



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

Distr.: General  
28 September 2020

Original: English

## Report on the meeting of the Working Group on Trafficking in Persons held in Vienna on 10 and 11 September 2020

### 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, on 2 and 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 the meeting of the Working Group on Trafficking in Persons held in Vienna on 10 and 11 September 2020, in a hybrid format (in person and online), the Working Group, noting that it was unable to complete line-by-line negotiations of the draft recommendations proposed during the meeting, agreed to allow delegates to share comments on the draft recommendations in a time-bound, post-meeting process.

4. The Working Group decided to entrust the Chair, in consultation with the Secretariat, with finalizing, in the days following the meeting, and applying a process to facilitate and gather comments from delegations and to make the outcome of the process available to the tenth session of the Conference of the Parties to the Convention.



### III. Chair's summary of deliberations

5. The summary of deliberations in the present section was prepared by the Secretariat after the meeting, in close coordination with the Chair. The summary was not debated and, consequently, was not subject to adoption during the meeting.

6. 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".

7. The discussion under agenda item 2 was facilitated by the following panellists: 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 Committee for Combating Trafficking in Persons (Tunisia), on behalf of the Group of African States, Olubiyi Olusayo, Director of Training and Development, National Agency for the Prohibition of Trafficking in Persons (Nigeria), on behalf of the Group of African States, Elisabetta Pugliese, Public Prosecutor at the National Anti-Mafia and Counter-Terrorism Directorate (Italy), on behalf of the Group of Western European and other States, Sheon Sturland, Superintendent and Unit Commander, National Police Chiefs Council Modern Slavery and Organized Immigration Crime Unit (United Kingdom of Great Britain and Northern Ireland), 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 for Crimes of Violence against Women and Trafficking in Persons, of the General Prosecutor's Office of Mexico, on behalf of the Group of Latin American and Caribbean States.

8. Ms. Labidi elaborated on the challenges of ensuring appropriate protection for victims of trafficking in persons and, in particular, highlighted the importance of clear guidelines and indicators for the timely identification of victims. She mentioned the importance of international cooperation in standard-setting for ensuring consistency in the identification of and the provision of protection for victims, and she proposed an international mechanism dedicated to facilitating 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 crimes, as many are vulnerable migrants, making investigations more challenging. Therefore, she stressed the importance of proactive investigations and specialized training for law enforcement.

9. Ms. 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 the country's efforts to train law enforcement agencies on the specific features of the crime. She noted how conflict and terrorism had negatively affected the crime of trafficking in persons, and she defined the context of the issue in Afghanistan. In concluding, she emphasized the importance of inter-agency cooperation in detecting and responding to crime at the regional and national levels in order to better support victims of trafficking in persons. She further highlighted the need to train authorities in understanding and applying the non-punishment principle and, at the same time, the need to ensure transparency and fight corruption in institutions.

10. Mr. Olusayo spoke about the efforts of Nigeria to ensure appropriate criminal justice responses for victims who had been compelled to commit offences as a result of their being trafficked. He noted, in particular, the provisions of the Nigerian Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015, which provides for access to adequate health care, other social services and a temporary residence permit during the investigation of a 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 harm. 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 reviewing legal frameworks on criminal justice responses to address evolving circumstances.

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

12. Mr. Sturland elaborated on the statutory legal defence established under the Modern Slavery Act of 2015 in the 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, owing to the nature of the crime, which was often hidden and underreported, investigators should consider the possibility that an offender might be a victim of trafficking from the beginning of the investigation. Such a legal defence demonstrated a commitment to the non-prosecution principle and provided victims with a fail-safe should law enforcement agencies or the state fail to identify them as victims. He underlined that the principle of non-punishment supported the protection of the victim while allowing the criminal justice sector to focus on holding perpetrators accountable. He also stressed that the non-prosecution principle and a legal defence did not protect victims from exploitation, but only from prosecution. He concluded by outlining a number of recommendations, including the need to consider applying the non-punishment principle, enshrined in law, as an essential part of States' commitment to protecting the human rights of victims of trafficking; that 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; and that States should consider introducing interventions to safeguard victims of trafficking, especially children, when the decision is made not to prosecute them.

13. Mr. Zavala Evangelista provided an overview of trends in trafficking in persons in Mexico, where approximately 5,300 victims had been identified in the period 2012–2017. He stressed that victims of trafficking should not be put in detention as a result of their violation of immigration laws. He also mentioned the obligation of prosecutors in Mexico not to prosecute victims of trafficking, as provided for in domestic law, and noted that, where the non-punishment principle could not be applied, international human rights law could be invoked. In addition, he emphasized the importance of coordination, including through networks of specialized practitioners.

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

15. Several speakers noted challenges in the application of the non-punishment principle. One speaker highlighted the importance for law enforcement to ensure a victim-centred and trauma-informed approach in the protection of victims throughout all phases of the identification of victims and during investigations. In addition, the speaker noted the importance of vacating the criminal record of victims as a

prerequisite for rehabilitating and reintegrating them into society. One speaker noted the differences in the application of 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 the criminal groups behind the crime of trafficking in persons. Several speakers highlighted the importance of a victim-centred approach in order to uphold the rights of victims of trafficking in persons and to avoid revictimization, including by applying the non-punishment principle.

16. One speaker noted the importance of ensuring the application of the non-punishment principle from an early stage of investigations and throughout the criminal proceedings, with special protection measures in place for victims. Others highlighted the importance of removing obstacles to the pursuit of civil remedies by victims.

17. At its 2nd and 3rd meetings, on 10 and 11 September 2020, the Working Group considered agenda item 3, entitled “Best practices in joint investigations and specialized prosecutions”, and agenda item 4, entitled “Other matters”.

18. With the Chair presiding, the discussion under agenda item 3 was led by the following panellists: Pam Bowen, Senior Policy Adviser, Crown Prosecution Service (United Kingdom), on behalf of the Group of Western European and other States, William Nolan, Special Litigation Counsel, Human Trafficking Prosecution Unit, Civil Rights Division, United States Department of Justice (United States of America), on behalf of the Group of Western European and other States, and Carina Sánchez Fernández, Specialized Unit for Combating Trafficking in Persons and Sexual Exploitation of Boys, Girls and Adolescents (Paraguay), on behalf of the Group of Latin American and Caribbean States.

19. Ms. Sánchez Fernández described examples of cooperation in criminal matters to counter trafficking in persons between Paraguay and a number of countries, including Spain and France, which had led, throughout the years, to joint operations leading to the sentencing of several traffickers and the rescue of victims. More recently, Paraguay had established a joint operation with Brazil, from which Ms. Sánchez Fernández was able to highlight both some of the challenges and critical lessons learned. Language barriers and a lack of formalized agreements had posed challenges in the operations, as had differences in criminal procedural codes. She described how challenges could be overcome, in particular through the enhancement of bilateral contacts among the law enforcement and criminal justice agencies of both countries, and through the Southern Common Market (MERCOSUR) framework to facilitate bilateral cooperation, as well as the Ibero-American Network of Specialized Prosecutors against Trafficking in Persons and the Smuggling of Migrants, which had led to the establishment of points of contact and joint research teams at the regional level and amongst practitioners to advance cooperation and expedite anti-trafficking operations. In concluding, Ms. Sánchez Fernández stressed the importance of facilitating the establishment of joint investigative teams by building adequate legislative instruments to enable such critical cooperation.

20. In the discussion that followed under agenda item 3, many speakers outlined the effectiveness of law enforcement cooperation in responding to trafficking in persons as a means of addressing the transnational nature of the crime. Several speakers highlighted the need for a victim-centred and human rights-based approach in protecting identified victims. One speaker mentioned the importance of reducing the reliance and dependency of investigations on the testimony of victims and instead focusing on building a case through the elements surrounding the victim. Other speakers stressed the need for specialized prosecution units or teams, highlighting that it was important for teams of law enforcement officers and prosecutors to be multi-jurisdictional and, above all, multidisciplinary in order to involve all relevant units and experts, including experts in cybertechnology, to address the multifaceted nature of the crime. Other speakers noted the importance of including financial investigators in joint prosecution units. Two speakers emphasized that unilateral

coercive measures might contribute to economic crises, which may hamper the ability of States to invest resources in responding to trafficking in persons. Speakers also elaborated on the impact of the coronavirus disease (COVID-19) pandemic on the conduct of investigations and cross-border prosecutions, highlighting how the crisis had slowed progress with the closure of borders. Other speakers noted, as a result of the pandemic, an increase in domestic trafficking and the rapid adaptation of perpetrators to new means of exploitation. The most significant impact had been in the delay of court trials, which had generated a significant backlog of cases, in some instances estimated at three years, with the resulting difficulties in maintaining the engagement of victims during the process. Others noted the challenges experienced in conducting cross-border investigations owing to limitations in funding.

## **IV. Organization of the meeting**

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

21. The tenth meeting of the Working Group on Trafficking in Persons was held in Vienna on 10 and 11 September 2020. Four meetings were held. As agreed by the extended Bureau of the Conference of the Parties by approval under the silence procedure on 19 August 2020, the meeting was held in a hybrid format (in person and online), with a restricted number of participants present in the meeting room and all other participants connected remotely through an interpretation platform used under contract by the United Nations.

22. The meeting was opened by 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**

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

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

25. With the Chair presiding, the discussion under item 3 was led by the following panellists: Ms. Bowen (United Kingdom), Mr. Nolan (United States) and Ms. Sánchez Fernández (Paraguay).

26. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Trafficking in Persons Protocol: Argentina, Australia, Bangladesh, Brazil, Canada, Chile, China, Colombia, Dominican Republic, Egypt, France, Guatemala, Honduras, Indonesia, Iraq, Kyrgyzstan, Mexico, New Zealand, Nigeria, Singapore, South Africa, Tunisia, United Arab Emirates, United States and Venezuela (Bolivarian Republic of).

27. The observer for the Islamic Republic of Iran also made a statement.

28. The Working Group also heard statements by the observers for the International Criminal Police Organization (INTERPOL), the International Organization for Migration, the Parliamentary Assembly of the Mediterranean, and Organization for Security and Cooperation in Europe and the Special Rapporteur on trafficking in persons, especially women and children.

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

29. 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

30. 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 (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Eswatini, European Union, Finland, France, Germany, Greece, Guatemala, Honduras, India, Indonesia, Iraq, Israel, Italy, Japan, Jordan, Kenya, 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, State of Palestine, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay and Venezuela (Bolivarian Republic of).

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

32. The Holy See, a non-member State maintaining a permanent observer mission, was represented by observers.

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

34. The following intergovernmental organizations and United Nations entities were represented by observers: Cooperation Council for the Arab States of the Gulf, Council of Europe, Counter-Terrorism Committee Executive Directorate, Department of Peace Operations, European Border and Coast Guard Agency, European Union Agency for Criminal Justice Cooperation, INTERPOL, International Organization for Migration, Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, Office of the Special Rapporteur on trafficking in persons, especially in women and children, Organization for Security and Cooperation in Europe, Parliamentary Assembly of the Mediterranean and United Nations High Commissioner for Refugees.

35. A list of participants is contained in document [CTOC/COP/WG.4/2020/INF/1/Rev.1](#).

## **E. Documentation**

36. 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**

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

---