



WORKING PAPER

ASSEMBLY — 41ST SESSION

EXECUTIVE COMMITTEE

Agenda Item 13: Facilitation Programmes

ACTION BY AIRPORT OPERATORS TO PREVENT AND COMBAT TRAFFICKING IN PERSONS IN THE REGION, AND INTERNATIONAL COOPERATION

(Presented by Argentina, Paraguay and Uruguay, and supported by Bolivia (Plurinational State of), Brazil, Colombia, Panama and Venezuela (Bolivarian Republic of))

EXECUTIVE SUMMARY

This working paper reflects the reality of States in the region in relation to a growing problem that afflicts the most vulnerable population groups, namely, trafficking in persons — a crime that serves as a channel for criminal organizations to commit other related offences and becomes a highly profitable business for these criminals to the detriment to the victims' freedom and exercise of human rights, whether they be victims directly or indirectly. The Facilitation Panel (FALP) has recognized trafficking in persons as one of its concerns. The 41st session of the International Civil Aviation Organization (ICAO) Assembly therefore provides an auspicious setting for stressing that ICAO's strategic objectives reflect the necessity of the role of leadership in aviation safety, facilitation and related border security matters. Experience shows that individual State efforts have been fruitless in suppressing trafficking in persons, owing to the specific characteristics of the crime, which means that measures must be implemented jointly in order to ensure efficiency and efficacy in putting safety measures into effect.

Officials tasked with international civil aviation facilitation understand that their recommendations are designed to continue action under way in their field of competence, broadening the initial spectrum and involving other factors in the facilitation in passenger care.

Action: The Assembly is invited to:

- a) take note of the information contained in this working paper and of the measures implemented by the Argentine Republic, the Republic of Paraguay and the Eastern Republic of Uruguay;
- b) support States with population groups vulnerable to this type of scourge;
- c) strengthen international cooperation and intersectoral collaboration with air operators, airport operators, travel agencies and State bodies;
- d) encourage ICAO in the formulation of guidelines on training for airport operators to respond rapidly in airports to the identification and reaction of a trafficked person;
- e) encourage the development of protocols and response mechanisms for the reporting of cases, as well as communication of records and statistics between points of contact (PoC), and the holding of seminars and workshops through the ICAO Regional Office for training and awareness-raising to combat trafficking in persons in the region;

¹ Spanish version provided by Argentina, Paraguay and Uruguay.

f) include the terms “trafficking in persons”, “human smuggling” and “illegal travel of persons” in the list of definitions in Annex 9 — <i>Facilitation</i> ; and g) urge States to include topics on trafficking in persons in their campaigns on the culture of aviation safety and aviation facilitation.	
<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives...
<i>Financial implications:</i>	
<i>References:</i>	

1. INTRODUCTION

1.1 A group of States in the South American (SAM) region, namely Argentina, Paraguay and Uruguay, has warned of the growing problem of trafficking in persons, a reality that is a scourge on the most vulnerable population groups. It has pointed to the need for action designed to prevent, suppress and punish trafficking in persons, by drafting and enacting provisions to support the relevant State bodies in taking action to combat this scourge.

2. ADVANCES IN THE ARGENTINE REPUBLIC

2.1 It has promulgated Law No. 25.871 on Migration, establishing in Chapter VI a series of behavioural acts that constitute offences against migration law and order, including trafficking in persons. Similarly, it has passed Law No. 26.364 and Law No. 26.842 as an amendment thereto, all amending the Argentine Penal Code, by placing this offence under Article 145 *bis* and Article 145 *ter* of the Penal Code.

2.2 It has drawn up Ministry of Security Resolution No. 635/2018, which includes guidance on complaints made in the offices of the security and police corps to denounce a person-trafficking offence, as well as a protocol for action in airports that has been included in the training of security forces personnel.

2.3 Furthermore, the Integrated Criminal Information System on the Offence of Trafficking in Persons (SISTRATA – Resolution MS No. 848/2011) has been established. In conducting the culture of safety campaign, the Argentine Republic has included trafficking in persons among the topics covered. In that connection, the Airport Security Police (PSA) has placed the subject on the curriculum for the institution’s incoming officials, and it has applied, since 2021, to 100 per cent of the staff.

2.4 Capacity building for PSA officials comprises courses on Early Detection of Persons in Airports and on Perspectives on the Offence of Trafficking in Persons. Moreover, 500 officers undergo such capacity-building training each year as part of the promotion scheme.

2.5 With regard to the airport community, PSA has rolled out a training workshop on basic concepts for early detection at airports of trafficking in persons, and it is currently at the implementation stage.

2.6 Lastly, under its culture of aviation safety schedule, PSA will produce an international webinar covering concepts relating to early detection at airports of persons possibly affected by this problem.

3. ADVANCES IN THE REPUBLIC OF PARAGUAY

3.1 It has promulgated Law No. 2396/2004, dated 13 May 2004, in which it approved the adoption of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

3.2 It has promulgated Comprehensive Law No. 4788/2012 against trafficking in persons, as part of the national strategy against such trafficking, and has instituted the national policy to prevent and combat trafficking in persons. Pursuant to that Law, it has drawn up the National Programme for Preventing and Combatting, and Assisting the Victims of, Trafficking in Persons, and has established the Interinstitutional Panel which has been granted the legislative status of an advisory body to the national government on the subject and coordinator of action taken by the Paraguayan State; it has also established a National Fund for the Prevention, and Assistance for Victims, of Trafficking in Persons, to be administered under the Programme.

3.3 It has promulgated Decree 4473, dated 14 December 2020, and has approved the National Plan to Prevent and Combat Trafficking in Persons in the Republic of Paraguay (PNTP) 2020–2024.

3.4 As Paraguay's aviation authority, DINAC has complied with the provisions of Annex 9 by instituting, under an Executive Decree, the National Committee on International Air Transport Facilitation, which has permanent members, some of which are institutions that sit on the Interinstitutional Panel against Trafficking in Persons, such as the National Police, Migration Department, travel agencies and airlines.

4. ADVANCES IN THE EASTERN REPUBLIC OF URUGUAY

4.1 Under Law No. 17.861, dated 28 December 2004, it has ratified the United Nations Convention against Transnational Organized Crime, adopted at New York City on 15 November 2000 and supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and by the Protocol against the Smuggling of Migrants by Land, Sea and Air.

4.2 On 6 January 2008, it adopted the Migration Law, in which the offence of trafficking and trafficking in persons stands alone as a criminal offence, although the offence of trafficking is also covered by Article 6 Law No.17.815 of 2004, which deals with the commission of commercial or non-commercial sexual violence against boys/girls, adolescents or the disabled. Furthermore, although the accountability of the judicial system has improved in this regard, Law No. 18.494 confers special advantages for the protection of persons in trafficking situations and for investigations.

4.3 Law No. 18.849 of 2 December 2011 has instituted the exchange of genetic fingerprinting data with other countries' authorities for a variety of offences, including trafficking in persons, while Law No. 18.996 of 7 November 2012 provides for the repatriation of nationals in various situations, including trafficking in persons.

4.4 Law No. 19.643 of 20 July 2018 provides for the prevention, prosecution and punishment of the trafficking and exploitation of persons and for assistance, protection and reparation for victims, as well as amendments to the Penal Code.

4.5 Subsequently, under Law No. 19.951 of 19 May 2021, the agreement on the mechanism for consular cooperation among MERCOSUR States Parties and Associated States in cases involving victims of family violence and victims of trafficking in persons, among others, was approved.

5. DISCUSSION

5.1 In the poorest States, globalization has had a variety of negative effects such as the increase in informal employment and the depreciation of manual labour, and can thus be accompanied by economic and social instability, fragility and insecurity, which can set the scene for trafficking in persons.

5.2 According to the Principles and Guidelines of the Office of the High Commissioner for Human Rights, if human rights are to be effectively promoted and protected, it is essential 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 Ms. Fang Liu’s statement when, as the Secretary General of ICAO, she said that civil aviation organizations had the responsibility to require airlines registered or operating in their air space to train their personnel in the mitigation of human trafficking as detailed in the new guidelines.

5.4 For her part, Kate Gilmore, United Nations Deputy High Commissioner for Human Rights, noted that the regulations ensured passenger safety and dignity and that airline staff made a difference to the survivors of human trafficking, as the guidelines were designed to release the staff’s potential capacity.

5.5 To address the issue of trafficking in persons in civil aviation in the region, studies conducted by State bodies and international organizations were reviewed and mechanisms that prevent and discourage this problem were analysed, as was the need to continue to make progress in rapid detection and reaction before actual occurrence of the second step in the person-trafficking processes, namely, transport of the probable victim. As all of the various phases of trafficking in persons occur in the region, depending on the actual situation in States with population groups vulnerable to this scourge, the studies show that Paraguay is a country of origin in the person-trafficking process (for the various types of trafficking).

5.6 In view of the above, this analysis has focused on defining necessary resources capable of taking action required before the likely occurrence of trafficking in persons, before transport occurs or is effected in this field of competence in international airports. This has led perforce to the conclusion that training is required for civil servants and persons involved in the process from ticket sales to check-in and aircraft boarding.

5.7 As State bodies and institutions tasked with training are frequently involved in procedures strongly influenced by interests opposed to the elimination of this scourge, it is important to strengthen training provided by independent bodies that are not subordinated to interests vested in the context of this social problem.

5.8 In Resolution A40-15: *Development and implementation of facilitation provisions — combatting human trafficking*, ICAO requested in paragraph 3 that: “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”. Similarly, in Circular 352, ICAO has set out *Guidelines for Training Cabin Crew on Identifying and Responding to Trafficking in Persons*, which makes it imperative for States to draw on the extended scope of the Resolution, including the guidelines for airport operators and stakeholders specifically.

5.9 The final report drawn up by the Working Group on Human Trafficking (WGHT) appointed by the 11th Facilitation Panel ICAO in 2020, which was submitted in July 2021, considered drawing up guidelines for a comprehensive facilitation strategy to combat trafficking in persons in civil aviation.

5.10 The conceptual approach is a complex matter, owing to the controversy behind the concept of “trafficking” and its interrelation to other equally complex and polemical concepts such as “migrant smuggling” and “labour migration”. Furthermore, when trafficking is linked to the sex industry, the controversy deepens, on account of differing ideological approaches to prostitution. The conceptual discussion may seem to be an abstract matter that is relevant or significant only in the academic or research circles; but this is not the case. Concepts reveal moral and political positions on the issues under consideration, determine the type of approach and define who are considered to be victims and traffickers and under which circumstances. Marjan Wijers has pointed to the importance of definitions as guidance on the type of strategy to prevent and combat trafficking in persons, as well as the type of treatment meted out to victim. According to approaches to the problem, the resulting definitions view trafficking as:

- a) moral problem;
- b) organized crime problem;
- c) migration problem;
- d) public order problem;
- e) labour problem;
- f) human rights problem; and
- g) minority social group vulnerability problem.

6. CONCLUSION

6.1 There is a growing need for States to establish policies, obtain guidelines and/or assistance from ICAO to enable rapid recognition and response by airports and groups involved in the detection and/or identification of suspected situations or cases of trafficking in persons. The exchange of information and regional and/or international cooperation are of the utmost importance to making an efficient and effective response to this kind of offence.

6.2 Training of the various airport community players (including air operators and ramp personnel) is an indispensable tool for detecting trafficking in persons. In rolling out an effective culture of safety, it would be desirable to include knowledge of this issue.