

CONCLUSIONS OF WORKSHOP

"INTERNATIONAL COOPERATION, INCLUDING MUTUAL LEGAL ASSISTANCE, TO COMBAT TRAFFICKING IN PERSONS AND SMUGGLING OF MIGRANTS "

9 – 10 July 2018, Bishkek, Kyrgyz Republic

The participants of the workshop agreed on:

A. TRAFFICKING IN PERSONS – SMUGGLING OF MIGRANTS: DOMESTIC ASPECTS

- The importance of promoting effective implementation of international standards, particularly the provisions of the UNTOC and its two supplementary Protocols to address the challenges posed by trafficking in persons and smuggling of migrants;
- The significance of training and capacity-building activities to upgrade the skills of prosecutors and law enforcement for such purposes as, for example, the identification of victims of TIP and for gathering evidence in TIP and SOM cases that would be sufficient to support the adjudication of those cases before the court and the conviction of traffickers and smugglers;
- The need to share best practices among countries in the region, including through the organization of similar workshops in the future, to facilitate the exchange of views and experiences, as well as gain a better comparative picture of how certain practical aspects, as for example, the online recruitment of victims of trafficking in persons, are addressed;
- The necessity of having in place multidisciplinary approaches that include not only reactive but also preventive measures against trafficking in persons and smuggling of migrants;
- The added value of inter-agency coordination to cope with challenges in TIP and SOM cases, as well as the collaboration with NGOs and the civil society to achieve better results in the field of protection of victims of trafficking in persons and smuggled migrants;
- The need to have agreements and adequate services in place to facilitate the repatriation of victims in trafficking in persons and the return of smuggled migrants to their countries of nationality or permanent residence;
- The fact that trafficking in persons continues to be, to a large extent, a “hidden” and underreported crime and consequently the need to adopt and implement measures to address this issue, including through referral systems for adequate care and better protection of victims;
- The importance of confiscating the proceeds derived from the illegal activities of traffickers and smugglers; in addition, the use of confiscated proceeds for compensating victims of trafficking in persons on the basis of relevant civil claims;
- The importance of collecting statistical data in a systematic manner on the number of victims of trafficking and smuggled migrants, or the number of arrests, prosecutions and convictions of traffickers and smugglers;
- The key role of special investigative techniques for effective investigations in TIP and SOM cases;
- The need to ensure the criminalization of SOM-related acts in accordance with international standards and taking into account the seriousness of offences;

- The need to take into account the smuggled migrants' rights and needs in accordance with the provisions of the SOM Protocol, which strikes a balance between measures against perpetrators or accomplices of irregular migration (article 6, paragraph 4) and exemption from criminal liability for the fact of being the object of smuggling of migrants (article 5).

B. INTERNATIONAL COOPERATION TO COMBAT TRAFFICKING IN PERSONS AND SMUGGLING OF MIGRANTS

- The potential of using efficiently and effectively the UNTOC and the two supplementary Protocols as legal basis for international cooperation, in conjunction with other regional instruments such as the CIS Minsk and Chisinau Conventions or the CIS Agreement on cooperation between Prosecutors General Offices to combat trafficking in persons, as well as bilateral treaties or inter-agency agreements;
- The importance of synergies among regional and international organizations, such as UNODC, IOM and the European Union, to address the scourges of trafficking in persons and smuggling of migrants; and the added value of cooperation between UNODC and other international organizations with the Secretariat of the Coordinating Council of Prosecutors General of the CIS Member States for programmatic work to this effect;
- The need to support the practice of establishing joint investigative teams by agreement or on a case-by-case basis, to facilitate effective investigations in one or more States in the region;
- The priority that needs to be accorded to overcoming delays in MLA practice and expediting the execution of MLA requests, including through the direct transmission of requests or the use – in urgent cases – of the Interpol channels, to avoid cumbersome procedures linked to the traditional practice of using the diplomatic channels for the transmission of international cooperation requests;
- The practical advantage of existing capacities in drafting expeditiously MLA requests in complex TIP and SOM cases, and the usefulness, in this regard, of the UNODC MLA Request Writer Tool as relevant guiding resource;
- The key role of informal consultations before and after the submission of international cooperation requests for better coordination and for the provision of necessary clarifications and, in this regard, the necessity for having in place focal points of the cooperating States available anytime for such consultations;
- The need to streamline domestic administrative procedures in support of mutual legal assistance and the attention that needs to be given to better coordination at the domestic level between the central authorities and the competent authorities for the execution of incoming MLA requests, including through regulations or established practices encouraging such coordination;
- The practical usefulness of tools developed by UNODC, such as the SHERLOC Knowledge Management Portal and the CNA Directory of Competent Authorities, that could facilitate practitioners in getting valuable information on legal requirements for the execution of international cooperation requests and on contact details of responsible counterparts in the requested State;
- The significance of networking and particularly promoting the work of CASC network in the region to enhance cooperation to combat trafficking in persons and smuggling of migrants;
- The potential of organizing study visits of prosecutorial and other competent authorities to the premises of their counterparts in countries inside and outside the region to build mutual trust, benefit from exchange of information and resolve pending cases or issues of cooperation;
- The positive impact and the practical advantages of promoting the regular exchange of information on the modus operandi and trends on trafficking in persons and smuggling of migrants;
- The need to devote sufficient resources to improve cooperation among law enforcement authorities in TIP and SOM cases.