



Thematic Meeting on Trafficking in Human Beings and Migrant Smuggling Porto, 3-4 December 2015

Concept Note

1. CONTEXT

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* defines trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.¹ Trafficking is often referred to as a form of modern day slavery which particularly affects vulnerable groups such as children and women. According to the United Nations Office on Drugs and Crime (UNODC), 53% of identified trafficked victims are subject to sexual exploitation and 40% to forced labour, while in some regions organ removal, exploitation in armed conflict, and exploitation in petty crime are also reported as forms of exploitation of victims of trafficking.² Trafficking may also involve border-crossing and “about 70 per cent of the detected victims over the 2010-2012 period were trafficked cross-border”.³ In terms of cross-border trafficking flows, victims from Western and Central Africa are mainly trafficked to other countries of the same region, while some of them have been identified further afield in Europe, America and the Middle East. Identified victims from North Africa are mainly trafficked to the Middle East and Western and Central Europe.⁴ According to EUROSTAT, on a total of 14 477 victims of trafficking identified and presumed in the EU over the period 2010-2012, 2 951 were from Africa.^{5 6}

According to the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, migrant smuggling is defined as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not national”.⁷ According to the EU directive 2002/90/EC smuggling of migrants is defined as

¹ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*, Art. 3. Available at: https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREON.pdf [Accessed on 13/10/2015].

² United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2014*, Vienna 2014. Available at: https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf [Accessed on 13/10/2015].

³ Ibid. p. 38.

⁴ Ibid. pp. 81-86

⁵ Eurostat, *Trafficking in Human Beings. 2015 Edition*. Eurostat Statistical Working Papers, p. 97. Available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat_report_on_trafficking_in_human_beings_-_2015_edition.pdf [Accessed on 12/11/2015].

⁶ On the EU response to trafficking, please see the EU Anti Trafficking Directive 2011/36/EU. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF> [Accessed 12/11/2015]

⁷ *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime*, Art. 3 Available at: see note 1.

the facilitation of unauthorised entry, transit and residence.⁸ Even though the migrants have consented to being smuggled, the abusive and coercive treatment to which smuggled migrants may be exposed goes beyond the initial consent to migrate irregularly with the assistance of a smuggler. Indeed, “Smuggled migrants are vulnerable to exploitation and their lives are often put at risk: thousands of smuggled migrants have suffocated in containers, perished in deserts or drowned at sea”.⁹ The Missing Migrant Project estimated that since the beginning of 2015 almost 5.000 migrants have lost their lives in the process of migration, more 3.400 in the Mediterranean alone. While over 1.000 of these migrants originated from Sub-Saharan Africa, even bigger was the number of those of unknown origin (1.200).^{10 11}

Trafficking in Human Beings and Migrant Smuggling may be in some cases linked to each other. Indeed, as highlighted in the *EU Action Plan against Migrant Smuggling*, “the two phenomena are not easy to disentangle as persons who start their journeys in a voluntary manner are also vulnerable to networks of labour or sexual exploitation”.¹² Nevertheless, trafficking and smuggling represent distinct crimes that are defined through different legal instruments and need to be addressed through specific actions and strategies.

Trafficking in Human Beings and Migrant Smuggling are serious forms of crimes that affect every country in the world and which threaten the lives or directly violate the rights of migrants. At the EU level, the *EU Action Plan against Migrant Smuggling* and the *EU Strategy towards the Eradication of Trafficking in Human Beings*¹³ represent important initiatives to address these phenomena. For the region of the Rabat Process, as for other regions of the world, the fight against trafficking and migrant smuggling represent important challenges that need to be addressed through targeted approaches, able to take into account the specificities of these two phenomena and the distinct threat each of them represents to state sovereignty and human security.

⁸ At the EU level, the *Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence* defines two specific offences related to the facilitation of irregular migration: a) the intentional assistance of a person who is not an EU national, to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens; b) the intentional assistance, for financial gain, of a person who is not a national of a Member State to reside within the territory of a member State in breach of the laws of the State concerned on the residence of aliens. See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0018:EN:PDF> [Accessed 11/11/2015].

⁹ UNODC, *Issue paper. A short introduction to migrant smuggling*, Vienna 2010, p. 2. Available at: https://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_A_short_introduction_to_migrant_smuggling.pdf [Accessed on 13/10/2015].

¹⁰ The Missing Migrant Project is implemented by IOM and aims at tracking “deaths of migrants and those who have gone missing along migratory routes across the globe” <http://missingmigrants.iom.int/> [Accessed on 13/10/2015].

¹¹ UNHCR Refugees/Migrants Emergency Response – Mediterranean, <http://data.unhcr.org/mediterranean/regional.php> [Accessed on 11/11/2015]

¹² European Commission, *EU Action Plan against migrant smuggling (2015-2020)*, Brussels, 27.5.2015 COM (2015) 285 final. Available at: http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/asylum/general/docs/eu_action_plan_against_migrant_smuggling_en.pdf [Accessed on 11/11/2015].

¹³ European Commission, *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016*, Brussels, 19.6.2012 COM(2012) 286 final. Available at: http://ec.europa.eu/home-affairs/doc_centre/crime/docs/trafficking_in_human_beings_eradication-2012_2016_en.pdf [Accessed 11/11/2015].

2. OBJECTIVE

In line with the priorities of the Rome Programme, this thematic meeting will aim at identifying ways to support the elaboration of “concrete strategies to fight against human trafficking and migrants smuggling at national, regional and inter-regional level, by increasing the exchange of good practices and by improving coordination in order to better protect those involved, while keeping in mind international law, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air”.¹⁴

In doing so, the meeting will aim at promoting operational cooperation in the fight against trafficking in human beings and migrant smuggling and will look at practical measures to improve partnerships and information exchange in these fields among the countries of the region of the Rabat Process.

3. KEY TOPICS

At the beginning of the meeting, an introductory session will be dedicated to the presentation of a background paper drafted by an external expert. During this session, the distinction between these two phenomena will be set out and major international legal instruments against the crimes of human trafficking and migrant smuggling will be highlighted. The expert will also give an overview of trends in terms of human trafficking and migrant smuggling, as well as major policies and strategies implemented in this field at both a national and regional level within the region of the Rabat Process.

Working sessions and discussions will then focus on the following elements:

- 1) Strategic planning to address trafficking in human beings;**
- 2) Criminal justice response to smuggling of migrants;**
- 3) Identification and referral mechanisms for victims of trafficking;**
- 4) Ways to build a balanced and comprehensive approach** between the objective of reducing irregular migration and guaranteeing migrant rights;
- 5) Regional cooperation actions** that could support the fight against human trafficking and migrant smuggling in the region of the Rabat Process.

4. EXPECTED RESULTS

In terms of expected results, this meeting will focus on:

- development of a common understanding of key challenges linked to trafficking in human beings and migrants smuggling in the region of the Rabat Process;
- identification of concrete initiatives and guidelines that could allow the States to reach visible results in terms of development and improvement of their national systems of

¹⁴The Rome Declaration and its annex, the Rome Programme, are the product of the 4th Euro-African Ministerial Conference on Migration and Development that took place in Rome on 27th of November 2014. The Rome Programme has added international protection and asylum as the 4th thematic pillar and places emphasis on two priority topics: the link between migration and development and the prevention and fight against irregular migration and related crimes. The fight against THB and migrant smuggling is part of the irregular migration pillar. See: http://processusderabat.net/web/uploads/cms/EN-Rome_Declaration_&_Programme.pdf [Accessed 13/10/2015].

prevention and combating human trafficking and migrant smuggling, as well as to support enhanced regional cooperation on these issues.

5. PARTICIPANTS' PROFILE

Given the theme and the operational objectives of this meeting, it is desirable that technical directors in the area of Trafficking in Human Beings and Migrant Smuggling of the dialogue's partner countries and organisations attend this meeting.