



# 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 November 2013

### 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 Organized Crime Convention, was the principal legally binding global instrument to combat trafficking in persons. The Conference further decided to establish an open-ended interim working group on trafficking in persons. The previous meetings of this working group were held from 14 to 15 April 2009, from 27 to 29 January 2010, on 19 October 2010 and from 10 to 12 October 2011.

2. In its resolution 6/1, entitled “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided that the mandates for the Working Group on Trafficking in Persons should be continued and that its areas for future work should reflect, as appropriate, the recommendations contained in the report of the Working Group on its previous meeting.<sup>1</sup>

3. In that resolution, the Conference also welcomed the substantive debate and activities carried out by the Working Group and underlined its contribution to facilitating the full implementation of the Trafficking in Persons Protocol.

### II. Recommendations

4. The Working Group adopted the recommendations provided below.

<sup>1</sup> CTOC/COP/WG.4/2011/8, paras. 46-51.



## **A. General recommendations**

5. States parties shall recognize the role of civil society, in accordance with domestic law, as partners in developing and implementing activities to prevent and combat trafficking in persons and, in particular, to protect and assist victims of trafficking in persons.
6. The United Nations Office on Drugs and Crime (UNODC) should continue its work on key concepts of the Trafficking in Persons Protocol in cooperation with Member States, the Inter-Agency Coordination Group against Trafficking in Persons and the Special Rapporteur on trafficking in persons, especially women and children.
7. UNODC should continue its work on the interlinkages between crimes, including between trafficking in persons and corruption.
8. States parties may consider a wider range of investigative techniques and criminal justice responses to trafficking in persons by making use of related offences, so that, for example, law enforcement and prosecutors could be trained on the range of offences for which they can prosecute traffickers, such as offences under tax law and labour law, to ensure that training on investigative techniques and criminal justice responses to trafficking in persons is comprehensive.
9. States may consider using administrative tools and regulations to prevent and combat trafficking in persons.

## **B. Analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, with a focus on consent**

10. States parties should consider reviewing their legislation in order to ascertain that it is in compliance with the requirements of the Trafficking in Persons Protocol, paying attention, in particular, to issues such as the irrelevance of victims' consent, and should amend their legislation as appropriate.
11. States parties should clarify and improve their legislation on the key concept of consent, where necessary, to reflect values of human dignity and so that practitioners can approach cases with confidence.
12. States parties are encouraged to consider good practices in relation to consent identified by some States, including: defining the key concept of consent, including actual or intended consent to exploitation; focusing in their legislation on the means used by the perpetrator, rather than on the victim developing guidelines for the police, for prosecutors and for other competent authorities; and paying particular attention in their legislation to the special vulnerabilities of various populations, such as children and people with diminished capacity, in relation to consent.
13. States parties should raise awareness among their relevant national authorities and other stakeholders, including, where appropriate, through training, in order to facilitate understanding of the irrelevance of consent in the identification of potential victims and the prosecution of suspected traffickers.

14. States parties should adopt comprehensive strategies to address the vulnerability of victims of trafficking in persons, including economic, social, educational and psychological vulnerability, as this may have an impact on the issue of consent.

15. States parties should consider taking into account the issue paper prepared by UNODC in order to clarify the key concept of abuse of a position of vulnerability and abuse of power, which are closely linked with the issue of consent.

### **C. How to reduce demand, including by fostering public-private partnerships and identifying factors that drive trafficking in persons**

16. States parties should research the root causes of trafficking in persons and address them with relevant measures, such as reducing the lack of equal opportunities, paying particular attention to persons vulnerable to trafficking, especially women and children, and opening up more employment and practical training opportunities.

17. States parties should adopt a multidisciplinary, comprehensive, human rights-based and targeted approach to reduce demand for all types of services and goods through which trafficking victims are exploited, including but not limited to exploitative sexual services, involving all relevant sectors at the national level, including relevant national non-governmental organizations, and supported by cooperation at the regional and international levels, involving relevant international and regional organizations.

18. States parties are encouraged to adopt a holistic approach to discourage demand for all types of services and goods through which trafficking victims are exploited, integrating in this approach awareness-raising campaigns and thorough assessments of the national situation, with the involvement of civil society.

19. States parties should encourage public-private partnerships bringing together national authorities, businesses and civil society, and share examples of good practices.

20. States parties, in their participation in the working group, are encouraged to take into account, as appropriate, the relevant experience of civil society.

21. States parties should consider taking measures to enforce labour and human rights standards through labour inspections and other relevant means, such as the development of ethical codes of conduct, including for supply chains; to cooperate with labour unions; to establish national or regional business coalitions; and to strengthen partnership with civil society.

22. States parties should consider taking measures to regulate, register, license and monitor private recruitment and employment agencies, including prohibiting recruitment fees being charged to employees, to ensure that such agencies are not used to facilitate trafficking in persons.

23. States parties are encouraged to share information on good practices in reducing demand for all types of goods and services through which trafficking victims are exploited.

24. States parties are encouraged to develop, with the assistance of UNODC, targeted capacity-building programmes for government authorities and criminal justice practitioners, including members of law enforcement services and security forces, as well as training on their role in contributing to the reduction of demand for all types of goods and services through which victims of trafficking are exploited.
25. States parties should make timely use of the provisions on international cooperation of the United Nations Convention against Transnational Organized Crime, including provisions, on witness protection, mutual legal assistance and extradition, to successfully combat trafficking in persons and, in particular, to reduce derived demand for all types of goods and services through which trafficking victims are exploited, by prosecuting suspected traffickers effectively.
26. States parties are encouraged to ensure that the assets derived from offences covered by the Trafficking in Persons Protocol or used to commit the crime are seized and the proceeds of the crime are confiscated, for example by adding trafficking in persons as a predicate offence for money-laundering in national law and, where appropriate and in accordance with domestic legislation, using such proceeds to assist and compensate victims.
27. States parties should adopt measures that are demand-driven, such as penalizing persons who engage in the sexual exploitation of children abroad and educating the young generation.
28. States are encouraged to consider establishing jurisdiction in line with article 15 of the United Nations Convention against Transnational Organized Crime to prosecute instances of human trafficking committed by their nationals abroad.
29. States parties should review policies and procurement practices and, as appropriate, adopt new measures to prevent demand for labour, services or goods that foster the exploitation of others.
30. States parties should take into consideration in their measures to reduce demand the links between trafficking in persons and other crimes, such as corruption and other related offences.
31. States parties should ensure confidentiality in order to protect victims of trafficking in persons, in accordance with domestic law.
32. States parties should ensure that measures are in place to provide victims with sufficient information to make them aware of their actual condition and to prevent revictimization.
33. States parties should take into consideration new methods of recruiting victims of trafficking in persons and take measures to develop targeted awareness-raising campaigns and specialized training for law enforcement and criminal justice practitioners on issues such as the use of the Internet by traffickers, in particular to recruit children.
34. States parties are encouraged to improve preventive measures and discourage the demand that fosters exploitation in all its forms and leads to trafficking in persons, with a view to the elimination of that demand, 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 demand.

35. States parties are encouraged to consider among other measures, within the framework of their respective national laws, the application of sanctions to consumers or users who intentionally and knowingly use the services of victims of trafficking in persons for any kind of exploitation.

36. States parties should impose sentences in cases of trafficking in persons that are commensurate with the seriousness of the crime, in order to deter criminals.

37. Recalling the tenth anniversary of the entry into force of the Organized Crime Convention and the Protocols thereto and taking into consideration articles 32 and 37 of the Convention, States parties and UNODC should continue to promote the full implementation of the Convention and of the Trafficking in Persons Protocol, with a view to identifying existing gaps, challenges and priorities.

#### **D. Forms of exploitation not specifically mentioned in the Protocol but that have arisen in national, regional or international contexts or practice**

38. States parties, in consultation with the private sector and civil society, are encouraged to enact legal and appropriate measures to combat trafficking in persons and ensure protection and assistance to victims.

39. States parties are encouraged to ensure, in line with their domestic legislation, that victims of trafficking are not penalized for unlawful acts committed by them in the course of, or in relation to, being trafficked.

40. States parties are encouraged to consider defining exploitation in their national legislation.

41. States parties are encouraged to have necessary guidelines for victim rescue, with a view to guiding law enforcement authorities to take necessary measures, avoiding revictimization and harmonizing criteria for action.

42. In addressing forms of exploitation that are not mentioned in the Trafficking in Persons Protocol, States parties are encouraged to keep in mind the principles of mutual legal assistance and extradition, which require dual criminality, and to explore ways for requesting States to engage in informal consultations with requested States to ensure that this does not generate legal challenges in addressing trafficking in persons.

43. States parties are encouraged to increase their knowledge of forms of exploitation not mentioned in the Trafficking in Persons Protocol through researching the cultural, social, economic and development factors that may foster exploitation, including by taking into account the work of the Special Rapporteurs on trafficking in persons, especially women and children, and on contemporary forms of slavery, and to inform UNODC of instances of trafficking in persons involving forms of exploitation that are not mentioned in the Protocol, in consultation with relevant partners, as appropriate.

44. UNODC should allocate sufficient attention to reports by Member States on forms of exploitation not mentioned in the Trafficking in Persons Protocol in its biennial global report on trafficking in persons and in its relevant publications.

## **E. Follow-up to the recommendations adopted by the Working Group at its previous meetings**

45. The Working Group on Trafficking in Persons requested the Secretariat to prepare and maintain a consolidated record of all the recommendations adopted by the Working Group.

46. The Working Group on Trafficking in Persons proposed that States parties continue to do their best to implement the pertinent recommendations of the Working Group as adopted by the Conference of the Parties.

47. The Working Group on Trafficking in Persons recommended to the Conference that the topic of the role of recruitment agencies and recruitment fees in trafficking in persons be considered at future meetings of the Working Group.

48. The Working Group on Trafficking in Persons recommended that the Conference of the Parties, at its seventh session, should consider initiating discussions regarding the possibility that the Working Group develop and follow a workplan for its future meetings, bearing in mind the proposals for future work already adopted by the Working Group (CTOC/COP/WG.4/2011/8, sect. II.A.5, Proposed areas for future work).

## **III. Organization of the meeting**

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

49. The Working Group on Trafficking in Persons met in Vienna from 6 to 8 November 2013. Six meetings were held.

50. The meeting of the Working Group was chaired by Blanka Jamnišek (Slovenia). Following an opening statement by the Chair, a statement was made by the Officer in Charge of the Human Trafficking and Migrant Smuggling Section of UNODC. A statement was also made by the Special Rapporteur on trafficking in persons, especially women and children.

51. At the opening of the meeting, statements were made by the representatives of Switzerland, Norway, the European Union, Ecuador, China, Venezuela (Bolivarian Republic of), Nicaragua, Canada, the Russian Federation, France, Germany and the Dominican Republic.

52. Introductory statements were made by representatives of the Secretariat on agenda items 2 to 5.

### **B. Statements**

53. Under agenda items 2 to 4, with the Chair presiding, the discussion was led by the following panellists: Venla Roth (Finland), Anne Gallagher (Australia), Chatchom Akapin (Thailand), Polona Kovač (Slovenia), Sri Danti Anwar (Indonesia), Ana María Roldán Calderón (Spain), Romulus Ungureanu (Romania), Verónica Feican (Ecuador) and Nelly Montealegre Díaz (Mexico).

54. Under items 2 to 7, statements were made by representatives of the following States parties to the Trafficking in Persons Protocol: Tunisia, Norway, Belarus, China, Argentina, Philippines, Ecuador, Saudi Arabia, Kenya, Mexico, Indonesia, Nigeria, United States of America, Canada, Switzerland, Colombia, Germany, Sweden, Dominican Republic, Nicaragua, Netherlands, Austria, Finland, European Union, Morocco, Brazil, France, Republic of Moldova, Belgium, Thailand, Italy, Denmark, Ukraine, Qatar, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Cuba, China, El Salvador, Russian Federation, Algeria, Slovenia, Romania, Egypt, Mozambique and Ghana.

55. The observers for the signatory States of Japan and Singapore also made statements.

56. Under agenda item 3, the Working Group heard a statement by the Special Rapporteur on trafficking in persons, especially women and children.

57. Under agenda item 4, the Working Group heard statements by the observers for Europol, the Organization of American States and the Organization for Security and Cooperation in Europe.

58. Participants described the challenges that some States were facing in the context of forms of exploitation not mentioned explicitly in the Protocol, such as forced begging; recruitment for criminal activities; contemporary forms of slavery; recruitment for armed conflict; pornography, including on the Internet; sex tourism; forced and servile marriage; debt bondage; serfdom; unlawful biomedical experimentation on human beings; removal of tissue and cells; peddling; use of mules to transport illegal narcotics; exploitation of boys in football clubs; exploitation of children for the production and trafficking of illegal drugs; exploitation of children in activities likely to harm their health, safety and morals; illegal adoption for exploitative purposes; forced giving up of an offspring; illegal adoption of any child; and sale of babies/infants, regardless of whether those crimes constituted trafficking.

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

59. At its 1st meeting, on 6 November 2013, the Working Group adopted by consensus its provisional agenda and organization of work:

1. Organizational matters:
  - (a) Opening of the meeting;
  - (b) Adoption of the agenda and organization of work.
2. Analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, with a focus on consent.
3. How to reduce demand, including by fostering public-private partnerships and identifying factors that drive trafficking in persons.
4. Forms of exploitation not specifically mentioned in the Protocol but that have arisen in national, regional or international contexts or practice.

5. Follow-up to the recommendations adopted by the Working Group at its previous meetings.
6. Other matters.
7. Adoption of the report.

#### **D. Attendance**

60. The following States parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime were represented in the Working Group: Algeria, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Ghana, Guatemala, Indonesia, Iraq, Italy, Kenya, Kuwait, Lebanon, Lithuania, Luxembourg, Malta, Mexico, Morocco, Mozambique, Namibia, Netherlands, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

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

62. The following States signatories to the Trafficking in Persons Protocol were represented by observers: Czech Republic, Japan, Sierra Leone and Sri Lanka.

63. The following observer States, were also represented: Afghanistan, Angola, Iran (Islamic Republic of), Pakistan, Singapore and Yemen.

64. The State of Palestine, a non-member State maintaining a permanent observer mission to the United Nations, was represented.

65. The following United Nations Secretariat units, programmes and funds and specialized agencies of the United Nations system were represented by observers: Office of the United Nations High Commissioner for Human Rights, United Nations Children's Fund and International Labour Organization.

66. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization, African, Caribbean and Pacific Group of States, Eurojust, Europol, International Centre for Migration Policy Development, International Organization for Migration, Organization of American States and Organization for Security and Cooperation in Europe.

67. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented.

68. A list of participants is contained in document CTOC/COP/WG.4/2013/INF/1/Rev.1.



## **E. Documentation**

69. The documents before the Working Group on Trafficking in Persons are listed in the annex to the present report.

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

70. Some States parties raised the issue of the participation of civil society in the Working Group, while others reiterated their objections to that discussion and its inclusion in the report.

71. On 8 November 2013, the Working Group adopted the report on its meeting (CTOC/COP/WG.4/2013/L.1), as orally amended.

## Annex

## List of documents before the Working Group

<i>Document number</i>	<i>Agenda item</i>	<i>Title or description</i>
CTOC/COP/WG.4/2013/1	1 (b)	Provisional agenda and annotations
CTOC/COP/WG.4/2013/2	2	Background paper by the Secretariat on analysis of key concepts of the Trafficking in Persons Protocol, with a focus on consent
CTOC/COP/WG.4/2013/3	3	Background paper by the Secretariat on good practices and tools for reducing demand for trafficking in persons, including by fostering public-private partnerships
CTOC/COP/WG.4/2013/4	4	Background paper by the Secretariat on forms of exploitation not specifically mentioned in the Protocol
CTOC/COP/WG.4/2013/L.1		Draft report
CTOC/COP/WG.4/2013/INF/1/Rev.1		Provisional list of participants
CTOC/COP/WG.4/2009/2		Report on the meeting of the Working Group on Trafficking in Persons held in Vienna on 14 and 15 April 2009
CTOC/COP/WG.4/2010/6		Report on the meeting of the Working Group on Trafficking in Persons held in Vienna from 27 to 29 January 2010
CTOC/COP/WG.4/2010/7		Report on the meeting of the Working Group on Trafficking in Persons held in Vienna on 19 October 2010
CTOC/COP/WG.4/2011/8		Report on the meeting of the Working Group on Trafficking in Persons held in Vienna from 10 to 12 October 2011