



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

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Working Group on the Smuggling of Migrants

Vienna, 8–9 September 2020

Draft Report

I. Introduction

1. Pursuant to resolution 5/3, adopted by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fifth session, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The first meeting of the Working Group was held from 30 May to 1 June 2012, the second from 11 to 13 November 2013, the third from 18 to 20 November 2015, the fourth from 11 to 13 September 2017, the fifth from 4 to 5 July 2018 and the sixth from 11 to 13 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 decided, inter alia, that the Working Group would be a constant element of the Conference of the Parties, forwarding its reports and recommendations to the Conference, and encouraged the Working Group of the Conference to consider meeting on an annual basis, as needed, and to hold its meetings consecutively, in order to ensure the effective use of resources.

II. Recommendations

3. At its meeting held in Vienna on 8 and 9 September 2020, the Working Group on Smuggling of Migrants adopted the recommendations presented below.

A. General Recommendations

B. Recommendations on the impact of natural disasters, conflicts and crises, such as the COVID-19 pandemic, on trends in organized criminal groups and on routes for the smuggling of migrants, as well as good practices to support effective law enforcement cooperation during such crises to detect, investigate and prosecute such cases



C. Recommendations on successful strategies concerning the use of technology, including information and communications technology, to prevent and investigate the smuggling of migrants and to mount a robust response to the increasing use of cyberspace by criminal groups.

III. Summary of deliberations

4. 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.

5. At its 1st and 2nd meetings, on 8 September 2020, the Working Group considered agenda item 2, entitled “Impact of natural disasters, conflicts and crises, such as the COVID-19 pandemic, on trends in organized criminal groups and on routes for the smuggling of migrants, as well as good practices to support effective law enforcement cooperation during such crises to detect, investigate and prosecute such case”.

6. Discussion on agenda item 2 commenced with presentations by three national experts. The first panellist was Amanda Ledwaba, Director, Central Law Enforcement of South Africa, on behalf of the African States. The second panellist was Andrés Perez Esquivel, Director of International Affairs, National Migration Directorate of Argentina, on behalf of the Group of Latin American and Caribbean States. The final panellist was Simona Ragazzi, Judge at the Court of Catania, Italy, on behalf of the Group of Western European and other States.

7. Ms. Amanda Ledwaba gave an overview of the impact of COVID-19 on the crime of smuggling of migrants in the Southern African region, noting, on the one hand, that journeys have been made more hazardous by border closures and restrictions of movement, and, on the other, that migrants are increasingly reliant on smuggling syndicates, subjecting them to even riskier movement. She noted the links of smuggling of migrants with other unlawful activities, such as trafficking in persons, drug trafficking and other crimes. She noted how restrictive measures affected in particular women and children, who were reported to be at heightened risk of violence, extortion and exploitation. She further outlined the features of the South African legal framework on the smuggling of migrants. To mitigate the impact of the current pandemic on migrants, she proposed that African countries restore and ensure regular migration pathways and proactively provide for health screenings and security checks for vulnerable migrants, as well as ensure that all migration policies are aligned with human rights standards.

8. Mr. Andrés Perez Esquivel outlined recent practices of Argentina to mitigate the impact of the crisis on migrants, noting the importance of ensuring access to services and social assistance, including health-care, education, the provision of residence permits for migrants, and the right to family reunification. He highlighted how measures taken to respond to the smuggling of migrants, especially during the current pandemic, should have human-rights considerations at their core. He shared specific practices implemented in Argentina to support impacted migrants, including renewing residence permits on a monthly basis, the availability of digital permits, as well as specialized training courses for inspectors. He concluded by offering a series of recommendations to enhance responses to the crime in times of crisis, such as the establishment of points of contact within national institutions to facilitate cooperation and preparedness, as well as the systematic collection and dissemination of data on the effects of COVID-19 on the crime of smuggling of migrants.

9. Ms. Simona Ragazzi described the impact of COVID-19 on the smuggling of migrants along the central Mediterranean route. She highlighted how the current pandemic has amplified gaps in responses to the crime of smuggling of migrants,

citing the importance of the full implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, especially in times of such crisis. Data showed that since the beginning of 2020, despite an initial decline in the number of cases of smuggling of migrants, partly due to travel restrictions imposed to limit the spread of the virus, the number of arrivals by sea has been increasingly rising over the most recent four-month period, while the deployment of rescue missions at sea and their capability to perform surveillance and Search and Rescue activities have significantly diminished. She added how the pandemic has also impacted criminal investigations, and referred to the importance of fully implementing the UNTOC and its Protocols in all State parties, with particular regard to countries of origin and transit. She described how, during the pandemic, videoconferencing devices in a court of law can help ensure the continued hearings for cases of organized crime. She cited the importance of utilizing judicial and law-enforcement cooperation tools under UNTOC, such as joint investigation teams and judicial cooperation for the exchange of information to effectively disrupt smuggling networks. She concluded by offering a number of recommendations, including the establishment of safe pathways for migration and strengthening of the capabilities of United Nations entities to support humanitarian aid and assistance,

10. After those presentations, several speakers reflected on how the challenges brought upon crises such as the global COVID-19 pandemic impact on the smuggling of migrants, and can exacerbate the vulnerabilities of migrants. Speakers shared good practices to strengthen judicial cooperation, including at the regional and subregional level, and to enhance the provision of emergency support to victims and social assistance. They observed that, as in natural disasters, the COVID-19 pandemic and the associated economic disruptions caused, represent push factors for migrants resorting to smuggling syndicates, which are agile in responding to any new means for unlawful profiting. One speaker highlighted the importance of awareness-raising activities to inform migrants of the risks associated with smuggling. Another reflected on the necessity to guarantee access to support services to women and girls. Several speakers also emphasised the importance of addressing the medium or long-term impact of crisis, such as the COVID-19 pandemic, on vulnerable groups as well as the root causes that lead migrants to resort to smuggling services. One speaker reflected on the need for training of building the capacities of relevant authorities on responding to crisis through dedicated, specialized training courses.

11. At its [2nd and 3rd] meeting[s], on [8 and 9] September 2020, the Working Group considered agenda item 3, entitled “Successful strategies concerning the use of technology, including information and communications technology, to prevent and investigate the smuggling of migrants and to mount a robust response to the increasing use of cyberspace by criminal groups”.

IV. Organization of the meeting

A. Opening of the meeting

12. The seventh meeting of the Working Group on Smuggling of Migrants was held in Vienna on 8 and 9 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.

13. The meeting was opened by Francesco Testa (Italy), Chair of the Working Group. He addressed the meeting and presented an overview of the mandate of the Working Group, its objectives and the subjects under its consideration.

B. Statements

14. General introductory statements were made by a representative of the Secretariat under agenda item 2.
15. Under agenda item 2, with the Chair presiding, the discussion was led by the following panellists: Ms. Ledwaba (South Africa), Mr. Perez Esquivel (Argentina) and Ms. Ragazzi (Italy).
16. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Smuggling of Migrants Protocol: Australia, Brazil, Canada, Indonesia Italy, Mexico, Venezuela (Bolivarian Republic of) [...].
17. The observer for the Islamic Republic of Iran also made a statement.
18. The Working Group also heard a statement by the observer for the European Union Agency for Criminal Justice Cooperation (EUROJUST).

C. Adoption of the agenda and organization of work

19. At its 1st meeting, on 8 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. Impact of natural disasters, conflicts and crises, such as the COVID-19 pandemic, on trends in organized criminal groups and on routes for the smuggling of migrants, as well as good practices to support effective law enforcement cooperation during such crises to detect, investigate and prosecute such cases.
 3. Successful strategies concerning the use of technology, including information and communications technology, to prevent and investigate the smuggling of migrants and to mount a robust response to the increasing use of cyberspace by criminal groups.
 4. Other matters.
 5. Adoption of the report.

D. Attendance

20. The following parties to the Smuggling of Migrants Protocol were represented at the meeting: Afghanistan, Albania, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belgium, Bolivia, Brazil, Bulgaria, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Ecuador, Egypt, El Salvador, European Union, France, Guatemala, Honduras, India, Indonesia, Iraq, Italy, Japan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Malta, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Turkmenistan, Ukraine, United States of America, Uruguay, Venezuela (Bolivarian Republic of), [...].
21. The following States signatories to the Smuggling of Migrants Protocol were represented by observers: Thailand [...].
22. The following States that are not parties or signatories to the Smuggling of Migrants Protocol were represented by observers: Bangladesh, China, Colombia, Holy See, Israel, Iran (Islamic Republic of), Morocco, Nepal, Qatar, Singapore [...].

23. The following intergovernmental organizations and UN entities were represented by observers: Counter-Terrorism Committee Executive Directorate (CTED), Department of Peacekeeping Operations (DPKO), Economic Community of West African States (ECOWAS), European Union Agency for Criminal Justice Cooperation (EUROJUST), European Border and Coast Guard Agency (FRONTEX), Gulf Cooperation Council, International Organization for Migration (IOM), International Criminal Police Organization (INTERPOL), Parliamentary Assembly of the Mediterranean (PAM), United Nations Children's Fund (UNICEF), United Nations High Commissioner for Refugees (UNHCR), [...].
24. The Sovereign Order of Malta, an entity maintaining a permanent observer office, was represented by an observer.
25. A list of participants is contained in document CTOC/COP/WG.7/2020/INF/1/Rev.1.

E. Documentation

26. The Working Group had before it the following:
- (a) Annotated provisional agenda (CTOC/COP/WG.7/2020/1);
 - (b) Background paper prepared by the Secretariat on the impact of natural disasters, conflicts and crises, such as the COVID-19 pandemic, on trends in organized criminal groups and on routes for the smuggling of migrants, as well as good practices to support effective law enforcement cooperation during such crises to detect, investigate and prosecute such cases (CTOC/COP/WG.7/2020/2);
 - (c) Background paper prepared by the Secretariat on successful strategies concerning the use of technology, including information and communications technology, to prevent and investigate the smuggling of migrants and to mount a robust response to the increasing use of cyberspace by criminal groups. (CTOC/COP/WG.7/2020/3).

V. Adoption of the report

27. On 9 September 2020, the Working Group adopted the present report on its meeting.
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