**Comments on the DRAFT General recommendation on Trafficking in Women and Girls in the Context of Global Migration, prepared by the Committee on the Elimination of Discrimination against Women**

As a preliminary remark, Austria would like to thank the Committee on the Elimination of Discrimination against Women for its excellent work and welcomes the Draft General Recommendation as a very good basis for further work.

Please find some Austrian comments organized in Cluster I “The focus on trafficking of girls specifically“, Cluster II “Demand, Prevention and Rehabilitation“, Cluster III “Data Collection“ and Cluster IV “Supply Chain“.

**Cluster I: The focus on trafficking of girls specifically**

Austria would like to highlight the topic of child trafficking within the General Recommendations Draft.As the General Recommendations Draft includes the topic of trafficking in Women **and Girls**, it is essential to state clearly the potential measures of State parties to combat the globally occurring issue of discrimination of girls in this context.

**Para 6.** Austria suggests elaborating more on the complexity of combatting trafficking of girls. Chapter II “Objective and Scope“ of the Draft General Recommendations should distinctly point out child-specific aspects in the context of human trafficking[[1]](#footnote-1)

**Paras 7, 8, 58 (b, e), 68 (b).** We would suggest to mention a specific definition of child trafficking and insert a conceptual clarity or distinction between child trafficking and child labour. This seems to be especially important in Para 7 and 8 as they deal with the legal framework.

Child trafficking is a specific form of human trafficking. Other than Art 3a of the Palermo Protocol defining the term “trafficking in persons”, the definition for child trafficking in Art. 3c and d of the Palermo Protocol is broader and includes every human being under the age of 18 years. In the case of child trafficking a child is recruited, transported, transferred, harboured or received for the purpose of exploitation, even if this does not involve any of the means that define trafficking of adults (force, deception, threat). Therefore, Austria suggests referring to Art 3c and d of the Palermo Protocol.

It is important to refer to child labour and preventive monitoring as well. Forced labour or services are defined purposes of exploitation in Art 3a of the Palermo Protocol. To better identify trafficked children Austria suggests including specific guidelines also for this situations.

Furthermore, in Para 8. the enumeration of main means of trafficking is considered prone to misunderstandings: the “culture of impunity” is rather facilitating trafficking than a means of trafficking (and accordingly not named as a means in the Palermo Protocol) – **it seems recommendable to find a more precise wording**.

**Paras 13.** To highlight kinn-specific issues in the context of child trafficking, Austria suggests including the following in Chapter IV.a *“Women and girls are disproportionately affected by human trafficking“*:

Within a trafficking process parents, family members and persons of trust can be involved as perpetrators. Especially, in the case of child trafficking it is important to emphasize implications on custody and guardianship. Due to conflicts of interests, perpetrators ought to be excluded from legally representing the child.

**Para 14.** Austria suggests including a reference to General Comment No. 13 (2011)“The right of the child to freedom from all forms of violence“ (CRC/C/GC/13) in Chapter IV.b *“Trafficking in women and girls constitutes gender-based violence against women“.*

This document includes a broad definition of the term violence in all forms of harm to children and an elaboration on gender dimensions of violence against children (see Para. 72 letter b CRC/C/GC/13).

**Paras 22, 28, 30, 31 (c), 73, 83, 84, 92, 96, Chapter VII.** The General Recommendations may equally highlight both girls and women in the context of trafficking by implementing the wording “trafficked women and girls“ instead of “trafficked women“ or “trafficked victims“ wherever suitable.

Many specific victim’s rights frameworks for children exist. Child protection systems as part of a national coordination as well as National Action Plans on children`s rights and violence against children may be installed. Austria emphasizes to provide access for trafficked children and girls to legal aid or assistance, remedies and compensation. Compensations for girls should be addressed in particular.

**Paras 23, 24.** Austria suggests elaborating more on the exploitation of girls and sexual exploitation in the context of domestic services.

Regarding patriarchal norms, values and legislation, it is important to include also the field of domestic services as a root cause of trafficking.

**Paras 71, 72 (f,g,h,m), 57 (e).** Specialized protection and safety shelters for trafficked children should be mentioned as well as the reintegration of girls, family support and long-term monitoring by social services and child protection authorities. In the context of the return of a trafficked person, please include “prior risk management“ and “best interests determination in case of children“.

The needs of girls in terms of protection differ from the needs of women, as well as their legal situation as children. Austria suggests adding a Chapter “Protection“ or a paragraph on protection for girls: **Providing of specialized shelters for children affected by trafficking - The specific situation of (young) girls has to be taken into account.** Protection strategies should also consider girls, who go missing while they are under the care and protection of the State.

**Cluster II: Demand, Prevention and Rehabilitation**

**Para 20, 27 d:** Growing global inequality and the demand for cheap and/or forced labour increase poverty, which leads to increased THB in general and thus also increases the risk of sexual exploitation. Demand for sexual exploitation (with mainly women and girls falling victim to) is rather a result of gender-based discrimination and the feminization of poverty than the other way round, as is indicated by the wording of the current text. **We therefore suggest to delete "including the demand for sexual exploitation" and to change the text as follows: “Trafficking in women, *including trafficking for sexual exploitation*, is rooted…**which would better reflect causes and consequences of THB.Additionally, the term “demand side” is neither used in the Palermo Protocol nor is there a shared understanding of what is to be understood by the “demand side” in legally relevant terms. The term perpetrator instead seems sufficiently clear - including everyone who sets steps covered by criminal law. **We therefore suggest to delete the addendum "including demand side"** to avoid misunderstandings.

**Paras 26, 29 (e), 68.** Austria is convinced that prevention is an essential part of combating trafficking in women and girls in the context of global migration. In particular, in countries of origin, awareness raising through education might have a huge impact. The Draft is not very strong on implications of digitalization and data protection, use of internet, social media and other communication tools - by traffickers concerning new recruitment strategies, but also for preventive or awareness-raising efforts. It should be reinforced in this regard.

Austria suggests focusing on Information and Communicating Technologies (ICTs) and social media.

The following two initiatives could be included:

* Initiating prevention- and awareness raising campaigns in countries of origin and transit countries, with the aim to inform potential migrants on the risks of illegal migration and creating awareness on possible situations and methods of organized criminal networks leading to trafficking. False information distributed by smugglers and trafficking networks should be exposed.
* Enhancing cooperation at institutional level between destination and transit countries and countries of origin. The responsible authorities of these countries should exchange key information on misleading and false information circulated by trafficking networks and enable targeted awareness raising campaigns.

Adoption and implementation of gender-sensitive anti-trafficking legislation should not only focus on prevention but also on rehabilitation. Prevention is not in relation to the rehabilitation of victims.

**Cluster III: Data Collection**

**Paras 12, 25.** Overall, these paras could provide an opportunity to ask for further reporting on data, particularly on the situation of girls, taking into account regional differences. It would be of great value to elaborate more on the need for disaggregated/child/age-specific data collection.

In order to grasp the dimension of trafficking in women, Austria suggest highlighting statistically the various forms of exploitation by gender (e.g. 83% of trafficked women were trafficked for sexual exploitation instead of 93% of all persons trafficked for sexual exploitation were women[[2]](#footnote-2)). It is not clear on what the total figure of 94% is based on. An attempt to recalculate shows a different result.[[3]](#footnote-3) **To avoid the risk of misunderstanding, we suggest using the figures as presented in the UNODC report.**

The figures referred to do not take into account the presumably much higher number of unreported cases. Thus, the figures are based on a rather small part of the overall number of victims of trafficking.  **Although reference is made to "detected" victims, it equally needs to be highlighted that detected victims represent a comparably small number in relation to the number of presumed victims (refer to the UNODC Global Report on Trafficking in Persons 2018, p.** **34).**

The forms of exploitation detected vary greatly by region (refer to UNODC Global Report on Trafficking in Persons 2018, p. 10 *„…most of the victims detected globally are trafficked for sexual exploitation, although this pattern is not consistent across all regions…“).* The proportion of the various forms of exploitation could alter significantly in all countries if based on the overall number of victims.

**Hence, it is necessary to clarify that detection of victims and the respective areas of exploitation mainly depend on the focus and efficiency of national anti-trafficking responses.**

**Cluster IV: Supply Chain**

**Para 62. Addressing trafficking in Supply Chains should not be limited to corporate supply chains, but should also include public procurement and public supply chains.**

1. As far as **General Comments by the UN Committee on the Rights of the Child** are concerned, references could be made to: Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General comment No. 18 of the Committee on the Rights of the Child on harmful practices (reference to child marriage); General comment No. 13 (2011) on the right of the child to freedom from all forms of violence (references to trafficking/exploitation/girls/vulnerabilities); Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration (references to trafficking); Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (references to trafficking); General comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (references to trafficking, guardianship); General comment No. 21 (2017) on children in street situations; General comment No. 24 (2019) on children’s rights in the child justice system; General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights; General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration; General comment No. 12 (2009) on the right of the child to be heard. [↑](#footnote-ref-1)
2. UNODC, *Global Report on Trafficking in Persons 2018*, p.28. [↑](#footnote-ref-2)
3. Women: (83% trafficking for sexual exploitation + 13% trafficking for forced labour) x (n=5440 victims) = 5222,4

Girls: (72% trafficking for sexual exploitation + 21 % trafficking for forced labour) x (n=2350 victims) = 2185,5

Results: 5222,4 + 2185,5 = 7407,9 -> 7407,9 : 7790 (5440 + 2350) : 100 = 95% [↑](#footnote-ref-3)