

Answers submitted by the Government of the Republic of Azerbaijan with regard to the questions on "The role of organized criminal groups in modern forms of slavery"

1. Types of criminal groups engaged in modern forms of slavery

a) Is there evidence of organized criminal groups engaged in modern forms of slavery in your country?

Answer: As the result of investigative activities in 2020, 3 criminal groups of 7 persons who committed 18 offences of trafficking in human beings have been neutralized. There has been no evidence that these types of crimes were committed by an organized group or an organized crime syndicate (criminal association).

b) Please provide detailed information on such groups including social and cultural specifics, ethnicity and membership (e.g. large hierarchical groups or network-based small groups operating on an independent basis or in collaboration with others).

Answer: All 7 persons held liable for committing crimes of trafficking in human beings were citizens of the Republic of Azerbaijan. Two of them are males and 5 are females.

b) Were these criminal groups engaged in the activities within the country or at the international level?

Answer: Some of the victims of trafficking in human beings have been taken by the criminal groups to the Republic of Turkey and the United Arab Emirates for the purpose of sexual exploitation, and some of them were exploited within the country.

2. The essence and scope of the relationship between these groups and modern forms of slavery

a) Please describe the essence and scope of the relationship between these groups and modern forms of slavery?

Answer: With preventive measures taken by the law enforcement agencies of the republic, illegal activities of transnational organized criminal groups engaged in trafficking in human beings has not been registered in the territory of the country.

b) Is there evidence of the use of exploited persons by organized criminal groups in criminal activities (e.g. drug production, thefts, etc)?

Answer: No facts of exploitation of identified trafficking victims in the perpetration of other crimes have been detected.

e) Does the involvement of organized criminal groups in the form of slavery create additional problems in the identification of victims?

f) Answer: The great majority of trafficking victims identified in the Republic of Azerbaijan have been subjected to sexual exploitation and a small part of them were subjected to forced labor. No facts of involvement of victims in armed conflicts and criminal activity, begging, forced marriage, trafficking in human organs and exploitation for other purposes have been registered.

3. Legal provisions

a) Are there legal provisions on the functioning of organized criminal groups in your country in addition to the legislation on modern forms of slavery (e.g.: participants, leaders, managers, organizers)? Do the legal provisions related to modern forms of slavery describe the commission of these crimes by an organized crime group as an aggravating factor for punishment? Provide detailed information on this including statistical information on trial or charges, if available.

Answer: Article 34 of the Criminal Code of the Republic of Azerbaijan contains the provisions on the commission of crime by a group of persons, a group of persons acting in collusion, an organized group or a crime syndicate (criminal organization).

Thus, the crime committed with the joint participation of two or more perpetrators not in collusion is considered the crime committed by a group of persons; the crime committed with the joint participation of two or more perpetrators in collusion is considered the crime committed by a group of persons acting in collusion; the crime committed by a stable criminal group consisting of two or more persons acting in collusion to commit one or more crimes is considered the crime committed by an organized gang; creation of a stable organized crime group for the purpose of committing grave or especially grave crimes or the stable association of two or more organized criminal groups with the same goals are considered crimes committed by a crime syndicate (criminal organization).

The commission of a crime of trafficking in human beings by a group of persons, organized gang or crime syndicate (criminal organization) acting in collusion is considered as an aggravating factor in Articles 144-1.2.5 and 144-2.2.6 of the Criminal Code. In 2020, 18 crimes provided for in the above mentioned articles of the Criminal Code have been registered.

b) Are there legal provisions in your country relating to the involvement of the intelligence law enforcement agencies (use of special investigative methods like surveillance and tapping mission) in combating modern forms of slavery?

Answer: The Main Department for Combating Trafficking in Human Beings of the Ministry of Internal Affairs is a special police unit carrying out investigative activities within its authorities for crimes related to trafficking in human beings.

Telephone tapping, electronic surveillance of the communications and other technical means, surveillance over buildings including dwellings, fenced construction sites, structures, land plots, vehicles and other facilities, stakeout and other intelligence and surveillance activities are carried out by relevant subdivisions of the Ministry in accordance with the Law of the Republic of Azerbaijan on Investigative Activities and upon request of the Main Department.

c) Taking into account the influence of the intelligence law enforcement agencies on human rights (such as privacy right and right to get justice), do these legal provisions provide for adequate protection against wrongdoing and abuse? (e.g.: appropriate confirmation, court, control and appeal procedures in case of abuse of process)

Answer: In accordance with the Law of the Republic of Azerbaijan on Investigative Activities, telephone tapping, postal, telegraph, etc. screening, electronic surveillance of the communications and other technical means, surveillance over buildings including dwellings, fenced construction sites, structures, land plots, vehicles and other facilities, stakeout and other intelligence and surveillance activities are carried out based on the court (judge's) decision.

If agents involved in investigative activities carry out these measures without the judge's decision where appropriate and in accordance with the legislation of the Republic of Azerbaijan, they inform the court and the prosecutor, who carries out the procedural management of the preliminary investigation, within 48 hours.

d) Are there legal provisions regarding money laundering and restoration of criminal property (or confiscation of criminal proceeds) in your country?

Answer: Detection and prevention of offences relating to the legalization of criminally obtained funds and other property as well as creating conditions that exclude the possibility of using the financial system for the purpose of legalizing such funds or other property are regulated by the Law of the Republic of Azerbaijan on Countering

the legalization of criminally obtained funds and other property and financing terrorism dated February 10, 2009, No.767-IIIQ.

In accordance with Article 99-1 of the Criminal Code of the Republic of Azerbaijan, means and instruments used by a person in committing the offence (except for means and instruments to be returned to their legal owner), funds or other property obtained by such person in the result of a crime as well as incomes obtained from these funds or other property (except for funds and other property to be returned to their legal owner) are subject to asset forfeiture under the court final ruling forcibly and without compensation.

In accordance with Article 177 of the Criminal Code of the Republic of Azerbaijan, the investigation procedure of suspension of transactions that involve a suspicion of the legalization of criminally obtained funds or other property is carried out based on an appropriate court decision as well as by the investigator's decision without recourse to court in exigent circumstances when there are sufficient grounds to believe that the legalization of criminally obtained funds or other property takes place.

e) Does your country support the recovery of civil assets without criminal charge? If so, please provide detailed information including security measures.

Answer: In accordance with Article 23 of the Law of the Republic of Azerbaijan on Combating Trafficking in Human Beings, courts address the issue of compensation of pecuniary and non-pecuniary damages to victims of trafficking in human beings. Damage shall be compensated to victims of trafficking in persons through the property of traffickers in accordance with the procedural law. Should this property is not sufficient, the damage can be paid from the aid fund for victims of trafficking in human beings according to the court decision.

In accordance with Article 210.3 of the Code of Criminal Procedure of the Republic of Azerbaijan, if the trafficking victim is identified at the moment of the initiation of a criminal case on trafficking in human beings, such person is recognized as victim at the moment of the opening of the criminal investigation and as civil claimant at the moment of filing a civil suit together with the allegations of criminal offence.

f) How does your country fight corruption and violations of the law committed by organized criminal groups in the context of modern forms of slavery?

Answer: In accordance with Article 144-1.2.6 of the Criminal Code of the Republic of Azerbaijan, the punishment for the accused person who committed the crime of trafficking in human beings using his official position is imprisonment for a term of 8-12 years.

Provisions on corruption-related crimes and other offences against the interests of the service and applicable penal measures are specified in Article 33 of the Criminal Code of the Republic of Azerbaijan.

g) What legal procedures are available to protect witnesses in criminal cases relating to organized criminal groups?

Answer: In the Republic of Azerbaijan, protection of persons recognized as witnesses in criminal cases is regulated by the Law of the Republic of Azerbaijan on state protection of persons participating in the criminal process dated December 11, 1998, No. 585-IQ.

In the cases established by the above mentioned law, the witness, his/her apartment and property are protected, the witness is provided with special personal protective equipment and warned of the existing danger, he/she is temporarily placed in a safe place, information about the witness is kept confidential, the place of his/her residence, work or study, as well as documents and appearance are changed, and other security measures are taken.

4. The use of law enforcement and judicial authorities by victims of slavery or survivors of slavery.

a) Please describe the form of assistance to victims of slavery who suffered from organized criminal groups (e.g.: legal, medical, social and material)?

Answer: In accordance with Article 15 of the Law on Combating Trafficking in Human Beings, the social rehabilitation of trafficking victims is carried out for their reintegration into society and return to a normal lifestyle.

A lump-sum allowance was paid to 91 trafficking victims identified in the previous year, 81 victims were given accommodation in the shelter for trafficking victims directly subordinated to the Main Department for Combating Trafficking in Human Beings, all of them received necessary medical, social, psychological and other forms of assistance and were provided with clothing.

Among 90 trafficking victims referred to the Aid Center for human trafficking victims under the Ministry of Labor and Social Protection, 5 persons were provided with psychological aid, 5 persons were provided with legal assistance, 1 person was provided with medical assistance, 2 persons were employed, and 1 person was referred to the Public Employment Service for enrolling in vocational courses.

Attention was also given to victims' children, 27 of them were provided with school kits used in educational programs, 12 children were involved in preschool

education program, 14 children were provided with birth certificates, as well as paternity of 9 children was identified and assistance was given in awarding alimony.

b) Is there any connection between the above mentioned form of assistance and the process of victim identification and cooperation with the investigation and proceedings?

Answer: In accordance with the Law on Combating Trafficking in Human Beings, trafficking victims are the victims or alleged victims of trafficking in human beings. Assistance is provided to all identified trafficking victims regardless of whether they cooperate with the criminal justice system or not.

According to the law, a 30-day period is provided to the trafficking victim upon his/her request to restore his/her status and to make an informed decision on evading the influence of criminals and cooperating with the investigation regardless of his/her behavior, cooperation with the criminal justice system and giving testimony against traffickers.

c) What procedures are available for them in law enforcement and judicial authorities and what are the ways of their participation in criminal activities?

Answer: Trafficking victims have the right to apply to the body conducting criminal proceedings or court in order to protect themselves or their potential rights.

The investigator, interrogator or prosecutor takes measures to protect and fix traces of the crime in the manner prescribed by law when they receive information about any acts with the signs of the preparation for or commission of a crime, or when they directly detect the crime, and conduct an immediate interrogation or investigation within their powers.

Victims of trafficking in human beings enjoy all procedural rights provided for victims by the Code of Criminal Procedure.

d) Do slavery victims or survivors receive the compensation in your country? If so, how many victims have received the compensation? Please provide detailed information.

Answer: All identified trafficking victims receive allowance from the state budget in the amount of AZN 700 (\$411) in accordance with the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan dated June 17, 2006.

e) Are confiscated criminal proceeds redistributed to increase protection and assistance to victims or survivors of slavery? Please provide detailed information.

Answer: See (e) paragraph of question 3.

f) Is the principle of non-punishment applied in case of the involvement of victims of modern forms of slavery in criminal activities?

Answer: According to Article 17.7 of the Law of the Republic of Azerbaijan on Combating Trafficking in Human Beings, persons shall not be subjected to civil, administrative and criminal prosecution for their involvement in criminal activities, which they were compelled to commit as a direct consequence of being a victim of human trafficking according to the procedure and in cases provided by applicable legislation of the Republic of Azerbaijan.

5. Other questions

a) What are the main difficulties in combating the modern forms of slavery committed by organized criminal groups?

Answer: There are no serious difficulties in the measures of combating the modern forms of slavery committed by organized criminal groups taken by the law enforcement agencies in the Republic of Azerbaijan. Nevertheless, despite the large-scale awareness raising activities, some individuals have become trafficking victims being misled by traffickers' false promises of employment, marriage, etc. abroad.

b) Are the means of international cooperation used in your country to combat the modern forms of slavery committed by transnational organized criminal groups (e.g.: Mutual Legal Assistance, joint investigations, extradition, etc.)? Please provide detailed information.

Answer: The Republic of Azerbaijan cooperates in the field of combating trafficking in human beings with other states and their law enforcement agencies as well as with international organizations which effect trafficking in human beings control.

Citizens of the Republic of Azerbaijan, foreign citizens or stateless persons who committed crimes related to human trafficking are brought to criminal liability in accordance with the Criminal Code, regardless of the crime location.

Traffickers and foreign citizens involved in activities relating to trafficking in human beings may be prosecuted in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party, or extradited to a foreign country for the execution of punishment.

Legal assistance in criminal cases related to trafficking in human beings is provided in accordance with the international treaties to which the Republic of Azerbaijan is a party and legislation of the Republic of Azerbaijan on legal assistance in criminal cases.

c) How does the COVID-19 pandemic affect the scope of activities of organized criminal groups operating in your country?

The special quarantine regime imposed in the country in March of 2020 in connection with the COVID-19 pandemic, including border closure, as well as the restriction of activities of public catering facilities have greatly complicated the execution of intention of criminal groups to transport trafficking victims to the destination countries. At the same time, attempts of traffickers to attract victims via social networks have been recorded.

**Main Department for Combating
Trafficking in Human Beings of MIA**