



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning Communication No. 139/2018^{*,**}

<i>Communication submitted by:</i>	A.L.P., A.M.E. and F.F.B. (represented by counsels Shin Young Chung and Jong Chul Kim)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Republic of Korea
<i>Date of communication:</i>	28 November 2018
<i>References:</i>	Transmitted to the State party on 13 December 2018 (not issued in document form)
<i>Date of adoption of views:</i>	24 October 2023

1.1 The communication is submitted by A.L.P., A.M.E. and F.F.B., all Filipino nationals, born in 1989, 1992 and 1987, respectively. They claim that the State party has violated their rights under articles 2 (c)–(f), 3, 5 (a) and 15 (1) of the Convention, by failing to prevent and protect them from gender-based violence and discrimination by non-State actors and by failing to ensure their access to justice and provide reparation for the harm they suffered as victims of trafficking in persons, sexual exploitation, forced prostitution and sexual harassment, and instead revictimizing them during the investigation and detention and ordering their deportation. The Optional Protocol to the Convention entered into force with respect to the State party on 18 October 2006. The authors are represented by counsels.

1.2 On 13 December 2018, when the communication was registered, the Committee, through its Working Group on Communications under the Optional Protocol, pursuant to article 5 (1) of the Optional Protocol and rule 63 of the Committee's rules of procedure, decided not to grant the authors' request that the State party refrain from removing them to their country of origin while they were seeking remedy and redress in the State party and while their communication was under consideration by the Committee.

* Adopted by the Committee at its eighty-sixth session (9–27 October 2023).

** The following members of the Committee participated in the examination of the present communication: Brenda Akia, Hiroko Akizuki, Nicole Ameline, Marion Bethel, Leticia Bonifaz Alfonzo, Rangita De Silva de Alwis, Corinne Dettmeijer-Vermeulen, Esther Eghobamien-Mshelia, Hilary Gbedemah, Yamila González Ferrer, Dafna Hacker Dror, Nahla Haidar, Marianne Mikko, Maya Morsy, Ana Pelaez Narvaez, Bandana Rana, Elgun Safarov, Natasha Stott Despoja, Genoveva Tisheva and Jie Xia.



Facts as submitted by the authors

2.1 The first author, A.L.P., was recruited as an entertainer in January 2014 from her hometown in the Philippines by a recruiting agency branch in the Republic of Korea called Pine Tree. On 5 September 2014, she received her E-6-2 visa. She arrived at the Incheon Airport in the Republic of Korea on 8 September 2014. An employee of the recruiting agency, who came to meet her and another entertainer at the Incheon Airport, brought her to the Golden Gate Club at around 10 p.m. She started her job at 1 a.m. the next day. Three weeks later, the club owner took A.L.P.'s passport.

2.2 The second author, A.M.E., signed an employment contract with an entertainment management company in the Republic of Korea called DNS on 20 May 2014. She received an E-6-2 visa and arrived in the Republic of Korea on 28 June 2014. The promoter of the Korean recruiting agency brought her to the L Club in Uijeongbu city, where she worked as a conversation partner for customers instead of as a singer as initially agreed. She was not paid during the first three months. On 24 December 2014, the promoter brought A.M.E. to the Golden Gate Club, where she started working the same day. On 28 December 2014, the promoter took A.M.E.'s passport, telling her that he needed it for the issuance of her alien registration card.

2.3 After a singing test and visa interview at the embassy of the Republic of Korea in Manila in August 2014, the third author, F.F.B., signed an employment contract with the Pine Tree agency and received her E-6-2 visa in late September 2014. On 21 October 2014, F.F.B. arrived at the Incheon airport. The recruiting agent brought F.F.B. to his office and then sent her to the Soul Club in Dongducheon city. On 23 October 2014, two days after her arrival at the Soul Club, the recruiting agent took her to the Golden Gate Club without any explanation. The owner of the club confiscated her passport in November 2014. F.F.B. was not paid during the first two months of her work at the club. She escaped from the Golden Gate Club on 5 January 2015. The owner of the club found where she was hiding and returned her to the Golden Gate Club on 31 January 2015.

2.4 While working at the Golden Gate Club, the authors faced forced prostitution, sexual, verbal and physical harassment, threats, low wages and wage theft, restrictions on changing workplaces and passport confiscation from the club's owner. They were confined to working in the Golden Gate Club, where cameras were installed in numerous corners of the entire building. They were allowed to leave the club only for a very limited time.¹ The club owner also used physical violence against the authors.

2.5 On 2 March 2015, the Seoul Metropolitan Police Agency cracked down on the Golden Gate Club and arrested the authors and five other waitresses. The authors spent two nights at the police detention centre. With all their belongings left at the club and without any other acquaintances in Seoul, the authors, once released, went back to the club and recovered their passports from the police on 4 March 2015.

2.6 On 9 March 2015, the authors escaped from the Golden Gate Club. They stayed at a friend's place for a week, then stayed and worked at a factory in Song-woo-ri.

¹ Mr. Baek started to force the authors to provide sexual services to customers in November 2014, when the military of the United States of America prohibited its soldiers from buying drinks for waitresses at clubs near its army base. Concerned about the decreased revenue due to this prohibition, he forced the waitresses to raise sales by providing sexual services to South-East Asian customers who came to the club after 1 a.m. Customers who paid 60,000 won (\$60) to the club owner could spend 40 to 60 minutes with a waitress; those who paid 30,000 won (\$30) could spend 30 minutes. The owner or the customer chose which waitress would provide sexual services.

During their escape from the club, the Seoul Metropolitan Police Agency made a departure suspension request on 13 March 2015, which lasted until 20 March 2015.

2.7 On 20 March 2015, the Seoul Metropolitan Police Agency made a departure suspension extension request. On 20 April 2015, the authors were arrested on the charge of engaging in prostitution. They were sent to the Seoul Immigration Office. Despite the departure suspension requested by the Seoul Metropolitan Police Agency, the Seoul Immigration Office ordered their deportation and issued a detention order to enact that deportation order. During the authors' detention, the Seoul Metropolitan Police Agency made another departure suspension extension request on 23 April 2015, requesting that the departure suspension be extended until 30 April 2015. As the deportation order could not be executed due to the departure suspension, the authors had been detained at the migrant detention centre for more than 40 days until their application for temporary release was granted on 20 May 2015.

2.8 The authors expected to work as entertainers and were totally unaware that they would be compelled to provide sexual services to customers. The owner designated a "very important person" room with surveillance cameras on the third floor of the Golden Gate Club, where customers received sexual services from waitresses: either touching the waitresses' body parts or being provided with a "hand job". The waitresses who did not want customers touching them had no choice but to provide hand jobs. During Fridays and the weekends, when the club was the most crowded, the authors were forced to stay the whole day and to provide sexual services. For this purpose, the owner and his wife established a so-called "juice quota system" under which waitresses got "extra" payment based on their "juice" sales points. The owner and his wife verbally and physically harassed the authors, who had not earned enough juice points. Providing sexual services was practically the only way that the authors could earn the points that the owner required. The owner also established a "bar fine", which refers to the money paid by a customer who is willing to take a woman outside of the club to engage in sexual intercourse. The owner and his wife threatened and verbally harassed the waitresses who refused to leave the club to provide sexual services to customers who had paid a bar fine. The owner also sexually harassed the authors frequently in the absence of his wife. For this reason, he was sentenced on 29 May 2017 to one year of imprisonment with suspension for two years and to complete 40 hours of education.

2.9 During the crackdown on the Golden Gate Club on 2 March 2015 and the first police investigation of the authors, the police did not make any effort to investigate the trafficking in persons or sexual exploitation they had experienced, despite suggestive evidence found at the club. Even though the police found that the authors' passports had been confiscated and that they were E-6-2 visa holders, who are frequent victims of trafficking in persons and forced prostitution, the police arrested them in flagrante delicto for violating the Immigration Control Act and did not treat them as victims of forced prostitution nor of trafficking in persons. The police focused the investigation on suspicion of prostitution.

2.10 The owner of the club had frequently threatened the authors and said that they would be imprisoned if they described to the police the truth about their sexual exploitation. The authors could not report the full extent of their experiences during the police investigation. A.L.P. and A.M.E. denied that they had been forced to provide sexual services to customers. F.F.B. admitted that she had been once engaged in prostitution, but did not testify that the owner of the club had forced her to do so. Unable to find evidence of the authors' engagement in prostitution, the police released them on 4 March 2015.

2.11 The authors were arrested again on 4 April (A.M.E.) and 5 April (A.L.P. and F.F.B.) 2015. Persuaded by the police that they would not be imprisoned if they

confessed the truth, the authors admitted that they had given false statements during the first investigation due to threats by the owner and his wife. They revealed that they were being forced by the owner and his wife to engage in prostitution. The police intensively interrogated them solely about their engagement in prostitution. None of the immigration or police officers asked if they had been sexually harassed or if their rights had been infringed in any other ways.

2.12 On 7 April 2015, the authors received their deportation order. Once deported to the Philippines, they would lose the opportunity to engage legal proceedings against the perpetrators in the State party, which is essential for their rehabilitation. The authors filed an administrative claim with the Seoul Administrative Court on 12 May 2015 against their deportation order, which was rejected on 11 July 2017. Their appeal of 22 July 2017 before the Seoul High Court was dismissed on 4 July 2018. They brought the case to the Supreme Court on 18 July 2018, but their appeal was dismissed on 25 October 2018.

Complaint

3.1 The authors allege breaches of article 2 (d) of the Convention. They claim that the State party is responsible for law enforcement and immigration authorities' failure to effectively investigate gender-based violence, which constitutes gender-based discrimination. They claim that the police interrogated them as potential offenders of sex trafficking instead of offering them protection as victims of such. The authors further claim that such failure to properly coordinate and investigate resulted in their arbitrary prolonged detention of 40 days and a deportation order that infringed their "right to liberty and security of person" and "right to equal protection under the law". They also claim that while in detention the alleged perpetrators and their attorney were allowed to meet them in a closed space and pressured them to change their testimony, which resulted in further revictimization in violation of their rights under article 2 (d) and (e) of the Convention. They also claim that the deportation order and the detention order against them are unlawful and constitute a violation of article 2 (e) of the Convention, owing to the failure of the State party to fulfil its responsibilities to provide reparations for gender-based discrimination committed by non-State actors.

3.2 The authors also claim a violation of their rights under articles 2 (d) and (f) and 5 (a) of the Convention, owing to denial of access to justice and remedies due to gender bias and discrimination by the judiciary during the criminal proceedings and the administrative proceedings concerning their deportation, and owing to the refusal of immigration authorities to extend their permit to stay in the State party. They affirm that the court's denial that they were victims of forced prostitution and trafficking in persons discriminated against them as migrant women left without legal status in the State party.

3.3 The authors also claim a violation of articles 2 (c), (e) and (f), 3 and 15 (1) of the Convention due to the failure of the State party to ensure the victims' access to justice and remedies. They claim that the order of deportation restricts their access to justice by preventing them from participating in legal procedures in the State party, which is the country of destination in the trafficking in persons complaint. The authors claim that they should be afforded legitimate residency status to be able to continue administrative and civil litigation in the State party even after the criminal proceedings end.

3.4 The authors state that given the unlawfulness of the deportation order, the detention order issued to enforce the compulsory deportation order in this case is also unlawful and in violation of articles 2 and 15 of the Convention.

State party's observations on the merits

4.1 On 14 June 2019, the State party submitted its observations on the admissibility and merits.

4.2 Regarding the alleged violation of article 2 (d) of the Convention, namely gendered discrimination during the investigation, the State party submits that, firstly, the authors' statement that they underwent a two-night investigation at the detention centre in the police office is incorrect since, according to the police records, they were arrested around 12 a.m. on 3 March 2015 and released around 10 p.m. on the same day. Secondly, the authors were handcuffed in compliance with domestic legislation since the police saw signs of the potential violation of the Immigration Act, and such handcuffing was not related to the authors' gender. Testimony of the authors that the lawful measures taken by the police caused their psychological atrophy is insufficient to establish an act of discrimination against women.

4.3 Thirdly, the police officers questioned the authors about passport confiscation, forced prostitution, physical confinement and trafficking in persons in order to establish whether they were victims of such acts. Despite the absence during the interrogation of Mr. Baek, the club owner, and his wife, Ms. Kim, the authors rejected all these allegations in their testimonies. F.F.B., one of the authors, testified that she had left her passport with Mr. Baek when going to hospital with him and had not cared about retrieving it, so he had kept her passport but had never confined her, and stated that she had been able to choose whether to engage in prostitution. A.M.E., another author, stated that she had given her passport to Mr. Baek as it was important, that he had not confiscated it and that she had been able to move freely in and out of the club during her free time without any reports. A.L.P., another author, testified that she had kept her passport before giving it to Mr. Baek for passport renewal two weeks earlier and stated that she had been able to freely go out of the club during her free time. Another two women arrested along with the authors provided similar testimonies rejecting allegations of confinement and passport confiscation by Mr. Baek. The State party emphasizes that these testimonies complicated the situation for the investigators, despite all their attempts made with full attention on finding the accurate facts and identifying whether the authors were victims of trafficking in persons.

4.4 The State party states that police made all efforts to ensure the authors' access to justice without any discrimination by providing information to them during the investigation and creating an environment to testify calmly. A professional interpreter (a Filipino naturalized as a Korean citizen) was ensured to minimize the language barrier, a female investigator was engaged in the investigation and a female interpreter was invited during the second investigation. At the request of the authors, the investigators ensured a visit by a resident officer of the embassy of the Philippines. Before being detained at the police station, the authors were notified through interpretation of the suspicion, the grounds for arrest and the right to appoint an attorney-at-law and to apply a review on legality of arrest and affixed their signatures and seals on the confirmation. The facts hereof were sent to the authors' families. These investigative procedures are prescribed by domestic legislation and are equally applied to all nationals and foreigners irrespective of race, ethnicity, gender, sexual orientation or sexual identity.

4.5 Regarding the alleged violation of article 2 (d) and (e) of the Convention, namely gender-based discrimination at the detention centre, the State party submits that the deportation and detention orders were lawfully issued to the authors for violating the Immigration Act by leaving the workplace allowed for arts and entertainment visa (E-6-2) holders and for conducting economic activities not permitted under their residency status. Thus, these orders were separate from the

criminal punishment imposed for alleged prostitution based on the authors' testimonies and were not based on their argument of being victims of forced prostitution and raising an appeal.

4.6 The detention of the authors by the Seoul Immigration Office for 40 days was not arbitrary. The detention period was prolonged in accordance with the Immigration Act since the authors did not have enough money to afford flight for departure. The reasons for detention were explained to the authors, and access to justice by lifting their detention was provided after they raised an appeal, claimed to be victims of prostitution and requested the suspension of detention. The deportation and detention orders provided to the authors on 7 April 2015 specified in English the possibility to file an objection with the Minister of Justice, but the authors filed appeals claiming their victim status as late as 12 and 13 May 2015. The suspension of detention was granted immediately afterwards to protect their human rights, even though the question of whether the authors were victims of prostitution was still under investigation.

4.7 Regarding the visits to the authors kept in the detention centre by the alleged perpetrators, including the club owner, his wife, the promoter and their lawyer, on 13, 14 and 16 April 2015, the authors were informed about the possibility to reject the visit but did not use this right. Since the authors disclosed their allegations against the perpetrators only on 13 May 2015, the officers of the immigration detention centre were unaware of the relations between the authors and the alleged perpetrators at the time of the visits.

4.8 Regarding the alleged violation of articles 2 (d) and (f) and 5 (a) of the Convention, namely discrimination perpetrated by the judiciary, the State party submits that despite the authors' claims that the courts based their decisions on gender bias and stereotypes, decisions were based on the results of analysis of a variety of evidence, including the assessment of contradicting testimonies by the authors. During the first investigation, F.F.B. testified that she had engaged in prostitution voluntarily for economic benefits, while the other authors testified that they had never engaged in prostitution. However, during the second investigation in April 2015, the authors testified that they provided sexual services due to confinement and coercion. At the same time, according to the footage of the surveillance cameras, they were leaving the night club freely and coming back on a regular basis. F.F.B. was able to meet with her lover outside the workplace in the afternoons. The club owner bought mobile phones for A.L.P. and another woman working at the night club, which questions his intention to isolate them from the outside world, given that possession of a mobile phone provides the possibility to tell others outside of the workplace about the damage inflicted.

4.9 Thus, the courts based their rulings on the substantive reasons, including the testimony that implied "the voluntary engagement in prostitution based on their own choice", another testimony that the authors "voluntary stayed in the club for economic benefits", the fact that they were able to leave the workplace out of working hours and the possession of a mobile phone. The plain fact that the courts assessed the contradicting evidence secured by the investigators and issued rulings not in favour of the authors does not constitute an arbitrary interpretation based on gender bias. The authors also did not indicate which part of the investigation had traumatised them, and the State party emphasized that the investigation was conducted in accordance with legal procedures based on suspicion of prostitution.

4.10 Regarding the alleged violation of articles 2 (d) and (f) and 5 (a) of the Convention, namely discrimination perpetrated by the immigration authorities, and the alleged violation of articles 2 (c)–(f), 3 and 15 (1), namely unlawfulness of the deportation order and the detention order, the State party submits that the Head of the

Seoul Immigration Office immediately took necessary measures to help the authors to seek remedies as victims of trafficking in persons and prostitution. When the deportation and detention orders were issued on 7 April 2015, the cooperation referral sent by the Seoul Metropolitan Police Agency described the authors not as victims of prostitution, but as prostituted women. The authors submitted an appeal against the detention order on 13 May 2015, claimed forced prostitution and notified that they wanted to receive remedies as victims. In response to this, the Head of the Seoul Immigration Office lifted the detention from 20 May 2015, seven days from the date of submission, to help the authors seamlessly receive remedies and proceed with the suit from a humanitarian perspective.

4.11 After the detention order was lifted on 20 May 2015, A.L.P. and A.M.E. were caught for economic activities not permitted under their residency status on 8 November 2017 and 28 May 2018, respectively. Notwithstanding these events, the detention order was lifted in consideration of procedures for remedies including litigation. Since then, the whereabouts of all the authors have been unknown.

4.12 Regarding the change in policies for arts and entertainment visa (E-6-2) holders and victims of trafficking in persons, the State party submits that, following the recommendation of the National Human Rights Commission, active measures were taken in 2016 and 2017 by the Ministry of Justice to distribute and leverage the “indicators to identify and protect victims of human trafficking” among the district public prosecutor’s offices and affiliated organizations of the Immigration Service. As of 2019, these indicators have been actively used during investigation and enforcement against prostituted women to identify and protect victims of trafficking in persons, in particular when a foreigner with an arts and entertainment visa (E-6-2) that is especially prone to trafficking in persons argues damage.

4.13 The Ministry of Justice prepared a consultation and response manual for sexual violence against immigrant women in January 2019 and distributed it to the Immigration Contact Centre and local immigration offices for use. The Ministry also gave an order to its affiliated organizations to follow the content of the guidelines to prevent trafficking in persons, published by the National Human Rights Commission, with regard to the work for the people vulnerable to trafficking in persons, including foreign women, E-6-2 arts and performance visa holders, low-income women and teenage girls, and to do their best to prevent human rights violations and improve protection by identifying a person presumed to be a victim of trafficking in persons at an early stage.

4.14 Article 25-3 (Special Rules for Victims of Sexual Crimes) of the Immigration Act, which was introduced on 30 December 2014 and entered into force on 31 March 2015, allows stay in the State party and guarantees job-seeking activities of an alien when procedures are ongoing for remedying a violation of his/her right, including a trial in a court and an investigation by an investigative agency due to sexual crime. The authors requested an interim measure to grant legitimate residency status during the litigation period in their communication. Nonetheless, criminal litigation procedures are already finished, and the conviction for sexual harassment of the perpetrator is already concluded. Accordingly, the State party sees little barrier for the authors to take legal action such as filing a civil suit in the future even if they cannot stay in the country.

4.15 In the conclusion, the State party highlights its efforts to amend policies taken to prevent any similar cases from occurring again, emphasizes that the evidence-based decisions taken by the courts not in favour of the authors upon the assessment of conflicting evidence does not constitute violation of the State party’s obligations under the Convention and reiterates that the investigators and the immigration detention office took all the appropriate measures in the national circumstances to

help the authors to seek remedies, including providing interpretation services, granting an audience with an officer from their country's embassy in the Republic of Korea and lifting the detention order for seamless litigation.

Authors' comments on the State party's observations on the merits

5.1 The authors provided their comments to the State party observations on 19 August 2019.

5.2 Regarding the observations by the State party on gender-based discrimination during investigation and at the detention centre, the authors state that the meaning of the term "traffic in women" used in article 6 of the Convention is defined in article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The authors also emphasize that, under article 3 (b) of the Trafficking in Persons Protocol, the consent of a victim does not negate the crime of trafficking in persons as long as the means set forth in subparagraph (a) have been used.

5.3 The authors claim that they were recruited by deception and fraud and sexually exploited, including prostitution. The authors obtained E-6 entertainment and culture visas after auditioning and came to the Republic of Korea with the expectation to work as singers. The contract terms also specified that their work would be "performance". However, contrary to their expectations and contract terms, they were forced to serve drinks and provide sexual services to customers upon arrival in the Republic of Korea. Exploitation was then sustained by means of threat, use of force, use of coercion, use of deception and the abuse of a position of vulnerability. They were physically confined; their passports were confiscated by the owner; they were verbally and sometimes physically abused by the owner; and they were under the constant threat that failure to obey the owner's orders would result in their deportation and that reports to the police would be futile. Based on that, the authors conclude that they fall into the category of trafficking under the Trafficking in Persons Protocol and are entitled to enjoy their rights as the victims of trafficking in persons.

5.4 The authors recall that the Committee on the Elimination of Discrimination against Women expressed its concern on the trafficking of female migrant workers with an E-6 entertainment work visa in its concluding observations to the review of the Republic of Korea in 2011 ([CEDAW/C/KOR/CO/7](#), para. 22). Among the recommendations made, the State party was urged to "take measures to enhance its current initial screening procedure of entertainment companies who recruit foreign women and to establish an effective in situ monitoring mechanism of the establishments where women under an E-6 visa work to ensure that they are not being subjected to exploitation of prostitution" (*ibid.*, para. 23). In its concluding observations in 2018, the Committee also showed its concern to the State party that migrant women with E-6 visas become victims of trafficking and exploitation of prostitution and recommended to revise the visa system and strengthen the monitoring ([CEDAW/C/KOR/CO/8](#), paras. 24 and 25). The same concerns were expressed by the Committee on the Elimination of Racial Discrimination in its concluding observations in 2012 ([CERD/C/KOR/CO/15-16](#), para. 16). In its concluding observations in 2015, the Human Rights Committee also expressed its concern about E-6 visa holders being trapped into prostitution and the lack of a mechanism in the State party to identify the victims of trafficking and recommended to regulate the usage of E-6 visas and establish a mechanism to identify the victims ([CCPR/C/KOR/CO/4](#), paras. 40 and 41). The authors therefore conclude that their qualification as the victims of trafficking in persons is supported by the views of these three committees.

5.5 The authors submit that article 6 of the Convention does not list the measures to suppress all forms of trafficking in women in specific detail, therefore, it is

reasonable to rely on the Trafficking in Persons Protocol in this regard. Although the Protocol does not explicitly stipulate the obligation to identify the victims, it should be deemed to be implied since failure to identify and delays in identification cause permanent denial of victims' rights. The authors claim that without the obligation to identify, all other protection measures are impossible to guarantee and remain as fictitious rights that can never be realized.

5.6 The authors argue that this position is supported by the regional treaty, the Council of Europe Convention on Action against Trafficking in Human Beings. Article 10 of this treaty requires State parties to ensure the necessary legal framework and competent personnel for the identification of victims, as well as to cooperate with other State parties and victim support agencies in the process. The authors emphasize that this treaty shall be applied to any person who the competent authorities have "reasonable grounds to believe ... has been a victim of trafficking" even prior to formal identification, considering the complexities of victim identification.

5.7 The authors refer to the view of the European Court of Human Rights as well, according to which States have an obligation "to take operational measures to protect victims or potential victims of trafficking" in the circumstances when the state authorities knew or should have known that "an identified individual had been, or was at real and immediate risk of being, trafficked or exploited within the meaning of Article 3(a) of the Palermo Protocol".² Finally, the authors draw attention to the dissenting opinion where the particular members of the Committee expressed that the government has due diligence obligation to identify the victims of trafficking in persons and to inform them of their rights, even when the potential victim failed to notify the relevant authority by herself.³

5.8 The authors remind the Committee once again of the facts that should have raised concern with the authorities in the State party regarding the authors' victim status: holders of E-6 visas are frequent victims of trafficking in persons; their passports were kept by the club owner, the authors testified about sexual exploitation in the second investigation, the location of the club was near the army base of the United States of America where many E-6 visa holders were located, the fact that the authors ran away after the first arrest. Ignoring all these facts constitutes a failure to identify the authors as victims of trafficking, which in turn is discrimination against the authors based on gender. If the authors were correctly identified as victims, then they would have been neither arrested after being handcuffed nor subsequently detained despite the other applicable laws. Thus, the authors conclude that the State party violated article 6 of the Convention by failing to identify the authors as the victims of trafficking in persons and breached article 2 (d) and (e) as it discriminated against the authors by gender as a result of failure to identify.

5.9 The authors argue that the State party's allegation that the immigration authorities have taken necessary measures to help the authors seek remedies as victims of trafficking in persons is contrary to the facts of the case due to the following reasons. After February 2018, when the criminal proceedings against the perpetrators were finished, the immigration office refused to grant the humanitarian

² European Court of Human Rights, *Rantsev v. Cyprus and Russia*, App. No. 25965/04 (2010), para. 286. In this judgment, the Court found Cyprus in violation of its obligation under article 4 in regard to protective measures when the police authorities failed to identify a potential victim of trafficking, despite all the indicators presented to them to cause a credible suspicion of the victim's real and immediate risk of being trafficked or exploited. The authors emphasize the similarity of the facts in this case with their own case.

³ Dissenting Opinion, *Ms. Zhen Zhen Zheng v. the Netherlands* (CEDAW/C/42/D/15/2007). According to this dissenting opinion, the Dutch immigration service failed to identify the victim of slavery and prostitution during the asylum procedure, despite the clear signs of trafficking in her statements, and failed to inform her about the relevant rights.

status to the authors. As a result, they lost their right to stay and to work in Korea and had no financial support. To sustain their living, some of the authors worked illegally afterwards and were even caught by the immigration authorities. The detention orders were lifted only after their lawyer intervened by applying for temporal release. Moreover, the Seoul Administrative Court ruled⁴ that the deportation orders and the detention orders not be executed until the administrative case is finalized. Due to this, the authors are concerned that the immigration authorities now have legal basis to execute the deportation orders anytime at their discretion and contrary to their obligation under the Convention.

5.10 The authors believe that it amounts to preventing the victims from complaining against the perpetrators. Although the authors are formally allowed to continue legal proceedings in the Republic of Korea after leaving the country, in practice that would not be possible. Given that the administrative litigation to cancel the deportation order and the detention order was dismissed already, the only grounds on which to persuade the judges in the ongoing civil case seeking compensation for unlawful deportation and detention order are the testimonies of the victims. However, if the authors are deported, it would not be possible for them to stand in court to testify, which would also result in the dismissal of the case.

5.11 The authors submit that coercion in the context of trafficking in persons is broader than just forcing someone physically; the vulnerabilities of the victims and means of control used by perpetrators should also be analysed. The authors were in a vulnerable position since, firstly, they had to support their children or other family members in the Philippines suffering from poverty and, secondly, the authors are women who are vulnerable to sexual exploitation and violence. Thirdly, as migrants, they do not have close friends or family members to support them in difficult situations and are not familiar with the national legal system when trying to seek remedy in the Republic of Korea. The authors state that all these layers of vulnerability led them to engage in providing sexual services contrary to their will. The authors emphasize that the same tactics of coercion, threats and harassment would not have been effective if the authors were rich males of the country.

5.12 The authors also remind the Committee of the means of control adopted by the perpetrators, such as the juice quota system and unpaid wages, confiscation of passports, habitual sexual harassment, threats, physical harassment and role play to prepare for raids by immigration officers. Despite the testimony given by F.F.B., her engagement in prostitution was not her voluntary choice but rather an outcome resulting from her vulnerabilities and the club owner's consistent exercise of control over her. Thus, the courts failed to consider the vulnerabilities of the authors and the means to exercise control over them when determining whether there was coercion to engage in prostitution. Therefore, the courts did not guarantee access to justice and remedies, which means that the State party violated articles 2 (d) and (f) and 5 (a) of the Convention.

5.13 The authors also claim that courts allowed stereotyping and gender bias in their decisions. The authors brought the case against the State party to the Seoul Central District Court seeking compensation of 2.5 million won for damages caused by illegally detaining the authors for 45 days, as well as for allowing the special interview with the lawyer of the perpetrators. However, the Court reaffirmed its judgment based on stereotyping and gender bias and declined to award compensation to the authors. The Court grounded its judgment on the facts emphasized by the Prosecutor's Office, namely that the authors were able to leave the workplace freely and never told anyone outside the workplace about their sex services despite having mobile phones. The authors believe that the judge based the ruling on a stereotype

⁴ The judgment of the Seoul Central District Court was pronounced on 24 July 2019.

that victims should have asked for help using mobile phones and that they were not forcibly confined in absence of physical confinement.

5.14 The authors refer to the view of the Committee, in general recommendation No. 33 (2009) on women's access to justice, in which it indicates that stereotyping and gender bias in the justice system had far-reaching consequences on women's full enjoyment of their human rights and that they impeded women's access to justice in all areas of law and might particularly impact on women victims and survivors of violence (para. 26). When judges adopt "rigid standards about what they consider to be appropriate behaviour for women", those who do not confirm these stereotypes could be penalized. The authors are convinced that this happened in their case. Judges found no coercion since the authors neither reported their sexual exploitation using their mobile phones nor were physically confined at the workplace. The judgments also supported the legitimacy of the deportation and detention orders. Thus, the State party violated articles 2 (d) and (f) and 5 (a) of the Convention by hindering access to justice by allowing stereotyping and gender bias in the justice system.

5.15 In the conclusion, the authors reiterate that the State party failed to identify them as the victims of trafficking in persons and discriminated against them by gender during the investigation and at the detention centre. The State party also implicitly denied the authors' right to access to justice and remedies by rejecting their right to stay legally in the Republic of Korea. On 24 July 2019, the court again denied the authors' claim and upheld all the actions of the State party, although they constituted gender-based discrimination. This shows that stereotyping and gender bias are prevalent in the State party's justice system and that the court does not effectively consider the vulnerability of victims of gender-based discrimination. Thus, the State party failed to provide the authors with effective remedies and have violated the Convention. The authors have been seeking justice unsuccessfully from the State party for more than four years, struggling with financial difficulties due to the absence of the right to work or a stable right to stay. Other women continue arriving to the State party under the entertainment visas and become victims of trafficking in persons, despite the State party's allegation of adopting new policies.⁵ The authors believe that the recommendation from the Committee to the State party could bring effective changes in the policies and practice of its judiciary.

State party's additional observations on the merits

6.1 On 10 February 2020, the State party provided additional observations on the merits in reaction to the authors' comments. The State party explains that it has never violated the Convention nor infringed the authors' right to access remedies, as it granted residency status (G-1) to all the authors to continue their litigation on 6 November 2019.

6.2 Regarding the alleged gendered discrimination during the investigation and at the detention centre, the State party submits that it has not committed gendered discrimination against the authors. The characteristics of trafficking in persons are hard to identify, but the police questioned the authors in detail to establish the facts. During the first investigation, the authors denied passport seizure, physical confinement and forced prostitution. The footage from the surveillance camera showed that they were able to leave the workplace freely, and the lover of F.F.B. testified that her engagement in the provision of sexual services seemed to be voluntary. Both orders of deportation and detention were confirmed by the courts (up to the Supreme Court) as lawful.

⁵ United States of America, United States Department of State, *Trafficking in Persons Report: June 2019* (Washington D.C., 2019).

6.3 The testimony given by the authors hindered the investigators from identifying the authors as victims of trafficking in persons and even from understanding the facts, even though the investigators paid full attention during the investigative process. The investigators thought it was necessary to clarify the suspicion of prostitution based on various evidence, including the authors' statements, which they duly investigated under due process. Thus, the investigation was not conducted arbitrarily based on stereotypes or gender bias.

6.4 Regarding the alleged gendered discrimination perpetrated by the Seoul Immigration Office, the State party reminds the Committee once again of the applicable rules adopted recently providing an extension of the period of legal stay in the country for victims of sexual crimes to remedy an infringement, as well as postponing the execution or lifting of compulsory deportation and detention until the procedures to remedy an infringement are completed.⁶ The authors seamlessly received remedies from a humanitarian perspective since the Head of the Seoul Immigration Office lifted their detention on 20 May 2015, seven days after the authors submitted an appeal against the detention order.

6.5 When A.L.P. was caught for illegal employment, the Seoul Immigration Office lifted the detention order, given that the court case with respect to her as a victim of sexual violence was in progress. When the criminal proceedings finished in February 2018, it turned out that the authors had not applied to the Seoul Immigration Office for an extension of the period of stay and their whereabouts were not identified. As A.M.E. was caught for illegal employment, the Suwon Immigration Office lifted the detention order and granted miscellaneous (G-1) visa status on 30 May 2018, considering that the proceedings for remedies for victims of sexual violence were still in progress. Regarding F.F.B., since her whereabouts were unknown, the Seoul Immigration Office was not able to lift the detention order or take any relevant action. Even afterwards, the authors did not apply for an extension of their period of stay. They were staying unlawfully and were missing again. Immediately after their whereabouts were identified, the Head of the Seoul Immigration Office granted miscellaneous (G-1) visa status to all the authors on 6 November 2019 to help their proceedings for remedies in The State party. Thus, the argument that the State party refused to grant the authors residency status and infringed their right to access remedies as victims of trafficking in persons is incorrect.

6.6 Regarding the alleged discrimination perpetrated by the judiciary, the State party challenged the argument that the courts did not consider the authors' vulnerability and the means to control them when making the judgment as being incorrect. According to the content of the judgments related to this case issued by the Seoul Administrative Court, the Seoul High Court and the Seoul Central District Court, each court comprehensively and fully considered the status of the authors. The courts did not judge whether the prostitution was forced based on gender bias and stereotypes or only because the authors had mobile phones and were not physically confined. The courts reviewed various and objective evidence, including evidence submitted by the authors, in a comprehensive manner and then made judgments. It is unreasonable to assume that the courts failed to consider the authors' vulnerability and the means to control them and made judgments based on stereotypes and bias against women, just because the judgments were not favourable to the authors.

6.7 In conclusion, the State party reiterates that judgments were made based on various evidence, including the statement of the authors in this case, and that it took relevant measures. The State party also reminds the Committee that it recently granted the authors residency status (G-1) to facilitate the process of seeking remedies, right

⁶ See article 25 (3) of the Immigration Act and article 2 (1) of the Act on Special Cases concerning the Punishment of Sexual Crimes.

after their whereabouts were identified. The State party respectfully asks the Committee to reject or dismiss the authors' communication by fully considering and reviewing the stance of the State party additionally explained in its observations from a fair and objective perspective.

Further additional submissions by the parties

7.1 On 17 July 2022, the authors reiterated that they entered the State party with E-6-2 visas and that the club they worked at was near the United States army base. They argue that the investigating authorities should have identified them as typical victims of trafficking in persons but failed to do so, and that the authors were not ensured of residence to realize their rights to remedy, on the following grounds: the Seoul Immigration Office attempted to detain them in the course of remedy procedures; their release of detention order was not based on specific legal grounds but granted at the discretion of the person responsible; the authors were not granted an adequate residence permit since the G-1-3 visa (involved in a lawsuit) prohibits work, while the G-1-11 visa (victim of sex trafficking) permits work; and the judicial authority did not consider sufficiently and in a comprehensive manner their vulnerability status and made a decision involving gender-based bias and stereotypes, hindering their access to justice. Thus, the State party violated the authors' rights under the Convention.

7.2 On 14 October 2022, regarding the alleged discrimination during the investigation, the State party argued that in the initial interview with the authors on 3 March 2015, the police asked detailed questions about passport confiscation, sex trafficking and confinement to check the possibility of trafficking in persons. However, even though they were not with the club owner and his wife at the time of their statement, the authors stated that "their passports were not forcibly taken away, and they were able to go outside freely and choose whether to engage in commercial sex acts". F.F.B.'s lover stated that he was able to freely meet her in the afternoon and have sexual intercourse, and women working at the club seemed to voluntarily engage in commercial sex acts. F.F.B. testified that she did not like providing sexual services, but voluntarily returned to the club to make money. The authors made different statements from one another and their statements changed between the first and the second interviews. Such discrepancies and lack of consistency made it difficult to recognize them as victims of sex trafficking. The authorities carried out the investigation in accordance with legal procedures to clarify the charge of sex trafficking and made efforts to protect the rights of the authors by providing professional interpretation services during the investigation.

7.3 As to the alleged discrimination by the Seoul Immigration Office, the State party challenges the authors' arguments as untrue. When the immigration office decided to impose the deportation and detention order on 7 April 2015, the authors were described only as commercial sex workers in the inter-office memorandum received from the Seoul Metropolitan Police Agency. Nonetheless, as the authors argued that they were forced to engage in commercial sex in their statement of protest against the detention order dated 13 May 2015, the office lifted the order on 20 May 2015 for their seamless remedy. Temporary release from detention is made based on legal grounds including article 65 of the Immigration Act and the examination standards provided for in the Regulations on Affairs of Temporary Detention Release. The authors' argument that the decision on detention release is made not based on specific legal grounds but based on the discretion of the person responsible is not true.

7.4 The Seoul Immigration Office released the authors from detention for their remedy on 20 May 2015, but the Supreme Court dismissed the case on the revocation of the deportation and detention order filed by the authors in October 2018, and the above orders were finalized to be effective. The immigration office requested the

authors' attendance in August 2019 to enforce the detention procedures under the law.⁷ However, considering the civil suit filed by the authors as the victims of sex trafficking that was in progress, the Immigration Office granted them G-1-11 (victim of sex trafficking) visas with which they could work for their remedy in November 2019 and extended the status of residence until 31 January 2022. Therefore, the argument that the Immigration Office tried to detain the authors without considering that they were the victims of trafficking in persons and granted G-1-3 (involved in a lawsuit) visas that prohibit working is far from the truth. The State party took the best possible measures for proper and effective remedy by temporarily releasing them from detention and granting them residence status as victims of sex trafficking.⁸

7.5 Concerning alleged discrimination by the judiciary, the State party reiterates that the courts made their own decisions after comprehensive consideration of various grounds pertaining to the victims' situation. It is not reasonable to deem that the courts failed to consider the authors' vulnerability only on the basis that the decision is not favourable to them.

7.6 The State party regrets that the authors found their rights not fully guaranteed in the investigation, immigration and judicial procedures. The State party fully considered their situation during all proceedings and made all possible efforts to provide remedy to the authors. Thus, it may not be deemed that the State party violated the Convention by not taking appropriate measures against gender-based violence.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 In accordance with rule 64 of its rules of procedure, the Committee is to decide whether the communication is admissible under the Optional Protocol. In accordance with rule 72 (4), it must do so before considering the merits of the communication.

8.2 In accordance with article 4 (2) (a) of the Optional Protocol, the Committee is satisfied that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

8.3 In accordance with article 4 (1) of the Optional Protocol, the Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted, unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief. The Committee notes that the authors claim to have exhausted all domestic remedies and that the State party has not challenged the admissibility of the communication on those grounds. Therefore, the Committee concludes that it is not precluded from considering the authors' claims under article 4 (1) of the Optional Protocol.

8.4 In the Committee's view, the authors have not sufficiently substantiated their claims under article 3 of the Convention, and the Committee declares the claims inadmissible under article 4 (2) (c) of the Optional Protocol.

8.5 However, the Committee considers that the authors have sufficiently substantiated the remaining claims under articles 2 (c)–(f), 5 (a), 6 and 15 of the Convention, for the purposes of admissibility. It therefore declares them admissible and proceeds with its consideration of the merits.

⁷ After temporary release from detention, the authors did not make any applications to the immigration office for the extension of their residence status until September 2019.

⁸ The State party provides the details of the status of residence granted to the authors.

Consideration of the merits

9.1 The Committee has considered the present communication in the light of all the information made available to it by the authors and by the State party, in accordance with the provisions of article 7 (1) of the Optional Protocol.

9.2 The Committee notes the authors' argument about the failure of the State party to ensure that law enforcement, investigation, immigration and judicial authorities did not discriminate against them and its failure to provide reparations for gender-based discrimination committed by non-State actors. The Committee takes note of the authors' claim about the ineffective investigation of gender-based violence, which constitutes gender-based discrimination, as police arrested them twice and interrogated them as potential sex trafficking offenders instead of offering them protection as victims and the courts denied they were victims of forced prostitution and trafficking in persons based on gender stereotypes and bias. The Committee notes in particular the authors' assertion that the police investigation focused on their engagement in prostitution rather than on their vulnerabilities and the violations committed against them, while the courts emphasized the lack of complete physical confinement rather than analysing circumstantial evidence suggesting a highly coercive and threatening environment. In this regard, the Committee observes that the stereotypical views of the police and courts regarding the behaviour of trafficked victims prevented the identification of the authors as victims of trafficking for the purposes of sexual exploitation.

9.3. The Committee notes that the State party denies any omission in its due diligence obligations under the Convention and rejects all allegations about discrimination during the investigation, detention, immigration and judicial proceedings. The Committee also notes that the State party prosecuted the club owner, who was sentenced for sexual harassment against the authors.

9.4 The Committee recalls its general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, in which it indicates that States parties must pursue all appropriate means to eradicate trafficking and exploitation of prostitution to ensure that laws, systems, regulations and funding are in place to make the realization of that right effective, rather than illusory (para. 4). The Committee also recalls that State parties have positive obligation to identify victims of trafficking irrespective of the lack of self-identification by a victim (para. 38).

9.5 In addition, in its general recommendation No. 38, the Committee affirms that discrimination against women and girls includes gender-based violence, the prohibition of which has evolved into a principle of customary international law. Recognizing the gender-specific nature of the various forms of trafficking in women and girls and their consequences, including with regard to harms suffered, the Committee acknowledges that trafficking and exploitation of prostitution of women and girls is unequivocally a phenomenon rooted in structural, sex-based discrimination, constituting gender-based violence, and is often exacerbated in the context of displacement, migration and the increased globalization of economic activities (para. 10).

9.6 The Committee recalls its concerns about the situation of migrant women who enter the State party on E-6-2 visas granted to allow work in the entertainment industry, who often become victims of trafficking and exploitation of prostitution, are vulnerable to sexual harassment, sexual violence and other crimes and are deported unless they actively engage in legal proceedings against their perpetrators; the low rates of prosecution and conviction in cases of trafficking in women and girls, lenient sentences for perpetrators and the lack of disaggregated data on victims; the lack of a victim-centred approach to trafficking and exploitation of prostitution, given that

women engaging in prostitution without coercion are subjected to criminal punishment; and the lack of information on exit programmes for women who wish to leave prostitution ([CEDAW/C/KOR/CO/8](#), para. 24).

9.7 The Committee observes that States need to take steps to safeguard the legal rights and protective needs of trafficking victims regardless of their immigration status or willingness to cooperate with law enforcement officials. The Committee also observes that trafficked persons should have the right to temporary residence, including work permits, thereby serving the interests of both enabling trafficked persons to recover and rebuild their lives and enabling the effective prosecution of traffickers by encouraging victims to act as witnesses and to testify in criminal proceedings against traffickers. Instead, the authors were initially treated as criminals rather than victims of a crime. Moreover, the circumstance of their having been trafficked had not been investigated and prosecuted because of their initial confession to being engaged in prostitution and because of their perceived freedom of movement and possession of mobile phones. The coercive circumstances (such as passport confiscation, threats and physical violence against the authors by the club owner, and possession of E-6-2 visas) have not been taken into account. The same perception of their freedom of movement and possession of mobile phones resulted in the courts, including the immigration courts, not identifying them as victims of trafficking. The Committee observes that fear of prosecution for the crime of prostitution, imminent deportation and possible retaliation against members of their families, as well as coercion and violence against the authors themselves, exacerbated their marginal and vulnerable situations.

9.8 In the present case, the Committee notes that the authors claim that they have been recruited by deception and fraud and were sexually exploited, including prostitution, as they obtained E-6-2 entertainment and culture visas after auditioning with the expectation to work as singers. The Committee also notes that exploitation was sustained by means of threat, use of force, coercion, deception and abuse of a position of vulnerability; the authors' passports were confiscated; they were verbally, physically and sexually abused by the owner; and they were under constant threat that failure to obey to the owner's orders would result in their deportation and that reports to police would be futile. The Committee takes note of the facts that should have raised concern with the State party's authorities regarding the authors' victim status (holders of E-6-2 visas are frequent victims of trafficking in persons, passports kept by the club owner, sexual exploitation testified by the authors within the second investigation, the location of the club near the United States army base where many E-6-2 visa holders were located, the fact that the authors ran away after the first arrest) and finds that ignoring these facts constitutes a failure to identify the authors as victims of trafficking, which in its turn is discrimination against them based on gender.

9.9 The Committee notes the authors' claim that they were not treated with equality before the law or provided an effective remedy for the breaches of their rights. In this regard, the Committee also notes the authors' assertion that their rights were violated under articles 2 (c)–(f), 3 and 15 (1) of the Convention due to the failure of the State party to ensure their access to justice and remedies. The Committee takes note that, according to the authors, the order of deportation restricts their access to justice, as it prevents them from participating in legal procedures in the State party. It notes the assertion that the courts failed to consider their vulnerabilities and means to exercise control over them when determining whether there was coercion in engaging in prostitution. The Committee recalls that the obligation of States parties under article 2 (e) of the Convention to eliminate discrimination by any public or private actor includes the obligation to ensure that women are able to make complaints about violations of their rights under the Convention and have access to effective remedies,

as indicated in its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (para. 36). The Committee also recalls its general recommendation No. 33, in which it indicates that article 15 of the Convention provides that women and men must have equality before the law and benefit from equal protection of the law (para. 6). The secondary victimization of women by the criminal justice system has an impact on their access to justice, owing to their heightened vulnerability to mental and physical abuse and threats during arrest, questioning and detention. The Committee highlights that women are also disproportionately criminalized owing to their situation or status, such as being involved in prostitution, being a migrant, having undergone an abortion or belonging to other groups that face discrimination (CEDAW/C/GC/33, paras. 48 and 49). In that respect, the Committee notes the visits by the perpetrators and their counsel to the authors while they were in detention.

9.10 The Committee notes the authors' claim that the judiciary institutions of the State party discriminated against them because of their position as foreign migrant women with E-6-2 visas. The Committee also notes that the authors were arrested twice, detained and a deportation order against them was issued and upheld. The Committee further notes the authors' claim that the State party could grant them legitimate residency status to allow them to remain in the country of destination during the litigation period to permit reparatory justice beyond the completion of criminal litigation procedures. The Committee observes that States Parties shall take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women. It takes note that no investigation, prosecution nor conviction occurred concerning the alleged trafficking of the authors, which led to their sexual exploitation. It notes that the root causes of the phenomenon are in structural sex-based discrimination, constituting gender-based violence and often exacerbated in the contexts of displacement, migration and the increased globalization of economic activities. The Committee concludes that the State party did not guarantee the authors' access to justice and adequate remedies and that, therefore, the State party violated the authors' rights under articles 2 (c), (d) and (f), 5 (a), 6 and 15 (1) of the Convention.

10. In accordance with article 7 (3) of the Optional Protocol and taking into account all of the foregoing, the Committee concludes that the authors were subjected to gender-based discrimination by both non-State and State actors and, therefore, finds that the State party has breached the authors' rights under articles 2 (c)–(f), 5 (a), 6 and 15 (1) of the Convention.

11. The Committee makes the following recommendations to the State party:

(a) Concerning the authors:

(i) Provide full reparation, including adequate compensation, to the authors, commensurate with the gravity and the ongoing consequences of the violations of their rights;

(b) In general:

(i) With regard to the identification of victims, address the adverse collateral effects of anti-trafficking efforts by ensuring that innocent women and girls, in particular women belonging to marginalized groups and women in prostitution, are not arbitrarily arrested, abused or falsely charged, including through any raids conducted by law enforcement authorities with a view to dismantling trafficking networks;

(ii) Revise the current E-6-2 visa regime and strengthen the monitoring of entertainment companies that recruit foreign women, including through in situ

visits to establishments where women are working under that regime, and take measures to ensure that the relevant G-1 visa regime is applied to all female victims of trafficking, regardless of their willingness or ability to cooperate with the prosecutorial authorities;

(iii) Enact a comprehensive law on trafficking in persons that fully complies with the standards under the Trafficking in Persons Protocol of support for and protection of victims of trafficking, including migrant women and girls who require special protection and assistance on issues such as residence, stay and returning to their home countries;

(iv) Investigate and successfully prosecute perpetrators of trafficking in persons for sexual exploitation;

(v) Adopt an approach centred on victims and human rights in efforts towards combating the trafficking and exploitation of prostitution with regard to women and girls and continue to provide training to law enforcement, immigration and other officials as well as to judges and prosecutors;

(vi) Implement and strengthen awareness-raising, educational, social and cultural measures aimed at societal behaviour change;

(vii) Discourage the demand that fosters exploitation of prostitution and leads to trafficking in persons, in particular women and girls, and pursue all appropriate means, involving diplomatic services, entertainment agencies and other businesses, to eradicate trafficking and exploitation of prostitution to ensure that laws, systems, regulations and funding are in place to make this right effective.

12. In accordance with article 7 (4) of the Optional Protocol, the State party shall give due consideration to the views of the Committee, together with its recommendations, and submit to the Committee, within six months, a written response, including information on any action taken in the light of those views and recommendations. The State party is requested to have the Committee's views and recommendations translated into the official language of the State party, to publish them and to have them widely disseminated, in order to reach all sectors of society.