

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



# ENHANCING CO-OPERATION TO PREVENT TRAFFICKING IN HUMAN BEINGS IN THE MEDITERRANEAN REGION

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Office of the Special Representative and Co-ordinator  
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# ENHANCING CO-OPERATION TO PREVENT TRAFFICKING IN HUMAN BEINGS IN THE MEDITERRANEAN REGION



## Foreword

The work of my Office with the Mediterranean Partners for Co-operation in the field of combating trafficking in human beings gained new impetus in 2013, in line with the Vilnius Ministerial Council's 2011 *Declaration on Combating All Forms of Human Trafficking*<sup>1</sup>.

Thanks to generous contributions from the Italian Republic and the Grand Duchy of Luxembourg, the international Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region was held in Rome on 8 February 2013. This high-level Seminar served as a starting point for the process of exchanging experiences on the phenomenon of human trafficking in the Mediterranean region that has been sustained throughout the year.

Indeed, discussions at the Seminar provided the basis for further reflection and dialogue. Specific attention was devoted to the prevention of trafficking for labour exploitation, leading to the selection of this topic as the focus of a session at the annual OSCE Mediterranean Conference<sup>2</sup> in Monaco, on 29 October 2013: "The social and economic impact of trafficking and labour exploitation, with a specific focus on the role of the business sector".

The Mediterranean Contact Group provided a privileged forum for discussion, together with two consultation meetings with experts and practitioners from both participating States and Mediterranean Partners for Co-operation (hereinafter referred to as "Mediterranean Partners") that were organized in Vienna on 10 May and 7 October 2013, thanks to the continuous support of Italy, the Principality of Monaco and the Swiss Confederation.

In the spirit of the "action-oriented and results-based" approach promoted by the Vilnius Ministerial Council Decision, I am happy to present the outcomes of this enhanced dialogue with the Mediterranean Partners for the prevention of human trafficking for labour exploitation in the Mediterranean region.

In this respect, my Office's work with the Mediterranean Partners was built on the strategy pursued over the last few years for the prevention and fight against human trafficking aimed at addressing the whole chain of exploitation. The enhancement of workers' rights – regardless of their immigration status – represents one of the critical factors that can help create an environment that is hostile to, and able to react against, any form of exploitation and mistreatment. It is clearer today than ever before that human trafficking is structurally linked to the finance-driven globalization, that, together with undeniable human progress, has also contributed to a constant erosion of labour rights and labour market regulations, providing a fertile ground in which labour exploitation can flourish.

This is also reflected in the Mediterranean region, where the complexities of human mobility are exacerbated by the progressive tightening of migration policies that, *inter alia*, contribute to the boosting of labour exploitation practices that affect not only undocumented migrants but also persons seeking international protection, or those who have already been recognized as refugees. And this is particularly relevant in some at-risk sectors that are more prone to abuses – i.e., construction, agriculture, commercial fishing and domestic work.

I am confident that enhanced co-operation between participating States and the Mediterranean Partners to better protect the rights of workers will contribute to ensure economic stability, social cohesion, democracy, the rule of law and, ultimately, security: a common goal for the OSCE and its Partners for Co-operation as well as a continuous engagement of my Office.

A handwritten signature in blue ink, reading "M. Giammarinaro".

Maria Grazia Giammarinaro  
OSCE Special Representative and Co-ordinator  
for Combating Trafficking in Human Beings

1 OSCE Ministerial Council, *Declaration on Combating All Forms of Human Trafficking*, MC.DOC/1/11/Corr.1 (7 December 2011), <<http://www.osce.org/mc/86373>>, accessed 19 September 2013.  
2 For more information on this conference, see <<http://www.osce.org/ec/103342>>, accessed 2 October 2013.

# Acknowledgements

I wish to express my thanks to the Ukrainian OSCE Chairmanship and to the Swiss Chair of the Mediterranean Contact Group, as well as to the Mediterranean Partners for Co-operation and all participating States for their support and direct involvement in the activities described in this Report. I am particularly grateful to the delegations of the Mediterranean Partners for Co-operation for making the Mediterranean Contact Group a lively forum for discussion and mutual growth. In this respect, my gratitude goes also to my colleagues in the OSCE's Section for External Co-operation for their constant support and direct engagement.

I would also like to extend my sincere thanks and appreciation to Secretary General Lamberto Zannier, the OSCE Secretariat structures and the ODIHR for their active participation and contributions to the activities reported in this document. I also wish to thank the international organizations, NGOs, practitioners and experts that shared their knowledge and experience to increase common responses to prevent and combat trafficking in human beings in the Mediterranean region.

My warmest thanks go to each and every colleague in my talented Office, who have worked with dedication to support our work with the Mediterranean Partners for Co-operation and the elaboration of this Report, in particular Astrid Ganterer and Teresa Albano, together with the substantial contribution of consultants Isabella Orfano and Paola Monzini. Special thanks also go to Claire Jessel and Alfred Kueppers for editing and proofreading this Report.

Last but not least, I wish to extend my gratitude to those donors that supported the work of the Office with the Mediterranean Partners for Co-operation through their generous extra-budgetary contributions: the Italian Republic, the Grand Duchy of Luxembourg, the Principality of Monaco and the Swiss Confederation.

Maria Grazia Giammarinaro  
OSCE Special Representative and Co-ordinator  
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# List of Acronyms

<b>AHRI</b>	The Association of Human Rights Institutes
<b>AML</b>	Anti-Money Laundering
<b>CAMM</b>	Common Agenda on Migration and Mobility
<b>CEPOL</b>	European Police College
<b>CGIL</b>	Confederazione Generale Italiana del Lavoro
<b>COST</b>	European Cooperation in Science and Technology
<b>CSCE</b>	Commission on Security and Co-operation in Europe
<b>EHTN</b>	End Human Trafficking Now
<b>ENAR</b>	European Network against Racism
<b>ENP</b>	European Neighbourhood Policy
<b>EP</b>	European Parliament
<b>EU</b>	European Union
<b>EUROPOL</b>	European Police Office
<b>EWL</b>	European Women's Lobby
<b>FATF</b>	Financial Action Task Force on Money Laundering
<b>FGA</b>	Fédération Générale de l'Agriculture
<b>FIU</b>	Financial Investigation Units
<b>FLAI</b>	Federazione Lavoratori AgroIndustria
<b>FRA</b>	European Union Agency for Fundamental Rights
<b>Frontex</b>	Frontieres Exterieures – European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
<b>GAMM</b>	Global Approach to Migration and Mobility
<b>HRW</b>	Human Rights Watch
<b>ILO</b>	International Labour Organization
<b>INTERPOL</b>	International Criminal Police Organization
<b>IO</b>	International Organization
<b>IOM</b>	International Organization for Migration
<b>JIT</b>	Joint Investigation Team
<b>LEA</b>	Law Enforcement Agency
<b>MC.DEC</b>	Ministerial Council Decision
<b>MEP</b>	Members of the European Parliament
<b>ML</b>	Money Laundering
<b>MP</b>	Mobility Partnership
<b>MPC</b>	Mediterranean Partner for Co-operation
<b>NGO</b>	Non-Governmental Organization
<b>NI</b>	National Insurance
<b>NRM</b>	National Referral Mechanism
<b>OCEEA</b>	Office of Economic and Environmental Activities
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OFII</b>	Office Français de l'Immigration et de l'Intégration
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>OSR/CTHB</b>	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
<b>PICUM</b>	Platform for International Cooperation on Undocumented Migrants
<b>THB</b>	Trafficking in Human Beings
<b>TNTD/SPMU</b>	OSCE Transnational Threats Department/Strategic Police Matters Unit
<b>UDM</b>	Undocumented Migrants
<b>UGTT</b>	Union Générale Tunisienne du Travail
<b>UN</b>	United Nations
<b>UN.GIFT</b>	United Nations Global Initiative to Fight Human Trafficking
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNHRC</b>	United Nations Human Rights Council
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VAT</b>	Value Added Tax



# Introduction

The OSCE's long-standing relationship with the Mediterranean Partners for Co-operation (MPCs) dates back to the origins of the Conference on Security and Co-operation in Europe (CSCE). Already in the Helsinki Final Act, participating States affirmed their conviction that *"security in Europe is to be considered in the broader context of world security and is closely linked with security in the Mediterranean area as a whole, and that accordingly the process of improving security should not be confined to Europe but should extend to other parts of the world, and in particular to the Mediterranean area"*<sup>3</sup>.

Participating States also declared their intention to *"further improve their relations with the non-participating Mediterranean States"*<sup>4</sup>, as they were referred to at the time, as well as to foster co-operation especially in the economic and environmental fields and to amplify their dialogue *"to include all States of the Mediterranean, with the purpose of contributing to peace and strengthening security"*<sup>5</sup>. Over the years, the OSCE has developed special relations with six Mediterranean Partners for Co-operation: Algeria, Egypt, Israel, Jordan<sup>6</sup>, Morocco and Tunisia. The OSCE's relations with its Partners are based on a wide and consolidated framework for dialogue and co-operation: the degree of their involvement in OSCE activities has steadily increased, gradually allowing for a continuous interaction and a nearly full inclusion with the OSCE's work.

MPCs participate as observers in the OSCE Ministerial Council and in the Permanent Council Meetings and Forum for Security Co-operation meetings. They also actively participate in the OSCE annual events, such as the Annual Security Review Conference, the Economic and Environmental Forum,

the Human Dimension Implementation Meeting, the Annual Implementation Assessment Meeting, and Winter Sessions of the OSCE Parliamentary Assembly.<sup>7</sup> Furthermore, the Parliamentary Assembly organizes a yearly Parliamentary Forum on the Mediterranean.<sup>8</sup> While the day to day dialogue is maintained through technical meetings at the level of contact points, the main forums for regular dialogue with the Partners are the Contact Group meetings, held at the Ambassadorial level, established following the 1994 Budapest Summit Decision as an informal group within the framework of the PC *"to facilitate the interchange of information and the generation of ideas"*<sup>9</sup>. The highlight of the dialogue and co-operation with the Partners is represented by the regular Mediterranean Conference organized every year which provides the opportunity to exchange views and contributes to further developments in the relationship between the OSCE and the MPCs.

In line with *"this spirit of open dialogue, shared responsibility and a vision for a better future"*<sup>10</sup>, trafficking in human beings has been identified as one of the areas for possible OSCE engagement with the MPCs, coherent with the goals of the OSCE Ministerial Council Decision No. 5/11 on Partners for Co-operation<sup>11</sup>, as well as the Ministerial Declaration on Combating All Forms of Human Trafficking<sup>12</sup> - adopted at the 18<sup>th</sup> Ministerial Council in Vilnius in 2011.

Since 2000, the OSCE has been strongly engaged in the prevention and fight against human trafficking and in the protection of rights of trafficked persons through the adoption of numerous political commitments and an Action Plan<sup>13</sup>. Given that the fight against human trafficking is a cross-dimensional topic

3 See, Conference on Security and Co-operation in Europe, *Final Act* (Helsinki, 1975), <<http://www.osce.org/mc/39501?download=true>>, accessed 2 October 2013.

4 OSCE Permanent Council, *Decision No. 94*, PC.DEC/94 (1995), <<http://www.osce.org/pc/20366>>, accessed 19 September 2013: this decision introduced the terms "partners for co-operation" for Japan and the Republic of Korea and "Mediterranean partners for co-operation".

5 Ibid.

6 Jordan became an OSCE Mediterranean Partner for Co-operation in 1998.

7 OSCE Ministerial Council, *Ministerial Declaration on the OSCE Partners for Co-operation*, MC.DOC/1/07 (Madrid, 2007): In 2007, with the Madrid Ministerial Declaration on the OSCE Partners for Co-operation, participating States expressed further support for *"the efforts of the Partners for Co-operation to promote the OSCE's norms, principles and commitments in their regions"* and encouraged them to *"take further steps towards their voluntary implementation"*, also calling on the Partners *"to report on their implementation in appropriate OSCE meetings"*.

8 See <<http://www.osce.org/ec/43245>>, accessed 24 September 2013, for more information.

9 OSCE Summit, *Budapest Document 1994: Towards a Genuine Partnership in a New Era* (Budapest, 5-6 December 1994), <<http://www.osce.org/mc/39554?download=true>>, accessed 2 October 2013.

10 Opening Remarks by L. Zannier at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99741>>, accessed 1 October 2013.

11 OSCE Ministerial Council, *Decision No. 5/11 Partners for Co-Operation*, MC.DEC 5/11 (Vilnius, 2011).

12 OSCE Ministerial Council, *Declaration on Combating All Forms of Human Trafficking*, MC.DOC/1/11/Corr.1 (7 December 2011), <<http://www.osce.org/mc/86373>>, accessed 19 September 2013.

13 OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).



requiring an inter-sectorial and multidisciplinary approach, the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) was created with the aim to mainstream human trafficking and co-ordinate anti-trafficking efforts within the OSCE internal structures and institutions – and in particular with the Office for Democratic Institutions and Human Rights (ODIHR), the Office of Economic and Environmental Activities (OCEEA), the Transnational Threats Department/Strategic Police Matters Unit (SPMU), the Gender Issues Section and the field missions – and provide assistance to participating States, as well as a plethora of external partners – international organizations and NGOs, trade unions, employers’ associations, and other civil society institutions, in promoting appropriate responses to the trafficking phenomenon.

In its work of research and analysis, the OSR/CTHB has identified some critical challenges to address when dealing with human trafficking, as well as specific trends and features of the phenomenon. In this respect, although trafficking also occurs within the borders of one country, in the Mediterranean region it is mostly linked with vulnerabilities related to migration processes. It is worth noting that migration has played a significant role in the cultural, social and economic growth of the countries on both rims of the Mediterranean Sea. Since the 1960s, a significant portion of North African migrants moving to Europe has originated particularly from Morocco, Algeria and Tunisia. At the turn of the 21<sup>st</sup> century, at least 2.6 million Moroccans, 1.2 Algerians and 700,000 Tunisians - including second generation – are estimated to live in Europe. This long-standing tradition of migration from the Southern rim of the Mediterranean region to Europe has traditionally targeted Belgium, France, Germany and the Netherlands and more recently Italy and Spain<sup>14</sup>.

However, the progressive tightening of migration policies in the Northern rim of the Mediterranean, as well as the political instability in the Southern rim, particularly in the aftermath of the so-called “Arab Spring”, have fuelled the migration scenario in the region by increasing irregular flows of persons, especially from Tunisia and Egypt, in search for better living and working opportunities as well as international protection in the EU, mainly in/through Italy, Spain and Greece.

## Frontex: in August 2013, 7,500 arrivals on Sicilian and Maltese coasts

Wars increase pressure of refugees on Europe’s borders according to Frontex’s data. Since the beginning of 2013, the total flow of persons arriving by sea is 20,000 people, an increase of 180 per cent compared to 2012. Among the migrants, 1,300 are of Syrian nationality.

Source: Unofficial translation from Redattore sociale, 30 August 2013, <<http://www.redattoresociale.it/>>.

## Mediterranean crossings to Italy and Malta exceed 8,000 in first six months of 2013

UNHCR estimates that approximately 8,400 migrants and asylum-seekers landed on the coasts of Italy and Malta in the first six months of 2013. The majority arrived in Italy (7,800), while Malta received around 600 migrants and asylum-seekers. Those making this journey mostly departed from North Africa, principally Libya (around 6,700 people). The remaining 1,700 crossed from Greece and Turkey, landing in southern Italy’s Apulia and Calabria regions. Countries in Sub-Saharan Africa are the main places of origin of these migrants and asylum-seekers, particularly Somalia and Eritrea. Other countries of origin include Egypt, Pakistan and Syria. Nationals of Gambia, Mali and Afghanistan also make these crossings, but in smaller numbers. The Mediterranean is one of the busiest seaways in the world, as well as a dangerous sea frontier for migrants and asylum seekers en route to southern Europe. In view of the perils UNHCR again calls on all vessels at sea to be on alert for migrants and refugees in need of rescue. For 2012 as a whole, some 15,000 migrants and asylum-seekers reached Italy and Malta (13,200 and 1,800 respectively) by sea. The number arriving in the first six months of 2012 was 4,500 (3,500 in Italy and 1,000 in Malta).

Source: UNHCR website:  
<<http://www.unhcr.org/51d6a0859.html>>, accessed 3 October 2013.

<sup>14</sup> H. De Haas, *The myth of invasion: Irregular migration from West Africa to the Maghreb and the European Union* (International Migration Institute, University of Oxford, 2007).

While issues relating to mixed migration flows in the Mediterranean Region have usually been considered in the framework of smuggling of migrants, recent research and investigations demonstrate that a strong linkage exists between migration processes and subsequent exploitation, both in intraregional migration flows as well as towards the Northern rim of the Mediterranean. The stories of the victims provide evidence that migrants - men, women and children - including those entitled to international protection, find themselves in a situation of serious social and economic vulnerability, and often end up being obliged to work in extreme exploitative conditions, particularly in some sectors that are more prone to labour exploitation, such as agriculture, construction and domestic work.

### Mixed Migration Flows:

“A movement in which a number of persons are travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons. Persons travelling as part of mixed movements have varying needs and profiles and may include asylum-seekers, refugees, trafficked persons, unaccompanied/separated children, and migrants in an irregular situation.” Also referred to as mixed movements or mixed migration.

Source: UNHCR, *Refugee Protection and Mixed Migration: the 10-Point Plan in Action* (Geneva, 2011), p. 291.

The increasing complexity of migration flows in the region makes it difficult to draw a clear line between smuggling, trafficking and movements of persons fleeing political instability and persecutions, thus requiring a more comprehensive approach and a better understanding of the dynamics of human mobility and migrant labour in the region.

The Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region organized by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, offered a unique opportunity for an in-depth dialogue on the complexities of human trafficking in the region. Hosted in Rome by the Italian Chamber of Deputies on 8 February 2013, the Seminar was attended by representatives of 22 OSCE participating States, six Mediterranean Partners and one Asian Partner for Co-operation, as well as civil society representatives from the OSCE region, North Africa, and the Middle East.

This report presents the key issues and challenges drawn from the interventions and discussions of key players at the event.<sup>15</sup> Indeed, the Seminar helped in identifying priority areas for possible enhanced co-operation between participating States and the Mediterranean Partners for Co-operation “to address the multiple challenges of a strategy aimed at eradicating modern slavery”<sup>16</sup> in the Mediterranean Region.

Enrico Perai/Camera dei Deputati



**Chamber of Deputies**  
Rome, Italy, 8 February, 2013

<sup>15</sup> See Annex no. 1: Background documents from the Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013. For further information on specific interventions of speakers, please consult: <<http://www.osce.org/cthb/98654>> accessed 2 October 2013.

<sup>16</sup> Opening Remarks by M.G. Giammarinaro at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 2 October 2013.

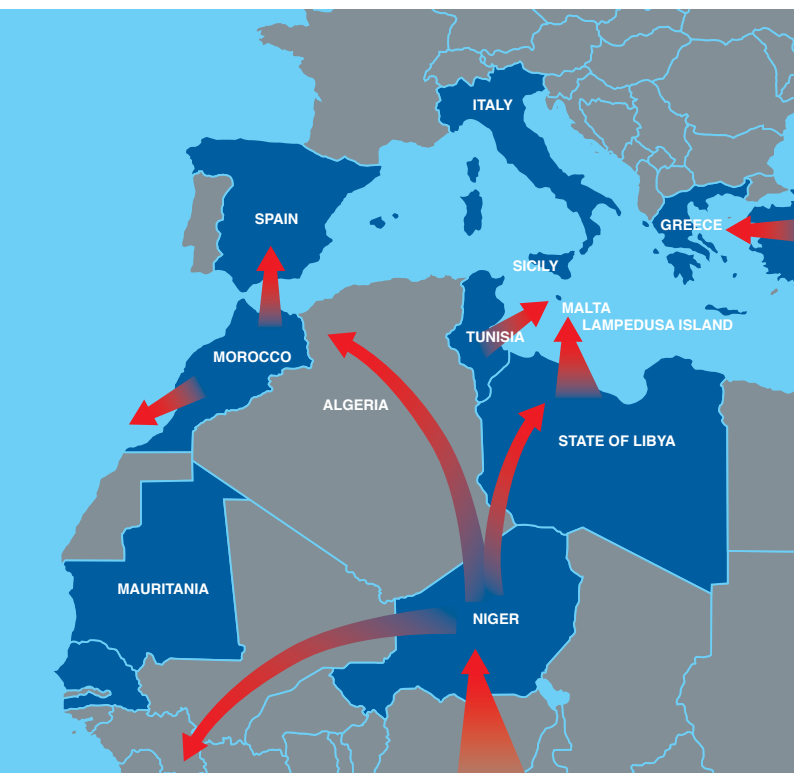
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Illustration: Viaggio (2004), Tempera on brick 10x10 cm, by Adriano Parracciani

CHAPTER

# TRENDS AND FEATURES OF HUMAN TRAFFICKING IN THE MEDITERRANEAN REGION



## Mixed Migration into Europe

Taking their chances on fishing boats, dinghies and canoes, every year thousands of men, women and children drown in a desperate bid to reach Europe from Africa. They cross from West Africa to the Spanish Canary Islands; from Morocco to southern Spain; from Libya to Malta and the Italian islands of Sicily and Lampedusa; and from Turkey to the islands of Greece. Many more enter the European Union by land, via Turkey and the Balkans or from Ukraine and Belarus.

Source: UNHCR website, <<http://www.unhcr.org/pages/4a1d569d6.html>>, accessed 2 October 2013.

Trafficking in human beings is a growing global phenomenon which has now reached a massive dimension. According to International Labour Organization (ILO) estimates from 2012, 20.9 million people are victims of forced labour globally, out of which over three million are exploited within the OSCE region: 68 per cent of the victims are exploited in the private economy and 22 per cent are victims of forced sexual exploitation.

Trafficking is a serious and unacceptable violation of fundamental human rights, and a threat to the security and stability of democracies and societies. Nowadays, trafficking in human beings is one of the most prolific and dangerous forms of transnational organized crime; it is an extremely lucrative and almost risk-free criminal business, given the high rate of impunity enjoyed by perpetrators. Traffickers exploit men, women and children for many different purposes, ranging from sexual and labour exploitation to forced begging and forced criminality, as well as organ removal.

Researchers and analysts have shown how human trafficking is linked to the paradoxes created by globalization driven by financial interests: the liberalization of international markets combined with the delocalization of the production chain has not been matched by a liberalization of the mobility of persons, and particularly of the labour force. Goods and financial assets move freely across borders, at increasingly lower costs, along swift and secure channels, but would-be migrants face ever greater difficulties in both leaving their countries of origin and entering countries of destination, and in obtaining the proper documentation requested for moving, such as passports, exit and entry visas, and authorizations to stay and work.<sup>17</sup>

Human trafficking in the Mediterranean region reflects the complexities of the phenomenon at the global level, with ever-changing social, political and economic vulnerabilities that evolve into a range of migration patterns – internal, intraregional and international - affecting all countries on both sides of the Mediterranean as places of origin, transit, and destination.

<sup>17</sup> To deepen the topic of globalization and its consequences, see: T. Albano, S. Volpicelli, "Missing development: the consequences of the failure of the migratory project on individuals and societies", in *Migration and development: a new relation* (Nuova Cultura, 2011).

Indeed, many factors contribute to the increasing vulnerability of persons on the move to exploitative practices in the region. The progressive tightening of migration policies in all countries in the region, and particularly on the northern rim, has resulted in an increasing portion of would-be migrants looking for alternative means to overcome the restrictions imposed by States.

The competitive and cost pressures that globalization has put on many business sectors – particularly those that cannot decentralize, taking advantage of more favourable labour market regulations – have had an adverse impact on employment conditions. Even in countries with generous labour protection, a “two-tier labour market” has emerged due to countless “atypical” forms of employment, particularly seasonal and temporary, in which there can be endless chains of sub-contractors.<sup>18</sup> The impact of the financial crisis has, *de facto*, increased the demand for inexpensive labour, particularly in some sectors that are more prone to labour exploitation, such as agriculture, construction, commercial fishing and domestic work.

At the same time, political instability in the aftermath of the so-called “Arab Spring”, combined with ongoing complex emergencies in the Middle East as well as Sub-Saharan Africa and the Horn of Africa, makes the Mediterranean region an area particularly affected by flows of migrants, including those entitled to international protection.

### Migrants dispersed at sea: Spain, Greece and Italy

	2007	2008	2009	2010	2011	Total
Spain	360	120	127	74	n.c.	681
Greece	159	n.c.	83	41	51	334
Italy	471	525	329	8	1,500	2,833
Total/year					1,551	3,848

Source: UNHCR, <<http://www.unhcr.org/pages/4a1d406060.html>>, accessed 3 October 2013.

Criminal organizations have understood the potential of the market for transportation services and job placement for mobile populations and are ready to supply a service where State laws are inadequate. The result is that currently a large portion of international migration takes place outside the law and in the absence of legal safeguards. Among the total number of migrants, there are approximately 30 to 40 million irregular migrants worldwide, comprising 15 to 20 per cent of the world's immigrant stock.<sup>19</sup>

In a situation of irregularity or *de facto* vulnerability, in the hands of criminal networks, people become a new commodity that can be easily blackmailed and subjected to exploitation, particularly in the labour market.

In this respect, mixed migration flows in the Mediterranean region have usually been taken into consideration in the framework of migrant smuggling. However, recent research and investigations demonstrate that a strong linkage exists between migration processes and subsequent exploitation taking place in European countries.

Undocumented migrants are particularly at risk, as they are virtually invisible, or are even criminalized, as in the case of many countries which have introduced into their penal legislations the crimes of irregular border crossing and residence in the destination country. Because of their irregular status, threats are made to report them to the authorities for forced removal to the country of origin, and they are increasingly subjugated via debt bondage, with the financial obligation growing in an arbitrary and exponential way that is impossible to wipe out, ending in a state of “multiple dependency” that entails both physical and psychological subjugation.

However, the situation of regular migrant workers can also be very volatile. Any change in their living conditions can transform a legal migrant into an “illegal” one. Women can find themselves in this precarious situation when they move abroad to join their husbands by losing their residence privileges if the relationship ends. The same happens to male and female migrant workers who, after losing their jobs, also lose their authorization to stay in the country. In a very short period of time, a person can end up in a situation of extreme uncertainty, becoming vulnerable to exploitation and, ultimately, to human trafficking rings.

In such a context, regardless of their legal status, regular and irregular migrants, including persons under international protection, are often compelled to accept exploitative working conditions, due to their situation of economic and social vulnerability or because of the abuse of power exercised over them from exploitative employers.

In light of the above, some specific features of human trafficking in the Mediterranean region can be outlined, although the lack of consistent collection of qualitative and quantitative data does not allow us to provide a full picture of the phenomenon in the area.

<sup>18</sup> OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 20 September 2013.

<sup>19</sup> International Organization for Migration, *World Migration Report 2010 - The Future of Migration: Building Capacities for Change* (2010), <[http://publications.iom.int/bookstore/index.php?main\\_page=product\\_info&cPath=37&products\\_id=665](http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=37&products_id=665)>, accessed 3 October 2013.

## Convicting the perpetrators

“Italy has great expertise in investigating trafficking for sexual exploitation. But labour exploitation is a different matter; this is something new.

In the province of Lecce, we recently had two major investigations in this field. One was in the agricultural sector and the other concerned the installation of photovoltaic systems for alternative energy – heavy solar panels, which have to be lifted manually. Both cases involved hundreds of undocumented migrants who had landed illegally in Pachino, Sicily. The routes are long, exhausting and cost the migrants a lot of money.

The case with the solar panels involved a Spanish company [...] which was installing solar panels in the provinces of Lecce and Brindisi in the winter of 2011. In Italy, when you install solar panels, you receive subsidies from the state, but there is a deadline after which you lose the subvention. In this case, the deadline was very tight.

So the owner of the company turned to a criminal organization [...]. They used a few migrants as gang masters, and by word of mouth, recruited about 400 undocumented migrants, who were sent to about 20 different construction sites. They were subjected to harsh conditions and an exhausting work schedule, in order to finish on time.

One Indian worker, who could not take it anymore, filed a complaint in Lecce and we started an investigation. Another investigation was started simultaneously following a report to the prosecutor of Brindisi. Eventually, almost all of the workers filed complaints, and we joined these two investigations into a single proceeding.

The prosecutor of Brindisi ordered the interception of telephone conversations between the gang masters and the company. The stories I heard were terrible. Workers went so far as to say that the slaves working in the cotton fields had been better off than they were. They were constantly working in the mud, in boots procured by the company that were too small. There is a phone conversation in which the company told a worker who complained to cut off his feet or the tip of the boot. Another worker complained about his hands being covered in blood from carrying the panels without gloves. He was told to keep working.



**Cataldo Motta**  
Chief Prosecutor of Lecce, Italy

In light of the evidence, we asked for prosecution for human trafficking, under article 600 of the penal code. The judge for the preliminary investigation gave us the conviction, but the review court acquitted the defendants, saying among other things that the required safety equipment had been made available to the employees. The Supreme Court upheld this decision.

But we have gathered new evidence, and are going to ask for a retrial.

If we want to help the victims of labour exploitation in Italy, we need to change some of the concepts of our penal law. The definition of trafficking, for instance. It is not working. The problem is that there is a fundamental difference between trafficking for the purposes of sexual exploitation and for the purpose of labour exploitation. In both cases, the law requires a state of continuous subjection and a state of dependency. These requirements are often met in cases of sexual exploitation. For example, girls are deprived of their passports and they are kept in enclosed spaces. In the case of labourers, this is much more difficult to prove, because they return home in the evening or sleep in common facilities such as dormitories. What needs to be done is to create a new legal standard. We need to start re-interpreting the law from scratch.”

Source: Extract from interview with C. Motta, *Security Community*, Issue 2, 2013, p. 41, <<http://www.osce.org/home/101814>>, accessed 3 October 2013.

### Increasing complexity of migration routes

Over the last ten years, as a response to the increasingly robust measures by receiving States against irregular migration flows, for both migrants intercepted at the European sea borders of Spain, Italy, Greece and Malta, and for migrants crossing the Sahara Desert, routes have become longer, more difficult, expensive and risky.<sup>20</sup> Land routes have expanded and currently cover large geographical areas, including desert towns, and small seaside towns.<sup>21</sup> Recent research demonstrates that in such a scenario, the shift from a situation of smuggling to a situation of trafficking can easily occur.<sup>22</sup> Also, the overlapping of different vulnerabilities is increasingly common, as in the case of asylum seekers/refugees that can be trafficked and subject to exploitation during the journey to a safe place or during the processing of their asylum request or even after their refugee status is recognized.

Starting with the extraordinary flow of over 30,000 young Tunisian nationals who arrived in Italy by sea in 2011<sup>23</sup>, migration flows from the Southern Mediterranean countries to Europe have experienced waves of sharp increases. According to migration analysts, the recent crises in Libya, Syria and Mali have fuelled primarily intraregional migration flows<sup>24</sup>, making the overall migration scenario an increasing challenge on both rims of the Mediterranean Sea.

In this respect, recent research also demonstrates that in the new millennium Southern Mediterranean countries such as Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco and Tunisia have become extensively destination areas within the region and from other regions of the world, including Middle Eastern, Asian, Sub-Saharan and Eastern European countries, with the final group particularly targeting Libya and Israel.<sup>25</sup>

### The trafficking process is not controlled by criminal gangs at every stage

In the Mediterranean region, traffickers do not necessarily control trafficked persons throughout the possible different phases of the trafficking process, from recruitment, to transfer, to harbouring, up to the exploitation, with an overall and identifiable “criminal project”. Because of increasingly complex routes, migration has become progressively more “fragmented”, with more numerous stop-overs during the journey.<sup>26</sup> It is rarely the

case that entire journeys are planned in advance but one stage may arise from the failure of a previous stage, limiting future options and draining resources. This may also be a key factor that contributes to migrants’ vulnerability and their need for protection.<sup>27</sup> To some extent, the development of fragmented migration may be seen as a response to increasingly effective immigration controls in the most attractive destinations: Europe, North America or Australia. Such restrictions provide the motive for overland travel but by themselves they are not sufficient to explain the increasing importance of fragmented forms of migration. Lengthy overland migrations depend on the availability of the necessary communications and other technologies that facilitate movement, such as instant international money transfers along the route or the availability of cheap mobile communication technologies. If this is the case, fragmented migration may well become a longer term component of many global migration systems, almost irrespective of any particular policy configuration in wealthy States. This also helps explain the extension of long overland journeys even away from assumed prime target destinations.

The source of the dangers faced by migrants on these fragmented journeys varies. In some cases they are natural obstacles, such as seas, deserts or mountain ranges, which must be crossed in order to avoid the most intensely policed stretches of border. These difficulties are typically exacerbated by the intervention of traffickers and smugglers whose involvement may vary from simple misinformation in the hope of increasing their own profits, to extreme cases of physical violence, armed robbery or enslavement.

In addition to cases of forced labour and forced prostitution, gangs know that many migrants have money and can be robbed with impunity, since they are unlikely to go to the police and even if they did, they would be unlikely to receive much sympathy. Initially, it seemed that gangs developed to ensure their members had enough money to reach Europe themselves, but reportedly the key figures now involved are sought by the police in Europe and they have become more professional, with their activities evolving from what had initially been a mere subsistence-level operation.<sup>28</sup>

20 See CLANDESTINO Project, *Undocumented Migration: Counting the Uncountable. Data and Trends across Europe - Final Report* (Hellenic Foundation for European and Foreign Policy, 2009), <[http://www.epim.info/wp-content/uploads/2011/01/clandestino-final-report\\_-november-2009.pdf](http://www.epim.info/wp-content/uploads/2011/01/clandestino-final-report_-november-2009.pdf)>, accessed 13 February 2013.

21 UNODC, *Smuggling of migrants into, through and from North Africa. A thematic review and annotated bibliography of recent publications*, P. Monzini (2010), <[http://www.unodc.org/documents/human-trafficking/Migrant\\_smuggling\\_in\\_North\\_Africa\\_June\\_2010\\_ebook\\_E\\_09-87293.pdf](http://www.unodc.org/documents/human-trafficking/Migrant_smuggling_in_North_Africa_June_2010_ebook_E_09-87293.pdf)>, accessed 18 February 2013.

22 UNODC, *Smuggling of migrants in through and from North Africa*, P. Monzini (ed.), unpublished research (2010).

23 P. Fargues, C. Fandrich, *Migration after the Arab Spring*, MPC RR 2012/09, Robert Schuman Centre for Advanced Studies (San Domenico di Fiesole (FI): European University Institute, 2012), <<http://www.migrationpolicycentre.eu/docs/MPC%202012%20EN%2009.pdf>>, accessed 23 September 2013.

24 Ibid.

25 UNODC, *Global Report on Trafficking in Persons* (Vienna, 2012), pp. 11, 82, <[http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf)>, accessed 23 September 2013.

26 M. Collyer, H. de Haas, “Developing dynamic categorisations of transit migration”, *Popul. Space Place* (2012), Vol. 18, pp. 468–481.

27 M. Collyer, “Stranded Migrants and the Fragmented Journey”, *Journal of Refugee Studies*, Vol. 23, No. 3 (Oxford University Press, 2010).

28 Ibid.

Migrants or asylum seekers who are travelling through Southern Mediterranean countries may find themselves in situations of complete social exclusion due to factors such as the fear of being arrested or deported by the authorities, or demands for payments from smugglers who tell their victims they are “assisting and protecting” them.<sup>29</sup> Having exhausted their resources, they become “stranded”, and are recruited by intermediaries – often of their own nationality or ethnic group – for forced labour activities. With little prospect of continuing, but also no hope of returning to their country of origin, migrants are passed from one intermediary to the other. The apparent consent to the exploitation is in fact the consequence of their social vulnerability and multiple dependencies.

The same situation very often occurs once migrants have reached their final destination in Europe. Their undocumented status exacerbates their vulnerability to trafficking and exploitation practices with very few alternatives but to live in unsanitary conditions with inadequate food supplies and very limited or no access to health services.

### Prevailing forms of exploitation

Together with the increasing complexity of migration routes and networks, a large-scale business based on the exploitation of migrants has emerged on both rims of the Mediterranean region. In this context, labour exploitation seems to be the prevailing form of human trafficking, while other forms, like sexual exploitation, still persist. Other forms, such as forced begging or forced criminality, are also becoming more visible.

With respect to Southern Mediterranean nationals found in exploitative situations in European countries, according to the UNODC 2012 *Global Report on Trafficking in Persons*, Moroccan undocumented migrants were detected in nine countries in Western and Central Europe, including Belgium, France, Italy, the Netherlands and Spain. Algerian victims were found in France and Norway. Men seem to represent an at-risk group with respect not only to labour exploitation, particularly in the agriculture and construction industry, but also in illegal activities, for example in drug markets.

Women and children from Southern Mediterranean countries, especially Algeria, Egypt and Morocco, are often found in exploitative situations in Europe, particularly in hidden labour market sectors, such as domestic work, catering, the sex industry and the hospitality industry and are less likely to be intercepted by the authorities. Women are often subject to sexism, racism and moral condemnation, thus becoming vulnerable to multiple forms of discrimination.<sup>30</sup> Research conducted in Italy has shown that migrant women are exploited twice: both at work and at home, as they may work in agriculture during the day, and as domestic workers or as prostitutes for the rest of the time.<sup>31</sup> Children are also subject to different forms of discrimination and social exclusion that make them vulnerable to some specific kind of exploitation, for example in forced and organized begging or criminality for the profit of others. In this latter case, traffickers take advantage of the minimum age of criminal liability according to legislation in different European countries.

Exploitation of migrants is also increasing on the Southern rim of the Mediterranean. It is estimated that around 4.5 million migrants from the Middle East or Sub-Saharan Africa - of whom around two-thirds have an irregular status regarding residency or work - settled in that geographical area. The majority of these people find work in regional labour markets, and they are mostly involved in seasonal migration dynamics.<sup>32</sup> However, data on forced labour are rarely collected and, especially in the Southern Mediterranean region, too little is known about the real scale of the problem.<sup>33</sup>

As is seen on the Northern rim, some labour sectors on the shores of the Southern Mediterranean are more at-risk than others. Young boys are generally more likely to be exploited in agriculture, artisans' and mechanics' shops, as well as in the construction sector, while girls are often exploited through child sex tourism and in the so-called “temporary marriages” or “summer marriages” that are arranged with wealthy men mainly from Kuwait, Saudi Arabia, and United Arab Emirates.<sup>34</sup>

29 P. Monzini, “Sea-Border Crossing: the Organization of Irregular Migration to Italy”, in *Mediterranean Politics*, Vol.12, No. 2, pp. 163-184 (2007); UN High Commissioner for Refugees (UNHCR), *Trapped in transit: the plight and human rights of stranded migrants*, R. Dowd (1 June 2008).

30 For an analysis of the relationship between discrimination and trafficking, see: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Combating trafficking as modern-day slavery: a matter of non-discrimination and empowerment*, 2012 Annual Report of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (2012), p. 52.

31 Presentation by F. Pizzutelli at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013.

32 Amnesty International, *Exploited labour: Migrant workers in Italy's agricultural sector* (2012), <<https://www.amnesty.org/ar/library/asset/EUR30/020/2012/en/bb31a7ab-6537-43f8-92a8-c7b1f484198a/eur300202012en.pdf>>, accessed 3 October 2013.

33 UNODC, *Global Report on Trafficking in Persons* (Vienna, 2012).

34 Ibid; see also, Anti-Slavery International, *Out of the Shadows: Child Marriage and Slavery* (April 2013, London), <[http://www.antislavery.org/includes/documents/cm\\_docs/2013/c/child\\_marriage\\_final.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/c/child_marriage_final.pdf)>, accessed 23 September 2013.



Domestic work is another sector that seems to be particularly affected by the incidence of trafficking in the region, both at the transnational and national level. Foreign women from different countries are often recruited and exploited in major cities as domestic workers.<sup>35</sup> For instance, women from the Philippines have been found in domestic servitude in Morocco, while women from Morocco have been detected in exploitative working conditions in European and Middle Eastern households. Usually the passports and identity documents of trafficked domestic workers are seized and they are forced to work long hours, including having to be available day and night to perform tasks requiring arduous physical labour, for little or no wages. Children are also subject to domestic servitude in the area. Traditional solidarity practices aimed at supporting families in disadvantaged situations, like entrusting the children to wealthier relatives or families that can offer them the possibility to be brought up and educated, are often distorted in their nature and misused, resulting in their exploitation as domestic servants in households. Girls, sometimes as young as eight years of age, are especially likely to fall victim to this form of abuse.<sup>37</sup> Street children, unaccompanied minors and child migrants living in refugee camps are also at risk of being victimized by traffickers who exploit them, primarily in forced begging, forced prostitution, and pickpocketing.<sup>38</sup>

In this respect, a recent survey conducted in Egypt has shown a high incidence of trafficking among street children living in urban areas, who are mostly uneducated and illiterate. The percentage of children exposed to trafficking was more than 28 per cent of the total study sample of 400 children. The forms of exploitation the children were subject to, varied: 17 per cent, mostly boys, were exploited in begging for the profit of the “bosses” of the street, under threat and coercion; six per cent were forcibly involved in the drug markets, two-thirds of them male and one-third females; five per cent were exploited for forced criminality (theft) and another five per cent were involved in sexual exploitation. Finally, two children (0.5 per cent of the total) were victims of trafficking for the removal of organs.<sup>39</sup>

## Trafficking of refugees at the Egypt-Israel border

“Defenceless refugees located primarily in Eastern Sudan are routinely attacked, trafficked and kidnapped from around and inside refugee camps in Eastern Sudan and transported into Sinai. The UNHRC in Sudan has acknowledged the growing problem of abduction of refugees of mainly Eritreans from Eastern Sudan refugee camps. This indicates the extent to which these traffickers are able to go across borders and into officially protected camps in order to ‘hunt’ vulnerable refugees and collect ransom from the families of refugees.

Furthermore, the Bedouins traffickers are not only ‘hunters’ they are also active in purchasing refugees from other traffickers or from corrupt Sudanese border police. Eritrean refugees have become a profitable source of income for these traffickers, whom therefore go through extreme measures to attain them. When the Bedouin traffickers first started kidnapping refugees, the ransom they demanded was between 2000 to 3000 dollars per refugee and as of 2012 that number has skyrocketed to 25,000 to 50,000.

According to the monitoring group on Somalia and Eritrea, men, women and children, who make up the faces of the refugees captured by the Bedouins, are routinely tortured through electric shocks, starvation, genital mutilation, limb mutilation, burning, hanging, and through melting of plastic items on their body parts. Women and children are especially vulnerable in this ordeal. Women are routinely gang raped, some made pregnant, forced to give birth in captivity with no medical aid and no proper food or water. Children are beaten to coerce their mothers’ family to pay the ransom or just simply for crying. Painfully, their families are forced to hear their loved ones tortured.”

Source: Human Rights Without Frontiers Int’l, Newsletter 24 September 2013, Trafficking of refugees in Sinai, <<http://www.hrwf.net>>, accessed 2 October 2013.

35 U.S. Department of State, *Trafficking in Persons Report 2012* (Washington, 2012).

36 IOM, Ministère de la Justice du Royaume du Maroc, *Traite transnationale des personnes. Etat des lieux et analyse des réponses au Maroc* (2009), <[http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/Traite\\_Transnationale\\_des\\_personnes\\_%20Etat\\_des\\_lieux\\_et\\_analyse\\_des\\_reponses\\_au\\_Maroc.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/Traite_Transnationale_des_personnes_%20Etat_des_lieux_et_analyse_des_reponses_au_Maroc.pdf)>, accessed 18 February 2013.

37 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010), <<http://www.osce.org/cthb/75804>>, accessed 23 September 2013.

38 Ibid.

39 National Centre for Social and Criminological Research, *National Study on Trafficking in persons*, Cairo, 2011.

As seen above, human trafficking in the Mediterranean region represents an endemic risk for socially and economically excluded persons, men, women and children, particularly those on the move. Challenges to counteract the phenomenon and protect victims demand and require substantial efforts from countries of origin, transit and destination. An enhanced rights-based approach to migration in the region is needed, especially with a view to preventing exploitation and trafficking.<sup>40</sup>



## Fundamental rights at Europe's southern sea borders, EU Agency for Fundamental Rights (FRA)

The FRA report "Fundamental rights at Europe's southern sea borders" is about people who risk their lives travelling to the EU by sea to pursue a dream or escape war and persecution. It contains a number of opinions expressed by FRA experts on the treatment of third-country nationals at the EU's external sea borders of the Mediterranean Sea and the Atlantic Ocean.

### **FRA opinion:**

The European Commission should thoroughly assess the fundamental rights implications and risks prior to establishing a CISE (Common Information Sharing Environment for the European Union maritime domain) and provide for a system to regularly evaluate CISE's impact on fundamental rights.

Source: European Union Agency for Fundamental Rights, *Fundamental rights at Europe's southern sea borders* (2013).

<sup>40</sup> SOLIDAR, *A Rights-Based Approach to Migration and Development: SOLIDAR Reaction to EC Migration Policy Package*, Briefing #40 (2011), <[http://solidar.org/IMG/pdf/40\\_migrationpolicyack.pdf](http://solidar.org/IMG/pdf/40_migrationpolicyack.pdf)>, accessed 23 September 2013.



Illustration: Memoria (2004), Tempera on brick 10x10 cm, by Adriano Parracciani

# CHALLENGES AND GOOD PRACTICES TO PREVENT AND FIGHT AGAINST HUMAN TRAFFICKING IN THE MEDITERRANEAN REGION



A great level of co-operation among countries affected by exploitation rings is needed in order to prevent and counteract the most worrying consequences of human trafficking on societies and individuals: unfair competition in the labour market fuelled by the exploitation of the workforce; corruption and the purchase of influence financed by illicit profits from exploitation; insecurity exacerbated by the rise of criminal networks; the breakdown of the social fabric and of common values due to the pervasive violation of the rights of individuals. Co-operation is also needed at the national level, among different stakeholders whose roles and competencies are relevant and complementary in facing the diverse challenges posed by a multi-level strategy tackling prevention, protection and prosecution.

In this respect, addressing the whole chain of exploitation is essential in order to promote and support an environment that is hostile to abusive practices that can lead to human trafficking. Accordingly, victims of trafficking and exploitation should be regarded first and foremost as workers. Only through the enhancement of workers' rights – regardless of their immigration status – including the right to a fair salary and dignified working conditions, will it be possible to effectively address those factors that make trafficking take root and flourish. However, preventive and counteracting measures can really be effective only if they are conceived on the basis of a proper understanding of what trafficking is in today's globalized economy. This comprehensive approach would require tackling a number of policy and strategy sectors that are interconnected and mutually influential. During the discussions at the Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, it emerged that different challenges and dilemmas must be taken into account in order to build a framework at the national and transnational level that is coherent with the goal of protecting victims and able to prevent abusive practices and ensure that perpetrators face justice.

## 2.1 Identification of trafficked persons

In the last decade, significant efforts have been devoted to improving the operational skills of stakeholders and front-line officers who are likely to detect and identify victims of trafficking. Training curricula and courses together with different tools have been developed for law enforcement officers, border guards, prosecutors and judges, NGOs and IOs, service providers, social workers, healthcare personnel and teachers. The capacities of many of those who may come into contact with victims have been enhanced, yet much more needs to be done.

### Estimating the phenomenon: ILO, US, EU data

2012 global estimates by the International Labour Organization (ILO): 20.9 million persons, victims of forced labour: 68 per cent in the private economy; approximately three million in the countries of the OSCE region.

Total amount of unpaid wages: USD 19.6 billion. Total number of prosecutions recorded globally in 2012: 7,705 according to the 2013 U.S. Trafficking in Persons Report.

Overall decrease of convictions in the European Union in 2012: 18 per cent. Human trafficking is still a largely undetected phenomenon, a low-risk, high-profit crime for both final users and intermediaries of the exploited work performance.

Source: International Labour Office, *Global Estimate of Forced Labour: Results and Methodology* (Geneva, 2012); International Labour Office, *The cost of coercion* (2009); United States Department of State, *Trafficking in Persons Report 2013* (Washington, 19 June 2013), <<http://www.state.gov/j/tip/rls/tiprpt/2013/>>, accessed 3 October 2013; European Commission, EURSTAT, *Trafficking in Human Beings, Working Papers and Methodologies* (Luxembourg, 2013), <[http://ec.europa.eu/anti-trafficking/entity.action?path=EU+Policy%2FReport\\_DGHome\\_Eurostat](http://ec.europa.eu/anti-trafficking/entity.action?path=EU+Policy%2FReport_DGHome_Eurostat)>, accessed 3 October 2013.

Different international instruments define irregular migration, migrant smuggling, human trafficking, and asylum as distinct phenomena. In reality, they often intersect and overlap to the extent that a clear distinction is often difficult to make. In this respect, it is important to improve the capacities of front-line officers, particularly those working in critical environments, like entry and transit points (sea, air and land), providing them with specific guidelines to identify different vulnerable groups, and encouraging the use of a holistic approach.

Identification is also challenged by the unwillingness of victims to come forward for different reasons, including distrust towards the authorities, threats made by traffickers, fear of retaliations against relatives in their home country, shame over the

## Trainer's Manual on Anti-Trafficking for Border Guards

Frontex Training Unit developed the Trainer's Manual on Anti-Trafficking Training for Border Guards with the active participation of a multi-disciplinary team comprising experts from 13 EU Member States and Schengen Associated Countries, e.g., Belgium, Bulgaria, Cyprus, France, Latvia, The Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Sweden and the United Kingdom, as well as experts from CEPOL and EUROJUST. The following international organizations IOM, OHCHR, UNHCR, UNICEF and the OSCE also contributed to the development of the manual to ensure the reflection of international standards and human rights-based approach.

The training package was developed with the objective of raising awareness of human trafficking as a serious crime and human rights violation, and of enhancing the capabilities and skills of border guards to identify and adequately deal with the (potential) victims of the crime. This includes building up capacities of staff to understand their obligations, as linked to the ones of the Member States in preventing and combating THB and protection of the victims, and the practical implications in their daily work as well as the provision of practical tools to combat THB. The developed training material places the human rights of the trafficked persons at the centre of all efforts addressing THB. The recognition of THB as a gender-specific phenomenon has also stressed the fact that women and men, girls and boys, are often trafficked for different purposes and therefore the measures and support to be provided to victims must be gender-specific as appropriate.

stigmatization linked with illicit activities they have carried out under threat or compulsion, psychological terror deriving from intimidating practices, including, in some cases, black magic practices, control exercised by traffickers who never leave their victims alone as well as a lack of awareness on the part of trafficked persons that they are holders of rights.<sup>41</sup>

In this respect, access to information, at any stage of the protection process but particularly at an early stage, is *"a precondition for an individual to be able to claim his or her rights"* and to be less vulnerable to human rights violations.<sup>42</sup>

<sup>41</sup> Presentation by L. Jolles at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013.

<sup>42</sup> European Union Agency for Fundamental Rights, *Fundamental Rights at Europe's Southern Sea Borders* (Vienna, 2013), p. 89.



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## Assistance services and identification of vulnerable migrants at landing sites (Spain)

Since 2005, the Red Cross regularly collaborates with the Spanish authorities in Motril (Andalusia), when irregular migrants arrive via sea. Upon disembarkation from the rescue vessels, Red Cross doctors and nurses make an initial health assessment of all migrants. Those who need medical follow-up are then referred to the medical Red Cross facility in the port, while the Guardia Civil brings male migrants who do not need any further medical check to a detention centre. All women and children are brought to the Red Cross facility in the port, where they can take a shower and change their clothes and speak with a Red Cross person. It is in this context that instances of sexual abuse and exploitation are identified and eventually referred to the competent service providers in Spain.

The Red Cross emergency response team consists of 10-15 persons, i.e., doctors, nurses, ambulance drivers, social workers, and translators.

Sources: European Union Agency for Fundamental Rights, *Fundamental Rights at Europe's Southern Sea Borders* (Vienna, 2013), p. 75; and Presentation by A. Silvestri at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013.

The main difficulties in identifying victims seem to be related to the predominant cultural paradigm and the "lens" through which trafficking is perceived and interpreted, which often prevent relevant stakeholders from understanding the nature of the phenomenon and the features of the persons involved.

Nowadays victims of slavery-like practices, trafficking and forced labour are usually not locked up in a workplace or in an apartment or a brothel, although such extreme forms still exist both in the field of labour and sexual exploitation. Instead, victims are often in a situation of debt bondage and/or multiple

dependencies, for example when exploiters take advantage of social isolation, a heavy dependency on the employers for food and accommodation, and the fear of denunciation to immigration authorities for forced removal to the country of origin, if the victim is an undocumented migrant. Therefore, human trafficking still implies control by the exploiter of the worker; however, the situation of the person who has been subjugated is not characterized by a complete lack of freedom of movement, but rather by the lack of self-determination linked to the absence of viable alternatives.

Another problem is related to the duration of the exploitation. Unlike historical slavery, the exploitative situation of trafficked persons does not last for ever. Especially when trafficking is linked with migration processes, rapid turnover of workers takes place. This is primarily due to movement by exploitation rings on a country's territory in order to avoid checks from law enforcement or because the level of exploitation is so severe that periodic substitution of the workforce is required. Also, in certain cases, victims are able to escape soon after exploitation begins.

The combination of stereotyped knowledge about trafficking and its victims, together with current complexities linked to human mobility and the high proximity of phenomena like migrant smuggling, human trafficking, irregular migration and flows of persons seeking international protection, can seriously hinder the ability of States to properly identify trafficked persons and respond to the needs of distinct vulnerable groups through tailored legislation, policies, and measures.

## 2.2 Labour market policies

### Mediation in the labour market

The progressive deregulation of labour markets allowed the proliferation of unregistered employment agencies operating beyond the boundaries of State control. There is growing evidence that informal and even formal services working in the field of recruitment and job placement both at the national and transnational level, are often used for trafficking purposes. Such services often encourage migrants to borrow money to cover recruitment fees and expenses relating to the organization of their trip or for their job placement. This is often the beginning of abusive and fraudulent practices that either lead directly to trafficking or exponentially increase the vulnerability of workers to exploitation.

43 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013; see also OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010), <<http://www.osce.org/cthb/75804>>, accessed 23 September 2013.



**Teresa Morais**  
Secretary of State for  
Parliamentary Affairs and  
Equality, Portugal

### Portugal's legislative approach

Law in force in Portugal concerning entry, permanent residence and repatriation of foreigners reflects a balance between the protection of victims and their integration, the promotion of legal migration and the fight against illegal migration. Entry and residency by migrants is not considered an offence, and the law treats situations linked to irregular migration of trafficking separately. However, in both cases there is a clear choice for the protection of victims and a set of rights are assured before a permit is issued allowing the person to stay in the country. As a general approach, anti-trafficking policies have been developed and supported within the broader "Plan for the Integration of Migrants", aimed at promoting migrants' rights.

Source: Opening Remarks by T. Morais at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99742>>, accessed 2 October 2013.

Through a combination of wage deductions, payments in kind and debt manipulations, workers end up in a situation of debt bondage in which they have no other option but to submit to their exploiter<sup>43</sup>. The experience of some participating States clearly demonstrates that some sectors are more at risk than others: agriculture, construction, and domestic work tend to be more prone to exploitation. This experience also indicates that regulating, licensing, monitoring and establishing control mechanisms of recruitment activity is crucial to protect workers against fraudulent and abusive practices that can lead to trafficking. These measures should be developed in co-operation with social partners and should build on existing ILO standards, in particular on the 1997 Private Employment Agencies Convention No. 181<sup>44</sup>. Preventive measures in this field should also uphold the principle that fees for recruitment are never charged to workers, not even indirectly.

44 International Labour Organization, *Private Employment Agencies Convention*, C181 (1997), <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>>, accessed 30 September 2013; and International Labour Organization, *Private Employment Agencies Recommendation*, R 188 (1997), <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?R188>>, accessed 30 September 2013.

## Examples of promising practices in the United Kingdom, Tunisia and Italy.



**Khalil Amiri**  
Senior Advisor at the Cabinet of the Secretary of State on Immigration and Tunisians abroad, Tunisia

### The Gangmasters Licensing Authority (GLA) in the UK

GLA is a Non Departmental Public Body (NDPB) with a Board of 30 members from industry and government. The GLA's licensing scheme regulates businesses who provide workers to the fresh produce supply chain and horticulture industry, to make sure they meet the employment standards required by law. Any employment agency, labour provider or gangmaster who provides workers to the following sectors will need a GLA licence: agriculture, horticulture, forestry, shellfish gathering, food and drink processing and packaging.

#### *How does the licensing scheme work?*

Labour providers are assessed to check they meet the GLA licensing standards which cover health and safety, accommodation, pay, transport and training. GLA checks that they are fit to hold a licence and that tax, National Insurance (NI) and VAT regulations are met. A labour provider must have a GLA licence to work in the regulated sectors, it is a criminal offence to supply workers without a licence or use an unlicensed labour provider.

#### *What are the benefits of licensing?*

Workers receive fair treatment, the pay, benefits and conditions they are entitled to. Labour providers are not undercut by those who pay less than the minimum wage or avoid tax. Industry standards are raised. Labour users can check their workers come from a legitimate provider and are informed if their labour provider's licence is revoked. Consumers can be assured that their food has been picked and packed in an ethical environment. Illegal activities which lead to a loss of public revenue – income tax, VAT and NI – are reduced.

Source: <<http://gla.defra.gov.uk/>>

### Prevention activities in Tunisia

As a prevention activity, the Ministry of Employment in Tunisia has commenced investigations into recruitment agencies operating on its territory, and revised the procedures for them. Additionally, migration resource centres have been created throughout the country to provide information to would-be migrants and to immigrants about their rights, risks of fraud, exploitation and trafficking.

Source: Opening Remarks by K. Amiri at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99726>>, accessed 2 October 2013.

### A new law in Italy against unlawful gangmastering and labour exploitation

In September 2011, a law was adopted introducing the crime of “unlawful gangmastering and labour exploitation” in the Italian criminal code, defined as the act of “conducting an organized activity of intermediation, recruiting manpower or organizing its work, characterized by exploitation, through violence, threat or intimidation, taking advantage of the workers’ situation of need or want”. This provision was a positive development, insofar as it introduced a new criminal law tool to combat labour exploitation, intended to be more flexible than those provided by the criminalization of trafficking and slavery. However, doubts were expressed with respect to the prospects of this provision being successfully implemented.

Source: Amnesty International, *Exploited Labour. Migrant Workers in Italy's Agricultural Sector* (2012), <<https://www.amnesty.org/ar/library/asset/EUR30/020/2012/en/bb31a7ab-6537-43f8-92a8-c7b-1f484198a/eur300202012en.pdf>>, accessed 3 October 2013.

Exploitative practices are commonplace in sectors that require temporary and seasonal labour, especially when foreign workers are recruited to compensate for a shortage of workers at the national level. Specific legislation or provisions on seasonal work are necessary to take into account the specific circumstances related to seasonal work as a form of temporary employment linked to specific activities and periods of the year. Furthermore it is important to address the less favourable treatment of seasonal workers compared to long-term work-

ers in terms of legal entitlements (e.g., dismissal protection), benefits offered by employers (e.g., pension entitlements) and other employment conditions (e.g., health and safety, training). Co-ordination, co-operation and coherence among different legislative frameworks in sending and receiving countries are essential in order to avoid social dumping between national and non-national workers.

## EU Seasonal Migrant Workers' Directive: Full Respect of Equal Treatment Necessary

### Joint NGO Statement, 20 April 2011

#### NGO Recommendations to Members of the European Parliament

In view of the European Parliament, Civil Liberties Committee's Hearing on Legal Migration, a coalition of NGOs active on migration have the following recommendations for MEPs on the European Commission's proposed directive on "*conditions of entry and residence of third-country nationals for the purposes of seasonal employment*".

#### The directive should:

- Establish the necessary conditions for the effective access of seasonal workers to the full respect of equal treatment regarding, in particular, work conditions, social rights and access to legal redress.
- Define exactly what is meant by "seasonal work" to prevent social dumping between national and third-country workers in the EU.
- Include in the scope of the directive those third-country nationals who already reside in an EU Member State and who do not have access to the labour market.
- Offer decent working conditions and comprehensive social protection measures which are vital to guarantee a standard of rights which is common to all workers, including seasonal workers.
- View seasonal migrant workers not merely as economic units but as human beings; make provisions that allow for family unity and/or reunification and for a possibility to change status into a more permanent one.
- Retain reference to the employers' obligation to provide accommodation but the definition of "adequate housing" must be qualified.
- Reinforce complaints mechanisms and strengthen rules on labour inspections to monitor the conditions under which third-country nationals are recruited and employed.

Source: <<http://cms.horus.be/files/99935/MediaArchive/EU%20Seasonal%20Migrant%20Workers%20Joint%20NGO%20Statement%2004.2011.pdf>>, accessed 2 October 2013.

Another sector that has proved to be particularly prone to abuses and exploitation is domestic work. Domestic work is generally "invisible", undervalued and poorly regulated. Since it is carried out in private households, apparently not contributing to profit-generation, and entailing a significant degree of proximity and intimacy with the employer, it remains virtually invisible as a form of employment in many countries. Domestic and family care workers are usually depicted as being "part of the family", and their work is not regarded as "real" work as it mirrors work historically performed by women without remuneration. As a result, domestic and family care work can often be precarious, low-paid and unprotected – both in so-called developing and industrialized countries – while domestic work represents an area of growing concern with respect to trafficking for the purpose of domestic servitude, both internal and transnational, particularly when it involves children and especially girls.

#### Domestic workers celebrate rights breakthrough

"Campaigners are celebrating the long-awaited ratification of a treaty on labour rights for domestic workers that will offer protection to millions of employees worldwide. From Thursday (5 September 2013) the domestic workers convention (International Labour Organization (ILO), Convention Concerning Decent Work for Domestic Workers (June 2011)) will be legally binding for signatory countries. The treaty, originally adopted by the International Labour Organization (ILO) in 2011, is the first to deal specifically with domestic workers. There are about 50-100 million domestic workers globally, mainly women and girls. Their tasks include cooking, cleaning and looking after children and the elderly. Such workers are often poor and employed outside their home country, making them particularly vulnerable to abuse and slavery. The treaty gives employees the right to claim basic rights, including days off each week, set hours and the minimum wage. Eight countries have ratified the convention, including Italy, the Philippines, South Africa and Bolivia. More are poised to follow suit, including Germany and Switzerland."

Source: Grant, H., "Domestic Workers Celebrate Rights Breakthrough", *The Guardian*, 5 September 2013, <<http://www.theguardian.com/global-development/2013/sep/05/domestic-workers-rights-labour>>, accessed 30 September 2013.



### Accountability of employers

The combination of the deregulation of labour markets and the progressive downsizing of labour inspection services has contributed to the creation of a significant mass of the labour force that is in a vulnerable situation. There is a high risk that these vulnerable people will be exploited by unscrupulous employers.<sup>45</sup>

There are still too few labour inspections and those that take place are ineffective because labour inspectors often lack the skills required to detect and identify trafficked workers and to sanction exploitative employers.<sup>46</sup> Additionally, in certain countries labour inspectorates have a limited mandate with regard to the kind of premises that they can inspect or the powers and prerogatives attributed to their officials. Another challenge is the increasing imposition of measures that compel labour inspectors to conduct immigration enforcement activity as part of their inspection agenda. This has the effect of intimidating migrant workers and preventing them from exposing or resisting abusive conditions.<sup>47</sup> In this respect, migrant workers often fear that contacting the police or seeking access to justice will result in their arrest and deportation instead of allowing them to gain legal redress.

### ILO provisions on labour inspection

According to the ILO Labour Inspection Convention, 1947 (No. 81), labour inspections have three functions: enforcement of the legislation on conditions of work; technical advice and information on its application; and participation in its improvement. Any further duties which may be entrusted to labour inspectors should not interfere with their primary duties or prejudice their authority and impartiality. Under the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the system of inspection in agriculture must cover all wage workers or apprentices, *“however they may be remunerated and whatever the type, form or duration of their contract”*.

Sources: International Labour Organization, *Labour Inspection Convention*, C081 (Geneva, 1947), <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312226](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312226)>, accessed 2 October 2013; and International Labour Organization, *Labour Inspection (Agriculture) Convention*, C129 (Geneva, 1969), <[http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312274](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO:12100:P12100_INSTRUMENT_ID:312274)>, accessed 2 October 2013.

<sup>45</sup> International Labour Office, *The cost of coercion* (2009).

<sup>46</sup> Opening Remarks by T. Morais at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99742>>, accessed 2 October 2013.

<sup>47</sup> OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013; contribution by R. Plant, “Combating trafficking for labour exploitation: a decent work approach”.

In this regard, the EU Employers Sanctions Directive<sup>48</sup> is intended to strengthen deterrence for employers who use irregular third-country nationals, taking advantage of their reduced contractual capacity and vulnerable position. On the one hand, the Directive punishes employers with potential sanctions ranging from fines to criminal penalties; on the other, it strengthens the rights of irregular migrant workers by requiring employers to pay outstanding wages, including taxes and social security contributions. The first European Commission’s report on the implementation of the Directive is expected to be issued by 20 July 2014, and analyses and assessments of the impact of these provisions are already being carried out by major national and European NGOs.<sup>49</sup> The findings highlight that the Directive has a number of unintended negative consequences for undocumented migrants and that – in several countries – it is not being properly applied.<sup>50</sup> As a result, undocumented migrants will not be able to access protection measures granted by the Directive and exploitative employers will continue to profit from the cheap labour they provide while facing very low risks of being punished for their unlawful conduct.<sup>51</sup> Nevertheless, the legislation contains some positive aspects with regard to the treatment of undocumented workers. These include measures to enforce automatic payment of any outstanding remuneration and ensuring the possibility of lodging complaints through, or with the support of, a third party, such as a voluntary body or trade union. Having adopted this Directive, the European Parliament, along with the other EU institutions, now has an obligation to remain vigilant in monitoring and ensuring that such protective measures do in fact have the intended effect of ensuring that employers, not migrants, pay the price of exploitation.

A complementary remedy would be the use of financial investigations and tax enforcement measures to clamp down on unfair and undeclared profits.<sup>52</sup> Indeed, the approach of “going after the money” is also essential with respect to the compensation of victims who suffered from trafficking and exploitation abuses, as it allows them to receive outstanding wages.

<sup>48</sup> European Union, *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals* (18 June 2009), in Official Journal L 168/24, 30/6/2009.

<sup>49</sup> See, *inter alia*, Associazione per gli Studi Giuridici sull’Immigrazione, *Osservazioni allo schema di decreto legislativo recante attuazione della Direttiva 2009/52/CE che introduce norme minime relative a sanzioni e a provvedimenti nei confronti di datori di lavoro che impiegano cittadini di paesi terzi il cui soggiorno è irregolare* (14 May 2012); ENAR, EWL, PICUM, SOLIDAR, *Joint Statement. Employers’ Sanctions Directive: Migrant Workers, Not Employers, Will Pay the Price of Their Exploitation* (Brussels, 4 February 2009).

<sup>50</sup> Remarks by M. Levoy at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99737>>, accessed 2 October 2013.

<sup>51</sup> ENAR, EWL, PICUM, SOLIDAR, Op. Cit.

<sup>52</sup> OSCE, *Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings* (forthcoming).

### The role of the business sector

The impact of globalization on large-scale distribution and production policies has forced traders to charge progressively lower prices that are passed on to producers. This results in lower wages for workers, especially in some sectors such as agriculture and commercial fishing that cannot delocalize or outsource the production chain. In this respect, if production policies place their sole emphasis on economic growth and ignore issues related to social protection, while treating labour administration and minimum wage machinery as “distortions” to market efficiency, they will contribute to create an environment where the exploitation of the labour force flourishes.<sup>53</sup>

In this respect more efforts need to be made to engage the business sector to prevent exploitation.<sup>54</sup> For instance, it can promote anti-trafficking initiatives within corporate social responsibility programmes, including the adoption of codes of conduct to comply with international human rights and labour standards. Businesses should also give special consideration to the rights of migrants and foreign contract workers in the supply chain, promote ethical recruitment schemes, carry out workplace assessments, and promote training and capacity building programmes aimed at suppliers.

In recent times, useful practical tools have been launched to raise awareness and assist business managers in preventing human trafficking. For instance, an expert group convened by the UN Special Rapporteur on trafficking in persons, especially women and children, drafted *Benchmarks and indicators for ensuring trafficking-free supply chains*<sup>55</sup> as well as the *UN Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework*.<sup>56</sup> Through these practical tools, the business community can “exercise due diligence [...] in their supply chains in order to detect and prevent cases of trafficking”<sup>57</sup>. Similarly, End Human Trafficking Now (EHTN), the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) and Microsoft developed the E-Tool, an online course for all levels of business managers and employees.<sup>58</sup>

In this context, governments play a pivotal role in exhorting private companies to proactively eradicate factors that may contribute to human trafficking.<sup>59</sup> Here, the *California Transparency in Supply Chains Act (2012)* serves as an exemplary model, as it “requires every retail seller and manufacturer in California doing more than \$100 million in business worldwide to publicize its efforts to eliminate slavery and human trafficking from its direct supply chain”<sup>60</sup>.

### Exploitation-free production process in agriculture (Italy)

“One example of a good practice was carried out by the associations “Africalabria” and SOS Rosarno: we worked in order to put together small and medium agricultural producers and sold clementines at a fair price, of course higher than those of the large-scale producers, but the production was exploitation-free as all producers were able to pay proper wages to the workforce, including social protection contributions.”

Source: G. Pugliese, contribution from the floor at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013 (unofficial translation).

53 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013: contribution by R. Plant, “Combating trafficking for labour exploitation: a decent work approach”.

54 Remarks by M. Levoy at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99737>>, accessed 2 October 2013.

55 UN Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo. Addendum: Expert consultation on human trafficking and global supply chains, A/HRC/23/48/Add.4* (4 March 2013), p. 2, <[http://www.ohchr.org/Documents/Issues/Trafficking/A-HRC-23-48-Add-4\\_en.pdf](http://www.ohchr.org/Documents/Issues/Trafficking/A-HRC-23-48-Add-4_en.pdf)>, accessed 23 September 2013.

56 UN OHCHR, *Guiding Principles on business and human rights, Implementing the UN “Protect, Respect and Remedy” Framework* (Geneva and New York, 2011), <[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)>, accessed 2 October 2013.

57 UN Human Rights Council, Op. Cit.

58 <<http://www.humantraffickingandbusinesscourse.com>>, accessed 30 September 2013.

59 Keynote remarks by L. Thompson at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99728>>, accessed 2 October 2013.

60 Ibid.

## The Ten Principles of the UN Global Compact

The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. By doing so, business, as a primary driver of globalization, can help ensure that markets, commerce, technology and finance advance in ways that benefit economies and societies everywhere. The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption:

### Human Rights

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
- Principle 2: make sure that they are not complicit in human rights abuses.

### Labour

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4: the elimination of all forms of forced and compulsory labour;
- Principle 5: the effective abolition of child labour; and
- Principle 6: the elimination of discrimination in respect of employment and occupation.

### Environment

- Principle 7: Businesses should support a precautionary approach to environmental challenges;
- Principle 8: undertake initiatives to promote greater environmental responsibility; and
- Principle 9: encourage the development and diffusion of environmentally friendly technologies.

### Anti-Corruption

- Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

Source:

<<http://www.unglobalcompact.org/aboutthegc/thetenprinciples/>>, accessed 2 October 2013.



### Lorenzo Trucco

Attorney, Association ASGI (Associazione Studi Giuridici sull'Immigrazione – Association on Juridical Studies on Immigration), Italy.

“It is very important to ensure that there is some sort of recognition for virtuous companies and those compliant with the law, in order to push everyone towards the path of legality. In this sense, we set up an initiative, also in collaboration with associations very responsive on this issue, such as those of Rosarno, and Carlo Petrini’s ‘Slow Food’ movement and ‘Mother Earth’, to try to promote the processing of agricultural products without exploitation or hiring irregular workers. The goal is not to focus only on leaving the exploitative conditions [on the part of exploited migrant workers] through the issuance of a residence permit, but to act on the entire production process.”

Source: L. Trucco, contribution from the floor during the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013 (unofficial translation).

### The role of consumers

Consumers also have a role to play in preventing trafficking by reducing the demand for goods and services produced through the use of exploited and trafficked workers. Yet, most initiatives to prevent trafficking have targeted the victims’ countries of origin – the supply end of the trafficking chain. The destination countries are rarely targeted. For a long time, this sort of “mis-allocation of root causes” of human trafficking has diverted efforts and resources to address the consumers and the communities where trafficked persons are exploited.<sup>61</sup> In recent years, significant initiatives to change this trend have been developed to raise the awareness of consumers and influence their behaviour. Several communication campaigns and actions – often targeting major brands – have been organized to engage public support.<sup>62</sup>

The business community has a role to play in this effort. It can make information accessible to consumers so that they are increasingly aware of where the goods come from and the conditions under which they are made.

<sup>61</sup> Ibid.

<sup>62</sup> Remarks by M. Levoy at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99737>>, accessed 2 October 2013.

## Engaging the consumers: “Buy responsibly”

“Buy Responsibly” is a campaign promoted by IOM (International Organization for Migration) to prevent human trafficking for forced and/or exploited labour by raising the consumers’ awareness on the link between everyday products and the exploitative conditions suffered by trafficked persons who may have produced them. The campaign aims at the following:

- Raise consumer awareness on human trafficking for labour exploitation and its link to everyday products;
- Empower consumers by providing tools to question retailers on the traceability of products;
- Establish powerful partnerships with ethical consumer networks to demand trafficked labour free supply chain;
- Establish contacts with private sector companies in order to establish a supply chain monitoring system.
- Since 2009, launch events were held in Brussels, Geneva, Vienna, The Hague and Warsaw, where a gigantic upside-down shopping cart – symbol of the campaign – was placed in the city’s main shopping area.

Source: <<http://www.buyresponsibly.org/>>, accessed 2 October 2013:

See the campaign’s website for more information and for a list of hints and tools for buying responsibly.

## 2.3 Migration policies

Research has documented how restrictive migration policies may have unintended consequences exacerbating the vulnerability of irregular migrants to abuses and exploitation. Indeed, migration management is critical to the prevention of human trafficking and in contributing to the creation of an environment that is hostile to exploitation. In this respect, trafficking in the Mediterranean and OSCE regions is mostly linked with vulnerabilities deriving from migration processes, both internal and transnational.

The widespread assumption that anti-trafficking action is just an aspect of the fight against so-called “illegal migration” or that it can be positively reinforced through such a fight, is highly questionable. An agenda to stop irregular migration is not necessarily an anti-trafficking agenda, as restrictive migration policies are a component of the social vulnerability of migrants that are exploited by organized crime and unscrupulous employers<sup>63</sup>.

Such an approach can be dangerously simplistic and tends to ignore that in order to detect trafficking it is also necessary to detect exploitation. As long as the focus is primarily on the immediate deportation of every irregular migrant without appropriate procedures wherein the person is heard and indications of exploitation are recognized, trafficking will not be detected.

In this respect, the policy of criminalizing irregular migration – which treats migrants who enter or reside irregularly in the territory of a State as criminals - definitely has a detrimental impact on counter-trafficking actions. Victims, who are usually reluctant to co-operate with law enforcement and judiciary authorities because of the intimidating practices they are subject to, will be even less willing to break the silence and provide information to authorities because, in addition to being afraid of deportation, they are also afraid of being prosecuted. Furthermore, criminalizing migration validates and reinforces a negative stereotype of irregular migrants, strengthening the view widely held among the general public that foreigners are criminals per se. This is a dangerous dynamic because it fosters a process of “inferiorizing” migrants, pushing them to the margins of society in the country where they reside. The result is the creation of a sub-class of persons who can be exploited in order to pay back debts to traffickers.

The need to revise the criminalization approach has been endorsed by the European Court of Human Rights, which stated that a Member State’s legislation is precluded from providing for imprisonment on the sole grounds that a third-country national remains in the State contrary to an order to leave.<sup>64</sup>

63 Opening Remarks by M.G. Giammarino at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 2 October 2013.

64 European Court of Human Rights, *Case of Siliadin v. France*, Application No. 73316/01 (26 July 2005); European Court of Human Rights, *Case of Rantsev v. Cyprus and Russia*, Application No. 25965/04 (Strasbourg, 7 January 2010).

## Position of the UN Special Rapporteur on the human rights of migrants regarding the crime of irregular entry

“Irregular entry or stay should never be considered criminal offences: they are not per se crimes against persons, property or national security. It is important to emphasize that irregular migrants are not criminals per se and should not be treated as such.”

Source: UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants*, François Crépeau, A/HRC/20/24 (2 April 2012), para. 13.

In this context, there is also the need to prevent child trafficking by strengthening the care and protection of children on the move, especially among at-risk children in the context of cross-border and in-country migration. In this respect, child protection must be paramount and the migration perspective should be secondary.<sup>65</sup>

Yet, too often States still address human trafficking “*solely through the lens of sovereignty, border security or law enforcement, sometimes driven by hostile domestic constituencies. Although States have legitimate interests in securing their borders and exercising immigration controls, such concerns cannot, and indeed, as a matter of international law do not, trump the obligations of the State to respect the internationally guaranteed rights of all persons, to protect those rights against abuses, and to fulfil the rights necessary for them to enjoy a life of dignity and security*”.<sup>66</sup>

Migration policies have an undoubted impact also on the labour market, particularly in some sectors of the economy that are labour-intensive and are often staffed by migrant workers. Research has documented how restrictive migration policies may have unintended consequences, exacerbating the vulnerability of migrant workers to abuses and exploitation.<sup>67</sup> In this respect, it is critical to pursue policy coherence and promote feasible channels for regular migration for working purposes not only for the most educated segment of the migrant workforce but also for low-skilled workers. Such migration management measures should be assessed in light of OSCE commitments against trafficking and labour exploitation.

65 Alliance against Trafficking in Persons Expert Co-ordination Team, *Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking* (2010), <<http://www.osce.org/home/72015>>, accessed 2 October 2013.

66 UN Office of the High Commissioner for Human Rights (OHCHR), *Statement of the Global Migration Group on the Human Rights of Migrants in Irregular Situations* (30 September 2010), <<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10396&LangID=E>>, accessed 2 October 2013.

## From FLAI CGIL and CGIL Campania, an agreement between Italy and Tunisia to protect migrant workers

“We want to cut trafficking in human beings off at the roots, before criminals become involved. Five branch offices opened in Tunisia and Campania, Italy. Information is now being received from countries of origin, creating synergies and exchanges to ensure that workers who come from other countries seeking employment in Italy are not confronted only with insurmountable problems and unmet expectations. The agreement signed in February 2013 in Tunis between FLAI [Federazione Lavoratori AgroIndustria – Agro-Industrial Workers’ Federation] CGIL [Confederazione Generale Italiana del Lavoro – Italian General Confederation of Workers], National CGIL Campania, Campania FLAI, FGA [Fédération Générale de l’Agriculture], and the CGIL National as well as the UGTT [the Tunisian trade union confederation] goes in this direction. It is a collaborative agreement aimed at creating international protections for labourers, beginning in the country of origin, for men and women who come to our country to find employment in the agricultural sector, one of the major employers of labour migrants, with significant seasonal increases.”

Source: See CGIL/FLAI website: <[http://www.flai.it/index.php?option=com\\_content&view=article&id=815:da-fai-cgil-e-cgil-campania-accordo-con-la-tunisia-per-tutelare-i-lavoratori-dai-luoghi-di-origine&catid=50:primo-piano](http://www.flai.it/index.php?option=com_content&view=article&id=815:da-fai-cgil-e-cgil-campania-accordo-con-la-tunisia-per-tutelare-i-lavoratori-dai-luoghi-di-origine&catid=50:primo-piano)>, accessed 3 October 2013 (unofficial translation).

For instance, labour migration policies based on employer-centred procedural requirements<sup>68</sup> or visas linked to a single employer or employment leave “*the migrant workers completely dependent on their employers to obtain a residence permit and effectively prevent them from leaving their employment*”<sup>69</sup>.

67 ILO, *Labour inspection in Europe: undeclared work, migration, trafficking* (Geneva, January 2010); OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda For Prevention: Activities And Challenges in 2011. 2011 Annual Report of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings* (Vienna, December 2011); ILO, *Concealed chains: Labour exploitation and Chinese migrants in Europe*, Gao, Y. (Geneva, 2010).

68 For instance, migrant workers are not entitled to directly receive documents and communications from the competent authorities.

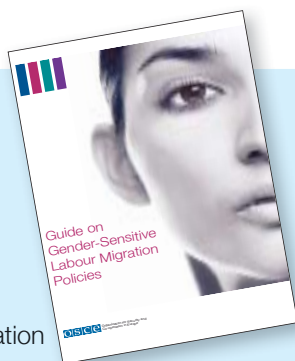
69 Amnesty International, *Exploited Labour. Migrant Workers in Italy’s Agricultural Sector* (London, 2012), p. 19.

Furthermore, migration policy should be gender and age-sensitive. Half of the world's 200 million migrants are women. Nevertheless, migration policies and opportunities are still largely oriented towards men. Women are more likely than men to be underemployed in jobs below their education and skill levels, and mostly work in sectors that are thought of as traditionally female. Migrant women, despite their often high level of education and skills, are also generally employed in unskilled and unregulated sectors of the labour market such as domestic work, which puts them at a greater risk of abuse and trafficking. In order to ensure better protection of women and girls from risk and abuse, and avoid discrimination and unequal treatment of female migrants, it is necessary to establish and/or enhance gender-sensitive labour migration policies and practices.<sup>70</sup>

## Guide on Gender-Sensitive Labour Migration Policies

The OSCE Guide defines gender-sensitive labour migration policies as those recognizing that both men and women migrate for economic reasons and better employment opportunities, and that female migrant workers also make significant contributions to national economies in both countries of origin and destination. Conceptually the Guide follows a rights-based approach as outlined in the Beijing Platform of Action of the Fourth World Conference on Women (1995). This approach has been transferred to migration policy. These are the three crucial rights dimensions that should be reflected in gender-sensitive labour migration policies: a) women's rights to legal migration opportunities; b) women's rights within the migration process, for example, to safe and secure recruitment, fair remuneration and decent working conditions; and c) women's rights realized through migration, such as increased autonomy and self-confidence to negotiate better in terms of employment and to have control over their earnings.

Source: OSCE, *Guide on Gender-Sensitive Labour Migration Policies* (Vienna, 2009), <<http://www.osce.org/eea/37228>>, accessed 2 October 2013.



## 2.4 Asylum policies

Individuals can start their journey as regular or irregular migrants through legal channels or smuggling rings and, once in the country of destination, they can become victims of trafficking and, eventually, refugees because “they are unable to return to their countries of origin for fear of being stigmatized for their forced participation in sex work or in exploitative work conditions, or may be at risk of being trafficked once again and not being able to find protection”<sup>71</sup>. In other instances, while trying to flee from persecution and armed conflicts, asylum seekers and refugees can end up being trafficked while trying to reach a safe destination.<sup>72</sup>

In many countries, victims of trafficking and asylum seekers are usually granted separate forms of protection, with asylum seekers generally treated more favourably. In so doing, States often overlook the fact that trafficked persons may qualify for both forms of protection, or, if qualifying only for one of the two, may be in need of support measures envisaged by both protection systems in order to access steady and lasting protection.<sup>73</sup> For this reason, there are cases where trafficked persons prefer not to come forward and disclose their trafficking experience in order to enjoy rights and long-term opportunities provided under existing asylum procedures.<sup>74</sup>

Because of the clear intersection between asylum policies and policies for the protection of trafficked persons, it is essential to gain a deeper understanding of how the two protection systems can support each other in a synergetic way. This would allow States to avoid detrimental consequences for both asylum seekers and victims of trafficking that are created when aspects of both protection policies interfere with one another. To accomplish this, it would be necessary to build an area of joint work between practitioners and professionals working in the two systems. Such a collaborative effort must be carried out “with a view to maximizing the protection of the human rights of all trafficked persons”<sup>75</sup>.

72 See, for instance, Coalition for Organ-Failure Solutions, *Sudanese Victims of Organ Trafficking in Egypt: A Preliminary Evidence-Based, Victim-Centered Report* (Cairo-Washington, 2011).

73 United Nations High Commissioner for Refugees, *The Identification and Referral of Trafficked Persons to Procedures for Determining International Protection Needs*, J. Bhabha, C. Alfirev, PPLAS/2009/03 (October 2009), p. 32.

74 Presentation by J.P. Gauci, “And Then What? Protecting Trafficked Persons Beyond Collaboration: The Asylum Claims of Trafficked Persons”, given at the AHRI/COST PHD Training School, Vienna, September 2012.

75 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Report by Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to Ireland from 30 January to 02 February 2012* (Vienna, 2013), <<http://www.osce.org/cthb/99775>>, accessed 2 October 2013.

70 OSCE Ministerial Council, *Decision No. 5/09 Migration Management* (Athens, 2 December 2009): encourages “to incorporate gender aspects in [the participating States’] migration policies, noting the recommendations of the OSCE-produced *Guide on Gender Sensitive Labour Migration Policies*”.

71 Remarks by L. Jolles at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99734>>, accessed 2 October 2013.

## 2.5 The protection of the rights of exploited and trafficked workers: complementing criminal justice

With regard to victims' rights, the UN Palermo Protocol<sup>76</sup> (2000) paved the way towards a better understanding of victim protection as an integral part of the struggle against trafficking. The Council of Europe Convention on Action against Trafficking in Human Beings<sup>77</sup> (2005) went much further, affirming that trafficking is a violation of human rights and an offence to human dignity and integrity of the person, setting up minimum standards for the protection of and assistance to victims regardless of their willingness to co-operate with authorities. The OSCE Action Plan<sup>78</sup> and all the OSCE commitments in this field clearly reflect a human rights-centred approach. Such an approach has been adopted by the 2010 UN Global Action Plan<sup>79</sup>, which should be used as a means to strengthen and orientate the enforcement of the Palermo Protocol.

At the European level, the primary source when dealing with victims' rights is the European Convention on Human Rights<sup>80</sup> together with EU regulations in the 28 Member States of the Union. In this latter respect, EU Directive no. 36/2011 on preventing and combating trafficking in human beings and protecting victims, provides innovative and detailed provisions to ensure victims' rights, highlighting first and foremost the principle of non-punishment of trafficked persons for illicit acts that they may have committed while they were being exploited by a trafficking ring.<sup>81</sup>

76 United Nations, *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (New York, 15 November 2000), <<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>>, accessed 24 September 2013.

77 Council of Europe, *Convention on Action against Trafficking in Human Beings*, CETS No. 197 (16 May 2005), <<http://www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=1&CL=ENG>>, accessed 24 September 2013.

78 OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

79 United Nations, *Resolution Global Plan of Action to Combat Trafficking in Persons: resolution / adopted by the General Assembly, A/RES/64/293* (12 August 2010), <[http://www.un.org/en/ga/president/67/issues/trafficking/United\\_Nations\\_Global\\_Plan\\_of\\_Action\\_to\\_Combat\\_Trafficking\\_in\\_Persons.pdf](http://www.un.org/en/ga/president/67/issues/trafficking/United_Nations_Global_Plan_of_Action_to_Combat_Trafficking_in_Persons.pdf)>, accessed 24 September 2013.

80 European Convention on Human Rights, <[http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)>, accessed 3 October 2013; another primary source is the European Court of Human Rights (ECHR) that in a number of innovative decisions over the past twenty years, in relation with violent crimes, has incrementally acknowledged that victims have their own right to an investigation, which must be impartial, quick, effective and adequate: European Court of Human Rights, *Case of Aksoy v. Turkey*, Application No. 21987/93 (18 December 1996); European Court of Human Rights, *Case of Selmouni v. France*, Application No. 25803/94 (28 July 1999); See also A. Clapham, *Human Rights in the Private Sphere* (Clarendon Press: Oxford, 1993).

### Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking

This paper examines the principle of non-punishment in international law, explores the scope of its application and discusses the challenges in its practical implementation. It includes a number of practical examples and court cases which were made available by national agencies, NGOs and legal professionals who have been examining these issues extensively. The paper concludes with the provision of practical guidance and the formulation of policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking

Source: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking* (Vienna, 2013), <http://www.osce.org/cthb/101002>, accessed 2 October 2013.

The EU Directive is also a benchmark for anti-trafficking legislation as it contains provisions related to assistance and support measures for victims, which must be provided before, during and after criminal proceedings, in order to enable trafficked persons to exercise their rights. This provision has remarkable added value as it acknowledges the fact that victims' rights cannot be ensured only within the criminal procedure, but that in addition to this they should also be given social, medical and legal assistance, including the right to legal counselling and legal representation for the purpose of claiming compensation, free of charge, when the victim does not have sufficient financial resources.

81 European Union, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011), article 8, in Official Journal L 101, 15/04/2011.





**Maria Grazia Giammarinaro**  
OSCE Special Representative

“The ultimate goal of assistance and support measures is the social inclusion of the trafficked person. In the vast majority of countries, national regulation provides for repatriation of the victim after the end of criminal proceedings. However, a human rights-based approach should primarily focus on the legitimate interests of trafficked persons, and lead to better regulation, providing for job opportunities in the country of destination, or in the country of origin in case of voluntary return. In simple words, trafficked persons should have a real chance to rebuild their lives.”

Source: Address of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings Maria Grazia Giammarinaro, at the Bundestag, Berlin, 9 November 2011.

However, taking into account the features of the trafficking phenomenon and its pervasive nature, it is necessary to address a broader area of exploitation, especially regarding migrant workers, in order to make preventative measures effective.

Traditionally victim protection responses have been built on the assumption that only a limited number of migrants were trafficked. As victims of a serious crime, trafficked persons are entitled to assistance and support and to residence permits on an exceptional basis. However, this strategy has only had a limited impact. Protection measures for trafficked persons cannot be successful if exploitation of migrant workers in general terms remains largely tolerated. From this perspective, trafficked persons should be seen first and foremost as workers. If States prioritized the rights and needs of migrant workers, instead of concentrating on levelling administrative or criminal sanctions for how they entered or stayed in a country, more victims would be identified and protected.<sup>82</sup> In this context,

taking into account that exploitation is a continuum, trafficking victims should be regarded as people who have suffered from the worst forms of exploitation, and who are therefore entitled to more significant assistance and support measures. At the same time, the entire spectrum of exploitation should be addressed by different means.

In light of the above, to reduce trafficking for labour exploitation, the application of labour standards and the implementation of specific legislation to ensure protection for highly vulnerable workers would be needed, regardless of the workers' immigration status. In this respect, the challenge is to extend minimum standards of protection to all workers, including migrant workers, and to make sure that the laws are enforced.

Such measures would act as a greater deterrent to discourage unscrupulous employers from exploiting migrant workers again in the future.

### FRA guidelines on access to justice, to enable undocumented migrants to report crime without being apprehended

#### Access to justice

In the interest of fighting crime, Member States may consider introducing possibilities for victims and witnesses to report crime without fear of being apprehended. To this end, the following good practices may be considered:

- introducing possibilities for anonymous, or semi-anonymous or other effective reporting facilities;
- offering victims and witnesses of serious crimes the possibility to turn to the police via third parties (such as a migrants ombudsman, specially designated officials; or entities providing humanitarian and legal assistance);
- defining conditions under which victims or witnesses of crime, including domestic violence, could be granted residence permits;
- developing leaflets in co-operation with labour inspectorates or other relevant entities to systematically and objectively inform migrants apprehended at their work places of existing possibilities to lodge complaints against their employers, and in this context taking steps to safeguard relevant evidence.

Source: <[http://fra.europa.eu/sites/default/files/fra-2013-apprehension-migrants-irregular-situation\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2013-apprehension-migrants-irregular-situation_en.pdf)>, accessed 2 October 2013.

<sup>82</sup> Keynote remarks by L. Thompson at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99728>>, accessed 2 October 2013.





**Michele Levoy**  
Director, Platform for  
International Cooperation  
on Undocumented Migrants  
(PICUM)

## 10 ways to protect Undocumented Migrants (UDMs)

1. Engaging Public Support - Awareness-Raising Campaigns and Actions
2. Collecting Appropriate Data
3. Informing Undocumented Migrants about Their Rights
4. Empowerment of UDMs
5. Unionizing UDMs
6. Working with Employers to Prevent Exploitation and Holding them Accountable for Abuse
7. Mediation and collective actions
8. Using Legal Channels
9. Working with Governmental Agencies to Promote UDMs' Rights
10. Regularizing UDMs and setting up regular channels for labour migration

Source: Remarks by M. Levoy at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99737>>, accessed 2 October 2013.

However, this is not a simple issue, as *“on the one hand, states have an obvious right to curb irregular migration, and will be reluctant to extend certain employment protections to irregular migrants on the grounds that this will further stimulate the problem. On the other hand, all migrants, whatever their legal status, should enjoy fundamental human rights”*<sup>83</sup>. In this respect, providing undocumented trafficked and exploited migrant workers with the possibility of gaining access to justice is essential in order for them to claim their rights, including the reimbursement of salaries and compensation for moral and material damages.

However, there is another, even more general, issue to address. Is the link between assistance measures and the criminal justice response effective in ensuring support for victims? In the vast majority of national regulations, assistance is linked with the existence and development of criminal proceedings. Taking into account the limited number of prosecutions for human trafficking<sup>84</sup> and trafficking for labour exploitation in particular, the number of people who in fact enjoy assistance and support is very low, even when there are clear indications of trafficking or serious exploitation, and even when trafficked persons are ready to co-operate with judicial authorities. It happens, in fact, that these persons lose their assistance entitlements and are at risk of being deported if criminal proceedings are terminated for whatever reason.

Therefore, the possibility of establishing grounds for assistance and support measures not necessarily linked to the legal qualification of a case as a trafficking case – and with the related criminal proceedings – should be explored. These grounds, which should include exploitation and coercion or abuse, could be evaluated by local authorities or social services, with a recognized role for NGOs. They should also be tailored to meet the needs of exploited persons. In this view, it is essential to establish co-ordination bodies comprising of – *inter alia* – all relevant ministries and civil society representatives – *“to guarantee a transversal approach to the problem of trafficking, ensuring the effectiveness of the dialogue but also a strong and rigorous coordination, which is essential for the appropriate implementation of the measures”*<sup>85</sup>. In light of its long-standing expertise in this field, the ODIHR can play an important role in *“providing technical assistance to set-up National Referral Mechanisms in the partner countries”*<sup>86</sup>.

<sup>83</sup> OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013; contribution by R. Plant, “Combating trafficking for labour exploitation: a decent work approach”, p.11.

<sup>84</sup> European Commission, EUROSTAT, *Trafficking in Human Beings*, Working Papers and Methodologies (Luxembourg, 2013); U.S. Department of State, *Trafficking in Persons Report 2013* (June 2013).

<sup>85</sup> Opening Remarks by T. Morais at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99742>>, accessed 2 October 2013.

<sup>86</sup> Opening Remarks by J. Lenarčič at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013.

## Recent efforts to develop a multi-agency approach: Tunisia and Egypt

Tunisia has established a National Commission to Combat Trafficking in Persons, including representatives of the Ministries of Interior, Foreign Affairs, Social Affairs, Finance, Women's Affairs and Health, as well as civil society, to draft legislation and promotes training courses at different levels.

Source: Opening Remarks by K. Amiri at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99726>>, accessed 2 October 2013.

“Egypt has already completed its First National Plan of Action 2011-2013, which is based on the 4 P’s: (Prevention - Protection - Prosecution - Participation), and aimed at protecting and assisting victims and reintegrating them back into the community. [...] A comprehensive survey-study on the phenomenon was conducted by the national centre for social and criminological research in full co-operation with the national committee.”

Source: Statement by Egypt at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013.

In line with this approach, the criminal justice response, which continues to be essential and should be further enriched with additional tools, should be complemented with civil and labour law remedies to ensure that every situation of exploitation not amounting to trafficking or another serious crime is dealt with. Especially in the field of labour exploitation, and particularly in cases in which the *modus operandi* of criminal groups is based not on violence but on abuse, the legal qualification is particularly challenging. In this respect, it is important to mobilize further institutional and civil society resources enhancing labour inspections and workers’ empowerment measures, both in countries of destination and origin, and also in case of return. In the latter, “*return should not be the only option for undocumented migrants [and] deportation and detention should be last resort measures after all identification procedures have been used*”<sup>87</sup>. Moreover, “*measures to accompany a safe, dignified and preferably voluntary return*” should be developed with the final aim to promote and support the social inclusion of the returnees in their home countries.<sup>88</sup>

## Assisted voluntary return of victims of trafficking in the countries of origin: France

“The French Office of Immigration and Integration [OFII-Office Français de l’Immigration et de l’Intégration], within the Ministry of the Interior, has among its missions to assist the voluntary return to the country of origin of foreigners present on French territory. OFII has an office in the major countries of emigration to France (Burkina Faso, Benin, Cameroon, Congo-Brazzaville, Congo DRC, Ivory Coast, Guinea, Mali, Senegal, Togo and Tunisia) and can provide financial assistance to foreign victims of trafficking. It is also involved in economic reintegration for those who wish to undertake an economic activity in their country.”

Source: Remarks by M. Derriennic at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/fr/cthb/99736>>, accessed 2 October 2013 (unofficial translation).

<sup>87</sup> Ibid.

<sup>88</sup> Opening Remarks by M.G. Giammarinaro at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 2 October 2013. Moreover, ODIHR is developing a Guide on international standards and good practices on human-right compliant procedures on the return of victims of trafficking.



# 3

## CHAPTER

Illustration: Creazione (2004), Tempera on brick 10x10 cm, by Adriano Parracciani

# THE WAY FORWARD: THEMATIC AREAS TO ENHANCE CO-OPERATION IN THE MEDITERRANEAN REGION

Migrants, in particular undocumented migrants, are still among the groups and individuals most vulnerable to exploitation and human trafficking. The sheer extent of human tragedies that the recent migration from the Mediterranean region to the European Union has produced is unspeakable and has made it impossible to look away. Those who arrive on the Northern shores of the Mediterranean are considered lucky; however, already from the outset of their travel or soon upon arrival, many migrants find themselves again living and working in inhuman conditions, exploited, discriminated against and even criminalized.

This human tragedy however has also created political momentum. Migration issues are back on the agenda nationally and internationally. This allows renewing efforts to look beyond the surface and live up to the respective responsibilities – as OSCE participating States and Partners for Co-operation – to protect the fundamental rights of trafficked persons and ensure decent working conditions for all migrant workers.<sup>89</sup>

As stated in the UN Global Compact Principle 4, human trafficking for labour exploitation *“does not only constitute a violation of fundamental human rights, but it also deprives societies of the opportunity to develop skills and human resources, and to educate children for the labour markets of tomorrow. So the debilitating consequences of forced labour are not only felt by individuals, in particular children, but also by society and the economy at large. By retarding the proper development of human resources, forced labour lowers the level of productivity and results in less secure investments and slower economic growth. The loss of income due to disruption of regular jobs or income-generating activities reduces the lifetime earnings of potential breadwinners and is thus likely to lead to the loss of food, shelter, and health care of whole families.*

*While [economic sectors] operating legally do not normally employ such practices, [human trafficking and] forced labour can become associated with enterprises through their business links with others, including contractors and suppliers. As a result, all employers should be aware of the forms and causes of forced labour, as well as how it might occur in different industries.”*<sup>90</sup>

The high-level conferences of the *Alliance against Trafficking in Persons* organized by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in 2011 and 2012 were dedicated to the themes of decent work and anti-discrimination as significant parts of

an effective strategy to prevent human trafficking for labour exploitation and empower trafficked and exploited migrants. Both topics are highly relevant to the Mediterranean region.

In this respect, given the close business relations between the two sides of the Sea, especially in the context of the Euro-Mediterranean free trade area, the business sector can play an active role in pursuing practices that can positively impact the protection of workers' human rights by giving special consideration to human trafficking for labour exploitation, thus preventing the worst consequences suffered by trafficked persons. In fact, victims in the region are very often heavily indebted, exposed to discrimination and violence, and often outlaws, especially since irregular migration has become a crime in many countries.

The lack of decent work and social protection, poverty, unemployment, discrimination as well as denial of human rights and access to justice represent major push factors for persons from Southern Mediterranean countries to migrate to Europe. The very same elements make migrants vulnerable to exploitation and easy prey for traffickers and unscrupulous employers during the trip as well as when they arrive at their destination.<sup>91</sup>

Particularly in the field of labour migration, European, Middle Eastern and Northern African countries share many common challenges today. The fact that the economies of both countries of origin and destination have become increasingly dependent on inexpensive, migrant labour and remittances, respectively, requires renewed efforts on both sides of the Mediterranean, particularly in the field of labour exploitation and trafficking of the most vulnerable workers: undocumented migrants as well as asylum seekers and persons under international protection. The increasing transnational nature of organized crime in the Mediterranean region as well as the incidence of transnational situations linked to migrant exploitation requires enhanced co-operation between OSCE participating States and the Mediterranean Partners for Co-operation.

There is, therefore, a need to further support a human rights as well as a multidisciplinary approach to anti-trafficking strategies, in line with the OSCE commitments and international human rights law.<sup>92</sup>

As a result of the discussions that took place at the Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, three main thematic areas were identified for enhanced co-operation in the Mediterranean

<sup>89</sup> Opening Remarks by M.G. Giammarinaro at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 2 October 2013.

<sup>90</sup> United Nations Global Compact, Principle 4 *“Businesses should uphold the elimination of all forms of forced and compulsory labour.”* (2004), <<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/Principle4.html>>, accessed 2 October 2013.

<sup>91</sup> Opening Remarks by M.G. Giammarinaro at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 2 October 2013.

<sup>92</sup> OSCE Ministerial Council, *Decision No. 5/11 Partners for Co-Operation*, MC.DEC/5/11 (Vilnius, 7 December 2011); OSCE Ministerial Council, *Declaration on combating all forms of human trafficking*, MC.DOC/1/11/Corr.1 (7 December 2011).

region. In order to be more action-oriented, each thematic area is briefly described and the desirable target for enhanced co-operation is also outlined.

### 3.1 Access to justice and compensation for exploited and trafficked workers

#### Thematic Area 1

*To promote better co-operation aimed at meeting the needs and protecting the rights of trafficked and exploited migrants, especially for the purpose of labour exploitation, including compensation for lost wages and other damages.*

Specific attention should be devoted to access to justice in the process of return, especially regarding the respective duties of countries of origin and destination, with a view to enabling trafficked and exploited migrants to claim their rights through easy and quick procedures, before and after return. Clear formulation and attentive enforcement of provisions related to the accountability of employers, including complaint mechanisms and remedial actions for workers, would offer a valid support against impunity of final users of exploited and trafficked workforce.

Art. 6 of the EU Employer Sanctions Directive<sup>93</sup> represents a step forward in this direction: it makes employers liable to pay back outstanding remuneration to irregular third country nationals and obliges States to systematically inform undocumented migrants about their rights under this provision. The Directive also obliges States to put in place effective complaint mechanisms through which irregular migrant workers may lodge complaints against their employers and aims at improving the accountability of contractors and subcontractors. However, according to recent research in the EU<sup>94</sup>, structural obstacles to accessing compensation for trafficked and exploited migrants are highly correlated with two main aspects: the non-identification of trafficked persons and exploited migrants as victims of crime as well as violations of labour laws, and a failure to promote a victims' rights culture. Concerning migrant workers coming from the Southern rim of the Mediterranean, a further obstacle is the lack of international co-operation frameworks dealing with the issue of their access to justice in transnational cases.

93 European Union, *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals* (18 June 2009), in Official Journal L 168/24, 30/6/2009, <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0052:en:NOT>>, accessed 25 September 2013.

94 European Action for Compensation for Trafficked Persons (COMPACT), *Findings and Results of the European Action for Compensation for Trafficked Persons, Comp.Act Toolkit on Compensation for Trafficked Persons 2012* (2012), <<http://lastradainternational.org/lisidocs/Findings%20and%20results%20of%20Comp.Act.pdf>>, accessed 2 October 2013.

In general terms, cases of labour exploitation and trafficking for forced labour often go undetected because they are largely hidden crimes and remain a low priority for law enforcement. Although labour unions acknowledge the issue of labour exploitation of irregular migrant workers, there is minimal representation of their interests and needs. Since the majority of trafficked persons are undocumented migrants, they are often denied the recognition of ancillary rights that would support their access to justice. Finally, even when trafficked persons are successful in their efforts to claim compensation there are often obstacles impeding payment. For example, they may not be able to obtain compensation from their exploiters, since these parties may lack the necessary means to comply with a judicial decision on damages or because they simply cannot be identified or prosecuted. In the absence of a victims' rights culture many governments have no structures in place to confiscate traffickers' assets and do not place a high priority on guaranteeing compensation payments.

Very little of the existing structure for providing assistance to trafficked and exploited migrants is oriented towards access to justice and there is also a need for language services, legal advice, and support services focused on rights. Lack of training also hampers compensation, as investigative and prosecutorial authorities are often not aware of the measures to be taken at an early stage of criminal proceedings, including appropriate and comprehensible information, to enable trafficked and exploited persons to claim their rights. With respect to legal advice and representation for trafficked persons, state legal aid is inconsistent and problem-ridden and when it is awarded it is often insufficient.

In transnational cases, additional issues must be dealt with through enhanced international co-operation, including the possibility for the exploited person to stay in the country where the exploitation took place in order to be able to claim compensation, or, if the person is not allowed to stay, the possibility to present a complaint and give evidence in the country of return.

#### Target

To set up measures to facilitate the access to compensation for lost wages and other damages suffered by trafficked and exploited migrants, irrespective of their residence status, and regardless of whether they have been identified and/or formally recognized as victims of trafficking<sup>95</sup>, with a view to allowing the person to access these measures either in the country of origin or destination.

95 Conclusions of the Expert Consultation on 'The Right to an Effective Remedy for Trafficked Persons', convened by the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, November 2010.

## 3.2 Confiscation of assets of traffickers and exploiters

### Thematic Area 2

*To promote better co-operation aimed at achieving significant results in ensuring effective financial sanctions against those who facilitate trafficking for labour exploitation or receive the relevant work performance, including exploitative employers, intermediaries and recruiters, in order to enhance real deterrence, to make trafficking less profitable and more risky, through the use of financial investigation and anti-money laundering measures.*

The ability of traffickers to move unlawful proceeds quickly, combined with a weak legal framework and the often uncoordinated law enforcement efforts represent factors that make THB a low-risk, high-profit crime, amounting to an estimated global turnover of USD 32 billion per year.

Addressing THB effectively requires, *inter alia*, an approach that focuses on the unlawful profits, both movable and immovable. However, the current scenario is characterized by a substantial disconnection between investigations to detect the crime of human trafficking and financial investigations. Currently, effective inter-agency co-operation between Financial Investigative Units (FIUs) and Law Enforcement Agencies (LEAs) is missing altogether or is very limited in frequency and scope. Such a situation is detrimental for both law enforcement activities: a financial investigation for money laundering can reveal suspicious activities related to THB and offer useful insight into the finances and operations of traffickers, providing the grounds for freezing, seizing, and confiscating criminal proceeds and assets.

In this respect, it is worth noting that, according to the current caseload, profits directly linked to the illicit act of human trafficking – i.e., the unlawful profits deriving from the unpaid wages of exploited workers or the use of the premises of an enterprise to make use of trafficked workforce – are more often traceable in the countries of destination, while the re-investment and money laundering of the assets deriving from the illicit proceeds related to human trafficking into licit or illicit activities – the purchase and management of a hotel or a farm or the purchase of high-speed boats to cross sea borders irregularly – are usually traceable in the countries of origin of the trafficking process. Such a distinction is relevant also from a legal and judicial point of view, as THB can be a predicate offence for money laundering. However, substantial weaknesses in national legal frameworks, the shortage of respectively financial expertise in LEAs (Law Enforcement Agencies) and THB expertise in FIUs (Financial Investigation Units), the location of

relevant information in many different institutions, including not only law enforcement and prosecution agencies but also private financial institutions, combined with a slow and often limited international co-operation on financial aspects related to THB, represent the main hindrances in ensuring adequate counter-measures to the financial incentives and undue profits related to human trafficking<sup>96</sup>.

### Target

To set up measures to facilitate the freezing and confiscation and recovery of the profits deriving from human trafficking and labour exploitation of migrant workers through enhanced co-operation aimed at generalizing the use of financial investigations at an early stage of criminal proceedings, sharing information on THB and money laundering cases, disseminating good practices on the freezing of assets, third party and non-conviction-based confiscation, anti-money laundering measures, and the use of confiscated assets to pay compensation to victims.

## 3.3 Domestic servitude

### Thematic Area 3

*To promote better co-operation aimed at enhancing the prevention of and the fight against domestic servitude, which is a particularly hidden form of labour exploitation, consisting of domestic work performed in slavery-like conditions, and mostly affecting women and children on both sides of the Mediterranean.*

Both internal and international migrants, especially when the latter ones are undocumented, represent a particularly at-risk group for exploitative and abusive situations in domestic and family care work, due to the often fewer regulations in this sector and the inability of labour inspectors to verify compliance with labour standards in private households, including compliance with the legal minimum age for labour activities. The general reduction of welfare mechanisms in Europe combined with the increasingly active role of women in working activities outside of households, helps explain the ever-increasing demand for domestic work in the Northern rim of the Mediterranean.

At the same time, in many countries, traditional solidarity practices aimed at supporting families in disadvantaged situations, like entrusting children to wealthier relatives or families that can offer them the possibility of being raised and educated, are often distorted in their nature and misused, creating an environment where the exploitation of children, particularly young girls, is rife. This form of trafficking takes place at both the national and transnational levels.

<sup>96</sup> OSCE, *Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings* (forthcoming).

Currently, factors that make domestic work an at-risk sector for exploitative and abusive situations relate primarily to: the poor recognition of a proper status for domestic work and workers; the poor regulation of domestic work in the national legislations; a lack or a shortage of outreach to domestic workers, considering that currently labour inspections cannot take place in private households which leads to the consequent limitation of workers' rights and of their chances to be protected from abusive situations, particularly in the case of children.<sup>97</sup>

In this case, domestic servitude as a form of child labour is a violation of human rights and is recognized and defined by international instruments<sup>98</sup> as it damages the *“child's physical, social, mental, psychological and spiritual development because it is work performed at too early an age”*<sup>99</sup>.

In transnational cases, uncertainty regarding the identity and the age of children, due to the lack of birth certificates and other essential documents, hampers appropriate prevention, assistance and protection measures for victims, commonly also from other forms of exploitation.

Children found in exploitative situations should be granted residence status in the country of destination, also taking into account that the family could have played a role in the decision to send the child abroad. In such cases, the evaluation of the best interest of every individual child should be particularly thorough.

However, if the return takes place on a voluntary basis and in the best interest of the child, such a process should be accompanied by concerted actions for the educational, family, social and economic reintegration of the child victim, involving institutions and civil society organizations of both sending and receiving countries. In particular, the country of origin should ensure that public social services and reliable NGOs are identified in the country of return. Both countries, origin and destination, should ensure appropriate funding for public social services and NGOs to support every individual child in the return process, and to promote their social inclusion.

An additional challenge is related to the role of intermediaries, often of the same nationality as victims, and often based in countries of origin. Enhanced police and judicial co-operation is crucial in improving effective deterrence when tackling the critical role of intermediaries, which could run individual cases but also more extended networks.

### Target

To enhance regional and bilateral co-operation for the identification of children and age assessment as forms of prevention and child protection. To enhance regional and bilateral co-operation to accompany the process of return and reintegration of minors and young adults in the country of origin, provided that return is the option of last resort and is carried out in the best interest of the child or on a voluntary basis in the case of young adults. To enhance regional and bilateral police and judicial co-operation with a view to detecting the role of intermediaries and ensuring their prosecution.

<sup>97</sup> OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010), <<http://www.osce.org/cthb/75804>>, accessed 23 September 2013

<sup>98</sup> International Labour Organization, *Minimum Age Convention*, C138 (1973); and ILO, *Worst Forms of Child Labour Convention*, C182 (1999).

<sup>99</sup> United Nations Global Compact, *Principle 5 “Businesses should uphold the effective abolition of child labour.”* (2004), <<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/Principle5.html>>, accessed 2 October 2013.





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



Illustration: Evoluzione (2004), Tempera on brick 10x10 cm, by Adriano Parracciani

# 4

CHAPTER

## CONCLUSIONS

# Conclusions

Addressing modern slavery in the Mediterranean region is essential and urgent, both in terms of human rights protection and security. As a matter of fact, we are facing a growing criminal phenomenon which increasingly affects crucial sectors of the economy on both sides of the Sea.

There is a strong need for more effective action now, as the impunity and the economic power of organized crime could negatively affect the transition process in the aftermath of the “Arab Spring”. Through enhanced co-operation it is possible to address the multiple challenges posed by concrete actions aimed at eradicating human trafficking.<sup>100</sup> In this view, States must acknowledge the limits of actions carried out individually and develop a new strategy capable of making use of their full potential and practical co-operation across the Mediterranean shores<sup>101</sup> in order to be able to live up to the respective international obligations and fight trafficking in persons with concrete actions instead of empty words.<sup>102</sup>

The fight against trafficking demands a high degree of co-operation and a solid framework of partnership. The OSCE framework can provide an open-dialogue forum and a confidence-building environment to enhance mutual understanding and collaboration.

In this regard, the OSR/CTHB has carried out in-depth consultations on human trafficking with the Mediterranean Partners for Co-operation since the Rome Seminar, offering a lively forum for discussion which has increased overall knowledge of the emerging challenges and political dilemmas in the region. The dedicated section at the OSCE Mediterranean Conference on “The social and economic impact of trafficking for labour exploitation, and the role of the business sector” shows that the ideas put forward at the Rome Seminar are of lasting relevance, demanding continued attention.<sup>103</sup>

The outcomes of this dialogue, carried out in consultation with experts and practitioners of both participating States and Mediterranean Partners for Co-operation,<sup>104</sup> are offered to the relevant stakeholders in the Mediterranean region as a common ground for further joint action.

In this respect, addressing human trafficking as a human rights violation implies not only a negative obligation of the State to abstain from direct violations of human rights, but also a positive obligation to put in place protective measures addressing potential, presumed and actual trafficked persons.

To achieve concrete results towards this goal one additional P is needed:<sup>105</sup> Political will. Joining forces requires that each individual State - whether it is a country of origin, transit, destination, or a combination of all three - understands that its role is critical in the fight against trafficking, shows willingness in putting forward its experience and potential as well as limits and weaknesses, and demonstrates a real engagement in building a framework of shared responsibility among all players.

Counteracting trafficking requires a political platform where countries of origin, transit and destination share respective responsibilities and support each other’s efforts in preventing the phenomenon, protecting the victims, prosecuting the responsible persons, and partnering with relevant national and international stakeholders.

In this regard, prevention represents a critical aspect of an overall strategy to tackle social vulnerabilities deriving from poverty, lack of equal opportunities, conflicts and interpersonal violence. And in this context it is undeniable that purely restrictive migration policies are part of the problem rather than

100 Opening Remarks by M.G. Giammarinaro at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99863>>, accessed 27 September 2013.

101 Opening Remarks by G. Terzi di Sant’Agata at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/it/cthb/99740>>, accessed 27 September 2013.

102 Statement by T. Greminger at the OSCE Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013, <<http://www.osce.org/cthb/99729>>, accessed 27 September 2013.

103 Please see the speech by the SR/CTHB on the next page

104 With the financial support of Italy, on 10 May 2013 the OSR/CTHB held a consultation meeting with experts and practitioners of the countries selected for the pilot project “Combating trafficking in human beings in the Mediterranean region: Providing access to justice for trafficked and exploited migrants especially in relation to return”: Algeria, Belgium, France, Italy, Morocco, Spain and Tunisia. The meeting provided an opportunity to discuss access to justice, legal remedies and compensation for migrant workers in the countries of destination and origin, after return. With the financial support of the Principality of Monaco, the Swiss Confederation and Italy, the OSR/CTHB organized a consultation meeting in Vienna on 7 October 2013, with the participation of experts and practitioners of the Mediterranean Partner Countries to collect views and experiences on preventing labour exploitation in the Mediterranean region with a specific focus on the role of the business sector.

105 The so-called “4 Ps approach” in combating trafficking usually makes reference to the main four pillars of an overall strategy to counteract trafficking: Prevention, Protection, Prosecution and Partnership.



part of the solution, as they increase social vulnerabilities of migrants not only in the country of destination but also during the trip, as migration routes become more complex and dangerous.<sup>106</sup>

The Director-General of the International Labour Organization, Guy Ryder, recently called for more regular channels for labour migration to the EU.<sup>107</sup> Indeed, an effective strategy to prevent human trafficking and exploitation includes also promoting regular migration and decent work and encouraging respect for fundamental rights at work, particularly of migrant workers.

The OSCE can support government and civil society actors in the Mediterranean Region in their joint actions to prevent human trafficking by playing a substantial role in assessing specific needs in the area, putting forward innovative ideas, and promoting political dialogue and effective measures. The OSR/CTHB will continue working in this direction in the future, seeking the support of participating States and the Mediterranean Partners for Co-operation, to make the region an area of enhanced security where the human rights of nationals and migrants are protected.

## The Social and Economic Impact of Trafficking for Labour Exploitation, and the Role of the Business Sector

Source: This speech was delivered by OSCE Special Representative Maria Grazia Giammarinaro at the OSCE Mediterranean Conference 2013 entitled “Enhancing the Role of Women in Public, Political and Economic Life”, on 29 October 2013 in the Principality of Monaco. It gives a clear explanation of the relevance of the identified areas for co-operation and is a good summary of the work done with the Mediterranean Partners for Co-operation in 2013.

**Dear Chair,  
Dear Secretary General,  
Dear Ambassadors,  
Dear Colleagues Ladies and Gentlemen,**

First of all, allow me to express my heartfelt thanks to the government of Monaco for hosting today’s Conference. My thanks also go to the Mediterranean Partners for Co-operation for having agreed to select human trafficking as one of the topics for discussion at this event and for the invitation to address this session.

Indeed, the recent tragedies that occurred in the Mediterranean Sea, with hundreds of lost lives and dispersed persons, have made it impossible to look away from the challenges that we are requested to address. And we should make good use of the political momentum that these tragic events have produced to promote shared responsibilities as countries of origin, transit and destination, between OSCE participating States and Partners, and the European Union, to protect the fundamental rights of all people, and particularly of vulnerable migrants.

In my intervention today I will try to outline how human trafficking is placed at the cross-road of economic and social challenges that are often reflected in the political and operational dilemmas that all countries are facing, including in the Mediterranean region; I will then provide an overview of some possible areas for enhanced co-operation, identified during the year in the course of the seminar held in February in Rome, and other consultative occasions with the countries of the Mediterranean region, which could represent a platform for further dialogue and possibly operational work.

<sup>106</sup> Closing remarks by M.G. Giammarinaro at the OSCE/UNODC/IOM Seminar on Strengthening co-operation among countries of origin, transit and destination in combating irregular migration and related transnational organized crimes, Vienna, 31 October 2013.

<sup>107</sup> Video message by Guy Ryder at the conference of the European Commission on EU labour law, Brussels, 21 October 2013, <[http://www.ilo.org/brussels/information-resources/video/WCMS\\_226475/lang--en/index.htm](http://www.ilo.org/brussels/information-resources/video/WCMS_226475/lang--en/index.htm)>, accessed 4 November 2013.

### How human trafficking intercepts inter-related policy areas in today's global economy

Human trafficking is modern-day slavery: at the global level 20.9 million people – men, women and children – are recruited – mostly by fraudulent means and abuse of their social vulnerability – to be exploited, often in slavery-like conditions.<sup>108</sup> 800,000 are exploited in the European Union alone. 68 per cent globally are exploited at work, in agriculture, commercial fishing, construction, hotels and restaurants, and domestic work.<sup>109</sup>

Although trafficking also occurs within the borders of one country, in the OSCE region it is mostly linked with vulnerabilities deriving from migration processes.<sup>110</sup>

Social vulnerabilities derive first of all from poverty, lack of equal opportunities, conflicts and interpersonal violence, and are exacerbated as a consequence of insufficient channels for legal migration; a significant number of migrants address intermediaries to facilitate the migration process and job placement, and often fall prey to criminal organizations. In a situation of irregularity, in the hands of criminal networks, persons become a new commodity. Undocumented migrants are virtually invisible, legally “non-existent” or they are even criminalized, as in the case of many countries which have introduced the crime of irregular border crossing and irregular residence in the country.

Indeed, human trafficking in the Mediterranean region reflects the complexities of the phenomenon at the global level, with ever-changing social, political and economic vulnerabilities that evolve into a range of migration patterns – internal, intra-regional and international - affecting all countries on both sides of the Mediterranean as places of origin, transit, and destination.

Many further factors contribute to fuel exploitative practices in the region. The impact of the financial crisis has, de facto, increased the demand for inexpensive labour, particularly in some sectors that are more labour-intensive and less suitable for outsourcing, such as agriculture, construction, tourism, commercial fishing and domestic work. At the same time, political instability, combined with on-going complex emergencies in the Middle East as well as Sub-Saharan Africa and the Horn of Africa, makes the Mediterranean region an area particularly affected by flows of migrants, including those entitled to international protection.

While mixed migration flows<sup>111</sup> in the Mediterranean region have usually been taken into consideration in the framework of smuggling of migrants, recent research and investigations demonstrate that a strong linkage exists between migration towards the Northern rim of the Mediterranean and subsequent exploitation. Migrants find themselves in a situation of serious social and economic vulnerability, even when they have already reached the destination country and even when they have worked regularly for months or years, they could end up being obliged to work in extremely exploitative conditions.

In my mandate as SR, my Office and I have devoted much attention to the prevention of trafficking for labour exploitation. In this respect, in terms of prevention, the work of my Office has focused more on identifying positive practices aimed at preventing exploitation of migrants rather than sticking to approaches aimed at stopping – or drastically limiting - migration flows as supposedly the only means to stop abuse from occurring.

In my view, we should adopt a positive approach to the complex problems related to migration management, rather than taking for granted or condoning purely restrictive approaches. The truth is that restrictive migration policies are part of the problem rather than part of the solution. Youth and women were major actors in the “Arab Spring”: their aspiration to seek better opportunities in any of the OSCE participating States, if they do not find them at home, should be seen with a friendly eye; they should be offered an opportunity to find a non-exploitative job. A few days ago the Director General of the International Labour Organization Guy Ryder urged nations to expand regular migration channels. And indeed, effective prevention of trafficking and exploitation involves promoting regular migration and decent work and encouraging respect for fundamental rights at work, particularly of migrant workers.<sup>112</sup>

Furthermore, economic participation of women also means the possibility to find a decent and regular work abroad, if they decide to migrate.

The seriousness of the main challenges in our Mediterranean labour market require us to enhance co-operation in the region.

<sup>108</sup> For a legal definition of human trafficking, see: United Nations (UN), *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (15 November 2000), art. 3.

<sup>109</sup> International Labour Organization (ILO), *Global Estimate of Forced Labour. Results and methodology* (Geneva, 2012).

<sup>110</sup> Albano, T., Volpicelli, S. “Missing development: the consequences of the failure of the migratory project on individuals and societies”, in *Migration and development: a new relation* (Nuova Cultura, 2011).

<sup>111</sup> Mixed migration flows are defined as: “A movement in which a number of persons are travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons. Persons travelling as part of mixed movements have varying needs and profiles and may include asylum-seekers, refugees, trafficked persons, unaccompanied/separated children, and migrants in an irregular situation.” Also referred to as mixed movements or mixed migration. Source: UNHCR, *Refugee Protection and Mixed Migration: the 10-Point Plan in Action* (Geneva, 2011), p. 291.

<sup>112</sup> Dottridge, M., *Methods to prevent trafficking for labour exploitation: what to do and how*, in OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013.

To this end, the Vilnius Declaration provided a platform for a new impetus to strengthen the dialogue with the Mediterranean Partner Countries.

During the recent Expert consultation four areas of interest were identified, in which ideas for future work including possible projects could be further explored: the role of the business sector, recruitment and job placement for migrant workers, access to justice including compensation, and the enhancement of the role of civil society.

### The role of the business sector

In the field of prevention of trafficking for labour exploitation, the role of the private sector could be pivotal. Indeed, a greater effort should be made to engage with businesses to promote voluntary initiatives aimed at preventing forced labour and trafficking. For instance, the adoption of codes of conduct to ensure appropriate treatment and remuneration of the labour force can be promoted within corporate social responsibility programmes, in order for the business community to comply with international human rights and labour standards<sup>113</sup> and “exercise due diligence [...] in their supply chains in order to detect and prevent cases of trafficking<sup>114</sup>, according to the UN Guiding Principles on Business and Human Rights.

I am convinced that we need first of all voluntary commitments from the business community and individual businesses. In fact, a voluntary approach stimulates innovation, and encourages businesses to take actions that can be particularly effective in their own sectors or areas of activity. In particular, innovative approaches are needed especially on the issue of exploitation - sometimes extreme exploitation - taking place in the supply chain. This is actually the real challenge: monitoring and cleaning the supply chain. Codes of conduct should also apply to the subcontracting phase, and their implementation should be accurately monitored. If not, codes of conduct or other social corporate responsibility tools could only foster „window dressing“ operations, which cannot be condoned.

At the same time, we need the public sector to take a proactive role, for example through action plans and/or guidelines, or targeted agreements with business organizations, with a view to highlighting the expectations of governments and public institutions and agencies with respect to the eradication of slavery, forced labour and trafficking. Voluntary initiatives could be complemented by regulations foreseeing basic obligations for

businesses to take action in this direction. Legislation recently adopted in California offers an example of the combination between a voluntary and a regulatory approach, as the new law requires big textile companies to publicise their efforts to eliminate slavery and human trafficking from their supply chain.

Furthermore, governments, public institutions and agencies, as well as international organizations should adopt targeted policies aimed at discouraging and eliminating trafficking for labour exploitation.<sup>115</sup> In this respect, an area where the role of governments is critical is public procurement. Regulatory mechanisms could be developed, including clauses of exclusion for firms and companies found guilty of labour exploitation. To increase effectiveness, such measures – both voluntary and State-based – should be also complemented by accessible and effective complaint mechanisms for exploited and trafficked migrant workers.

To conclude, this is an area in which public-private partnership initiatives could be developed across the Mediterranean region, with a view to enhancing cooperation and better preventing trafficking and exploitation.

### Recruitment and job placement of migrant workforce

Recruitment and placement of the labour force represents another critical area where prevention of exploitation can be enhanced. There is evidence that informal and even formal agencies working in the field of recruitment and job placement are often involved in human trafficking. Such agencies often encourage migrants to borrow money to cover recruitment fees and expenses related to the organization of their trip or for their job placement. This is often the beginning of abusive and fraudulent practices that either lead directly to trafficking or exponentially increase the vulnerability of workers to exploitation. Through a combination of wage deductions, payments in kind and debt manipulations, workers end up in a situation of debt bondage in which they have no other option but to submit to their exploiter.<sup>116</sup>

113 UN Special Rapporteur on trafficking in persons, especially women and children, *Benchmarks and indicators for ensuring trafficking-free supply chains* (2013) as well as the UN OHCHR, *Guiding Principles on business and human rights, Implementing the UN “Protect, Respect and Remedy” Framework* (Geneva and New York, 2011).

114 UN OHCHR, *Guiding Principles on business and human rights, Implementing the UN “Protect, Respect and Remedy” Framework* (Geneva and New York, 2011), <[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)>, accessed 2 October 2013.

115 California Transparency in Supply Chains Act (2012) where the national government “requires that every retail seller and manufacturer in California doing more than \$100 million in business worldwide publicizes its efforts to eliminate slavery and human trafficking from its direct supply chain”. See California Senate Bill No. 657, <[http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0651-0700/sb\\_657\\_bill\\_20100930\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf)>.

116 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *An Agenda for Prevention: Trafficking for Labour Exploitation* (Vienna, 2011), <<http://www.osce.org/cthb/86293>>, accessed 23 September 2013; see also OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010), <<http://www.osce.org/cthb/75804>>, accessed 23 September 2013; see also OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings *A Summary of Challenges on Addressing Human Trafficking for Labour Exploitation in the Agricultural Sector in the OSCE region*, Occasional Paper Series no. 3 (Vienna 2009).

The experience of some participating States clearly demonstrates that, especially in sectors particularly prone to exploitation, regulating, licensing, monitoring and establishing control mechanisms of recruitment activity is crucial to protect migrant workers against fraudulent and abusive practices that can lead to trafficking<sup>117</sup>. The situation in the Mediterranean region varies greatly, as some countries have well-established regulatory practices, while others have little experience in this area. It is really impossible to summarize the rich discussion that took place during the Expert consultation.

In this context, specific attention has been pointed to the field of domestic work. Since it is carried out in private households, domestic work remains virtually invisible as a form of employment in many countries and is generally undervalued and poorly regulated. As a result, domestic and family care work can often be precarious, unprotected, not paid or paid miserably. In this respect, domestic work represents an area of growing concern with respect to trafficking for the purpose of domestic servitude, both internally and transnationally.<sup>118</sup>

In this field, a clear connection exists between prevention of exploitation and gender issues. In fact domestic servitude is shaped by patriarchal cultural patterns, fostering the idea of domestic work as something that is not even a real work, as it is usually performed by women as part of their family responsibilities. Furthermore, the disadvantaged situation of women in many societies, or the lack of equal opportunities for women, reinforces the perception of domestic workers as low status people who can be treated as inferior, and condones a sort of normalisation of their exploitation. Therefore prevention of domestic servitude therefore is part of the fight against gender violence, and for women's rights. This is the reason why we strongly call for ratification of the recent ILO Convention on domestic work, which will represent a powerful tool to protect the rights and social dignity of all domestic workers.

### **Access to justice, including compensation for lost wages and other damages, for trafficked and exploited migrant workers, including after their return to the country of origin.**

Clear formulation and attentive enforcement of provisions related to the accountability of employers, including complaint mechanisms and remedial actions for workers, would offer a valid support against impunity of intermediaries and final users of exploited and trafficked labourers. First of all, specialized legal counselling and representation should be made available at no or very little cost, by the State. This would make access to justice a reality for all workers, particularly those who are undocumented. And secondly, the more "traditional" criminal and civil justice responses should be complemented by the establishment or the adaptation of supplementary judicial mechanisms and out-of court negotiations specifically dealing with labour-related infringements.

In this respect, I wish to add that the fulfilment of rights should not depend on the place where a person resides: access to justice and compensation, including the back-payment of wages, should be made available both in the country where the exploitation has taken place as well as in the country to which the worker returns. This would necessitate enhanced co-operation between sending and receiving countries, and it is something worthy of further exploration.

### **Enhancing the role of civil society**

Together with governments, civil society associations have a critical role to play in preventing trafficking for labour exploitation. Particularly trade unions and diaspora associations can complement, supplement and monitor actions put in place by governments and employers' associations as well as business communities on the basis of voluntary regulations. It is therefore essential to foster and support their role in promoting and protecting the economic, social and cultural rights of migrant workers. And in this respect, diaspora associations are particularly well placed as "natural" contact points for migrants in the hosting societies as they are in the position to play a privileged role vis-à-vis recently arrived co-nationals, as well as with the governments of the destination countries and institutions in the countries of origin.

117 International Labour Organization, *Private Employment Agencies Convention*, C181 (1997), available at <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>>, accessed 30 September 2013; and International Labour Organization, *Private Employment Agencies Recommendation*, R 188 (1997), available at <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?R188>>, accessed 30 September 2013.

118 For further information please refer to: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010)

**Concluding remarks**

The intertwined nature of human trafficking with the dynamics of our globalized economies should help explain why this violation is so massive, and why it affects the Mediterranean region more and more every year.

It should also help explain why human trafficking still receives little attention compared to other criminal activities such as drug trafficking, arms trafficking or terrorism.

Shared responsibilities between sending and receiving countries should be sought in order to protect migrant workers' rights, as both sides receive benefits from migrant work.

The OSCE is ready to facilitate and promote enhanced co-operation between governments, and co-operation between government and civil society in the Mediterranean region, according to an approach that values and promotes shared responsibilities, to address the multiple challenges of a strategy aimed at eradicating modern slavery. Indeed, I believe that the thousands who lost their lives in their journey towards hope as well as those who are actually exploited in the labour market, men, women and children, deserve our engagement in promoting enhanced co-operation.

I am confident that enhanced co-operation will contribute to ensure economic stability, social cohesion, democracy, the rule of law and, ultimately, security. We are ready to take action in a spirit of service vis-à-vis participating States and Mediterranean Partners for Co-operation and complement the work of other international organizations and the EU.

Thank you.





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



Illustration: Vita (2004), Tempera on brick 10x10 cm, by Adriano Parracciani

## ANNEXES

# Annex 1

## Background documents from the Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region, Rome, 8 February 2013

### **Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region**

Rome, Italian Chamber of Deputies, Palazzo Montecitorio, Sala del Mappamondo, 8 February 2013

#### **Concept Note**

#### **Background**

*The OSCE's work, experience and commitment in the fight against trafficking in human beings*

The OSCE has been engaged in the fight against trafficking in human beings for more than a decade. Its dedication was re-affirmed by Ministerial Council Decisions adopted by the 57 participating States since 2000, and enhanced by the political and operational work of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the ODIHR and the OSCE field missions.

The OSCE considers trafficking in human beings first and foremost as a serious violation of human rights and at the same time, a transnational threat to the security of States. For this reason, already in 2003, the OSCE adopted an Action Plan which recommends that participating States adopt an integrated approach to prevention, protection of victims' rights and prosecution. It is a multidisciplinary approach based on co-operation between institutions and civil society. The strong commitment of OSCE participating States to fight modern-day slavery was solemnly renewed in Vilnius in 2011 with the adoption of the Ministerial Declaration on combating all forms of human trafficking.

#### **Human trafficking as a focus for the Mediterranean Partnership**

Trafficking in human beings has been identified as one of the areas for possible OSCE engagement in the process of consultations with the Delegations of the Mediterranean Partners for Co-operation initiated by the Secretary General in implementation of the MC.DEC/5/11.

The Seminar on "Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region" is among the first initiatives that focus on the phenomenon of human trafficking from the Southern rim of the Mediterranean to Europe and beyond. While hitherto most initiatives dealt with the phenomena of irregular migration and smuggling in the Mediterranean region, the added value of the seminar lies in its focus on the prevention of the exploitation of migrants.

In line with OSCE commitments and a human rights approach to anti-trafficking,<sup>100</sup> the seminar aims to enhance further Partnership for Co-operation, by discussing and promoting co-operation mechanisms between OSCE participating States and Mediterranean Partners in the prevention of all forms of trafficking, especially for labour exploitation, and in the protection of victims and potential victims. Furthermore, the event will promote international co-operation and exchange of experiences to better tackle criminal trafficking networks.

#### **Trafficking in human beings: modern-day slavery, a growing global phenomenon**

Trafficking in human beings is a growing global phenomenon which has now reached a massive dimension. According to 2012 International Labour Organization (ILO) estimates, 20.9 million people are victims of forced labour/human trafficking globally, out of which over 3 million within the OSCE region: 68 per cent of the victims are exploited in the private economy and 22 per cent are victims of forced sexual exploitation. Women constitute 55 per cent of all victims.

Trafficking is a serious and unacceptable violation of fundamental human rights, and a threat to the security and stability of our democracies and societies. Nowadays, trafficking in human beings is one of the most prolific and dangerous forms of transnational organized crime; it is an extremely lucrative and almost risk-free criminal business, given the high rate of impunity enjoyed by perpetrators. Traffickers exploit women and children but also men for every possible purpose, ranging from sexual and labour exploitation to forced begging and forced criminality, as well as organ removal.

<sup>100</sup> OSCE Ministerial Council, *Decision No. 5/11 Partners for Co-Operation*, MC.DEC/5/11 (Vilnius, 7 December 2011); OSCE Ministerial Council, *Declaration on combating all forms of human trafficking*, MC.DOC/1/11/Corr.1 (7 December 2011).

Mixed migration flows are a reality in many areas of the world including the Mediterranean region. People migrate for different reasons including conflicts, persecution, discrimination and poverty. In recent years there are indications that an increasing number of migrants are being exploited in slavery-like conditions. Such migrants are exploited particularly in economic sectors that are labour intensive such as agriculture, construction, textiles, food processing, tourism and domestic work. Migrants are forced to live and work in inhuman conditions in return for no, or almost no, remuneration. They are subjected to various forms of physical and psychological violence, which may even amount to torture or cruel, inhuman and degrading treatment. Their documents are confiscated, threats are made to report them to the authorities for deportation, and they are increasingly subjugated via debt bondage, with the financial obligation growing in an arbitrary and exponential way that is impossible to wipe out.

This phenomenon is largely managed by organized crime networks that operate horizontally with small groups of highly flexible local criminals, segmented and functionally specialized in various criminal activities such as the production of false documents, logistics, or transport. These complex criminal articulations are particularly difficult to dismantle. Very often the links between the criminal cells that facilitate irregular migration and those that manage the recruitment and placement of migrant workers are not at all obvious or very difficult to detect. These trends highlight the complexity of a global social phenomenon in which migrants are considered human merchandise, easy to exploit and use to make big profits.

### **Trafficking in human beings in the Mediterranean region**

All OSCE participating States are affected by human trafficking, either as countries of origin, transit or destination, or a combination of all three. The phenomenon also affects the countries of the OSCE Mediterranean Partners for Co-operation that are affected by regional and international migration flows, which are rapidly changing both in size and type. The Mediterranean Partners are in fact both countries of origin of trafficking in persons and also countries of transit and destination, particularly for migrants from Western and Sub-Saharan Africa.

Following developments known as the “Arab Spring” there was a rapid growth of irregular migration from the Southern Mediterranean to the North shore, and from there to many other European countries. Although in 2012 such migration flows showed a substantial decrease, and although it is difficult to evaluate the long term effects of the Arab Spring, we can expect that migration from and through North Africa to Europe will remain significant.

Issues relating to mixed migration in the Mediterranean Region, especially when criminal groups are involved, have usually been taken into consideration in the framework of smuggling of migrants. However, recent research and investigations demonstrate that a strong linkage exists between migration processes and subsequent exploitation taking place in European countries. This link often makes it difficult to distinguish between smuggling and trafficking, and requires a better understanding of the connections between the two criminal phenomena.

The journey of migrants trying to reach Europe, facilitated by unscrupulous smugglers, is always risky. Many women, men and children lose their lives during their tragic journey across the sea. Those who reach their destination frequently face abuse and exploitation, discrimination and xenophobia. Once in Europe, all migrants, including those entitled to international protection, find themselves in a situation of serious social and economic vulnerability, and often end up being contacted by criminal organizations that place them in certain work places where they are obliged to work in extreme exploitative conditions. The phenomenon of labour exploitation of migrants in slavery-like conditions affects mainly males but increasingly also women and children.

Recent investigations carried out in Southern European countries showed that migrant workers were obliged to work long hours in agriculture, for a very modest salary, without documents and constantly under threat of retaliation; sometimes intermediaries controlling the workers did not hesitate to threaten them with weapons. Moreover, workers were obliged to live far from the nearest population centres, in isolated locations under inhuman conditions, and to pay excessive fees for water, food and accommodation. In such cases migrants falling prey to criminal intermediaries and unscrupulous or criminal employers should be considered victims of trafficking and receive protection, both in the receiving state and in the source country in case of return.

The seminar will examine how these findings contribute to a greater understanding of such a complex situation, in which laws and regulations concerning human trafficking should be fully implemented to prevent and combat exploitation of migrants in slavery-like conditions.

### **Objectives of the seminar**

The principal objective of the seminar is to initiate a dialogue on trafficking in human beings in the Mediterranean Region. The added value of the seminar lies in its innovative approach. While issues relating to mixed migration in the region have been dealt with in the framework of irregular migration or smuggling, the seminar will shed light on exploitation of migrants, examine the intersecting issues, and highlight the need for full and correct implementation of laws and regulations on trafficking in human beings. The focus will be trafficking for labour exploitation including domestic servitude.

In conformity with the OSCE human rights approach to the prevention and fight against trafficking in human beings, the seminar will emphasize States' obligations regarding prevention including the promotion of workers' rights, the protection of victims and potential victims, and explore how protection granted to victims of human trafficking, international protection and protection against discrimination and xenophobia can enhance each other. The seminar will also explore ways to strengthen international co-operation at a bilateral and multi-lateral level, especially with regard to human rights protection. This will include strengthening prevention, investigation and prosecution as well as identification and support to trafficked and exploited persons. Partnerships, including partnerships with NGOs, will also be in focus.

The seminar will include two panels. The first panel will analyse features, trends and issues relating to trafficking in human beings in the Mediterranean region. The second panel will discuss good practices to enhance prevention and human rights protection.

### **Donors and Participants**

The seminar, convened by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, has been funded through a generous contribution from the Italian Ministry of Foreign Affairs and the Government of the Grand-Duchy of Luxembourg. Participants include UN agencies and international organizations with specialized expertise on the subject such as UNHCR, IOM, UNODC, the Council of Europe and the European Union Agency for Fundamental Rights.

OSCE participating States and Partners for Co-operation will be represented by:

- Senior level officials from governments, especially from ministries of interior, justice and social affairs;
- National co-ordinators on trafficking in human beings, as well as national rapporteurs or equivalent mechanisms;
- Senior law enforcement officials, prosecutors and judges;
- Representatives of civil society including NGOs and independent experts.

**AGENDA****Seminar on Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region**

8 February 2013, Rome, Palazzo Montecitorio, Sala del Mappamondo

- 8.15 – 9.00 Registration**
- 9.00 – 9.45 Welcoming remarks**  
**Giulio Terzi di Sant'Agata**, Minister of Foreign Affairs, Italy  
**Ihor Prokopchuk**, Ambassador, Chairperson of the OSCE Permanent Council, Permanent Representative of Ukraine to the OSCE, 2013 Ukrainian OSCE Chairmanship  
**Lamberto Zannier**, Secretary General, OSCE  
**Riccardo Migliori**, President of the OSCE Parliamentary Assembly  
**Teresa Morais**, Secretary of State for Parliamentary Affairs and Equality, Portugal  
**Maria Grazia Giammarinaro**, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings
- 9.45 – 10.30 Coffee Break / Press Conference**
- 10.30 – 11.15 Opening remarks**  
**Thomas Greminger**, Ambassador, Permanent Representative of Switzerland to the OSCE, United Nations and International Organizations in Vienna  
**Janez Lenarčič**, Director, Office for Democratic Institutions and Human Rights, ODIHR  
**Laura Thompson**, Deputy Director General, International Organization for Migration (IOM)  
**Kaci Amrane**, Deputy Director for Foreigners and Consular Conventions, Ministry of Interior, Algeria  
**Khalil Amiri**, Senior Advisor at the Cabinet of the Secretary of State on Immigration and Tunisians abroad, Tunisia  
**Zoi Sakelliadou**, Assistant Policy Officer, Office of the EU Anti-Trafficking Coordinator
- 11.15 – 12.15 Panel 1: Exploring trafficking in human beings in the Mediterranean region**  
Moderator: **Masood Karimipour**, UNODC Regional Representative for the Middle East and North Africa region  
I. **Paola Monzini**, Independent expert and researcher  
II. **Cataldo Motta**, Chief Prosecutor of Lecce, Italy  
III. **Francesco Carchedi**, Sociologist, Researcher at PARSEC Consortium  
IV. **Adriano Silvestri**, Head of Sector Asylum, Migration and Borders Freedoms and Justice Department, European Union Agency for Fundamental Rights (FRA)  
V. **Francesca Pizzutelli**, Researcher and Advisor, Refugees and Migrants' Rights Team, Amnesty International
- 12.15 – 13.00 Discussion**
- 13:00 – 14.30 Lunch Break in the Palazzo Montecitorio**
- 13.30 – 14.15 Side event**  
(Italian only) Immagini e parole di vita migrante
- 14.30 – 16.00 Panel 2: Challenges and good practices to enhance prevention and human rights protection**  
Moderator: **Elisabeth Tichy-Fisslberger**, Ambassador, Austrian National Co-ordinator on Combating Trafficking in Human Beings, Austrian Federal Ministry for European and International Affairs  
I. **Laurens Jolles**, Regional Representative for Southern Europe, UNHCR  
II. **Sana Bouzaouache**, Under-Director Ministry of Human Rights and Transitional Justice, Tunisia  
III. **Jivka Petkova**, Adviser to the Director on Human Rights and Democracy, European External Action Service, European Union  
IV. **Manon Derriennic**, Deputy Advisor on the fight against human trafficking in South Eastern Europe, Permanent Representation of France to the OSCE  
V. **Michele Levoy**, Director, Platform for International Cooperation on Undocumented Migrants (PICUM)
- 16.00 – 17.00 Discussion**
- 17.00 – 17.30 Concluding Remarks**  
by **Maria Grazia Giammarinaro**, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings

The event will be officially closed by Giulio Tonini, Ambassador, Head of Permanent Mission of Italy to the OSCE, and Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

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## Annual Reports:

- 2012: Combating Trafficking as Modern-day Slavery: Non-Discrimination and Empowerment
- 2011: An Agenda for Prevention: Trafficking for Labour Exploitation
- 2010: Combating Trafficking as Modern-day Slavery: A Matter of Rights, Freedoms and Security
- 2009: An Agenda for Change: Implementing the Platform for Action against Human Trafficking
- 2008: Efforts to Combat Trafficking in Human Beings in the OSCE Area: Co-ordination and Reporting Mechanisms
- 2007: A Platform for Action



## Occasional Paper Series:

- 2013: Trafficking in Human Beings for the Purpose of Organ Removal in the OSCE Region
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- 2010: Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude (EN/RU/FR)
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- 2007: A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region



## Other Publications:

- 2013: Enhancing Co-operation to Prevent Trafficking in Human Beings in the Mediterranean Region
- 2013: Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking
- 2010: Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime, OSR / UN.GIFT (EN/RU)
- 2009: Guide on Gender-Sensitive Labour Migration Policies, Gender Section / OCEEA / OSR
- 2008: Compensation for Trafficked and Exploited Persons in the OSCE Region, ODIHR

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