OSCE written submission to the Working Group report – September 2020

The OSCE welcomes the attention of the Working Group on the important topic of the non-punishment of trafficking victims, as well as on the modalities for joint investigations and specialized prosecutions.

The Office of the OSCE Special Representative and Co-ordinator for Combatting Trafficking in Human Beings wished to emphasize the need to move beyond the elucidation of the non-punishment principle and focus on its implementation. Many victims, both adults and children, are still prosecuted and convicted for crimes they committed as a direct result of being trafficked, even in countries where the principle is encapsulated in legislation. There is, therefore, an urgent need to translate international commitment to the principle into its use in practice as part of the States’ commitment to protecting the human rights of the victims. The OSCE encourages the Working Group to highlight existing sources of information and tools to achieve this goal.

As mentioned in the background paper CTOC/COP/WG.4/2020/2, the UN’s Inter-Agency Coordination Group Against Trafficking: recently published an issue brief 8/2020 on non-punishment that can serve as a good introduction to the topic: [https://www.unodc.org/documents/human-trafficking/ICAT/19-10800_ICAT_Issue_Brief_8_Ebook.pdf](https://www.unodc.org/documents/human-trafficking/ICAT/19-10800_ICAT_Issue_Brief_8_Ebook.pdf)

The OSCE also has a more in-depth publication that outlines the issues and provides guidance to States in their implementation of the principle. The content of this publication, entitled Policy and Legislative Recommendations towards the Effective Implementation of the Non-Punishment Provision with Regard to Victims of Trafficking, offers specific guidance and recommendations to support the implementation of the principle at the national level.

Likewise, the topic of specialized prosecutions and joint investigations is an important one. In the OSCE’s experience, States with specialized prosecutors—in terms of their training and experience but also with respect to serving in specialized units dedicated to combating trafficking—have better results in investigating, prosecuting and convicting traffickers. Moreover, victims are more likely to see justice and have positive experiences with the criminal justice system in States with specialized, trauma-informed, victim-centred anti-trafficking units.

In July 2020, the OSCE hosted the 20th Conference of the Alliance against Trafficking in Persons “Ending Impunity Delivering justice through prosecuting trafficking in human beings”, in Vienna and online. The panel discussions included the topic of non-punishment and victim-centred approaches to investigations and prosecutions. It also highlighted concrete and promising practices related to specialized prosecution and the establishment of joint investigations for cross-border trafficking cases across the OSCE region. A full summary report will be released shortly and available on the OSCE website: [https://www.osce.org/event/alliance20](https://www.osce.org/event/alliance20)

Moreover, the Office of the OSCE Special Representative and Co-ordinator for Combatting Trafficking in Human Beings wishes to highlight its mandate to provide support and technical assistance to OSCE participating States. The OSCE can assist participating States in their efforts to develop a national version of the non-punishment principle and to implement it in practice, as well as to promote the use of effective joint investigations and specialized prosecutions.

1 The Inter-Agency Coordination Group against Trafficking of Persons (ICAT) is a policy forum mandated by the General Assembly to improve coordination among United Nations agencies and other relevant international organisations to facilitate a holistic and comprehensive approach to preventing and combating trafficking of persons. ICAT was formally established in March 2007, pursuant to General Assembly resolution 61/180. ICAT consists of 25 organizations and entities.