



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 the Smuggling of Migrants held in Vienna on 8 and 9 September 2020

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 on 4 and 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 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 its meeting held in Vienna on 8 and 9 September 2020, the Working Group on the Smuggling of Migrants adopted the recommendations presented below.



A. Recommendations regarding 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

Recommendation 1

States parties are encouraged to plan for potential arrivals of smuggled migrants as a result of crises, including having in place reception mechanisms that address immediate medical and humanitarian concerns, as well as migration status.

Recommendation 2

States parties should reinforce national data collection and analysis on the impact of crises, such as the current coronavirus disease (COVID-19) pandemic, on migrant smuggling routes and patterns to support cooperation with other States parties, including the sharing of such data and statistics.

Recommendation 3

States parties should enhance the early detection of cases of smuggling of migrants in crises by developing directories of national authorities and contact points in order to strengthen the exchange of information and coordination.

Recommendation 4

States parties should enhance awareness-raising efforts to educate the general public on the risks associated with the smuggling of migrants, including the increased vulnerability of smuggled migrants to exploitation, abuse, gender-based violence and trafficking in persons in times of crisis.

Recommendation 5

States, supported by international organizations when requested, should enhance cooperation at the regional and international levels to respond to emerging trends in the smuggling of migrants, in particular taking into consideration the challenges that crises, such as the COVID-19 pandemic, pose to the prosecution and investigation of this crime, as well as to address the needs of smuggled migrants.

Recommendation 6

States parties should provide targeted responses and protection measures for smuggled migrants throughout the COVID-19 crisis, including ensuring accessible and affordable public and social services, such as health care and care for children and older persons, and social protection measures.

Recommendation 7

States parties should support the wider use of technology within the criminal justice system, particularly during crises, to facilitate access to judicial processes and enable the collection and provision of evidence, and the submission and processing of documents by courts, in accordance with the guarantees of due process.

B. 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

Recommendation 8

States parties are encouraged to consider, in accordance with article 19 of the United Nations Convention against Transnational Organized Crime and domestic law, setting up joint investigative teams as one of the most effective judicial cooperation tools to counter organized criminal groups active along migrant smuggling routes, and making use, for these purposes, of modern technologies, including videoconferences, as available, affordable and equally accessible to the States concerned.

Recommendation 9

States parties should expand data-collection and research efforts to better analyse the scope, scale and ways in which technology is misused to facilitate the smuggling of migrants at the regional and international levels, with particular consideration of criminal misuse of the Internet and social media applications by organized criminal groups.

Recommendation 10

States parties should identify and address gaps in national legal systems to ensure the effective investigation and prosecution of technology-facilitated smuggling of migrants, as well as enhanced national and cross-border cooperation.

Recommendation 11

States parties are encouraged to facilitate the collection, preservation and sharing of digital evidence concerning the smuggling of migrants, as well as its admissibility and use in court proceedings, in accordance with domestic law and their international obligations concerning human rights, privacy and due process.

Recommendation 12

States parties may consider convening and participating in meetings at the international and regional levels for practitioners to share information about the criminal misuse of cyberspace by migrant smuggling organizations, as well as best practices in identifying and accessing digital evidence from suspected migrant smugglers, consistent with international and domestic law.

Recommendation 13

In the context of a pandemic, States parties should share information about outbreaks and “hotspots” identified along migrant smuggling routes.

Recommendation 14

In accordance with the Smuggling of Migrants Protocol, States parties are encouraged to collaborate to improve the capacity to identify and secure digital evidence to better investigate and prosecute the smuggling of migrants, including by increasing access to technology and equipment necessary to access that evidence and by providing training to relevant border personnel.

Recommendation 15

States parties should continue developing and applying technological innovations in countering the crime of migrant smuggling and routinely evaluate such efforts to

ensure their effectiveness, further dissemination and use, ensuring that any new initiatives do not duplicate existing and available technology tools.

Recommendation 16

States parties should endeavour to build expertise and capacity among relevant practitioners across sectors to allow for the maximum use of technology to prevent and combat the smuggling of migrants.

Recommendation 17

States parties should encourage and expand law enforcement capacity to identify, seize and share electronic evidence for the purpose of combating the smuggling of migrants, bearing in mind appropriate safeguards for privacy and human rights.

Recommendation 18

States parties should encourage and expand, where relevant and appropriate, effective partnerships between relevant sectors and stakeholders, including international and regional organizations, civil society, the private sector and academia, to enhance research, innovation and the use of technology to counter the smuggling of migrants.

Recommendation 19

States parties are encouraged to coordinate with relevant civil society organizations and other relevant stakeholders to increase public awareness of the criminal nature of the smuggling of migrants and to facilitate the detection of this crime, including through the development and use of anonymous online reporting forms.

Recommendation 20

States parties are encouraged to develop comprehensive awareness-raising responses, in coordination with relevant stakeholders, such as civil society organizations, including tailoring and directing information campaigns not only towards potential smuggled migrants, but also towards diaspora networks, which can provide incoming and potential smuggled migrants with information about the risks and issues surrounding irregular migration.

Recommendation 21

States parties should consider establishing dedicated prosecutorial teams to enable specialized investigation in cyberspace to counter the criminal misuse of technology by smugglers and organized criminal groups involved in related offences.

Recommendation 22

States parties should seek to provide tailored capacity-building for law enforcement and criminal justice practitioners to enable them to promptly respond to emerging trends in the smuggling of migrants, especially in cyberspace.

III. Chair's summary of deliberations

4. 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.

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 cases".

6. The discussion of 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 Group of African States. The second panellist was Andrés Pérez Esquivel, Director of International Affairs, National Migration Directorate of Argentina, on behalf of the Group of Latin American and Caribbean States. The third panellist was Simona Ragazzi, Judge at the Court of Catania, Italy, on behalf of the Group of Western European and other States.

7. Ms. 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 had been made more hazardous by border closures and restrictions of movement, and, on the other, that migrants were increasingly reliant on smuggling syndicates, subjecting them to even riskier movement. She noted the links between the smuggling of migrants and other unlawful activities, such as trafficking in persons, drug trafficking and other crimes. She noted how restrictive measures had affected women and children in particular, 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, and ensure that all migration policies are aligned with human rights standards.

8. Mr. Pérez Esquivel outlined the 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 that 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 the migrants affected, including renewing residence permits on a monthly basis, making digital permits available and providing 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. Ragazzi described the impact of COVID-19 on the smuggling of migrants along the central Mediterranean route. She highlighted how the current pandemic had amplified gaps in responses to the crime of smuggling of migrants, citing the importance of the full implementation of the Smuggling of Migrants Protocol, especially in such times of crisis. Data showed that, despite an initial decline in the number of cases of smuggling of migrants earlier in 2020, partly owing to travel restrictions imposed to limit the spread of the virus, the number of arrivals by sea had been rising over the most recent four-month period, while the deployment of rescue missions at sea and their ability to perform surveillance and search and rescue activities had significantly diminished. She described how the pandemic had also affected criminal investigations, and she referred to the importance of fully implementing the Convention and its Protocols in all States parties, with particular regard to countries of origin and transit. She described how, during the pandemic, videoconferencing devices in a court of law could help to ensure that hearings continued for cases involving organized crime. In addition, she cited the importance of utilizing judicial and law enforcement cooperation tools under the Convention, 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 the capabilities of United Nations entities to support humanitarian aid and assistance.

10. After those presentations, several speakers reflected on how the challenges brought about by crises such as the global COVID-19 pandemic had an impact on the

smuggling of migrants and could exacerbate the vulnerabilities of migrants. Speakers shared good practices to strengthen judicial cooperation, including at the regional and subregional levels, 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 represented push factors for migrants resorting to smuggling syndicates, which were agile in responding to any new means of generating profits unlawfully. Two speakers emphasized that unilateral coercive measures might contribute to economic crises and provide a push factor for irregular migration and the smuggling of migrants. One speaker highlighted the importance of awareness-raising activities to inform migrants of the risks associated with smuggling. Another reflected on the necessity of guaranteeing access to support services for women and girls. Several speakers also emphasized the importance of addressing the medium- or long-term impact of crises, such as the COVID-19 pandemic, on vulnerable groups, as well as the root causes that prompt migrants to resort to smuggling services. Another speaker recalled that protection of the rights of smuggled migrants was a common and shared responsibility between States, including countries of origin, transit and destination. One speaker reflected on the need for training and building the capacities of relevant authorities in responding to crises through dedicated, specialized training courses.

11. At its 2nd and 3rd meetings, 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”, and agenda item 4, entitled “Other matters”.

12. The discussions on agenda item 3 commenced with presentations by two national experts. The first panellist was Jorge Matías Fernández, Chief Inspector, Unit for Illegal Immigration and Document Fraud, General Commissariat for Aliens and Borders of Spain, on behalf of the Group of Western European and other States. The second panellist was Tomás Guayasamín, Director of Prevention of Human Trafficking and Migrant Smuggling at the Ministry of the Interior of Ecuador, on behalf of the Group of Latin American and Caribbean States.

13. Mr. Matías Fernández reflected on the challenges arising from the emergence of modern technologies and their application to organized crime, including the smuggling of migrants. He noted efforts in Spain to harness the potential of technology, including ongoing cooperation with civil society on the provision of assistance to smuggled migrants and the use of related electronic data in related investigations. In addition, he highlighted the effectiveness of partnerships with the private sector in the development of technological tools to respond to the crime, as well as in accessing and tracking digital evidence. He then offered a series of recommendations, including the establishment of specialized law enforcement units and the broadening of awareness-raising activities, capitalizing on modern technology platforms to disseminate information about the risk of perilous journeys associated with the smuggling of migrants.

14. Mr. Guayasamín described how technology applications had been successfully applied to address a broad range of challenges and gaps in responding to the smuggling of migrants. Examples from national experience included the development of digital databases and a registry of cases, which included geographical data and interactive maps, to enable enhanced internal coordination and analysis of data among relevant agencies. He stressed the importance of generating statistics to continuously evaluate new trends in the smuggling of migrants and of issuing relevant guidelines and policy recommendations for responders. He added that technology-based tools could also enable the real-time exchange of information among key stakeholders.

15. In the discussions that followed, speakers noted the two distinct sides of the issue: on the one hand, the use by criminal syndicates of technology, increasingly applied to facilitate unlawful activities, and, on the other, the importance of

harnessing the potential of technology, including information technology, to address the crime and enhance criminal justice responses.

16. In particular, speakers highlighted challenges that arise from accessing, obtaining and exchanging digital evidence from multiple jurisdictions in cases involving the smuggling of migrants, noting the continued emergence of such challenges in recent years in conjunction with the increasing complexity of technology-facilitated crime. Speakers noted significant gaps in judicial cooperation and harmonized domestic legal frameworks to support and facilitate the use of electronic evidence in transnational criminal investigations and proceedings, while noting that the Organized Crime Convention and the Smuggling of Migrants Protocol constituted essential frameworks to develop adequate cooperation mechanisms. One speaker highlighted that technology had also been used by migrants on social media, at all stages of their journeys, to communicate with smugglers and verify the reliability of routes and fees, including with regard to safety. A number of speakers also stressed how technology could be harnessed by law enforcement and judicial authorities to increase efforts to detect, investigate and prosecute smuggling of migrants cases. However, some speakers noted that the “digital divide” was still an issue that might hamper successful international cooperation with regard to effectively countering the smuggling of migrants. In that regard, one speaker noted that countries might benefit from technical assistance and capacity-building, including from international organizations, on the use of such technologies. Another noted the importance of countering the narratives of smugglers through well-planned digital campaigns at the regional level, which should include targeted messaging for migrant populations.

17. Prior to opening agenda item 5, the Chair underlined the added value of the hybrid format used for the meeting of the Working Group, highlighting the unprecedented level of participation, with approximately 450 registered delegates across all regions, and noting the enhanced opportunity for the provision of valuable expert contributions. The Chair emphasized the quality and relevance of the discussions, noting that the meeting had proceeded in a smooth manner and, in his experience, had been close to the normal dialogue of the previous in-person format. He welcomed the virtual components of the meeting as a successful experience.

IV. Organization of the meeting

A. Opening of the meeting

18. The seventh meeting of the Working Group on the 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 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.

19. 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

20. General introductory statements were made by a representative of the Secretariat under agenda items 2 and 3.

21. Under agenda item 2, with the Chair presiding, the discussion was led by the following panellists: Ms. Ledwaba (South Africa), Mr. Pérez Esquivel (Argentina) and Ms. Ragazzi (Italy).

22. Under agenda item 3, with the Chair presiding, the discussion was led by the following panellists: Mr. Matías Fernández (Spain) and Mr. Guayasamín (Ecuador).
23. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Smuggling of Migrants Protocol: Australia, Brazil, Canada, Honduras, Indonesia, Italy, Mexico and Venezuela (Bolivarian Republic of).
24. The observers for China, Iran (Islamic Republic of), Jordan and Morocco also made statements.
25. The Working Group also heard a statement by the observer for the European Union Agency for Criminal Justice Cooperation.

C. Adoption of the agenda and organization of work

26. 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

27. The following parties to the Smuggling of Migrants Protocol were represented at the meeting: Afghanistan, Albania, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belgium, Brazil, Bulgaria, Burundi, Canada, Chile, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Eswatini, European Union, France, Germany, Greece, 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 and Venezuela (Bolivarian Republic of).
28. The following States signatories to the Smuggling of Migrants Protocol were represented by observers: Bolivia (Plurinational State of) and Thailand.
29. The following States that are not parties or signatories to the Smuggling of Migrants Protocol were represented by observers: Bangladesh, China, Colombia, Holy See, Iran (Islamic Republic of), Israel, Jordan, Malaysia, Morocco, Nepal, Qatar, Singapore, United Arab Emirates and Yemen.
30. The following intergovernmental organizations and United Nations entities were represented by observers: Counter-Terrorism Committee Executive Directorate, Department of Peace Operations, Economic Community of West African States,

European Border and Coast Guard Agency, European Union Agency for Criminal Justice Cooperation, Gulf Cooperation Council, International Criminal Police Organization (INTERPOL), International Organization for Migration, Parliamentary Assembly of the Mediterranean, United Nations Children’s Fund, United Nations High Commissioner for Refugees and United Nations Office on Drugs and Crime.

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

32. A list of participants is contained in document [CTOC/COP/WG.7/2020/INF/1/Rev.1](#).

E. Documentation

33. 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

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