



Tool 7.4 Obligations of States

Overview

This tool explains the provisions of article 8 of the Trafficking in Persons Protocol on the repatriation of victims of trafficking in persons and discusses the issue of victims who are facing deportation from the country of destination.

Mandatory requirements prescribed by article 8 of the Trafficking in Persons Protocol include obligations for States:

- To facilitate and accept the return of victims who are their nationals or had the right of permanent residence in their territory at the time of entry into the receiving State, with due regard for their safety (art. 8.1)
- To verify, without reasonable delay whether trafficking victims are their nationals or had the right of permanent residence, when requested to do so by the receiving State, and issue the necessary travel documents for their re-entry (art. 8.3)

Article 8, paragraph 2 of the Protocol requires that any repatriation of victims must be with due regard for their safety. This requirement also applies to victims who have not served as witnesses in criminal proceedings and to countries of which the victims are nationals or permanent residents.

Article 8, paragraph 4 of the Protocol requires a State party to whom one of its national or permanent residents is to be repatriated to issue any necessary travel or identity documents on request. This is primarily an administrative obligation, but may require legislation to ensure that appropriate officials or agencies are able and obliged to issue such documents when the conditions set out in article 8 are met.

Article 8 of the Trafficking in Persons Protocol

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

Promising practice

United States Victims of Trafficking and Violence Prevention Act of 2000

The Act provides that the Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate non-governmental organizations, are to establish and carry out programmes and initiatives in foreign States to assist in the safe integration, reintegration or resettlement, as appropriate, of victims of trafficking. Appropriate steps are also to be taken to enhance cooperative efforts among foreign countries, including States of origin. Funding is provided either to States directly or through appropriate non-governmental organizations for programmes, projects and initiatives. This includes the creation and maintenance of facilities, programmes, projects and activities for the protection of victims.

These principles provide a clear basis for a return and reintegration system that safeguards the human rights of trafficking victims to a safe return and assistance towards reintegration in the State of origin. Following these principles, programmes should offer a broad variety of services tailored to the individual needs of the returnee, such as pre- and post-departure counselling, financial support, integration assistance, follow-up and referral assistance, family mediation, continuing education, opportunities for self-support and job-seeking within the State of origin. This is important for the survival and well-being of the returned victim of trafficking and as a factor in preventing the victim from being trafficked again.



The text of the Victims of Trafficking and Violence Prevention Act of 2000 is available at:

www.state.gov/documents/organization/10492.pdf