

Resolution 5/2

Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

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

Recalling the functions assigned to it in article 32 of the United Nations Convention against Transnational Organized Crime,¹ pursuant to which the Conference was established to improve the capacity of States parties to promote and review implementation of the Convention, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,²

Recalling also its decision 4/4 of 17 October 2008 and General Assembly resolutions 61/144 of 19 December 2006, 61/180 of 20 December 2006, 63/194 of 18 December 2008 and 64/178 of 18 December 2009, having considered the reports of the Secretariat concerning the fight against trafficking in persons and the report submitted by the Chair of the Working Group on Trafficking in Persons on the activities of the Working Group,³ and taking into account the adoption by the General Assembly, in its resolution 64/293 of 30 July 2010, of the United Nations Global Plan of Action to Combat Trafficking in Persons,

Welcoming the results of the consultations of Government experts held during the meetings of the Working Group on Trafficking in Persons and the fifth session of the Conference,

Recalling the Trafficking in Persons Protocol and other relevant regional and international instruments,

Acknowledging that the Trafficking in Persons Protocol is the principal legally binding global instrument to combat trafficking in persons,

Aware of the fact that socio-economic factors such as poverty, underdevelopment and lack of equal opportunity provide fertile ground for trafficking in persons, and reiterating that comprehensive crime prevention policies, together with social, economic, health, education, justice and human rights policies, must address the root causes of the crime of trafficking in persons,

Reaffirming that one of the main purposes of the Conference is to improve the capacity of States parties to combat trafficking in persons and that the Conference should spearhead international efforts in that regard,

¹ Ibid., vol. 2225, No. 39574.

² Ibid., vol. 2237, No. 39574.

³ CTOC/COP/2010/5, CTOC/COP/2010/6 and CTOC/COP/2010/11.

Welcoming the efforts made by the United Nations Office on Drugs and Crime in 2009 and 2010 to build State capacity through several training workshops on investigating and prosecuting trafficking in persons, protecting victims and increasing awareness of trafficking in persons, especially among vulnerable populations, including women and children,

Concerned at the increasing number of reported incidents of trafficking in persons for the purpose of organ removal, as noted in the report of the Secretary-General on preventing, combating and punishing trafficking in human organs,⁴ which concluded that there was a lack of reliable data in that regard,

Taking note of the joint study of the Council of Europe and the United Nations entitled *Trafficking in Organs, Tissues and Cells and Trafficking in Human Beings for the Purpose of the Removal of Organs*,⁵ the most recent study on the subject, issued pursuant to the General Assembly resolution 63/14 of 3 November 2008, on cooperation between the United Nations and the Council of Europe,

Affirming the importance of United Nations bodies continuing to implement the Supplier Code of Conduct of the Procurement Division of the Secretariat, in particular article 5, pursuant to which it is expected that all suppliers prohibit forced labour,

1. *Urges* Member States that have not yet done so to consider, as a matter of priority, ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;⁶

2. *Recognizes* that trafficking in persons and smuggling of migrants are distinct crimes that in some cases may share some features and that in most cases require separate legal, operational and policy responses;

3. *Welcomes* General Assembly resolution 64/293 of 30 July 2010, including the United Nations Global Plan of Action to Combat Trafficking in Persons, annexed to that resolution, in particular its six objectives, expresses its view that the Global Plan of Action will promote increased ratification and implementation of the Trafficking in Persons Protocol, and looks forward to effective operation of the United Nations Voluntary Trust Fund for Victims of Trafficking, Especially Women and Children;

4. *Takes note of* the Global Initiative to Fight Human Trafficking and recommends that the Secretariat consult with Member States before commencing any such initiative in order to achieve greater engagement;

5. *Welcomes* the work of the Working Group on Trafficking in Persons, including the Group's recommendations, resulting from its

⁴ E/CN.15/2006/10.

⁵ Council of Europe and the United Nations, *Trafficking in Organs, Tissues and Cells and Trafficking in Human Beings for the Purpose of the Removal of Organs* (Strasbourg, Council of Europe, 2009).

⁶ United Nations, *Treaty Series*, vol. 2237, No. 39574.

meetings held on 14 and 15 April 2009, 27 and 29 January 2010 and 19 October 2010;⁷

6. *Calls upon* States to cooperate effectively in addressing the root causes of trafficking in persons, in a cooperative and comprehensive manner and with a balanced perspective, incorporating both the supply and demand sides, as a step towards improving the implementation of the Trafficking in Persons Protocol;

7. *Reaffirms* the following commitments made under the Trafficking in Persons Protocol:

(a) Each State party shall ensure that its domestic legal or administrative systems contain measures that provide to victims of trafficking in persons, in appropriate cases, assistance to enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of defence;

(b) Each State party shall ensure that domestic legal systems contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damages suffered;

(c) Each State party shall to the extent necessary initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of offences of trafficking in persons;

(d) Each State party shall consider monitoring its policies and actual measures to combat trafficking in persons and make assessments of their effectiveness and efficiency;

(e) Each State party shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that lead to trafficking;

8. *Encourages* States to consider:

(a) Integrating a victim-centred approach into their national responses to combating trafficking in persons, with full respect for the human rights of victims of such trafficking;

(b) Establishing or strengthening inter-agency cooperation and coordination among competent authorities, law enforcement agencies and other agencies to combat trafficking in persons, including by increasing, where necessary, efforts to cooperate, investigate and prosecute cases of trafficking in persons as defined in article 3 of the Trafficking in Persons Protocol, including enhancing, in particular, measures in areas such as mutual legal assistance, sharing of information, law enforcement cooperation and joint investigations, in accordance with the provisions of the United Nations Convention against Transnational Organized Crime;

⁷ CTOC/COP/2010/6.

(c) Raising public awareness of the harmful consequences of using goods and services derived from victims of forced labour and other types of exploitation;

(d) Making better use of tools and materials produced by the United Nations Office on Drugs and Crime and other relevant international and regional organizations working in the field of combating trafficking in persons;

(e) Ensuring, in line with their domestic legislation, that trafficked persons are not punished or prosecuted for acts that they have committed as a direct result of being trafficked and that domestic laws, guidelines and policies clearly espouse this principle;

9. *Encourages* States parties to consider Commission on Crime Prevention and Criminal Justice resolution 19/4 of 21 May 2010 in which the Commission exhorts Governments to do the following:

(a) Improve preventive measures and discourage the demand that fosters exploitation in all its forms and leads to trafficking in persons, with a view to its elimination, and accordingly to raise awareness of the negative impact of clients, consumers or users of trafficking in persons, inasmuch as it is they who are responsible for generating such demand;

(b) Consider, within the framework of their respective national laws, among other measures, the application of criminal penalties or other penalties to consumers or users who intentionally and knowingly use the services of victims of trafficking in persons for any kind of exploitation;

10. *Requests* the Secretariat to continue its work on the analysis of key concepts of the Trafficking in Persons Protocol;

11. *Also requests* the Secretariat, within existing resources, to submit to it, at its sixth session, a report compiling examples of best practices for addressing the demand for labour, services or goods that foster the exploitation of others, as defined in the Trafficking in Persons Protocol, and invites Member States to provide such examples, if available, to the Secretariat before the sixth session in order to facilitate that process;

12. *Looks forward* to the meeting of an expert group on trafficking in persons for the purpose of organ removal and other forms of trafficking in human organs, to be convened by the United Nations Office on Drugs and Crime prior to the sixth session of the Conference, and, in this regard, requests that the expert group address the issue of such crime, with a view to identifying trends, new patterns and conditions that contribute to its occurrence;

13. *Invites* States parties, States represented by observers at sessions of the Conference and relevant international organizations to provide the Secretariat with up-to-date information and available statistical data related to the offence of trafficking in persons for the purpose of organ removal, in order to better support evidence-based approaches to the prevention, detection and prosecution of such crime, as well as the provision of specialized, coordinated assistance and

compensation for victims of the trafficking described in paragraph 12 above;

14. *Decides* that the Working Group on Trafficking in Persons should continue to perform those functions set forth in Conference decision 4/4 of 17 October 2008;

15. *Also decides* that the Working Group should hold at least one intersessional meeting prior to the sixth session of the Conference and present its recommendations to the Conference on whether the Working Group should be extended and, if so, proposed areas for future work;

16. *Requests* the Secretariat to submit to the Conference at its sixth session a report on the activities of the United Nations Office on Drugs and Crime, including with respect to its coordinating role in and the activities of the Inter-Agency Coordination Group against Trafficking in Persons and the Global Initiative to Fight Human Trafficking, and on coordination carried out with the secretariats of relevant regional and international organizations to promote and support implementation of the Trafficking in Persons Protocol;

17. *Also requests* the Secretariat to continue to assist the Working Group on Trafficking in Persons in the performance of its functions;

18. *Invites* Member States and other donors to provide extrabudgetary resources for these purposes in accordance with the rules and procedures of the United Nations.