



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Working Group on Trafficking in Persons

Vienna, 10–11 September 2020

Draft Report

I. Introduction

1. In its decision 4/4, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime acknowledged that the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, was the principal legally binding global instrument to combat trafficking in persons. In that decision, the Conference also decided to establish an open-ended interim working group on trafficking in persons. The previous meetings of the Working Group were held on 14 and 15 April 2009, from 27 to 29 January 2010, on 19 October 2010, from 10 to 12 October 2011, from 6 to 8 November 2013, from 16 to 18 November 2015, from 6 to 8 September 2017, from 2 to 3 July 2018 and from 9 to 11 September 2019.

2. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference of the Parties decided, inter alia, that the Working Group on Trafficking in Persons would be a constant element of the Conference of the Parties, forwarding its reports and recommendations to the Conference, and encouraged the working groups of the Conference to consider meeting on an annual basis, as needed, and to hold their meetings consecutively, in order to ensure the effective use of resources.

II. Recommendations

3. At its meeting held in Vienna from 10 to 11 September 2020, the Working Group on Trafficking in Persons adopted the recommendations presented below for consideration by the Conference.

A. General recommendations

4. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption.



B. Recommendations on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked.

5. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption:

C. Recommendations on best practices in joint investigations and specialized prosecutions.

6. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption:

III. Summary of deliberations

7. Stemming from the meeting, the following summary of deliberations was prepared by the Secretariat after the meeting in close coordination with the Chair. This summary of deliberations was not debated and, consequently, was not subject to adoption during the meeting. It was, instead, a “Summary by the Chair” as follows.

8. At its 1st meeting, on 10 September 2020, the Working Group considered agenda item 2, entitled “Guidance on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked”.

9. The discussion under agenda item 2 was facilitated by the following panellists: H.E. Hosna Jalil, Deputy Minister of Interior Affairs and Policy Strategy of Afghanistan, on behalf of the Group of Asia-Pacific States, Raoudha Labidi, President of the National Body to Combat Human Trafficking (Tunisia), on behalf of the Group of African States, Olubiyi Olusayo, Director, Training and Development, National Agency for the Prohibition of Trafficking in Persons (NAPTIP) of Nigeria, on behalf of the Group of African States, Elisabetta Pugliese, Public Prosecutor at the National Anti-mafia and Counterterrorism Directorate (Italy), on behalf of the Group of Western European and other States, Sheon Sturland, Superintendent, Unit Commander, National Police Chiefs Council Modern Slavery & Organised Immigration Crime Unit, Police (United Kingdom), on behalf of the Group of Western European and other States, and Juan Manuel Zavala Evangelista, General Technical Coordinator in charge of the Office of the Special Prosecutor’s Office for Crimes of Violence Against Women and Trafficking in Persons (FEVIMTRA), of the General Prosecutor’s Office of the Republic of Mexico, on behalf of the Group of Latin American and Caribbean States.

10. Ms. Labidi elaborated on the challenges of ensuring appropriate protection for victims of trafficking in persons and, in particular, the importance of clear guidelines and indicators for the timely identification of victims. She mentioned the importance of international cooperation in standard-setting to ensure consistency in the identification and provision of protection for victims and proposed an international mechanism dedicated to facilitate such outcomes. She outlined the efforts of Tunisia to establish the principle of non-punishment to safeguard victims of this crime, while holding perpetrators accountable. She noted the reluctance of victims to report crime as many are vulnerable migrants, making investigations more challenging. Therefore, she stressed the importance of proactive investigations and specialized training for law enforcement.

11. Deputy Minister Jalil spoke about the efforts of Afghanistan to combat trafficking in persons, outlining the importance of setting standards and thresholds for the establishment and effective application of the non-punishment principle, and Afghanistan’s efforts to train law enforcement agencies on the specific features of the crime. She noted how conflict and terrorism have negatively impacted on the crime

of trafficking in persons, and define the context of the issue in Afghanistan. In concluding, Deputy Minister Jalil emphasised the importance of inter-agency cooperation in the identification of crime and responding to it at the regional and national levels to better support victims of trafficking in persons. She further highlighted the need for training of authorities on understanding and applying the non-punishment principle, while at the same time the need to ensure transparency and fight corruption in institutions.

12. Mr. Olubiyi Olusayo spoke about the efforts of Nigeria to ensure appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked. He noted, in particular, the provisions of the Nigerian Trafficking in Persons Enforcement and Administration Act of 2015, providing access to adequate health and other social services and temporary residence during the investigation of the case, as well as protection measures to avoid revictimization, a right of legal representation and compensation measures, including restitution and recovery for economic, physical and psychological damages. He concluded by offering a number of recommendations, including strengthening inter-agency and multi-stakeholder efforts for the protection of victims of trafficking in persons; strengthening municipal laws to provide assistance services for victims; simplifying mutual legal assistance agreements between Member States to facilitate the safe return of victims; and the review of legal frameworks on criminal justice responses to address evolving circumstances.

13. Ms. Pugliese provided details of legal instruments and counter-trafficking strategies in Italy based on, among other things, objectives of prevention, assistance and protection. She noted challenges in the application of the non-punishment principle to all illegal activities, emphasizing how it can be difficult to establish whether a victim was compelled to commit unlawful activities. She elaborated protection measures in place in Italy for identified victims of trafficking, in particular the social programme offered to victims who voluntarily cooperate with law enforcement in the investigative phase of a case. She noted the lack of protection measures for the family of a victim, suggesting that a temporary residence permit for family members subject to cooperation of the victim with law enforcement would enhance the effectiveness of investigations. She further noted the effectiveness of international cooperation in dealing with cases on trafficking in persons, and in particular, emphasized the Italian cooperation with Nigerian prosecutors as an example of good practice, especially in protecting families of victims in countries of origin.

14. Mr. Sturland elaborated the statutory legal defence established under the Modern slavery Act of 2015 in United Kingdom, which provides for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so. He noted that, due to the nature of the crime which is often hidden and underreported, investigators should consider the possibility that an offender may be a victim of trafficking from the beginning of the investigation. A legal defence demonstrates a commitment to the non-prosecution principle and provides victims with a fail-safe should law enforcement agencies or the state fail to identify them as a victim. He underlined that the principle of non-punishment supports the protection of the victim, while allowing the criminal justice sector to focus on holding perpetrators accountable. He stressed that the non-prosecution principle and a legal defence do not protect victims from exploitation, only prosecution. He concluded by outlining a number of recommendations, including considering the application of the non-punishment principle, enshrined in law, as an essential part of States' commitment to protecting the human rights of victims of trafficking; States' support mechanisms for victims of trafficking should be sufficient to encourage victims to leave their exploiters and give them the confidence to support prosecutions; as well as for States to consider introducing interventions to safeguard victims of trafficking, especially children, when the decision is made not to prosecute them.

15. Mr. Zavala Evangelista provided an overview of trends of trafficking in persons in Mexico. Approximately 5,300 victims were identified in the period 2012–2017. He stressed how victims of trafficking should not be put in detention as a result of their violation of immigration laws. He mentioned the obligation for prosecutors in Mexico not to prosecute victims of trafficking, as provided by domestic law, and outlined that where the non-punishment principle cannot be applied, international human rights law can be invoked. Further, he emphasized the importance of coordination, including through networks of specialized practitioners.

16. After those presentations, delegates posed questions to the panellists on specific challenges and recommended practices.

17. Several speakers noted the challenges in the application of the non-punishment principles. One speaker highlighted the importance for law enforcement to ensure a victim-centred and trauma-informed approach in the protection of victims, in all phases of the identification of victims and during investigations. The speaker additionally noted the importance of vacating the criminal record of victims as a prerequisite to reintegrate and rehabilitate them into society.

18. One speaker noted the differences in applying the non-punishment principle between countries. Another highlighted the importance of financial investigations into illicit financial flows as an effective way of detecting and dismantling criminal groups standing behind the crime of trafficking in persons.

19. At its [2nd and 3rd] meeting[s], on [10 and 11] September 2020, the Working Group considered agenda item 3, entitled “Best practices in joint investigations and specialized prosecutions”.

IV. Organization of the meeting

A. Opening of the meeting

20. The tenth meeting of the Working Group on Trafficking in Persons was held in Vienna from 10 to 11 September 2020. Four meetings were held. As agreed by the extended Bureau of the Conference of the Parties by approval via silence procedure on 19 August 2020, the meeting was held in a “hybrid/in-person” format, with a restricted number of participants present in the meeting room, and all other participants being remotely connected using an interpretation platform contracted with the United Nations.

21. The meeting was opened by Ms. Amina Oufroukhi, (Morocco), Chair of the Working Group. She addressed the meeting and presented an overview of the mandate of the Working Group, its objectives and the subjects under its consideration.

B. Statements

22. General introductory statements were made by the Secretariat under agenda item 2.

23. With the Chair presiding, the discussion under item 2 was led by the following panellists: Deputy Minister Jalil (Afghanistan), Ms. Labidi (Tunisia), Mr. Olubiyi Olusayo (Nigeria), Ms. Pugliese (Italy), Mr. Sturland (United Kingdom), Mr. Zavala Evangelista (Mexico).

24. With the Chair presiding, the discussion under item 3 was led by the following panellists: [...].

25. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Trafficking in Persons Protocol: Canada, Colombia, Dominican Republic, Nigeria, Mexico, United Arab Emirates, United States [...].

C. Adoption of the agenda and organization of work

26. At its 1st meeting, on 10 September 2020, the Working Group adopted by consensus the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Guidance on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked.
3. Best practices in joint investigations and specialized prosecutions.
4. Other matters.
5. Adoption of the report.

D. Attendance

27. The following parties to the Trafficking in Persons Protocol were represented at the meeting: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Eswatini, European Union, Finland, France, Germany, Greece, Guatemala, Honduras, India, Indonesia, Israel, Italy, Japan, Jordan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Malaysia, Maldives, Malta, Mexico, Morocco, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Qatar, Yemen.

28. The following States that are not parties or signatories to the Trafficking in Persons Protocol were represented by observers: Iran (Islamic Republic of), Pakistan [...].

29. Holy See, a Non-Member State, maintaining Permanent Observer Mission, was represented by observers.

30. The Sovereign Military Order of Malta, an entity maintaining permanent observer office, was represented by observers.

31. The following intergovernmental organizations and United Nations entities were represented by observers: Cooperation Council for the Arab States of the Gulf, Council of Europe (CoE), Counter-Terrorism Committee Executive Directorate (CTED), Department of Peacekeeping Operations (DPKO), European Union Agency for Criminal Justice Cooperation (EUROJUST), European Border and Coast Guard Agency (FRONTEX), International Criminal Police Organization (INTERPOL), International Organization for Migration (IOM), Office of the Special Coordinator for Improving the United Nations' response to Sexual Exploitation and Abuse (SCIUNRSEA), Office of the United Nations Special Rapporteur on Trafficking in Persons, Especially in Women and Children, Office of the United Nations High Commissioner for Human Rights (OHCHR), Organization for Security and Co-operation in Europe (OSCE), United Nations High Commissioner for Refugees (UNHCR), Parliamentary Assembly of the Mediterranean (PAM).

32. A list of participants is contained in document CTOC/COP/WG.4/2020/INF/1/Rev.1.

E. Documentation

33. The Working Group had before it the following:

- (a) Annotated provisional agenda (CTOC/COP/WG.4/2020/1);
- (b) Background paper prepared by the Secretariat entitled “Guidance on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked” (CTOC/COP/WG.4/2020/2);
- (c) Background paper prepared by the Secretariat entitled “Best practices in joint investigations and specialized prosecutions.” (CTOC/COP/WG.4/2020/3).

V. Adoption of the report

34. On 11 September 2020, the Working Group adopted the present report on its meeting.
