



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

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## Report on the meeting of the Working Group on Trafficking in Persons held in Vienna from 16 to 18 November 2015

### 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 and from 6 to 8 November 2013.

2. In its resolution 6/1, entitled “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference of the Parties decided that the mandates for the Working Group on Trafficking in Persons should be continued and that its areas for future work should reflect, as appropriate, the recommendations contained in the report of the Working Group on its meeting held from 10 to 12 October 2011.<sup>1</sup>

3. 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.

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<sup>1</sup> CTOC/COP/WG.4/2011/8, paras. 46-51.



## II. Recommendations

4. The Working Group adopted the recommendations set out below.

### 1. Role of recruitment agencies and recruitment fees in trafficking in persons

5. States — whether countries of origin of or destination for migrant workers — should enact legislation and administrative measures to combat fraudulent recruitment, and regulate, register, license and monitor private recruitment agencies, including through considering, as appropriate, the establishment of a dedicated public institution in that regard.

6. States should consider prohibiting charging workers fees, directly or indirectly, for their recruitment and placement and reviewing public procurement practices in order to avoid trafficking in persons.

7. In an effort to reduce the victimization of migrant workers, States should develop awareness campaigns and disseminate information materials on the rights of such workers in accordance with applicable domestic laws and regulations. States should also consider establishing a grievance mechanism or hotline and relevant agencies for migrant workers, to enable the reporting of cases of exploitation or abuse.

8. States should consider requiring recruitment agencies and employers to provide contracts or, where possible, an explanation of contracts to migrant workers in a language they understand; prohibiting the switching of contracts that may create a climate of trafficking in persons; ensuring that workers are not denied access to their identity documents; requiring employers to pay for transportation expenses for workers to return to their home countries upon completion or early termination of their contract; and giving workers the right to complain. In accordance with their obligations under the Vienna Convention on Consular Relations, States should give workers access to consular offices in case of problems.

9. States should encourage employers to hire migrant workers directly where possible, or to use only the services of registered and authorized agencies, or through approved agencies, to prevent fraudulent and exploitative recruitment practices.

10. States should foster State-to-State cooperation to prevent and combat trafficking in persons and the exploitation of migrant workers, including, where appropriate, through bilateral and multilateral agreements.

11. States should encourage cooperation between the public and private sectors and encourage businesses to act with due diligence in the recruitment of migrant workers, in accordance with internationally recognized standards to prevent trafficking in persons.

12. States should foster multi-stakeholder cooperation, including between labour inspectors and trade unions, if applicable, to prevent and combat trafficking in persons and the exploitation of migrant workers.

13. States should also implement capacity-building to prevent and combat trafficking in persons, through appropriate training programmes for labour inspectors, health-care workers, social service providers, educators and law

enforcers and practitioners who may come into contact with victims of trafficking in persons.

14. States may consider instructing and training, where needed, their relevant diplomatic and/or consular staff and may consider, where possible, establishing a network of specialized attachés to prevent trafficking in persons.

## **2. National coordination mechanisms against trafficking in persons**

15. States should enhance their efforts to increase the availability and quality of statistical data, to analyse such data and to produce comparable information to be shared at the local, regional and global levels. Such information should identify trends and patterns, support best practices, identify needs for technical assistance and contribute to the formulation of policies, including the adoption of measures that discourage the demand for all forms of exploitation, and programmes and other related measures to prevent and combat trafficking in persons.

16. In establishing or strengthening national coordination mechanisms, States should consider involving a broad range of stakeholders responsible for, among others, justice, law enforcement, immigration, finance, taxation, social services, media, gender equality, legal services, health, foreign affairs, asylum, education, academia, business and labour, as well as relevant civil society and survivors of trafficking in persons.

17. Parties should consider carrying out an analysis of the effectiveness and functions of their national coordination mechanisms to prevent and combat trafficking in persons, in order to identify technical assistance needs.

18. The topic of the effectiveness and functions of different national coordination mechanisms should be considered at future meetings of the Working Group.

19. The Conference should consider all options to ensure that reliable and consistent information about the effective implementation of the Convention and the Trafficking in Persons Protocol is provided by States, with a view to identifying gaps and needs for technical assistance and highlighting successful experiences and good practices.

20. States should consider the possibility of enhancing their efforts to establish appropriate measures, including, where appropriate, the participation of relevant civil society, to monitor through appropriate indicators national policies and plans to prevent and combat trafficking in persons.

21. States should design multidisciplinary and evidence-based policies and programmes, action plans, guidance and other strategies in order to effectively prevent and combat trafficking in persons, with the input of relevant civil society and survivors of trafficking in persons, whenever possible.

22. States should consider developing an integrated national or regional database on trafficking in persons that includes data on cases, trends and patterns, best practices and modus operandi, with a view to helping analyse the situation on the ground, identifying challenges and gaps and formulating a comprehensive policy on combating trafficking in persons.

**3. Key concepts of the Trafficking in Persons Protocol, with a focus on the United Nations Office on Drugs and Crime issue papers on abuse of a position of vulnerability, consent and exploitation**

23. States are encouraged to clearly define key concepts to establish the parameters of what constitutes the crime of trafficking in persons in their national legislation, which should be flexible enough to capture the various forms of trafficking, but not make the crime unduly onerous to establish. States should train all relevant stakeholders accordingly, in order to facilitate a common understanding and consistent implementation of such key concepts, including, but not limited to, abuse of a position of vulnerability, consent and exploitation.

24. The Secretariat should continue the further development and dissemination of tools to clarify key concepts and collect legislation, case law and guidelines on such concepts, including in the United Nations Office on Drugs and Crime (UNODC) Human Trafficking Case Law Database and in the knowledge management portal known as the Sharing Electronic Resources and Laws on Crime (SHERLOC). In addition, the Secretariat should develop a list of indicators on different forms of exploitation, building upon existing tools.

25. States parties shall endeavour to fully implement the existing international and regional legal frameworks pertaining to trafficking in persons and related offences.

26. States should consider a gender approach and the best interests of the child when applying key concepts of the Trafficking in Persons Protocol.

### **III. Organization of the meeting**

#### **A. Opening of the meeting**

27. The Working Group on Trafficking in Persons met in Vienna from 16 to 18 November 2015. Five meetings were held.

28. The meeting of the Working Group was chaired by Rachmat Budiman (Indonesia). Following the opening statement by the Chair, an opening statement was made by the Chief of the Human Trafficking and Migrant Smuggling Section of UNODC. An opening statement was also made by the Special Rapporteur on trafficking in persons, especially women and children.

29. At the opening of the session, statements were made by the representatives of the Group of Latin American and Caribbean States, the European Union and Ecuador.

#### **B. Statements**

30. Introductory statements were made by the Secretariat on agenda items 2, 3 and 4.

31. Under agenda items 2 to 4, with the Chair presiding, the discussion was led by the following panellists: Carla Bury (United States of America), Lalu Muhammad Iqbal (Indonesia), Rita Penedo (Portugal), Mercedes Peláez Ferrusca (Mexico) and Anne Gallagher (Australia).

32. Under items 2 to 4, statements were made by representatives of the following parties to the Trafficking in Persons Protocol: Afghanistan, Angola, Armenia, Australia, Azerbaijan, Bahrain, Belgium, Botswana, Brazil, Canada, China, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, European Union, Finland, France, Germany, Greece, India, Indonesia, Iraq, Ireland, Israel, Italy, Kuwait, Latvia, Mexico, Morocco, Netherlands, Nigeria, Norway, Oman, Paraguay, Peru, Philippines, Republic of Korea, Saudi Arabia, Singapore, Slovenia, South Africa, Spain, Switzerland, Thailand, Turkey, United Arab Emirates, United States and Uruguay.

### **C. Adoption of the agenda and organization of work**

33. At its 1st meeting, on 16 November 2015, the Working Group adopted by consensus the provisional agenda and organization of work:

1. Organizational matters:
  - (a) Opening of the meeting;
  - (b) Adoption of the agenda and organization of work.
2. Role of recruitment agencies and recruitment fees in trafficking in persons.
3. National coordination mechanisms against trafficking in persons.
4. Key concepts of the Trafficking in Persons Protocol, with a focus on the United Nations Office on Drugs and Crime issue papers on abuse of a position of vulnerability, consent and exploitation.
5. Other matters.
6. Adoption of the report.

### **D. Attendance**

34. The following States parties to the Trafficking in Persons Protocol were represented at the meeting: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece, Guatemala, Guinea, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Jordan, Kenya, Kuwait, Latvia, Lebanon, Libya, Malaysia, Mexico, Montenegro, Morocco, Myanmar, Namibia, Netherlands, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, San Marino, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States, Uruguay, Venezuela (Bolivarian Republic of) and Viet Nam.

35. The European Union, a regional economic integration organization that is a party to the Trafficking in Persons Protocol, was represented at the meeting.
36. Japan, a State signatory to the Trafficking in Persons Protocol, was represented by an observer.
37. The following observer States were also represented: Holy See, Iran (Islamic Republic of), Pakistan, State of Palestine and Yemen.
38. The following United Nations units, programmes and funds and specialized agencies of the United Nations system were represented by observers: Office of the United Nations High Commissioner for Human Rights and Office of the United Nations High Commissioner for Refugees.
39. The following intergovernmental organizations were represented by observers: International Centre for Migration Policy Development, International Organization for Migration, League of Arab States and the Nordic Council of Ministers.
40. A list of participants is contained in document CTOC/COP/WG.4/2015/INF/1/Rev.1.

## **E. Documentation**

41. The Working Group had before it the following documents:
  - (a) Provisional agenda and annotations (CTOC/COP/WG.4/2015/1);
  - (b) Note by the Secretariat on the role of recruitment agencies and recruitment fees in trafficking in persons (CTOC/COP/WG.4/2015/2);
  - (c) Note by the Secretariat on national coordination mechanisms against trafficking in persons (CTOC/COP/WG.4/2015/3);
  - (d) Note by the Secretariat on the key concepts of the Trafficking in Persons Protocol, with a focus on the UNODC issue papers on abuse of a position of vulnerability, consent and exploitation (CTOC/COP/WG.4/2015/4);
  - (e) Note by the Secretariat on the consolidated recommendations of the Working Group on Trafficking in Persons (CTOC/COP/WG.4/2015/5 and Add.1).

## **IV. Adoption of the report**

42. Some States parties raised the issue of the participation of civil society in the Working Group, while others reiterated their objections to that discussion and its inclusion in the report.
43. On 18 November 2015, the Working Group adopted the report on its meeting (CTOC/COP/WG.4/2015/L.1 and Add.1), as orally amended.