

## Key Elements of the Trafficking Protocol

Working Group on Trafficking in Persons, Vienna,  
January 27, 2010,  
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## Purpose of the Protocol and Scope

- | prevent and combat trafficking in persons
  - Article 3 (Definitions) and Article 5 (Criminalization) of the Protocol
  - Article 16 (Extradition) Article 18 (Mutual legal assistance) of UNTOC
  - Article 9 of the Protocol (Prevention)
- | protect and assist the victims
  - Article 24 (Protection of Witnesses) and 25 (Protection of Victims) of UNTOC
  - Articles 6 (Assistance and protection of victims), 7 (status of victims) and 8 (Repatriation) of the Protocol
- | promote cooperation among the Parties
  - Articles 13 (confiscation), 18 (mutual legal assistance), 19 (joint investigations) , 26 and 27 (cooperation in law enforcement) of UNTOC

## Definitions – Article 3 „use of terms“

### | 3 constituting elements of the crime

- Act
- Means
- Purpose: Exploitation

### | Open list on exploitation

- Exploitation of the prostitution of others
- Forced labour and services
- Slavery or practices similar to slavery
- Servitude
- Removal of organs

## Prevention

### | Article 9 of the Protocol

- Is binding to the extent that States parties must establish comprehensive policies, programmes etc for:
  - | Prevention of trafficking in itself and
  - | Prevention of revictimization
- Article 9 gives examples of useful measures to implement this article, such as awareness raising measures
- States parties under this article must take measures to fight the underlying root causes making people vulnerable (push factors)
- States parties under this article must take measures to counter discourage the demand (pull factors)

## Prosecution

- | Criminalization of trafficking in persons (irrespective of a transborder element) (Article 5 of Protocol)
- | Extradition and Mutual legal assistance (Articles 16 and 18 of UNTOC)
  - bound to organized crime and transborder element
  - is one example why the Protocol cannot be interpreted and applied without UNTOC and a proof for the necessity for one single implementation mechanism for UNTOC and the Protocols

## Protection

- | Article 24 (Protection of witnesses) and 25 (Protection of Victims) of UNTOC are binding clauses
- | Article 6 (Assistance and protection of victims) of the Protocol gives guidance on specific measures for victims of trafficking
- | Article 7 (Status of victims in receiving States) of the Protocol
  - Importance of witnesses
  - Humanitarian aspects: trafficking as a human rights violation
- | Article 8 (Repatriation)
  - Right to return
  - Cooperation in safe return

## Cooperation

- | Overriding principle of the UNTOC and the Protocol
- | International trafficking in persons can only be fought by international efforts
- | Specific areas for cooperation in law enforcement in Articles 13, 18, 19, 26 and 27 of UNTOC
- ⇒ you cannot implement the Protocol without the UNTOC
- ⇒ You need one single mechanism for both instruments

## Conclusions

- | The Protocol cannot be interpreted and implemented without the UNTOC.
- | The overriding principle of international cooperation in criminal matters is in the UNTOC and not the Protocol.
- | The Protocol together with the UNTOC follows an holistic approach going far beyond an instrument of cooperation in criminal matters.
- | The Protocol is to a large extent a human rights instrument.
- | By following up the implementation of the Protocol there is a universal program of action to combat trafficking in persons.

**Thank you very much for your attention!**

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