

Thematic meeting on

Trafficking in human beings and the smuggling of migrants

3-4 December 2015

Oporto, Portugal

**Summary of the debates and conclusions
of the co-presidency**



INTRODUCTION AND OPENING SESSION

On 3 and 4 December 2015, approximately sixty participants from different countries and partner organisations of the Euro-African Dialogue on Migration and Development (Rabat Process) met in Oporto, Portugal, to discuss and share their experiences on the subjects of trafficking in human beings and the smuggling of migrants. This meeting took place under the co-presidency of Portugal and Niger. Its aim was to promote cooperation in the fight against trafficking in human beings and the smuggling of migrants, and to focus on practical measures to improve the partnership and exchange of information in these areas while remaining consistent with the Valletta Action Plan and Rome Programme.

The Rome Programme saw the introduction of international protection and asylum as the 4th pillar of the Rabat Process at the 4th Ministerial Conference held in Rome on 27 November 2014. Two priority areas were highlighted: the link between migration and development, and the prevention and fight against irregular migration and related crimes. The fight against human trafficking and the smuggling of migrants is part of this latter area and therefore represents a priority.¹

Furthermore, the Valletta Declaration recalls that the countries agree to “intensify joint efforts [...] to **prevent and combat the smuggling of migrants, eradicate trafficking in human beings** and fight against those who exploit vulnerable people”.²

It is in this context that the thematic meeting on trafficking in human beings and the smuggling of migrants began.

In their opening speeches, Mr José Van der Kellen, Assistant National Director at the Portuguese Immigration and Borders Department (SEF), and Mrs Maimouna Gazibo Gogé, Director General of the Niger National Agency for the fight against trafficking in persons (ANLTP), recalled the importance of adopting an approach focused on Human Rights, and regional and international cooperation in order to fight against these two phenomena.

The co-Presidents called for reflection beyond the traditional methods, taking into account the existing relationships between the countries of the Rabat Process, as well as integrating stakeholders in civil society while retaining the spirit of the Rule of Law and Human Rights. In order to be able to understand these two phenomena better, participants were also reminded to take account of the social and cultural realities specific to each country.

¹ For the Rome Declaration and its Programme, see:

http://processusderabat.net/web/uploads/cms/EN-Rome_Declaration_&_Programme.pdf

² For the Political Declaration of the Valletta Summit, see:

[http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/FINAL_DECL_EN-\(2\).pdf/](http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/FINAL_DECL_EN-(2).pdf/)



The co-presidency emphasised the importance of the institutional framework improvement, and the building of partnerships and campaigns to raise awareness.

Mrs Zoi Sakelliadou, Political Assistant to the European Coordinator against human trafficking from the Directorate General Migration and Home Affairs (European Commission, European Union - EU), then spoke to recall that the ten years of the Rabat Process provide today an abundant source of knowledge. Mrs Sakelliadou then emphasised that the fight against human trafficking and the smuggling of migrants are both focal points of the Rome Programme and a priority for the EU. Mrs Sakelliadou stated that an increase in the number of people vulnerable to these phenomena can be expected considering the current crisis. Mrs Sakelliadou stressed the importance of the political framework of the EU whose basic values hinge on an approach that takes into account Human Rights, the victims, gender and children. Mrs Sakelliadou also stated that cooperation between the EU countries and the Rabat Process partner countries is essential.

Mr Ralph Genetzke, Head of Mission of the International Centre for Migration Policy Development (ICMPD), then presented the context and aims of the meeting reminding all present that thematic meetings illustrate European and African realities. They are held in order to exchange good practices and are linked to the training programmes organised in the context of the Dialogue. Mr Genetzke stressed that there are now financial instruments to support operational cooperation.

Mrs Barbara Sidoti, a migration expert, then presented the international legal international framework, links between the two phenomena, available data and the latest developments in the Rabat Process Region. In her final comments, Mrs Sidoti spoke about the humanitarian emergency requiring joint action in the wake of many deaths of migrants trying to reach Europe. Mrs Sidoti also recalled that the Rabat Process member countries are confronted with both a challenge and an opportunity: to define joint measures in order to tackle the crimes of human trafficking and the smuggling of migrants.³

Mrs Zoi Sakelliadou intervened to present the *EU Action Plan against migrant smuggling*⁴ and the *EU Strategy towards the Eradication of Human Trafficking*.⁵ Mrs Sakelliadou firstly recalled the commitments of Valletta, underlining the importance of joint efforts to fight against the exploitation of the most vulnerable people. Mrs Sakelliadou then shared the EU's work on human trafficking: an approach focused on the victims and on Human Rights based on European legislation. Mrs Sakelliadou recalled that, in terms of data, Eurostat has

³ See: the background document distributed during the thematic meeting.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0285&from=EN>.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN>.



prepared two documents attempting to chart the phenomenon of human trafficking. Mrs Sakelliadou highlighted the fact that 80% of the victims identified between 2010 and 2012 were women, and that sexual exploitation is the first form of human trafficking. Mrs Sakelliadou referred to the fact that the number of people sentenced for human trafficking is very low. European legislation and the *European Strategy towards the Eradication of Human Trafficking* are the tools available in the EU for fighting against this phenomenon. Mrs Sakelliadou then described the external dimension of human trafficking: it is a transnational threat to security, a problem affecting all countries and which cannot be resolved by one country alone. An action plan has been adopted to cooperate with countries outside the EU regarding human trafficking.

With regard to the smuggling of migrants, the EU is working to improve the legal framework and European legislation on the smuggling of migrants. Operation *Sophia* has been launched with a clear mandate to target the networks of traffickers in the Mediterranean area. The EU is currently designating points of contact within the EU for better coordination.

Mrs Sakelliadou recalled the important role played by data: data collection must also enable the sharing of information. This sharing of information about the modus operandi of trafficker networks between the EU and third party countries is important. Many agencies are working together: Europol, Frontex and the 'hotspot' approach which has also been developed. The EU is working and collaborating to improve surveillance, especially on the internet. This means of communication is used extensively by smugglers. That is why efforts are focusing on the removal of content on the internet.

Mrs Sakelliadou recalled the role of increasing awareness amongst those at risk in the fight against the smuggling of migrants. Finally, the role of cooperation with countries outside the EU is also important: thanks to the Trust Fund, projects might emerge to fight against the smuggling of migrants and to protect the most vulnerable groups.

The **opening session** ended with the participation of Mrs Henna Mustonen, Criminal Justice and Crime Prevention Officer in the areas of human trafficking and the smuggling of migrants for the United Nations Office against Drugs and Crime (UNODC).

Mrs Mustonen explained that a large part of trafficking in human beings takes place in or near borders and in the sub-regions of West and Central Africa. Human trafficking is neither limited to a single country nor a single region: many people are transported as far away as Europe and the Middle East. The sources and forms of human trafficking vary: forced labour (domestic work, work on mining sites, fishing or farming sites, etc.), forced begging, sexual exploitation, trafficking of organs, etc.



Regarding the smuggling of migrants, Mrs Mustonen recalled the great tragedies which took place last year. Figures show that over 3,000 migrants died in the Mediterranean. West and Central Africa are strewn with migratory routes and are also places where many migrants die. Niger and Mali are major transit points towards Libya and Algeria. Smugglers offer a variety of services (e.g. false documents, travel, etc.). Migrants finance their travel gradually, which contributes to their vulnerability.

Mrs Mustonen explained that UNODC generally makes a distinction between three levels of actors with regard to the smuggling of migrants:

- Basic level: carriers, guides, etc. Actors performing small actions on the ground with temporary involvement
- Second level: full-time operators who carry out logistical work
- Third level is the most organised with actors who make the most profit

These actors must be identified at all levels. Mrs Mustonen gave the example of Niger which has made enormous efforts to identify smugglers. In 2014, it succeeded in dismantling networks. Unfortunately new ones have surfaced in Agadez.

Mrs Mustonen explained that smugglers are often involved in other crimes. For example, in Mali, it has been noticed that smugglers go as far as Algeria with migrants, and on the return journey they are linked to tobacco contraband activities.

Mrs Mustonen also underlined that if a map of the main migratory routes is examined, it becomes clear that a migrant who, for example, leaves Central or West Africa cannot travel alone without a smuggler. It is also important to know that new routes are continually appearing. These routes are constantly changing. Smugglers will always find a means of bypassing a controlled route.

Mrs Mustonen then presented the technical assistance activities of UNODC in the field. For the time being, UNODC is assisting States to ratify protocols and to implement them: help with legislative instruments, action plans, with capacity building, etc. A regional strategy has also been developed by the UNODC office for Central and West Africa. Consultations have been led with: Member States of the region, the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS), initiatives such as the Rabat Process or the EU Action Plan to fight against the smuggling of migrants, etc. These consultations have helped to identify the main requirements: coordination and cooperation, updated information and data, the requirement of national legislation and strategic political documents, the pursuit of criminals and the protection of and assistance to victims.



SESSION 1: HOW TO BUILD EFFICIENT STRATEGIES TO ADDRESS TRAFFICKING IN HUMAN BEINGS?

The **first session** then began on the topic of elaborating efficient strategies to fight against human trafficking.

5

Mr Manuel Albano, Coordinator of the Commission for Citizenship and Gender Equality (CIG), Portugal, opened this first session.

Mr Albano insisted on the fact that the partnership between the State and civil society organisations intervening directly on the ground is essential. This has been Portugal's strategy until now. The aim of the network created on the basis of this partnership is to protect and reintegrate victims. The approach focuses on the victim and the network enables different participants to be represented, from the police to the judiciary, for a better methodology.

The national action plan of Portugal includes 53 measures in five priority areas:

- Prevention and increasing awareness
- Education, training and qualification
- Protection, intervention and skill-building
- Judicial investigations
- Cooperation

Organisations taking part in the working group represent all organisations in civil society.

Concerning the first area of prevention and increasing awareness, Mr Albano highlighted the creation of the human trafficking observatory. This system enables organisations in civil society to be stakeholders, providing data on human trafficking. The observatory is essential for knowledge and prevention.

Regarding the second area of education, training and qualification, Mr Albano pointed out that it is necessary to pass from a political to a social debate. Everyone must gain an understanding of human trafficking. Citizens must understand in order to recognise the reality and those with responsibility can therefore take more effective action.

The third area which concerns protection, intervention and skill-building is based on a national mechanism focused on Human Rights and in coordination with the departments of several ministries.



The fourth area is focused on judicial investigations and instruments which have been able to authorise the police to use specific tools to combat this crime, for example undercover operations.

Finally, the fifth area: cooperation. The Palermo Protocol offers a framework for the organisation of police cooperation in the area of human trafficking.

Mr Patrice Bonnal of the Ministry of Foreign Affairs, Division of Democratic Governance, France, then addressed the meeting. Mr Bonnal recalled that human trafficking affects most regions of the world, including France. France is mainly a destination country but also appears to be a transit country (especially via procuring networks).

Mr Bonnal pointed out that since Palermo 2002, a *Law of 5 August 2013* has been adopted in application of EU law and France's international commitments. In addition, the crime of slavery has been defined in it. With this text, Mr. Bonnal recalled that French law complies fully with France's commitments. A national plan has also been adopted. This plan has been set up in association with the civil organisations dealing with these matters. The plan has created a national structure: the *Interministerial mission for the protection of female victims of violence and the fight against human trafficking* (MIPROF). The national plan contains 23 measures focusing on three areas:

- **Identifying and assisting victims of trafficking**

Amongst other things, this area looks at improving the identification of trafficking victims, strengthening the support given to associations, increasing the awareness of the general public, and improving the care of victims (particularly victims of prostitution and minors).

- **Dismantling networks**

The public services are mobilised to dismantle networks and protect victims. The work of the Ministry of Foreign Affairs is to coordinate international cooperation on this theme.

- **Making the fight against trafficking an integral public policy**

An integral public policy on all levels (national and local).

Among these 23 measures, Mr. Bonnal mentioned in particular the following actions: to promote an integrated approach in the fight against trafficking, to encourage partners to sign existing mechanisms or even to define an agenda for cooperation on the fight against trafficking on European and international levels.



Mr Bonnal underlined the fact that international cooperation is essential and that it must be intensified on all levels. The theme of the fight against human trafficking is a priority for France because it is a measure for protecting and promoting Human Rights.

Mr Olatunde Olayemi, Adviser to the Unit for the fight against human trafficking, Directorate of Humanitarian and Social Affairs, Department of Social Affairs and Gender, ECOWAS, then took the floor to present the new ECOWAS Action Plan for the fight against human trafficking.

7

Mr Olayemi firstly recalled the context: the Heads of State and government adopted an Action Plan in 2001 and set up the unit which Mr Olayemi represents. The mandate of this unit is “to coordinate and control the implementation of the initial Action Plan”. The 2nd Action Plan 2016-2020 is built on the foundations of the actions carried out by the first Plan.

In 2014, an initial assessment phase was carried out using *rapid assessment methodology*. The contributions of each Member State were put together and the aim was to have a unified table, a global idea of the situation in these African countries. A meeting then took place to determine the priorities of the new Action Plan. One of the most important instruments was a system of peer review. An initial draft was shared with the key partners and then with the Member States in 2015. In November 2015, a final revision of the document was made by ECOWAS and the partner organisations.

Mr Olayemi recalled that implementation of the earlier Action Plan had an impact and, even if it is difficult to determine to what extent ECOWAS had achieved these results in relation to other partners, it has already been a success. The ECOWAS annual review mechanism has proved to be effective: reports from various countries have been collected in order to produce an overall analysis. This mechanism makes it possible to share information and to provide feedback on the lessons learnt on the ground.

Mr Olayemi then presented the strategic objectives of the new draft Action Plan 2016-2020:

- To ensure the respect of the legal, political and institutional frameworks aiming to prevent and respond to human trafficking
- To reinforce the mechanisms to protect and support victims of human trafficking
- To guarantee the promotion of specific measures in order to reduce the rate of vulnerability within ECOWAS, in particular amongst women and children
- To improve knowledge and exchange of data regarding human trafficking in the region
- To build the capacities of the States and non-State stakeholders to reply effectively to the challenges raised by human trafficking through specialised training



- To strengthen the coordination, control and assessment mechanisms for an efficient and effective implementation of the 2016-2020 Action Plan.

DISCUSSIONS

The **first session** led to discussions on the following main themes:

8

The participants pointed out the importance of an **approach focused on the victims**. Special support must be given throughout the duration of the investigation but also after the investigation.

The point was also raised that the ECOWAS Action Plan example illustrates that only a **regional approach** can give tangible results. As trafficking in human beings is a transnational crime, the participants consider that the response must be global, that efforts must be coordinated not only between States and the various ministries but also with **civil society**. The role of civil society in the fight against human trafficking has been emphasised. Cooperation between the various stakeholders is essential.

The training of magistrates, prosecutors, police, social workers and other people working in connection with this phenomenon is a crucial element in this combat. Not only are States called on to ratify the legal instruments but also to implement them effectively.

Prevention: efforts must be sustained in terms of increasing awareness in order to enable everyone to recognise the risks linked to human trafficking.

Finally, **focus on vulnerable people** was discussed: this phenomenon has affected a large number of children and takes several forms: forced labour, 'talibés' children or even child soldiers.



SESSION 2: HOW TO DEVELOP A COMPREHENSIVE CRIMINAL JUSTICE RESPONSE AGAINST SMUGGLING OF MIGRANTS?

The **second session** focused on the possible development of a global response in terms of criminal justice against the smuggling of migrants.

9

Mrs Carolina Lluch Palau, Prosecutor for Human Trafficking Affairs, from the Spanish Prosecutor's Office, then took the floor to open this second session.

Mrs Palau emphasised the importance of being able to distinguish between these two crimes - the smuggling of migrants and human trafficking. It is also important to provide for different sentences for these two crimes. Spain has quite an efficient system: there is a prosecutor and a police unit specialised in the fight against human trafficking and smuggling of migrants in each Spanish province. A national network of non-governmental organisations (NGOs) also cooperates. This structure - high-level prosecutor; specialised police unit and NGO network - exists on national and provincial levels.

Finally, cooperation between the various channels of exchange is crucial. Mrs Palau recalled that the nature of this crime does not affect just one country in particular, and that it is therefore important to develop a global response through cooperation on all levels. In Spain, European cooperation is quite strong with Europol/Interpol, the European Judicial Network, Eurojust, etc. Internationally, Spain cooperates via *IbeRed*, the Ibero-American network for international legal cooperation.

Mrs Letizia Lemmer from the Department of Migration Policies, Ministry of Justice and Security, the Netherlands, then took the floor to present the multi-disciplinary approach in the fight against the smuggling of migrants.

Mrs Lemmer stated that the legal framework set out in the criminal code of the Netherlands enables smugglers to be effectively sanctioned. The smuggling of migrants is penalised by a maximum sentence of four years or an 80,000 euro fine. If public officers contribute to the smuggling of migrants, they can be sentenced to six to eight years in prison and up to 15 years if the smuggling has led to death. The government would like to increase these sentences.

Mrs Lemmer explained that the policies are based on the national assessment of organised crime and the Europol assessment on the threat of organised crime, recalling that multidisciplinary cooperation is necessary for the exchange of information.

In relation to the organisational structure specific to the fight against the smuggling of migrants, the Ministry of Security and Justice is competent and works with a steering



committee to enable international collaboration. A multidisciplinary team gathering together several ministries has also been set up.

Finally, a centre of expertise on the smuggling of migrants and human trafficking was created a few years ago and involves the cooperation of the national police, the border police and immigration services. All cooperate with prosecutors.

Mr Mody Guirandou Ndiaye, Permanent Secretary of the National Cell for the Fight against Trafficking in Persons, then took the floor to present the actions carried out in Senegal in the fight against the smuggling of migrants in terms of legal action.

Mr Ndiaye first of all presented the regulatory and institutional framework which is composed of the penal code and the *law of 2005 on trafficking and assimilated practices*, as well as the coordination mechanism to fight against human trafficking and the smuggling of migrants. This coordination mechanism has been set up because it was necessary not to be confined only to dealing with 'repression'. The law reinforces the penal code but it is still important to substantiate this law. Several key ministers are represented within this coordination mechanism, as well as stakeholders from civil society and religious representatives.

The remit of the cell is as follows:

- Role of prevention
- Definition and implementation of a policy to increase awareness
- Participation of civil society in the cell's actions and programmes
- To propose changes to legislation or regulations
- To make recommendations to the authorities
- Strategic role: preparation of an annual report to the Prime Minister

Results are visible, especially through the capacity building of stakeholders who include magistrates, policemen, judicial law officers and border guards, social workers and specialised teachers, prison officers, barristers, trainee judges, prosecutors and heads of prosecution secretariats, journalists, representatives of NGOs and representatives of ministerial departments.

There have also been visible results in building cooperation and partnerships.

With regard to the limitations of the action, Mr Ndiaye emphasised that, despite the application of the law, the phenomenon persists. There is a need to advocate for a specific and autonomous law on the smuggling of migrants, to give more means to coordination and to reinforce the mechanisms for legal action in the sub-region.



Discussions took place at the end of this **second session** on the following main themes:

The importance of legal stakeholders: these stakeholders must be trained in the concepts of fighting against the smuggling of migrants and human trafficking. An effective judicial system is also necessary.

The sharing of knowledge on all levels: it is important to be able to ensure coordination between the players on the ground and the State, but also between States. Information is a key element in the fight against the smuggling of migrants.



SESSION 3: HOW TO BUILD EFFICIENT IDENTIFICATION AND REFERRAL MECHANISMS FOR VICTIMS OF TRAFFICKING?

The second working day began with the opening of the **third plenary session** on the theme of effective identification and referral mechanisms for the victims of human trafficking.

12

Mr António Carlos Patrício, Director of the Central Directorate for Investigation, Immigration and Border Department (SEF), Portugal, opened the session to present the work of the Unit for the Fight against Human Trafficking.

The role of the unit in the fight against human trafficking is to prevent, protect and cooperate, with the aim of being able to give an immediate response, of creating indicators and cooperation with prosecutors. The unit has created a network and works with all the Portuguese regions. Cooperation with the Commission for Citizenship and Gender Equality (CIG) is significant since this organisation is mentioned in 13 of the 53 measures included in the National Action Plan. Quarterly meetings are also organised with the Human Trafficking Observatory (OTSH).

Mr Patrício then quoted a few examples where traffickers have been arrested and sentenced, notably thanks to international cooperation.

Finally, Mr Patrício described the *Lumina* project which is a national project to develop actions on the ground in order to increase the awareness of victims of criminal groups coming from Eastern Europe and the Balkans. Taking into account the geographical conditions and proximity of Spain, the cooperation of the Spanish authorities has been requested.

Mrs Annick-Sandra Nyngone, Head of the Division in charge of Migratory Affairs, Ministry of Foreign Affairs, Department of Consular Affairs, Gabon, then took the floor to present a concrete case: the migration of children in Gabon, victims of human trafficking and, more particularly, of forced labour. Since 2000, Gabon has adopted and put into practice a series of laws in order to eradicate this phenomenon: Convention 182 and the national political framework in the specific case of children.

The identification mechanism makes it possible to identify a child victim of human trafficking and to entrust them to the authorities. The authorities then open an investigation and set in place conditions enabling the situation to be monitored.

Shelters are available for children, in partnership with UNICEF. Agents specialised in the protection of children then monitor them and assist in initiatives on different levels. The



'return' decision is made after the highest consideration taking into account the children's interests.

Mr Djibril Fall, Director of the West Africa Network for the Protection of Children, took the floor to present the referral mechanism of the West African Network for the identification, protection and reintegration of vulnerable children on the move.

13

The West Africa Network is a transnational mechanism which ensures protection and social reinsertion of children on the move in the geographical zone of West Africa. The network's vision is to be able to improve and connect the child protection systems in West Africa in order to better identify, protect, reintegrate and monitor children and young people on the move between the countries of the sub-region. The network aims to mobilise and create capacities for West African countries in order to protect children and young people in vulnerable situations and to ensure their social reintegration.

The aims of the network are:

- To help reduce the number of children/young people in vulnerable situations through individual reintegration and prevention activities
- To mobilise and connect stakeholders on national, transnational and regional levels
- To contribute to cooperation between the national child protection systems
- To develop common procedures and standards of care

The network is cooperating and working with ECOWAS and also with NGOs, international organisations, States and communities, and working together has, for example, made it possible to identify 5,500 children in a vulnerable situation. Families have also benefited from economic aid.

Cooperation in this area is therefore a key element.

Mr Enrico Ragaglia of the ICMPD Human Trafficking Competence Centre then took the floor to present an introduction to the national and transnational referral mechanisms.

Mr Ragaglia explained that these mechanisms serve to:

- Identify the main stakeholders of the government and in civil society who are willing to assume their responsibilities in this process
- Promote an intersectoral structure
- Provide a round table discussion around which high-level officers can create networks through organisations for better dissemination of information and better feedback



One of the main challenges is the lack of identification of trafficking victims. According to a report from the United States Department of State on human trafficking (2010), the ratio of victims identified compared to the estimated number of victims is generally 0.4%.⁶

The transnational referral mechanisms require cooperation and this can be complex for several reasons:

- Lack of contact
- Lack of political commitment
- Different legislative frameworks
- Linguistic differences

14

According to Mr Ragaglia, it is clear that the countries of origin, destination and transit must coordinate their actions. The transnational referral model is in harmony with Human Rights standards. The standard operational procedures (SOPs) are as follows:

- Identification
- Protection and assistance
- Long-term assistance
- Return and social inclusion
- Criminal prosecution

These procedures go hand in hand with more specific measures. Before proposing these standards to a country, it is important to carry out an analysis of the system in place (through the previously mentioned round table).

Mrs Irina Todorova, Regional Migrant Assistance Specialist, International Organization for Migration (IOM), Regional Office for the EEA (European Economic Area), the EU and NATO (North Atlantic Treaty Organisation) emphasised the growing extent of the phenomena of human trafficking and smuggling of migrants. Mrs Todorova insisted that it is obviously important to discuss the national regulatory frameworks, but it is also necessary to think about the challenges posed by return and reintegration. Efforts must also be focused in this direction while keeping a balanced approach.

DISCUSSIONS

The **third session** ended with discussions about the importance of **identification** within mixed migratory movements. The figure previously mentioned by Mr Ragaglia caught the

⁶ United States of America, Department of State, *Trafficking in Persons Report*, June 2010, p.7.



attention of the participants. Efforts must also be made towards the **return** to and **reintegration** in the countries of origin, working with a balanced approach.





SESSION 4: HOW TO EFFECTIVELY COUNTER MIGRANT SMUGGLING WHILE GUARANTEEING MIGRANT RIGHTS?

The **fourth session** was devoted to the means of countering the smuggling of migrants while guaranteeing that their rights are respected.

16

Mrs Maria Vittoria Pontieri from the Ministry of the Interior, Italy, opened this fourth session presenting the *Praesidium Project*. Mrs Pontieri explained that this project was co-funded by the European Commission and the Italian Ministry of the Interior, and implemented by UNHCR, IOM, the Italian Red Cross and Save the Children. Implemented first of all in Sicily in order to help the Italian government to improve management of the arrival of migrants and to guarantee the protection of the most vulnerable groups, the project was extended to other places of disembarkation.

The Ministry of the Interior coordinates the project and has asked the four implementing organisations to assume specific roles in harmony with their mission:

- UNHCR: asylum seekers and potential asylum seekers
- IOM: migrants and victims of trafficking
- Italian Red Cross: vulnerable people and socio-medical activities
- Save the Children: minors and unaccompanied minors

The project has been able to reach a diversified group of beneficiaries. The four implementing organisations have worked towards improved efficiency and have developed methods to coordinate their activities, such as: legal information, identification of vulnerable cases, the monitoring of migrants' health conditions, the distribution of brochures on asylum, etc. The project has used a 'multi-agency' approach.

In 2014, two anti-trafficking teams were set up to map all the reception structures and services available in the region, and to coordinate the local institutional players in order to identify the ad hoc cooperation mechanisms in the fight against human trafficking.

The *Praesidium Project* ended on 30 June 2015.

Mrs Cristina Gatões, Regional Manager for the North Region, Department of Immigration and Borders (SEF), Portugal, then took the floor. With regard to the question of how to combat the smuggling of migrants while guaranteeing their rights, Mrs Gatões suggested that the answer must involve political decisions. Considering the fact that, in most cases, the smuggling of migrants takes place in poor areas, the problem must also be attacked at its source. The migration movement is a movement which can be due to a conflict, the economy or other problems, and it is therefore important that any decisions made provide



rules and political lines in order to promote legal migration. Clandestine migration and the smuggling of migrants can be combated via an updated migratory policy which takes account of Human Rights.

These political decisions can only be implemented if they are followed by adequate legislative frameworks. Regional consistency is imperative.

Mrs Gatões specified that migrants' rights must be protected through cooperation and complementarity of efforts in an increasingly globalised and complex world. There is no point in having a good system if you are working alone. It is a fight in which everyone has a role to play.

In his presentation, Mr Michele Bombassei, Regional Migrant Assistance Specialist, International Organization for Migration (IOM), Regional Office for West and Central Africa, tried to provide some answers to the question posed in this fourth session. Mr Bombassei suggested reformulating the question in the following manner: how can we effectively guarantee the rights of migrants while combating migration pathologies?

Migration is a phenomenon anchored in the West African culture and is an economic factor for the region. It constitutes an opportunity for personal development for the young, as well as an opportunity for the EU to satisfy its demand for labour.

Mr Bombassei explained that it is also known that migration causes what is called diseases, pathologies. For example, some migrants can be blocked on their route and become vulnerable to exploitation and smuggling. They can infringe national laws or become illegal if they stay too long in a country. They can also become caught up in smuggling activities. It is for this reason that a balance must be found between migrants' rights (mobility and movement) and at the same time the mitigation of the bad aspects, pathologies, linked to people's mobility.

The common response to human trafficking and smuggling of migrants must be protection and assistance: the most vulnerable migrants, such as unaccompanied or separated children, the potential victims of smuggling, single mothers, people requiring medical aid, etc., must be protected. Assistance with voluntary return and reintegration, medical assistance, assistance with housing or even financial assistance must be provided.

In order to develop a response based on facts and not on assumptions, more information is needed on the motivations and profiles of these migrants. The matter of raising awareness is also important: migrants must be informed about the risks of clandestine migration and the opportunities for legal migration. Capacity building is an essential element: assistance cannot be considered without building the capacities of civil society, the authorities and the



institutions on the ground. And finally, dialogue is a key point. Cooperation is essential regarding information and good practices in order to develop a common vision.

An example of success is the case of ECOWAS which has a free circulation agreement. Free circulation poses challenges but ECOWAS responds to it by setting up plans for the protection of children, capacity building, data sharing, etc. The challenges are enormous and sometimes seem difficult to overcome but it can be seen that, through dialogue, it is possible.

Mrs Emmerentia Erasmus of the FMM Project for West Africa, ICMPD, then presented the Project to Support Free Movement of Persons and Migrations in West Africa (FMM).

The main objective of this project is to maximise the potential for free movement of people in West Africa by supporting the effective implementation of free movement protocols and the Common Approach on Migration of ECOWAS. This project covers 15 Member States of ECOWAS and Mauritania, and is financed by the EU and ECOWAS. The project is implemented by IOM, ICMPD and ILO (International Labour Organization). The project began in 2013 and has a 5-year lifespan.

Mrs Erasmus then presented the four main areas of the project:

- Migratory data and policies
- Border control
- Worker migration
- The fight against human trafficking

The results are visible: for example, the capacities of the ECOWAS Commission in the fight against human trafficking have been strengthened. Capacity building in this area is illustrated through targeted training on identification and investigations to stop forced labour. Other capacity building training programmes have been set up.

Mrs Erasmus explained the role of the Demand Driven Facility (DDF) unit within the project:

- To reply to the demands of national institutions
- To provide adapted assistance with help from institutions in order to facilitate the implementation of ECOWAS policies
- To offer technical assistance

The main objective of this unit is to provide technical assistance and adapted capacity building activities for the national institutions of ECOWAS Member States and Mauritania in



the four above-mentioned areas. The unit is also trying to assess the existing means and to identify needs.

The activities of the DDF unit have an eligibility criterion: the activities are limited in size and cannot exceed 300,000 euros. They are also limited in time: the actions cannot exceed a maximum 18-month period.

Mrs Erasmus then illustrated the current activities in terms of the fight against human trafficking:

- In Nigeria: the team discussed how to integrate the fight against human trafficking within school programmes. Manuals have been developed.
- In Niger: the team targeted the government's capacity building in terms of fighting against human trafficking and the smuggling of migrants. Actions have been taken in terms of raising awareness, training, referral mechanisms, data management and management of the information exchange system.

There are also actions concerning several countries at the same time: for example, support to Gambia, Guinea, Guinea Bissau, Mali and Mauritania in their work to fight against human trafficking and in their coordination.

Mrs Erasmus advised the countries concerned to consult the project's website: www.fmmwestafrica.com.

DISCUSSIONS

The discussions closing the **fourth session** focused on:

The **general vision of migration**: it was pointed out that migration is sometimes approached in a way that obscures the positive aspects, focusing on the negative aspects because it creates unmanageable flows. An important point was made that the people who decide to migrate are often educated, and that the brain drain is also an important challenge for States.

The matter of **criminalisation**: migration must be situated in its specific context. For example, it is a good thing when you look at inter-African movement but it also creates what has been called pathologies. It is easier to identify victims than criminals, and that is why it is important to reinforce the jurisdiction systems of States.



SESSION 5: REGIONAL COOPERATION TO COMBAT TRAFFICKING IN HUMAN BEINGS AND MIGRANT SMUGGLING

The **fifth session** began on the theme of regional cooperation in the area of human trafficking.

20

Mrs Agata Woźniak, International Relations Officer at the Directorate General of Interior and Migratory Affairs (DG HOME), European Commission, EU, opened this session presenting the EU's vision in terms of cooperation. Mrs Woźniak explained that only cooperation can make it possible to achieve the objectives in the areas discussed over these two days of meetings. The Rabat Process constitutes a good example of this. The fight against human trafficking and the smuggling of migrants are subjects which form part of the priorities of the Rabat Process: the particular focus on vulnerable groups, the reinforcing of exchanges and good practices, the search for operational solutions such as the creation of services, and the training of staff responsible for dismantling criminal networks are good examples.

Apart from the Rabat Process, the Khartoum Process which this time gathers the countries of the East African migratory routes can also be mentioned.

To summarise and conclude, Mrs Woźniak affirmed that the smuggling of migrants and human trafficking are transborder crimes and involve several countries. Therefore, the fight against them demands the cooperation of everyone.

Mrs Agata Sobiech, International Cooperation Officer at the Directorate General for International Cooperation and Development (DG DEVCO), European Commission, EU, then presented two cooperation projects.

Two quite similar projects have been set up. The first is focused on North Africa and the second is an ECOWAS project in Mauritania. The two projects were implemented under the aegis of UNODC. The activities are focused on:

- Setting up focal points to coordinate cooperation and information, in order to support the constitution of a more formal network
- The sharing of good practices
- The possibility of carrying out joint investigations

The two projects have closed but it is interesting to see that certain focal points are still cooperating together.



Cooperation in the area of fighting against the smuggling of migrants requires a clear idea and a clear definition of what migrant smuggling is. Structures are needed to keep reliable, stable information channels despite the rotation of focal points.

Mr Olayemi closed this session recalling that it is necessary to build more capacities and to adopt a broader approach which works on the root causes. At national level, Mr Olayemi suggested setting up working groups for better cooperation with institutions.

DISCUSSIONS

The **fifth session** then closed with discussions concentrating on the following points:

A **global and balanced approach** is necessary for cooperation. States must have strong, effective structures but we must not forget that other stakeholders also have a role to play in this cooperation: civil society must be represented.

The **existence of a discussion forum**, as illustrated by the Rabat Process, is necessary for cooperation in these areas. This enables countries to be inspired by the action plans of other countries or organisations such as ECOWAS. Activities must be coordinated between the various organisations and dialogues in order to avoid duplication and to be able to work effectively.

The **idea of development** must be at the centre of our actions. It is important to combat the negative effects of migration, but it is also important to sustain a certain image of migration which must correspond to our image of development. Institutional, national or strategic flags must be overcome in order to cooperate together in the aim of development. Everyone needs to 'promote' and not only 'fight'.

The need to **share**: over the two days of meetings, a lot of aspects have been mentioned: issues regarding data, protection and increasing awareness. Good practices exist and are shared regarding human trafficking, but a failure exists with regard to the fight against the smuggling of migrants. This often remains at national level because there is no opportunity to share good practices. There are not yet enough instruments, there are no focal points, no platform. This is a deficiency that needs to be rectified in several countries. To create a platform dedicated to the sharing of good practices and information regarding the fight against the smuggling of migrants is crucial and could assist cooperation considerably.



CONCLUSIONS OF THE CO-PRESIDENCY

22

- Promote an approach which is (I) **comprehensive** including gender issues, Human Rights, etc.; (II) **multidisciplinary** (i.e. measures to combat human trafficking must be linked to those against child labour); and (III) **harmonised** with all the common norms and standards while taking into account local issues and realities.
- Place the victim and the protection of his or her rights, safety and dignity at the heart of the fight against human trafficking and the smuggling of migrants whilst paying particular attention to minors.
- Set an agenda of **international cooperation** in addition to **regional cooperation**, including cross referral mechanisms, judicial assistance, revision of bilateral agreements, and cooperation and exchange of best practices.
- Create or reinforce multi-stakeholder, **national coordination structures**, such as national commissions, and convert these into referral mechanisms. Another key task is the nomination of focal points and connecting them through committees or liaison offices. These structures, platforms and networks must be inclusive and at the same time integrate national institutions, including national agencies, the local level (local communities), civil society, religious organisations, local traditional and customary authorities, etc. Emphasis must be placed on coordination, and organisational and systemic capacities.
- Contribute to the **reinforcement of the rule of law** by creating and implementing coherent and up-to-date national and regional legislative frameworks. Moreover, the ratification of protocols pertaining to them and their implementation is essential.
- **Monitor and evaluate** policies and measures against human trafficking and the smuggling of migrants on a regular basis by relying on methods and approaches which measure and ensure progress and results, such as regional mechanisms for peer review (i.e. the analysis of reports).
- Put in place **communication and awareness-raising measures** by involving all stakeholders, such as the media or the private sector (formal and informal), and target





priority geographical areas, such as border areas. In order to find adequate channels of communication, it is vital to refine migrant profiles, especially in the case of human trafficking.

- Improve **data collection and processing**. Targeted data bases should be developed, in line with the judicial system. The role of observatories is also essential and their networking is paramount.
- Share and manage **information**. It is necessary, among other things, to target the sharing of information on the modus operandi of networks in order to dismantle, pursue and facilitate the evaluation of risk and threats. Investigation methods must be developed, transposed and reinforced through training, availability of specialised manuals and other tools.
- Improve **police and judicial cooperation** in order to conduct investigations and successful prosecutions. Intensify enforcement against smugglers and traffickers, and all forms of transnational criminal activity. Reform justice systems: provide training for prosecutors and magistrates on human trafficking and the smuggling of migrants. Create specialised police units.
- Incorporate the following elements into the current measures for the **protection and reintegration of victims** in order to ensure a complete and holistic intervention: prevention, awareness-raising, education, training and certification (collaboration with specialised centres and teams), enquiries, partnerships, upgrading of skills, psycho-social care and administrative help. Develop direct and appropriate assistance for migrants in the case of migrant smuggling, such as medical assistance, finance, access to housing, and assistance with voluntary return and reintegration.
- Recognise the importance of **measures which promote safe and legal migration** in the reduction of vulnerability to human trafficking and migrant smuggling. Alongside these measures, civil registers and reliable and quality identification documents play a key role.



The Rabat Process Support Project, with Niger and Portugal, and in collaboration with the EU, is committed to identifying priority and concrete actions based on these conclusions, and in coherence with the Valletta Action Plan and Rome Programme.

These priority actions will be communicated to the members of the CoPiL (Comité de Pilotage) [Steering Committee] and to the partners of the Process.

Regional technical training on the issue of human trafficking and the smuggling of migrants is planned as part of the Rabat Process for the first quarter of 2016.