



Organization for Security and Co-operation in Europe

Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Foreword

On 4-6 October 2017 I had the pleasure of paying an official visit to Mongolia to hold consultations with high-level government officials, including the Vice Minister of Justice and Home Affairs, the Head of the Sub-Council for Prevention of Human Trafficking, the Head of the Secretariat of the Co-ordination Council, the Head of the Immigration Agency, the First Deputy Commissioner of the National Police Agency, the Head of the General Authority for Border Protection, the presiding Judge of the Chamber for Criminal Cases of the Supreme Court, the Deputy Minister of Foreign Affairs, the Director of Consular Affairs, the Head of the Children, Youth and Family Division of the Minister of Labour and Social Protection, the Director of the Secretariat of the National Human Rights Commissioner, the President of the Confederation of Mongolian Trade Unions, as well as with representatives of the civil society and international organizations involved in the area of anti-trafficking.

The objective of the visit was to promote the full implementation of OSCE commitments in the field of anti-trafficking, notably holistic and comprehensive actions aiming to better prevent and respond to human trafficking, and to protect and support its victims. I appreciated the constructive discussions held and I was pleased to acknowledge a strong political will of the Government of Mongolia to further its anti-trafficking responses.

The Report was presented to the Delegation of Mongolia on 27 February 2018. The Delegation submitted its comments on 13 June 2018.

I am delighted to note that the Government of Mongolia, since my visit in October, has already committed to implement some of the recommendations voiced in our meetings, as stated in their comments annexed to this Report.

In particular, I am pleased to learn about the commitment of the Ministry of Justice and Home Affairs of Mongolia to propose amendments to the legislative and policy framework in ensuring proper protection for trafficked persons. Furthermore, as part of its 2018 Plan of activities, the Government envisages the establishment of a database to track human trafficking offences, as well as to conduct a series of capacity building activities for border protection and immigration officers on efficient and early identification, referral and assistance to trafficked victims.

By encouraging relevant authorities to implement these critical actions as well as the comprehensive set of recommendations made in this report, I look forward to deepening our established collaboration and to further our future co-operation in the best interest of the most vulnerable and disadvantaged members of society.

A handwritten signature in blue ink, appearing to read 'Madina Jarbussynova', written in a cursive style.

Madina Jarbussynova

**Report by OSCE Special Representative and Co-ordinator for Combating
Trafficking in Human Beings, Madina Jarbussynova, following her official visit
to Mongolia
4-6 October 2017¹**

1. This Report presents the main findings of the official country visit to Mongolia of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova (hereinafter referred to as the Special Representative), which took place from 4 to 6 October 2017.²
2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society on human trafficking issues. More specifically, the objectives of the visit were to discuss ways to support and advance ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, as well as bring perpetrators to justice in line with OSCE commitments and relevant international standards.
3. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials, including the Vice Minister of Justice and Home Affairs, the Head of the Sub-Council for Prevention of Human Trafficking, Battumur Enkhbayar, the Head of the Secretariat of the Co-ordination Council, Nyamgerel Lkhamtogmid, the Head of the Immigration Agency, Murun Dashdorj, the First Deputy Commissioner of the National Police Agency, Batbaatar Purevdorj, the Head of the General Authority for Border Protection, Sergelen Tsedev, the presiding Judge of the Chamber for Criminal Cases of the Supreme Court, Urantsetseg Togtokh, the Deputy Minister of Foreign Affairs, Battsetseg Batmunkh, the Director of Consular Affairs, Ariunbold Yadmaa, the Head of the Children, Youth and Family Division of the Minister of Labour and Social Protection, Bayarmaa Narantuya, the Director of the Secretariat of the National Human Rights Commissioner, Altangerel Chojjoo and the President of the Confederation of Mongolian Trade Unions, Amgalanbaatar Khayankhyarvaa.

Furthermore, the Special Representative held consultations with the anti-trafficking NGOs Mongolian Gender Equality Centre, Save the Children Mongolia, ECPAT Mongolia, Human Security and Policy Studies Centre and Talita Asia. The Special Representative also met with international and bilateral partners based in Mongolia, International Organization for Migration (IOM) and the Embassy of the United States of America.

During the visit, the Office of the Special Representative also collaborated with the Strategic Police Matters Unit of the OSCE Transnational Threats Department to organize and conduct a one-week training seminar in Ulaanbaatar on 2-6 October 2017. The seminar strengthened the capacity of the Mongolian criminal justice system in the fight against transnational organized crime by providing a special focus on combating trafficking in human beings.

¹ The report was finalized on 27 February 2018

² The Special Representative was accompanied by the OSR/CTHB Associate Officer, Tarana Baghirova and Programme Officer, Oleksandr Kyrylenko

4. The Special Representative wishes to thank the Mongolian authorities, and in particular, the Permanent Delegation of Mongolia to the OSCE and the Ministry of Justice and Home Affairs for their kind assistance in organizing and facilitating the visit. She also wishes to thank all interlocutors for their willingness to share their knowledge and insights, including national authorities, civil society and international organizations in Mongolia.
5. Consultations during the visit were focused on the whole spectrum of the OSCE Action Plan's commitments to counter trafficking in human beings (THB) in the country and on the ongoing policy, legislative and practical responses to it. More specifically, discussions were focused on identification and assistance provided to victims of all forms of trafficking, in particular the victims of labour exploitation, child trafficking, the protection of victims' rights, especially among vulnerable migrant workers, efforts in the area of prevention, co-operation with NGOs, as well as prosecution and convictions of traffickers.
6. Over the course of the visit, the Special Representative noted with appreciation that Government officials and civil society representatives demonstrated significant awareness of human trafficking as a serious violation of fundamental rights, knowledge of new trends of trafficking in human beings in the country and a readiness to tackle new threats.
7. The Special Representative stressed the importance of maintaining the prevention of THB as one of the main priorities of the agenda of the new Government which was formed on the eve of the visit on 4 October 2017. She notes that a decline in political attention to the problem could jeopardize the important results achieved.

International and national legal framework

8. The Special Representative commends Mongolia for having become a party to major international instruments providing high standards in the fight against trafficking in human beings, such as the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ratified in 2008.

The country also ratified a number of Conventions addressing slavery and forced labour such as the ILO Forced Labour Convention No.29, ratified in 1930, the ILO Convention on the Abolition of Forced Labour No.105, ratified in 1957, the ILO Convention on Worst Forms of Child Labour No.182, ratified in 2001, and the UN Convention on the Elimination of All Forms of Discrimination against Women, ratified in 1981.

The Special Representative recommends that Mongolian authorities sign and ratify the Protocol of 2014 to the Forced Labour Convention No. 29 which aims to advance prevention, protection and compensation measures.

9. The Special Representative recommends that the Mongolian authorities sign and ratify the ILO Convention 189 concerning Decent Work for Domestic Workers, which entered into force on 5 September 2013 and serves as a powerful instrument for the prevention of THB for labour exploitation, especially for domestic servitude

and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which entered into force in 2003. The ratification of this Convention is of particular importance, taking into account the fact that Mongolia is a destination country for increasing numbers of migrant workers from the Democratic People's Republic of Korea (DPRK) and China.

Mongolia ratified the UN Convention on the Rights of the Child in 1990. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, was ratified in 2003.

10. Mongolia is also party to regional instruments, such as the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution negotiated by the South Asian Association for Regional Co-operation (SAARC). On bilateral co-operation, Mongolia signed a Bilateral Memorandum of Co-operation with China and Macau on combating trafficking in human beings in 2010.
11. Likewise, as a participating State to the OSCE, Mongolia has pledged to implement the commitments it has undertaken in the OSCE framework, in particular the 2003 Action Plan to Combat Trafficking in Human Beings, as well as its 2005³ and 2013⁴ Addendums.
12. At national level, over the past decade, Mongolia established an appropriate legislative framework to fight against human trafficking by first introducing human trafficking as a criminal offence in 2002 under the provision “buying and selling of human trafficking”. The Criminal Code was then amended in 2008 and 2012 to comply with the Palermo Protocol and introduced criminalization of all forms of human trafficking through inclusion of Art. 113. The most recent amendment to the Criminal Code was approved on 1 July 2017 and significantly altered the Criminal Code. In the new Criminal Code, human trafficking is criminalized under Art. 13 para. 13.1. Trafficking in Persons. This encompasses various forms of exploitation, including sexual exploitation, forced labour, slavery and similar conditions, removal of possessions and human organs. Such offences are punishable by prison sentences of two to eight years. This sentence is doubled should aggravating circumstances be present and also envisages imprisonment for crossing of Mongolia’s border by a period of five to 12 years. To this end, the Special Representative positively notes that consent of the victim is nullified should one of the aforementioned methods of human trafficking be present in the case.
13. The Special Representative further notes that the new Criminal Code also envisages a separate provision criminalizing sexual exploitation (Art. 12.3). In this regard, the Special Representative welcomes that the definition also includes “abusing the situation in which the victim is subjected to in his/her economic situation” as a means of sexual exploitation. Nevertheless, she shares the concern of civil society organizations met during the visit regarding confusion caused by this provision with under Art. 13, which envisages more stringent punishment for perpetrators (see para 12 above). In fact Art. 12.3 prescribes a more lenient prison sentence of between one and five years and 20 years or life imprisonment in the presence of aggravating

³ OSCE Permanent Council Decision No. 685 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special needs of Child Victim of Trafficking for Protection and Assistance](#), PC.DEC/685

⁴ No.1107 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later](#), PC. DEC/1107/Corr.11

circumstances. In this regard, the Special Representative considers that the definition of Art. 12.3, as it currently stands, may lead to the risk of requalification into sexual exploitation and result in non-dissuasive penalties for traffickers. The Special Representative therefore recommends that Mongolian authorities develop clear jurisprudence in regard to the interpretation of human trafficking and sexual exploitation definitions and considers that a wider distribution of this jurisprudence, accompanied with continuous training of judges and prosecutors, would aid in the qualification of each crime.

14. The Special Representative is pleased to note that Mongolia adopted a dedicated Law on Combating Trafficking in Persons (thereinafter referred to as Anti-trafficking Law) in 2012 as a key legal document on the identification, referral and protection of victims of human trafficking as well as preventing and combating human trafficking. Art. 3.1.2 defines “victim” as a person whose rights, freedoms and interests are violated due to human trafficking irrespective of whether a criminal lawsuit is initiated or a victim is identified. Nevertheless, the Special Representative notes that the definition of victim as provided in the Anti-Trafficking Law differs from that provided under the Witness and Victim Protection Law, which prevents the trafficked persons from enjoying the same protection mechanisms provided by the Witness and Victim Protection Law. The Special Representative therefore recommends that Mongolian authorities amend the existing provisions to align these two definitions of “victim” and ensure that those trafficked have access to the same protection measures provided under the Witness and Victim Protection Law.
15. The Anti-Trafficking Law provides for an array of assistance to trafficked persons, including protection shelters (Art. 9), legal counselling, physical and mental health services, temporary housing for Mongolian victims and the protection of dignity, privacy and safety of victims (Art. 10). It further defines roles and responsibilities and grants power to relevant administrative organizations in charge of social welfare, labour, health, education and professional inspection organizations to design and implement programmes aimed at preventing and combating human trafficking and assisting and protecting victims. Art. 5 of the law also tasks police and intelligence agencies to detect and suppress human trafficking and the General Authority for Border Protection to prevent child trafficking through thorough identification of children crossing state borders.

The Special Representative would like to highlight the inclusion of numerous important provisions in the Anti-trafficking Law of Mongolia. In particular, she believes that the inclusion of Art.17 (liability for violation of the legislation), under Chapter 4 (Miscellaneous) penalizing officials, legal persons and media in breach of the relevant provision of the law, is a step forward in ensuring that perpetrators and those who aid and abet the crime are criminally liable⁵. Art. 15 of the law provides for compensation of pecuniary and non-pecuniary damages caused to trafficked persons. It envisages compensation in the form of a cash payment for psychological damages endured by the victim as a result of trafficking. The size and compensation of such damages shall be established by court, taking into account the case context within the range of the victim’s claim. To this end, while commending the comprehensive legal framework to prevent and combat human trafficking, the

⁵ Pursuant to Art 17, officials shall be fined in 500,000 MNT (approx.169 EUR), legal entities shall be fined 1.000.000 MNT (approx. 334 EUR) and media shall be fined in 5,000.000 MTN (approx.. 1670EUR)

Special Representative recommends that Mongolian authorities develop procedures that would facilitate the effective implementation of these important provisions in practice.

16. Mongolia passed the Law on Child Protection on 5 February 2016 which provides protection to children at home, online and in a variety of other settings. According to UNICEF, in passing the Law on Child Protection, Mongolia made a significant step towards fulfilling every child's right to protection and had the overall aim of strengthening comprehensive child protection systems to respond to risks and vulnerabilities of children to violence, abuse, neglect and exploitation⁶. Pursuant to this law, the Mongolian government adopted 13 regulations which aimed to supplement the provisions of the law.
17. The Law on Sending Labour Force Abroad and Receiving Labour Force and Specialists from Abroad was adopted in June 2001 with a view to addressing the growing number of Mongolians leaving the country for education or employment. The law obliges organizations and individuals to obtain permission from the Ministry of Labour and Social Welfare when sending and/or receiving workers. Art. 12 of the law prohibits deceitful recruitment and bans sending workers to countries other than those for which the permission was obtained for.
18. Mongolian Labour Law prohibits forced work, defining it as “abstain for the expression of own views on political, economic and social systems, and means of labour discipline, for participation in strikes, the establishment of discrimination, limitation based on nationality, race, sex, social origin or status, wealth, religion, or the demand to fulfil the work that would cause danger to employees' health and life, even knowing about it”. The Special Representative notes the findings of the legal analysis made by IOM Mongolia that this provision is related to labour rules and ethics and lacks the prohibition of violation of labour rights.⁷ The definition differs from that provided by the ILO Forced Labour Convention No. 29 whereby forced labour is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁸ The Special Representative recommends the Mongolian authorities to amend the law and other relevant legal documents to include the accurate definition of forced labour and ensure the definition is explained to all stakeholders responsible for its implementation in their respective workplaces.
19. Other relevant legal documents in this area include the Law of Mongolia on Advertisement, adopted in 2002 to respond to a growing number of deceptive advertisements for international employment and brokered marriages and the Civil Law of 2002, according to which victims of violence can claim compensation for financial loss and physical damage (for more, see para. 38).
20. At policy level, the first National Action Plan (NAP) on Combating Human Trafficking and Protection of Children and Women from Commercial Sexual Exploitation was approved on 30 November 2005, thereby paving the way for the

⁶ Child protection legislation passed in Mongolia, UNICEF, 6 February 2016 <https://www.unicef.org/mongolia/2145_25232.html>

⁷ Study on the Implementation of current anti-trafficking legislation in Mongolia, IOM, 2017, Ulaanbaatar

⁸ ILO Forced Labour Convention – CO 29 – 1930 (No. 29)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C029:NO

adoption of the Palermo Protocol in 2008. The programme was implemented in three stages until 2014. The latest plan adopted in May 2017 was triggered by Art. 5.4.4 of “the Action Plan of the Government of Mongolia 2016-2020” approved by State Great Khural resolution No. 121 of 2016 which called for implementation of a programme on preventing and combating new types of crime such as money laundering, human trafficking, drugs and cybercrimes. The new NAP covers the period from 2017 to 2021 and focuses on enhancing implementation of the Anti-trafficking Law, protection of victims, inter-agency co-operation and the prevention of human trafficking. Similar to previous plan, trafficking for sexual exploitation is the prime focus of the current plan, which is expected to be implemented with funding allocated from national and local government budgets and foreign aid programmes.

The Special Representative positively notes that the new NAP envisages conducting research to design anti-THB activities and programmes, which is currently largely missing in Mongolia. She believes that targeted qualitative and quantitative research to analyse features and trends of the phenomenon of trafficking for various exploitative purposes is necessary in designing anti-trafficking action in Mongolia.

The Special Representative further notes that the NAP sets quantitative targets across the activities and tasks the Ministry of Justice and Home Affairs and the National Sub-Council for Combating Trafficking in Persons to monitor and evaluate programme implementation. Nevertheless, the programme does not include the mechanisms for such monitoring and evaluation that would enable an objective assessment of the implementation of the programme *vis-à-vis* set targets. To this end, she stresses the importance of monitoring and evaluating anti-trafficking measures in the country and underlines the significant role of a National Rapporteur or equivalent national monitoring and reporting mechanisms as a means of obtaining the most realistic and evidence-based data on THB at the national level; assessing the scope of trafficking; the effectiveness of anti-trafficking measures taken by the State. Such data collection and analysis also enables the production of recommendations for the government and the parliament⁹. In this regard, she recommends that Mongolian authorities consider establishing an independent National Rapporteur to ensure the independent monitoring and evaluation of anti-trafficking activities in the country and improve research and the system of data collection and analysis, in order to develop effective and well-targeted policies on trafficking in human beings.¹⁰

21. Further policies relevant to trafficking efforts are the National Programme and the National Action for the Elimination of the Worst forms of Child Labour in Mongolia. The National Programme, which was implemented from 2011 to 2016, was aimed at enhancing efforts to combat child labour, improving the legal framework for protecting children and to improve their access to social services. The Special Representative looks forward to the adoption and successful implementation by Mongolian authorities of the new Child Protection Strategy for the period of 2017-2020.

⁹ OSCE Action Plan for Combating Trafficking in Human Beings, Chapter IV, para 1, p17

¹⁰ OSCE, Ministerial Council Decision No. 14/06 “Enhancing Efforts to Combat Trafficking in Human Beings, including for Labour Exploitation, through a Comprehensive and Proactive Approach”, MC.DEC/14/06, 5 December 2006

22. While acknowledging the increased efforts of the Mongolian authorities to address human trafficking in the country, the Special Representative shares the concern of the civil society organizations and government interlocutors regarding insufficient funding allocated to the actual implementation of the activities envisaged in the NAP. The Special Representative was informed about the estimate budget proposal made by civil society organizations for the implementation of the programme and encourages the authorities to consider the proposal when discussing the budgetary allocation for the programme implementation.
23. With regard to the institutional anti-trafficking framework in Mongolia, the Special Representative notes the establishment, in 2013, of the National Sub-Council on Combating Trafficking in Persons under the Council of Crime Prevention of the Ministry of Justice and Home Affairs (hereinafter referred to as Sub-Council) and headed by the Vice Minister. The main function of the Sub-Council is to co-ordinate government actions, monitor and evaluate the implementation of the NAP. It is comprised of members of the Ministry of Justice and Home Affairs, the Ministry of Foreign Affairs, the Border Protection Agency, the Ministry of Health, the Ministry of Population, Development and Social Welfare, the General Authority for Citizenship and Migration, the National Police Agency and NGOs. According to para 6.3 of Art. 16 of the Anti-trafficking Law, foreign organizations may be included in the work of the Sub-Council. The Sub-Council was reportedly dismissed in 2014 for a period of two years and reinstated in 2016, regrettably resulting in weakening of attention on the issue of human trafficking and a delay in the adoption and implementation of important policy documents. Furthermore, the Special Representative notes that since its establishment in 2013, the Sub-Council has not developed progress or annual reports and wishes to see more active participation of the Sub-Council in initiating studies on the root causes of human trafficking, as well as on various forms of exploitation, to ensure that measures are informed with evidence and credible data. In this regard, the Special Representative strongly recommends the Ministry of Justice and Home Affairs to strengthen the work of the Sub-Council by ensuring regular meetings with its members and by developing progress and annual reports on the situation of human trafficking in the country which are based on objective and accurate assessments of the situation and follow-up actions.

Moreover, while positively noting the active role of NGOs in the work of the Sub-Council in the last two years, the Special Representative recommends that Mongolian authorities also include trade unions to enhance the inclusiveness of the Sub-Council to encompass a needed focus on labour exploitation. Additionally, she considers that the establishment of thematic working groups within the Sub-Council with a focus on assistance and protection would contribute to the improvement of referral and assistance to victims of human trafficking.

24. The Special Representatives commends the dynamic role that anti-trafficking NGOs play in Mongolia in leading a range of activities, including policy work, reintegration and rehabilitation of trafficked persons and awareness raising activities.
25. Furthermore, established in 2001, the National Human Rights Commission plays an active role in combating trafficking in persons. In addition to receiving and enquiring into complaints of alleged human rights violations, including complaints relating to trafficking in persons, the Commission also conducts research and issues an annual

report to the parliament. According to the Commission, researches into 17 issues are planned in the course of 2018, which reportedly include cases of girls and young women crossing into China. The Special Representative takes note of the findings of the research conducted jointly by the Commission and the IOM Mongolia in 2017 which provided an in-depth review of legal gaps, weaknesses in inter-agency coordination and adjudication of trafficking cases.

Identification, referral and assistance for victims of trafficking

26. Mongolia is a country of origin and destination for human trafficking. The lack of opportunities for education, employment and poverty create an environment conducive for exploitation and human trafficking. According to an estimation concluded jointly by the Mongolian National Statistical Office (NSO) and World Bank, the poverty rate in Mongolia reached 29.6 percent in 2016 – an increase by 8.0 percentage points from the poverty rate of 21.6 percent in 2014. This figure is higher in rural areas amounting to 34.9 per cent of poverty affecting primarily eastern (43.9 percent) and western (36.0 percent) regions of the country.¹¹ Mongolian men, women and children are trafficked for sexual and labour exploitation to Hong Kong, Macau, China, South Korea, Japan, Europe, and Turkey and to lesser extent to the Russian Federation and Kazakhstan. According to IOM Mongolia, the victims of sexual exploitation are mostly runaway girls from families with violence and alcoholism, school drop-outs, homeless, street children or orphans, children of poor or divorced migrant families, child labourers in black markets, and daughters of stepfather families.¹²

As a country of destination, the Special Representative notes the findings of international reports which claim the existence of forced labour in Mongolia primarily targeting foreign migrant workers. Among the workers, the group most vulnerable to forced labour are DPRK and Chinese nationals who are exploited in the agricultural, construction, forestry and mining sectors. According to information received during the meeting with the State Immigration Agency of Mongolia, individuals from the DPRK are mainly recruited in construction, agriculture and cashmere production. The recent media reports also highlight increased trafficking risks in the areas bordering China, such as the Gobi region, Gashuun Shukhait and Zamiin-Uud due to the recent mining boost in the region. According to a 2012 report of the International Trade Union Confederation (ITUC), migrant workers from the DPRK are subject to the worst forms of forced labour, being banned from leaving their workplaces, unable to complain about working conditions and working only for food and a place to sleep.¹³

While the labour migration between the DPRK and Mongolia is regulated by a bilateral agreement between both countries, the Special Representative is concerned to learn about the poor working conditions of DPRK labour migrants in Mongolia and calls on the Mongolian authorities to take immediate measures to prevent and address labour exploitation of this group of labour migrants. The Special Representative is pleased to acknowledge, however, that Mongolia will no longer

¹¹ 2016 Poverty Rate in Mongolia Estimated at 29.6 Percent, World Bank <<http://www.worldbank.org/en/news/press-release/2017/10/17/2016-poverty-rate-in-mongolia-estimated-at-296-percent>> accessed on 5 February 2018

¹² Study Report on the Implementation of Current Anti-Trafficking Legislation in Mongolia, IOM, 2017, Mongolia

¹³ <<http://survey.ituc-csi.org/North-Korean-workers-exploited.html>> accessed on 17 January 2018

permit the establishment of new DPRK companies bringing in workers and will discontinue the extension of current companies from operating in the country.¹⁴

27. According to information gathered during the visit, brokered marriage has been a widespread form of human trafficking in Mongolia. Mongolian women and girls are groomed for marrying to foreigners, primarily South Koreans, with the assistance of broker traffickers. According to a Mongolian Gender Equality Centre report, traffickers and broker companies use the media to place advertisements offering marriages and also place photos of women on websites without the permission of the women in question. After marriage, these women end up in slavery, sexual exploitation and continuous violence.¹⁵
28. According to various interlocutors, children are trafficked for various exploitative purposes both within Mongolia and externally. The statistics provided during the meeting with the Ministry of Labour indicate that as of 2012, 93,000 children were engaged in regulated labour conditions, with 10,000 of these exposed to the worst forms of child labour while operating in the Mongolian construction and mining sectors. Based on discussions held during the aforementioned meeting, along with findings of international reports, the Special Representative is concerned that Mongolian children are also being trafficked internally and across borders for the purpose of sexual exploitation in saunas, hotels, massage parlours and karaoke clubs, or are forced to beg or work as contortionists in circuses in China and South Korea. In many cases, parents provide written consent in which they entrust a third party to take their children for educational purposes; yet, their children are subsequently trafficked and exploited.
29. Furthermore, according to 2016 statistics, Mongolia registered 13,000 child horse jockeys. While acknowledging that jockeys are a part of the Mongolian tradition, the Special Representative shares the findings of the U.S. Department of Labour¹⁶ and ITUC¹⁷ reports that these children face a number of health and safety hazards, including fatal falls. She notes the efforts of the newly established Authority on Family, Child and Youth Development (FCYDA) to register child jockeys and ensure that children allowed working as jockeys are provided with life insurance and protective clothing. She strongly recommends that Mongolian authorities ensure that the best interests of the child are respected and that the right to a childhood is placed at the centre of policy programmes. The Special Representative notes that national level inspections are due to start in 2018 and also looks forward to learning more about the findings of the baseline survey to register child labour planned to be conducted in 2018.

To aid the situation, the Special Representative notes that pursuant to paragraph 5 of Art. 109 of the Labour Law of Mongolia, on 8 February 2016, the Minister of Labour issued an order listing prohibited occupations for minors. The order further assigned the State Secretary of the Ministry of Labour to implement, monitor and evaluate the execution of the order. According to the approved lists of prohibited occupations,

¹⁴ Information provided during the meeting with the Immigration Agency on 4 October 2017

¹⁵ Overview of Human Trafficking in Mongolia, Mongolian Gender Equality Centre and Human Security Policy Studies Centre, Ulaanbaatar, 2010

¹⁶ Child Labour and Forced Labour Reports, 2016 Findings on the Worst Forms of Child Labour, United States Department of Labour <<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/mongolia>>

¹⁷ <<https://survey.ituc-csi.org/Child-Labour-Mongolia.html>>

children are not allowed to work in agriculture, forestry, fishing and hunting, mining, factory processing and construction. Other prohibited areas also include jobs related to hospitality, arts and entertainment and transportation and warehouse activity. Art. 6 of the Law on Violations lists six types of child labour that shall be inspected by labour inspection. Additionally, the Child Protection Law also mandates the FCYDA to inspect work places for child labour.

The Government also amended Art. 109 of the Labour Law to raise the minimum age for engaging in light work from 14 to 15 years, allowing a 30 hours working-week for children age 15 and under, and a 36 hour working week for children aged 16 and 17.

Art. 16 of the new Criminal Code imposes a fine, restriction of movement of up to one year, imprisonment for a term of up to one year for forcing a child to do the work specified as the worst form of child labour, including forcing children into prostitution, child pornography, or for the preparation, sale, distribution or storage of pornographic content. The Special Representative considers the penalty disproportionate compared to the gravity of the offence. Fines do not prevent employers from committing these violations, hence their profits are much higher, and the punishment envisaged by Art.16 of the Criminal Code is too mild when compared to the harm suffered by child victims. She also shares the concern of international reports that the law leaves out children aged 16-17 vulnerable to involvement in the worst forms of child labour.

In this regard, the Special Representative appreciates the open discussions held with a number of interlocutors and acknowledges that the new NAP envisages a set of activities aimed at the prevention and protection of children from trafficking and also assist trafficked children. Nevertheless, she strongly recommends that the Mongolian authorities enhance their efforts to prevent any forms of exploitation and violence against children and ensure children identified as such are immediately provided with relief services and adequate protection.

30. The Special Representative is concerned to learn about a new trend in Mongolia whereby a large number of Mongolian pregnant women cross into China and return without a baby, claiming they have suffered a miscarriage. This practice is also reportedly reflected in border statistics. According to civil society organizations, there are growing concerns that there may be an emerging form of trafficking of women for organ removal, fetuses and placentas. In this regard, the Special Representative was informed of research conducted by the Office of the National Human Rights Commissioner on girls and women passing the border into China in September 2017, which to be submitted to Parliament in 2018 and which she wishes to receive the findings of. The Special Representative strongly recommends that Mongolian authorities, in particular the General Authority for Border Protection, increase their attention regarding this emerging phenomenon, including by applying the definition provided under Art 13., where applicable, to prevent human trafficking at border crossings and ensure the early referral of victims to assistance and protection services. Additionally, she further recommends the Ministry of Justice and Home Affairs to conduct an in-depth research into the issue to understand the real reasons of this phenomenon.

31. As regards the identification procedure, the Special Representative regrets that Mongolia lacks any formal identification and referral mechanism for trafficked persons. As in many OSCE participating States, identification is mainly conducted by civil society organizations and police. While the lack of systematic data collected by public institutions or civil society did not allow accessing the exact number of victims identified in the country, the Special Representative notes that the number of victims identified by civil society organizations is significantly higher than those identified by police. From 2003 to May 2017, the Gender Equality Centre (GEC) identified and assisted 679 victims, with the highest number being in 2007 (115 victims) and 2009 (86 victims). The number gradually decreased to 36 victims identified in 2015, 44 victims identified in 2016 and 16 victims identified in the first half of 2017. Of the 679 identified victims, 463 were trafficked for sexual exploitation and 156 were victims of labour exploitation. According to the 2016 UNODC Global Reports on Trafficking in Persons (2012 to 2015), Mongolian police identified 80 Mongolian victims of human trafficking, out of which 51 victims were women and 29 were girls. The Special Representative regrets to note that despite information alleging the trafficking of foreigners in Mongolia, Mongolian authorities have not identified a single foreign victim of human trafficking to date. Reiterating that identification and assistance to victims of trafficking remains a main challenge in the OSCE region, the Special Representative strongly recommends that Mongolian authorities strengthen efforts to ensure the early and proactive identification of victims of trafficking for all forms of human trafficking including among foreign migrant workers.
32. Another channel of identification is the hotline established by the Gender Equality Centre with the support of the Asia Foundation in 2006, which up until 2014 was used as a useful tool to reach out to victims. The Special Representative did not receive information about the operation and effectiveness of the hotline in recent years.
33. Assistance and protection to trafficked persons is the area which requires urgent and major improvement in Mongolia. The Special Representative regrets that, to date, Mongolia has not developed a formal mechanism for assistance and protection for trafficked persons. The Mongolian Gender Equality Centre has been the only NGO to provide direct assistance to trafficked persons, with the assistance of the IOM Mongolia and international aid. Focusing primarily on trafficking for sexual exploitation, since 2003, the GEC has been operating two shelters for victims of trafficking and sexual violence in Ulaanbaatar, through which it reached and assisted 679 trafficked women and girls. According to the GEC, the Government provided 5 million tögrög (approx. EUR1,700) in 2011 and 7 million tögrög (approx. EUR 2,300) in 2012 to sustain the operation of the shelters. The Government did not report on funding the NGO shelters in the last two years. Additionally, the GEC operates a drop-in centre in Zamiin-Uud to provide immediate assistance to victims repatriated from China.

Furthermore, Mongolia lacks a specialized shelter for male and child victims of trafficking, reportedly due to the fact that the Mongolian identification practice is tailored to serve female victims. In this regard, the Special Representative strongly encourages the Mongolian authorities to develop formal national mechanisms for assistance and protection for trafficked persons, allocate adequate funding to support

the shelters operating by the GEC and to establish safe accommodation for male and child victims with sustainable financial and human resources.

34. The Special Representative was informed about the existence of standards for victim housing and victim assistance prepared by the Government; however, these standards are reportedly not being actively used by service providers. International reports suggest the existence of six regulations that are developed to supplement the Anti-trafficking Law. However, no information was provided on the purpose and tasks of such regulations at the time of the visit.
35. The Special Representatives notes with regret that there is no provision in Mongolian legislation establishing a recovery and reflection period for trafficked persons. While para. 11.1 of Art. 11 of the Anti-Trafficking law prohibits forced repatriation of foreign victims for the duration of the investigation and provides for temporary residence permits (Para. 11.2), according to the ILO, foreign victims (especially Chinese labourers) trafficked and exploited in various sectors in the country are fined and expelled from Mongolia for breaching the terms of their visas. In this regard, the Special Representative urges the authorities to ensure that such a period is specifically defined in the law and that possible victims of trafficking are systematically informed of and are effectively granted a recovery and reflection period.
36. The Law on Protection of Witnesses and Victims was adopted in 2013 and came into effect in January 2014. While it provides for the safety and psychological well-being of victims and witnesses during the investigation and prosecution of a crime, including physical protection, use of safe houses, protection of victims' identity and psychological counselling, the Special Representative notes that according to information provided during the visit by numerous interlocutors, the law fails to provide equal protection to foreign victims who are repatriated without any assessment into risks associated with their repatriation. The law also provides special protection measures for minors during proceedings. While the court hearings for minors are closed, the law does not provide effective and appropriate protection for adult victims of trafficking from intimidation and potential retaliation, in particular during and after investigation and prosecution of perpetrators.¹⁸ The Special Representative further notes the discrepancy between the Anti-Trafficking Law and the Law on Protection of Witnesses and Victims in defining the "victim" and recommends the Mongolian authorities to take relevant actions to align the term in all relevant legislation to ensure victims can access all rights entitled to them.
37. Victims' access to justice and remedies, including compensation is essential both as a preventive and protective measure, as it empowers victims and deters exploitation. The Special Representative also recognizes that a precondition for access to justice is the provision of free and qualified legal assistance. Reportedly, to support the victims of trafficking in accessing legal aid, in 2013 the Asian Foundation partnered with the Ministry of Justice to establish an interim trafficking in persons legal defence fund for victims. The Special Representative did not receive, however, any data on the operation and actual allocation of funds to trafficked persons.

¹⁸ Information provided during the meeting with Chamber for Criminal Cases of the Supreme Court on 5 October 2017

Moreover, the Special Representative emphasizes that ensuring free and specialized legal counselling and representation, as well as making compensation a reality for every trafficked and exploited person, is a critical aspect of an empowerment strategy that enables trafficked persons to move forward with their lives and prevents re-trafficking. In this respect, the Special Representative takes note that the Mongolian legislation provides for legal aid to victims during criminal proceedings. Art. 15 of the Anti-Trafficking Law provides for compensation for pecuniary and non-pecuniary damages. The amount of compensation is established in court. As per the meeting with the judge of the Supreme Court's Criminal Case Chamber, victims rarely seek compensation from courts and the compensation to date have been only claimed by the family members of victims for medical damages caused by the trafficker. According to international partners met during the visit, inconsistency in Criminal Procedure Code and the Civil Code impedes the practical implementation of this provision in full. Moreover, NGOs met during the visit informed the Special Representative that the compensation to victims was very limited and did not provide any incentive for a victim to come forward and assist in prosecution.

38. In this regard, the Special Representative notes that according to the Concluding Observation of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) concluding observations, women, especially those in rural areas and those belonging to disadvantaged groups, are unaware of their rights and thus lack the information necessary to claim them.¹⁹

Investigation and prosecution of human trafficking

39. Investigation of human trafficking is conducted by the Mongolian Anti-trafficking Police Unit, reinstated recently under the National Police Agency after having been disbanded. The unit consists of a head and four investigators operating in Ulaanbaatar with no provincial branches.
40. The Special Representative is concerned about the very low investigation rate of human trafficking cases. According to the UNODC Global Report on Trafficking in Persons, the Mongolian police investigated 10 cases in 2012, 11 in 2013, 9 in 2014, 14 in 2015 and 6 in 2016.²⁰ No investigation was reported in 2017. While the Special Representative observed an increasing awareness of trafficking for the purpose of sexual exploitation during the meeting with the authorities, trafficking for labour exploitation and other forms of human trafficking have yet to be acted upon. The Special Representative takes note of information provided by both the Government and civil society organizations on the need for technical co-operation and assistance to build capacities of the police to detect and investigate human trafficking cases.
41. Regarding prosecution, the Special Representative regrets to know that traffickers are rarely prosecuted in Mongolia. According to the Criminal Case Chamber of the Supreme Court prosecution rates of human trafficking cases are very low owing to the reluctance of victims to co-operate with the investigation and a lack of capacity of

¹⁹ CEDAW Concluding Observations on combined 8 and 9 Report on Mongolia, 10 March 2016 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgOTxO5cLIZ0CwAvhyns%2byLRwEx8wGI318T3seXIGjMN%2fCXxhOJ1goZ2Sdbgwyah7HaY0NyS8zPvCfM2LkPp1eSjdum3K%2bDuvMw3Ew60ls6C1KQZX1PNKxk9z8eqWaE4Aw%3d%3d>

²⁰ The 2016 UNODC Global Report on Trafficking in Persons < https://www.unodc.org/documents/data-and-analysis/glotip/Glotip16_Country_profile_East_AsiaPacific.pdf>

police investigators to collect evidence to support the investigation. This gap is also reflected in the new NAP which assesses law-enforcement measures as inadequate due to a weak victim protection system. By way of example, for the period 2012-2017, only nine cases were effectively prosecuted, ending in 16 convictions. Although few prosecutions are successfully convicted, there have not been any cases of re-qualification of human trafficking into another criminal offence. Nevertheless, the Special Representative believes that greater awareness and understanding of the complexities of the offence would result in a greater number of investigations and successful prosecutions brought forward under human trafficking charges rather than less grave offences such as sexual exploitation provided under Art. 12.3. of the Criminal Code. To this end, the Special Representative recommends that the law enforcement community improve its proactive investigative activity in the field of anti-trafficking to enhance the detection of trafficking cases, especially in areas particularly affected by trafficking in human beings such as sexual exploitation, labour exploitation in the construction sector, child trafficking and forced child begging.

42. The Special Representative notes that Mongolia established a private victim and witness room at the First District First Instance Criminal Court in Ulaanbaatar, which aimed to increase victim assistance in prosecutions. However, the room was rarely used to provide protection to trafficked persons.
43. The Special Representative notes that Mongolian legislation does not contain a specific non-punishment clause which is fundamental for exempting victims of trafficking from civil, administrative or criminal liability for offences committed under coercion or intimidation. The Special Representative is concerned that victims and witnesses are criminalized for providing false or incomplete testimonies. In this regard, the Special Representative wishes to reiterate the importance of a recovery and reflection period for trafficked persons. To this end, the Special Representative strongly recommends that Mongolian authorities consider amending existing legislation to include explicit reference to the application of non-punishment of trafficked persons for crimes committed as a direct result of trafficking as well as consider amending the legislation to ensure that trafficked persons are not criminalized for false or no statement during investigations.

Prevention of human trafficking

44. While acknowledging the improved efforts of the Mongolian Government to address human trafficking in the country, the Special Representative regrets the lack of sustainable preventative efforts and activities in Mongolia to target all forms of human trafficking, including forced labour and forced begging. Similar to protection, prevention of human trafficking is led largely by NGOs, which conduct public awareness campaigns among the population and organize trainings for various groups to build the capacities to respond to risks of human trafficking.
45. The Special Representative underscores the importance of addressing demand as a prevention strategy, which, in the context of Mongolia, includes demand for various forms of human trafficking, primarily labour and sexual exploitation of adults and children. With regard to the demand for exploitative labour of Chinese and DPRK workers, the Special Representative stresses that the protection of labour rights is essential in reducing demand and in preventing exploitation from occurring in the

first place. In this regard, she is concerned about the findings of an IOM report suggesting that migrant workers are unaware of their rights and do not have any understanding where and to whom they should apply to in cases of abuse and exploitation. To this end, the Special Representative calls upon relevant Mongolian authorities to ensure the protection of rights of all migrant workers by conducting regular inspections of work places prone to exploitation, such as mining, construction and agriculture and strengthening public awareness campaigns through employer and trade union organizations.

46. Moreover, while taking note that the Anti-Trafficking Law envisages that the Professional Inspection Agency shall monitor within its competencies whether economic entities and organizations subject their workers to labour exploitation, forced labour, slavery or practices similar to slavery, the Special Representative regrets that no information was provided in regard to the number of inspections conducted to date, nor the findings of the inspection.
47. Migration procedure requires that employers and inviting organizations request that the Ministry of Labour approve a foreign labourer. Once the approval is given, it is forwarded to the Migration Agency for a security check; subsequently, once the labour migrant worker enters Mongolia, the person is protected under the Law on Regulating International and Domestic Migration. According to the law, the employers are required to pay 480000 töгрөг (approx. 160 EUR) monthly to obtain permission to work for the migrant worker.
48. The Special Representative is pleased to learn about the Marathon of 1000 people “Breaking the chain” which resulted in 6 events involving youth in Ulaanbaatar city, Dornod and the South Gobi provinces. Among public awareness activities, the Special Representative notes the broadcasting of documentaries on three television channels and the “Blue Hear” campaign organized annually by the UN.
49. In conclusion, while positively noting the commitment and numerous legal and policy reforms taken in preventing and countering of trafficking by the Mongolian Government, the Special Representative encourages the authorities to continue their efforts and invites them to consider the following recommendations to enhance the implementation of OSCE anti-trafficking commitments, in particular the OSCE Action Plan to Combat Trafficking in Human Beings and its Addendums²¹. The Special Representative and her Office stand ready to provide technical assistance, if requested, by national and local authorities, as well as civil society, and welcomes further dialogue and co-operation to promote an appropriate follow-up of these recommendations.

Recommendations

1. Enhance anti-trafficking legal framework by:

- Signing and ratifying the Protocol of 2014 to the Forced Labour Convention No. 29;
- Signing and ratifying the ILO Convention 189 concerning Decent Work for Domestic Workers;
- Signing and ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- Developing jurisprudence in regard to the interpretation of definitions prescribed under Criminal Code Art. 13 of the (human trafficking) and Art. 12.3 (sexual exploitation) and ensuing a wider distribution of relevant jurisprudence, accompanied with continuous training of judges and prosecutors on the qualification of these crimes;
- Amending the existing provisions of the Law on Combating Trafficking in Human Beings and the Witness and Victim Protection Law to align the varying definitions of “victim” to ensure that those trafficked have access to the same protection measures provided under the Witness and Victim Protection Law;
- Amending the Labour Law definition of “forced labour” to ensure that it aligns with the definition of forced labour provided under the ILO Forced Labour Convention No.29.

2. Enhancing the work of the National Sub-Council on Combating Trafficking in Persons by:

- Expanding the membership of the National Sub-Council on Combating Trafficking in Persons to include employer and trade union organizations;
- Conducting regular meetings of the National Sub-Council on Combating Trafficking in Persons to ensure regular co-ordination, exchange of information and data and boost inter-agency co-operation;
- Establishing thematic working groups within the Sub-Council focusing on identification and assistance to trafficked persons to further enhance its work and contribute to better identification of emerging trends and forms of human trafficking and improve referral and assistance to victims of human trafficking;
- Establishing mechanisms for monitoring and evaluation of anti-trafficking measures as envisaged in the National Plan of Action to Combat Human Trafficking

- Establishing an independent National Rapporteur to ensure the independent monitoring and evaluation of counter-trafficking activities in the country;
- Carrying out an independent mid-term evaluation of the new National Plan of Action to Combat Human Trafficking in order to assess the implementation and impact of the actions planned, and consider whether any adjustments are necessary;
- Establishing, together with the Mongolian National Police, a unified database with due regard to the confidentiality of data, and where possible, to disaggregate statistics by sex, age, and other relevant factors as appropriate. In addition, this database should include compatible criteria for data collection and elaboration and reporting, which are critical for the development and review of anti-trafficking policies;
- Conducting targeted qualitative and quantitative research studies to analyse the features and trends of the new phenomenon of the flow of pregnant women crossing borders into China and returning without babies, along with brokered marriages and trafficking of children and adults for the purpose of sexual and labour exploitation and forced begging.

3. Prevent and combat trafficking and any types of exploitation of children by:

- Enhancing the capacity of the Family, Child and Youth Development Agency to identify various forms of human trafficking and the exploitation of children, including those involved in irregular work such as herding, jockeying, contortionism or forced begging;
- Placing increased attention on the phenomenon of internal trafficking of children for sexual and labour exploitation internally and across borders of Mongolia with a view to developing targeted responses and providing relief measures;
- Strengthening the current system of child protection and the overall child care strategy and tackling any type of exploitation of children by conducting inspections and monitoring of sectors where children are likely to be exploited;
- Reviewing the existing legislation to ensure protection mechanisms for children aged 15 years and older;
- Reviewing the existing legislation to ensure stricter penalties for forcing a child into begging and other administrative and criminal offences.

4. Improve identification of all forms of human trafficking and assistance and protection to trafficked persons by:

- Urgently developing and adopting a formal multi-agency system of referral and assistance for adult and child victims of trafficking;

- Amending the legislation to include the recovery and reflection period for trafficked persons to ensure that a minimum period of at least 30 days is clearly established in the Anti-Trafficking Law;
- Empowering civil society organizations to conduct outreach activities to identify and directly assist potential, presumed and actual victims of human trafficking through providing sustainable and adequate financial support to safeguard the quality and necessary assistance services provided by civil society organizations;
- Increasing attention on the identification of foreign migrant workers, in particular migrant workers from China and the DPRK involved in irregular and exploitative labour in construction, textile, mining and agriculture sectors throughout Mongolia;
- Enhancing concrete measures to foster victim's access to free legal assistance and representation as well as establishing a dedicated fund for compensation for damages caused to victims of human trafficking, and developing simple and effective procedures to enable trafficked persons' access to compensation;
- Review the relevant provision of the Criminal Procedure Code and the Civil Code of Mongolia to ensure that trafficked persons can fully enjoy the right to compensation for endured trauma and damages.
- Building capacities of border and immigration officers to identify, prevent and refer actual and potential cases of human trafficking.
- Continuing to raise awareness among professionals and the general public with regard to existing and emerging forms of human trafficking, highlighting trafficking for labour exploitation, forced criminality and organ removal.

5. Enhance the criminal justice response to all forms of human trafficking by:

- Conducting proactive investigations and prosecution of all forms of human trafficking, in particular trafficking for the purpose of labour exploitation, child trafficking, brokered marriages and trafficking of women and children for organ removal;
- Reviewing the procedure of investigation, including the gathering of credible evidence and presentation of cases in court, with a view to ensuring that THB-related offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;
- Researching and analysing the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, taking necessary measures to ensure that the liability of legal entities can be acted upon in practice;
- Reviewing the legislation to remove the provisions criminalizing trafficked persons for making false or not making a statement, as well including the non-punishment provision with regard to trafficked persons, in particular to foreign victims of labour exploitation, and

ensuring that this principle is explained to all stakeholders and applied in a broad manner, including with regard to foreign victims of trafficking in breach of migration rules;

- Investigating all allegations or suspicions of abuse and exploitation of children. It is essential to ensure that the best interests of the child are the primary consideration in all actions, including victims or presumed victims of trafficking in human beings;

- Developing a regular and continuous specialized training with the participation of multi-agency stakeholders such as law enforcement officers, civil society organizations, labour inspectors, child inspectors, prosecutors and judges on key indicators for various forms of human trafficking with a view to ensuring that crimes related to THB are effectively identified, investigated and prosecuted.

APPENDIX I

PROGRAMME
OF THE VISIT OF AMBASSADOR MADINA JARBUSSYNOVA,
OSCE SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATING
TRAFFICKING IN HUMAN BEINGS TO MONGOLIA

4-6 October 2016

Tuesday, 3 October	
15:30- 16:00	<p>Closing remarks at the SPMU Seminar on “Strengthening Capacities of Law Enforcement Agencies to better address Organized Crime, with a focus on Countering Trafficking in Human Beings”</p> <p><i>Venue: HQ of Criminal Police Department, NPA, Sambuu street 18, Chingeltei district</i></p>
19:30	Working dinner with International Organizations
Wednesday, 4 October	
08:30-09:30	Meeting with the President of the Confederation of Mongolian Trade Unions, Mr. Amgalanbaatar
10:00-12:30	<p>Meeting with the representatives of Non-Governmental Organizations</p> <p><i>Mongolian Gender Equality Centre</i></p> <p><i>Save the Children Mongolia</i></p> <p><i>ECPAT Mongolia (3 participants)</i></p> <p><i>Human Security Policy Studies Centre (2 participants)</i></p> <p><i>Talita Asia</i></p>
12:30 – 13:30	<i>Lunch</i>
14:00-15:30	Meeting with the Head of the Sub-Council for prevention of trafficking Vice Minister Mr. Enkhbayar and the Head of Secretariat of Coordination Council for Crime Prevention, Ms. Nyamjargal.
16:00-17:30	Meeting with the Head of the Immigration Agency, Mr. Murun
19:00	Official dinner hosted by the Ministry of Justice and Home Affairs (TBC)
Thursday, 5 October	
09:00-10:30	Meeting with the First Deputy Commissioner, National Police Agency, Mr. Batbaatar
11:00-12:30	Meeting with the head of the General Authority for Border Protection, Mr. Sergelen
12:30-13:30	<i>Lunch</i>

14:00 – 15:00	Meeting with the Head of the Family, Youth and Child Development Agency, Mr. Altansukh
15:30-16:30	Meeting with the Presiding Justice of Chamber for Criminal Cases, Supreme Court, Ms. Urantsetseg
Friday, 6 October	
10:00-11:00	Meeting with the Deputy Minister of Foreign Affairs, Ms. Battsetseg
11:30-12:30	Meeting with the Director of Population Development Department, Ministry of Labour and Social Protection, Ms. Tungalagtamir
13:00-13:45	Meeting with U.S. Ambassador Galt or Deputy Chief of Mission Micaller
14:00 – 15:00	Meeting with the National Human Rights Commissioner, Ms. Oyunchimeg
15:30-16:30	Meeting with the Director of the Consular Department, Ministry of Foreign Affairs, Mr. Ariunbold

APPENDIX II.

Comments of the Government of Mongolia on the Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova, following her visit to Mongolia, 4-6 October 2017

(Final comments received on 13 June 2018)

The Government of Mongolia expresses its appreciation to OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova for commending the efforts of the Government of Mongolia in countering human trafficking, and thanks her for her recommendations and the readiness to cooperate with the Government in implementing the recommendations.

The Government would like to present the following remarks with regard to specific issues addressed in the Special Representative's report:

1. International and National Legal framework

Item 8 and 9; Recommendation 1, para 3: Mongolian authorities are working on the recommendations to ratify the Protocol of 2014 to the Forced Labour Convention No.29, the ILO Convention 189 concerning Decent Work for Domestic Workers and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

Item 14; Recommendations 1, para 5: With a view to improving victim protection measures, the Ministry of Justice and Home Affairs of Mongolia is working on the revision of the Witness and Victim Protection Law. Draft revision would be submitted to the Cabinet for its consideration.

2. Identification, referral and assistance for victims of trafficking:

Item 26: Recruiting foreign workers is regulated by the Labour migration law, Labour law and the Law on labour safety and sanitary requirements. With a view to ensuring the full implementation of the above-mentioned laws, the Professional Inspection Agency undertakes inspections on regular basis.

A number of breaches such as recruitment of unprofessional workers by employers, non-compliance with minimum wage scale, poor living conditions of foreign workers, and polluted environments were identified as result of the inspections. The Agency took necessary actions to enforce relevant laws and regulations accordingly.

With a view to implementing the United Nations Security Council Resolution, the Ministry of Labour and Social Welfare of Mongolia has terminated the Memorandum of Understanding signed with the Ministry of Trade of DPRK. The term of the bilateral agreement between the two Governments on the exchange of work force is due to expire in June 2018 without further extension. Therefore, the DPRK nationals, working in Mongolia, will return home during the month of June 2018.

Item 28: In accordance with the decision A/218 of 19 December 2017 by the Minister of Labour and Social Welfare, a standing Working Group on Child Development and Protection, consisting of representatives from all relevant ministries, agencies, international organizations and NGOs, was established. The Vice Minister of the Ministry of Labour and Social Welfare is the Chair of the Group.

The Working Group has taken a host of measures to prevent exploitation of child labour:

- The Authority on Family, Child and Youth Development, the Communications Regulatory Commission and the Communications and Information Technology Authority of Mongolia set up a joint sub-group responsible for promoting appropriate use of IT, and facilitating prevention of child sexual and labour exploitation. They also jointly adopted an Action Plan;
- The National Police Agency, in collaboration with the Authority on Family, Child and Youth Development, has conducted “Hotels and saunas” and “Internet game” field trainings and inspections and provided recommendations to the relevant entities and individuals. In the event of non-compliance with regulations, they undertook administrative measures such as imposing fines or termination of licenses;
- Officials from the Ministry of Labour and Social Welfare, Ministry of Foreign Affairs, Authority on Family, Child and Youth Development, Immigration Agency, General Authority for Border Protection and the National Police Agency held a consultative meeting in February 2018. The issue of statistical data collection of children’s cross border travel record, including children traveling with their parents and their return record, was the main agenda of the meeting. They also consulted on how to tackle the matter of public advertisements to recruit child jockeys or children for herding.
- “List of Jobs prohibited for Minors” has been included in the licensing regulations as a mandatory clause. In addition, entities operating in mining, exploration, construction, tourism, forestry, agriculture, factory processing and service sectors were called for signing a contract with the relevant government agencies or ministries. Some additional measures have been taken to encourage citizens’ participation in oversight activities.

Item 29: In January 2018, the Government of Mongolia adopted a Resolution on “Winter and Springtime Horse Racings”, which banned horse races in winter, and prohibited participation of children below the age of 12. Subsequently, the “List of Jobs prohibited for Minors” was amended by the decision A/71 of 19 March 2018 of the Minister of Labour and Social Welfare.

With a view to improving the protection of rights and safety of child jockeys, the Authority on Family, Child and Youth Development has been taking concrete measures. For instance, the Authority has held consultations with domestic insurance companies to increase the insurance fees (to 100,000 Mongolian tögrög; approx. EUR 34) and compensation payments (up to 20 million Mongolian tögrög; approx. EUR 7100), and has obtained necessary permits from the Financial Regulatory Committee for introduction of such insurance policy.

Also, the Professional Inspection Agency carried out, within the framework of its 2017 Plan of Activities, an oversight inspection on the safety of child jockeys with a view to ensuring their safety in horse races held during national “Naadam” Festival, regional and Danshig festivals and, implementing the Article 8.2 of the Law on National Naadam Festival, as well as the standard MNS6264:2011 on the requirements for safety clothing for child jockeys and horse wear.

The Agency instructed all specialized inspection departments to ensure the safety of child jockeys, and public announcement and guidance to be made through 21 local broadcasters.

As results of these preventive measures, child jockeys got used to wear protective outfits, and age limit is in place in provinces including Gobi-Altai, Dund-Gobi, Bayan-Ulgii, Khentii, Darkhan, Umnugobi, Khovd and Dornod. A practice of signing a trilateral contract on mutual responsibilities between trainers, insurance companies and parents of child jockeys has been introduced. The measure has been effective, and will be further strengthened.

Item 30: The General Authority for Border Protection has no statistics on the issue in question, and at the present stage, it is not feasible for the General Authority to produce such information.

Item 33: Within the framework of implementation of the Law on Child Protection and the Law against Domestic Violence, a Children’s Helpline Center (108) was established by the Resolution No.55 of 2016 of the Government of Mongolia. The Center receives an average of over 10,000 calls on monthly basis and provides prompt child protection services to children and teenagers. In 2017, the Center transferred 3173 cases requiring child protection to youth and family divisions in provincial and district levels.

Furthermore, a temporary child protection shelter was established in accordance with the Resolution No.231 of 17 August 2017 of the Government. In 2017, the shelter received 321 children aged between 0-18 and provided child protection and rehabilitation services. In addition, a “Rehabilitation Center for Unsupervised Children” has been set up in Bagakhangai District; the Center provides social and psychological rehabilitation services to over 20 children.

The Parliament and the Government of Mongolia attach significant importance to child development and protection services and allocated financial resources of 6.2 billion tögrög (approx. EUR 2.1 million) in 2018 against the allocation of 1.2 billion tögrög (approx. EUR 422.3 thousand) in 2017. The increase of funding generated the improvement of quality and delivery of child protection services.

Item 46: The Professional Inspection Agency has been carrying out labour inspections on regular basis. Since the introduction of “glass” inspection system in 2015, the Agency has been conducting inspections through supervisory sheets based on risk assessments, and has, thus, created a database of inspected entities, individuals and objects, number and duration of inspections carried out, identified breaches, and follow-up measures implemented.

In 2017-2018, in collaboration with the Ministry of Labour and Social Welfare, the Agency has undertaken inspections in 68 economic entities and organizations which

outsource workers to Japan, and currently is in the process of compiling the results of these inspections.

As reflected in its 2018 inspection plan, the Professional Inspection Agency plans to conduct inspections on the labour of miners working in informal sectors in the 3rd quarter, and on the implementation of the labour migration law in the 2-3rd quarters of the year respectively.

3. Recommendations:

Recommendation 2, para 1, 2: As stipulated in its rules of procedures, the National Sub-Council on Combating Trafficking in Persons meets every quarter.

Subject to a baseline survey on labour exploitation, the expansion of the Sub-Council to include employer and trade union organizations will be considered soon.

Recommendation 2, para 7: Public education activities on anti-trafficking laws and regulations as well as creation of database on the crime of human trafficking are envisaged in the 2018 Plan of Activities to implement the National Program to Combat Human Trafficking.

Recommendation 4, para 3: The Ministry of Justice and Home Affairs has been extending its support and providing financial assistance to civil society organizations working in the field of combating human trafficking to strengthen their capacity. For instance, the Ministry supported the “Blue Heart” campaign organized by ECPAT Mongolia in 2017, in addition to the tailored trainings and public awareness activities for high school students and vulnerable migrant population conducted by the same Network. Moreover, the Ministry continues to assist NGOs such as the “Talita Asia” and the “Gender Equality Center”.

In addition, NGOs are carrying out certain activities on behalf of the relevant agencies. They operate information and advisory service center and a special hotline, carry out public awareness activities, and conduct trainings for government and private sector employees.

Recommendation 4, para 7: The Ministry of Justice and Home Affairs, in collaboration with the International Migration Organization, and within the framework of the Project on “Strengthening Mongolia-China Bilateral Counter-Trafficking Cooperation”, will organize a series of trainings for the border protection and immigration officers for the period of 2018-2021.

In this regard, The Ministry, together with the Asia Foundation, has developed training curricula for judges, prosecutors, and police officers on identification, investigation and prosecution of the crime of human trafficking, and for border protection and immigration officers on identification of and delivery of assistance to victims of trafficking. First segments of these trainings have been conducted.