Prosecutorial Code of Ethical Behaviour be assessed in the periodic evaluation of prosecutors' performance and its violations be made subject to adequate sanctions. According to GRECO's compliance report (2017)<sup>68</sup> and second compliance reports (2019<sup>69</sup> and 2021<sup>70</sup>), while some of these recommendations have been satisfactorily or partly implemented (e.g. training to prosecutors and judges), no progress has been achieved in respect of the recommendation on the asset disclosure regime applicable to prosecutors and judges.

139. The Law on Combating Corruption provides for prevention of corruption, corruption-related offences, and sanctions for such offences. Article 6.3 of the Law on Combating THB stipulates that in order to ensure the safety of victims and protection of sensitive data, persons involved in the implementation of the National Action Plan should only possess information necessary to fulfil their specific task. The Azerbaijani authorities explained that the application of this principle also aims to prevent corruption and protect relevant officials from the pressure and influence of traffickers. In this regard, GRETA refers to the above-mentioned ICMPD report (paragraph 21) which recommended including in the National Action Plan on Combating THB elaborated anti-corruption measures regarding the organised criminal groups.

140. The authorities did not report any investigations, prosecutions or convictions of public officials for complicity in THB offences or failure to protect rights and interests of victims.

141. **GRETA considers that the Azerbaijani authorities should include measures against corruption in a THB context in its anti-corruption policies and initiatives.**

<sup>65</sup> [2021 Corruption Perceptions Index - Explore the... - Transparency.org](https://www.transparency.org/en/cpi/2021)

<sup>66</sup> See [Azerbaijan: Freedom in the World 2022 Country Report | Freedom House](https://freedomhouse.org/country/azerbaijan/freedom-in-the-world/2022).

<sup>67</sup> <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c664f>

<sup>68</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806fe9f2>

<sup>69</sup> <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168094f9b1>

<sup>70</sup> <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a28742>

## V. Follow-up topics specific to Azerbaijan

### 1. Measures to prevent and combat trafficking for the purpose of labour exploitation

142. In its second evaluation report, GRETA urged the Azerbaijani authorities to take measures to prevent trafficking for the purpose of labour exploitation by raising awareness regarding the risks of THB, training labour inspectors, law enforcement officers, prosecutors and judges on combating THB for the purpose of labour exploitation, reintroducing work place inspections by labour inspectors and strengthening the mandate of labour inspectors, regulating and monitoring the functioning of recruitment and temporary work agencies, and reviewing the regulatory system concerning migrants working as domestic workers.

143. Pursuant to Article 6-ç of the Labour Code, the Code is not applicable to “foreigners who have concluded employment contracts with a foreign country’s legal entity in that foreign country and who perform their employment functions at an enterprise (branch or representative office) in Azerbaijan”. GRETA notes that this provision leaves the door to abuses by employers. It places foreign workers who were seconded by foreign companies abroad to work in Azerbaijan in a particularly vulnerable situation, as it deprives them from legal safeguards lay out in the Labour Code, such as the prohibition to oblige an employee to perform a job not included in the job description. GRETA notes that in the case of *Zoletic and Others v. Azerbaijan*, the applicants’ claim for recovery of their unpaid wages had been rejected by Azerbaijani courts on the ground that the Labour Code did not apply to them as they had been seconded to Azerbaijan by a foreign company.<sup>71</sup> GRETA was informed of the preparation of draft amendments by the Ministry of Labour and Social Protection to Article 6-ç of the Labour Code in order to make the Labour Code applicable to persons seconded by foreign companies abroad to work in Azerbaijan for a period more than 90 days. **GRETA would like to be kept informed of developments in this respect.**

144. NGO representatives met during the visit referred to cases of trafficking for the purpose of labour exploitation taking place in different sectors of the economy (e.g. agriculture, catering), but noted that the reluctance of victims to complain due to fear of retaliation from traffickers or punishment by the state authorities because of their irregular situation leads to difficulties in investigating and prosecuting cases of labour trafficking. There has been an increase in online recruitment for fraudulent jobs abroad. GRETA refers to the report of the UN Committee on the Elimination of Racial Discrimination,<sup>72</sup> which raised concern about reports that migrant workers face harsh working conditions, abuse and exploitation, are subjected to discrimination, including with regard to remuneration, and are vulnerable to trafficking. As was already the case during the first and second evaluations, the occurrence and extent of THB for the purpose of labour exploitation is not well researched in Azerbaijan.

145. As noted in GRETA’s second report, all labour inspections related to entrepreneurial activity have been suspended since 1 November 2015. Although labour inspectors can still conduct desk reviews in response to complaints, by requesting information from the employer in question and relevant employees, the lack of proactive or onsite labour inspections seriously restrict efforts to prevent and combat THB for the purpose of labour exploitation. During the reporting period, labour inspectors did not receive any complaints about human trafficking and did not detect any potential cases of THB. They detected only eight cases of violation of Article 17 of the Labour Code on the prohibition of obliging an employee to perform a job not included in the job description. The Azerbaijani authorities noted that in order to ensure state control over labour law compliance in sectors where there is a high number of labour law violations, criteria for the identification of risk groups have been prepared. Their approval by the Cabinet of Ministers may permit the State Labour Inspectorate (SLI) to resume labour inspections in certain sectors.<sup>73</sup> **GRETA would like to be kept informed of developments in this respect.**

<sup>71</sup> See *Zoletic and Others v. Azerbaijan* (Application no. [20116/12](#)), paragraphs 32, 34 and 80

<sup>72</sup> See UN Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined tenth to twelfth periodic reports of Azerbaijan](#), 22 September 2022, paragraphs 32 and 33.

<sup>73</sup> See [2021 findings on the worst forms of child labour in Azerbaijan](#) of the United States Department of Labour.

146. The mandate of labour inspectors continues to be limited to inspecting registered companies. As noted in GRETA's previous reports, labour inspectors can enter private homes only if employees working there have a tax number and make a complaint. GRETA was informed that the relatives of an employee can submit a complaint to the SLI about the working conditions of an employee only with his/her written authorisation and only the complaints about companies registered in Azerbaijan are investigated by the SLI. Further, complaints submitted by employees working abroad about their working conditions are not transmitted to the relevant authorities of the country concerned.

147. The SLI continues to lack staff and resources to effectively enforce labour laws. The number of labour inspectors in Azerbaijan was 180 in 2021, which is insufficient for the size of Azerbaijan's workforce, which includes approximately 5 million workers.<sup>74</sup> In their comments on GRETA's draft report, the Azerbaijani authorities referred to the adoption of Presidential Decree No. 1076 of 30 June 2020 providing for an increase in the number of employees of the SLI, without however indicating to what extent the SLI's human resources have been increased since the adoption of the Decree. The National Action Plan 2020-2024 foresees the preparation of proposals regarding the improvement of the activities of the SLI and the development of the capacity of its staff in order to detect forced labour cases in the country.

148. The Azerbaijani authorities have referred to a number of activities conducted by them, NGOs and international organisations to raise awareness of risks of THB. In 2020, 12 000 booklets and flyers were distributed at border checkpoints and other places as part of an outreach campaign for building awareness on the risks of THB. The same year, the Ministry of Culture organised more than 20 webinars and meetings on combating THB in 13 towns and regions of Azerbaijan. Specialists of the Ministry of Health distributed materials on human trafficking on social networks and in health institutions. Furthermore, the State Migration Service offers weekly training programmes for migrants coming to Azerbaijan. An internet portal for labour relations was set up in 2018 to provide job seekers with information on labour regulations.<sup>75</sup> A labour protection centre providing consulting services in the field of labour rights, safety and protection is being set up by the Ministry of Labour and Social Protection. In their comments on GRETA's draft report, the authorities referred to additional awareness-activities about THB carried out by NGOs in 2021 and 2022, including the distribution of information on human trafficking on social media, the distribution of booklets, the broadcast of videos on TV, the production of the TV series "Ifsha 1" (Exposure) about human trafficking and drug addiction,<sup>76</sup> and the organisation of seminars and other events aimed to prevent human trafficking.

149. GRETA was informed that there are many cases of Azerbaijani citizens sent abroad to work by recruitment agencies or intermediary persons and such activities are not sufficiently monitored by the authorities. According to the Azerbaijani authorities, following the adoption of Decision No. 349 of 8 August 2019 of the Cabinet of Ministers on the "Registry of legal entities engaged in mediation in the employment and the requirements about those legal entities", a special register for recruitment agencies was set up in the electronic information system of the Ministry of Labour and Social Protection. Following that, 30 recruitment agencies have been registered. According to the procedure for maintaining this register, recruitment agencies shall provide the Ministry of Labour and Social Protection with information on the number of persons applying to them for employment and being employed by them.

150. GRETA also was informed that following the Order of the Cabinet of Ministers No. III dated 7 February 2019, the State Migration Service is allowed to issue work permit to foreigners who would like to work in Azerbaijan as domestic workers. This is expected to reduce the number of undocumented foreign domestic workers in Azerbaijan. However, GRETA has not received any information on the procedure and conditions for issuing work permits for domestic workers nor on the steps taken to prevent exploitation of domestic workers.

<sup>74</sup> Ibidem. According to the International Labour Organisation's technical advice of a ratio approaching 1 inspector for every 20 000 workers in transition economies, Azerbaijan would employ about 256 labour inspectors.

<sup>75</sup> For more detailed information on these activities, see National Co-ordinator's 2018, 2019, 2020 and 2021 reports and the Azerbaijan's Reply to the Committee of the Parties' Recommendation: <https://rm.coe.int/cp-2019-01-azerbaijan/16809eb4f7>

<sup>76</sup> [Creator of "Ifsha" project: "Our whole society and televisions should want to make educational series" - Daily News \(txtreport.com\)](https://www.dailynewsreport.com)

151. GRETA notes that limited progress have been achieved since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation. Therefore, **GRETA once again urges the Azerbaijani authorities to take measures to effectively prevent, detect and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers<sup>77</sup> and GRETA's Guidance Note on combating trafficking for labour exploitation.<sup>78</sup> This should include:**

- **reintroducing workplace inspections by labour inspectors, reviewing their mandate to also cover non-registered companies, and ensuring that adequate human and financial resources are made available to them to fulfil their mandate;**
- **training labour inspectors throughout the country as well as law enforcement officers and prosecutors, including through joint training, on THB for the purpose of labour exploitation and the rights of victims;**
- **reviewing the employment framework on migrant workers, including foreign workers seconded by foreign companies abroad to work in Azerbaijan, to reduce their vulnerability to human trafficking, exploitation and abuse;**
- **regulating and monitoring the functioning of recruitment and temporary work agencies to strengthen prevention of THB and labour exploitation;**
- **reviewing the regulatory system concerning migrants working as domestic workers to prevent and detect cases of domestic servitude.**

152. **Further, GRETA considers that the authorities should continue to raise awareness amongst the general public and migrant workers regarding the risks of THB for the purpose of labour exploitation.**

## **2. Identification of victims of trafficking**

153. In its second evaluation report, GRETA urged the Azerbaijani authorities to reinforce the National Referral Mechanism (NRM) and the multi-agency involvement in victim identification, to guarantee that identification is dissociated from the presumed victim's co-operation in the investigation, to ensure that the application of the Rules (Indicators) on Identification of Victims of THB and the Rules on the NRM is duly monitored and evaluated, and to increase efforts to proactively identify victims of THB for the purpose of labour exploitation.

154. The procedure for identifying victims of THB in Azerbaijan remains unchanged. It is described in a guidance note issued at the end of 2018 as part of a project implemented by IOM. The note comprises three Standard Activity Procedures (SAP) for the application of the 2009 Rules on the NRM on Victims of THB: SAP on the Initial Identification and Notification to Anti-Trafficking Department, SAP on the Initial Examination Phase, and SAP on the Preliminary Investigation Phase. These SAPs should be applied by relevant public officials and NGOs as soon as there are reasonable grounds to believe that a person is a victim of human trafficking. In case of detection of a person who may be a victim of THB, the special police unit of the Anti-Trafficking Department must immediately be informed, with the consent of the person concerned. An officer of the special police unit is designated as case officer by the duty officer of the Anti-Trafficking Department to review all the available information and conduct an interview with the person. The duty officer decides on the basis of the report prepared by the case officer whether the person should be considered as a presumed victim of THB. Only victims who agree to co-operate in the investigation and in case an investigation is launched are formally identified as victims of trafficking. However, persons who are classified as presumed victims of THB are also eligible for assistance. Persons for whom there are insufficient grounds to be classified as presumed victims and persons who decline to

<sup>77</sup> [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a83df4](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a83df4)

<sup>78</sup> <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>

have their case referred to the police unit of the Anti-Trafficking Department are considered as potential victims of THB or persons vulnerable to THB and can be assisted by NGOs and the Assistance Centre for Victims of THB (see paragraphs 166-167).

155. The identification follows the indicators contained in the Rules (Indicators) on the Identification of Victims of Trafficking. GRETA's attention was drawn to the need to update these Rules, adopted in 2009 and obsolete in some respects. By way of example, paragraph 3.1.3 of the Rules indicates that the victims of THB for the purpose of sexual exploitation are often under the age of 30 and bear tattoos or other signs indicating that they belong to the exploiter, which may not be the case anymore.<sup>79</sup>

156. A hotline "152" has been run by the Anti-Trafficking Department since 2007 to give victims a possibility to come forward. It is operated by four persons who have been trained on THB and speak Azerbaijani, Russian and English. All the calls are recorded and, if need be, a contact is made with relevant embassies for providing interpretation. Since 2017 the hotline has received 35,093 calls, 95 of which related to THB. Other calls were related to issues such as work in foreign countries, marriage with a foreigner, domestic violence, adoption, education, and coronavirus test. In 2021, the software of the hotline was improved and expanded, e.g. the functions of directing irrelevant calls to the other services and making a call back were added, and the time of transmission of information was shortened.

157. The authorities referred to a number of steps taken to enhance the role played by the migration authorities and diplomatic staff in identifying THB victims. These steps were taken mainly within the project "Enhancement of National Capacities to Combat Human Trafficking in Azerbaijan" implemented by IOM since 2016. They included training organised for the employees of the State Migration Service as well as diplomatic staff to be seconded abroad, a guideline on combatting THB developed for diplomats in 2019 and distributed, together with brochures and flyers on THB, to all diplomatic missions and consulates of Azerbaijan, and an international conference on "The role of diplomatic missions in combatting THB" held on 31 May 2019 for representatives of foreign diplomatic missions in Azerbaijan. Under the same project, in 2019 IOM developed a training manual and a guidance note on THB for employees of the State Migration Service. The guidance explains the difference between THB and smuggling of migrants, contains identification indicators for different forms of THB, explains how to interview and refer persons who may be victims of THB, and refers to the principle of non-punishment.

158. The authorities indicated that the detection and identification of victims of THB were not affected by the coronavirus pandemic as there was no obstacle to access police departments and the hotlines continued to function. However, awareness-raising activities were adversely affected as in 2020 and 2021 they could only be conducted online due to restrictions for physical meetings.

159. GRETA visited the detention centre for irregular migrants run by the State Migration Service.<sup>80</sup> The centre accommodates persons to be returned to their countries, including voluntary returnees. The centre has a capacity of 120 persons, but during the visit of GRETA only 15 persons were present in the centre. GRETA was informed that at their arrival all migrants are interviewed by a staff member trained on how to detect victims of THB. If there are reasonable grounds to believe that a person is a THB victim, the case should immediately be referred to the Anti-Trafficking Department and the person taken out of the centre within 24 hours.

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<sup>79</sup> NGO Women Reformers and Innovation, *Proposals for Improving the Law on Combating Human Trafficking*, 2021, p.

15.

<sup>80</sup> This centre was also visited by GRETA during the second evaluation visit.

160. Persons who apply for asylum to the State Migration Service are provided with information brochures on the risks of THB, their rights and available assistance services. These brochures are available in Azerbaijani, Russian, English, Arabic, Persian and Urdu languages. The State Border Service distributes leaflets about the risks of THB in Azerbaijani, Russian and English and its staff are trained on asylum procedure and human trafficking.<sup>81</sup> The UNHCR has drawn up a list of interpreters and made it available to border guards and police officers. In addition, the Refugee Department of the Migration Service prioritises the recruitment of persons with good command of foreign languages.

161. While welcoming the steps taken to improve the detection of THB victims, especially the adoption of the SAPs and the enhancement of the role played by the migration authorities and diplomatic staff, GRETA notes with concern the lack of proactive identification efforts among victims of internal trafficking. The vast majority of the victims are Azerbaijani citizens exploited abroad, who were either identified in the country of destination or self-identified upon return (see paragraphs 12 and 187). Furthermore, neither civil society actors nor other relevant state actors, such as labour inspectors, are involved in the identification process, which falls within the exclusive competence of the Anti-Trafficking Department. GRETA was informed that many potential victims of THB referred by NGOs to the Anti-Trafficking Department were not formally identified on the ground that they did not meet the identification indicators, and some of them were subsequently deported.<sup>82</sup> Moreover, the efforts made to identify trafficking victims among irregular migrants and asylum seekers are inadequate.

162. **Referring to the recommendations made in its second evaluation report, GRETA once again urges the Azerbaijani authorities to further improve the identification of victims of THB, and in particular to:**

- **guarantee that the identification of victims of THB is dissociated from the presumed victim's co-operation in the investigation or the launch of an investigation;**
- **reinforce the multi-agency involvement in victim identification by formalising the role of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers, educational staff and medical staff;**
- **increase efforts to proactively identify victims of internal trafficking;**
- **improve the detection and identification of victims of trafficking among migrant workers, irregular migrants and asylum seekers through a proactive approach.**

163. **Further, GRETA considers that the authorities should update the Rules (Indicators) on Identification of Victims of THB as well as periodically assess the implementation of the National Referral Mechanism and adjust it in the light of the results.**

### **3. Assistance to victims**

164. In its second report, GRETA considered that the Azerbaijani authorities should strengthen their efforts to provide assistance to all victims of THB and provide adequate funding to the Assistance Centre for Victims of THB.

165. The Rules on the social rehabilitation of victims of THB provide for the drawing up of a personal plan of reintegration into society for each victim of THB. The assistance is mainly provided through the Assistance Centre and the state-run shelter subordinated to the Anti-Trafficking Department. The GRETA delegation visited the latter shelter in Baku,<sup>83</sup> which has a capacity of 50 beds, divided into two distinct sections for men and women and children. In addition to the director, who is the member of the NGO

<sup>81</sup> For more information, see Azerbaijan's Reply to the Committee of the Parties' Recommendation: <https://rm.coe.int/cp-2019-01-azerbaijan/16809eb4f7>.

<sup>82</sup> For example, while 57 potential victims were referred to Anti-Trafficking Department in 2018, only one person was identified as THB victim.

<sup>83</sup> The same shelter was visited by GRETA at the time of the first and second evaluations.



Family World, at the time of the visit, there were 11 staff members, including a social worker and a psychologist. Almost all the staff members are members of NGOs and paid by the State for their part-time work at the shelter. At the time of GRETA's visit, five identified victims of THB were accommodated at the shelter (three girls victims of sexual exploitation and two men victims of labour exploitation in the agricultural sector). The duration of the stay for adults is limited to a maximum of two periods of 30 days. However, in practice some victims have stayed for much longer periods. For example, the two men present at the shelter during the visit had stayed at the shelter for more than two years.<sup>84</sup> In 2018-2021, 326 victims of THB were accommodated in the shelter, the vast majority of whom were women (300), primarily victims of sexual exploitation, the remainder being male victims of forced labour. All but two of the victims were Azerbaijani nationals. The shelter also accommodated six presumed victims of THB together with four children of the victims. The maximum number of victims in the shelter at any given time was 23, which shows that the shelter continues to be under-used in relation to its capacity. This is reportedly due to the limited freedom of movement offered to the victims, who cannot leave the shelter unaccompanied by a social worker during the period in which the criminal proceedings are ongoing. GRETA was informed by the shelter director that the budget allocated to the shelter was sufficient.<sup>85</sup>

166. Victims of THB can remain in the state shelter for up to 30 days without having to co-operate with the investigation or prosecution authorities but longer stays require victims to co-operate with them (Article 13.3 of the Law on Combating THB). Victims who do not agree to co-operate with the law enforcement authorities or avoid contact with them are accommodated in NGO shelters. GRETA visited two shelters for female victims of violence, including victims of THB, run by the NGOs Clean World in Baku and Tamas Regional Development in Ganja. The limited amount of funding these NGOs receive from the State (between AZN 5 000 and 10 000 per year, i.e. approximately EUR 2 900 – 5 800)<sup>86</sup> remain largely insufficient to ensure the sustainability of their shelters. In order to ensure the continuity of the functioning of the shelters, since 2016 IOM has been financially supporting the staff of the two shelters, which include social workers, lawyers and psychologists. At the time of GRETA's visit, both shelters were operating at maximum capacity. In the Tamas shelter there were 23 victims of violence, including two women victims of THB who had been sexually exploited in Türkiye, while in the Clean World shelter there were 50 victims of violence, including one victim of THB.

167. The Assistance Centre for Victims of THB in Baku is responsible for providing different types of assistance to victims of THB (medical, psychological, legal...) regardless of whether the victims are willing to co-operate with the law enforcement authorities. In 2020, the Centre was attached to the Social Services Agency under the Ministry of Labour and Social Protection. This resulted in a significant increase in the budget of the Centre<sup>87</sup> and the number<sup>88</sup> and salaries of its staff. GRETA was informed that this resolved the issue of the high turnover of staff and improved the quality of services provided to victims. Since 2018, 381 identified and 117 presumed and potential victims of THB have been referred to the Centre. As noted in paragraph 55, the Assistance Centre has also referred victims to the State Employment Service for their enrolment in vocational courses or assistance in finding employment. Identified victims were referred to the Centre by the Anti-Trafficking Department, while potential and presumed victims were mainly referred by NGOs, in particular when such victims did not wish to co-operate with the law enforcement authorities. Victims can also approach to the Centre on their own initiative. Victims were

<sup>84</sup> GRETA was also made aware of a Russian man, victim of labour exploitation in a farm, who spent six years in the state shelter. Although the criminal proceedings ended in one year, the victim had nowhere to go and could not obtain identity documents from the Russian Embassy. With help of the Azerbaijani authorities, he finally managed to return to Russia in 2020.

<sup>85</sup> In 2019, AZN 84 700 (about EUR 49 000), in 2020, AZN 113 350 (about EUR 66 000) and in 2021, AZN 122 126 (about EUR 71 000) were allocated from the budget of the Ministry of Internal Affairs to the shelter.

<sup>86</sup> In addition, in 2021, the Ministry of Internal Affairs funded repairs in the Tamas shelter.

<sup>87</sup> The budget allocated to the Assistance Centre was AZN 56 000 (about EUR 32 800) in 2018 and 2019, AZN 68 000 in 2020, AZN 148 000 in 2021, and AZN 80 000 in the first half of 2022. 93% of the budget was used for staff salaries and 7% for the office maintenance and utilities.

<sup>88</sup> Since the first evaluation round, the number of the Centre's staff has doubled. Currently the Centre's staff is composed of a director, an accountant, two psychologists, a lawyer, two social workers, an assistant, a driver, and a technical staff. All the staff received training on THB and provision of social services with the support of international organisations.

assisted by the authorities in obtaining ID cards, birth certificate and temporary residence permits for them and their children (32 victims) as well as in their return to their families.<sup>89</sup>

168. While welcoming the increase in the budget allocated to the Assistance Centre, GRETA notes with concern that the reintegration of victims of THB remains challenging. Victims face difficulties in paying for an appropriate accommodation place after leaving the shelter.<sup>90</sup> Consequently, **GRETA considers that the Azerbaijani authorities should strengthen their efforts to ensure that victims of trafficking receive support and assistance, based on their individual needs, for as long as necessary, in order to facilitate their reintegration and recovery. The authorities should ensure that assistance measures provided for in law, including accommodation in the state shelter for victims of THB, are not made dependent on the victims' willingness to cooperate with the law enforcement authorities.**

#### **4. Measures to prevent trafficking of children, identify child victims of trafficking and assist these children**

169. In its second report, GRETA urged the Azerbaijani authorities to improve the protection of children in vulnerable situations and strengthen the role and capacity of the child protection systems to prevent trafficking in children. Further, GRETA urged the authorities to improve the identification and referral to assistance 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 and is accompanied by standard operation procedures, and by ensuring that relevant actors are adequately trained and provided with guidance for the identification of child victims.

170. The authorities referred to a number of activities (meetings, lectures, round-tables, workshop discussions, exhibitions, online campaigns through diffusion of short videos on social media, training) conducted by various state institutions in co-operation with NGOs and international organisations in order to raise awareness of the risks of child trafficking among children, students, parents, teachers, school psychologists, and staff of state child care institutions. Booklets prepared by the Ministry of Health ("Child trafficking", "Don't be subject to forced labour, Be aware") were distributed during these events and participants were informed of the forms of THB, preventive measures against THB, available support services and the child hotline.<sup>91</sup> By way of example, the authorities referred to a play on THB ("Guilty without guilt") produced by the Ministry of Youth and Sport, which was staged in the educational institutions of most regions of Azerbaijan, each time with a public of 200 to 400 people. They also pointed out that the Ministry of Education, together with UNICEF, has conducted training at almost all boarding schools of the country to raise awareness of the teachers of the different risks faced by children, including THB, and to inform them of the measures to be taken if they detect a child victim of trafficking.<sup>92</sup> These activities were conducted virtually after March 2020 due to the COVID-related restrictions.

<sup>89</sup> The return of 69 victims of THB in 2018, 58 victims in 2019, 58 victims in 2020 and 56 victims in 2021 to their families was made possible following the conversation with their family members.

<sup>90</sup> See NGO Women Reformers and Innovation, Proposals for Improving the Law on Combating Human Trafficking, 2021, pp. 16 and 17.

<sup>91</sup> The child hotline service operates under co-operation of Azercell Telecom LLC, UNICEF Azerbaijan and NGO Reliable Future Social Initiative. For more details on the hotline see [Azerbaijan Children Hotline released its report for 2021 – AzeriTimes](https://www.azeritimes.com/azeri-times-azerbaijan-children-hotline-released-its-report-for-2021/)

<sup>92</sup> For detailed information on awareness-raising activities, see the Azerbaijan's Reply to the Committee of the Parties' Recommendation (<https://rm.coe.int/cp-2019-01-azerbaijan/16809eb4f7>), Azerbaijan's reply to the third-round questionnaire (<https://rm.coe.int/annex-2-to-the-reply-from-azerbaijan-to-the-questionnaire-for-the-eval/1680a62bfb>) as well as the National Co-ordinator's 2020 and 2021 reports.

171. As noted in paragraph 154, three Standard Activity Procedures (SAP) for the application of the Rules on the National Referral Mechanism on Victims of THB were set up at the end of 2018. These SAPs contain separate chapters for children describing the procedure to be followed from the moment of the detection of a child who may be victim of trafficking until the initiation of the preliminary criminal investigation. According to the SAPs, special protection measures should be applied to children. For instance, the questioning of a child to determine if there are any grounds to presume that he/she may be a victim of THB should be conducted in a confidential manner, in the presence of a lawyer and, if necessary, a doctor and a psychologist. It should be explained to the child the purpose of the interview as well as the possibility for them to ask for clarification, take their time to answer the questions and take a break at any time. If there are grounds to presume that the child may have been trafficked, the child should be handed over to the police unit of the Anti-Trafficking Department, within 24 hours. The results of the investigation conducted by the latter must be reported to the agency that handed over the child. These same steps are explained in a methodological manual issued in 2022 for law enforcement bodies and other state authorities operating in the anti-trafficking field on how to communicate with and refer child victims of THB.

172. In 2020, the Government adopted a strategy (2020–2030) and an action plan (2020-2025) for improving child protection. They include measures aimed to prevent child labour and establish a monitoring mechanism for detecting vulnerable children.

173. According to available data, 4.5% of children aged 5 to 14 in Azerbaijan work and 4.9% of children aged 7 to 14 combine work and school.<sup>93</sup> Around 92% of them work in agriculture (farming and harvesting potatoes, production of cotton, tea and tobacco) and the others work in catering, car wash and repair, and street work (vending, carrying luggage, or gathering scrap metal).<sup>94</sup> The authorities have detected nine cases of child labour violation in 2019, three in 2020 and one in 2021, all concerning children working under the minimum age; the employers were fined.<sup>95</sup> The absence of worksite inspections hinders the detection of child labour. GRETA is also concerned by information that cases of children forced to beg or engage in street work are not treated as human trafficking if they are exploited by their parents. Most such cases referred to law enforcement agencies were not investigated, and the children were returned to their parents. The families receive a warning or a fine of between AZN 40 and 100 (equivalent to EUR 23-58) for not fulfilling their responsibilities related to the education of their children<sup>96</sup> and children return to their exploitative environment.<sup>97</sup>

174. There is a social shelter and rehabilitation centre in Baku, which is run by the Ministry of Labour and Social Protection and can accommodate up to 40 vulnerable children, including children in street situations. Further, the Ministry of Labour and Social Protection, through its social contracts, support some local NGOs in providing services by day care centres to increase access of children from poor families to social services. However, the measures taken by the authorities and overall human and financial capacity of social services centres remain insufficient to protect street children and other children exposed to the risk of THB.<sup>98</sup>

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<sup>93</sup> See [2021 findings on the worst forms of child labour in Azerbaijan](#) of the United States Department of Labour.

<sup>94</sup> Ibidem. The Law on Administrative Offences prohibits vagrancy and the act of involving a child in vagrancy, and considers begging (and panhandling) as vagrancy. The Law on Licensing and Official Permission prohibits street selling without an official permission.

<sup>95</sup> In accordance with the Code of Administrative Offences, the fine for the employment of children under 15 years of age is AZN 1 000 to 1 500.

<sup>96</sup> In application of Article 189-1 of the Code of the Azerbaijan Republic on administrative offences.

<sup>97</sup> According to the statistics provided in the National Co-ordinator's 2021, 2020, 2019 and 2018 reports, during the police raids conducted to prevent child labour exploitation, 450 "children deprived of family environment and working in the street" were detected in 2021, 370 children in 2020, 430 children in 2019, and 450 children in 2018, and administrative sanctions (fines) were imposed to 75 parents in 2021, 120 parents in 2020, 180 parents in 2019, and 207 parents in 2018 for failing to fulfil their responsibilities with regard to the education of their children. Most of them are Roma children involved in begging. Among these children, only one child was identified as a victim of forced labour.

<sup>98</sup> See UNICEF, [children living and working in the streets of Georgia](#), July 2018, page 74.

175. As explained in GRETA's previous reports, child victims of THB can be accommodated in the state shelter in Baku for up to 60 days, but this period can be extended if the child's best interests so require. Upon arrival of the child, the manager of the shelter immediately informs the child protection authorities so that they can take the necessary protection measures, such as the appointment of a legal guardian. The necessary medical, psychological, legal and social assistance is provided in accordance with an individual plan of social rehabilitation of the child. Children can also be accommodated in a shelter for children in difficult situations run by the NGO Azerbaijan Child Union. The GRETA delegation visited that shelter, which is located in a suburb of Baku.<sup>99</sup> At the time of the visit there were around 35 children and a woman with her children, all of them Azerbaijani. Some of them were street children and possibly victims of sexual exploitation. The shelter is funded mostly through donations, which is not sufficient to ensure its functioning. Although since 2016 IOM has been financially supporting the shelter through consultancy contracts to cover the salary of some of the staff, the shelter remains underfunded.<sup>100</sup> In 2021 the Ministry of Internal Affairs allocated AZN 30 000 (about EUR 17 000) to the NGO for the purchase of an area to build a new shelter.

176. In its second report, GRETA urged the Azerbaijani authorities to strengthen the prevention of child, early and forced marriages. Although the minimum age of marriage is 18 years, in case of a valid reason, it may be reduced to 17 years (Article 10.2 of the Family Code). GRETA was informed of the preparation of draft amendments to remove this possibility of early marriage which would soon be submitted to the Government for approval. GRETA was also informed by the authorities that they conduct outreach activities among the population to raise awareness on the negative impacts of early marriage. A total of 229 such awareness-raising events were held in 2018, 397 in 2019, 53 in 2020, 140 in 2021 and 50 in the first half of 2022. Further, a procedure for awareness-raising on the negative consequences of early marriages was adopted by Resolution No. 213 of 23 June 2020 of the Cabinet of Ministers. It explains the role of the relevant authorities in this respect and envisages to include this topic in the school textbooks for grades 9-11. In accordance with this procedure, the civil registration offices of the Ministry of Justice inform all persons applying for early marriage about the negative impact of early marriage on the health, quality of life, moral and psychological development.

177. In its second report, GRETA urged the Azerbaijani authorities to ensure the registration of all children at birth. The authorities indicated that information on births is immediately sent to the State Population Register by the Ministry of Health and the new-born child is given an identification number. Parents of children who were not registered within the timeframe set by the legislation receive a notification inviting them to the registration office and warning them about the administrative sanctions that can be applied. Some 89 000 such notifications were made in 2018. Decree No. 1160 of 23 September 2020 of the President of the Republic of Azerbaijan on enhancing the deployment of electronic services in state civil status registration provided for the increased use of communication technologies in state civil status registration in order to ensure effectiveness and accessibility in the field of birth and death records. Further, GRETA was informed of the mobile registration carried out in hospitals and the regular visits conducted by the authorities in the regions most impacted by this problem in order to inform the population about the legislative requirements on registration of birth through meetings and distribution of informative materials. Persons whose children cannot be registered due to the lack of identity documents are provided with legal assistance in applying to the court to determine the fact of birth.<sup>101</sup> However, the procedure before the court is lengthy and sometimes it takes more than two years to receive a birth certificate.

<sup>99</sup> The shelter was also visited by GRETA during the first evaluation round.

<sup>100</sup> See UNICEF, [children living and working in the streets of Georgia](#), July 2018, page 78.

<sup>101</sup> By way of example, according to National Co-ordinator's 2021 report, 972 children born in previous years, but without relevant documents, were identified in 2021, of whom 937 were registered, and others were provided with legal assistance in applying to the court to determine the fact of birth.

178. GRETA welcomes the development of specific procedures for the identification of child victims of THB in the Standard Activity Procedures (SAP), the activities to raise awareness of child trafficking, and the measures taken to improve the registration of children at birth. However, GRETA notes the low number of child victims of human trafficking detected by the authorities and the continuing lack of capacity of social services centres to protect children exposed to the risk of THB. Consequently, **GRETA urges the Azerbaijani authorities to step up their efforts to prevent and combat the trafficking of children, identify child victims of trafficking, and provide appropriate assistance to them, and in particular to:**

- **strengthen the role and capacity of the child protection systems to prevent trafficking in children and detect and identify child victims of human trafficking. Particular attention should be paid to children in street situations, children forced to beg, children from rural areas at risk of child labour and, children placed in or leaving childcare institutions;**
- **ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child.**

179. **Further, GRETA considers that the Azerbaijani authorities should continue to strengthen the prevention of child, early and forced marriages and take additional measures to ensure that all children are registered at birth. The authorities should also continue to provide training to relevant actors (police, child protection professionals, social workers, labour inspectors, health care staff, education professionals, NGOs) on the identification of child victims of THB for different forms of exploitation.**

## **5. Recovery and reflection period and residence permit**

180. As described in GRETA's second report, according to Article 14.1 of the Law on Combating THB and Article 123-1 of the CPC, victims of trafficking are entitled to a 30-day recovery and reflection period in order to allow them to recover, escape the influence of the perpetrators and take a decision on whether to co-operate with the law enforcement authorities.<sup>102</sup> During this period, victims are entitled to the services provided by the state shelter and Assistance Centre for Victims of THB and must not be expelled from the country.

181. On 27 June 2019, provisions were introduced to the Migration Code (Articles 45.1.10-1, 46.6, 50.2, 64.0.15-1), allowing foreign citizens and stateless persons who are victims of THB to be granted a temporary residence permit based on a document provided by the criminal prosecution authorities, regardless of whether they co-operate with the law enforcement authorities. The victim does not need to provide the documents required from other applicants for temporary residence permit.

182. GRETA was informed by the authorities that a recovery and reflection period was provided to 165 presumed victims of THB for the purpose of sexual exploitation (all female and Azerbaijani citizens) in 2017-2021. Temporary residence permits were issued to three foreign victims of THB (a male victim of forced labour from Ukraine, and a male and a female victim of forced labour from Russia). In their comments on GRETA's draft report, the Azerbaijani authorities noted that all the presumed victims of human trafficking were informed about their right to be granted a recovery and reflection period.

183. **While welcoming the legislative changes introduced to the Migration Code, GRETA considers that the Azerbaijani authorities should ensure that a recovery and reflection period is systematically proposed and effectively granted to all persons for whom there are reasonable grounds to believe that they are victims of trafficking.**

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<sup>102</sup> See paragraphs 129-130 of GRETA's second report on Azerbaijan.

184. **Further, GRETA invites the authorities to continue to ensure that all foreign victims of THB are systematically informed of the right to receive a temporary residence permit without having to co-operate with the law enforcement authorities.**

## 6. Repatriation and return of victims

185. As noted in GRETA's previous reports, under Article 19 of the Law on Combating Trafficking, the repatriation of Azerbaijani citizens who have been identified as victims of THB abroad is organised by the Ministry of Foreign Affairs through the consulates and embassies of Azerbaijan. If the victim does not have a passport, the Ministry will issue a return certificate replacing it. The Law on State Duty was amended in 2020 to exempt victims of THB from state duty for issuance of the return certificate.

186. As far as repatriation of foreign victims of THB from Azerbaijan is concerned, pursuant to Article 20 of the Law on Combating Trafficking, the Anti-Trafficking Department in co-operation with the State Migration Service provides the relevant documents, covers the costs of the return, and takes necessary measures to ensure a safe return and avoid re-trafficking. The same article provides that while child victims of THB can be repatriated under some conditions, they are not to be deported by administrative order. If they are above the age of 10, they shall be consulted about a possible repatriation to their home country.

187. GRETA was informed that all the Azerbaijani victims of THB who returned to Azerbaijan in the reporting period did so by their own means without support from the authorities. According to information provided by the authorities, a total of seven foreign victims of THB (four women and three men) were returned to their countries of origin in the period 2018-2021 (to Uzbekistan, Tajikistan, Ukraine and Russia).

188. **While welcoming the exemption of victims of THB from state duty for issuance of the return certificate and the steps taken since the second evaluation round to ensure a safe return of foreign victims, GRETA reiterates its recommendation from the second evaluation report, and considers that the Azerbaijani authorities should ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, including the right to *non-refoulement*. This includes informing victims about existing repatriation and voluntary return programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection.<sup>103</sup>**

## 7. Co-operation with civil society

189. In its second report, GRETA urged the Azerbaijani authorities to build strategic partnerships with civil society actors and ensure that NGOs engaged in anti-trafficking action have effective access to adequate funding.

190. Article 10 of the Law on Combatting THB foresees co-operation between State bodies and NGOs in the fight against THB and the involvement of the latter in the awareness-raising activities and provision of assistance to victims. The Ministry of Internal Affairs has signed a new Memorandum of Understanding covering the period 2019-2023 with the NGO Coalition against THB concerning NGO involvement in the provision of services to victims of THB, including accommodation, legal assistance to victims, rehabilitation services and medical care. Some members of the NGO coalition are also involved in the detection of potential victims and awareness-raising activities. However, GRETA was informed that most of the members of the NGO coalition are inactive. Further, as noted in paragraph 18, NGOs can participate in

<sup>103</sup>

<https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

the meetings of the Working Group on Combating THB only with the status of observers. In this regard, GRETA stresses the importance of involving NGOs as equal partners in the planning, implementation and assessment of anti-trafficking measures.

191. GRETA was informed that since 2018, 72 NGO projects relating to combating THB have been funded for a total of AZN 714 000 (about EUR 418 000)<sup>104</sup> by the State Agency for Support to NGOs. The projects funded concern providing legal and psychological assistance to victims of THB, maintaining NGO-run shelters, implementing THB-prevention activities, and helping victims to return to their families. Further, between 2018 and 2022, some of the NGOs received an additional sum of AZN 1 000 (about EUR 560) from the Ministry of Internal Affairs for their active participation in anti-THB work.<sup>105</sup> In 2021, the Council for State Support for NGOs under the President of the Republic of Azerbaijan was transformed into the State Agency for Support to NGOs and its budget was increased. Consequently, in 2022 the maximum funding per NGO project funded by the State Agency was increased from AZN 10 000 (about EUR 5 800) to AZN 15 000.

192. While welcoming the increase in state funding allocated to NGOs, GRETA notes that the amount of funding remains insufficient to ensure the sustainability of NGOs' activities, particularly in light of the fact that victims are often referred to NGOs for assistance and accommodation<sup>106</sup> by state officials. Moreover, GRETA was informed by the authorities that the projects funded by the Agency are not meant to cover the salaries of the NGO staff.

193. Furthermore, as described in GRETA's second evaluation report on Azerbaijan, since 2015 NGOs have been facing difficulties in accessing funding from external donors due to the restrictive legislation governing foreign grants.<sup>107</sup> As a result, the number of NGOs active in the field of human rights is continuously decreasing and many NGO staff providing support services to THB victims work on a voluntary basis.

194. In addition to the challenges regarding NGOs' access to funding, GRETA was informed that complex and burdensome registration procedures present a major barrier for persons who wish to form and operate NGOs. In this respect, in May 2021, the European Court of Human Rights issued two judgments finding that refusal of registration of 25 NGOs by the Ministry of Justice of Azerbaijan had violated the right to freedom of association of the applicants guaranteed under Article 11 of the European Convention on Human Rights.<sup>108</sup> In these cases, the applicants applied to the Ministry of Justice for registration of the NGOs they had established, but the Ministry refused to register the NGO, each time finding various shortcomings in the documents. Further, the Ministry of Justice is entrusted with broad powers to supervise NGOs and to issue warnings,<sup>109</sup> with few guarantees for protecting their rights.<sup>110</sup> In their comments on GRETA's draft report, the authorities indicated that the refusal of registration did not

<sup>104</sup> In 2018: 15 projects (AZN 110 000), in 2019: 20 projects (AZN 209 000), in 2020: 19 projects (AZN 172 000); in 2021: 10 projects (AZN 151 000); and in 2022: 8 projects (AZN 72 000).

<sup>105</sup> In 2018 - 17 NGOs, in 2019 - 18 NGOs, in 2020 - 18 NGOs, in 2021 - 16 NGOs and in 2022 - 15 NGOs received such a grant.

<sup>106</sup> According to information provided by the authorities, in the reporting period, assistance was provided to 104 victims of THB in the shelter of the NGO Clean World (36 in 2018, 27 in 2019, 21 in 2020, and 20 in 2021), 50 victims of THB in the shelter of the NGO Tamas Regional Development (10 in 2018, 11 in 2019, 14 in 2020, and 15 in 2021), 18 victims of THB in the shelter of the NGO Azerbaijan Child Union (11 in 2018 and 7 in 2019), 80 victims of THB by the "Family World", an NGO for Family Legal Assistance, (19 in 2018, 22 in 2019, 19 in 2020, and 20 in 2021), 31 victims of THB in the shelter of NGO Women of XXI Century (11 in 2020 and 20 in 2021) and 29 victims of THB by the NGO Women's Initiative and Assistance for Solution of Social Problems (15 in 2020 and 14 in 2021).

<sup>107</sup> See GRETA's second report on Azerbaijan, paragraph 194.

<sup>108</sup> 12 NGOs in case of *Mehman Aliyev and others v. Azerbaijan* (Applications nos. [46930/10](#) and 11 others) and 13 NGOs in case of *Abdullayev and others v. Azerbaijan* (Applications nos. [69466/14](#) and 12 others).

<sup>109</sup> Pursuant to Article 31 of the Law on Non-governmental Organizations (Public Associations and Foundations), an NGO may be dissolved by court decision if the NGO receives two written warnings from the Ministry of Justice within a year requesting it to correct or stop activities that violate the law.

<sup>110</sup> For more detailed information on the restriction of the funding and activities of NGOs in Azerbaijan, see <https://www.icnl.org/resources/civic-freedom-monitor/azerbaijan> and <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/azerbaijan/>

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prevent the re-submission of documents for state registration and that following the abovementioned European Court of Human Rights judgments, an NGO whose registration request had initially been rejected applied to the Ministry of Justice and was registered on 18 May 2022.

195. GRETA is deeply concerned that the restrictive legislation regulating the activities and funding of NGOs in Azerbaijan may unduly impede their ability to engage in preventing human trafficking, as well as detecting and assisting victims of THB, contrary to Articles 5, 10 and 12 of the Convention. Consequently, **GRETA once again urges the Azerbaijani authorities to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention (Article 35), and to ensure that NGOs engaged in anti-trafficking action have effective access to registration and adequate funding, including from foreign donors, and are enabled to participate in the prevention of THB and victim protection and assistance.**



## **Appendix 1 - List of GRETA's conclusions and proposals for action**

The position of the proposals for action in the text of the report is shown in parentheses.

### **Topics related to the third evaluation round of the Convention**

#### ***Right to information***

- GRETA considers that the Azerbaijani authorities should ensure the systematic provision of information to presumed and formally identified victims of trafficking, in a language they can understand, regarding the implications of being identified as a victim of trafficking, the specific rights of victims of THB, the services available and how to access them. This concerns in particular the right to claim compensation (see also paragraph 71). Public officials who may come into contact with victims of trafficking, including law enforcement officers, social workers, and officials dealing with irregular migrants, should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state (paragraph 39).

#### ***Legal assistance and free legal aid***

- GRETA urges the Azerbaijani authorities to review the legislation in order to guarantee access to justice for victims of THB by ensuring that they have access to a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not to co-operate with the authorities and/or make an official statement (paragraph 46);
- GRETA considers that the Azerbaijani authorities should raise awareness among Bar Associations of the need to encourage the training and specialisation of lawyers to provide legal aid to trafficking victims and ensure that trafficking victims are systematically assigned a specialised lawyer (paragraph 47).

#### ***Psychological assistance***

- GRETA invites the Azerbaijani authorities to continue to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have experienced, and to achieve a sustained recovery and social inclusion (paragraph 52).

#### ***Access to work, vocational training and education***

- GRETA considers that the Azerbaijani authorities should take further steps to strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for all victims of trafficking (paragraph 59).
- GRETA invites the Azerbaijani authorities to include victims of human trafficking in the list of persons for whom there is an employment quota (paragraph 60).

## ***Compensation***

- GRETA urges the Azerbaijani authorities to adopt measures to guarantee effective access to compensation for victims of THB, including by:
  - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
  - 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;
  - amending Article 9 of the Law on State Duty to provide the possibility for victims of human trafficking to be exempted from state fees required for filing a compensation claim;
  - ensuring that state compensation is effectively accessible to victims of THB, by applying in practice Article 191 of the Criminal Procedure Code;
  - further increasing the amount of one-off payment from the State Assistance Fund for Victims of THB;
  - further strengthening awareness on compensation among lawyers representing victims of human trafficking, prosecutors and judges, including by introducing this topic in the training programmes provided to them, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB (paragraph 71);
- GRETA considers that the Azerbaijani authorities should take steps to ensure that compensation awarded in criminal proceedings is paid in advance from the Assistance Fund for Victims of Human Trafficking, the State taking the responsibility to recover the amount from the offender (paragraph 72).

## ***Investigations, prosecutions, sanctions and measures***

- GRETA considers that the Azerbaijani authorities should strengthen the application of the legal provisions concerning corporate liability for THB with a view to ensuring effective investigation and prosecution of any suspected offences related to THB committed by legal entities (paragraph 78);
- GRETA once again invites the Azerbaijani authorities to adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention (paragraph 79);
- GRETA urges the Azerbaijani authorities to strengthen their efforts to ensure that THB offences 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 investigation of THB cases, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, including evidence gathered through special investigative measures, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims;
  - strengthening efforts to investigate and prosecute cases of THB for the purpose of labour exploitation, including by increasing 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 (paragraph 93);

- GRETA considers that the Azerbaijani authorities should continue to provide training to prosecutors and judges in order to sensitise them to the rights of victims of human trafficking and encourage them to develop expertise in dealing with cases of THB (paragraph 94).

### ***Non-punishment provision***

- GRETA considers that the Azerbaijani authorities should continue strengthening their efforts to ensure compliance with the non-punishment provision, by raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment principle to all offences which victims of THB were compelled to commit, including administrative and immigration-related offences (paragraph 98).

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

- GRETA urges the Azerbaijani authorities to:
  - make full use of all measures available to protect victims and witnesses of THB and to prevent retaliation, intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of audio-video equipment and other suitable means to avoid face-to-face cross-examination of victims and alleged perpetrators;
  - ensure the protection of the private life and identity of victims of trafficking, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals. This should include sending all judicial acts regarding victims of THB to the address indicated by them (paragraph 108);
- GRETA considers that the authorities should take measures to encourage the media to protect the identity and private life of victims of THB through self-regulation or regulatory/co-regulatory measures (paragraph 109).

### ***Specialised authorities and co-ordinating bodies***

- GRETA considers that the Azerbaijani authorities should take additional steps to ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of child victims of THB and victims for labour exploitation, forced begging and forced criminality. Such training should be embedded in the core training curricula of relevant professionals and be provided to law enforcement officers, prosecutors, judges, border guards, immigration officials, staff working in refugee reception centres and detention centres for irregular migrants, child welfare staff, health-care staff, social workers, labour inspectors and diplomatic and consular staff (paragraph 117).

### ***International co-operation***

- GRETA considers that the Azerbaijani authorities should continue and intensify their efforts as regards investigating cases of transnational THB, making use of the available tools of international co-operation in criminal matters, including joint investigation teams, and exploring further possibilities for co-operation with countries of destination of victims of trafficking (paragraph 124).

### ***Gender-sensitive criminal, civil, administrative and employment proceedings***

- GRETA considers that the Azerbaijani authorities should promote a gender-responsive approach to access to justice for victims of THB, including through gender mainstreaming and training (paragraph 128).

### ***Child-sensitive procedures for obtaining access to justice and remedies***

- GRETA considers that the Azerbaijani authorities should strengthen their efforts to ensure that all child victims of THB (i.e. all persons up to the age of 18) are in practice afforded special protection measures. This should include measures to prevent contacts between child victims and defendants and ensure that child victims are interviewed in a child-friendly room, by adequately trained investigators, prosecutors and judges and in the presence of trained child psychologists. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 132).

### ***Role of businesses***

- GRETA considers that the Azerbaijani authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and the Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 136).

### ***Measures to prevent and detect corruption***

- GRETA considers that the Azerbaijani authorities should include measures against corruption in a THB context in its anti-corruption policies and initiatives (paragraph 141).

## **Follow-up topics specific to Azerbaijan**

### ***Developments in the legal, institutional and strategic framework for action against trafficking in human beings***

- GRETA invites the Azerbaijani authorities to finalise the selection process of NGOs without further delay (paragraph 19);
- GRETA considers that the Azerbaijani authorities should re-examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 20);
- GRETA considers that the Azerbaijani authorities should allocate appropriate funds in the state budget to action against THB, and conduct an independent evaluation of the implementation of the National Action Plan on Combating THB upon its expiry, as a tool for assessing the impact of the activities and for planning the next National Action Plan (paragraph 24).

### ***Measures to prevent and combat trafficking for the purpose of labour exploitation***

- GRETA once again urges the Azerbaijani authorities to take measures to effectively prevent, detect and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers and GRETA's Guidance Note on combating trafficking for labour exploitation. This should include:
  - reintroducing workplace inspections by labour inspectors, reviewing their mandate to also cover non-registered companies, and ensuring that adequate human and financial resources are made available to them to fulfil their mandate;
  - training labour inspectors throughout the country as well as law enforcement officers and prosecutors, including through joint training, on THB for the purpose of labour exploitation and the rights of victims;
  - reviewing the employment framework on migrant workers, including foreign workers seconded by foreign companies abroad to work in Azerbaijan, to reduce their vulnerability to human trafficking, exploitation and abuse;
  - regulating and monitoring the functioning of recruitment and temporary work agencies to strengthen prevention of THB and labour exploitation;
  - reviewing the regulatory system concerning migrants working as domestic workers to prevent and detect cases of domestic servitude (paragraph 151);
- GRETA considers that the authorities should continue to raise awareness amongst the general public and migrant workers regarding the risks of THB for the purpose of labour exploitation (paragraph 152).

### ***Identification of victims of trafficking***

- GRETA once again urges the Azerbaijani authorities to further improve the identification of victims of THB, and in particular to:
  - guarantee that the identification of victims of THB is dissociated from the presumed victim's co-operation in the investigation or the launch of an investigation;
  - reinforce the multi-agency involvement in victim identification by formalising the role of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers, educational staff and medical staff;
  - increase efforts to proactively identify victims of internal trafficking;
  - improve the detection and identification of victims of trafficking among migrant workers, irregular migrants and asylum seekers through a proactive approach (paragraph 162);
- GRETA considers that the authorities should update the Rules (Indicators) on Identification of Victims of THB as well as periodically assess the implementation of the National Referral Mechanism and adjust it in the light of the results (paragraph 163).

### ***Assistance to victims***

- GRETA considers that the Azerbaijani authorities should strengthen their efforts to ensure that victims of trafficking receive support and assistance, based on their individual needs, for as long as necessary, in order to facilitate their reintegration and recovery. The authorities should ensure that assistance measures provided for in law, including accommodation in the state shelter for victims of THB, are not made dependent on the victims' willingness to co-operate with the law enforcement authorities (paragraph 168).

***Measures to prevent trafficking of children, identify child victims of trafficking and assist these children***

- GRETA urges the Azerbaijani authorities to step up their efforts to prevent and combat the trafficking of children, identify child victims of trafficking, and provide appropriate assistance to them, and in particular to:
  - strengthen the role and capacity of the child protection systems to prevent trafficking in children and detect and identify child victims of human trafficking. Particular attention should be paid to children in street situations, children forced to beg, children from rural areas at risk of child labour and, children placed in or leaving childcare institutions;
  - ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child (paragraph 178);
- GRETA considers that the Azerbaijani authorities should continue to strengthen the prevention of child, early and forced marriages and take additional measures to ensure that all children are registered at birth. The authorities should also continue to provide training to relevant actors (police, child protection professionals, social workers, labour inspectors, health care staff, education professionals, NGOs) on the identification of child victims of THB for different forms of exploitation (paragraph 179).

***Recovery and reflection period and residence permit***

- GRETA considers that the Azerbaijani authorities should ensure that a recovery and reflection period is systematically proposed and effectively granted to all persons for whom there are reasonable grounds to believe that they are victims of trafficking (paragraph 183);
- GRETA invites the authorities to continue to ensure that all foreign victims of THB are systematically informed of the right to receive a temporary residence permit without having to co-operate with the law enforcement authorities (paragraph 184).

***Repatriation and return of victims***

- GRETA considers that the Azerbaijani authorities should ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, including the right to *non-refoulement*. This includes informing victims about existing repatriation and voluntary return programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection (paragraph 188).

***Co-operation with civil society***

- GRETA once again urges the Azerbaijani authorities to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention (Article 35), and to ensure that NGOs engaged in anti-trafficking action have effective access to registration and adequate funding, including from foreign donors, and are enabled to participate in the prevention of THB and victim protection and assistance (paragraph 195).

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## **Appendix 2 - List of public bodies and civil society actors with which GRETA held consultations**

### **Public bodies**

- Ministry of Internal Affairs
  - First Deputy Minister of Internal Affairs, National Co-ordinator on Combatting Trafficking in Human Beings
  - Main Department on Combatting Trafficking in Human Beings
  - Main Department on Combatting Organised Crime
  - Main Department on Public Security
  - Policy Academy
  - National Central Bureau of Interpol
  - Assistance Fund for Victims of Human Trafficking
- Ministry of Justice (including Justice Academy)
- Ministry of Labour and Social Protection
  - State Employment Agency
  - State Labour Inspectorate
- Ministry of Health
- Ministry of Digital Development and Transport
- Ministry of Education
- Ministry of Culture
- Ministry of Youth and Sport
- Ministry of Foreign Affairs
- State Migration Service
- State Security Service
- State Border Service
- Prosecutor General's Office
- Baku, Ganja and Sheki Courts for Serious Crimes
- State Committee for Family, Women and Children's Affairs
- Commission on Protection of Affairs and Rights of Children
- Guardianship and Trusteeship Body
- Agency for State Support to Non-Governmental Organisations
- State Tourism Agency
- Office of Commissioner for Human Rights
- Parliament (Committee on Human Rights and Committee on Legal Policy and State Building)

- Police officers, prosecutors, judges, labour inspectors and representatives of the State Employment Agency of Ganja and Sheki

### **Intergovernmental organisations**

- Delegation of the European Union to the Republic of Azerbaijan
- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations International Children's Emergency Fund (UNICEF)

### **NGOs and other civil society organisations**

- Azerbaijan Child Union
- Bar Association of Azerbaijan
- "Clean World" Aid to Women Public Union
- "Family World" Legal Aid to Families Public Union
- "For Social Economical Development" Public Union
- "Healthy Development and Awareness" Public Union
- "Hope sails" Combat against Human Trafficking Public Union
- "Legal Analysis and Researches" Public Union
- "Organization of Combating Human Trafficking" Public Union
- "Reformist Women and Innovations" Public Union
- "Research of Migration Processes" Public Union
- Socio-Economic Research Center "Priority"
- "Tamas Regional Development" Public Union
- "Women of XXI Century" Public Union
- "Women's Initiatives and Assistance for Solution of Social Problems" Public Union



## **Government's comments**

GRETA engaged in a dialogue with the authorities of Azerbaijan on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities of Azerbaijan on 6 April 2023 and invited them to submit any final comments. The authorities of Azerbaijan did not wish to make any comments.