



## DRAFT ANNOTATED AGENDA



Expert Consultation of the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo on:

### “The Right to an Effective Remedy for Trafficked Persons”

Bratislava 22 - 23 November, 2010

**Monday, 22 November 2010**

#### **Opening Remarks and Meeting Objectives**

The Special Rapporteur will outline the background, modalities and objectives of the consultation.

#### **Session 1: Framework, Content and Scope**

The objectives of this session are:

- To provide an overview of the normative framework of the right to an effective remedy under international law; and
- To identify the integral components of the right to an effective remedy as it pertains to trafficked persons.

The right to an effective remedy is a fundamental human right widely recognized in major international and regional human rights instruments. Its formulation under various human rights instruments makes clear that “an effective remedy” entails both procedural and substantive rights. Trafficked persons, as victims of human rights violations, must be guaranteed meaningful access to a competent and independent authority with the power to investigate and decide whether a human rights violation has taken place and if so, to enforce an adequate remedy in the form of cessation of the violation and reparation. In substance, victims of human rights violations are entitled to reparations which are adequate and proportional to the gravity of the harm suffered. As a precondition to the exercise of the right to an effective remedy, victims of human rights violations must be also guaranteed a number of ancillary rights, such as access to relevant information concerning violations and reparation mechanisms, as well as legal- and other assistance and the possibility to remain in the destination country.

During the session, the Special Rapporteur and panellists will aim at outlining the main elements of the right to an effective remedy in the context of trafficking in persons, with particular focus on the following areas:

#### **1. Restitution**

Restitution entails a range of measures aimed at restoring the person’s situation as it was prior to the violation occurred and thus should be considered the primary form of remedy. In the context of trafficked persons, these measures may include, for instance,

release from detention, recognition of identity, family life and citizenship, safe return to one's place of residence, restoration of employment and return of property.

## **2. Rehabilitation / Recovery**

Trafficked persons are entitled to a range of measures aimed at their physical and psychological recovery, given the grave nature of human rights violations that they suffered. They should be provided with immediate and short-term support, such as safe and adequate shelter to remove them from the violent and abusive environment, medical and psychological care, employment or livelihood, educational and training opportunities.

## **3. Compensation**

Trafficked persons are entitled to seek compensation for any economically assessable damage suffered, including physical or mental harm, lost opportunities including employment, education and social benefits, as well as for material and moral damages. Compensation is a crucial element of effective remedies, as it provides trafficked persons with not only resources to recover from physical, psychological and financial losses, but also a sense of justice and recognition that they are victims of serious crime who deserve to be compensated.

## **4. Cross-cutting issues, including access to information, legal- and other assistance, possibilities of residence**

The effective implementation of the above remedies requires that a number of conditions/requirements are in place for trafficked persons to be able to access them. In this regard, access to information and legal representation and assistance are crucial to ensure access to remedies and are important human rights standards in themselves. Further, there is a crucial link between access to remedies and the residence status of trafficked persons in countries where remedies are being sought, as trafficked persons would not be able to claim remedies in a meaningful manner if they were at risk of being, or had already been, deported to their countries of origin.

Presentations will be followed by a general discussion aimed, inter alia, at exploring the application of the right to an effective remedy for trafficked persons in practice, and at examining the respective responsibilities and roles of duty bearers and other stakeholders in this regard.

## **Session 2: State Responses**

The objective of this session is to examine States' responses in implementing the right to an effective remedy in relation to trafficking in persons.

During the session, panellists will analyse practical implementation of this right at the national level, using concrete illustrative examples from different contexts. Drawing on the main elements of the right to an effective remedy identified in Session 1, panellists will examine in particular why and how, from a human rights perspective, some practices may be considered positive, while others may pose challenges in the realization of the right to an effective remedy.

Presentations will be followed by a general discussion on good practices and possible ways in which they could be replicated, as well as on gaps and challenges in realizing the right to an effective remedy at the national level.

## **Session 3: Concrete Strategies & Implementation**

The objectives of this session are to identify concrete strategies and interventions that have yielded measurable results and to distil lessons learned from past and on-going

experiences in the implementation of the right to an effective remedy for trafficked persons.

Based on the analysis and discussion on state responses in Session 3, panelists will seek to delineate concrete strategies in the areas of restitution, rehabilitation / recovery and compensation, as well as on issues related to access to information, legal and other assistance, and possibilities of temporary or permanent residence and others. In doing so, panelists will highlight any existing tools which may contribute to enhancing the ability of trafficked persons to claim their right to an effective remedy and to strengthen the capacity of duty bearers to fulfill their human rights obligations in this field.

#### **Session 4: Conclusions and Recommendations**

The objective of session 4 is to recapitulate the discussions on the framework, content and scope of the right to an effective remedy for trafficked persons, as well as achievements and challenges in the practical implementation of this right. Session 4 will also provide an opportunity to reflect on concrete strategies identified in Session 3, with a view to formulating recommendations to relevant duty-bearers and any other relevant stakeholders.

It is foreseen that the Rapporteurs\* of the preceding sessions will briefly present the main outcomes of each sessions. All participants are then kindly invited to contribute with ideas and suggestions on possible next steps and follow up to this consultation.