



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

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Addendum

IX. Expert consultation on the protection of victims and witnesses

1. At its 8th meeting, on 13 October 2008, the Conference considered agenda item 2 (e), entitled “Expert consultation on the protection of victims and witnesses”. For its consideration of the item, the Conference had before it the following documents:

(a) Report of the Secretariat on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/3/Rev.2);

(b) Report of the Secretariat on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/4/Rev.2);

(c) Report of the Secretariat on the implementation of the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/2/Rev.1);

(d) Report of the Secretariat on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/6/Rev.1);



(e) Report of the Secretariat on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/7/Rev.1);

(f) Note by the Secretariat on the protection of victims and witnesses (CTOC/COP/2008/12).

2. The expert consultation was chaired by Amina Mohamed (Kenya), Vice-President of the Conference, and was led by the following panellists: Malebo Kotu-Rammopo (South Africa) and Carla Menares-Bury (United States).

3. The Deputy Director of the Division for Treaty Affairs and Chief of the Treaty and Legal Assistance Branch of UNODC made an introductory statement. Statements were made by the representatives of Croatia, Germany, Argentina, France and the United Kingdom. The European Commission made a statement on behalf of the European Community. The observer for the Global Alliance against Traffic in Women also made a statement.

Deliberations

4. In his introductory statement, the Deputy Director of the Division for Treaty Affairs and Chief of the Treaty and Legal Assistance Branch recalled the centrality of victim and witness protection in the architecture established by the Convention and the Protocols thereto. He referred in particular to the series of questions raised on key issues related to this topic, such as general measures to protect victims and witnesses, measures to protect victims and witnesses in judicial proceedings, witness protection programmes and international cooperation in the area of victim and witness protection (CTOC/COP/2008/12).

5. The first panellist reported on the broad legislative framework of her Government with regard to protection of victims and witnesses, giving details on how that framework had been implemented. For instance, in coordination with UNODC and with financial support from the European Union, South Africa had developed a National Victim Empowerment Programme that provided social services to victims of trafficking, including shelter, counselling and other support measures. Mention was also made of the Witness Protection Act and of the care centre system, which offered a victim-centred response.

6. The speaker concluded by drawing attention to the challenges to effective assistance and protection to victims and witnesses, including the need to ensure close inter-agency coordination both within the government and with non-governmental organizations; the balancing of the needs of victims against the obligations of the State; the unpredictability of the numbers of victims and witnesses, which has an impact on the allocation of resources; and the management of information in organized crime cases where more than one law enforcement agency is involved.

7. The second panellist referred to the experience of the United States in handling victims of human trafficking. Based on that experience, she recommended to the Conference a two-pronged anti-trafficking strategy. The first prong of the strategy was to have a victim-centred approach, which entailed proactive

identification of victims of trafficking; government provisions in place to allow for shelter and temporary care for victims; legal and other assistance measures; and cooperation among source and destination countries. The second prong was a multi-agency task force, which was instrumental in avoiding repetitive and painful interviews for victims. She stressed the central role played by victims and by their participation in the judicial proceedings to ensure the successful prosecution and conviction of offenders.

8. Several speakers emphasized the need for having a victim-centred approach combined with a multidisciplinary model, which would ensure cooperation among relevant government agencies and non-governmental organizations, as key elements in ensuring an effective strategy to protect and assist victims of trafficking. Speakers stressed that participation by victims in prosecution efforts should be voluntary and that it was imperative to create an environment where victims felt empowered to come forward. It was underscored that in practice victims would not testify unless their physical security was protected.

9. While the witness protection programmes set up by many Member States were critical in combating organized crime, their usefulness in addressing the needs of victims was felt to be often limited. Speakers pointed to the need for a different and innovative approach to assist and protect victims, such as the creation of combined services with the participation of both the government sector and civil society. Such services should include physical security, counselling, legal aid, subsistence support and residence status.

10. Speakers stressed that the physical protection of victims and social workers should be the responsibility of law enforcement agencies, which should liaise with other government agencies to ensure the protection of victims' personal details. As the level of threat against a victim or witness was important in determining the type of protection provided, one speaker suggested that UNODC should develop generic threat/risk assessments for at-risk victims and witnesses.

11. Several speakers underlined the need for more proactive identification of victims of trafficking, based on the development of a specific set of indicators, specialized training for law enforcement officials and screening procedures that go beyond simple checks of personal identification documents. Several speakers referred to national strategies and policies on providing assistance to victims of trafficking, which included such measures as informing victims, including about the status of the proceedings, in a language that they understood; providing counselling and shelter; issuing temporary residence permits; offering health, psychological and legal assistance; and allowing the possibility of making a statement during the proceedings on the impact that the crime had on their lives. Specialized training for those dealing with victims was underscored as an important measure to ensure an effective strategy to assist and protect victims.

12. On the issue of repatriation, some speakers stated that victims should be afforded safeguards for their safety and protection and that repatriation should, preferably, be voluntary.

13. Finally, several speakers highlighted the need to take into consideration the special needs of child victims, bearing in mind their best interests, age, level of maturity and developmental stage. In that regard, reference was made to the possibility of appointing ad hoc guardians.

14. One speaker referred to the possibility of Member States providing residence permits to victims of trafficking who cooperated with the investigative authorities and who had been shown to have severed their links with traffickers.
