



# 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 Trafficking in Persons held in Vienna from 6 to 8 September 2017

### 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 and from 16 to 18 November 2015.

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.

3. In its resolution 8/2, the Conference decided to continue the process of establishing the mechanism for the review of the implementation of the Convention and the Protocols thereto based on the recommendations contained in the report on the intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Vienna on 6 and 7 June 2016. In the same resolution, the Conference also decided to elaborate specific procedures and rules for the functioning of the review mechanism for consideration and adoption by the Conference at its ninth session, which was to be guided by the principles and characteristics set out in Conference resolution 5/5.

4. In its resolution 8/2, the Conference further decided that the review mechanism would progressively address all the articles of the Convention and the Protocols thereto for each of the instruments that States parties were parties to, grouped in thematic clusters in accordance with the content of their provisions and that, in order to review each thematic cluster of articles, the relevant working group would, in the



following two years, with the assistance of the Secretariat, define a short, precise and focused self-assessment questionnaire.

5. Also in resolution 8/2, the Conference reaffirmed all relevant decisions of the Conference of the Parties regarding the existing questionnaires, and requested all States parties to submit responses to the questionnaires on the implementation of the Convention and the Protocols thereto, and to provide updated information and responses including identifying technical assistance needs.

## **II. Recommendations**

6. At its meeting held in Vienna from 6 to 8 September, the Working Group on Trafficking in Persons adopted the recommendations presented below.

### **A. General recommendations**

7. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption:

(a) Support collaboration, where possible, with the private sector and other relevant stakeholders, to raise awareness on activities related to human trafficking, especially the identification of victims;

(b) Work to gather relevant and corroborative evidence, for example, by means of proactive investigations, as opposed to relying solely on victim testimony, with the aim of reducing the burden on victims as the only source of evidence;

(c) Place victims in safe and secure shelters or other suitable accommodation without delay, unless circumstances indicate that doing so might affect the security and safety of the victims;

(d) Consider options, where possible, to provide victims with suitable employment, educational and training opportunities, according to domestic law, in accordance with article 6, paragraph 3 (d) of the Protocol;

(e) Where possible, consider the implications that media involvement, including the timing of exposure of investigations, may have on both victims and investigations;

(f) Reiterate its previous recommendation for States parties to consider providing a sufficient period of time during which victims may receive appropriate assistance to make a decision about their possible cooperation with law enforcement authorities and their participation in a judicial process;

(g) Consider establishing national databases for information-sharing between government agencies on trafficking in persons cases, subject to privacy considerations;

(h) Promote the appropriate exchange of information, domestically and internationally, among criminal justice practitioners, including prosecutors, investigators, police officers, judges and task forces, regarding human trafficking cases;

(i) Where possible, lend support to the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons;

(j) Take into account the value of regional groupings that include source, transit and destination countries as a means of enhancing cross-border cooperation in trafficking in persons cases.

**B. Recommendations on effective criminal justice responses to trafficking in persons centred on addressing the protection and assistance needs of different groups and types of victims, with particular reference to victims of trafficking within mixed migration movements**

8. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption:

(a) Provide support for victims which is independent of their immigration status and of whether victims are supporting a criminal investigation or prosecution;

(b) Consider, in line with their domestic legislation and prosecutorial discretion, not punishing or prosecuting trafficked persons for unlawful acts committed by them as a direct consequence of their situation as trafficked persons or in cases where they were compelled to commit such unlawful acts;

(c) Ensure that the protection of victims in appropriate housing is gender-specific, taking into account the differing vulnerabilities of women, men and children, and where necessary, the provision of appropriate psychological assistance, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society;

(d) Ensure the availability of interpretation into languages victims can understand, including, to the extent possible, specific local dialects and sign languages, when providing assistance to victims, when necessary, in collaboration with the diplomatic representation of the country of the victim, and promote support to guarantee that persons with disabilities have a full understanding of their legal rights and of the judicial processes they participate in;

(e) Promote the cross-border provision of protection and assistance among countries of origin, transit and destination;

(f) Consider further strengthening the capacities of diplomatic and consular personnel to be able to recognize, and provide assistance to, victims of trafficking in persons;

(g) Ensure that measures are in place for the proper coordination of assistance and protection opportunities available to victims, including throughout the criminal justice process, and that all relevant stakeholders receive proper training regarding these measures;

(h) Further develop informative material for the purposes of explaining to victims their rights, avenues for assistance, and how the criminal justice process operates, in accessible terms;

(i) Develop the capacity of front-line responders, including humanitarian personnel, to identify victims of trafficking in persons, in a timely manner, within mixed migration flows;

(j) Ensure that victims have access to legal representation, including pro bono legal representation;

(k) Ensure that national authorities devote further attention to addressing trafficking in persons in conflict and humanitarian emergencies, in coordination and in cooperation with relevant stakeholders, including by enhancing the capacity of front-line workers and other relevant officials to identify victims;

(l) Take into account all victims' perspectives in policymaking and ensure equal access to assistance and protection measures and services;

(m) Consider establishing networks of interpreters who could be called upon throughout the criminal justice process;

- (n) Consider measures to address cases of involvement in trafficking in persons by terrorist groups, including measures to protect and assist victims, in order to further develop effective criminal justice responses;
- (o) Recognize trafficking in persons and smuggling of migrants as different phenomena that require different legislation and policy responses.

### **III. Summary of deliberations**

9. At its 3rd and 4th meetings, on 7 September 2017, the Working Group considered agenda item 3, entitled “Preparation of the questionnaire to review the implementation of the Trafficking in Persons Protocol”. Under the agenda item, the Chair invited States to provide comments of a general nature related to the draft questionnaire, including views on what the focus and objective of the questionnaire should be.

10. Several speakers noted that determining the final objective, content and structure of the questionnaire would be dependent upon decisions of the Conference of the Parties relating to a review mechanism for the Organized Crime Convention and its Protocols. It was further noted that consultations of the Conference in that regard would be ongoing and would continue in the lead-up to the ninth session of the Conference, namely in the framework of the open-ended intergovernmental meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the Convention and its Protocols, established in accordance with Conference resolution 8/2.

11. Most speakers said that the draft questionnaire should be short, precise and focused, and not go beyond the scope of the provisions of the Protocol, and that the wording of the questions should adhere strictly to the text of the Protocol in order to avoid ambiguity. Speakers also presented views on whether the questionnaire should include open-ended questions and/or tick boxes.

12. Most speakers emphasized that the questionnaire should not cause undue burden on expert practitioners who would be in charge of replying to the questionnaires, that duplication of effort should be avoided and that costs should be kept in mind. Many speakers supported the idea that, in replying to the questionnaire, States should provide information and/or electronic links to information they had provided in the context of reporting on the implementation of other regional or international legal instruments and to other questionnaires. Several speakers suggested that the Conference should seek ways to establish synergies with other questionnaires, including through the mutual recognition of information provided for those questionnaires, and one speaker suggested that the United Nations Office on Drugs and Crime could play a role in that regard. Speakers also asked how the data collected through the questionnaires would be used and stored and how often States would need to respond to the questionnaires. It was suggested that forms of data provision, other than through a questionnaire, could be considered.

13. Many speakers suggested that the existing versions of the questionnaires, from 2004 and 2005, could form the basis of the new questionnaire. Those versions could be restructured, complemented or modified for use under a review mechanism, or simply used in their current form. Speakers noted that those questionnaires adhered to the text of the Protocol and had already been answered by many States parties, and that using them would therefore be efficient and cost-effective.

14. Other views presented included the suggestion that the questionnaire should enquire whether the responding State party was a country of origin, transit and/or destination of human trafficking, and under which other regional or international instruments or questionnaires they had provided information on their anti-trafficking efforts. It was also expressed that the questionnaire should assist in identifying technical assistance needs and facilitate the sharing of information, lessons learned

and best practices among States, and that the outcome of the data-gathering efforts could identify recommendations for interpreting the Protocol.

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

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

15. The Working Group on Trafficking in Persons met in Vienna from 6 to 8 September 2017. Five meetings were held.

16. The meeting was opened by Virginia Prugh (United States of America), 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.

17. At the opening of the session, statements were made by the representatives of the European Union and Japan.

### **B. Statements**

18. General introductory statements were made by the Secretariat under agenda items 1, 2 and 3.

19. Under agenda item 1 (b), Norway and Mexico made interventions.

20. Under agenda item 2, with the Chair presiding, the discussion was led by the following panellists: Sid Ahmed Mourad (Algeria), Darlene Pajarito (Philippines), Miriam Heredia Zertuche (Mexico), Dina Dominitz (Israel) and Pam Bowen (United Kingdom of Great Britain and Northern Ireland).

21. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Trafficking in Persons Protocol: Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belarus, Belgium, Canada, China, Colombia, Côte d'Ivoire, Cyprus, Dominican Republic, Ecuador, Egypt, European Union, Finland, France, Gambia, Germany, Greece, India, Indonesia, Iraq, Israel, Italy, Japan, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Singapore, Spain, Sri Lanka, Switzerland, Thailand, Turkey, United Arab Emirates, United Kingdom, United States and Venezuela (Bolivarian Republic of).

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

23. The Working Group also heard statements by the observer for the Parliamentary Assembly of the Mediterranean.

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

24. At its first meeting, on 6 September 2017, 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. Effective criminal justice responses to trafficking in persons centred on addressing the protection and assistance needs of different groups and types of victims, with particular reference to victims of trafficking within mixed migration movements.
3. Preparation of the questionnaire to review the implementation of the Trafficking in Persons Protocol.

4. Other matters.
5. Adoption of the report.

## **D. Attendance**

25. The following States parties to the Trafficking in Persons Protocol were represented at the meeting: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Burkina Faso, Canada, Chile, China, Colombia, Cote d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gambia, Georgia, Germany, Greece, Guatemala, Hungary, India, Indonesia, Iraq, Israel, Italy, Japan, Jordan, Kenya, Kuwait, Latvia, Lebanon, Madagascar, Malaysia, Malta, Mexico, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Sierra Leone, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay and Venezuela (Bolivarian Republic of).

26. The European Union, a regional economic integration organization that is a party to the Trafficking in Persons Protocol, was represented at the meeting.

27. The following observer States were also represented: Iran (Islamic Republic of), Pakistan and Yemen.

28. The Office of the United Nations High Commissioner for Human Rights was represented by an observer.

29. The following intergovernmental organizations were represented by observers: International Centre for Migration Policy Development, International Organization for Migration, Organization of American States, Organization of Islamic Cooperation, Organization for Security and Cooperation in Europe and Parliamentary Assembly of the Mediterranean.

30. A list of participants is contained in document CTOC/COP/WG.4/2017/INF.1/Rev.1.

## **E. Documentation**

31. The Working Group had before it the following documents:

- (a) Annotated provisional agenda (CTOC/COP/WG.4/2017/1);
- (b) Background paper prepared by the Secretariat on the effective criminal justice responses to trafficking in persons centred on addressing the protection and assistance needs of different groups and types of victims, with particular reference to victims of trafficking within mixed migration movements (CTOC/COP/WG.4/2017/2);
- (c) Draft questionnaire prepared by the Secretariat for the review of the implementation of the Trafficking in Persons Protocol, in accordance with Conference resolution 8/2 (CTOC/COP/WG.4/2017/3).

## **V. Adoption of the report**

32. On 8 September 2017, the Working Group adopted the present report on its meeting (CTOC/COP/WG.4/2017/L.1).