

**STATEMENT BY
THE SPECIAL RAPPORTEUR ON TRAFFICKING IN
PERSONS, ESPECIALLY WOMEN AND CHILDREN
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Mr. Chairperson, Distinguished Representatives, Delegates and Observers,

I would like to thank the Human Rights Council for this opportunity to present my report, which focuses this year on the issue of early identification, referral and protection of victims of trafficking in persons in mixed migration movements.

This report is the outcome of extensive research and consultation with practitioners on this issue. I would like to pay tribute to UNODC, IOM, UNHCR, ICMPD as well as various civil society organisations, such as La Strada International, FLEX, Association Ruelle and the Swedish Platform Civil Society against Human Trafficking for their invaluable submissions and comments. I would also like to thank the Office of the Prosecutor in Catania (Italy), the Portuguese National rapporteur on trafficking in persons and FRONTEX for their role in organizing my three thematic visits, whose findings have enriched this report.

Trafficking in persons is a gross human rights violation which is often **interlinked with mixed migration movements**. In this context – this is the main message I would like to convey with my report - **early identification and assistance to victims or potential victims of trafficking has proven to be absolutely modest**.

Before proceeding any further in the presentation of my report, I would like to draw your attention on the alarming context in which this dialogue takes place, including **poisonous public discourse on migration**, sometimes implying xenophobic and even racist approaches, increasingly restrictive migration policies, repeated violations of international human rights and humanitarian law, and frequent attempts of some States to criminalise or delegitimise or by all means hamper the actions of civil society organisations that, despite their scarcity of means, are striving to save lives, to provide humanitarian assistance, or in any way act in solidarity with migrants, including victims or potential victims of trafficking.

The most recent example of this dangerous trend is reflected in the refusal to allow the NGO boat ‘**Aquarius**’, jointly operated in the Central Mediterranean Sea by SOS Méditerranée and Médecins Sans Frontières, to dock at the nearest port of safety, putting at serious risk the lives of 629 people, including 123 unaccompanied children and 7 pregnant women, now safely disembarked in Valencia. However, further measures aimed at preventing NGOs boats from docking at Italian ports have been announced by the Minister of Interior.

Distinguished Representatives, Delegates, I would like to remind all States that refusing access to ports, and in particular to the nearest port of safety, to ships in distress and, more generally, refusing to render assistance to people in urgent need of medical care, food, water or

any other basic needs, not only constitutes a violation of the Law of the Sea but also a grave infringement on a wide range of human rights and a **violation of the principle of non-refoulement**, which is a customary international law norm to which all States are bound, in case it is found that any person, regardless of their legal status, is exposed to a risk of persecution or any other condition amounting to inhuman and degrading treatment.

Among refugees and migrants risking their lives during their journeys, **there are people subjected to trafficking or at high risk of trafficking** and exploitation in transit and destination countries. **However, identification and protection of their rights is not a priority in the current situation.**

I wish to reiterate my deep concern over the increasing tendency to place migration within the law enforcement paradigm and to justify restrictive migration policies on the basis of the fight against organised crime, including human trafficking, with little attention paid to the adverse human rights implications, affecting all migrants in vulnerable situations. In several occasions, including during an open debate at the UN Security Council as well as in various press releases, I have publicly denounced, together with other UN Special Rapporteurs, European attempts to secure external borders by signing bilateral agreements and providing financial and material support to countries such as **Libya**, where gross human rights violations, including trafficking, are systematically perpetrated.

Indeed, in the context of large influx of migrants, protection and assistance of people on the move should be paramount. A failure to identify a trafficked person is likely to result in a further denial of that person's rights. **My report aims at exploring the main challenges of early identification and assistance throughout the journey of the most vulnerable people.** You will find in my report an analysis of specific challenges regarding identification in places of first arrival, in transit and in destination countries. Let me just point out three aspects, which require urgent action.

First: in places of first arrival, identification in **hotspots** or after disembarkation is aimed at fingerprinting and distinguishing asylum seekers from so-called economic migrants, rather than at identifying vulnerabilities, and no dedicated procedures for referral of trafficking victims are in place. As a result, despite the existence of good practices after disembarkation such as those I witnessed in **Catania (Italy)**, in general terms identification of trafficked persons is not a priority at disembarkation, and therefore an unknown – but probably high - number of victims and potential victims are placed in non-specialised reception centres, very often together with their traffickers, which can lead to further re-victimisation and exploitation.

Secondly, both in transit and destination countries, migrants are exposed to different forms of exploitation, including in the context of trafficking. This has been reported along the **Balkan route**, primarily in relation to the influx of Syrians, Iraqis and Afghans, as well as in Central America, where migrants especially from **El Salvador, Guatemala and Honduras** have been forced to rely upon increasingly dangerous routes in their attempt to reach the United States through Mexico. Similarly, the journey of sub-Saharan African people is particularly hazardous, often

leading to kidnapping, sexual violence, trafficking for sexual and labour exploitation, disappearances and enslavement along the route, including in the **Sinai desert**.

Let me point out that many migrants – predominantly women and girls – are sexually exploited during their journey. Moreover any migrants – men and women - are subjected to labour exploitation, both in transit and destination countries. However, labour exploitation is often overlooked, although it has been widely reported, especially in the agricultural sector. In fact, labour exploitation of migrants is often culturally accepted, which hampers the perception of the gravity of labour exploitation in the context of trafficking. Urgent and effective action is needed to prevent abusive recruitment and intermediation practices, and to give access to the regular labour market to refugees and migrants found in situations of labour exploitation. A good practice was examined while visiting **Portugal**. However, this approach has been used in a context of limited movement of people and its adaptability to deal with large influx of migrants should be tested.

Thirdly, in the return process, procedures aimed at identification of trafficked persons should be established, aimed at adequately assessing if the person is at risk of trafficking and/or re-trafficking in the country of repatriation or return. It is alarming that European Union States are *de facto* delegating the implementation of such procedures to a regional institution such as **FRONTEX**, while the final decision about returns remains with State authorities. Therefore efforts to integrate a human rights element in the return decision making are often nullified. In other regions of the world, for example in **South-East Asia**, forced returns of irregular migrants to countries of origin show similar challenges.

Mr President,

Let me finally point out that **identification** of victims and potential victims is just a first step; the second step is the **referral** of the person to services, with a view to provide them with regular residence status, assistance and support through empowering practices; and the final goal is **social inclusion** in the host society, or in the country of voluntary repatriation.

Such empowerment process should be based on the protection of the human rights of the person concerned, and not be limited to cases identified through police operations, nor made conditional to the legal qualification of the crime of trafficking, or the willingness or ability of the person concerned to denounce or act as a witness.

In **conclusion**, an **innovative model for early identification, referral and protection of victims and potential victims of trafficking is needed**, based on the assessment of every individual's background and personal conditions, in cooperation with civil society organizations. This entails the consideration of new protection schemes that should be focused on a mechanism for the early referral and protection of persons in vulnerable situations, including persons vulnerable to trafficking and exploitation. In this regard my recommendations could be a starting point for further work in the near future, in the context of the Global Compact on Migration, with a view to complementing and operationalising – with respect to vulnerabilities to exploitation and trafficking - the 'Principles and Guidelines on the human rights protection of migrants in

vulnerable situations' recently developed by the Global Migration Group, in collaboration with the Office of the High Commissioner for Human Rights.

Mr. President,

I now turn to the country visit I conducted to **Cuba** from 10 to 14 April 2017, at the invitation of the Government. I thank the Government for its cooperation prior, during and after the visit, the first such visit by a special procedure mandate holder of the Human Rights Council in the past 10 years.

First of all, I commend Cuba for its commitment in combatting trafficking in persons, as evidenced by, inter alia, its recently established national action plan for preventing and combating trafficking in persons and for the protection of victims; victims' access to legal remedies, including compensation, through the indemnity fund for victims of crimes, and a strong focus on prevention.

In my report, I also expressed my concerns about — among other things — the lack of a clear legal definition of trafficking, identification of victims being carried out on only a limited scale, and low levels of prosecution of cases of trafficking. Moreover, although prostitution is not a crime per se, individuals who engage in prostitution/sex work are placed in “rehabilitation centres”, without freedom of movement, which is in contrast with the rule of law and violates the rights of possible victims of trafficking. In this respect my recommendation to the government is to stop immediately such a practice.

In addition, I made a number of recommendations to the Government. I am pleased to learn that the Government has, since my visit, reiterated its commitment to improve the protection of victims of trafficking by considering my recommendations.

I thank you all for your kind attention and I look forward to a fruitful interactive dialogue.