



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

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## Working Group on Trafficking in Persons

### Fourth session

Vienna, 10-12 October 2011

## Draft report

### Addendum

## V. Victims of trafficking in persons, with particular emphasis on identification

1. At its 3rd and 4th meetings, on 11 October 2011, the Working Group considered agenda item 4, which reads as follows:

“Victims of trafficking in persons, with particular emphasis on identification.”

2. For its consideration of item 4, the working group had before it the background paper prepared by the Secretariat on the victims of trafficking in persons, with particular emphasis on identification (CTOC/COP/WG.4/2011/4).

3. With the Chair presiding, the discussion under item 4 was led by the following panellists: Rachel Gershuni (Israel) and Hany Yousif Abdel Aal (Egypt).

4. Statements were made by representatives of the following States parties to the Trafficking in Persons Protocol: Belgium, France, India, Norway, Netherlands, Germany, Egypt, China, Chile, Indonesia, Algeria, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America, Argentina, Russian Federation, Mexico, Nigeria, Portugal, Lebanon, Australia, United Arab Emirates and Israel.

5. The observers for the signatory States Thailand and Japan made a statement.

6. The observer for Palestine made a statement.

7. The Special Rapporteur on Trafficking in Persons, Especially Women and Children also made a statement.



**The working group adopted the following recommendations:**

1. In considering whether to define “victim of trafficking” in their domestic legal frameworks, States parties are encouraged to develop a proactive, low threshold and non-bureaucratic approach to the identification of victims and the provision of assistance and support.
2. States parties should develop and disseminate tailor-made indicators for different practitioners, taking into consideration the need for a multi-stakeholder approach and the specific roles of potential actors in combating trafficking in persons. Such potential actors who could identify victims include law enforcement, judiciary, victim service providers, private sector, health and social work professionals and other relevant actors. States parties should also periodically assess the relevance of these indicators.
3. States parties should ensure that actors who could potentially identify victims are sensitized and trained to elicit relevant and specific information likely to expedite the identification of victims of trafficking.
4. States parties are encouraged to sensitize judicial and prosecutorial actors to the control methods of traffickers and their potential impact on victims, making use of technical assistance tools such as the Anti-Human Trafficking Manual for Criminal Justice Practitioners.
5. States parties should create a safe environment for victims, with the full involvement of civil society, designed to rehabilitate victims and return to them a sense of dignity.
6. States parties should allow a period of reflection, accompanied by appropriate support, to provide for recovery and a decision on participation in a judicial procedure.

**Revision of recommendations proposed by the Chair to the Working Group on Trafficking in Persons at its third session:**

(a) Trafficking in persons and smuggling of migrants should be recognized as different crimes that require distinct legal, operational and policy responses;

~~(b) In recognition that a comprehensive understanding of trafficking in persons is necessary to ensure that victims of this crime have access to justice, including the ability to seek restitution or compensation, States parties should ensure that their laws and policies define trafficking in persons in accordance with article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;~~

(c) States parties should clearly define trafficking in persons in their national law and policy in order to enable the full and effective implementation of the Protocol, including its provisions on criminalization and, in particular, to ensure that victims of this crime have access to justice, including the ability to seek restitution or compensation;

(d) In accordance with article 6, paragraph 6, of the Trafficking in Persons Protocol, States parties should ensure that their domestic legal systems contain

measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered;

(e) In accordance with article 6, paragraph 2, of the Trafficking in Persons Protocol, States parties should ensure that information on relevant court and administrative proceedings, including access to compensation, is provided to victims of trafficking in persons in appropriate cases;

(f) States parties should ~~provide~~ facilitate the provision of legal assistance and information regarding legal assistance to victims of trafficking to represent their interests in criminal investigations, including in order to obtain compensation;

(g) At the beginning of a penal investigation, States parties should endeavour to integrate a section dedicated to property and the possibility of seizing and confiscating goods obtained by criminal means. State parties should also be vigilant to protect themselves against all forms of organized insolvency;

(h) States parties should consider means to ensure that the immigration status of the victim, the return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the payment of compensation;

(i) States parties should endeavour to ensure the availability of compensation, independent of a criminal case and whether or not the offender can be identified, sentenced and punished;

(j) In fulfilling the requirements of article 6, paragraph 6, of the Trafficking in Persons Protocol, States parties should adopt at least one of the following options offering the possibility of victims obtaining compensation:

(i) Provisions allowing victims to sue offenders or others for civil damages;

(ii) Provisions allowing criminal courts to award criminal damages (that is, to order that compensation be paid by offenders to victims) or impose orders for compensation or restitution against persons convicted of offences;

(iii) Provisions establishing dedicated funds or schemes whereby victims can claim compensation from the State for injuries or damages suffered as a result of a criminal offence;

(k) States should consider that court-ordered and/or state-funded compensation may include payment for or towards:

(i) Costs of medical, physical, psychological or psychiatric treatment required by the victim;

(ii) Costs of physical and occupational therapy or rehabilitation required by the victim;

(iii) Lost income and wages due according to national law and regulations regarding wages;

(iv) Legal fees and other costs or expenses incurred, including costs incurred related to the participation of the victim in the criminal investigation and prosecution process;

(v) Payment for non-material damages resulting from moral, physical or psychological injury, emotional distress, and pain and suffering of the victim as a result of the crime committed against him or her;

(vi) Any other costs or losses incurred by the victim as a direct result of being trafficked, as reasonably assessed by the court or state-funded compensation scheme.

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