



ASSEMBLY — 41ST SESSION

EXECUTIVE COMMITTEE

Agenda Item 13: Facilitation Programmes

PREVENTING AND COMBATTING HUMAN TRAFFICKING — ACTIONS FOR REGIONAL AIRPORT OPERATORS AND INTERNATIONAL COOPERATION

(Presented by Argentina, Paraguay and Uruguay)

EXECUTIVE SUMMARY

This working paper reflects the current situation in States in the South American Region as regards a growing problem for vulnerable populations: human trafficking, a crime that is commonly committed by criminal organizations also engaging in other related illegal activities. Human trafficking has become a highly profitable business for criminals, to the detriment of the freedom and human rights of their victims, directly and indirectly. The Facilitation Panel (FALP) has taken an interest in the problem of human trafficking, and the 41st ICAO Assembly offers an opportunity to recall that, pursuant to its strategic objectives, the Organization needs to show leadership in aviation security, facilitation and on matters pertaining to border security. Experience shows that the efforts of individual States have failed to stop human trafficking due to the very nature of the crime. For this reason, security measures must be collective in order to be effective and efficient.

We are responsible for international civil aviation facilitation, and wish to recommend the actions that we have been implementing in our jurisdictions, so as to expand the range of facilitation activities and include other factors in passenger care.

Action: The Assembly is invited to:

- a) note the information in this working paper and the measures implemented by the Argentine Republic, the Republic of Paraguay and the Oriental Republic of Uruguay;
- b) support States having population groups at risk for human trafficking;
- c) strengthen international cooperation and inter-sector collaboration, with air and airport operators, travel agencies and public bodies of States;
- d) ask ICAO to develop guidelines for airport operators enabling them to quickly detect and respond to human trafficking at airports;
- e) promote protocols and response mechanisms for reporting cases, as well as the sharing of lists and statistics among points of contact (PoC), and seminars and workshops in ICAO Regional Offices for anti-trafficking training and awareness;
- f) encourage States to incorporate issues related to human trafficking in their aviation security and facilitation culture campaigns.

¹ Spanish version provided by Argentina, Paraguay and Uruguay.

1. INTRODUCTION

1.1 A group of States in the South American Region, Argentina, Paraguay and Uruguay, have noticed that human trafficking is a growing problem that plagues their most vulnerable populations, and see a need for actions to prevent, suppress and punish this crime. The States have implemented and recommended regulations empowering the competent State agencies to fight human trafficking.

2. DEVELOPMENTS IN ARGENTINA

2.1 Argentina passed Law No. 25.871 on Immigration, Chapter VI of which lists conducts classified as offenses against orderly immigration, including human trafficking. The State also passed Law 26.364 and its amending Law 26.842 which modified the Argentine Criminal Code to include these offenses in Articles 145 *bis* and 145 *ter*.

2.2 Security Ministry Resolution No. 635/2018 was drafted, which includes *guidance for police units and security forces in the handling of human trafficking reports*, and a protocol for action at airports which has been incorporated into security personnel training courses.

2.3 The INTEGRATED HUMAN TRAFFICKING CRIMINAL INTELLIGENCE SYSTEM (SISTRATA) was created by Resolution MS No. 848/2011. Argentina has included the issue of human trafficking in its security culture campaign. The Airport Security Police (PSA) added it as a training subject for its new recruits, and for all personnel as of 2021.

2.4 The courses *Early detection at airports* and *Perspectives on the crime of human trafficking* have been delivered to 550 officers per year as part of upskilling for career advancement.

2.5 The PSA has created a training workshop for the airport community on the basics of early detection of human trafficking at airports that is currently being rolled out.

2.6 Finally, as part of its aviation security culture plan, the PSA will develop an international webinar on early identification of potential victims of human trafficking at airports.

3. DEVELOPMENTS IN THE REPUBLIC OF PARAGUAY

3.1 Law No. 2396/2004 was passed on 13 May 2004 adopting the Palermo Protocol, a Protocol to prevent, suppress and punish trafficking in human beings, especially women and children.

3.2 Law No. 4788/2012 *Comprehensive Law Against Human Trafficking* was passed as part of the national strategy to fight human trafficking, establishing the *National policy for preventing and combatting human trafficking*. The Law created the National Program for the Prevention and Suppression of Human Trafficking and Support to Victims, and established the Inter-Agency Bureau as the Government advisory body with legislative status to coordinate the actions of the State of Paraguay in the field. The Law also established the National Fund for the Prevention of Human Trafficking and Support to Victims that is administered under the Program.

3.3 Decree 4473 was issued on 14 December 2020 approving the *National Plan for Preventing and Combatting Human Trafficking in the Republic of Paraguay (PNTP) 2020-2024*.

3.4 The national aviation authority DINAC issued an Executive Decree creating the National Committee on International Air Transport Facilitation, in accordance with the provisions of Annex 9 — *Facilitation*. The Committee is composed of permanent members from several of the institutions that are part of the aforementioned Inter-Agency Bureau such as the National Police, the immigration services, travel agencies and airlines among others.

4. DEVELOPMENTS IN THE ORIENTAL REPUBLIC OF URUGUAY

4.1 Law No. 17.861 of 28 December 2004 ratified the *United Nations Convention Against Transnational Organized Crime* and its supplementary protocols *To Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, and *Against the Smuggling of Migrants by Land, Sea and Air* adopted in New York City on 15 November 2000.

4.2 On 6 January 2008, the Immigration Law was passed classifying as a distinct crime the trade and trafficking of persons, although the crime of human trafficking is also established in Article 6 of Law No. 17.815 of 2004 on *Commercial and Non-commercial Sexual Violence Against Children, Adolescents and the Disabled*. This legislation has empowered the judiciary in tackling the problem, and Law 18.494 grants special protections to trafficked persons for purposes of investigation.

4.3 Law No. 18.849 of 2 December 2011 allows for the sharing of genetic material with authorities in other countries for several types of criminal case including human trafficking, and Law No. 18.996 of 7 November 2012 provides for the repatriation of nationals in distress including in situations of human trafficking.

4.4 Law No. 19.643 of 20 July 2018 allows for the prevention, prosecution and punishment of human trafficking and exploitation as well as assistance, protection and compensation for victims, and also amended the Criminal Code.

4.5 Most recently, Law No. 19.951 of 19 May 2021 approved the agreed consular cooperation mechanism of MERCOSUR member States and associated States to help victims of domestic violence, victims of human trafficking, and others.

5. DISCUSSION

5.1 The poorest countries are experiencing the many negative impacts of globalization such as an increase in informal jobs and the devaluation of labour, which can create instability, vulnerability and social and economic insecurity, thus laying the ground for human trafficking.

5.2 According to the *Recommended Principles and Guidelines on Human Rights and Human Trafficking* of the United Nations High Commissioner for Human Rights, the effective promotion and protection of human rights entails “taking particular care to ensure that the issue of gender-based discrimination is addressed systematically when anti-trafficking measures are proposed with a view to ensuring that such measures are not applied in a discriminatory manner.” (Guideline 1, paragraph 4).

5.3 It is important to recall the words of former ICAO Secretary General Dr. Fang Liu: “It is beholden upon each civil aviation authority of our member States to mandate the airlines registered or

operating in their air space to provide trafficking mitigation training for their personnel as detailed in these new guidelines”.

5.4 Kate Gilmore, the Deputy High Commissioner for Human Rights of the United Nations indicated that the regulations guarantee the safety and dignity of passengers, and that airline personnel are already making a difference for the survivors of human trafficking, as the guidelines are intended to empower employees.

5.5 To address the problem of human trafficking at airports in the Region, studies by State and international organizations were reviewed on prevention and deterrence mechanisms and the importance of rapid detection and response before the next step occurs in the human trafficking process, the transport of victims. The South American Region sees all stages of the human trafficking experience, and its impacts on the most vulnerable groups in the States affected. Studies show that Paraguay is an originating country for the different types of human trafficking.

5.6 In light of the foregoing, our focus has been on identifying the resources to implement the necessary actions at international airports to address a likely case of human trafficking before the victim is placed in transport, within our scope of competence. This requires us to train officials and people involved in the travel process, from ticketing to check-in and boarding the aircraft.

5.7 Because the State institutions and agencies dispensing training are often the same ones that provide travel services, and so may be influenced by strong countervailing interests seeking to continue the scourge of human trafficking, it is important to strengthen training and empowerment within such organizations by means of independent critical analysis that helps them resist capture by entities causing the problem.

5.8 ICAO Resolution A40-15 *Development and implementation of facilitation provisions — combatting human trafficking*, operative paragraph 3 requests, “that the Council ensure that relevant guidance material related to the issue of combatting human trafficking is current and responsive to the needs of member States”. Accordingly, ICAO Circular 352 established the *Guidelines for Training Cabin Crew on Identifying and Responding to Trafficking in Persons*. It is therefore imperative for States to avail themselves of the expanded scope of said Resolution, including the Guidelines for airport operators and those directly involved.

5.9 The final report by the Working Group on Human Trafficking (WGHT) created by the 11th meeting of the ICAO Facilitation Panel in 2020, issued in July 2021, mentions the development of guidance for a comprehensive facilitation strategy to combat human trafficking in civil aviation.

5.10 The approach to this problem is complicated by the dispute over the concept of *trafficking* and its inter-relatedness with other no less complex and controversial forms such as the *smuggling of migrants* and *labour migration*. Moreover, where trafficking is connected with the sex industry, the controversy is exacerbated by differing ideological positions on prostitution. The discussion about the concepts may seem abstract, entirely academic, or legalistic for purposes of investigation, but it is not. The concepts used express moral and political stances on the matters at hand, determine the approach taken, and influence thinking as to who are the victims and who are the traffickers, depending on the circumstances. Marjan Wijers highlights the importance of definitions as determinants of strategy in preventing and combatting human trafficking and providing support to victims. Based on the various angles of the problem, definitions have been designed to frame human trafficking as:

- a) A moral problem;
- b) A problem of organized crime;
- c) A migration problem;
- d) A public order problem;
- e) A labour problem;
- f) A human rights problem; and
- g) A problem of vulnerable minorities.

6. CONCLUSION

6.1 States are facing a growing need to establish policies and receive guidance and/or assistance from ICAO for rapid detection and response by airport personnel and persons in a position to identify suspicious situations as possible cases of human trafficking. Information sharing and cooperation at the regional and/or international level are extremely important in ensuring an effective and efficient response to this crime.

6.2 The training of the various members of the airport community, including air operators, ramp personnel and others, is an essential tool for detecting human trafficking. Such knowledge and skills should be built into a strong security culture.

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