

**Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the  
Special Rapporteur on the human rights of migrants; and the Special Rapporteur on violence against  
women, its causes and consequences**

REFERENCE: AL  
ITA 5/2015:

19 October 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the human rights of migrants; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 26/8, 26/19, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the case of the ongoing repatriation of a group of 68 Nigerian women, possible victims of trafficking in persons from Italy.**

According to the information received:

Between 22 and 23 July 2015, Ms. [REDACTED], Ms. [REDACTED] and a group of another 66 Nigerian women, all young and with low levels of income and literacy, arrived by boat in Lampedusa from Nigeria through Libya. The group, whose journeys have allegedly been paid for by others, was immediately issued entry denial orders by the Police Department of Agrigento without being duly informed about the possibility of applying for asylum and/or international protection.

On 23 July 2015, the group of women was transferred to the Center for Identification and Expulsion (CIE) of Ponte Galeria in Rome for identification by relevant authorities and a consular official from the Nigerian Embassy. On the same day, hearings were held in the afternoon and a decision was rendered to detain all of them at the CIE while awaiting their expulsion.

On 27 July 2015 and prior to their repatriation, the group applied for international protection with the assistance of two Italian NGOs.

From 19-26 August 2015, the Territorial Commission for the recognition of international protection conducted a hearing identifying 7 of these women as victims of trafficking. It also denied protection to 40 women, out of whom Italian

authorities repatriated approximately 25-30 by 17 September 2015. The rest of them are currently awaiting imminent deportation.

Concerns are raised that the group of 68 women, which may include more than 13 victims of trafficking, have not benefitted from adequate identification during the screening process and their protection consideration. Given the sheer number of arrivals to Italy by sea, and the victims' fear of providing information about their status and the alleged violence they have endured at different stages of their journey, including sexual violence and forced prostitution, victims of trafficking are at risk of being misidentified during the screening process. Furthermore, upon arrival by boat many experience trauma and shock which affects their mental and physical health.

We are also concerned that the decision taken on 23 July 2015 immediately after the group's arrival and on 19-26 August 2015 did not permit these women sufficient time to recover from their long traumatic journey and did not ensure the proper identification of all their potential protection needs, claims for asylum and other vulnerabilities such as trafficking. We are further concerned that the group did not receive full information regarding the options available for international protection. We are additionally concerned that this expedited process might have been affected by the existence of Italy's readmission agreement with Nigeria. The repatriation of victims of trafficking could heighten the risk of re-victimization in their country of origin.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please inform us as to whether in-depth individual assessments have been carried out in each case, to accurately identify victims of trafficking from the group of 68 migrant women prior to the rejection of the protection and repatriation decisions.
3. Please provide us the details, and where available the results, of the procedures put in place for the rapid and accurate identification, provision of assistance and protection of potential victims of trafficking among the large migrant and refugee population, especially those arriving to Italy by boat seeking international protection.

4. Please explain all measures that have been taken, to build the capacity of Italian law enforcement authorities and officials to their responsibility to ensure that adequate protection safeguards are provided for the immediate well-being of trafficked persons among the influx of migrants, especially arriving in Italy by boat.

5. As the issue of trafficking in persons, especially women and children affects countries of origin, transit and destination, please provide information with regard to protection measures in place for this group of women and other potential victims of trafficking from Nigeria and the cooperation with this country.

6. Please provide information regarding how the proper identification and protection of all potential protection needs, including age assessment, claims for asylum and other vulnerabilities such as trafficking and respect for international human and human rights law-particularly with regard to the principle of non-refoulement- are taken into account when carrying out the terms of Italy's bilateral agreement with Nigeria.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Maria Grazia Giammarinaro

Special Rapporteur on trafficking in persons, especially women and children

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François Crépeau

Special Rapporteur on the human rights of migrants

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Dubravka Šimonović

Special Rapporteur on violence against women, its causes and consequences

**Annex**  
**Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to recall Article 3 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, according to which no State Party shall expel, return ("refouler") or extradite a person to another State, when there are substantial grounds for believing that he would be in danger of being subjected to torture. Furthermore, we would like to draw your attention to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Article 33 of the 1951 Convention stipulates that no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

In connection, with this, we would like to recall the para. 10 of the GA res. 62/156 which "urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification";

We would like to bring to Your Excellency's attention Article 6 of the International Convention on the Elimination of all forms of Discrimination against Women, which provides that States Parties shall take all appropriate measures; including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. In this context, we would like to refer your Excellency's Government to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by your Excellency's Government on 2 August 2006. The Protocol envisages the protection of victims of trafficking including by permitting them to remain in its territory, temporarily or permanently, on the basis of humanitarian and compassionate factors and giving due regard for their safety in cases of repatriation (article 4, 7 and 8).

Reference is also made to the United Nations Declaration on the Elimination of Violence against Women clarifying that violence against women shall be understood to encompass trafficking and forced prostitution.

We would also like to refer your Excellency to Guideline 2 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights (2002), which provides for States responsibility under international law to correctly identify victims of trafficking and to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons.

We would like to refer to the report of the previous Special Rapporteur on trafficking in persons, especially women and children, following her visit to Italy (A/HRC/26/37/Add.4) in which she highlighted that in spite of existing initiatives, victim identification, particularly migrants who may be in position of vulnerability remains a major challenge (paragraph 54). She among others recommended that the State scale up the identification of individuals who are at particular risk of being trafficked, in close cooperation with source countries and reinforce specific tools and protocols for identifying victims of trafficking, building capacities and providing training for relevant law enforcement agents, especially the police, immigration officials (...), including in the centres of identification and expulsion. Such training should seek to enhance the capacity of those officials to identify trafficked persons quickly and accurately, and to make referrals to appropriate services (paragraph 92).

In his 2012 report on Italy (A/HRC/23/46/Add.3), the Special Rapporteur on the human rights of migrants expressed his concern about the speedy processing of migrants who fall under bilateral agreements as it does not ensure the proper identification of all potential protection needs, including age assessment, claims for asylum and other vulnerabilities. The Special Rapporteur urged that bilateral arrangements fully integrate minimum human rights standards and be accompanied by transparent procedures which focus on the safety, dignity and human rights of migrants. In the Special Rapporteur's follow up report on Italy, (A/HRC/29/36/Add.2), he reiterated his "his concerns about bilateral agreements being used as a means of border control, often without sufficient human rights safeguards. He remains concerned about the lack of transparency surrounding such agreements: not only are negotiations conducted seemingly with very little external oversight or input, but often the final text is not publicly available, thus contributing to uncertainty regarding the content, interpretation and implementation of the agreements" and was particularly concerned about the "continued violations of the principle of non-refoulement and of the prohibition of collective expulsions with regard to the return of some migrants, possibly including minors, immediately after their arrival". The Special Rapporteur recommended that all bilateral agreements on migration issues are negotiated and made publicly available in full transparency, with clear human rights protections integrated at all stages and that readmission agreements "adequately protect the human rights of migrants and ensure proper and systematic individual screening for protection concerns, as well as guarantee full access by international organizations and civil society organizations, including Praesidium project members, at landing sites and to all temporary and permanent reception centres".

