

VICTIMS OF TRAFFICKING AND APPLICANTS/BENEFICIARIES OF INTERNATIONAL PROTECTION



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RESEARCH REPORT

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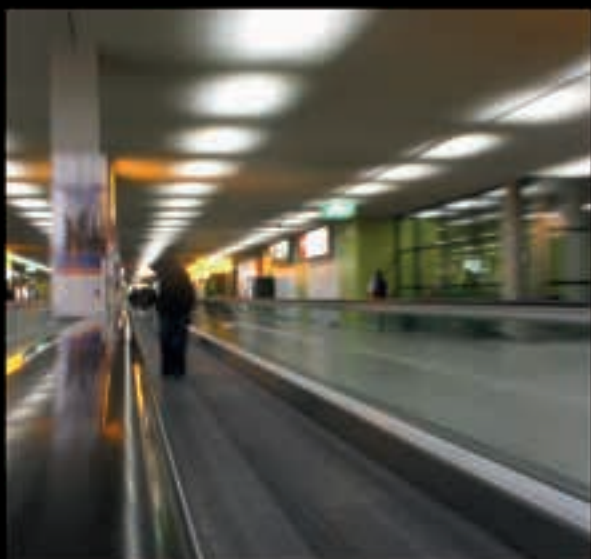
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INTRODUCTION

The features of the contemporary migration flows are so peculiar that make them to be analyzed based on a fuzzy logic. The majority of the conceptual tags used by the sociology of migration (as economic migrant, displaced person, asylum seeker, foreign student, irregular migrant, seasonal worker, undocumented migrant, victim of trafficking, and so on) are indeed not so effective to interpret the complexity and versatility of the migration pathway where different factors are intersected such as motivation to expatriate, personal plans, culture of origin, individual resources, constraint on the context, share capital and family connection but even change of status, denial of rights, experience of marginalization and exploitation.

In this regard, an illegal migration plan for economic reasons, using investment from the family and community, could become a vulnerability and even bringing to enslaving condition when time of travel get extended, expectation and financial resources fray, extortion from *smugglers* and impact of crisis occur. Moreover, the leaving, facilitated and assisted by a criminal organization, could result in a quick emancipation, progress to a choice to return to the own country, and then, again, escape from the country of origin or be re-victimized.

Taking into consideration the possibility that migrant's condition develops into another, the connection between the flows of asylum seekers and trafficking in human beings for exploitation is very relevant, both for the increased number of victims of trafficking among those who accede to the asylum system and for the recognition of the requirements needed to apply for international protection within the personal story of migration of the victims of trafficking. In both cases, as it illustrates hereafter, the main point is to recognize the experience of trafficking in all its shapes as a reason of persecution, in order to adopt the Geneva Convention for those ones trafficked.

One of the objectives of the project NOTRATTA¹ is to describe the connection between trafficking and International protection (and the related problems) focusing the attention on both national and European level.

1 The project, started on 1 September 2013 and, actually, under implementation, aims at enhance the ability to detecting and assisting victims of trafficking of those subjects who, at different level, deal with International protection. The in-depth analysis of knowledge and awareness, from the actors involved, and the connection between trafficking and International protection will be sought, in order to strengthen cooperation between the two systems: the types of International protection for foreign people fleeing persecution or serious damage they could suffer in their countries and the centres created as per art. 13 Law 228/2003 and art. 18 of the *Testo Unico sull'Immigrazione* providing for support measures for victims of exploitation and violence and, In Italy, represent the pattern of assistance for victims of trafficking in human beings.

The first chapter of this report gives an overview on the features of trafficking and asylum within the European context, on the main reference regulations, on the adopted procedures, and on more frequent issues, and, after describing the legal assumptions of the link between trafficking and asylum, it relates six national *case-studies* from Germany, France, United Kingdom, Sweden, Belgium and Holland, which, far from being complete, could highlight some relevant aspects. The Italian case-study is reported into the second chapter more in depth.

The choice of these countries is mainly due to the fact that they received the largest number of applications for protection in the last two years and they have built very different systems of reception in terms of regulation as well as in practices of reception. As we could see, some of those ones, “traditional” asylum destination, have stabilized and advanced procedures; others, as Italy, under an increasing migration pressure, result to be in development. At the same time, all the analyzed countries are very much affected from the event of trafficking (mainly as destination or transit country) although they adopt very different approach and policy in facing prostitution.

For each country it shall be described the whole procedure to apply for International protection with regard to the regulation in force (*iter* and examination of the application, competent authorities, recognized residence permits, reception centres -forced and not-, peculiarity of the system), the system of reception and protection of the victims of trafficking (processes and tools of detection, implementation of the European Directives, involved authorities, National programs and adopted policies, presence of *National Referral Mechanism*, provided facilities, granted residence permits) and, moreover, the meeting point between the two systems (in terms of ways of detecting and identifying victims of trafficking within the asylum system, legal paths permitted, any further possible channel of activation and relevance of the cases already recognized)². The last paragraph of the first chapter goes through the main points emerged within the case-studies by using a comparative method. We are aware that each national system should deserve a deeper analysis and assessment, not possible at this time, but we have mainly aimed for comparing operative practices and regulatory framework (with all the limits in catching ongoing changes referred, for instance, to the amendment of the European Directive on the issue) showing how, against an increasing interest

² Besides official website of UE and other entities variously involved, National reports produced by *National Rapporteur* or other relevant entities, and *ad hoc* studies and documentation on existing regulations, the main source of information for the last section of the paper is constituted by the reports made by the group of experts on trafficking of the European Council (GRETA) and by the reports produced by the *National Point* of the *European Migration Network* (EMN) on the issue of the identification of the victims of trafficking within international protection and forced return procedures.

toward the link between trafficking and asylum, solutions and *escamotage* to grant the status of the victims of trafficking are already being experienced in many contexts.

At National level, on the one hand, from time to time the legal framework of trafficking and international protection has become more composed and fragmented, on the other hand, there is a lack of experience based literature as well as the existence of disaggregated data within the specific topic of the connection between trafficking and International protection. Therefore, one of the activity of the project NOTRATTA was focused on this connection using a qualitative research, objective of the second chapter of this report, starting from experiences, knowledge, practices, and test implementing in different regional contexts (Piemonte, Veneto, Toscana, Emilia Romagna, Marche, Abruzzo e Puglia). The research, as one of the first ones in this regard, aimed to collect the specific features of the event (in all its expressions), the perception and awareness of the *stakeholders*, the ways used to identify it (in terms of indicators, practices in taking charge people, operative tools and professional profiles) as well as the need of the operators and any subject involved in taking charge and safeguard the victims of torture, International protection seekers and refugees for being specifically trained.

By bringing together the testimonies reported on the second chapter, that looks at the event from different points of view, it helped in highlighting problems and emerging possibilities, sometimes through the sharp bluntness of life stories, as well as interesting links between the two systems, so it could definitively give an important contribution to the ongoing debate .



CHAPTER 1

INTERNATIONAL PROTECTION AND VICTIMS OF TRAFFICKING AND EXPLOITATION IN EUROPE

01 INTERNATIONAL PROTECTION

WITHIN EUROPEAN UNION: AN OVERALL VIEW

01.01 The right of asylum in the EU: reference to regulation and policies

Within the European Union setting¹, the Right of Asylum is affirmed into the Article 18 of the Charter of Fundamental Rights of the European Union, with respect due to the rules of the Geneva Convention of 1951 and the Protocol of 1967, and in accordance with the Treaty established by the European Community². The article 19 states the *non-refoulement* principle, that prohibits to remove, expel and extradite someone to a State where there is a serious risk to be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Among the actions on asylum, it is relevant the Directive 2003/9/CE laying down minimum standards for the reception of asylum seekers (titled as "Reception Directive")³, the Directive 2004/83/CE, amended in 2011, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ("Qualification Directive")⁴, the Directive 2005/85/CE, on minimum standards on procedures in Member States for granting and withdrawing refugee status ("Procedures Directive") and the Regulation n. 343/2003 (known as "Dublin Regulation II" because it replaces the Dublin Convention of 1990) that establishes the criteria and mechanisms for determining the Member State responsible for examining an asylum application⁵.

1 For an accurate reconstruction of the European regulation on asylum, please refer to Gammelthoft-Hansen, T., *Access to asylum: international refugee law and the globalisation of migration control*, Cambridge University Press, Cambridge 2011; Goodwin-Gill, G.S., McAdam, J., *The refugee in international law*, Oxford University Press, Oxford 2007; Hailbronner, K., *EU Immigration and Asylum Law*, C.H. Beck, Munich 2010.

2 It is recalled that as per art. 1A of the Geneva Convention of 1951, the refugee is who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". The Convention clearly identifies rights and duties of the refugee, where accorded by a State; the Protocol of 1967 extended its content, initially directed to cover European refugee caused by the second world war. Actually, 147 States have signed up to one of both UN regulatory instruments.

3 In particular, the Directive 2003/9/CE establishes specific standards for the reception and health care, for the protection of people with special needs (such as minors, victims of torture, etc.) and for ensuring that negative decisions relating to the granting of the refugee status may be subject to an appeal within national law.

4 The Directive 2004/83/CE indicates minimum standards for the qualification and status as refugee and for the content of the subsidiary protection granted to those people who does not qualify as refugee but, in case of return to their countries, would face a real risk of suffering serious harm. It also included the "non-State" actor of persecution.

5 With regards to the contents of the Directive, European Union Agency for Fundamental Right , *Handbook on European law relating to asylum, borders and immigration*, Council of Europe, 2013.

In summary, the European legislation determines that Member States should guarantee an effective access to procedures to asylum seekers⁶, providing the necessary facilities in order to give them information, in their own language or any others well known, on the whole procedure, and related rights and duties⁷. The examination of the application should be always conducted in an individual, impartial and fair manner, using updated information. The applicants have the right to be assisted by an interpreter and to receive the decisions regarding their status in a written form, with motivations and all the necessary information to lodge an appeal; they have the right to remain within the hosting country while waiting for the result of the application, to communicate with UNHCR and to receive the identification documents.

The Article 78 of the Treaty on the Functioning of the European Union (ex Articles 63, points 1 and 2, and 64(2) TEC) clearly defines as “common” the policy on asylum and classifies the International protection, already laid down into the Directive in force, through its three components: asylum, subsidiary protection and temporary protection. For the first time, asylum is defined as *European*, to underline its borders against other geographical areas, and it is valid throughout the Union. Nevertheless, the validity, within the other Member States, of the decision concerning an asylum application made in one State shows its limits in case of “transferring of the responsibility of protection”.

The Article 78 constitutes the last step of a process started in 1999 at the Council of Tampere to create the *Common European Asylum System* (CEAS) in order to establish a common asylum procedure and an uniformly recognized status for those who granted the International protection. The first step of this process, ended in 2005, aimed to harmonize the National regulations and to determine minimum standards of reception. In this regard, the *European Commission's Policy Plan on Asylum*⁸ of 2008 proposed a strategy based on three main points: to enhance the harmonization of the Regulations on International Protection; to develop an effective cooperation among Member States in order to eliminate the incoherence and differences in National practices; to boost the solidarity and the sense of responsibility within the EU and towards third Countries.

6 It is important to underline that the UE *acquis* on asylum does not provide ways to facilitate the access of the applicants. The application for protection shall be submitted only within UE Member States, at the borders or in transit area. (Directive 2005/85/CE, art. 3, par.1).

7 FRA, *The duty to inform applicants about asylum procedures: the asylum-seeker perspective*, Publications Office, Luxembourg 2010; FRA, *Access to effective remedies: the asylum-seeker perspective*, Publications Office, Luxembourg 2010b.

8 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 17 June 2008 – Policy Plan on Asylum: an integrated approach to protection across the EU [COM(2008) 360 final – Not published in the Official Journal].

To support the Dublin System, the European Union uses both the Eurodac, established by Regulation n. 2725/2000, for an effective application of the Dublin Convention, for the identification through the comparison of fingerprints, and the agency *European Asylum Support Office* (EASO)⁹, established by Regulation n. 439/2010, to strengthen practical cooperation between EU members, through exchange of information and experiences, to assist EU countries that find their reception systems under particular pressure (Italy is one of these) and to contribute to implement CEAS.

At the end of the second step of the process, the adoption of a common system CEAS is still under negotiation within EU¹⁰. In June 2013 the European Parliament implemented important measures, e.g. the “EU asylum legislative package” (as a melting of the above mentioned Directives¹¹ and a review of the Dublin Regulation and EURODAC system). In particular, the Directive 2011/95/UE (the new “Qualifications” Directive) amended the Directive 2004/83/CE, in order to uniform status for refugees or for persons eligible for subsidiary protection, therefore preventing States to give access to some rights only to refugees. So that, it aimed at improving the standards of assistance and safeguard to all those who granted the international protection. Another change refers to the extension of the definition of family member, broaden with the parents and other adult considered responsible for, and to the introduction of the concept of “gender identity” for the purpose of defining the membership of a particular social group or the identification of the peculiarities of this group. This represents a very important acknowledgment when considering the condition of persecution lived by many persons for their sexual orientation in many countries. Moreover, on 19 of July 2013 the Regulation n. 604/2013 was enforced, known as ‘Dublino III Regulation’, that should be adopted for all the requests made by a State for taking charge or taking back an asylum seeker from the 1st of January 2014.

Despite these important improvement, the effective implementation of what it stated is not completed. The situation is still fragmented with not uniform definitions and procedures, and with strong differences concerning how States enforce the asylum policy. According to UNHCR, notwithstanding the agreements subscribed, in some European Countries, there is still a difficult access, infringement of the *non-refoulement* principle, weak reception procedures, as demonstrated the occurrence of the reception of the Syrian asylum seekers.¹²

⁹ <http://easo.europa.eu/>

¹⁰ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm

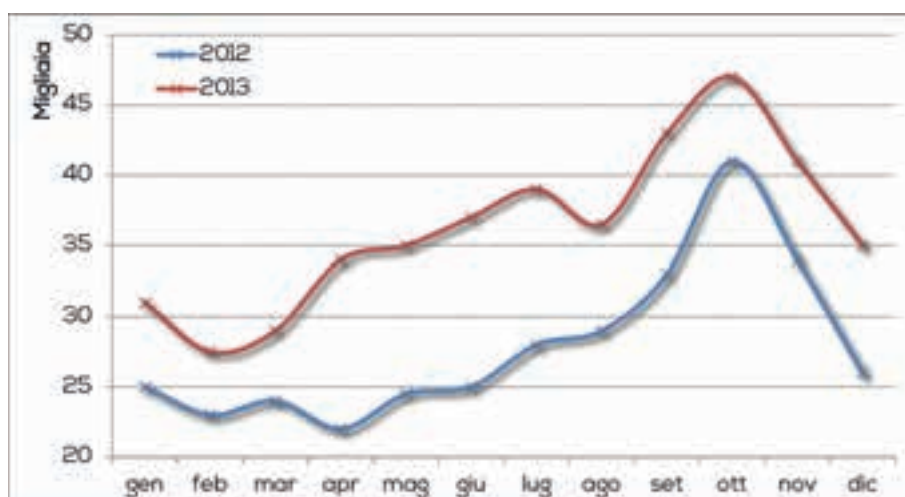
¹¹ Between 2011 and 2013 the new Qualification Directive (Directive 2011/95/UE), new Procedure Directive (Directive 2013/32/UE) and the new Reception Directive (Directive 2013/33/UE). For an overview of the key innovations introduced by the new regulations that shall entry into force in the second semester 2015, please find <http://www.programmaintegra.it/modules/news/article.php?storyid=7262&>

¹² Cfr. <http://www.unhcr.org/pages/4a02d9346.html>

01.02 Asylum seekers and Refugees: figures and trends

According to the last UNHCR Report¹³, in 2013 612.700 applications for International protection were made in 44 industrialized countries in Europe, North America, Australia and North-eastern Asia, 28% more than in 2012. The increase of the applications resulted mostly by the Syrian conflict. Afghanistan, as the first country of origin of the asylum seekers at world-wide level in the last years, is now in third position, after Syria and Russian Federation. A similar trend involves Europe, where, according to Eurostat data¹⁴, the number of applicants increased from about 336.000 in 2012 to 435.000 in 2013 (+ 29,5%) (Fig. 1).

Fig. 1 - Asylum seekers in EU-28 (monthly data, years 2012-2013)



Source: Eurostat (online data code migr_asyappctzm; last processing 19/04/2014)

As tab. 1 shows, in 2013 the five main countries of reception of asylum seekers were, in decreasing order, Germany, France, Sweden, United Kingdom and Italy. In absolute values, it shows an increase in Germany (49.330 applicants more, equal to 63,5%)¹⁵ and in Hungary (16.740 applicants, about eight times more than in 2012), in relative values Bulgaria's case stands out (+410%), before Spain (+75,4%), Portugal (+72,9%) and Italy (61,1%). Regarding a general trend, a relevant decrease is registered in

¹³ UNHCR, Asylum Trends 2013, <http://www.unhcr.org/5329b15a9.html>

¹⁴ http://epp.eurostat.ec.europa.eu/portal/page/portal/population/publications/migration_asylum

¹⁵ It should be noted that in Germany, due to number of applications submitted, there is a large number of pending instances (more than 130.000 at the end of 2013).

Luxembourg (-47,9%), Belgium (-25%), Switzerland (-25%) and in some new EU members so as Romania (-40,6%), Slovakia (-38,4%) e Latvia (-37,2). Furthermore, it noticed that if women presence is equal to one third of the applicants in 2013 as a whole, in some Member States like Hungary, Croatia, Estonia and Slovenia, men percentage is around 90%.

Tab. 1 – Asylum seekers in European Countries (2012 – 2013)

| | 2012 | of which, women % | 2013 | of which, women % | Annual change % 2012-2013 |
|--------------------------------------|---------|-------------------------|---------|-------------------------|------------------------------|
| European Union (28 countries) | 336.015 | 34,3 | 435.115 | 33,1 | 29,5 |
| Belgium | 28.285 | 35 | 21.225 | 37,7 | -25 |
| Bulgaria | 1.400 | 18,9 | 7.140 | 31,2 | 410 |
| Czech Republic | 760 | 29,6 | 705 | 31,2 | -7,2 |
| Denmark | 6.080 | 30,8 | 7.230 | 33,9 | 18,9 |
| Germany | 77.660 | 38,5 | 126.990 | 37,3 | 63,5 |
| Estonia | 75 | 13,3 | 90 | 11,1 | 20 |
| Ireland | 955 | 37,2 | 920 | 37 | -3,7 |
| Greece | 9.575 | 17,3 | 8.230 | 21,3 | -14 |
| Spain | 2.560 | 31,1 | 4.490 | 21,8 | 75,4 |
| France | 61.460 | 38,8 | 64.760 | 37,4 | 5,4 |
| Croatia | - | - | 1.080 | 10,6 | - |
| Italy | 17.345 | 14,2 | 27.935 | 14,1 | 61,1 |
| Cyprus | 1.635 | 33,3 | 1.260 | 35,3 | -22,9 |
| Latvia | 210 | 23,8 | 195 | 17,9 | -7,1 |
| Lithuania | 645 | 14,7 | 405 | 17,3 | -37,2 |
| Luxembourg | 2.055 | 38,4 | 1.070 | 29 | -47,9 |
| Hungary | 2.155 | 19,5 | 18.895 | 6,9 | 776,8 |
| Malta | 2.085 | 22,1 | 2.240 | 16,7 | 7,4 |
| Austria | 17.445 | 26,1 | 17.160 | 28,3 | -1,6 |
| Poland | 10.760 | 45,1 | 15.150 | 47,7 | 40,8 |
| Netherlands | 13.105 | 38,3 | 17.160 | 40,5 | 30,9 |
| Portugal | 295 | 23,7 | 510 | 26,5 | 72,9 |
| Romania | 2.515 | 8,2 | 1.495 | 30,1 | -40,6 |
| Slovenia | 315 | 15,9 | 275 | 12,7 | -12,7 |

| | | | | | |
|-----------------------|--------|------|--------|------|-------|
| Slovakia | 730 | 18,5 | 450 | 23,3 | -38,4 |
| Finland | 3.120 | 29,3 | 3.215 | 27,8 | 3 |
| Sweden | 43.945 | 36,7 | 54.365 | 35,9 | 23,7 |
| United Kingdom | 28.895 | 33,4 | 30.110 | 32,4 | 4,2 |
| Island | 115 | 13 | 170 | 29,4 | 47,8 |
| Liechtenstein | 80 | 25 | 100 | 20 | 25 |
| Norway | 9.785 | 32,6 | 11.980 | 29,8 | 22,4 |
| Switzerland | 28.640 | 28,7 | 21.470 | 24,8 | -25 |

Source: Our calculations from Eurostat (online data code migr_asyappctzm; last draw 04.19.2014)

Relating to the countries of origin, Syria, as it said before, is now the first one (50.475 applicants), followed by Russia (41.275), Afghanistan (26.285), Serbia (22.385), Pakistan (20.885) and Kosovo (20.180). Almost 56% of the asylum seekers come from these countries. Compared to 2012, there is also an increase of Eritreans (+149%), Kosovar (+99%) and Nigerians (+61,7%).

Tab. 2 - Main nationalities of asylum seekers (years 2012-2013)

| | 2012 | 2013 | Annual change % 2012-2013 |
|---------------------------|-------------|-------------|----------------------------------|
| Syria | 23.510 | 50.475 | 114,7 |
| Russian Federation | 23.360 | 41.275 | 76,7 |
| Afghanistan | 26.250 | 26.285 | 0,1 |
| Serbia | 18.900 | 22.385 | 18,4 |
| Pakistan | 19.920 | 20.885 | 4,8 |
| Kosovo | 10.135 | 20.180 | 99,1 |
| Somalia | 12.795 | 18.650 | 45,8 |
| Eritrea | 5.890 | 14.670 | 149,1 |
| Iran | 12.375 | 12.790 | 3,4 |
| Nigeria | 7.185 | 11.620 | 61,7 |
| Iraq | 11.265 | 11.190 | -0,7 |
| Former Yugoslavia | 9.560 | 11.070 | 15,8 |
| Albania | 7.435 | 11.020 | 48,2 |

Source: Eurostat data processing made by us (online data code migr_asyappctzm; last processing 19/04/2014)

Relating to the results of examination of applications for International Protection in the EU (tab 2), on more than 328.000 decisions, one-third (34,3%) resulted in positive (in 2012, they were equal to 26,6%). Among the countries with the highest rate of positive results, in absolute value, there are Sweden (24.015), Germany (20.125) and Italy (16.185) but, in relative values, there are Bulgaria and Malta (respectively 87,4% and 84,5%) mainly with subsidiary protection (81,1% and 76,1%). A rate of refusal higher than % is registered in Greece and Hungary (respectively 96,1% and 92,1%). Member States that recognized mainly the status of refugee are the United Kingdom (33,2%), Romania (26,8%) and Denmark (22,8%), followed by Austria (19%) and Belgium (18,2%). The residence permits for humanitarian protection, that are granted differently in each country, are about 17.700 but, since this data are not yet available in Eurostat database for a large number of States and it is provisional in many others, it is not represented in table.

Tab. 3 – Results of the applications (2013)

| | N. of total decisions | Positive decision | % | Refugee status | % | Subsidiary protection | % | Negative decision | % |
|-----------------------|--------------------------|----------------------|------|-------------------|------|--------------------------|------|----------------------|------|
| UE -28 | 328.590 | 112.745 | 34,3 | 49.520 | 15,1 | 45.540 | 13,9 | 215.850 | 65,7 |
| Belgium | 21.505 | 6.280 | 29,2 | 3.905 | 18,2 | 2.375 | 11 | 15.220 | 70,8 |
| Bulgaria | 2.810 | 2.455 | 87,4 | 180 | 6,4 | 2.280 | 81,1 | 355 | 12,6 |
| Czeck Republic | 915 | 345 | 37,7 | 90 | 9,8 | 240 | 26,2 | 570 | 62,3 |
| Denmark | 7.005 | 2.810 | 40,1 | 1.600 | 22,8 | 1.125 | 16,1 | 4.200 | 60 |
| Germany | 76.365 | 20.125 | 26,4 | 10.915 | 14,3 | 7.005 | 9,2 | 56.240 | 73,6 |
| Estonia | 55 | 5 | 9,1 | 5 | 9,1 | 0 | 0 | 45 | 81,8 |
| Ireland | 845 | 150 | 17,8 | 130 | 15,4 | 15 | 1,8 | 695 | 82,2 |
| Greece | 13.085 | 505 | 3,9 | 260 | 2 | 175 | 1,3 | 12.580 | 96,1 |
| Spain | 2.375 | 535 | 22,5 | 200 | 8,4 | 320 | 13,5 | 1.840 | 77,5 |
| France | 61.465 | 10.470 | 17 | 8.930 | 14,5 | 1.545 | 2,5 | 50.990 | 83 |
| Croatia | 190 | 20 | 10,5 | 5 | 2,6 | 15 | 7,9 | 165 | 86,8 |
| Italy | 25.250 | 16.185 | 64,1 | 3.105 | 12,3 | 5.550 | 22 | 9.065 | 35,9 |
| Cyprus | 795 | 165 | 20,8 | 35 | 4,4 | 120 | 15,1 | 630 | 79,2 |
| Latvia | 95 | 30 | 31,6 | 5 | 5,3 | 20 | 21,1 | 65 | 68,4 |
| Lithuania | 170 | 50 | 29,4 | 10 | 5,9 | 40 | 23,5 | 125 | 73,5 |
| Luxembourg | 1.250 | 130 | 10,4 | 110 | 8,8 | 25 | 2 | 1.115 | 89,2 |
| Hungary | 4.540 | 360 | 7,9 | 175 | 3,9 | 185 | 4,1 | 4.180 | 92,1 |
| Malta | 1.905 | 1.610 | 84,5 | 45 | 2,4 | 1.450 | 76,1 | 295 | 15,5 |
| Netherlands | 15.595 | 9.545 | 61,2 | 1.235 | 7,9 | 3.460 | 22,2 | 6.045 | 38,8 |
| Austria | 16.635 | 4.920 | 29,6 | 3.165 | 19 | 1.755 | 10,6 | 11.715 | 70,4 |
| Poland | 2.820 | 745 | 26,4 | 210 | 7,4 | 145 | 5,1 | 2.075 | 73,6 |
| Portugal | 300 | 135 | 45 | 15 | 5 | 115 | 38,3 | 170 | 56,7 |
| Romania | 1.435 | 915 | 63,8 | 385 | 26,8 | 525 | 36,6 | 515 | 35,9 |
| Slovenia | 195 | 35 | 17,9 | 25 | 12,8 | 10 | 5,1 | 160 | 82,1 |
| Slovakia | 195 | 70 | 35,9 | 0 | 0 | 25 | 12,8 | 125 | 64,1 |
| Finland | 3.190 | 1.620 | 50,8 | 545 | 17,1 | 785 | 24,6 | 1.570 | 49,2 |
| Sweden | 45.115 | 24.015 | 53,2 | 6.755 | 15 | 16.145 | 35,8 | 21.095 | 46,8 |
| United Kingdom | 22.485 | 8.500 | 37,8 | 7.475 | 33,2 | 70 | 0,3 | 13.980 | 62,2 |

Source: Eurostat data processing made by us (online data code migr_asycdfstq; last processing 19/04/2014)

Finally, it is important to observe that, in absolute value, among the nationalities that have mainly received a positive results there are Syrian (33.020, whereof 27% with status of refugee, 62% with subsidiary protection, 1% with protection

for humanitarian reasons), Afghanistan (11.975) and Somali (9.005) whereas the Russian applicants receive the largest number of refusals (21.410, equal to 85,3% on the total amount of the decisions) , followed by Serbian and Pakistan.

02 TRAFFICKING IN HUMAN BEINGS WITHIN EUROPEAN UNION: AN OVERVIEW

02.01 Developments in the phenomenon and emerging pictures

The phenomenon of trafficking in human beings, on a continued evolution, includes different and complex way of acting, types of exploitation and categories of victims. Besides the “traditional” forms of exploitation, new forms are arising directed to a large range of illegal activities and coercion (theft, pick-pocketing, begging, selling fake goods, cultivation and pushing drugs, and even if less habitual, removal of internal organs, and forced marriage)¹⁶ and also cases of victims of different forms of exploitation at the same time¹⁷. The recruitment and transportation of irregular migrants constantly changes their shape as a consequence of actions from governments and police forces on fighting these crimes.

Besides the types of exploitation, the victims share a basic condition of vulnerability that greatly affects their capability of self-determination. The contexts of origin are often extremely poor, they are characterized by social conflicts, gender-based violence, discrimination, lack of welfare policy, unemployment and lack of possibilities for a personal and professional fulfilment. Many people escaped from dysfunctional family, they dropped out of school early, or they had premature unsuccessful union. To make a good analysis of the phenomenon, it is necessary to adopt a multidisciplinary approach that, far from interpreting the circumstances in an univocal manner, takes into account all the different subjects involved and their peculiarities.

The traffickers, as *logistics specialists*, able to move individuals across vast distances¹⁸, require a network of accessories like mediators, public officers, corrupted diplomats, employment agencies, smugglers, apartment or hotel owners, “labourers” and employees. According to Europol¹⁹, the organised criminal groups that operate more in Europe in trafficking in human beings are made of -following a decreasing order- Rom (Gypsies), Nigerians, Romanians, Albanians, Russians, Chinese, Hungarians, Bulgarians and Turkish people; the groups of Romanians and Bulgarians (mainly of Rom ethnicity) are, together with Nigerians and Chinese, the most dangerous for

16 Regarding to emerging forms of trafficking, Střítecký V., Topinka D., et al., *Discovering Trafficking in Human Beings for the Purpose of Labour Exploitation and Forced Labour: European Perspective*, La Strada Česká republika, Prague, 2013.

17 Castelli V. (a cura di), *Punto e a capo sulla tratta. Uno studio sulle forme di sfruttamento di esseri umani in Italia e sul sistema di interventi a tutela delle vittime*, Angeli, 2014.

18 Shelley, L. *Human Smuggling and Trafficking into Europe: A Comparative Perspective*, Migration Policy Institute, feb 2014, p. 7.

19 Europol, OCTA 2011, *Eu Organised Crime Threat Assessment, European Police Office*, 2011, p. 26, https://www.europol.europa.eu/sites/default/files/publications/octa_2011_1.pdf

the society as whole.

It is not always a transnational organized crime. Indeed, the most common pattern is the 'amateur' model, with individuals or small flexible groups that normally operate to facilitate the trafficking by providing (occasionally or regularly) services, working closely with the local criminal group²⁰.

According to the last Report of UNODC²¹, in 2010 there were 140.000 victims of trafficking, taken illegally in Europe along, above all, the Mediterranean, Balkan, Eastern Borders or Turkish route²². After the Arab Spring and the Syrian conflict, the last mentioned route gained a particular relevance to transfer asylum seekers and economic migrants from Afghanistan, Pakistan, Iraq, Syria, Somalia and from other Eastern regions. The number of people trafficked for working exploitation, forced labour or servitude (more frequently in agricultural, manufacturing and building sectors, food services and domestic work) is equal to 31% of the total amount, whereas 62% is trafficked for sexual purpose²³.

The five main countries of destination for trafficking are Belgium, Germany, Italy, Greece and Holland (followed by Austria, Spain, Denmark, France and Switzerland) where there is a large presence of sex industry and/or there are wide areas of informal and unofficial economy (like in many southern Europe areas where the lack of strong regulations and seeking not specialized labour facilitate labour exploitation); the main countries of origin are Bulgaria, Moldavia, Nigeria, Romania, Russian Federation and Ukraine.

Due to the illegal and unofficial character of trafficking, a complete quantification of the phenomenon is not possible. The available numbers from statistics give only the "tip of the iceberg" and they are also affected by the limits given by the adoption of different legal definitions and different ways to collect data²⁴. That said, according to

20 European Commission, *Daphne Booklets: Issues and experiences in combating violence against children, young people and women. Trafficking and labour exploitation*, Daphne Programme, 2007.

21 United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons*, Vienna, 2012, http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf

22 Regarding to reconnaissance of main routes to Europe, please find <http://frontex.europa.eu/trends-and-routes/migratory-routes-map>

23 In fact, even considering the difference among states, 70% of people starting into prostitution in North-western and South Europe are migrants; in Italy and in Spain this range reaches 80-90% of the "sex workers" whereas in some new EU Member States it is not up to 16-18%. It is particularly relevant the situation in Romania and Bulgaria that have an average of foreign prostitutes equal to 2% (the majority coming from Moldova). Please find, European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers, *Sex Work in Europe. A mapping of the prostitution scene in 25 European countries*, Amsterdam, TAMPEP 2009, <http://tampep.eu/documents/TAMPEP%202009%20European%20Mapping%20Report.pdf>

24 The need to collect data on trafficking in human beings based on shared methods and standards in order to processing comparable and effective statistics has been highlighted many times at European level and reiterated into the Directive 2011/36/EU and into the Strategy 2012-2016.

Eurostat data²⁵, mainly using Police's data, in 2010 within EU Members the victims (formally alleged and identified) were 9.528 (whereof 80% women). Minors are 15% of the total amount.

This percentage changes from country to country: in absolute value, the majority of the victims is in Italy (2.381), then Spain (1.605), Romania (1.154), Holland (993) and Germany (651) but, taking into account the difference in registering the data, it should be used prudence in making the comparison. Most of the victims (61%) comes from EU states (particularly, Romania and Bulgaria); the remaining part comes mainly from Nigeria and China. Therefore, the trafficking within the EU Member States has a big impact. The traffickers can, indeed, use not only the ethnical network in the context of destination but even the freedom to move inside Schengen area.

European regulation and enforcement strategies

The legislative framework of trafficking has been modified over recent years as the increasing of the complexity of the phenomenon²⁶. The enactment of the UN Additional Protocols, supplementing the Convention of Palermo in 2000²⁷, represented a turning point in the combating of trafficking in human beings because, for the first time after difficult negotiations, it is defined the term of *trafficking*²⁸, universally agreed, and this is clearly separated from the crime of *smuggling*²⁹. The first definition indicates the transportation of a human beings (even within the domestic borders) by use different means of coercion (not only violent) with a purpose of exploitation in all its different typologies; the second definition indicates rather facilitating the irregular access of a migrant, therefore the infringement of

25 Eurostat, *Trafficking in human beings*, Publications Office of the European Union, Luxemburg, 2013.

26 Far from reviewing the various International and European regulations on trafficking, this paragraph is intended to mark out the main aspects of the EU anti-trafficking strategies referring to the most important measures.

27 Additional Protocol of the UN Convention against Transnational organized Crime to Prevent, Suppress and Punish trafficking in Persons, especially Women and Children and Additional Protocol of the UN Convention against Transnational organized Crime against the Smuggling of Migrants by Land, Sea and Air (adopted on 28 January 2004).

28 According to art.3 of the first Protocol, *trafficking* (trafficking in persons) is defined 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. Exploitation shall include, at a minimum, the exploitation of the prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". The consent of a victim shall be irrelevant where any of these means have been used, whereas regarding to minors, any action made for purpose of exploitation, even if it does not involve any of the above mentioned means, is always considered as trafficking. For more details on the debate on the definition of trafficking, please find Ditmore M., & Wijers M., *The negotiations on the UN Protocol on Trafficking in Persons*, Nemesis, Issue 4, 2003.

29 According to the second Protocol, *smuggling* (trafficking in migrants) 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 a national or a permanent resident".

national laws, and not a crime against persons.

Although it is really difficult to distinguish between the organized crime groups involved in trafficking in human beings and those ones in irregular immigration, as the route and ways of crossing borders are so similar, the result of the identification and distinction of these crimes is the use of a different legal treatment and punishment towards “victims to be protected” and “irregular migrants to repatriate”, the last ones normally are only subjected to anti-trafficking and anti-prostitution laws³⁰.

Although the Protocols promote measures to protect the victims³¹, the identification of such two different concepts confirms a dominant approach from Police based on suppression and security focusing mainly on law and order issues³². “Criminalizing” these concepts affected government policies and law that give more attention to repressive actions than to protection of rights of people trafficked³³. Despite this, the number of convictions for trafficking is “extremely low”³⁴.

Besides the Protocols of Palermo, another important instrument adopted is the Convention of the Council of Europe on Action against Trafficking in Human Beings³⁵, inspired by a wide range of objectives; on the one hand, it organizes the entire phenomenon of trafficking – considering it as an infringement of human rights, and against human dignity and integrity- by adopting measures in order to prevent and fight it, and, on the other hand, it guarantees standards of protection based on the recognition of human rights for the victims. The Convention sets up an independent monitoring mechanism, GRETA, composed of a “group of experts in action against trafficking in human beings” in order to ensure its effective enforcement.

While the Directive 2004/81/EC defines the right of granting residence permit for the victims of trafficking and introduces the Reflection period for the entire duration

30 Quiroz Vitale M.A. *Le nuove schiavitù, il traffico di esseri umani e la condizione giuridica dello straniero: principi giuridici, norme e valori nell'epoca della modernità riflessiva* within Farina P., Ignazi S. (a cura di), *Catene invisibili: strumenti e dati per comprendere la prostituzione straniera e promuovere percorsi emancipativi*, Fondazione ISMU, Milano, 2012, p. 55.

31 The guidelines have been summarised in the so-called 3 P's paradigm: *Prevention, criminal Prosecution and victim Protection*.

32 Cfr. Quiroz Vitale, Op. Cit., 2012, pp. 50-1.

33 On this aspect, please find Jernow A., *Human Trafficking, Prosecutors & Judges*, in Friesendorf C., *Strategies Against Human Trafficking: The Role of the Security Sector*, National Defence Academy of Austria/DCAF, Vienna/Geneva, 2009, pp. 329-377; Hancilova B., Massey C., *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, ICMPD, Vienna, 2009; Kempadoo K. (ed.), *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, Paradigm Publishers, 2005.

34 United Nations Office on Drugs and Crime (UNODC), *Op. Cit.*, 2012.

35 Convention on Action against Trafficking in Human Beings (CETS N.197), Council of Europe, Warsaw, 16 May 2005. The main added value to the Convention, entered into force on 1 February 2008, is the promotion of the principle that protection should be assured to the victims “without discrimination on any ground such as sex, race, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” (art. 3).

of process, the Directive 2011/36/UE³⁶ puts the attention on preventing and protection aspects for the victims, rather than only to the repressive ones, and on creation of partnership with NGO, private sector and third-countries. This Directive, in concert with the Protocols of Palermo, states a wider definition of trafficking than the one in the Council Framework Decision 2002/629/GAI, including, among the forms of exploitation, forced begging and the “exploitation of illegal activities” (like pick-pocketing, shoplifting, pushing drugs and similar activities)³⁷.

Moreover, it promotes the punishment of instigation, aiding, abetting and attempt to commit an offence; it strengthens measures of assistance to and support for the victims; establishes the presence of *National Rapporteur* or “similar subjects” in order to monitor national policies against trafficking and the possibility to prosecute citizens who have committed a crime in another Member State. Not least, the Directive reinforces the repressing measures against traffickers, for instance, the investigations shall not be dependent on the report or accusation made by the victim.

Another important point focused by the Directive refers to the implementation of measures to reduce the request, including research on new forms of trafficking and specific campaigns to promote education and public awareness. For a proper identification activity, it is also established that an “adequate training” is compulsory for all who operate with the victims (security forces, border police officers, public prosecutors, labour inspectors, social and health operators, etc.).

According to the Strategy 2012-2016³⁸, adopted in 2012, the European Commission is intended to promote concrete measures to support the transposition and implementation of the Directive 2011/36/UE, in order to respect human rights and gender dimension. In particular, the strategy identifies five priorities and a number

36 Directive 2011/36/UE of the European Parliament and the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting victims and replacing Council Framework Decision 2002/629/GAI [GU L 101 del 15.4.2011]

37 Regarding to trafficking for forced labour or serious labour exploitation, a step forward was previously made with the Directive 2009/52/CE of the European Parliament and the Council, introducing minimum standards on sanctions and measures against employers of illegally staying third-country nationals. Setting extremely wide definitions of “employment” and “employers”, the directive provides for sanctions (even in penal terms) only against employers and not against illegally staying immigrants whose rights are, unlike, protected. In fact, the regulation establishes the obligation for the Member states to provide for “effective mechanisms” to facilitate complaints against employers; it also includes the possibility that residence permits of a limited validity shall be issued by Member States, complying with the duration of the relating national proceeding, to illegally staying workers who have suffered exploitation, in case of their cooperation along penal proceedings.

38 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: the EU Strategy towards the Eradication of Trafficking in Human Beings (2012 – 2016) [COM(2012) 286 final. – Not published in the official Journal]. see European Commission, The EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016 in http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm

of actions to implement over the next five years in concert with all the actors involved (Member States, EU institutions, EU agencies, international organizations, third countries, civil society, etc.):

1. Identifying, protection and assisting victims of trafficking;
2. Stepping up the prevention of trafficking in human beings;
3. Increasing prosecution of traffickers;
4. Enhancing coordination and cooperation among key actors and coherence among policies;
5. Increasing knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

The implementation of such *victim-centred* strategy is strongly connected with a proper identification of the victims as a key point to combat trafficking. In this regard, the Strategy establishes, as a first action of the priority A, the establishment of a *EU Transnational Referral Mechanism*, with respect to the National Referral System³⁹, in order to improve the activity of identification⁴⁰, protection and assistance to the victims.

³⁹ A Translation Referral Mechanism is an agreement of cooperation among countries on assistance and transferring of people being trafficked, found or alleged. It allows the connection of all the steps of the referral procedure, from a prior analysis, to the formal identification, assistance, assisted voluntary return, social inclusion and civil and penal proceedings. It is based on the cooperation among institutions, intergovernmental agencies and NGOs of countries of origin, transit and destination of the people being trafficked. As National Referral Mechanism it is, indeed, a cooperation system through which the state actors fulfil their obligations to protect and promote the human rights of victims of trafficking, coordinating their efforts in partnership with the civil society. Please see, Department for Equal Opportunities, ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU*, 2010.

⁴⁰ It is relevant to notice that in these Guidelines, aiming at supporting States in establishing efficient and adequate National and Transnational Mechanisms, it is made a distinction between a prior identification and a formal identification, and, for both, objectives, procedural steps and specific indicators are determined. It is set for both. The European Commission, besides the funding of specific projects on identification of the victims, recently publishes some guidelines directed to border police and to Consulate personnel. See European Commission, *Guidelines for the Identification of Victims of Trafficking in Human Beings. Especially for Consular Services and Border Guards*, Luxembourg, 2013.

02.02 Outstanding issues and concerns

At present, there are many key issues on EU agenda. Among the most frequent ones, the harmonization of regulations on trafficking within Member States represents the base for an effective action to combat the phenomenon⁴¹. In many States, lately, they have been implemented measures, regulations, memoranda of understanding, recommendations, strategies of investigation and prevention plans but there is still a lot to do to make effective the European Regulations. The harmonization of the penal codes about the crimes of trafficking faces different national laws and policies on prostitution and immigration.

At the same time, strengthening strategies of elimination and of effective legal measures is a widely agreed priority (at least, in principle). As already said, compared to the estimated number of victims and organized crime groups on trafficking, the number of the effective convictions is very small in many countries, even though the repressive action is largely adopted. Therefore, it is necessary to implement the transnational cooperation among police forces, promote International network and specialized units, foster the use of advanced investigative techniques (including financial ones) and judicial cooperation⁴². The possibility to prosecute UE citizens for crimes in relation to trafficking in human beings committed in other Member States or outside the UE, laying down in Directive 2011/36/UE, could represent a decisive step in that direction.

At operational level, the greatest challenge is the provision of a system organized, coherent and integrated using actions and operative procedures in common. Even in States that established a National Referral System, it results the need to share common procedure to better recognize, support and protect people trafficked, and the lack of a functional coordination of all agencies involved at a local, National and International level. The existing Transnational Referral Systems are not institutionalised and they are generally implemented on a case-by-case basis, not always adopting proper procedures and fixed criteria.

A controversial point, as indicated in art. 26 of Warsaw Convention and in art. 8 of Directive 2011/36/UE, refers to non-prosecution to the victims of trafficking forced to commit criminal activities, above all for what concerns the emerging

41 On 27 February 2014, the Protocol of Palermo on trafficking is signed by 117 countries and ratified by 159 (https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XVIII-12-a&chapter=18&lang=en) whereas the Warsaw Convention is ratified by 40 Member States of the Council of Europe (<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=197&CM=1&DF=&CL=ITA>). Regarding to the Directive 2011/36/EU, the period for transposition expired on 6 April 2013.

42 According to Europol, there are clear evidences that recruitment through internet (through announcements, *chat rooms*, *social networks*, *spam mail*, etc.) will play an increasingly role in the transnational sex market, making the exploitation less visible and more difficult to be identified (Europol, *Op. cit.*, 2011, p. 28).

forms of exploitation. Involving victims in illegal activities (such as the use of false documents, offences under legislation on prostitution or immigration, theft, pick-pocketing, drug trafficking, etc.) represents a specific strategy acted by the traffickers in order to increase the condition of vulnerability of the victims and make them being subjected to extortion.⁴³ The *ratio* of the principle of non-prosecution lies in the consideration that victims operated without a real autonomy and therefore they should not be considered responsible for. Even if it is not simple to understand whether a crime is committed while being under trafficking or as a consequence of it ⁴⁴, experts and EU bodies strongly recommend to adopt this principle in order to avoid to criminalize the victims and to encourage their witnesses against traffickers. Another controversial point relates to the concept of “moving” as defined in the Protocol. “Moving” the victims indicates the border crossing as well as an internal trafficking. It occurs that there is no “moving” and this makes it difficult to apply such definition, above all for what concerns the new forms of trafficking. The victim, indeed, could be recruited without transportation from one place to another; for instance, it could legally enter a country and then be facing a situation of exploitation for sexual or labour purpose. According to the Group of Experts on trafficking⁴⁵, it can be established whether it is a trafficking case or not only by adopting a view that considers trafficking as the final result. Despite this, the general approach continues to consider the “moving” aspect as the fundamental key and the trafficking mainly as part of international migrations⁴⁶.

It is also underlined by many the need to enhance the protection system of victims taking into consideration the gender dimension and vulnerable categories, mainly under the risk of *re-trafficking*. The protection measures include activities and facilities directed to provide basic goods and services (food, clothes, shelter, health care and psychological assistance, etc.) but even other instruments to promote rights for victims (from legal assistance in criminal trials to forms of compensations, from supporting integration into labour market in the host country to return policies, from recognition a fair reflection period to granting a residence permit not depending on the denounce of the traffickers).

43 International Centre for Migration Policy Development, *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, Wien, 2009, p.29.

44 A particularly complex case refers to victims which themselves have acted as recruiter of other exploited persons.

45 EU Expert Group, *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 22 Dec. 2004, pp. 48-9.

46 Cfr. UNODC, *Op. Cit.*, 2012.

03 TRAFFICKING SYSTEM, ASYLUM SYSTEM AND CONNECTION BETWEEN THE TWO IN SEVEN EUROPEAN COUNTRIES

03.01 Connection between trafficking and asylum: legal preconditions

As the number of trafficked persons among asylum flows (and vice versa) has increased, applying for international protection and for social protection for victims of trafficking seems to be belonging to two distinguished systems, adopting different identification procedures. In deed, as shown later by the analysis of system of some countries, the two paths present many aspects in common and could be integrated for somehow.

The legal base of this connection lays down in the application of the art. 1A(2) of the 1951 Convention for victims of trafficking (or under risk to be trafficked). As UNHCR guidelines⁴⁷ show, some victims could be eligible as refugees under the interpretation of the Saving clause stated in art.14 of the first Palermo Protocol, that establishes the obligation of States to consider the International protection for victims of trafficking⁴⁸. In art. 11 of Directive 2011/36/UE, dedicated to measures of assistance and support for victims of trafficking in human beings, it clearly expressed that Member States shall provide them with information and guidance on how to apply for international protection.

The main requirement for it is the existence of a “well-founded fear of being persecuted” on the grounds of reasons indicated in Geneva Convention (race, religion, nationality, membership of a particular social group or political opinions). In the case in point, the persecution consists of all those acts and conducts related to the trafficking itself which are a breach of human rights (prostitution or forced labour, physical or sexual violence, removal of internal organs, denial of food or medical treatment, etc.).

In this respect, it can be made a specific mention to all those cases of migrant

47 UNHCR, *Guidelines on International Protection. The Application of Article 1A(2) of the 1952 Convention and/or 1967 Protocol Relating Status of Refugees to Victims of Trafficking and Persons at Risk of Being trafficked*, 2006, <http://www.unhcr.it/cms/attach/editor/ITA-Tratta.pdf>.

48 According to the Saving clause provided into art.14 of the Protocol “(1) nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law (...), in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugee and the principle of *non-refoulement* “. The same principle is reiterated into art. 40.4 of the Convention of the Council of Europe on Action against trafficking in human beings. The par. 377 of the Explanatory Report of the Convention, with regard to the art. 40, establishes that : “the fact of being a victim of trafficking in human being cannot preclude the right to seek and enjoy asylum and Parties shall ensure that victims of trafficking have appropriate access to fair and efficient asylum procedures. Parties shall also take whatever steps are necessary to ensure full respect for the principle of *non-refoulement*”.

women, mostly coming from Sub-Saharan Africa, which are sexually abused while attempting to enter Europe, both during the journey and in those countries of transit (such as Morocco and Libya). As a MSF Report⁴⁹ observes, remaining in countries of transit as irregular migrants for long period of times (due to European policies of return and external borders control) in extremely vulnerable conditions, open them to abuse and aggression and make them an easy target for sexual exploitation and trafficking.

The assessment, directed to determine whether violence and abuse occurred during trafficking could be defined as persecution, should be done on a case-by-case basis. In other words, the prosecutorial aspect related to the different actions of trafficking depends on the circumstance of each situation analyzed⁵⁰. Recognizing exploitation (sexual, labour, etc.) as a prosecutorial criteria or serious harm is the most problematic issue and make the examination of the individual situation uncertain and under discretion.

Persecutions and coercions that a person could be subjected to as returning to the native country should be considered as well as those ones already incurred. There are many cases in this regard: it could be victim of extortion (together with family) because of denounce its nationals involved into criminal organization; it could run the risk to be trafficked again for exploitation (*re-trafficking*)⁵¹ for its vulnerability and suffered trauma; it could be rejected, discriminated, isolated and marginalized from its family, community or national authorities much for risking to be trafficked again. For instance, a Nigerian woman sexually exploited in Italy, that has not paid her debt and repatriated in Nigeria, could be subjected to any harm such as retaliation, risk of life, degrading treatments because she did not respect the “agreements”.

The pre-condition is that an agent of persecution, using terms taken from definition of refugee, is not only a “non-state” one (traffickers), operating without being combated by authorities, but also the State itself by tolerating prosecutorial acts and not adopting proper measures of protection, assistance and support laid down in the Protocol 2000. Therefore, the mere existence of National legislation against trafficking does not prevent the possibility of persecution when there is not an adequate adoption of the legislation or the victim could not concretely access to the measures of protection.

49 Médecins Sans Frontières, *Violence sexuelle et migration, La réalité cachée des femmes subsahariennes arrêtées au Maroc sur la route de l'Europe*, 2011, <http://www.msf.fr/sites/www.msf.fr/files/d87b284fadac0af3475f1f92bce47b3c.pdf>

50 This also applies if, where the experience of trafficking is concluded and it will not occur, the applicant is still suffering for the consequences of the persecution so that a return to the country of origin would be unacceptable.

51 On this point, Jobe A., *The Causes and Consequences of Re-Trafficking: Evidence from the IOM Human Trafficking Database*, IOM, 2010.

Another consideration, indicated within UNCHR guide-lines, concerns to locations of persecution when the other aspects are met. The definition of refugee status, according to 1951 Convention, expressly includes that the asylum seekers are “outside their own country” where it is not possible to return for a “well-founded fear” but this could not be the reason why they left. The protection urged once being outside the country of origin (“*sur place*”) is applicable to the situations of trafficking because the fear arises only after leaving, when the person become a victim of exploitation. For example, when the recruitment occurred with deception or empty promises relating to both the kind of “work” proposed and the conditions for conducting prostitution.

Regarding the definition of refugee, another point to be analyzed concerns the reasons of the founded fear. Independently from the fact that people belonging to a particular “race”, religion, ethnical group could be discriminated and under the risk of trafficking and exploitation, some groups of women or minors, in certain contexts, live in condition of vulnerability and gender-based violence, they could be considered as “social group” in the sense indicated by the definition.

The Article n.10, par. 1, of Directive 2011/95/UE (“Qualification Directive”) considers a “specific social group” when two conditions are met. On the one hand, the members must share an innate characteristic or have a common background that cannot be changed or they could also share a characteristic or a belief that is so fundamental to identity or conscience that a person should not be forced to renounce it; on the other hand, this group should have a distinct identity in the relevant country, because it is perceived as being different by the surrounding society. Moreover, the article 9 specifies that acts of persecution could take a variety of forms, such as acts of physical or mental violence, including sexual violence, legal and judicial measures which are discriminatory, such as the legislation that prevents homosexuality or religious freedom, as well as acts of a gender specific or child-specific nature.

Stating that, in legal terms, the application of the article 1A(2) of 1951 Convention for victims of trafficking, albeit with all its concerns, is possible (and it has been already experienced in some cases) because of the consensus concerning the prosecutorial nature of many acts related to trafficking as human rights abuses, the key point is the difficult identification within a context of mixed migration flows, on the one hand, for the non-application of the protocols of identification, on the other hand, for a combination of many factors, affecting migrants, such as fear and shame, reducing trauma, being intimidated or in proximity with traffickers, threat of retaliation, lack of information on procedures, victim blaming or lack of awareness of the violence endured.

A correct procedure of identification implies the ability to grasp, through specific

indicators, critical points of the personal story of the migrant, using openness, transparency and caution, guaranteeing the respect of privacy and evaluation of risks. The procedure implies also the obligation to provide with clear and complete information, in the appropriate language or using interpreters, on legal procedures and services given within the two different protection systems, on personal needs basis. It would be very welcome if all EU States would adopt the Reflection period laid down in Directives 2004/81/CE and 2011/36/UE, in order to prevent the victim to be subjected to constraints from traffickers and to reprocess what experienced. In the majority of the cases where the instrument was adopted, it was mainly aimed at verifying the willingness of the victim to cooperate and report. As so, it is not an efficient incentive to identification.

According to the final report of the project SAFER PATH⁵², the final step should be to make an integrated system of protection of human beings that uses a common setting of legal instruments and regulations, going beyond national perspective as well as target-centred approach. In order to reach this goal, it is necessary to harmonize the disparities among International and European policies, on the one hand, and National policies, on the other hand, that are too restricted toward immigration from third countries. It is also important to enhance cooperation among institutions and NGOs operating with International migrations, trafficking and International protection and to set up regular training addressed to all actors involved. Beyond all political predictions and considerations, at present there is a significant gap among EU National systems and existing practices, as illustrated in this report.

52 On the Road et al., *Transnational Report. Safer Path System Action for the Empowerment of Refugees and Protection Against Trafficking in Human Beings* HOME/2009/ERFX/CA/1044, 2012.

03.02 Germany

Germany is the first country for reception of asylum seekers in Europe. According to Eurostat, in 2013 the applications for asylum registered an increase of 63,5% (from 77.660 to 126.990) and in the first two months of 2014 they are already more than 25.000. In 2013 the five main countries of origin of applicants were Serbia (18.000), Russian Federation (15.475), Syria (12.855), the former Yugoslavia (9.415) and Afghanistan (8.240). Out of 76.000 decisions taken at first instance, 26,4% (20.125) granted a positive result; half of them (10.915) obtained the status of refugee. Syrian persons are the main beneficiaries of asylum, while Serbs (11.660) and Russians (11.100) received most of the denials.

In Germany, the right of asylum for “political persecution” is essential and established into the Constitution (art. 16a). The responsible body for the entire proceeding of granting, through its sub-offices, is the *Federal Office for Migration and Refugees* (*Bundesamt für Migration und Flüchtlinge - BAMF*)⁵³, as per Procedure Act (*AsylVfG*). After submitting the application of asylum (at the police office at border or any others whether he/she is already in the country), the applicant is moved to a centre of first reception, controlled by police, where they could remain for a period of time not longer than three months (*Section 47, Subs. 1 AsylVfG*). Here they will be registered and medically examined, then they will be sent to one of the reception facilities in a federal state. The distribution of applicants is made also through a quota system (*Königstein key*), called EASY, depending on tax revenue and number of resident population in that specific region⁵⁴. The application of asylum is submitted into the branch of BAMF sited inside the reception centre.

The Federal State is responsible for building and maintenance of reception centres (AE) that provide with basic needs; the asylum seeker receives also a monthly amount of 130 euro for personal expenses. Once the applicant obtains the status of refugee, they must leave the centre. During procedure, it is issued to the applicant a temporary “residence authorization” that contains the area of residence defined by the competent authorities and it shall be withdrawn in case of denial of the application.

The interview is conducted in private by a BAMF official with the assistance of an interpreter (even if it is possible for other officials of the federal government or UNHCR members to take part of it), which asks the applicant the reasons of persecution and to give all information and relevant facts supporting the personal case. The examination of the application could bring the results as following:

⁵³ Cfr. <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/asylverfahren-node.html>

⁵⁴ Federal Office for Migration and Refugees, *Germany's Asylum Procedure in detail. Responsibilities, procedures, statistics, legal consequences*, 2013, http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/broschuere-das-deutsche-asylverfahren-en.pdf?__blob=publicationFile

- To recognize asylum as per art. 16a of the *German Basic Law* (Constitution) or refugee status as per Geneva Convention as prescribed into *Section 3 subs 1 Asylum Procedure Act* and *Section 60 subs 1 del Residence Act*⁵⁵;
- To reject the asylum application and the status of refugee for reasons not well-founded but to grant the subsidiary protection with respect to *Section 60 subs 2 and 3 or 7 sentence 2 del Residence Act* (*European subsidiary protection*) or to *Section 60 subs 5 or 7 sentence 1 Residence Act* (*National subsidiary protection*);
- To reject the asylum application, refugee status and subsidiary protection.

When asylum or refugee status are granted, it is issued a residence permit of three years that, as expires, it will be converted into a permanent permit unless there are reasons of revocation; the duration of the permit for subsidiary protection is one year (renewable). It could be appealed to a civil court against rejection. The appeal follows an emergency procedure and the result could confirm the rejection or cancel that decision and direct to recognize the right of asylum and its related residence permit.

As regards trafficking, Germany is not only the country of destination and transit but even of origin, in fact, about a quarter of the identified victims results to have German citizenship and to be trafficked within the federal territory. The remaining comes mainly from other European countries (in particular, Bulgaria and Romania)⁵⁶. The real number of victims remain unknown, above all the one relating to labour trafficking. Despite an increased awareness concerning the evolution of trafficking phenomenon and the efforts in implementing (still ongoing) the Directive 2011/36/EU, in recent years the overall picture of sexual trafficking has not changed. For some observers, the legalization of prostitution, established into *Prostitution Act*⁵⁷ of 2001, has arisen the contacts among police forces and possible victims as well as the enhancement of prevention measures and dissemination of information from NGO. In any case, the evaluation of the impact of the legalization of trafficking for sexual purpose is still under debate⁵⁸.

The German penal code (*StGB*) includes different forms of trafficking, such as the one for sexual exploitation (*Section 232 StGB*), that one for labour exploitation (*Section 233 StGB*), that one for abetting of trafficking in human beings (*Section 233a StGB*). The issue of labour exploitation is covered by the law of undeclared employment for foreign workers (*10 SchArbG* and *10a SchArbG*). It is interesting

⁵⁵ Asylum and refugee status are equivalent in terms of legal consequences, and the beneficiaries have the same rights as German citizens in terms of benefits and access into the employment market.
⁵⁶ <http://ec.europa.eu/anti-trafficking/NIP/Germany>

⁵⁷ As well known, the legalization have involved the opening of legal "women's houses" and has enabled the prostitutes to obtain a work contract and to pay the relating taxes.

⁵⁸ Cfr. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *Report by the Federal Government in the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act)*, 2007.

to observe that, according to German law, the definition “forced labour or similar to slave labour conditions” is replaced by “labour conditions in clean contrast to the conditions of other workers conducting similar activities”, also the expression “condition of vulnerability”, that is referred to the subjective condition of victim, is replaced by such terms as “distress” or “powerlessness”, the last one results from the fact of being in a foreign country and is much more directed to a factual and objective interpretation⁵⁹.

In Germany the responsibility for the implementation of anti-trafficking policies is taken in charge by different Ministries. In 1997 it was instituted the *Federal and State Task Force on Trafficking in Women (Bund-Länder-Arbeitsgruppe Frauenhandel)*, an inter-department group composed by the main states and non-states actors operating at different level of the federal system. The group is intended to propose recommendations on comprehensive policy and coordinate the specific actions regarding trafficking such as the enforcement of National action plans⁶⁰.

At present, there is not a *National Rapporteur* or any other similar mechanism as provided by European Directives. However, from 1994 the *Federal Criminal Police (BKA)* publishes on annual basis a report on the situation of trafficking⁶¹ that includes detailed statistics concerning number of victims and investigations conducted. Since 2007 the number of trafficked persons for purpose of sexual exploitation has not registered significant changes. In 2001, 640 have been lodged compared to 610 of the previous year and 689 in 2007. The number of victims of labour exploitation drastically decreased from 101 in 2007 and 32 in 2011. Behind this decrease lays the difficulty to identify violations provided into *Section 233 StGB*, the lack of supporting facilities and the widely held perception of the phenomenon in terms of irregular work from illegal foreigners.

Due to the federal organization, Germany has not a formalized *National Referral Mechanism* as provided by Strategy 2012-2016 but it is experiencing a set of procedures to facilitate cooperation among those agencies involved into identification, referring and protection victims of trafficking. In order to improve the cooperation between police forces and assistance facilities, the *Federal and State Task Force on Trafficking in Women* developed a document called Co-operation Concept (FCC), adopted in many federal states with agreements and deals, that clearly indicates the role of the two agencies (one for identification and investigation, the

59 Střítecký V., Topinka D., et al., *Op. Cit.*, pp. 55-61.

60 The first *Action Plan of the Federal Government to Combat Violence against Women* was established in 1999; the second in 2007. In 2011 *The German Federal Government's Plan of Action 2011 to protect children and teenagers from sexual violence and exploitation* was launched.

61 The last available is the BKA – Bundeskriminalamt, *Menschenhandel. Bundeslagebild 2011*, Wiesbaden, BKA, 2012, in http://www.bka.de/nn_194550/EN/SubjectsAZ/TraffickingInHumanBeings/traffickingInHumanBeings__node.html?__nnn=true

other one for support and consultancy) and the ways of exchange and collaboration. The model presented into FCC could be considered as good practice⁶².

The rules for residing in Germany for victims of trafficking laid down into *Residence Act*. If there are clear indications of trafficking, according to law *Section 59, Subs. 7 AufenthG*, the *Foreigners Authority (ABH)* gives the person the possibility of a Reflection Period of at least three months in order to settle down and evaluate the opportunity to witness against traffickers. Such a provision is applicable even to foreign victims of violations provided into sections 232, 233 or 233 bis of the German penal code (StGB). During the Reflection Period, the person has the right to housing as well as legal assistance, health care and psychological support. If they cooperate with the judicial authorities and break ties with the criminal group, they could receive a residence permit for humanitarian reasons of three months renewable and extendable to the duration of the whole proceeding (*Section 25, Subs. 4a AufenthG*). According to the Central Register of Foreigners (AZR), in 2012 they were issued 74 permits (whereof 11 to men), against 23 in 2008; the nationality more represented is the Nigerian one.

This permit of stay gives the right to a set of benefits provided into the law (*Section 1, Subs. 1, No. 3 AsylbLG*) such as food, housing in specific centres of counselling managed by NGOs, heating, clothes, goods for personal and domestic care, and articles of consumption (where possible, given as material benefits) as well as monetary contribution for personal expenses (*Section 3 AsylbLG*)⁶³. Moreover, other essential services could be provided on a case-by-case basis in order to guarantee livelihood or means of health to those who decide to fulfil “the duty of cooperate” (*Section 6 AsylbLG*).

A complete health and psychological assistance is given only to those persons who are legally residing in Germany (except the pregnant women and seriously ill patients); irregular persons could have access to the services provided by law for asylum seekers but they are found to be so far from the needs of this particular target⁶⁴. The *Victims of Crime Compensation Act* (OEG) establishes for foreign victims of violence the right of compensation for physical and economic damages by applying for specific procedure during penal proceeding.

Besides the residence permit for victims of trafficking as described before, German regulation provides other forms of protection in certain circumstances. According to law *Section 25, Subs. 3* (in addition with *Section 60, Subs. 7 AufenthG*), a residence permit could be issued if the person runs a concrete risk of life or physical safety;

⁶² On the Road et al., 2012c, *Op cit.*, p. 209.

⁶³ From March 2013 a free hotline service against violence on women, (08000 116 016) always active, was set up providing support and information on procedures and assistance centres.

⁶⁴ Cfr. <http://ec.europa.eu/anti-trafficking/NIP/Germany>

moreover, a residence permit could be given to a foreigner who received a return decision, if the leaving is not possible and the obstacle could not be removed in the near future (*Section 24, Subs. 5 AufenthG*).

Beyond these situations, victims of trafficking who do not cooperate with judicial authorities are obliged to leave the German territory. The only alternative way (included into *Section 60, Subs. 2 AufenthG*) is the subsidiary protection by demonstrating that, in case of return to the country of origin, there will be a serious risk of torture and/or degrading treatment. Two cases at Würzburg and Wiesbaden courts have granted the status of refugee on the basis of persecution associated to a “social group”⁶⁵. In march 2013 the *German Bundestag’s Committee on Petitions* launched the proposal to extend the right of residence to foreign victims of trafficking giving the opportunity, as occurs in Italy, to remain in Germany regardless of penal proceeding.

At present, there are not statistical data available on number of victims of trafficking following asylum or return procedures, nor even specific researches in this regard⁶⁶. The identification, conducted by *case officers* during the examination of the asylum application and by *Federal Police* during trials for expulsion⁶⁷, is a critical key, despite the efforts recently made, and a high number of people trafficked is, indeed, registered as “irregular migrant”. Moreover, there are many obstacles preventing a correct identification of cases of trafficking. Due to the increased flows of applicants, these ones could remain into the centres of first reception only few weeks (instead of a period of three months) and then they are moved to the centre of destination, in order to have always places available for the new comers. As the elements referred to a trafficking event have to be identified at an early age, the short stay prevents the application of a proper identification procedure of the suspected cases of trafficking⁶⁸.

In 2012 the BAMF conducted, under a project carried out with IOM and UNHCR, an evaluation study on 214 decisions made on Nigerian asylum seekers between 2009 and 2010⁶⁹. Using a set of indicators concerning trafficking (restriction of freedom of movement, threats and use of violence, forced prostitution, practice of voodoo rites, etc.), the result is that, on 164 decisions made for women cases, more than

65 Cfr Hoffmann U., *Identification of victims of trafficking in human beings in international protection and forced return procedures. Focussed Study of the German National Contact Point for the European Migration Network (EMN)*, Working Paper 56, Federal Office for Migration and Refugees, 2013, p. 12.

66 Ibidem, p. 31.

67 Regarding to forced return, under the responsibility of the Federal Police and *foreigners authorities*, the German Residence Act (Sections 15, 57, 58 AufenthG) distinguish refusal of entry, removal and expelling.

68 Hoffmann, 2013, *Op. cit.*, p. 25.

69 IOM, UNHCR, BAMF, *Identifizierung und Schutz von Opfern des Menschenhandels im Asylsystem*, Nürnberg, 2012, pp. 35-36.

one-third (53) shows evidence of trafficking for sexual exploitation. Despite this, except one case of subsidiary protection, their applications were rejected. On the above basis, the same project produced a manual addressed to *asylum case officers* that contains, in addition to information on regulation and counselling centres, a list of indicators concerning recruitment, exploitation and coercion (including indicators on the countries of origin, like Nigeria).

03•03 France

France is the second country of destination for asylum seekers in EU. According to Eurostat data, in 2013 64.760 applications were registered (5,4% more than in 2012). The five main countries of origin are Kosovo (5.505), Congo (5.325), Albania (5.045), Russia (5.010) and Bangladesh (4.470). The rate of rejection on the total number of decisions made at first instance is quite high (83%); out of 10.470 positive decisions, 85,3% of the cases granted the status of refugee, while the subsidiary protections are more limited in number (1.545 cases). The status of refugee was mainly granted to Russians (1.195), Congolese (925) and Sri Lankan (910) while the higher quota of rejections is referred to Kosovars (4.210).

The application of International protection should be submitted at the relevant Prefecture⁷⁰, that could accept or reject the application⁷¹. In the first case (*normal procedure*), it is issued to the applicant an APS (provisional residence authorization) of one month. It should be completed a questionnaire and send it to the *Office français de protection des réfugiés et apatrides* (OFPRA) that issues a record sheet to be presented to the Prefecture that, in turn, gives a receipt (valid until three months and renewable) certifying successful filling of the application.

This receipt allows the applicant to benefit from temporary allowance (ATA or *Allocation Temporaire d'Attente*) and to have access to a CADA (*Centre d'accueil pour demandeurs d'asile*). CADA are centres financed by the Government and managed by associations dealing with reception, social and health support, legal assistance for asylum seekers with an APS. In France there are 271 CADA (both collective structures and apartments) totalling 21.410 places (data of 2011), and numerous centres of first aid, supported by a parallel system of services, organizations, associations that try to compensate lacks of the public sector.

In the second case (rejection from Prefecture), the applicant could submit a request to initiate a priority procedure but he cannot benefit of services from ATA and CADA.

⁷⁰ In order to submit an application, it is necessary to have a residence address that could be also assigned to a private house, hotel or the site of a recognized association. In many cases, the requirement of a residence is an obstacle for application due to the long time required to obtain it, and the applicant, without documents, runs the risk to be stopped and expelled.

⁷¹ In case of application lodged at border, the applicants shall be detained in specific centres "waiting zone" for the time required to verify the grounds of the application, without getting into it.

The results of the interview could be the granting of refugee status (residence card for 10 years, renewable), of subsidiary protection (temporary residence card for 1 year, renewable) or the rejection against which it is possible to appeal to *Cour Nationale du Droit d'Asile* (CNDAs).

In regard of trafficking, France represents one of the main country of destination as well as , due to its geographical position, of transit. Encompassing an estimation of 10.000-12.000 victims of sexual exploitation mostly coming from Nigeria, China, Romania, Bulgaria, Brazil and North Africa, the only official statistic available, provided by the French authorities, registers 654 cases in 2011 (against 726 in 2010), whereof 149 of French nationality⁷². In the absence of a proper statistical representation, it is difficult to make a qualitative and quantitative description of the phenomenon, above all for what concerns forced labour and other forms of exploitation. Regarding the first one, the most involved sectors are building, food service and domestic work⁷³. It has been also reported a menacing rise of trafficked minors used for forced begging and other illegal activities (pick-pocketing, theft, etc.) coming from Rom groups of Romania and Bulgaria⁷⁴.

In line with international definitions of reference, the law n. 2003-239 of 18 of march 2003 (*Loi sur la Sécurité intérieure*) introduced into the French penal code, at articles 225-4-1 and following, the crime of trafficking in human beings specifying the penalties; such definition was recently amended by the law n. 2013-711 of 5 of August 2013 in complying with the Directive 2011/36/UE⁷⁵.

The discussion on trafficking was re-launched at a National level after the GRETA published its report, in 2013, describing that trafficking for forced labour, slavery and servitude were not expressly covered by French penal code, therefore, in order to prosecute them, it was necessary to use other articles regarding crimes like solicitation, offence for “labour and life condition against human dignity”. As a consequence of that, the number of prosecutions for trafficking in human beings is very marginal⁷⁶ while, in recent years, an impulse was given to confiscation of criminal organizations’ properties by establishing platforms and special units.

It is deserved to be mentioned that last December the National Assembly approved, among disagreements, a legislation on prostitution on Swedish model, that provides

72 GRETA, *Rapport concernant la mise en œuvre de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains par la France*, Strasburgo, 28 January 2013.

73 Many cases have been recorded (some even in the diplomatic circles) of Africans people taken to France for studies and, then, segregated and exploited indoors. Cfr. US, *Trafficking in Persons*, 2012.

74 Cfr. European Commission , <http://ec.europa.eu/anti-trafficking/NIP/France>

75 The art. 225.4.1 (and amendments) establishes a punishment for those who recruit, transport and receive a person to make it available for third persons’ exploitation, aggression and sexual abuse, reduction in slavery or servitude, forced labour and services, removal of organs, exploitation of begging, employment or housing in conditions against human dignity, or forcing to commit a crime.

76 U.S. Department of State, *Country Report on Human Rights Practices*, Washington, 2009.

for elimination of the crime of passive solicitation, promoted in 2003 by the former Minister of Interior Sarkozy, as well as the introduction of fines for the clients, laboratories of rehabilitation and programs of assistance for the victims⁷⁷.

France has not adopted yet a national plan against trafficking. In 2008, it was set up an inter-department group, chaired by the Ministry of Justice and Ministry of Interior, and other relevant ministries, NGOs and IOM; in January 2013 it was established the *Mission interministérielle pour la protection des femmes victimes de violences et la lutte contre la traite des êtres humains* (MIPROF) in charge of coordinating the anti-trafficking activities, where the *Coordinateur national de la lutte contre la TEH* was appointed, responsible for drawing up the national action plan.

According to art. L316-1 of the *Code de l'entrée et du séjour des étrangers et du droit d'asile* (CESEDA), victims of trafficking which decide to cooperate during penal proceedings against those who are charged of committing crimes as per articles from 225-4 to 225-4-1 - 6 (trafficking) and from 225-5 to 225-10 (exploitation of prostitution). In case of final sentence, the Prefecture could also issue a residence card of ten years. In accordance with the provisions of Directive 2004/81/CE, it is also provided a Reflection Period of 30 days before the denounce⁷⁸, in order to make an aware decision of cooperation, but this is poorly applied.

As regards the social protection programs⁷⁹, victims of trafficking in possession of a temporary residence card could have access to benefits such as housing, medical care, legal support and psychological assistance, provided by NGOs government-funded, counselling and specialised centres, as well as the ATA economic contribution. In general, victims of crimes could receive a compensation for the damages decided by the judges from penal tribunals; as per art. 706-3 of penal code, they could seek compensation to the *Commissions for the Compensation of Victims of Criminal Offences* (CIVI), established within each regional tribunal. If the protection of the victim requests a transfer to a further place from that of exploitation, the person is included into the program Ac-Sé (safe home), led by the NGO ALC with the Ministry of Social Affairs, or, alternatively, is housed in public or private centres of social rehabilitation (CHRS), generally directed to persons in difficult situations, like the asylum seekers, without a specialized assistance⁸⁰.

The lack of completed and uniform procedures of identification limits the access to the above measures⁸¹. Moreover, despite it is established the intervention from other actors (NGOs, in particular) whenever there is a suspect that a person could

77 The text shall be approved by the Senate.

78 Decree n° 2007-1352 of 13 September 2007.

79 Cfr. article R316 -8 CESEDA.

80 GRETA, *Op. Cit.*, p. 40.

81 REM, *L'identification des victimes de la traite des êtres humains dans les procédures d'asile et de retour*, novembre 2013.

be victim of trafficking, indeed, it is conducted by the security forces, while it would be opportune to adopt a multidisciplinary approach independently from the willing of the victim to cooperate. French restricted and repressive approach to the procedure of identification has been much criticized by NGOs and International experts on trafficking; trafficked persons which commit crimes are subject to sanctions, detention or deportation⁸² instead of being considered in their conditions of vulnerability. A scant attention is given to Rom unaccompanied minors, above all whether recurrence.

The identification of victims of trafficking for forced labour is even more complex. Even if inspections could carry out with the *Office central de lutte contre le travail illégal* (OCLTI) and security forces, the officials of labour inspectorate are competent to look into situations of illegal work but not into crimes of trafficking and they are not formal trained.

There are high barriers that prevent victims of trafficking from access to protection system. As observed above, the legislation of 2003 provided a permit of stay for foreign victims of trafficking only in presence of denounce and, anyway, the discretion of the Prefecture is high. Therefore, those who do not cooperate with the judicial authorities remain excluded, both French and EU citizens. Moreover, the cases of trafficking associated to other forms of exploitation (labour, in particular) are under-represented. In 2013 the number of people being granted a permit of stay as per article L. 316-1 of CESEDA is 324 (compared with 68 of 2012).

It is important to observe that there are some alternative ways within the legal system. First of all, art. L313-14 of CESEDA provides the possibility of a permit of stay for humanitarian reason or exceptional cases to be extended, according to a Circular of 2009 addressed to the Prefectures, to the victims of trafficking in difficulties which do not lodge denounces for fears of retaliation against themselves or their families. Despite this, it is not often applied mainly because it gives the right of an automatic renewal of the residence permit.

Victims of trafficking could also seek asylum or subsidiary protection in case they could be in danger once returning to their origin country. In fact, many victims assisted by NGOs submit, at the same time, also the application for international protection to the OFPRA. According to the report REM, the majority of asylum seekers living a clear situation of exploitation is intercepted within the PADA system, that provides them with first reception and legal orientation and support during the proceeding if they do not find housing at CADA. The (relative) better access to asylum system is used in a merely instrumental manner by the traffickers who, in order to carry on in

⁸² Department for Equal Opportunity, Transcrime, *Rapporto di ricerca. Attività 2.a – Repertorio normativo (internazionale, nazionale, re- gionale e locale) completo ed aggiornato Prodotto 2.a1*, January 2010, p.30.

exploiting the victims covered by a regular permit, force them to submit the request giving false identity.

From what showed, the cases of granting International protection are few in number. According to the report SAFE⁸³, out of 8.305 recognitions of International protection in 2010, less than 1% were concerning trafficking; the refugee status was granted only to one case but it has not been possible to quantify the permits for subsidiary protection⁸⁴. On the one hand, there is a great reluctance to the interpretation of trafficking as a reason of persecution, on the other hand, the critical key lays into the application of the concept of “social group”⁸⁵ from French case-law.

03.04 The United Kingdom

According to Eurostat data, in 2013, 30.110 applications for protection were submitted in UK (compared with 28.895 of the previous year, with an increase of 4,2%). The five main nationalities of applicants are Pakistan (4.645), Iran (3.055), Sri Lanka (2.280), Syria (2.040) and Albania (1.615). Out of the total of 22.485 decisions made at first instance, 8.500 (equal to 37,8%) were positive; in the majority of the cases (7.475) it was granted the refugee status (in particular to 1.440 Syrians and 1.255 Iranians) while the subsidiary protection (corresponding to the humanitarian protection)⁸⁶ was granted only in 70 cases. The main represented nationalities of people who had unsuccessful results were Pakistan (2.640), Sri-Lankan (1.295) and Iranian (1.040).

The UK adopted the three European Directive “Procedures”, “Qualification” and “Reception” relating to asylum; the Directive 2004/81/EC on the permits of stay issued to victims of trafficking coming from third countries who do not cooperate with judicial authorities is not applicable according to the right of “opt-out”⁸⁷. The competent body for the submission of the asylum application is the *Home Office* (or its agency *UK Border Agency*, if the application is submitted at the border). On this occasion, the applicant is subjected to a preliminary interview (*screening*) and

83 Cfr. On the Road, et al., *Report Nazionale France. Safer Path - System Action for the Empowerment of Refugees and Protection against Trafficking in Human Beings* (cod.HOME/2009/ERFX/CA/1044), 2012.

84 For a more detailed analysis of those elements having determined the granting or the rejection of subsidiary protection for victims of trafficking, cfr. On the Road, et al., *Op. Cit.* pp. 47-58.

85 This last issue seems less than fully defined. Between 2011 and 2012 three granting of subsidiary protection from OFPRA to victims coming from Nigeria, Kosovo and Ukraine were converted, in second instance by the *Cour Nationale du Droit d'Asile* (CNDA), into refugee status on the well-founded fear of persecution due to belonging to a “specific social group”. From evidence, OFPRA has lodged an appeal with State Council, which, in one case, annulled the decision and referred it back to CNDA. Cfr. REM, *Op. cit.*, pp. 11-12.

86 It should be noted that the protection for humanitarian reasons is equivalent to the European subsidiary protection. The United Kingdom transposed the Qualification Directive but it does not use the term “subsidiary protection” but that of “protection for humanitarian reasons”.

87 Regarding to the ratification of the Directive 2011/36/EU, the United Kingdom has initially declared they would have used the clause of “opt-out” but, in July 2011, its decision to implement the Directive by April 2013 was notified to the European Commission (amendments are still ongoing).

fingerprints. After the adoption of the new system (*New Asylum Model*) in 2007, each asylum application is assigned to a specific member (*case owner*), that will be responsible for the whole procedure until the final decision. If the applicant is considered “suitable to detention” (because, for instance, there are good reasons that they could go off the grid or the case is clearly groundless) and it is assumed that the case could be solve in short time, the *Home Office* could activate a fast track procedure (*fast-tracked*) that implies the detention in a specific centre pending a decision. Effectively, as reported by UNHCR, instead of looking for alternative ways, every year thousands of applicants are detained in such centres.

Before fifteen days from the *screening interview*, the *case owner* carries out the whole interview (*substantive interview*) asking the applicant, eventually accompanied by an attorney, for explaining the reason of the instance. The result depends on the credibility given to the person and the accuracy of the statements of facts, and it could also be affected by a “delayed” submission from the date of arrival, the use of fake travel documents, or coming from one of the countries considered as “safe”. The *case owner* could recognize the refugee status (that provides a permit of stay of five years), the protection for humanitarian reasons, that in UK is equivalent to the subsidiary protection (valid for three years)⁸⁸ or reject both of them. In this last case, it is possible to have a rejection with right of appealing (*in-country right of appeal*) that suspends the deportation or a rejection with the right of appealing only if outside the UK (*out of country right of appeal*), that has not a suspensory effect. The competent tribunal for appeals are the *First Tier Tribunal* (for first instance) and the *Upper Tribunal* (for final instance). In case of definitive negative result it is provided a procedure of assisted voluntary return with an economic compensation, otherwise a forced deportation will be carried out.

If the *Home Office* finds that the applicant has not means of support, it could enter the person into the reception system that includes housing (depending on available places), free health care from the *National Health Service*, compulsory education for minors from 5 to 16 years old and/or a financial contribution. Moreover, those who receive the rejection, awaiting for return to their country of origin, could ask for a special assistance called “*Section 4 support*” consisting of housing and a special card “*Azure card*” to cover the purchase of essential items. The applicants are not allowed to work unless the delay time of the result continues for more than one year for reasons not imputable to them.

As regards trafficking, the UK is one the most significant country of destination for trafficked women, men and minors mostly for purpose of sexual and labour

⁸⁸ the United Kingdom has transposed the Qualification Directive but it does not use the term of subsidiary protection.

exploitation. According to a research carried out by the *UK Human Trafficking Centre* (UKHTC), using various sources such as *Home Office*, police and NGOs of this specific field, in 2011 the number of potential victims was 2.077; whereas the following year, the number of the victims sent to the *National Referral Mechanism* (NRM) reached 1.186 units (whereof 34% men)⁸⁹. The main countries of origin are Nigeria, Vietnam, Albania, Romania e China⁹⁰.

In the UK the legal framework relating to trafficking is quite complex due to the decentralisation process that has given legislative power on different issues to the constituent countries. Hence it cannot be exhaustively described in this context. In short, the legislation covers three different actions:

- Measures relating to trafficking for exploitation purpose (including forced labour, slavery and removal of internal organs) including into *Sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004*;
- Sexual exploitation covered by the *Sexual Offences Act 2003*⁹¹ and *Sexual Offences (Northern Ireland) Order 2008*;
- Crime of “slavery, servitude and forced or compulsory labour” established separately into the *Coroners and Justice Act 2009*.

Moreover, the *Borders Citizenship and Immigration Act 2009* extended the definition of exploitation to cover vulnerable minors and adults trafficked in the UK while the *Protection of Freedoms Act 2012* amended the *Sexual Offences Act 2003* and the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004*, including the extra-territoriality for British citizens who commit crimes of trafficking abroad. In consideration of the difficult interpretation and application due to this fragmentation⁹², in December 2013 it was lodged by the Parliament a draft law called Modern Slavery Bill, that aims also at strengthening and simplifying the existing crimes into a single act⁹³.

In operational terms, in recent years the UK has made significant steps in combating trafficking. In 2007 it was launched the first *National Action Plan* and in 2011 it was published the new *Human Trafficking Strategy* for 2011-2015. The National

89 Cfr. McKinlay P., Thorpe K., *Identification of victims of trafficking in human beings in international protection and forced return procedures Home Office Science (Migration and Borders Analysis)*, European Migration Network, 2013, pp. 24-29.

90 Cfr. Home Office, *Second report of the Inter-Departmental Ministerial Group on Human Trafficking*, October 2013, <https://www.gov.uk/government/publications/human-trafficking-inter-departmental-ministerial-group-report-2013>

91 The amendments of the text entered into force in 2013 replaced the Sections 57-58-59 of the Sexual Offences Act 2003 with a single specific measure (Section 59A).

92 The need to overcome this fragmentation and to introduce a specific regulation on trafficking was included among the recommendations of the group of experts GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom*, Strasbourg, September 2012, p. 26.

93 For more details on the draft law, cfr. Home Office, *Draft Modern Slavery Bill*, December 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266165/Draft_Modern_Slavery_Bill.pdf

coordination of anti-trafficking actions is assigned to the *Inter-Departmental Ministerial Group on Human Trafficking (IDMG)*, founded in 2005 to strategically supervise and guide; thus, it covers the role as National Rapporteur provided by European Directives. Since 2013 it has been operational the *National Crime Agency (NCA)*, resulting from the experience of the *UK Human Trafficking Centre (UKHTC)* in order to implement combating organized criminality (like the one operating in trafficking in human beings). Despite these efforts, the number of convictions for offences of trafficking is extremely marginal. Between years 2009 and 2012, in England and Wales, 61 sentences were pronounced (51 for trafficking for the purpose of sexual exploitation and 10 for other reasons)⁹⁴.

In 2009 the UK founded the *National Referral Mechanism (NRM)* in order to identify, protect, support victims of trafficking and collect data on the phenomenon. Its focal point is the existence of a reporting and identification mechanism formally established by a protocol and a guide, published on line by the Home Office, directed both to relevant authorities and immigration officials. Basically, the screening process implies the application of a set of assessment indicators carried out by specifically trained personnel⁹⁵. The investment in training, compulsory for all competent authorities personnel, is a priority⁹⁶.

The NRM sets identification in three stages: a formal referral of a potential victim into the NRM made by bodies and agencies (*first responders*) dealing with the first aid; a first examination of the case conducted by an official from a competent authority in order to determine whether the person is a victim of trafficking for “founded reasons”; the competent authority’s final decision. Therefore, if the referral could be made by “third” subjects (not only Police, UKBA or immigration officials but even NGOs, local bodies and recognized associations) through the compilation of a format available on line, the only Competent Authorities, such as Home Office (UK Border Agency)⁹⁷ and *UK Human Trafficking Centre*, could decide if the person is a victim of trafficking or not.

From 2009 foreign victims of trafficking could receive a temporary residence permit (discretionary), called “*leave to remain*”, in case of specific situations such as their cooperation into investigative activities against traffickers, in presence of urgent situations (not such as allowing the application of International protection) and initiating at state court the statutory procedure for compensation. The granting of the permit it is not, thus, only depending on charge or cooperation with investigations.

94 Cfr. Home Office, *Op. Cit.*, 2013, p. 26.

95 Minors are under a particular protection. Several NGOs (e.g. *Child Exploitation and Online Protection Centre*, *Ecpat-UK*, *Barnardo's*, *London Safeguarding Children Board*, etc.) have developed specific strategies and instruments to identify and support minors being trafficked.

96 Ibidem, p. 22.

97 UK Border Agency is responsible for victims of trafficking seeking asylum.

Therefore, it is provided a Reflection Period of 45 days as long as the alleged victim could have access to the reception system and receive housing, psychological assistance and legal advice, support during proceeding, free health care at the health system, interpreting and support to social integration. The provision of care services falls under the exclusive competence of the legislation of constituent countries and, as observe GRETA experts, the standards offered are very different on the territory⁹⁸. Victims of trafficking could enter in centres for asylum seekers. Moreover, three programs of assisted voluntary return are provided⁹⁹.

Until June 2011 the main managing body of the reception services for adults was the association *Eaves Housing for Women* (with the Poppy Project); since July, in England and Wales, it has been introduced a new model whereby the organization *Salvation Army*, selected through calls for tender, has sub-contracted the service to various NGOs maintaining its role of general coordination¹⁰⁰.

A peculiarity of the English system, as illustrated above, is the application of formalised and standardised identification protocols. This concerns even the victims of trafficking within asylum flows that could be identified at every stage of the procedure (even with rejection and awaiting return).

Effectively, the two systems are not strictly separated. The victims of trafficking (besides the *leave to remain*) could seek – even at the same time - International protection if requirements established by Geneva Convention are met, precisely as a result of their experience of trafficking for purpose of exploitation and have the status of asylum or the humanitarian protection¹⁰¹ recognized. This includes, in addition to the individual circumstances of persecution, a careful assessment of the situation of the country of origin. According to the figures from UKBA, between the 1st of April 2009 and the 27th of October 2011, out of 262 recognized victims who received a residence permit, this was granted to 68 cases for cooperation with police, 25 cases for individual circumstances, 96 for asylum and 10 for humanitarian protection¹⁰².

The identified victims who seek International protection are normally placed in facilities of the asylum system but they can even have access to specific housing for reception of trafficked persons. Even though the *Home Office* insists that the accuracy of the screening procedure and the expertise of the staff operating at detention centres allow recognition of suspected cases of trafficking¹⁰³, according to *Human Rights Watch* there have been numerous cases of inclusion of victims

98 Greta, *Op. Cit.*, p. 60.

99 *Ibidem*, p. 69.

100 Cfr. <http://ec.europa.eu/anti-trafficking/NIP/United+Kingdom>

101 Cfr. McKinlay P., Thorpe K., *Op. Cit.*

102 Data recorded in Greta, *Op. Cit.* p. 66.

103 *Ibidem*, p. 19.

of trafficking into *fast-track* procedure, that does not enable both authorities, due to short time of detention, to deepen complex situations and victims to properly rehabilitate¹⁰⁴.

Despite the application of the protocols, identification is the key point of attention and efforts. Poppy Project registered 180 cases of trafficked people kept in detention centre for migrants or in prison. Moreover, according to Greta, a relevant number of potential victims assisted by NGOs do not access to the *National Referral Mechanism* mainly because they are afraid of not being recognized as so and of being deported to their country as irregular. Between 2009 and 2011, the share of the “positively” identified victims by the NRM of the totally referred persons is indeed very small (33%)¹⁰⁵.

03.05 Sweden

Sweden is one of the European countries adopting the best policies and creating the most advanced integration paths for refugees and migrants. At present, there are almost 93.000 refugees. Sweden received, in the recent years, a higher number of Syrian applicants than estimated and, also, registered an unforeseen flows from western Balkans. In fact, out of the 54.365 applications for International protection submitted (23,7% more than the previous year), the majority refers to Syrian citizens (16.540) and stateless persons (6.885), followed by Eritrean (4.880), Somali (3.940) and Afghan people (3.025). Out of 45.000 examined applications, 53,2% (24.015) received a positive result at first instance. The subsidiary protection is the main type of permit granted (16.145), above all to Syrian applicants (9.475) and stateless persons (3.035).

According to the regulation in force (*Aliens Act* or *Utlänningslagen*), the application for International protection shall be submitted at the border Police or any desk of the *Reception Unit* of the *Swedish Migration Board (Migrationsverket)*¹⁰⁶, the competent body for reception and support of International protection seekers as well as the examination of the instances, that shall issue a receipt called LMA and give useful information on the national legislation and the possibilities of reception. If the application results unfounded, a procedure of immediate deportation begins (*“refusal of entry with immediate enforcement”*).

The applicant is invited for the interview; in the waiting period, that could last up to 6 months, they could ask for housing in one of the collective structures on territory and, if in lack of means, receive a daily allowance to cover expenses for

104 Human Rights Watch, *Fast-Tracked Unfairness: Detention and Denial of Women Asylum Seekers in the UK*, 23 February 2010, www.unhcr.org/refworld/docid/4b8553742.html

105 Greta, Op. Cit., p. 52-58.

106 Cfr. <http://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/Asylum-regulations.html>

basic essentials. First healthcare provisions and access to education system is free for minors.

In case of positive decision, the *Migration Board* could recognize the refugee status, the subsidiary protection (as per European directives) or another type of protection valid only within the Swedish territory¹⁰⁷, without equivalent at International level, according to the National regulation (*Chapter 4, Section 1 and 2 of the Aliens Act*). Moreover, in exceptional cases relating to particular circumstances (“*exceptionally distressing circumstances*” provided by *Chapter 5, Section 6 of the Aliens Act*), such as serious health problems, a residence permit could be granted even to applicants without rights of protection. It is important to underline that, in all these cases, the duration of the issued permit is normally open-ended (“*permanent residence permit*”) and, where provided, it may not be less than one year.

In case of rejection of the application, the applicant could accept to return to their country (even through an assistance program) or to appeal to the *Swedish Migration Court (Migrationsöverdomstolen)* in order to have the decision reviewed. It is also possible a further appeal to the *Migration High Court*.

It is relevant to emphasise that since 1950 Sweden has received persons seeking protection within the program “*resettlement*” and represents the European country that gives more places for such program (in 2011, for example, 1900 persons were accepted). UNHCR selects people to be included into quotas and submits any case to the *Swedish Migration Board* that, through analysis of the dossier or sending of a specific delegation, make the final decision. The reception standards, the size of the funds and of the quotas are annually established by the Swedish government that fully covers also the cost of transfer. The permanent residence shall be granted to refugees which thus enter into a integration program lasting, on average, two years and that provides language course, financial support and help in job research.

Swedish case is well known in Europe for having adopted, since 1999, a prohibition policy that, comparing prostitution (even if deliberately practiced) to a form of exploitation, violence and serious violation of women integrity, and considering it as a big social problem, punishes the customer (but not the person who practices it). The purchase of sexual services (on the road, in clubs, massages centres, etc.) is penalised by a fine or imprisonment . Such a system, that has a strong support in Sweden (70% in favour), has recently been undergone an assessment inquiry that, basically, confirmed the deterrent effect on request¹⁰⁸. The inquiry shows

107 Such type of protection, existing only into *Swedish Aliens Act*, could be granted where the applicant cannot return to the country of origin due to armed conflicts or serious oppositions or well founded fears to be subject to serious abuses or an environmental disaster.

108 In this respect, it should be noted that on 27 February 2014 the European Parliament approved the non-binding Resolution on “Sexual exploitation and prostitution and its impact on gender equality” 2013/2103 (INI), proposed by the British Labour member Mary Honeyball, which recommends to EU

that prostitution, unlike comparable countries, has not (at least) increased after the adoption of this regulation whereas selling sexual services on the road has reduced by half; moreover, according to Police and operators in this field, Sweden is considered a “poor” market by the traffickers precisely because the request is less than in other countries where there is not this criminalisation¹⁰⁹.

Anyway, the increase of the trafficking phenomenon is still, like in other countries, largely unexplored, despite there has been an increasing awareness that it is so pervasive¹¹⁰. According to data from *National Police Board*, in 2011 suspected cases of *trafficking* were 35 for sexual exploitation and 63 for other purposes (begging, theft and forced labour)¹¹¹ while in 2002 they were 48 (coming above all from Mongolia, Nigeria, Georgia and Russia)¹¹². Even if it is not possible to have a complete picture in this regard, there have been registered some cases of serious labour exploitation among seasonal berry pickers coming from Bulgaria and Thailand, recruited and exploited by so-called national and foreign companies.

The specific crime of trafficking was introduced into the Swedish penal code in 2002 and, after 2004 amendments, all forms of trafficking were banned. In fact, the definition adopted into the penal code at Chapter 4, Section 1(a) strictly follows the one defined into Palermo Protocols and refers to Swedish and foreign victims.

The first anti-trafficking National plan, developed by the Ministry for Integration and gender equality, was adopted by the Swedish government in July 2008¹¹³. In 2011 an assessment of the achievements was presented to the Parliament, in order to continue the actions undertaken, some measures have been established for 2011-2014.

Since 1998, Sweden have used a *National Rapporteur*, appointed within the *Swedish National Police Board*, in charge of collecting data, analyzing the judicial and investigative activities, monitoring and assessing anti-trafficking actions.

member States to adopt the so-called “Nordic Model” introduced in Sweden, Island and Norway (an now favourite in France as well), according to which the person buying sex is committing a criminal offence not who is selling it.

109 Cfr. GRETA, *Reply from Sweden to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties*, Strasbourg, 6 September 2013, p. 25.

110 Several campaigns of awareness have been carried out in recent period of time, e.g. *Safe trip campaign*, *Reducing Demand campaign*, *Titta inte bort!* Cfr. Greta, Op. cit., pp. 23-24.

111 * Swedish National Police Board, *Trafficking in human beings for sexual and other purposes. Situation Report 13, 2012*, https://www.polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/Trafficking_1998_/Trafficking_report_13_20130530.pdf

112 EMN Sweden, *Identification of victims of trafficking in human beings in international protection and forced return procedures in Sweden*, Migrationsverket, 2013, p. 38.

113 Other important strategies concern the adoption in 2007 of the Action Plan on violence against women (*Action Plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships*) and, from 1998, of the Action Plan on sexual exploitation of minors.

The *National Rapporteur* publishes an annual report on trafficking situation in the country¹¹⁴.

But there is not a *National Referral Mechanism*. Due to the lack of a single reference ministry for anti-trafficking policies, since 2009 the *County Administrative Board* of Stockholm assumed the role of National coordinator with the task of implementing cooperation network at a regional and National level. It developed a *National Task Force against Prostitution and Trafficking* (NMT), as a strategic asset, that consists of state actors with proven experience in combating trafficking (police, social services, Migration Board, Prosecution Authority, etc.) which give operational support to the activities of municipalities and agencies, including professional training and information material¹¹⁵.

The protection and reception system is managed by the social services of the residence municipalities and is directed to all victims, even if there are some specific services provided to trafficked persons. As appropriate, it gives housing, financial support, interpreting, psychological assistance and legal support, with other actors from the third sector (including NGOs). A hotline for victims of violence and sexual abuses is always available. The Swedish legislation provides for the possibility, given to the victims of trafficking, to access to a compensation fund.

Following the amendment of law *Aliens Act* (Chapter 5 Section 15) in 2007, complying with the Directive 2004/81/CE of 29 April 2004, the victims of trafficking may obtain a permit of stay of 6 months (renewable) if they cooperate with the investigation authorities and break ties with all suspected persons. Effectively, the legislation has a broader application than the Directive, because it provides also witnesses for the issue of the permit and it is not merely applied to crimes of trafficking. At the request of the investigation officer, it could also be granted a temporary residence permit for Reflection Period of 30 days (renewable).

Moreover, victims of trafficking could seek International protection (as per above mentioned Chapter 4, Section 1 and 2 of the Aliens Act) or (still within asylum procedure framework) have a permit as provided by Chapter 5, Section 6 of the Aliens Act, as the trafficking experience could be compared to those “*exceptionally distressing circumstances*” that banish a person to a marginalisation conditions. Effectively, the granting of International protection to the victims of trafficking

114 For the last version (report n. 13) relating to 2012, cfr. <http://polisen.se/en/Languages/Service/Publications/Trafficking-/Dokument/Trafficking-in-human-beings-20121/>. Besides the National Rapporteur, other entities which collect data on trafficking are *Swedish National Council for Crime Prevention* (for statistics on criminal offences), the *Crime Victim Compensation and Support Authority* (for data on compensation to victims) and the *Swedish Migration Board* (for data on residence permits, reception and return).

115 Cfr. Council of the Baltic Sea States, Human Trafficking 2013 – Baltic Sea Region Round-up, October 2013, pp. 101-103 http://www.cbss.org/wp-content/uploads/2012/11/TFTFB-raport_PRINT_all_crop_web.pdf

seeking asylum is rare, while the granting of a permit regarding this last condition is more common¹¹⁶.

Swedish authorities are not able to give the real number of the victims of trafficking among asylum seekers and, at present, there are not researches that analyze in depth the issue of the connection between the two systems. It appears that out of 48 cases of alleged victims identified by *Migration Board* in 2012, mentioned before, 17 were identified during the examination of the asylum application and 13 by the personnel of the reception centres for asylum applicants.

The identification of the victims, conducted by the police but even by the social services of the municipalities, the *Swedish Migration Board* and NGOs, does not result from a formalised process and could occur at any stage of the asylum procedure (during the interview, reception, detention or deportation). Within the handbook adopted by the *Migration Board* (*Handbok för migrationsärenden*), one chapter is on the modalities of identification of potential trafficked people and its relating indicators. The entry of the victims into a reception centre does not depend on an official identification by the competent authority: the social services are responsible for determining whether a person needs assistance or not and which service should be delivered.

03.06 Belgium

Belgium is the only country, among these one analysed by the present research, that has experimented a decrease of asylum applications. Between 2012 and 2013, the requests went from 28.285 to 21.225 (-25%). The applicants come mostly from Russian Federation (2.150), Afghanistan (1.675), Guinea (1.610) and Congo (1.540) but the last two received the majority of the rejections (respectively 1.485 e 1.735). Of the 21.505 total decisions made at first instance, 29,2% (6.280) had a positive result; in more than half of the cases (62%) the refugee status was granted.

It is relevant to underline that, besides the asylum program, since 2009 Belgium has regularly taken part to *resettlement*, with UE and UNHCR, covering the costs for transfer, reception and integration of a number of people who have sought protection to countries but that cannot ensure them security¹¹⁷. In 2013, the refugees in vulnerable conditions included into the program were 100; regarding 2014, Belgium has decided to accept 75 Syrians fleeing from war and 25 Congolese from the Big Lakes region.

In Belgium the asylum procedure and its relating jurisdiction are established into the law of 15 December 1980 (Aliens Act), amended by the law of 15 September 2006. The applications for protection shall be sent to the *Office des Etrangers* of

¹¹⁶ EMN Sweden, *Op. Cit.*, p. 9.

¹¹⁷ Cfr <http://www.resettlement.be/>

Bruxelles (theoretically, within 8 days from the entry into the country) but they could also be submitted to a detention centre or at the border (at airport). In this last case, the applicant could be detained into a close reception centre and been subjected to a fast-track procedure (within 15 days). At the time of submitting the instance, they choose the language to be used for the whole procedure (only French or Dutch) and the presence of an interpreter or not (then the *Office des Etrangers* shall determine it). At this stage, the applicant shall be invited to a first interview, requested to give an address of residence (private or at reception centre), to deliver any document which may supports the application and to fulfil a short questionnaire to explain the reason of leaving.

The body in charge of the examination of the asylum application is the *Commissioner General for Refugees and Stateless Persons* (CGRS), divided into six geographical sections and into different services of support (including the legal one and another which collects information on the countries of origin). The CGR examines the credibility and authenticity of facts depicted¹¹⁸ and, if the evaluation proves positive, shall grant the refugee status (which entitles to a permanent residence permit) or the subsidiary protection (one year residence permit, renewable). Where the application is rejected, the applicant could appeal within 30 days to the *Council for Alien Law Litigation* (CALL) and is entitled to suspensive clause¹¹⁹. As for any other administrative act, it is possible to appeal to the *Council of State*. If the application is definitively rejected, the person is ordered to leave the country. It is interesting to note that in Belgium even EU citizens are admitted to the asylum procedure (in which case, fast-track is used).

In Belgium, those who seek asylum to the *Office des Etrangers* of Bruxelles have the right of housing in a reception facility (at a collective centre or private house) for the entire duration of the asylum procedure (including appeal, where appropriate)¹²⁰. No financial support is provided. To have access to such facilities, it shall be submitted a request to the *Dispatching Service* of the *Federal Agency for the Reception of the Asylum Seekers* (Fedasil), placed in the same office. If the applicant has means of

118 The CGRS uses a specific procedure for applicants with psychological problems; in such cases, the support of a psychologist, general doctor or social assistant of the reception centre shall be used.

119 For more details on the procedure of appeal, cfr. Office of the *Commissioner General for Refugees and Stateless Persons*, *The Asylum Procedure in Belgium. Information for Asylum Seekers*, 2008, http://www.cgvs.be/fr/binaries/PDF%20-%20The%20asylum%20procedure%20in%20Belgium_tcm126-42131.pdf

120 From September 2008 to January 2012 the Belgian reception system had lived a serious crisis because the reception facilities had not the capacity for facing the increasing number of applications for asylum and the greater requests of places due to the abolition of the filter of the eligibility (which included into the reception system even the "eligible" applicants, where previously they received a financial contribution to find autonomously housing). To solve the crisis, policies invested in speeding the asylum procedures, increasing the number of return (both voluntary and forced), excluding some categories (such as asylum seekers with multiple applications) from the right of reception and introducing fast track procedure for other categories (asylum seekers coming from safe countries). In this respect, cfr. http://asiloineuropa.blogspot.it/2013/05/asilo-negli-stati-europei-belgio-parte_30.html.

subsistence and house, Fedasil could decide not to give material support, except health care. Moreover, those asylum seekers which, within six months after the submission of the asylum application, have not been answered in the first instance, shall apply for a C work permit, valid for one year.

The Belgian reception system, consisting of 23.000 places at present, is designed into two stages. In a first step, Fedasil assigns to the asylum seeker a place within an “opened” collective centre where food, clothes, health care, psychological assistance and legal support, and a small amount of money for personal expenses are given. There are 54 “opened” collective centres, managed by Fedasil or Red Cross, which are very different in size and management. After four months, the applicants are permitted to request to be moved to an individual reception facility (second stage), normally houses or apartments managed by social services or NGOs¹²¹.

As regards to the duration of reception, if the result of the procedure is positive, the beneficiaries of International protection may leave the centre within two months and find their own house. In case of definitive rejection, from 2012, Fedasil may decide to reserve for thirty days an “open place for voluntary return” to those who must leave the country, in order to foster the assisted return.

Belgium has adopted an anti-trafficking legislation, amended several times, since nineties. According to data from *Office des Etrangers*, the number of identified trafficked people¹²², mainly coming from Nigeria, Romania, Bulgaria, Morocco, Russian Federation and China, has increased (124 in 2009, 149 in 2011 and 157 in 2012)¹²³; however, the official figures¹²⁴ underestimate the phenomenon that remains mostly unofficial.

Before the enforcement of the law of 10 August 2005¹²⁵, the Belgian legislation does not distinguish between *smuggling* and *trafficking*. The new legislation, introducing such distinction, on the one hand, redefined the first one aligning it much more closely with the International Conventions (art. 77 bis of the law 15 December 1980 on Immigration), on the other hand, made trafficking as defined and distinguished crime, and prohibited under Penal Code (at art. 433quinquies to

121 <http://fedasil.be/en/content/reception-asylum-seekers>

122 It is important to note that, during the first years of 2000, the Brazilians represented the main group of trafficked victims, above all for sexual exploitation, so that in 2009 the IOM launched, with the support of the *Office des Etrangers*, an information campaign on the protection mechanisms of victims of trafficking directed to Brazilians in Belgium.

123 Centre for Equal Opportunities and Opposition to Racism, *Annual Report on Trafficking in and Smuggling of Human Beings 2012. Building trust*, Brussels, October 2013, p. 107, <http://www.diversitybelgium.be/trafficking-and-smuggling-human-beings-annual-report-2012>

124 Belgium has not a centralised database on trafficking able to collect and process data coming from different sources. The *Centre for information and analysis in the field of smuggling of and trafficking in human beings* (CIATTEH), set by the Royal Decree of 16 May 2004, is not actually operating.

125 *Loi du 10 août 2005 modifiant diverses dispositions en vue de renforcer la lutte contre la traite et le trafic des êtres humains et contre les pratiques des marchands de sommeil* (MB, 2 septembre 2005)

433novies)¹²⁶ and not only regarding foreign victims. Finally, the recent Act of 29 April 2013, amending the art. 433quinquies of the penal code, further clarified and broadened the definition of trafficking to banning, not only the “sexual exploitation and other forms”¹²⁷, but even the exploitation of begging and “of labour and services operated in conditions against human dignity” (an intentionally wider expression than the one relating to forced labour, slavery, servitude and similar practices), removal of internal organs and the constraint to committing a crime against their will (important point for the implementation of the *non-punishment* principle included into the directive 2011/36/EU). The Belgian regulation does not make a distinction between trafficking in adults and trafficking in minors but, in this last case, sets some aggravating circumstances.

Among the most important measures concerned, it should be mentioned: the law of 13 April 1995 providing for, *inter alia*, a report on a biennial basis from Government to Parliament and the possibility given to the NGOs specialized on anti-trafficking to conduct legal actions; the Directive Col 01/2007 of the *Board of Prosecutors General* aiming at developing investigation and prosecution actions against traffickers; the royal decree (*Arrêté royal*) of 16 May 2004 that identifies the role of the different actors involved in combating trafficking and that one of 18 April 2013 which credits three reception centres specialized for victims of trafficking (*Payoke, Pag-Asa e Sürya*). The body responsible for coordinating policies on anti-trafficking is the *Interdepartmental Unit for Coordinating the Fight against Trafficking and Smuggling in Human Beings*, founded in 1995 and enhanced by the Royal Decree of 16 May 2004. Such body, under the presidency of the Ministry of Justice, includes all actors involved in combating trafficking and, although shall meet once or twice a year, acts through. At operational level, the *Federal Office of the Public Prosecutor* is responsible for legal actions at National level and exchanging activities of information among Attorney General’s office, judges and Criminal Investigation. It adopted a specific network of experts in order to support the *Board of General Prosecutors* and facilitate the flows of information among “specialized” prosecutors.

In 2008 the Belgian government adopted the first National Plan for years 2008-2011, focused on the Four P’s strategy (*Prevention, Prosecution, Protection e Partnership*). The following plan, implemented by the *Interdepartmental Unit for Action against Trafficking and Smuggling of Human Beings*, focus on 19 actions organized in six areas, with particular concern to reviewing anti-trafficking regulations, in line with

126 *Code pénal (modifié par la loi du 10 août 2005 modifiant diverses dispositions en vue de renforcer la lutte contre la traite et le trafic des êtres humains)*

127 To be noted that introducing this generic definition, replacing the reference to more specific crimes such as exploitation of prostitution, corruption of minor, etc. of the prior definition, allows to cover the whole range of different forms of sexual exploitation.

the Directive 2011/36/UE, and initiatives of protection victims belonging to the most vulnerable group (minors).

Belgium has not officially appointed a *National Rapporteur*; however the *Centre pour l'Egalité des chances et la lutte contre le racisme*, by publishing annual reports on trafficking from 1996¹²⁸, indeed plays this role. Moreover, as provided by the law of 13 April 1995, the government makes a biennial report to the Parliament on the implementation of the measures adopted against trafficking (report materially produced by the *Department of Criminal Policy*).

Belgium uses a *National Referral Mechanism* detailed into the Ministerial Circular of 26 September 2008 “concerning the implementation of a multi-disciplinary cooperation on victims of trafficking or other aggravating forms of trafficking”. The Circular requires specific roles and responsibilities for the *stakeholders* involved, including police detectives, attorneys, *Office des Etrangers* officials and operators of the specialized reception centres, indicating the guide-lines for the identification¹²⁹, referral, protection, reception and assistance for the victims of any form of exploitation.

It establishes that, when the victim is identified by police or labour inspector, simultaneously the judge shall be called to account, an authorized centre of assistance be contacted and the *Office des Etrangers* be informed. The examination of the application shall be entrusted to the *Interdepartmental Coordination Unit*. It was observed that, among stakeholders mentioned in the Circular, there are missed the authorities responsible for registration/examination of the asylum application and the ones involved in the procedure of forced return.

The Belgian regulation provides for a specific temporary residence permit for victims of trafficking (both coming from third-countries and EU citizens) who cooperate with judicial authorities (art. 61/2 and 61/5 of the immigration law of 15 December 1980, amended in 2006 for transposition of Directive 2004/81/EC) that, in certain conditions, could become an unlimited residence permit. In accordance with the established procedure, the victim who breaks the tie with the traffickers and accepts the assistance into a specific reception centre is supposed firstly to have a Reflection Period of 45 days, during which it is issued a “deportation order from the country”¹³⁰.

128 Cfr. <http://www.diversitybelgium.be/human-trafficking>

129 The Circular COL 1/2007, made for *frontline* services and public prosecutors, includes a list of indicators for the identification (actually updating).

130 The group of experts GRETA has observed, in this respect, that the definition included into such measure “order to leave the country” should be reviewed because, despite enables the victims to benefit of the Reflection Period, does not respect the spirit with which it was born, namely the absence of any form of pressure to decide (GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium. First evaluation round, September 2013, p. 42, http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_14_FGR_BEL_with_comments_en.pdf

As soon as the denounce is submitted or any declaration made¹³¹, they receive an *attestation d'immatriculation* valid for three months¹³²; if the attorney subsequently considers that the person shall be a victim of trafficking (or aggravating forms of *smuggling*) and a set of circumstances are met (legal proceeding underway, clear willingness to cooperate and breaking of ties with the criminal group, not being a threat for public order or national security), shall grant a *certificat d'inscription au registre des étrangers* of six months (renewable). Finally, if the denounce produces a prosecution, the victim will receive an unlimited residence permit.

In case the proceeding closes without the possibility to undertake further legal actions, it is possible to request a permit for humanitarian reason according to an unofficial procedure called "Stop" reserved to victims which have benefited from reception in specialized centres for two years (art. 9 bis Law on Foreigners, permit of exceptional circumstances). According to data from *Office des Etrangers*, between 2011 and 2012, 66 permits for Reflection Period "order to leave", 178 *certificat d'inscription au registre des étrangers* and 86 permanent permits, 15 permits for humanitarian reasons (whereof 11 open-ended)¹³³ were granted.

The assistance (in terms of housing, legal support, health and psychological assistance) of the victims of trafficking which cooperate with judicial authorities is entrusted by law to three credited facilities (Payoke, Pag-asa e Sürya) with about 50 place in total. The main problem concerns that, due to lack of structural funding, they are sustained by subsidies and contributions collected year by year by different institutions, and this threatens the continuous functioning of the services given.

In Belgium it is not granted the International protection for trafficking. But the victims shall be admitted to the procedure and they are invited to comment on such circumstances at the time of asylum application. On only one single occasion, in October 2010, the *Council for Alien Law Litigation* granted the refugee status to a Macedonian woman, subject under violence and forced prostitution, recognizing the founded fear of persecution for belonging to a "specific social group"¹³⁴.

Theoretically, within the asylum system (as well as the detention and deportation ones) the identification and referral of victims could be conducted at any stage; but in practice, during registration of the instances there are no established mechanisms

131 It is important to note that, even if the access into the system is reserved only to victims which cooperate with judicial authorities, such obligation is indeed interpreted by the competent authorities in a flexible manner, because it often occurs that they ask for a simple statement instead of a formal complaint. Furthermore, the access to the reception facilities is also permitted to victims of "aggravating forms of smuggling". The right to compensation is also recognised.

132 This document is not a residence permit but a receipt certifying the right to stay in the territory to seek asylum or any other kind of permit.

133 European Migration Network, *The Identification of victims of trafficking in human beings in international protection and forced return procedures in Belgium*, October 2013, pp. 39-40.

134 *Foreigners' Litigation Council decision* of 20 October 2010, no. 49.821

for the identification and, indeed, the duration of the first period of reception is too short to enable the person to create a relationship of trust with the operators such as to permit an identification¹³⁵. During the examination of the application, the CGRS uses an internal unit in this respect; moreover, guidelines have been developed directed to identifying the “suspected elements”, including also some instruments supporting the verification activity (in-depth interviews, using newspaper articles, and specialist staff, etc.), currently being updating.

It should be noted that, in legal terms, the two proceedings cannot be conducted at the same time: as set by CGRS, before the person begins the procedure for the application for residence permit for victims of trafficking, the asylum procedure must be completed (both for dropping and for rejection). Personnel of the centres is responsible for informing people received on the requirements and consequences of each option¹³⁶. From the above, however, “the low convenience” of applying asylum is clear.

03.07 Holland

According to data from Eurostat, in 2013 in the Netherlands 17.160 applications for protection were submitted (against the 13.105 of the previous year with an increase of 30,9%). The five main countries of origin of the applicants are Somalia (3.270), Syria (2.705), Iraq (1.420), Afghanistan (1.380) and Iran (1.120). Out of a total of 15.595 decisions made in first instance, 9.545 (equal to 61,2%) were positive; the subsidiary protection was granted to 3.460 cases (equal to 22,2%) while the refugee status was granted to 1.235 applicants (7,9%).

The current asylum procedure, that makes Holland one of the most advanced countries in Europe in regard of the issue of International protection, entered into force on July 2010 as a response to the need to improve the quality of the examination process and reduce the long waiting time for the decisions. The central commission that deals with all asylum applications is the *Immigration and Naturalization Unit* (IND) while the *Minister of Security and Justice* is responsible for determining whether a country could be considered safe or not.

According to the current regulations¹³⁷, the asylum applications could be submitted at the border at the *Application Centre* (*Aanmeldcentrum*, AC) of Amsterdam’s Schiphol airport or, if already presents in the territory, at the centre of Ter Apel (*Centraal Opvanglocatie*, COL), a town in the Northeast of Holland, where, normally within

¹³⁵ EMN, *Op. Cit.*, p. 41.

¹³⁶ *Ibidem*, p. 16.

¹³⁷ New text *Aliens Act* of 2000, entered into force in April of 2001, concerning both foreigners and refugees.

three days, the registration (identification and fingerprints) and TB test are made. After registration, the applicants shall be transferred to another centre called POL (*Proces Opvanglocatie*) where they remain for up to six days awaiting the initiation of the procedure. This range is considered as a resting and preparatory period that enables even the *Royal Military Police* to conduct the necessary investigation. During this period of time, they are assisted by the *Dutch Council for Refugees* (VWN), that gives them information on rights and duties relating to the asylum procedure, and they shall benefit of health assistance, where necessary.

If the application is submitted at the border, the applicants are detained and placed into detention centres (preventing *de facto* their entry into the country) but, however, they have right, besides health care, of a free legal assistance from a lawyer which prepares them for the interview.

The general asylum procedure, called AAP (*Algemene Asielprocedure*) normally lasts eight working days. On the first and third day, two interviews are conducted where the applicant is requested to detail, first of all, the personal story and travel, then the reasons of the application for protection. The second and the fourth day are made for having a confrontation with the attorney of reference and presenting any further integration or adjustment to the statement. After the fifth day, the IND Commission could communicate the rejection or, otherwise, examine the statement for the following three days until the final decision. If the Commission needs more time to carry out investigation, an extended procedure VAP (*Verlengde Asielprocedure*) shall be activated, that could last up to six months (further extendable)¹³⁸.

The allowing application implies the recognition of the refugee status or subsidiary protection, or the granting of a permit for humanitarian reasons (if there are “compelling humanitarian reasons” related to the reasons for leaving that prevent the return, including having suffered a trauma) or a permit “categorical protection” (applied to a whole category of seekers coming from a particular country or region that is considered not safe for return due to a general situation of that area)¹³⁹.

It is possible to appeal to regional court (*Rechtbank*) against rejection within 7 days in case of AAP procedure (without suspensory effect) and within four weeks in case of extended procedure (with suspensory effect)¹⁴⁰. During the appeal, housing shall be provided where to wait for the final decision. The *Repatriation and Departure Service* (DT&V) of the Ministry of Justice coordinates the return activities of the foreigners who have not obtained a residence permit.

138 It is interesting to note that the AAP procedure cannot be considered technically as “fast track” because every application for asylum shall be initially examined through the “short” proceeding and, only if the case is more complex, the VAP procedure will be activated.

139 <http://www.asylumineurope.org/reports/country/netherlands/short-overview-asylum-procedure>

140 It is also set a further appeal at State Council both from the applicant and from the Commission.

In Holland the recognition of the protection guarantees the acquisition of rights such as health care, housing, access to work and education, within an overall project of integration. In particular, those who receive a residence permit for asylum (initially valid for five years) should leave the reception centres but they can obtain housing through the municipalities, with the assistance of the *Central Agency for the Reception of Asylum Seekers* (COA); they could also work without asking for a specific work permit.

Finally, it should be noted that Holland has joined the Resettlement program since 1984, receiving a quote of about 500 refugees every year¹⁴¹. Within the program, through the COA, guidance on cultures and language courses are provided before leaving as well as projects for socio-economic integration with the hosting municipalities.

Despite the adoption of *victim-centred* policies in fighting of *trafficking* has been a priority in Holland for a long time (the *National Rapporteur* was instituted in 2000), there has been a relevant increase of trafficked people in recent years. According some estimation¹⁴², victims of trafficking for sexual exploitation would be about 9.000 whereas those ones involved in other forms of exploitation (including, labour) would amount to 21.000. In 2012, 1.711 victims were identified (against the 993 of 2010 and 1.222 of 2011) proving that the complete entity of the phenomenon is not identified by the authorities. The main countries of origin are Nigeria, Romania, Bulgaria, Hungary and China, while one-fourth of the people under trafficking is Dutch or EU citizen¹⁴³.

The legalization of prostitution has produced a prosperous sex industry (sector *exposed* to trafficking) and, because the relevant policies (including the inspections of prostitution premises) are a concern for local bodies and different from municipality to municipality¹⁴⁴, it is necessary, in order to prevent some areas from becoming more attractive than others, to implement control and adoption of measures supporting prostitutes¹⁴⁵.

The National coordination of anti-trafficking actions is assigned to the Ministry of Security and Justice that is responsible for regulatory proposals, crime prevention and immigration, while local policies are under the competence of the Ministry of Interior. The *National Rapporteur*, supported by a team of researcher from several disciplines, monitor the effects of the policies and the development of the phenomenon, collect statistical data, distribute information, maintaining an independent position.

141 <http://www.resettlement.eu/country/netherlands/#irelands-resettlement-programme>

142 Estimation from the organization FairWork of 2012, cfr. <http://www.fairwork.nu>

143 CoMensha Annual Reports, www.mensenhandel.nl

144 As per art. 151a of the *Municipalities Act*.

145 Cfr. *Human trafficking is happening here. Fact sheet accompanying the Ninth report of the Dutch Rapporteur*.

Recently the *National Rapporteur* has extended its responsibilities to the issue related to sexual violence on minors. It publishes every year a summary report with recommendations to be submitted to the Government.

In 2008 it was established a *Task Force on Human Trafficking*, chaired by the Amsterdam's chief procurator and consisting of all the representatives of all ministries and bodies involved in combating trafficking¹⁴⁶. In 2011 the Task Force adopted the new National Plan 2011-2014 focused in particular on countering the so-called "*Loverboy*"¹⁴⁷ technique and the solicitation of victims through internet. It is also operating a group of experts called *Expertise Centre on Human Trafficking and People Smuggling* (EMM), composed by security forces (*Dutch National Crime Squad*), *Royal Netherlands Marechaussee*, *Immigration and Naturalization Unit* (IND), labour inspectorate (*Inspectorate SZW*) and the unit *Aliens Police*.

In Holland there is not a formalized *National Referral Mechanism* and this makes the roles of the different actors involved in the process of taking care of the person not entirely clear; the CoMensha (La Strada Netherlands), association of experts on the sector funded by the government, represents the central body competent for the identification and registration of victims of trafficking and their sending to the appropriate reception centres, collecting reports from security forces, border guardians (*Royal Netherlands Marechaussee*), labour inspectors, NGOs, IOM, etc.. The CoMensha does not directly provides for assistance to the victims of trafficking, it plays rather a role of coordination.

The crime of trafficking in all its forms (including removal of organs) is provided by art. 273f (recently amended) of the Dutch penal code. According to the Chapter B9 of the Aliens Circular 2000 (B9 Regulation, adjusted in many occasions), the alleged victims (as well as those who have worked into the sex industry or who have suffered serious forms of exploitation) have right of Reflection Period of three months during which they could decide whether to cooperate with judicial authorities or not.

If so, the regulation provides for the issue of a residence permit of one year (renewable up to three times). During this period of time, victims receive housing in appropriate facilities, legal, financial and psychological assistance, health care, social benefits and access to education¹⁴⁸. The body responsible for the reception centres is the Ministry of Health, Welfare e Sport. The system includes specialized centres

146 Cfr. <http://ec.europa.eu/anti-trafficking/NIP/Netherlands>

147 The "*loverboys*" are young men that, by using seductive techniques and emotional manipulation, start vulnerable girls (sometimes with cognitive discomforts) into forced prostitution or other illegal activities. The action plan provides for activities of awareness on this issue, mainly directed to girls, and for the implementation of the reception system of the victims. Cfr. Ministry of Security and Justice, *Comprehensive Action Plan on the Issue of 'Loverboys'*. Action Plan 2011 – 2014, in http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/RQ_GRETA_NLD_annexII.pdf

148 For victims of serious labour exploitation who do not need urgent assistance, the Comensha uses a budget for temporary reception in specific facilities (not specialized).

for victims (often teenagers) of the “loverboys”. It is also expected a compensation through the *Violent Offences Compensation Fund Act*¹⁴⁹.

It is important to underline that, following the amendment of the regulation B9, cooperation with the authorities does not imply a denounce or a formal statement to the police (the contribution could also be informal). Moreover, in certain circumstances (serious threats, health problems, psychological discomfort, etc.) a residence permit for humanitarian reason could be issued even without cooperation in the investigation process (Art. 3.4, par. 3, Aliens Decree)¹⁵⁰. The permit B9 is also granted to the witnesses and collaborators with justice who are not victims of trafficking.

The access to the reception system is subject to obtaining the residence permit. Considering that many trafficked people are Dutch or EU citizens, and so they don't need a residence permit, it is suggested by many to review the connection with the immigration law in order to fully extend protection to all victims of trafficking¹⁵¹.

In regard with the connection between international protection and trafficking, the unavailability of the National report from EMN on the issue of identification of victims of trafficking within asylum flows prevents accurate comments on the procedure of contacting between the two systems, as well as the recognition of the cases. The two processes cannot be simultaneous, by the way¹⁵².

It is worth observing that, even though the identification of a victim could occur at any stage of the process, the main role is played by police and *Royal Netherlands Marechaussee*, through personnel specialized and appropriately trained. The Reflection Period is granted by police when finding the existence of *slightest indication* of trafficking based on a list (not-limited) of indicators included in documents edited by the *Public Prosecution Service*.

Another key actor is the *Immigration and Naturalization Unit* (IND), responsible for granting residence permits, able to detect signals of trafficking at different stages of its mandate (from the issuance of visas to the examination of asylum applications). It is clear that, because every asylum application initially enters into the AAP fast procedure, there is the high risk that such indicators requiring a deeper investigation (and so the activation of the VAP extended procedure).

149 It is mentioned the case of a victim whom, in July 2012, the Court of Leeuwarden recognised a compensation of € 950.000 following seven years of forced prostitution (cfr. <http://ec.europa.eu/anti-trafficking/NIP/Netherlands>)

150 Cfr. Ministry of Security and Justice, *Response of the Netherlands to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties*, May 2012, p. 36.

151 Cfr. Rijken C., van Dijk J., Klerx van Mierlo F., *Trafficking Victims in The Netherlands. An exploratory study*, INTERVICT, Tilburg University 2013.

152 EMN, *Identification of victims of trafficking in human beings in international protection and forced return procedures*, Synthesis Report, March 2014, p. 29.

The victims of trafficking who received a rejection could obtain a B9 residence permit if they cooperate with judicial authorities, with the same conditions set out above; it is not provided reception into centres for seekers but only for trafficked persons.

03•08 A comparison of National systems: a summary

The phenomenon of the connection between trafficking and asylum represents a long-standing fact in many European countries but, in the absence of *ad hoc* researches and official data about victims which enter procedures of seeking International protection (and vice versa), its dimension cannot be measured.

The previous description of the regulatory and functioning systems relating to trafficking and asylum existing in the above analysed countries aimed at giving a first contribution to understand such issue that appears not acknowledged by the “insiders” of such sector. Using a comparative method, some key points can be summed up as follows (see the abstract below).

First of all, with regards to trafficking, all the analysed countries have implemented, about promptly, the Directive 2011/36/EU transposing larger definitions of forms of exploitation into their national regulations, in line with the evolution of the phenomenon. Whereas, in these Member States, the coordination of actions and anti-trafficking policies (including drafting of the National plan) is mostly entrusted to inter-ministerial bodies specially created, only in Germany and Belgium such bodies are officially recognised as *National Rapporteur*.

The key point relating to the identification of asylum seekers among victims of trafficking (and vice versa) represents the main weakness of the different systems. National *Referral Mechanisms*, intended to establishing agreements of cooperation between state and non-state actors for an effective identification, taking charge and assistance of victims (as laid down into the Strategy 2012-2016), are formally existing only in the UK (with a screening system consisting of three stages and based on a set of indicators) and in Belgium (with the implementation of the Ministerial Circular of 26 September 2008 that establishes a multidisciplinary cooperation among all involved *stakeholders*). Despite the use of manuals and guidelines from the competent authorities, in the majority of the cases there is a lack of shared and formalised protocols on trafficking identification and indicators to be used during the different stages of proceeding.

On this (and others) point, the recommendation defined in the Directive 2011/36/EU on focusing more on training activities directed to all actors involved (from security forces to officials in charge of examining the asylum applications, from personnel at

border to prosecutors, from operators at reception centres to healthcare professional) appears not to be acted upon yet.

From a regulatory point of view, the process for granting International protection (refugee status and subsidiary protection) to a victim of trafficking has been implemented by the majority of the analysed countries but the recognised cases are still sporadic (except in the UK). It is used more frequently the humanitarian protection.

Apart from Italian case (with article 18), the permit of social protection is normally conditional on an obligation to cooperate with judicial authorities through a crime complaint of the traffickers or a formal statement. However, both Belgium (with the amendment of regulation B9) and England (with the “leave to remain”) are moving forward towards a greater openness to the victims which do not want to report the criminals. Moreover, it can be noted that in the various National regulations some other residence permits are provided (for exceptional circumstances, real danger, specific vulnerabilities, impossibility to return to home country, etc.) which could be granted to victims of trafficking.

Finally, in regard to the mechanisms of contact between the two systems, except that in Belgium and Holland, it is possible to activate in parallel the two proceedings: when a victim of trafficking is identified within the procedure of International protection application could at the same time receive specific assistance for trafficked persons while remaining in the asylum proceeding.

Abstract

| | Italy ¹ | Germany | France | United Kingdom |
|--|---|---|---|---|
| Anti-trafficking National Plan | Being finalised | The inter-ministries group Federal and State Task Force on Trafficking in Women is in charge of the implementation of the National action plans | Being finalised | Existing |
| National Rapporteur | Department for Equal Opportunities | Formally not present. | Coordinateur national de la lutte contre la TEH (appointed within the inter-ministries group MIPROF) | Inter-Departmental Ministerial Group on Human Trafficking (IDMG) |
| National Referral Mechanism | Formally not present | Formalized on a federal level basis (Co-operation Concept) | Not existing | Formally (from 2009) |
| Reflection Period | Not provided | At least three months | 30 days | 45 days |
| Competent body for examining application for International protection | Territorial Commissions for the right of asylum | Federal Office for Migration and Refugees | Office français de protection des réfugiés et apatrides OFPRA | Home Office |
| Types of residence: | | | | |
| Refugee status | Yes | Yes | Yes | Yes |
| Subsidiary protection | Yes | Yes | Yes | - |
| Humanitarian protection | Si | No | No | Si (corrisponde alla sussidiaria) |
| (non-EU harmonised) | Yes | No | No | Yes (Corresponding to subsidiary protection) |
| Social protection | Yes (6 months for humanitarian reasons - art. 18) | Yes (3 months for humanitarian reasons) | Yes (6 months) | Yes, "Leave to remain" (discretionary) in cooperation with judiciary authorities in case of urgent personal circumstances (not complying with asylum application) and initiating a compensation procedure |
| Other Type of residence permit | No | Yes (in case of serious life-threatening or impediments to leave) | Yes, for humanitarian or exceptional, intended to VT who do not report due to the fears of retaliation (discretionary power of the Prefecture, poorly enforced) | No |

| | | | | |
|---|--|---|---|---|
| Possibility to obtain a residence permit in absence of denounce | Yes | No | No | Yes |
| Cases of recognition of asylum to victims of trafficking | Lack of data but various reported cases in practice | Cases of subsidiary protection; two documented cases of refugee status for belonging to a "social group") | Few recognized cases | Numerous recognized cases of asylum and humanitarian protection |
| Use of protocols for identification | Formalized protocols at National level do not exist | Not formalized. Handbook for asylum case officers (Guidelines) | Not provided | Formal Protocol and Guidelines by the Home Office |
| Refer/connection between trafficking system and asylum system in case of identification of VT among asylum seekers | The person can stay in the International protection procedure and, at the same time, have access to social protection measures -art.13 e 18. | - | The victim can, at the same time, apply for International protection. | The victim can, at the same time, apply for International protection. |

| | Sweden | Belgium | Holland |
|--|---|---|---|
| Anti-trafficking National Plan | Existing | Implemented Interdepartmental Unit for Action against Trafficking and Smuggling of Human Beings | Existing |
| National Rapporteur | Existing from 1998 | Not officially appointed, however the Centre pour l'Egalité des chances et la lutte contre le racisme plays this role | Existing from dal 2000 |
| National Referral Mechanism | Not formally existing but since 2009 the County Administrative Board of Stockholm has taken over the role of national coordinator | Formally existing, a detailed description is contained into the Ministerial Circular of 26 September 2008 | Not formally existing |
| Reflection Period | 30 days | 45 days | Tre months |
| Competent body for examining application for International protection | Swedish Migration Board (Migrationsverket) | Commissioner General for Refugees and Stateless Persons (CGRS) | Immigration and Naturalization Unit (IND) |

| | | | |
|--|--|--|--|
| Types of residence permits: | | | |
| Refugee status | Yes | Yes | Yes |
| Subsidiary protection | Yes | Yes | Yes |
| Humanitarian protection (non-EU harmonised) | Yes, protection applicable only within Swedish territory (when it's not possible to return to the country of origin) | | Yes, in case of "urgent humanitarian reasons" related to the reasons for leaving that prevent to return, including having suffered a trauma |
| Social protection | Yes (six months). | Yes (Certificat d'inscription au registre des étrangers di sei mesi) | Yes, B9 permit, valid for one year |
| Other Type of residence permit | Yes, residence permit in "exceptionally distressing circumstances" (for example, serious health problems) | Yes, for humanitarian reasons based on unofficial procedure named "Stop" exclusively for those victims who have benefitted of reception into a specialized centre for at least two years | yes, named "categorical protection" (applied to a category of applicants coming from a specific country or region) |
| Possibility to obtain a residence permit in absence of denounce | No | No | After amending the B9, cooperating with authorities does not necessarily imply to report or make formal statements. In certain circumstances (serious threatening, health problem, psychological discomfort) a residence permit could be granted |
| Cases of recognition of asylum to victims of trafficking | More frequent cases of residence permit for "exceptionally distressing circumstances" than for asylum | One recognized case. | - |
| Use of protocols for identification | Not formalized. Use of the Handbok för migrationsärenden | Not formally provided. The CGRS developed guide-lines for detecting "suspected elements" at time of examining the applications | Softlaw |

| | | | |
|---|--|--|-----------------------------|
| Refer/connection between trafficking system and asylum system in case of identification of VT among asylum seekers | The victim can, at the same time, apply for International protection | The two procedures cannot be made simultaneously: to start the procedure for a residence permit as victim of trafficking, the International protection shall be switched | Not simultaneous procedures |
|---|--|--|-----------------------------|



CHAPTER 2

CONNECTION BETWEEN

INTERNATIONAL PROTECTION AND

VICTIMS OF TRAFFICKING IN ITALY

01 PREMISE

The changing on the scene of contemporary migrations makes the analytical categories traditionally used by migration sociology (such as economic migrant, displaced person, asylum seeker, forced migrant, irregular migrant, seasonal worker, undocumented migrant, victim of trafficking, and so on) inadequate to represent the complexity of the migration pathways where different factors are intersected such as *push* and *pull*, ties and resources, violence and self-determination. The co-existence of multiple reasons for leaving, the need to modify *in itinere* the personal migration project and the forced “slipping” from a situation to another one make the figure of migrant undefined and increase their social fragility.

From this perspective, the connection between flows of asylum seekers and trafficking in human beings for exploitation are particularly relevant. This connection depicts a complicated *scenario*, not easy to be interpreted. Indeed, as shown, wherea, from the legal point of view, there is a sort of linearity in the link between trafficking and asylum – it is a question of applying the art. 1A(2) of Geneva Convention of 1951 to victims of trafficking recognizing the “grounded fear of persecution” - , from the conceptual point of view (and, consequently, operational), there are many different situations which correspond with stories, paths and subjectivity sometimes antithetical and sometimes overlapping.

The following section aims at defining the shapes of the link between trafficking and asylum. After determining the main aspects of the two phenomenon from the regulatory and content point of views, the connection between asylum and trafficking will be got more in depth using the results of the empirical research conducted within the project NOTRATTA, a pioneering study on this topic, aimed at collecting characteristics and critical problems through the testimony from the *stakeholders* involved.

02 DEVELOPMENTS IN TRAFFICKING AND INTERNATIONAL PROTECTION IN ITALY

In Italy the trafficking in human beings is a deep and multifaceted phenomenon relating to different forms of exploitation. Recent studies on trafficking for sexual purpose agree in emphasising important changes in the past few years: an overall decrease of violence exerted against victims and the using of “negotiation” in prostitution implying forms of bargaining and participation in income¹; a growth of the range of sexual services on internet and of prostitution *indoor*²; the expanding to other sector of exploitation, combining prostitution with other illegal activities³. The lack of a data collecting national system means that there are not updated estimates. The available official data, published by the Department of Equal Opportunities, reflect the number of victims entered programs of social protection, therefore they represent the “visible” part of the phenomenon. According to such data, between 2000 and 2012, 21.795 victims (whereof 1.171 minors) were assisted through projects as per art. 18 d.lgs (legislative decree) 286/98, and 3.862 (whereof 208 minors) through projects art. 13 law 228/2003. the main nationalities are Nigerian and Romanian. Characteristics and size of trafficking for forced labour are less clear⁴.

Despite the lack of an anti-trafficking National plan (currently in preparation), Italy adopts regulatory instruments of safeguard of persons and of combating the crime which are a reference point for the European landscape. In particular, the art. 18 of the *Testo Unico sull'Immigrazione* (d.lgs. 286/98)⁵ provides the issue of a residence permit in order to enable the foreigner avoiding violence and constraints from criminal organization and participating to assistance and integration programs, not depending on a formal statement against exploiters and testimony in a penal proceeding.⁶

1 Cfr. Carchedi F., Tola V. (a cura di), *All'aperto e al chiuso. Prostituzione e tratta: i nuovi dati del fenomeno, i servizi sociali, le normative di riferimento*, Ediesse, Roma, 2008; Morniroli A. (a cura di), *Vite clandestine. Frammenti, racconti ed altro sulla prostituzione e la tratta di esseri umani in provincia di Napoli*, Gesco Edizioni, Napoli, 2010. In very recent years, however, the operators report the return of brutal violence against the victims, as it was used in nineties.

2 On the Road, *Tra visibile e invisibile. La prostituzione al chiuso: scenari e prospettive di intervento*, Milano, Angeli, 2008; Donadel C., Martini R. (a cura di), *La prostituzione invisibile*, Regione Emilia Romagna, Progetto WEST, 2005; Da Pra M., Marchisella S. (a cura di), *AAA tutti a casa. La prostituzione al chiuso in Italia e in Europa. 2010: come, dove e perché*, Torino, Pagine, 1/2010.

3 Castelli V. (a cura di), Op. cit.

4 Carchedi F. (a cura di), *Schiavitù di ritorno. Il lavoro gravemente sfruttato: le vittime, i servizi di protezione, i percorsi di uscita, il quadro normativo*, Santarcangelo di Romagna (RN), Maggioli Editore, 2010.

5 On this point, cfr. Giammarinaro M.G., *L'innovazione, le prospettive ed i limiti dell'art. 18 del d.lgs. n. 268/98*, in Associazione On the Road (a cura di), *Prostituzione e tratta. Manuale di intervento sociale*, Milano, Angeli, 2002.

6 Later, by introducing the 6-bis di cui into the law 26 February 2007, n. 17 “Conversion into law, with amendments, of the legislative decree 28 December 2006, n. 300, extending the prescribed period from legislative measures”, the measures provided by art. 18 are extended also “to citizens of EU Member States living a serious situation of danger”, in order to allow EU citizens to enter into protection projects (it is relevant in this context the case of Romania).

Going beyond a purely “reward” approach, the regulation establishes that the proposal of issuance of a residence permit could be made by the “public prosecutor of the Republic, when a proceeding has initiated” (legal process) but even “by the social services of the local bodies and associations, entities and other institutions entered in the Register in favour of foreign immigrants, III Section, *Presidenza del Consiglio dei Ministri, Dipartimento Affari Sociali*” (social pathway). The police commissioner issues the residence permit for humanitarian reasons (valid for six months, renewable and convertible). Nevertheless, as reported by many parties, the application of the social pathway is marginal and the granting of a residence permit depends often on the cooperation of the victim with the judicial authorities⁷. By approving the law 228/2003 “Misure contro la tratta di persone” (actions on fight against trafficking in people), the crimes of human trafficking, slavery and servitude have been redefined, making the penalties more severe⁸, and, through the art. 13, a “special fund” was established in order to realize a further assistance program in short term was established. Recently, a legislative decree, d.lgs.24 of 4.03.2014, was promulgated that implements the Directive 2011/36/UE. Among the contents introduced⁹, the decree 24 provides at art. 10 for measures of coordination (and possible reference) among administrations that deal with trafficking and asylum, obligation to give foreigners supported by proper information about International protection, and transmission of documents to police commissioner from the territorial commission in case evidences of trafficking appear during examination. This is certainly a step forward for the integration of the two systems but much will depend on the interpretation and application of these principles.

With regard to trafficking for forced labour, with d. lgs. 109 of 16.7.2012, Italy implemented the Directive 2009/52/CE, relating to sanctions and measures against employers of illegally staying third-countries nationals. In particular, besides providing for an aggravating clause to the crime under art. 22 of the

7 The responsibilities of it are not due only to police because, in some territories, even the association decide not to lodge the instance for the social pathway.

8 By amending the article 600, 601 e 602 of the penal code, the law 228 of 2003, adopting the recommendations included into the Palermo Protocol, describes the phenomenon of trafficking as a specific and independent crime and introduces , besides the new definition of slavery as “execution on a person of powers corresponding to those ones relating to rights of property”, the concept of deprivation of liberty as “ keeping a person under continuous subjection, forcing them to labour or sexual performances or to beg or any other activities that involve the person into exploitation (...) through the use of violence, threat, trick, abuse of authority or taking advantage of a situation of physical or psychological vulnerability or of special needs, or through the promise or giving sums of money or other benefits”.

9 In particular, the decree extends the definition of vulnerability, reformulates the articles 600 and 601 of the penal code, establishes specific measures of protection for unaccompanied minors, introduces the right of compensation through the anti-trafficking Fund, establishes the implementation of a National Plan against trafficking and appoints the Department of Equal Opportunity (as equivalent mechanism) for coordinating the relevant actions.

T.U. Immigrazione, that punishes employers of illegally staying foreigners, when the persons employed are more than three or minors or under condition of exploitation as laid down at art. 603-bis of penal code (crime of illicit mediation and labour exploitation), the decree establishes, in the latter case, the possibility to issue a residence permit for humanitarian reasons to the foreigner “which lodges a complaint and cooperates in criminal proceeding against the employer”. Even if it only contemplates the legal process, the new regulation represents a step towards the protection in situations not covered earlier, relating, mainly, to the so-called “*caporalato*”, but its effectiveness depends on the interpretation (non-restrictive) of it.

According to the regulation in force, at present the Italian system of protection of trafficked persons consists of:

- Three months programs of first aid (according to art. 13 of law 228/2003) supplying housing, food, health care, legal support and counselling.
- Long term programs of social assistance and integration (as per art. 18 of the legislative decree 286/98) providing measures of high social protection standards, such as individual rehabilitation and social integration plans, residential buildings, health care, legal support, education, professional training, employment.
- *Numero Verde Nazionale anti-tratta* (800.290.290), anti-trafficking National hotline, that has replaced the local sites.

The Department of Equal Opportunities publishes every year a call for bidders to fund projects ex art. 13 e 18 which regions, local bodies and NGOs, listed in a special register shall be invited to. All these projects are co-funded by regions and/or local bodies in order to ensure participation and responsibility of local institutions for realizing the measures; moreover, they are networked together with public and private bodies and services which shall be involved at multiple time points of the “institutional” path of protection (public health authorities, voluntary organisations, employment offices, trade unions, security forces, etc.). Anyway, the main weak point of the system is the annually funding of the projects ex art. 13 e 18 (not structured in permanent services) depending on available financial resources – drastically reduced in recent years – thus preventing a long term planning.

With respect to International protection, in the last ten years the number of the instances submitted in Italy has registered an uneven pattern both in terms of quantity (it should be remembered the *refoulement* policies adopted in the Sicilian Channel in 2009 and the huge number of arrivals after the “Arab spring”) and concerning the countries of origin and the routes used. In 2013 the applications

were 27.935 (61,1% more than the previous year). The main five countries of origin are Nigeria (3.580), Pakistan (3.310), Somalia (2.885), Eritrea (2.215) and Afghanistan (2.175). The positive result of the applications is quite high: of the 25.250 decisions made in the first instance, 16.185 (equal to 64,1%) were positive; however, due to a large use of the residence permit for humanitarian reasons, the refugee status was granted only in 3.105 cases. Among the nationalities mostly beneficiaries of International protection, there are Eritrean (940) with refugee status and Somali (1.210), Afghan (1.170) and Malian (1.025) with subsidiary protection; *refoulement* concerns, in particular, Nigerian (1.850) and Pakistan (1.345).

As a counterpart for such a regulatory framework relating to trafficking, currently being studied by European institutions, in Italy there is not a single body of laws on International protection that, by implementing the art. 10 of the Constitution¹⁰ and expanding the minimum standards set out in the European Directives, ensures access of the applicants to a completed and functional system. Thus, until recently, the asylum regulation is established – even if partially - into the measures relating to immigration in general.

A first attempt to regulate asylum procedure is indeed included into art.1 of law 39 of 1990 (the so-called *legge Martelli*); such procedure was amended substantially by law 189 of 2002 (*legge Bossi-Fini*), that, within the context of a review of *Testo Unico sull'Immigrazione*¹¹, introduced important changes in relation to recognition of refugee status (such as the establishment of temporary detention centres, the constitution of the Protection National System for asylum seekers and refugees - *Sistema Nazionale di Protezione per Richiedenti Asilo e Rifugiati* - and the National fund for asylum policies - *Fondo Nazionale sulle Politiche dell'Asilo* - and the launching of a decentralised model to examine the asylum applications, initially consisting of seven Territorial Commissions)¹².

At present, the right of asylum is regulated mostly by the d.lgs. 251/2007, that transposed the European Directive n. 2004/83/CE, and by d.lgs. 25/2008, that transposed the European Directive n. 2005/85/CE (subsequently amended by d.lgs. n. 159 of 3 October 2008 and by law n. 94 of 24 July 2009). The d.lgs. 251/2007 sets out new regulations and requirements to recognize International protection and introduces the subsidiary protection; the d.lgs. 25/2008 establishes procedures

¹⁰ The art. 10, comma 3, of the Constitution establishes that “the foreigner, who is prevented in their country to exercise the democratic freedoms as set into the Italian Constitution, has the right of asylum in the territory, complying with the conditions laid down in the law”.

¹¹ The *Testo Unico*, approved by the legislative decree 286/1998, introduced a comprehensive regulation on legal condition of non-EU foreigner that replaced the prior law 39/1990; only the art. 1 concerning refugees was not revoked.

¹² Such amendments were put into action in 2005, following the entry into force of the DPR 16 September 2004, n. 303 - *Regolamento relativo alle procedure per il riconoscimento dello status di rifugiato* (Regulation on procedure for granting the refugee status).

for examining the application of International protection and defines the criteria for withdrawal or ending the recognized status. Despite it overall provides for a better protection of the applicant, it also introduces the detention into the identification and deportation centres (*CIE*), as well as the temporary reception into the reception centres for asylum seekers (*CARA*) as restricting free movement and residence measures. Recently, the d.lgs. n. 18 of 21 February 2014 was approved, in transposition of the new Qualification Directive 2011/95/UE (expired on 21 December 2013)¹³.

According to the regulation in force, the application for International protection shall be submitted, without mandatory date, at the border office at the time of entry or at competent local police station. The applicant is allowed to remain in the territory of the State until the Commission finally decides about the recognition of the International protection and a temporary residence permit of three months, renewable (but not convertible) shall be issued, until the end of the procedure¹⁴. The asylum application is examined by the territorial Commission for the recognition of the International protection that, through the police station, convenes the applicant for the date of the interview in a not-open session¹⁵. The territorial Commissions, locally competent according to where the applicant is resident, or detained, are made up of one member of the Prefecture career with functions of the chairman, one officer of the state police, one member designated by the UNHCR and one member that represents the local body. The National Commission for the right of asylum is responsible for the revocation of the protection as well as coordinating the territorial ones and providing them with guidelines and training, and updating the data base of the applications and the centralised documentation centre on the socio-political situation of the countries of origin.

Resulting from the interview, the Commissions could recognize the refugee status or the subsidiary protection, or reject the application because of manifestly unfounded¹⁶. Moreover, when existing serious humanitarian reasons, the application

¹³ Main objective of the regulation, amending the legislative decree 251/2007, is to enhance the standards of protection, both in terms of reasons and of contents of the protection granted, through a convergence of the two status under the International protection, that of refugee and that of beneficiary of subsidiary protection, in particular for what concerns the harmonization of the requirements for family reunification, the access to public employment and the duration of the residence permit (brought from 3 to 5 years for the subsidiary protection). The decree, in force from 22/03/2014, also establishes an instrument to plan the activities directed to integration of the beneficiaries of International protection (National Plan), which should be adopted every two years by a *Tavolo di coordinamento nazionale* (National coordination desk).

¹⁴ If, as often happens in practice, no decision on the application of International protection has been taken within 6 months from login the application, the residence permit shall be renewed for 6 months and it enables the person to work until the final decision.

¹⁵ If the applicant does not appear for the hearing without justification, the commission may nevertheless decide only based on the available document.

¹⁶ It is possible to appeal at court against the negative decision within 30 days from the notification of the measure (within 15 days where the person stays at *CIE*). The appeal has a suspensory effect.

could be rejected but, at the same time, submitted to the police commissioner – which has a discretionary power- for the issuance of one-year residence permit for humanitarian reasons¹⁷.

After submitting the instance, depending on the person's conditions, the applicant shall be received in a CARA; if there are no the requirements for reception in CARA, the applicant (but also who has already a permit for International or humanitarian protection) without personal means could enter into a reception project within the National Protection System for asylum seekers and refugee (*SPRAR-Sistema di protezione per richiedenti asilo e rifugiati*)¹⁸, if there are available places. However, over the years, a large number of applicants have neither entered into reception projects nor received support during examination of the application.

While the official availability of places in the various CARA on the National territory is equal to 3.800¹⁹, regarding the SPRAR²⁰, in 2012 151 projects were funded, whereof 40 specifically directed to vulnerable categories (such as people with disability, victims of torture and/or violence, unaccompanied minors, women alone and pregnant, etc.), totalling 3.979 reception places. Moreover, after North-Africa emergency, from December 2012, the system has progressively enlarged three times the number of places, from 3.000 structured places funded by the FNPSA to 9.356 places, thanks to five different enlargement required by the Ministry of Interior (overall data are not yet available) . The 3.979 places funded in 2012 received 7.823 persons, whereof 30% were asylum seekers, 26% with subsidiary protection, 24% with residence permit for humanitarian reasons and the remaining 20% with refugee status²¹. At the end of 2013, the beneficiaries of the SPRAR were

17 Such residence permit laid down into art. 5 comma 6 of the *T.U. Immigrazione* “ for serious humanitarian reasons” without expressly indicating what should be considered as such; hence, it is opened to interpretations and, in fact, it is applied to protect different cases, generating also different practice from territory to territory.

18 The SPRAR System, established by the law n. 189/2002 and funded by the *Fondo nazionale per le politiche e i servizi dell'asilo (FNPSA)*, consists of a structural networks of local bodies that, in conjunction with actors of the third sector (managing bodies), deliver services of integrated reception for seekers and beneficiaries of International protection, giving particular attention to people with specific vulnerabilities. The territorial projects of this System, small and medium sized, besides offering housing and food, provide with activities of guidance, legal assistance, social support (in order to know the territory and how to access into the social and health services), as well as Italian language courses, training, professional education, facilitating the entry into employment and housing, through the creation of individual pathways Cfr. <http://www.serviziocentrale.it/>

19 See the list in <http://www.interno.gov.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html>. Besides the mentioned facilities, there are other types of reception centres where the asylum seekers could transit, such as the CPSA (*Centri di primo soccorso e Accoglienza*), centres for first aid and reception, and the CDA (*Centri di accoglienza*), reception centres.

20 SPRAR, *Rapporto annuale del Sistema di protezione per richiedenti asilo e rifugiati /Atlante SPRAR 2012/2013*, Dec. 2013 in http://www.cittalia.it/images/file/atlante_sprar_completo_2012_2013.pdf

21 The most represented nations are Afghanistan (14,5%), Somalia (9,1%), Nigeria (8,4%), Pakistan (7,9%) and Eritrea (7,8%), with an overwhelming male majority (equal to 80,1% of the total).

more than 11.000 and at the beginning of 2014 the number of places reached about 13.000 with 12.834 people entered in the first semester.

The latest developments are intended to overcome what is considered by many to be the greatest deficits of the Italian asylum system, namely the shortage of reception places when measured against the real need, the scattering of the actions, the lack of coordination of the different reception options at central level that could harmonize them preventing overlapping and wasting money, and, above all, aiming at offering beneficiaries minimum standards of assistance. The so-called North Africa emergency, formally concluded in February 2013, the management of which has been widely criticised, has set in motion a process of important changes²²: the expansion of the above mentioned SPRAR capacity from the Ministry of Interior, the launch of a regular dialogue on reception policies by involving all institutional actors at central and local level in a National coordination desk “*Tavolo di coordinamento nazionale*”; the prospect for financing about 19.000 SPRAR places through the 2014-2016 call for proposals to access the *Fondo nazionale per le politiche e i servizi dell’asilo*²³.

There are still many critical points regarding to both reception conditions²⁴, often resulting from an emergency approach without a long-term strategic planning and integration into territory of beneficiaries (many of whom live in extreme poverty and marginalization)²⁵. To name but a few, the absence of proper information on how to access the International protection process and of uniform standards of identification of potential asylum seekers and their taking charge is reflected in the type of protection given²⁶. The waiting time for the examination of the instance is too long; moreover, in the absence of criteria based on expertise to select Commission members and of periodical training activities directed to them, such process appears to be characterized by a great discretion²⁷.

The protection system of asylum and trafficking, as described above, are separated

22 *Ibidem*, p. 9.

23 Decree of 17 September 2013 by the head of the Department of Civil Liberties and Immigration, implementing the decree of the Minister of Interior of 30 July 2013.

24 Between the services provided within the CARA, scheduled for short term staying aiming at the identification but indeed becoming much longer, and those ones provided within the SPRAR projects, generally organized for small group of beneficiaries, the offering is clearly unequal.

25 Cfr. CRS Caritas di Roma, et al., *Mediazioni Metropolitane. Studio e sperimentazione di un modello di dialogo e intervento a favore dei richiedenti e titolari di protezione internazionale in situazioni di marginalità*, 2012; Giovannetti M., Oliveri M.S., *Tessere l’inclusione: territori, operatori e rifugiati*, ANCI, 2012; CIR, *Le strade dell’integrazione. Ricerca sperimentale quali-quantitativa sul livello di integrazione dei titolari di protezione internazionale presenti in Italia da almeno tre anni*, 2012; Dalla Zuanna G. (a cura di), *La popolazione in forte disagio abitativo in Italia*, Cittalia, 2013.

26 For more details, ASGI et al., *Il diritto alla Protezione. La protezione internazionale in Italia. Quale futuro? Studio sullo stato del sistema di asilo in Italia e proposte per una sua evoluzione*, 2012.

27 To give a solution to this aspect, UNHCR suggests to set up an independent Authority on asylum with specific responsibilities and with a hierarchical link to the decentralised structures.

and unconnected, despite having similar operating methodologies²⁸. In the first case, the reception network is coordinated by a central office which manages beneficiaries entries and exits in accordance with reports from prefectures; in the second case, the territorial projects directly take charge beneficiaries. By comparing the two access to procedures, it is clear that the application for International protection implies a greater guarantee of protection and, thus, it is more “attractive”. In fact, where only submitting the asylum application ensures the seeker to stay in a reception facility at least until the interview of the Commission, the access to protection is more difficult for victims of trafficking which need to prove the exploitation and, within the social path, the discretion of the police is high. Moreover, the protection circuit of asylum gives more freedom of movement for people in reception.

Even though there are not available data in this respect, the presence of victims of trafficking among asylum seekers has been often reported by the sector operators, mainly with regard to Nigerian women; at the same time, there are cases of victims which, not in condition of filing a complaint, decide to access to the two systems by submitting the application for International protection and entering a project under art. 18²⁹ (even if the obligation of a link among competent administrations was established only with the legislative decree 24/2014). Furthermore, cases of recognition of International protection for trafficking reason have already occurred.

Due to the absence of data and targeted researches, the *scenario* of the victims of trafficking for labour exploitation is even more undefined. The well-known events in Rosarno of some years ago –and other such incidents- have highlighted a large-scale presence of exploited workers holding a residence permit for asylum application or International protection granted in the whole National territory³⁰. On the other hand, it was also found that there were many victims of trafficking among people coming from Libya during civil war, entered the asylum circuit so as people from Bangladesh, Mali, Nigeria, Pakistan who had lived and worked in Libya for years who had their asylum application rejected by Commissions because of their coming from countries considered as “safe”.

28 Cfr. on this issue the report *Richiedenti asilo e vittime di tratta tra differenziazione dei sistemi di protezione e necessità di coordinamento*, relating to the outcomes of the seminary of 28-29 March 2012 promoted by Gruppo Abele in conjunction with ASGI, Caritas Italiana, CNCA, Emmaus, Migrantes, which was attended by more than 100 representatives of associations, entities, police force, Territorial Commissions, etc.

29 On the Road, et al., *Report Nazionale Italia. Safer Path - System Action for the Empowerment of Refugees and Protection against Trafficking in Human Beings* (cod.HOME/2009/ERFX/CA/1044), 2012a, pp. 57-64.

30 According to some observers, while the majority of irregular people do not arrive in Calabria as first destination but only after several failed attempts to find a job in cities of North and central Italy, the asylum seekers arrive there also through ethnic networks joined with the 'ndrangheta which take them out of the reception centres to the fields in Rosarno, often seizing their documents, whereas other asylum seekers arrive after being betrayed by fake agencies pretending to support migrants for obtaining documents. Cfr. <http://www.lavoroculturale.org/a-due-anni-dalle-arance-macchiate-di-sangue-di-rosarno/>

03 METHODOLOGY OF THE RESEARCH.

As already mentioned, in the general framework of lack of both empirical literature on the connection between the two systems and detailed data, it resulted as a priority to launch an analysis by using knowledge and experience acquired by the partners of the project in order to identify experiments set up, relevant collaboration and practices. The specific objectives of the field research were:

1. Identification of phenomenon of trafficking for sexual and labour exploitation, and other forms of exploitation within the circuit of International protection and, in particular, into the SPRAR centres.
2. Recognising stakeholders perception/awareness on the phenomenon: SPRAR operators and trafficking operators, street units operators, members of the National and Territorial Commissions for the right of asylum, local bodies representatives and officials, and legal professions (lawyers, judges).
3. Recognition of the instruments used by involved actors to identify the phenomenon.
4. Reporting responses from the institutions and reconstruction of the process: network of the different actors and their role.

The instruments are those typical used by the qualitative research: semi-structured interviews, open-ended questionnaires, in-depth interview. In particular, in order to recognize perception of the phenomenon from the subjects coming into contact with victims of trafficking among asylum seekers and beneficiaries of International protection, as well as the peculiarities of the phenomenon and the assistance pathway offered to victims, semi-structured interviews were conducted to selected subjects (in consultation with SPRAR, Gruppo Abele and On the road) on the basis of their experience. The territories covered by the qualitative research (Piemonte, Veneto, Emilia Romagna, Toscana, Marche, Puglia and Abruzzo) were selected on the basis of a first recognition aimed at finding important work experiences, or the presence of asylum regional coordination, of collaboration between SPRAR centres and local associations dealing with trafficking, presence of CARA where, according to press reports, the phenomenon exists ³¹.

In particular, the research involved:

- 18 SPRAR operators (codified with OS) and 21 operators from the trafficking

³¹ Serious cases of sexual exploitation and small-scale crime have been recently recorded in numerous CARA, through the witnesses of migrants and operators. According to what stated by the Association ARCI, in the CARA of Castelnuovo di Porto, near to Roma, the exercise of prostitution and selling drug, both inside and outside the centre, are frequent (cfr. Il Fatto Quotidiano of 23/09/2103), whereas in the CARA of Mineo (Catania) an investigation has been initiated by the Public Prosecutor of Caltagirone on a huge ring of sexual exploitation and "abortions due to the forced prostitution of nigerian women came to light from the statements of the doctors of the hospital in Calatagirone" (http://inchieste.repubblica.it/it/repubblica/rep-it/2013/10/16/news/clandestini_il_grande_business_da_lampedusa_a_roma-68743833/).

reception system (codified with OT), through self-completion of two different , mainly open-ended question formats;

- 20 projects of anti-trafficking street unit (codified with US), through the completion of a semi-structured questionnaire aimed at recognizing the perception of street prostitution from the team;
- 69 coordinators of SPRAR facilities (codified with RS), through the completion of some questions added to the annual reports on the project;
- 11 experts as privileged witnesses (codified with TP), such as members of Territorial Commissions, legal operators, associations or local bodies representatives, through an in-depth interview.

04 MULTIFORM PATHWAYS IN THE CONNECTION BETWEEN TRAFFICKING AND ASYLUM: POINT OF VIEW OF OPERATORS

Before defining the peculiarities of the phenomenon as arising from the analysis of the empirical material collected, it is useful accounting, in analytical terms at least, its different manifestations. How do the “insiders” mean the connection between trafficking and asylum? The perception of the phenomenon seems to depend mostly on approach adopted and specific professional experience of the observer. First of all, where, on the one hand, the operators of the asylum system report an increasing presence of victims of trafficking among those who enter International protection circuit, on the other hand, operators at services directed to victims of trafficking report cases of asylum seekers (or alleged ones) among those people involved in trafficking. Such lack of uniformity of the situations described by them needs to be looked into more deeply.

First of all, the sight of the street unit operators focusing on the sexual exploitation taken place on the road is an undeniable asset for an overall idea of the connection by showing all those who have not been (officially) identified yet and are still outside the protection system. It is a partial “picture” that, although “out of focus” because of depending on the subjective perception of the operators which are not able to verify the identity and the legal status of people met³², catches the state of the asylum seekers presence among victims of exploitation in its more evident aspect (against the hidden world of *indoor* at least), and gives, at the same time, a comparative framework where placing the different cases.

This research has involved twenty projects of Street Units operating in Piemonte, Veneto, Toscana, Emilia Romagna, Abruzzo and Puglia, differently characterized in terms of size and intervention basin. The completion of a semi-structured questionnaire made it possible to obtain quantitative information that, albeit based on a insufficient number of cases, are of main interest for the present analysis. Between December 2013 and February 2014, the Street Units involved met, on average, 146,5 people (mostly women) of a total of 338,4 contacts. The main countries of origin of the prostitutes are Nigeria and Romania, followed by Albania, Bulgaria and some Latin America countries (in particular Colombia and Brazil). According to data reported, an estimation of the average percentage of the victims of trafficking, taken with precautions, is equal to 64,8%³³. It is important

³² The street unit operators do not generally record in their *schede di contatto* (sheets of contact) the legal status of people met. Asking for documents does not help in creating a confidential relationship and, furthermore, it is not included into the aims of the intervention. This does not preclude the possibility that the girls show their residence permit.

³³ In three questionnaires, no estimation was disclosed.

to remember that the incidence of trafficking on the global phenomenon of prostitution is a controversial issue crucially linked to the parameters of interpretation (even value-based ones) not shared among sector operators. In support of such subjective perception, shared by the members of the team, it was also asked, as indicator “*alla lontana*” of forced prostitution, to specify the method of control on the victims detected during their action on the street. Among the mentioned forms of control, there are phone calls (14 quotes), received from the women at time of meeting the operators, the presence of “observers” (mostly men) who control from distance (12 quotes) or who come with their car side by side to the vehicle of the operators (6 quotes), the direct control from other prostitutes (6 quotes), or from the *madam* (2 quotes) and, finally, the appearance of signals of distress, worry, fear, closing from the women themselves (5 quotes). In one quite worrying case, tattoos were found on the woman body.

“*The signs of exploitation found during the actions, specially in night-time, by the Street units are many: women during talks constantly cast a glance in a specific direction and they often show signals of distress and worry due to the fact they are talking with our team; during actions, cars with men on board place side by side or go by (it is likely the exploiter and not customers) near the vehicle used for the intervention in order to “control” what is happening; male figures were seen controlling the girl on the street, on foot, on the other side of the street; sometimes tattoos are found, on the women’s neck, with the initials of their partner/exploiter name, as a mark; very often women receive phone calls from their mother-tongue people, usually men, who ask them information on what happens while the contact with the operators occurs (US2P).*

“*The phone calls that the person receives (while working) during the contact with the Street Unit team or during accompanying to health services. Presence on the street, people transiting frequently with their car while woman is prostituting. The impossibility to speak in private with the woman (they are normally “escorted” by a colleague who controls, leads the conversation and takes part of the sanitary accompanying). In one case, the team was followed by a car, probably from the criminal group, after having accompanied the woman to health service.(US9V)*

Data on perception –albeit approximate- of the legal status of the *on the road* prostitutes from Street Units give an additional element to understand the phenomenon. If, on the one hand, in 10 questionnaires completed by operators it is stated that, in their opinion, prostitutes do not have a residence permit, on the other hand, it is reported that in 12 projects the majority or roughly half of people received are EU citizens. Moreover, asylum seekers and holders of residence permit for humanitarian reasons are outnumbered, respectively in the statement of 6 and 8 teams, while sporadic cases of refugee status and beneficiaries of subsidiary

protection were reported in 4 and 3 forms. Those who have a residence permit for work are outnumbered for other 9 projects.

In such framework, victims of trafficking holding a status relating to International protection were reported in more than half of the cases (12 projects out of 20); the average impact of these cases on the total number of victims of trafficking (from each nationality) is equal to 29,4%. It is important to underline that, indeed, those cases are mainly concerning Nigerian people while only in one questionnaire it was reported a contact with Sudanese people, victims of labour exploitation in rural areas.

According to Street Units interviewed, the connection between trafficking and asylum refers only to Nigerian women who are subjected to sexual exploitation. The application for International protection, induced by the criminal organization, is instrumental to obtain a residence permit, even temporary, so to preventing deportation or detention in a CIE. The functioning of this mechanism, that it is a coercive mean against the victim³⁴, will be further developed; at this stage it is enough to record that, for some operators, women know quite well the asylum procedure and its misuse, for others ones, due to the vulnerable condition they live, women are not aware of their legal status and its relating rights and duties.

“Almost all girls are instructed to the procedure: 1) to seek asylum (which is rejected because they are Nigerians); 2) to appeal against the rejection from Commission (it takes 1-2 years); 3) to appeal against the refusal at first appeal (it takes further 1-2 years); 4) finally, in case of not granting one year residence permit for humanitarian reasons, to ask for reconsideration (less than one year). Therefore, by using Italian bureaucracy timing, they have between two and five years to find other ways to regularize their position preventing deportation.

(US1P)

“Nigerians, often not aware of the procedure for obtaining documents, rely on exploiters which induce them to ask asylum. They often get into lawyers hands who take advantage of their vulnerable situation and of their lack of knowledge

of the Italian law. (US5P)

Operators working at reception centres for trafficked people so-called *art. 13 e art. 18* or in other low-threshold services (such as help desk) describe a widespread form of connection between asylum and trafficking. First of all, besides people which during reception show a residence permit referring to International protection (such as the typical case, mentioned above, of Nigerian women with a document certifying their application for asylum or men which, after having obtained the status, fall into the net of labour exploitation), there are also people

³⁴ See. *“Richiedenti asilo e vittime di tratta tra differenziazione dei sistemi di protezione e necessità di coordinamento”; Op. cit.*

who had to leave the asylum circuit because their application and the following appeals were rejected.

“Many women received into our programs, mainly of Nigerian nationality, get into programs under art.18 with application for asylum made in the past, often rejected because it was considered not comprehensive, at time of entering Italy at instigation from the madam or the exploitation circuit. (OT14T)

“Many men received in recent years, mainly coming from Niger, but also Ghana, Burkina, etc., aged between 22-30 years, at time of access to the reception facility, submitted already the application for asylum. Almost all after having their application rejected by Commission turned into illegal migrants and had to pay the debt for the travel, often organized by criminal compatriots for exorbitant fees and behind false promises of job. Reasons for leaving are usually linked to desperate conditions of the countries of origin or to belonging to specific social or religious group. (OT6P)

A further situation refers to those who applied for asylum during the so-called “North-Africa emergency” and entered programs of social protection in response to their cooperation in investigative actions relating to combating illegal immigration (for instance, for reporting the smugglers or other members of the criminal organization).

“It is about both men and women that applied for asylum (North Africa emergency and also other situations) and afterwards, due to investigative actions (linked to combating fraud in document regularisation), they entered protection programs (OT13V)

“We received a Togolese man of 34 years, L..According to his stories, he escaped from Togo for political reasons and entered Italy during Libya riots in June 2011. he obtained a residence permit for humanitarian reason. After having been received in different “Emergenza Nord Africa” projects, he was cheated by a cousin which promised him a residence permit through 2012 amnesties. Because the cheater was known by FF.OO as alcohol addicted person and quite hostile, it was considered appropriate to provide L. with a protected situation. (OT11V)

Secondly, operators report also cases of trafficked people which have never entered asylum circuit but in their migration story there is evidence of requirements for applying for International Protection. As it will illustrate later (see paragraph on methods for recognition), such requirements usually come out at time of the person is taken into custody or enter a reception centre; sometimes the institutions/ services (social services, reception facilities, security forces, CIE, etc.) state, into the accompanying report, existing elements of exploitation or “suspected trafficking” within the migration pathways, apparently forced. It is important to note that

the cases mentioned in the questionnaires refer to males as victims of labour exploitation from various nationalities.

“Two Egyptian boys lodging the facility for now entered as victims of human trafficking but they left a situation of religious persecution in their country as they are Coptic Christians (OT16T).”

“An Albanian woman of 40 years: after 10 years in Italy, she met our services; victim of violence from her husband, her sons have been adopted, condition of great fragility. She feared return to her country for the reactions of her husband family. We propose to apply for humanitarian protection but the woman interrupts the path (OT14T)”

Taking the point of view of SPRAR operators, the connection between trafficking and asylum assumes even further forms. With regard to asylum seekers or beneficiaries of International protection received into SPRAR projects, the experience of trafficking often emerged during the period of detention (mainly, during interview with legal operators or psychological workers aiming at preparing the personal story to be submitted to the territorial commission) or it was already known thanks to report from other body (supporting facilities, CARA, police stations, etc.). This last case occurs when people, during first reception, have shown clear inconsistencies in re-enactment of personal migration story or trafficking typical modalities of entering Italy. In certain circumstances, the experience of trafficking emerged during the interview of the Territorial Commission. It should be observed that potential victim is not often willing to open up, despite reassurances, confidentiality of the relationship built and specific protection actions from the SPRAR operators, as shown by the following quote:

“In at least three further cases of reception of Nigerian girls, we strongly suspected that they could be involved into trafficking; throughout the duration of the project, we have been trying to find the best way to obtain information, by communicating, directly or indirectly, the possibility to explain the situation in a comfortable and protected context in order to find the most appropriate solution (staying at SPRAR centre but with a specific focus on the situation or placement in a specific project for victims of trafficking). from this point of view, it was a failure because the girls did not express anything (...). Only in one case, into the accompanying report sent by CARA, it was mentioned the possible involvement into a situation of sex exploitation in Libya. (PS55)”

Even though sporadic cases of women who “cracked up” after the first attempts of the operators to “hook” them or even those who declared themselves victims at time of entering the project, the factor that generates a request of aid, in the words of an interviewee, takes over only after some time, when the expectations drastically come to resizing, the awareness of the deception is taken or the

conditions of practicing prostitutions became unacceptable.

“ Let me tell you a story: North Africa emergency, one girl who is now in our centre under art. 18 arrives from Lampedusa with her madam which was the manager of the connection house where she used to prostitute herself in Libya... During civil war they both escaped and the madam organized the travel. Once arrived in Lampedusa the madam said to her: “since I brought you in Europe you must carry on working for me and you must give me 25 thousands euro”. The girl which is very smart reported to Save the Children the situation, the two are separated, the girl is sent to the north while the madam remained to be “monitored” into the CARA in Foggia... In the following months, she was arrested and the girl has granted the subsidiary protection. This is a case of admixture of asylum seeker, displaced person and trafficking. (TP3)

“ Initially it is difficult that factors of crisis take over because, in relation to this target [Nigerian], besides violence and bad conditions related to the street work, there is a perception that the organization which organized the travel to Europe fulfilled what promised. In the first months it is quite difficult that a crisis occurs. But later, when they become aware that the residence permit will not be confirmed, the street work gets harder because they don't make enough money, the life cost is high ..thus the migration project is not fulfilled, then they start looking for other ways to regularize their position... Moments of crisis that lead to the services could occur as a consequence of other relational contexts, such as, for instance, when, in the couple, there is use of violence, but at that point there is no a situation of exploitation but abuse. The real challenge would be to recognize, if present, moments of crisis at the initial stage because it is there that the danger, the exploitation are lying...and the possibility to be covered by. 18. (TP4).

To complete the frame work, there were also mentioned, cases of asylum seekers coming from trafficking circuit which have not granted the social protection and cases of “subsequent application” namely the submission of a new instance for International protection –from people which have their application rejected- on the basis of reasons linked to their experience of trafficking. The situations, where the seekers/beneficiaries of International protection, victim of trafficking, could be in, as perceived and reported by the operators, are very articulate. As a consequence of such complexity, the general characteristics of the phenomenon will come into focus as below.

05 PECULIARITIES AND DEVELOPING FEATURES OF THE PHENOMENON

Before outlining the main aspects of the phenomenon of the connection between systems, it is appropriate to lay down the analysis approach through which to interpret the different emerging. A privileged witness interviewed suggests to adopt as a benchmark the “process of victimization”, in order to distinguish, on the one hand, those who suffered the victimization in their country of origin and seek asylum to prevent deportation, on the other hand, those who fall into the circuit of exploitation after having granted a residence permit for International protection due to the lack of network of support and because of being outside integration programs.

“I think it is important to specify whether we speak about asylum seekers victims of trafficking or victims of trafficking with asylum seekers paths because, depending on the point of view used to observe the two phenomenon, it is possible to make a distinction. We are not asking ourselves how many angels are dancing on the head of a pin...it is necessary to focus on the victimization process and distinguish whether such path initiated in the country of origin, and thus, we are in front of victims of trafficking which use the asylum system to avoid being deported or they are asylum seekers which, after having conducted this path and once they obtain any form of International protection, could become victims of exploitation because they have not initiated an integration process or they belong to a vulnerable categories not covered by SPRAR projects or they have not (their or institutional) territorial support network (...) these last ones have as the only path of victimization the smuggling (...) (TP5)

To accept such distinction, first of all, it is necessary to consider the second category and exclude those who, having a defined initial migration project, used *smuggling* (maybe being subjected to harassment and violence), got in touch with the asylum system and, lacking a support network, found a place into the exploitation market³⁵. The aspect of trafficking/transportation for purpose of exploitation must remain central. As stated by a legal operator interviewed, there shall be a specific criminal plan of exploitation and reduction of capacity for self-determination in order to legally consider the hypothesis of trafficking for cases of asylum seekers and holders of International protection who are victims of “delayed” exploitation (sexual, labour and other informal economies).

³⁵ These cases could be included into the situations covered by the legislative decree 109 of 16.7.2012 (implementing the Directive 2009/52/CE). As well as providing for aggravating circumstances of the crime laid down into art. 22 of the *T.U. Immigrazione*, punishing the employers who use illegally staying foreigners where the employees are more than three or minors or they are subject to conditions of exploitation laid down into art. 603-bis of the penal code (crime of illicit mediation and labour exploitation), the decree establishes, in the latter case, the granting of a residence permit for humanitarian reasons for the foreigner which “filed a complaint and cooperates in criminal proceeding against the employer”.

“We are not talking about undeclared work or mechanisms that arise in Italy, for instance in agriculture, when a foreigner without residence permit fall into exploitation net.. rather, there are many cases where such exploitation and restrictions in their personal liberty belong to a criminal plan made already in the country of origin.. for instance, those quite usual cases in which the person is being called with a seasonal work visa, where there is a structured plan of exploitation on Italian territory carried out, from one hand, by people belonging to the same nationality and, from the other hand, by Italians. In such case the labour exploitation that constitutes a form of trafficking, thus with a reduction of capacity for self-determination, is intersected with the issue of the application for asylum (TP3).”

Secondly, assuming that the exploitation of people trafficked could occur at different stage of the path, the following categories emerge:

- Victims exploited before leaving, objects of internal trafficking in the country of origin;
- Victims exploited during the travel, in one or more country of transit (for instance in Libya);
- Victims exploited after entering Italy;
- Victims exploited after entering Italy following the granting of International protection.

Actually, as reported into UNHCR guidelines³⁶, an application for International protection submitted by a victim of trafficking could be generated by different circumstances: the person could have been trafficked for a purpose of exploitation and have sought protection of the State where they are at that moment; the victim could have escaped abroad following the experience of internal trafficking; the victim could have not been involved into trafficking but fearing really to be and thus leaving their own country to seek protection. Or even, the victim could run the risk of suffering serious harm (discriminations, retaliation, confinement) or being trafficked again when they return to the country of origin. In all these cases, the recognition of the International protection to victims of trafficking shall be subject to the existence of “founded fears of persecution”, linked to at least one of the reasons provided by the Geneva Convention, in particular, belonging to a specific “social group”. But such membership generates complex situations to assess on a case-by-case basis. The legal operator interviewed further notes:

“in my point of view, a person who is victim of trafficking belongs to a special social group(...) because, as recently the Court of Justice stated, there is a set of historical coordinates (...): being born in a particular place where a phenomenon

³⁶ UNHCR, *Guidelines on International Protection. The Application of Article 1A(2) of the 1952 Convention and/or 1967 Protocol Relating Status of Refugees to Victims of Trafficking and Persons at Risk of Being trafficked*, 2006, <http://www.unhcr.it/cms/attach/editor/ITA-Tratta.pdf>.

is rooted, belonging to an age group subject to this criminal activity, belonging to a particular gender... A number of characteristics that, in a specific time and place, made that person belonging to a particular social group and risking, so as Nigerian girls, a form of persecution such as trafficking (or, when already suffered, re-victimization) from people who are not effectively combated by the legal framework.. these elements permit victim of trafficking to seek and obtain International protection. The analysis should be carried out on case-by-case basis. I don't agree with an apathetic approach but not even for the exclusion, as has been in Italy until now.. by an inability to understand that in many cases being a victim of trafficking is covered by Geneva Convention (TP2).

Once reiterated these conceptual aspects, it should be noted the overall perception of the connection between trafficking and asylum. In general terms, among trafficking and asylum operators there is an undefined view of the phenomenon. On the one hand, anti-trafficking Street Units, as already mentioned, estimate that there is an average of 30% of victims of trafficking seeking asylum, on the other hand, SPRAR operators indicate, out of a total of 18 questionnaires completed, 8 cases with a “medium” presence and 6 cases with “low” one. To support this perception, they have been reported some evident cases of smuggling and some examples of ambiguous connection, where the victimization aspect is not so clear. The predominant idea of privileged witnesses interviewed which, albeit from different points of view, have experienced a direct knowledge in this regard, is that the phenomenon has remained almost stable in recent years, concerning at least its structural features, but there is not a full awareness.

“The connection between trafficking and application for asylum is an aspect that is not investigated very much and even less in operators practice. Today the phenomenon is certainly very important, in particular when talking about some specific nationalities and above all Nigerians, because victims of trafficking are often being introduced through the application for asylum following previous agreement relating to submitting the instance, breaking out of asylum system and entering exploitation circuit. (TP9)

“The phenomenon in itself looks the same. “Aesthetic standards” and specific aspects could change but trafficking in itself has solid grounds which are affected by the evolution of economic system of a society (...) then there are periods concerning a certain economic sector or certain nationality...but these are only details...the phenomenon remains almost the same in terms of its main aspects. (TP2)

“We observe things from Territorial Commission point of view, thus concerning the applications for asylum submitted in Italy, therefore it is difficult to have an overall view of the phenomenon and even a clean perception of it (...) Our observation points are the reception centres through the project Presidium, the reception centre in Sicily, Puglia e Calabria, and above all the territorial

commissions. We have had this privileged point of view since 2005, when the new procedure was adopted and included UNHCR among Commissions members, and it is difficult indeed, in my personal point of view, to imagine a development but it would be useful a confrontation with other colleagues...

(TP10)

Therefore, operators and experts involved in the research agree almost unanimously that the Nigerian target is the main involved group into the connection between trafficking and asylum. Consequently, before analysing the involvement of other nationalities, it is necessary to focus on the features of such predominant form of trafficking.

In quantitative terms, trafficking from Nigeria to Europe for the purpose of sexual exploitation involves thousands of women coming mainly from Edo State³⁷. A large portion of them apply for asylum by the well-known mechanisms. The application for asylum is mostly induced by the criminal organizations (sometimes involving lawyers) to prevent, using the long term of the Italian bureaucracy that can last for 2/3 years including appeals, deportation or being sent to a CIE. Even if the instance is rejected in the majority of the cases, the temporary residence permit for seeking asylum enables the madam to exploit the woman for the necessary time for ,at least, paying the debt off.

“ The majority of the target group, we intercept, consists of Nigerian women which I would not identify as asylum seekers, probably getting a flight to Italy following trafficking routes, they have been probably already introduced to sexual exploitation and, once in Italy, the criminal organization induced her to apply for asylum. Therefore, due to this instrumental use of it, those women are not considered as asylum seekers because they are not really aware of having applied for international protection. They just follow what the criminal organization has promised to them and in fact they obtain a receipt of their application.. which enables them to legally reside for one year and half or two years and pay the debt off through their street work...even if at the end there will be a rejection. (TP4)

“ Actually, entering asylum process is not that complicated that means those arriving submit the application for asylum in order to be regularised.. the information has become widely used and also the exploitation channels shall be fitted with that. The typical case is: Nigerian women, very young and pretty, which happened to turn 18, “casually”, a couple of days before arriving to Italy, accompanied by somebody, even sometimes by a lawyer, sometimes by the madam... and who have their stories ad hoc planned with all required elements even for a further appeal. (TP5)

³⁷ The functioning mechanisms of the exploitation pattern have been long the target of analysis in literature. Cfr. e.g. Carchedi F. (a cura di), *La tratta delle minorenni nigeriane in Italia*, Unicri, 2010 and, among those less recent contributions, Bernadotti A., et al. (a cura di), *Schiavitù emergenti. La tratta e lo sfruttamento delle donne nigeriane sul litorale domizio*, Ediesse, Roma, 2005.

The instrumental use of the application for protection does not mean that, before the lack of credibility of the facts, the only answer could be the rejection. Indeed, as will be demonstrated later, some Territorial Commissions in the north of Italy, where this issue has been considered very much since a long time, tend to treat these stories, unlikely tales or clear inconsistencies, as significant indicators of trafficking, and to use, during the interview, various strategies of “hook and unveil” in order to convince the applicant to report what really happened.

“Imagine to listen to the same story for years...then, at a certain moment, the members agreed this situation was difficult to be coped by, there was probably something serious up, so they started to confront them with Police (...) The development resulted, besides from the UNHCR guidelines, even from the other members which said: That's it! it is clear that these stories are not plausible but we should not stop at this phenomenon” (...) When we have doubt on dealing with a case, we propose the person to talk with competent persons, to suspend consideration of the case.. It occurs very often they crack under this request.... (TP6)

“I have been always surprised by the fact that such cases do not often arise during Commission interviews. Doubts and suspects that there could be elements relating to trafficking appear many times (...) but the person radically denies it, so it is very difficult for us to carry on conducting the interview and deepen it (...) sometimes the person interviewed states to prostituting but also says not be forced in doing it, so we can hardly go more in depth and ask for questions, even by taking intervals... In some cases, we call again the person for interview in order to create a more confidential atmosphere. (TP7)

In merely qualitative terms, the typical path, reported in the majority of the stories mentioned, refers to young women (also minor) in vulnerable situations which are recruited under the perspective to find better conditions of life through the activity of prostitution *easy* and *profitable* or another kind of work (hair dresser, housekeeper, etc.) in Europe. The element of vulnerability has been underlined by many operators which have identified poor contexts of origin but also fragility in personal relationships and within families claiming abuse, psychological problems due to traumatic events, and also cognitive disabilities. Even when deceit is little, the violence conditions, the oppression and danger of the “work” proposed are completely hidden (so as the real amount of the debt and entity of the exploitation). The families of origin are often involved in the “recruiting pact” (sealed with voodoo rites) and could be, under threat of retaliation and revenge from the traffickers, a further element to exert pressure.

“In the ways Nigerians exploit, there is a mixing of the myth of leaving – so they escape from a social and economic poverty, specially concerning woman - and the role of family which is pressing and taking part of migration as well as

exploitation plan. Then, there are the madams with an important leading role, operating as "hook", because they are popular and show off they succeeded in their individual migration plan... A model. These are women who come full of jewellery, renting a car, sending things home, "winners". (TP1)

" These criminal organizations have the sense to take them from their village... one girl who has always lived in a hut in the middle of nowhere, what could she know? If they say to her a waitress in an Italian restaurant, she believes it, even the whole community collect money for her... but today the phenomenon is so developed that the information circulate (...) some girls who arrive knows more things, so they think we could be able to manage it and, after some months, could get out of it, but this does not mean there is no exploitation, even if the girl imagines another way for her, imagines that once in Italy she could escape, but then she finds herself into a system where it is not easy to escape from. (TP8)

" Ashocking event makes people (traumatic events, family or economic problems, etc ...) more fragile and weak to believe in illusions and being attracted to a work proposal in Europe that soon turns into a way of exploitation (OS1PI)

By taking advantages from strong relations with institutions officials, the criminal groups provide the victim with travel documents and organize the departure. In occasion of plane ride, women (normally those ones more pretty and "lucky") shall directly reach (or sometimes passing through other countries) the final destination and immediately enter prostitution. The land-based route to Europe, instead, that implies crossing desert with makeshift means and other transit countries with many stops in between, exposes women to any kind of abuse and violence. Many of them tell that, once reached Libya, they have been imprisoned and raped by Libyan militaries or they have been forced to prostitution into the so-called "connection houses" waiting for crossing the Mediterranean sea to reach Italy. Therefore, the sexual exploitation of trafficked Nigerian women starts long before reaching Europe.

" Tracks on foot, stop in Libya and then boat trip... these travels make people more tired and tired than in the past, physically and psychologically... and more vulnerable in front of being subject to the debt or falling into trafficking soon after (...) in many cases, they start into prostitution in Libya. Libya is the place of engagement and torture. (TP1)

" People coming from Libya, often before boarding to Italy (through traffickers against payment), are "bargaining chip" between Libyan police (which gets people out of the prisons on bribes or asks for money to jail only part of people in agreement with traffickers) and traffickers who organize travels to cross borders of the neighbouring countries, as well as to cross desert, in humane conditions. (OS5M)

“As more pretty is the girl as more probable is that she takes a flight, the shorter she travels, the less possibility to be exploited during travelling (...) she is a precious asset, it is opportune she flights because she could get lost during land-base route, this has been reported. (TP9)

As said by many in interview, a large number of victims of trafficking, mostly Nigerian, have been introduced in Italy during the so-called “North Africa emergency” included into the flows of displaced persons fleeing from violence and conflict. Specifically instructed to apply for asylum at the time of landing, the girls were transferred, often with their traffickers, into reception centres, set up for that occasion, where they escaped from to start into prostitution. Without entering into the controversial aspect of the management of the emergency, there has been reported activity of prostitution inside and outside those centres and no measures of combating it were adopted³⁸.

“We interviewed about twenty girls who experienced Libya and, in order to reconstruct their story, it is emerged that all were poor, from families torn apart, not educated, at a complete loss, which at one certain moment they take their chance and left with their boyfriend, without a precise destination...girls who reached Tripoli thinking it was Naples... and they found themselves being prostitutes to survive.. and the war started and they escaped... (TP3)

“The application was induced by the exploiter because the girl was received into places with no control, therefore she had a residence permit so she could have not been deported, and also she could have had a place at her disposal. This is not only exploiter's fault but even of the Government that creates this abomination without control, guidance, support, such as North Africa emergency case. (TP4)

“We have heard that in some CARA, while cases of women who prostituted before are few, is emerged that some women were induced to start into prostitution circuit by an exploiter inside the CARA. Ci hanno raccontato che in alcuni CARA mentre sono pochi i casi di donne che si prostituivano prima, è emerso che alcune donne sono state indotte a entrare nei circuiti della prostituzione da uno sfruttatore all'interno del CARA. What are those places for? And CIE are other terrible places as well, where the victims of trafficking are not aware to have rights. (TP1)

In relation to Nigerian model of exploitation and its connection with circuits of International protection, a privileged witness proposes an approach in contrast to the predominant explanation. As a counterpart of an increased awareness of the phenomenon from operators which work in trafficking sector or SPRAR projects,

³⁸ Giovannetti M., *L'infinita emergenza*, Cittalia-Fondazione ANCI Ricerche e Studi, Roma 2013. Pannarale L., *Passaggi di frontiera. Osservatorio sulla detenzione amministrativa degli immigrati e l'accoglienza dei richiedenti asilo in Puglia*, Quaderni de L'altro diritto, Pacini Editore, Pisa, 2014.

who effectively report a growing number of cases, the interviewee states that those cases are the “aftermaths” of the North Africa emergency because the instrumental use of protection is indeed down. In his point of view, the “real” trafficking, managed by well structured transnational criminal organizations, uses to transport by flight a selected number of women using mainly touristic visa, family reunification or migration flows. In fact, using a mere commercial consideration, it is not worth for the trafficker investing money in such business (the expense for documents, visas, bribes could be up to 10.000 euro) and then running the risk to loose or waste away the “goods” during the exhausting crossing of the desert. Thus, the trafficking on a “land-based” route is marginal in the actual Nigerian model and involves only people subject to “homemade” strategies not linked to serious organized crime.

“ In my point of view, the phenomenon is not that strong now because the top was reached during the North Africa emergency (...) escaping within big flows, many girls arrived (...) buying a girl, spending money and directing her to a track on the desert where anything could happen, even death, it is not a profitable business from its starting point. This is my idea: the issue of trafficking has become even more important in terms of economy and in recent years the organized crime has been even better based itself on a transnational level... serious organized crime manages quite well its trade, it does not get involved in these travels of misery, boats, trafficking is a luxury... Girls continue to reach our airports with a visa, family reunification... bought, paid, put on a plane and after two days they are in Europe... healthy, clean, with documents, ready for the street.. all that comes after is marginal, poor thing, “homemade”, things of fortune... (TP3)

In addition to the Nigerian group, the connection between trafficking and asylum involves other nationalities (as well as other social groups such as men, transgender or minors). Beside “sporadic” or “smaller” cases of people coming from other African (Senegal, Cameroon, Somalia, Eritrea, Ivory Coast, Togo, Egypt, etc.), Asian and, to a lesser degree, European (Albania, Ukraine, Serbia) countries, it was highlighted the specific link between organized trafficking/asylum and some specific contexts of origin. These countries are characterized by serious economic backwardness, and also by strict cultural or religious traditions and slave-driven social structures. Paraphrasing an interviewee’s words, the principle of the asymmetry in power, which trafficking is based on, could be developed in any part of the world, where those who act a limitation of somebody else personal freedom cannot be prosecuted, for many different reasons such political, historical, economic, by local authorities. In such sense, trafficking shall be legally relevant even in the context of asylum. Bangladesh is one of the most mentioned countries. By exploiting social ties defined as “feudal” by somebody, organized group of *trafficking* recruit Bengali

people (almost all men) to start them into exploitation circuits at informal sectors of agriculture and other services. The slavery condition lived in the country of origin is reproduced in the relation with traffickers, so that those people rarely have the sense of the oppression suffered and request measures of social protection. Within this system, that seems to characterize also the Pakistan target, there is a tragic situation concerning the undisclosed number of trafficked minors through the channel of fake family reunification which are exploited into the market of male prostitution.

“People from Bangladesh is another target which presents indicators of the victims of trafficking, such that after the procedure for asylum seeker it is included into exploitation recognised before leaving... some of them ask for asylum but they do not enter the second level reception of SPRAR ... they have an initial debt and another one with those who make a fake work contract (...) this is a more visible target than Nigerians which passes through the asylum system, enter trafficking system for short time but the recruitment, transfer and exploitation are typical of trafficked people. But it is very difficult to identify and then work with this target (...) Concerning minors, they are included into informal economy but they are also functional to male prostitution developed into Bangladesh community. This refers also to minors from Pakistan community; but I have no information on Indian community . (TP4)

“Many cases occurred during North Africa emergency and, in particular, cases of trafficking for labour exploitation of International protection applicants coming from Bangladesh. A constant increase of business activities managed by Bengalese people (mostly mini-market and food shops) generated the need of cheap labour; some asylum seekers coming arrived in Italy in 2011 have been involved in such activities and they abandoned reception and integration paths to enter the circuit of this particular form of trafficking. (OS10ER)

Effectively, the collected empirical material shows that the presence of seekers or beneficiaries of International protection which are victims of serious labour exploitation even from other nationalities but the limited number does not assume the existence of a structured relations between country of origin and form of exploitation. The phenomenon of the “forced labour” remains largely undisclosed and even if the victims are identified, it is very difficult to obtain a residence permit under art. 18 (even with a mere legal process). Despite the legal development at a national and European level, the increasing awareness among the operators working in this sector, and the considerations launched on such issue, there are difficulties concerning the enforcement of the regulation, the construction of an appropriate reception system and, above all, the identification of the different forms of being involved, often not clearly, as following:

“[Sometimes] the exploitation is not massive but it concerns only few people

where it is not always possible to identify elements of trafficking because this implies a high level of self-determination from a person, a kind of sense of awe... The boundary among scam, exploitation and trafficking is not always so thin so that makes possible to say when we are in front of one of them. This is technically complicated but also very important because an application for asylum could ground only on a real hypothesis of trafficking... The violated value is the capacity of self-determination, not the economic capability, as in the case of fraud (TP2).

The proper identification of a situation of serious labour exploitation and the invisibility of the victims represent an overall problem. Leaving aside for the moment the issue of the application for asylum and focusing the attention on entries resulting from annual flows and for seasonal work, the basic mechanism, organized with “cells”, is resumed as following: a middle-man, key role of the system often belonging to the same local community, connects the recruiting net to the basin of employers which could take advantage from the migrant; the middle-man agrees with the employer and the request shall be initiated; once the authorisation is obtained, the worker enters the country and, to pay the debt off, is started into exploitation. Even more than in sexual exploitation, the migrant which comes from an extreme vulnerable situation adheres to the proposed migration pathh but without a real awareness of the conditions of exploitation, blackmail and limitation of right which they will be subject to.

“This is true in the majority of the cases, in some residual cases, the employer and the recruiting net know each other, but this occurs in situation much less investigated, on a higher level. I remember a situation where a big Italian enterprise used cheap Asian labour that was transferred to another country in Asia in which a society controlled by that Italian enterprise engaged in that place the Asian workers and then transferred them to Italy; in this case the net is clear and even the participation of the employer, but such disclosed cases are few (...) these are the so-called associations “doppia sponda” namely they are there and here but they are the same one thing. (TP9).

A further aspect of the connection between trafficking and asylum, we mostly ignore how it functions despite the increasing attention on it, concerns the exploitation of begging. According to an interviewee, reporting a case in Veneto, this phenomenon intended to be an activity of pleading in specific places (churches, supermarkets, car parks) relates to people with residence permit for subsidiary protection or humanitarian reasons and uses a network of subjects which manages the occupancy of the “working places” and also benefits from the income.

“The failure of the asylum integration policies is clear in the phenomenon of the exploitation of begging that, according to a research we are conducting in Veneto, involves Rom group from eastern Europe, for its 60%, and men and

women from Sub-Saharan Africa, in particular Nigeria, which apply for asylum, for the remaining 40%... (TP4)

Concluding the general frame of the phenomenon, it is described a brief description of the main changes perceived by the interviewed operators. As a result of regulations and repressive actions enforced by the security forces in the last decade, trafficking has changed significantly its main features. As already set out, the evolution has extended the forms of exploitation and the target of victims involved, in terms of context of origin, gender, age, socio-cultural profile. In particular, even though the prostitution remains the most visible and analyzed form of exploitation, a large number of serious labour exploitation of people from different nationalities has been reported, aided by the general economic crisis and the existence of large sectors of informal or hidden economy in Italy. Moreover, quoting the results of a recent research³⁹, an interviewee reports not only the increase of “new” forms of trafficking aimed at forced begging and coercive illegal activities but also cases of victims subjected to many forms of exploitation (for instance, women forced to prostitute or pushing drugs; men obliged to retail, to beg, to push drug or prostitute).

Concerning the routes, these ones change from time to time, depending on the combating measures adopted. It is important to reiterate that, even if the media are concentrated on immigrants landing on South Italy coasts (and the tragic shipwrecks occurred), a significant part of victims of trafficking enter through permit for seasonal work, show-business work, family reunification and other apparently legal forms, then turning into exploitation when the previous agreement of regularization is not met.

“Talking about the identification at time of crossing the border, there are residence permits typically identifying a case of trafficking, for instance the visa as per art. 27 or the residence permits for artists, dancers in clubs... behind such residence permits, theoretically, we know there is an intention of sexual exploitation. We have conducted many trials for girls coming from Easter Europe, we won them... But surprisingly when a visa as per art.27 is requested to police, they don't ask anything more about the situation... (TP2)

In any case, referring to forms of exploitation, the main change reported by the interviewees concerns the general decrease of violence suffered by people into prostitution and a form of “negotiated prostitution”⁴⁰ arising, where more spaced of freedom and a (partial) participation to the income are granted. In these

³⁹ Cfr. Castelli V. (a cura di), *op. cit. supra*.

⁴⁰ The peculiarities of this form of exploitation have been documented in literature above all referring to Romanian women. Cfr. CPE, *Speranze, in vendita. Ricerca qualitativa relativa alla tratta a scopo di sfruttamento sessuale in Romania e Italia, nel periodo 2007-2010*, Progetto Anima Nova, Bucarest, 2012.

disguised forms of exploitation, the key aspect of coercion is represented by the sense of psychological subjection from the exploiter (with whom there is often an emotional tie), rather than the use of brutal form of control. Even into the Nigerian model, typically structured on a “female” management of exploitation, it has been observed that the presence of male figures covering an undefined role (boyfriends, protectors, punchers, brightening products or condoms providers, etc). All this puts the perception to be exploited down and reduces the possibilities to free themselves, also because of the fact to have part of the earned money, it states the “success” of the migration plan.

“The extreme forms of exploitation continue to be only for few nationalities, because, except some sporadic cases, the intensity of the exploitation drastically reduced(...) it is also a matter of fact that as both regulatory aspect and legal interpretations progress, leaving some transitional areas of freedom does not prevent the identification of an existing crime of enslavement. We know that the main point is the self-determination (TP9)

The same approach of using strategies of *soft* and elaborate subjection is highlighted into the labour exploitation:

“Generally, the longer we go on the finer the modalities become.. I mean, instead of saying “I am seizing your passport” now they ask for the passport pretending to renew the residence permit and they give a receipt from post office that, indeed, has no value but people think to have a valid document... therefore, these are tricks to avoid using clear and strong measures. Remaining into a grey area where the behaviour has not those illegal feature as exploitation... but nothing that could deceive security forces, lawyer, judge which have developed the competences in this issue and aimed at uncovering the phenomenon. (TP2)

Outlined the features of the phenomenon, all that remains is to examine the key issue of the recognition in depth.

06 THE IDENTIFICATION OF THE PHENOMENON: REQUIRED KNOWLEDGE AND CONDITIONS

The identification of victims of trafficking among International protection seekers may happen at any stage of their path (first aid at landing, reception or detention, ordinary controls, any contact with the social and health services, etc.) and it may involve all actors which, in various ways, meet the potential victims (such as security forces, social operators, members of the territorial commissions, lawyers, social and health personnel, etc.).

With regards to people staying at SPRAR centres, according to what operators of the projects stated, in the majority of the cases the identification of their condition of victims of trafficking is occurred during reception, above all with the interviews of the operators and, as said in the above paragraphs, through the recreation of their personal story to be submitted to the Commission. In other cases, the condition of victim has emerged during interviews with specialized operators, such as social assistant or psychologist. The necessity of detecting some signals from the time of arrival led to give a lot of attention to some aspects, looking for establishing a confidential relationship with the persons in order to enable them to tell their personal experiences. There are few cases where the person has been recognised as victim of trafficking before the reception into a SPRAR project⁴¹.

Beside the confirmed cases, various suspected ones have been reported, those cases that caused operators of SPRAR reception centres to doubt about the possibility for some beneficiaries to have experienced trafficking without being emerged before. When this case happened, the team of the project had collectively discussed about the condition of the potential victim among the asylum seekers. For instance, in one case, the suspicions were shared within the team in order to make all the operators informed and attentive to catch any alarming sign, so they could have promptly intervened if the condition of the beneficiary had worsened. In another case, the *equipe* established to launch the creation of a confidential relationship which could have enabled the beneficiary to come closer to the operator and, at the same time, to take the distances from those people which were an obstacle to the integration path or simply had ambiguous role towards the beneficiary. The *equipe*, in certain cases, periodically meets the beneficiaries of the project in order

41 To name but a few: one case was identified before entering into a SPRAR project by an operator at asylum desk who, during an interview, has re-enacted the personal story of the person assisted and, then, contacted the coordinator of a territorial reception project in order to conduct an interview together; in another case, the condition of the victim of trafficking was identified by the Police: a police intervention to a residential facility has revealed the conditions of exploitation, so at this point, people without a regular residence permit lodged the application of asylum and, subsequently, entered into a SPRAR project under Prefecture's report.

to monitor their needs and further discomforts, and in those suspected cases the *equipe* is supported by cultural mediators to strengthen the confidence of the beneficiary in the project aims and in the proposed integration pathway.

In some other experiences, beside the collegial discussion, there is the use of external professionals. In one of these cases, in fact, an external consultancy was required from operators working at projects under art. 18 and from a lawyer having dealt with trafficking. In another experience, the support of a trained mediator operating in a service relating to trafficking was required in order to offer the beneficiary a comfortable atmosphere to open up and tell the personal story. It should be noted the operating modality adopted by the *Servizio Stranieri* (Foreigners Desk) of the municipality of Torino where the staff exchanges experience and approaches to adopt for the cases during “sector meetings”. If suspected cases emerge, the *Servizio Stranieri* involves the educators operating at trafficking sectors: the first interviews are made by one cultural mediator and two educators whereof one acts as “external observer”; when enough elements are collected, the case shall be discussed in the sector meeting where it is decided which measure should be undertaken at first. Usually, an action of legal support and complaint to the competent Territorial Commission is also established.

Thus, with regard to how the SPRAR operators deal with cases of potential victims of trafficking to identify them, the process of the identification, mainly, involves the entire *equipe* and, only in few cases, is undertaken by a single operator. Moreover, in some experiences, the team required the cooperation of external professionals. Considering now the different opinions of the privileged witnesses, one of the conditions which is considered as the added value in facilitating the identification of a victim of trafficking among seekers or beneficiaries of International protection, is the time that the operators and other actors who get in touch with the potential victim have at their disposal. It is time, in fact, that enables the two parties that come into contact to create a reciprocal confidential relationship, in such way the potential victim have the opportunity to feel the sense of protection and tell the personal story; and again, it is time that allows the operator to catch those signs which are recognizable only by a direct and prolonged contact. The lack of time is often indicated as one of the critical aspects within the system; many voices arise to complain about the inadequacy of time and spaces preventing a potential victim to feel protected, to acquire confidentiality, to feel safe and far from threats and shame of being criticised, and to tell the personal experience.

There is another aspect to be considered within the process of identification: transmitting to the potential victim the value regarding the opportunity is given. Through confidentiality, it is possible to urge the beneficiary to tell the story

proposing to follow a protection and assistance pathway in return. Nevertheless, due to the severe trauma caused by what the victim passed through, one of the ways around the pain of the shock is denying it, not recognizing it and preferring alternative pathways of protection; this is why many migrant victims of trafficking for sexual exploitation which apply for asylum prefer not to show their real condition, this is reported by a coordinator of one of the territorial projects.

*“The conditions are only patience and understanding from those who support them, and the time (the confidentiality that is built up) because it is the only thing that could make the difference. Another element could be, somebody calls it “threat”, I prefer let them under stand we could be an opportunity, so if she want to take advantage from it she should tell us the truth, because inside that truth we can direct her to the best path. But this is a very difficult matter because, above all in the case I deal with, they know they can carry on using the *escamotage* of asylum, they prefer not to go back to that system” (TP8)*

We have already talked about the principle of convenience; one further element for the recognition of the phenomenon and consisting of providing the potential victim with something, such as residence permit, protection, assistance, so she might recognize her condition of victim. If assistance and protection are missed, there is not activity of identification. That is why, in Italy the art. 18. D.lgs. n. 286/1998 represented an essential instrument for the approach based on respect for human rights, as stated by a judge.

“it is the principle of convenience, we should offer something, this is what we should work on; the art. 18 has the great merit, still so “I don’t ask for anything but I give you” and that was the secret of art.18. But it does not make any difference, because the exploited worker is not interested on the program of the art. 18 but it would be preferably interested on a job opportunity, integration opportunity, maybe different from the one proposed to others, this is the point we should work on, not a question of amending the art.18, but of integration, of adjustment taking into consideration each different sector of intervention (...) the identified cases increase if the network intercepts potential victims, as more potential victims are identified as more they could emerge from the hidden market, and, obviously, it is important that something is offered to them: the residence permit. The number of women from Romania identified from 2009 is drastically decreased, since when Romania entered EU. For them the principle of convenience must apply, and for the workers the principle of convenience must apply” (TP9)

In order to comply with the principle of convenience, the art.18 should be adjusted with regard to the new forms of exploitation of trafficking, *in primis* labour exploitation but also new cases, increasing and still hidden, of exploitation of domestic work. Again the judge's statement.

“to start another front: the efficacy of the program of the art. 18 for the victims

of labour exploitation. In the majority of the cases, they don't want it, they want a job, money to send to their family of origin, they don't care to enter a program of art.18. there is a general aspect, political: we go back to rethink the policies relating to the programs of social protection, calibrated on today, we cannot get a free ride on what was made twenty years ago. Twenty years ago the art.18 was not drawn up for exploited workers, but it was drawn up for victims of sexual exploitation, and it has not been adjusted anymore, today we should face this issue, the same for the caregivers, twenty years ago it started but the boom came after. Thus, the programs are not calibrated on the changes of the phenomenon.” (TP9).

As mentioned above, among the institutional actors which get in touch with potential victims of trafficking asylum seekers, there are the Territorial Commission for right of asylum. It could happen that, during the interview, the members understand the existence in the story told by the asylum seeker of elements relating to trafficking.

However, the pattern of the interview used by the Territorial Commission⁴², that normally refers to social and personal data of the applicant and its family, the grounds of persecution, reasons for fleeing the country, information on the travel and the reasons why it is not possible to come back to the country of origin, is not provided with indicators of trafficking and the identification depends mainly on personal competences and experiences of the members.

From what was indicated, some Territorial Commission, albeit autonomously and not harmonized, try to activate mechanisms of collaboration with the local associations, for instance suspending the procedure of examination and informing the operators of trafficking or the International Organization for Migration on the suspected cases which so may be subjected to more detailed interviews.

“For instance in Sicily, where there is also Presidium, the project funded by the Ministry of Interior and conducted by UNHCR, OIM and Save the Children, there was a cooperation with IOM to report people to the competent organization for the interview and the identification of victims of trafficking. In those Commission where there was a collaboration with IOM, it was recorded a good practice of suspending the asylum procedure, reporting to IOM for a specific interview so that IOM could evaluate whether the person was a potential victim of trafficking or not, because, even after one, two, three interviews, it is difficult to identify them for certain and send a certification to the Territorial Commission for a further evaluation of the case. This is an aspect, but we are far enough from what it should be, namely a real mechanism of coordination between trafficking and asylum” (TP10).

In this respect, an experience, recognized as good practice by the National

⁴² For more details in how to conduct an interview in the hearing at Territorial Commission, cfr. Senzaconfine (a cura di), *Le voci sospese*, 2013, www.vocisospese.org.

Commission, is the one of the Territorial Commission in Torino. In this territory, in fact, following the practice which has been consolidated in time, in June 2014 a memorandum of understanding was signed between the City of Torino and its Prefecture⁴³. Over recent years, the Territorial Commission makes use of the competent personnel, operating into the project of combating trafficking from the municipality of Torino, in order to understand the dynamics linked to the cases of victims of trafficking for purpose of labour and sexual exploitation. Such practice was formalized through a Protocol providing that Territorial Commission shall report to the *Servizio Stranieri e Nomadi* (Foreigners and nomads Desk), with the prior written consent from interested parties and in full respect of the regulations on International protection, or to the *Servizio Minori - Ufficio Minori Stranieri* (Minors Service-Foreigner Minor Desk), in presence of minors, situations of potential exploitation and trafficking in human beings involving International protection seekers which could emerge during the examination of the Commission. This may enable the above mentioned two Services to evaluate, into the Commission premises, the existence of elements relating to trafficking or exploitation. Moreover, the *Servizio Stranieri e Nomadi* and the *Servizio Minori - Ufficio Minori Stranieri* are also willing to examine these situations, in full respect of gender and sexual orientation (with specific attention on women victims of trafficking for sexual exploitation which should be interviewed and assisted by female personnel), where their support was requested in order to assist the Territorial Commission in collecting all the elements required to exercise the preliminary activity and to guarantee the protection to the victim of trafficking and exploitation⁴⁴.

“when we have doubts on a case, we propose to the asylum seeker the possibility to talk to competent persons, to suspend the decision (...) it works so. We listen to them, when some elements emerge and they want to meet the anti-trafficking personnel, this last one comes immediately to Commission premises and they shall be transferred into a community. We try not make time passing by, we make them exit from another door... it is a strong work of networking. It would be an asset to enlarge the network with other entities, even if the municipality of Torino has already many links with other subjects... Then there are other cases where they did not (for lack of a better word) “give out” immediately, because they have a wall inside... So we fill out the report of the interview, we indicate the contradictory elements and, finally, with the support of an interpreter (a pidgin English spoken because they are mainly Nigerians, but we do the same when we interview a Senegalese women and any suspicion rises), we explain that in Italy there is the possibility to be protected in

43 Specifically, between the municipal unit, *Politiche sociali e rapporti con le aziende sanitarie* (Social policies and relations with local health agencies), and the Territorial Commission of Torino.

44 The Territorial Commission of Torino has entered into an agreement with the association Frantz Fanon which provides for services of psychotherapy and psycho-social support for immigrants, refugees and victims of torture.

case of exploitation, etc... Many times we say so: "if you want to be called again from Commission, we shall suspend the decision and, if you agree, we ask for a female operator of a protection project so she could explain in what consist of..." Obviously, we do not report this, or, better saying, we ask for a consent to be attached to the folder, so everything could be under control... It has happened that we called them back and they returned (...) immediately asking for entering a protected community, and during the interview they told us the real story supported by a report, an anti-trafficking referral but already into a protected community. These women (ten or eight, I don't remember exactly) are still into communities, they have not escaped, that means it was not instrumental" (TP6)

After all, there are the recommendations from UNHCR⁴⁵ providing that, when potential victims of trafficking shall be identified among asylum seekers, the procedure may be suspended and the victim be transferred into a specialized centre where having a "reflection period" and proper assistance.

"UNHCR recommends, if potential victims of trafficking shall be identified within the asylum system, suspending the asylum procedure, referral and transferring the victim to a centre, giving a reflection period of three months during which the potential victim could benefit of specialized interviews and of protection so that they could, when appropriate, resume the asylum procedure later on or remain into the system of trafficking; these are the recommendations from UNHCR Brussels we promote also in Italy... a delegation of European Council came, we gave to them some suggestions for their observations to Italian government in order to establish mechanisms of coordination between the two systems, to provide for victims of trafficking this reflection period, time of "recovering", so that during this period of time the most adequate protection system may be defined or even the person could benefit of both systems. Shortly, the protection is against the risk to be repatriated into the country of origin where a person could be again recruited or suffer persecution because of being a victim of trafficking and so refugee, but at the same it means giving assistance and protection in Italy and creating mechanisms of coordination and the possibility for the refugee victim of trafficking to benefit, in a complementary manner, of both system of protection and assistance" (TP10)

In Italy, the need to connect the trafficking system and the asylum system has been recognized only recently through the enactment of legislative decree 24 of 4.03.2014, which transposed the Directive 2011/36/UE. The decree 24 establishes at art. 10 coordination measures (and further referral) among administrations dealing with trafficking and asylum, the obligation to provide foreigners, under art. 18 programs, with information on International protection and to transmit documents to the police commissioner from Territorial Commissions if, during examination, clear indications of trafficking shall emerge. Despite these developments in regulation,

⁴⁵ UNHCR, *Guidelines on International Protection. The Application of Article 1A(2) of the 1952 Convention and/or 1967 Protocol Relating Status of Refugees to Victims of Trafficking and Persons at Risk of Being trafficked*

the recommendations from UNHCR and the “good practices” above mentioned, the referral of the alleged cases of trafficking from Territorial Commissions to the anti-trafficking system occurs still very frequently in order to initiate the procedure for requesting a residence permit as per art. 18, instead of attentively evaluate the existence of the requirements for international protection based on “founded reason” linked to trafficking itself (if necessary, directing the person to assistance facilities under art. 13 e 18). As pointed out by a lawyer.

“As many times said and now considered as undisputed, this is a mistake made by the Commissions, having the possibility of an alternative way to the International protection, such as the social protection, it should be considered as a foreclosing element but rather another opportunity provided by the Italian government to combine the two pathways in order to choose the best of the two and granting the appropriate protection. Although, from a legal point of view, the International protection remains at a higher level than humanitarian or social protection as per art. 18” (TP2)

The fact that the two systems are still considered as distinct, first of all, it is due to, some would say, the absence of a national training program specifically dedicated to victims of trafficking seeking asylum, directed to all the members of Territorial Commissions. Regarding to the implementation of it, a member of Commission states.

“we try do adopt the (UNHCR) guide-lines, but the systems (trafficking and asylum) are often perceived as distinct, it is like the two things cannot be intersected, we make the effort to communicate that two systems could be overlapped, but it is not easy that this message may be received and understood, it is still perceived as there are two different things” (TP7)

Despite the concerns about the possible overlapping of the two pathways, an element that indicates the implementation from the Territorial Commissions of the instructions provided at UNHCR guide-lines is the increasing number of granting of the refugee status and other forms of protection, such as the subsidiary and humanitarian ones, to asylum seekers as victims of trafficking, as stated by an UNHCR member.

“it is also as a result of the dissemination of the guide-lines relating recognition of the refugee status to victims of trafficking that this number has increased, even if it is a minimal extent compared to the total potential number, there are more recognition of refugee status under the Geneva Convention and other forms of protection, because it depends on the interview of the Commission... there are also subsidiary and humanitarian protection which are not always the most appropriate protection, sometimes an humanitarian protection could be granted only because there is an impression, a perception, but this is not a solution for the victim which has a residence permit and keeps being exploited

without any access to specific protection... it is only to guarantee a protection against the repatriation, but it is not the refugee status, because there is not enough certainty, it is a kind of "protection-compromise" only to avoid the risk of return" (TP10)

06.01 Indicators

The path that leads to identify victims of trafficking among International protection seekers should be necessarily supported by the definition of some general indicators. Such indicators should, not only be shared among those actors which, in various ways, forms and circumstances, interact with victims of trafficking potential beneficiaries of refugee status, take into account the different forms of exploitation (sexual, labour, begging, etc), the places where this could be conducted and the socio-demographic characteristics of the victims. Moreover, because the forms of subjection depend on the nationality of the groups involved and on the historical periods, even the signs useful for the identification could noticeably vary.

That is why, in order to identify the phenomenon, the majority of the interviewees support the utility of a shared and fixed set of indicators, and steps of the procedure, but also flexible and able to be adapted to the ever-changing demonstrations of the phenomenon (for example, above all, the labour exploitation). In this respect, the coordinator of a territorial project stated.

" it is very important, in my opinion, to have both indicators and procedures. The identification of the phenomenon is not an easy matter, even the most competent operator that works in the sector of trafficking from 20 years cannot understand only through one interview. Time is essential, it is possible that many lies are said within the first three months of relationship. Flexibility is also very important, even if a format is used you cannot help but flexibility, this is very relevant in this issue. Also due to changes of the phenomenon over years: forms of exploitation, the countries of origin, even, I would say, the modalities, because once it was very difficult to speak to Nigerian girls, they were very aggressive, I must say the truth, the two Nigerian girl in our project are very calm..." (TP8)

Similar view has a psychologist of an anti-trafficking association: using of a shared format but maintaining the flexibility in assessing the different stories.

" I think that a shared format with fundamental indicators are the essential instruments to give the operator a reference frame work in which they can move; it is obvious that indicators and format cannot be inflexible instruments and to be applied objectively to all the cases. We talk about people thus unique and peculiar stories of life" (TP11)

According to evidences collected, there are many signs that could allow for the recognition, besides the indication of some specific countries of origin (for example,

Nigeria). The most frequent reported indicator refers to the presence of a strong control on the alleged victims from compatriots pretending to be family members, boyfriends, friends (typical is the case of the *maman* for the Nigerian women sexually exploited) but exercising forms of blackmail and intimidation, restricting clearly their freedom of movement.

Secondly, the use in itself of unlikely and same old stories represents an important indicator of trafficking, mainly when the victim in telling the story runs always into contradiction or does not know explain clear inconsistencies. Among those “suspected” elements, often reported not to expose family members to retaliation, there were mentioned the wrong indication of the country of origin, the denial of the existing of family network in the country of origin, the reference to a forced marriage as a reason of leaving. A “lie”, instead of being a reason for immediately denying the application, should be, both during reception and during the interview from Commission, a sort of incentive to “dismantle the tale” not with an hostile and repelling approach toward the person. In this respect, the coordinator of an anti-trafficking association stated.

*“The lie in itself is an indicator. Into the “Document trafficking/asylum”, it was included the statement of Mrs. Caizzi, a psychologist of the project *Ferite Invisibili*, that identifies memory lapses as indicator of the trauma. It is very important that these psychological instruments shall be given to the security forces. A woman, initially, lies because of feeling ashamed.. even towards the people at reception centres. Saying “I was a prostitute and I chose it” it is not very easy (even if we know that it could not be considered as choice because they could be aware of it but not free in choosing) until they don’t know you and have confidentiality.. then, among lies, it should be identified which one of these could be considered as indicators, such as the denial of the existence of a family, when it is much probable that there is one, indeed, and it has a role in the whole organization...” (TP1)*

Therefore, beside lies and contradictions as indicators of an experience of trafficking to hide, those signs coming out from nonverbal communication should be added: the posturing, looking down, the reluctance, or, on the contrary, telling the story quickly, in one shot, the breaks made, things they fell. There are stories where the suffered violence is attributed to other subjects due to a sort of trauma transfer, and other ones where they claim a free hospitality received, as pointed out by a member of Territorial Commission for the right of asylum.

“Something else that has occurred is that they tell you about the rape inflicted to them from an “uncle”, but the story is not credible.. I have talked about that also to ethno-psychiatry workers ... they (the victims) dramatize the suffered violence by transferring it into the story they told them to tell... but, you can understand, the violence was really suffered. (...) “and another fact, when you

*ask them “how come you are so well dressed? What do you do during the day?”
they answer always with the same story relating to the aid from churches and
priests ...” (TP6)*

Another important evidence refers to the migration routes and the modalities of travelling when they coincide with those mainly used by traffickers in the same reference period. When the person is a girl coming on flight from Nigeria, she has probably experienced trafficking. The travel on flight indicates a precise plan of the traffickers fearing that, during the travel, the girl could be exposed to violence so that she would be of less value in the “market-place”.

There is also a set of combined psychological and behavioural indicators that often arise during reception: mistrust of operators and compatriots, tendency towards isolation, reluctance to undergoing specific medical checks; tendency to execute orders and the resulting lack of self-sufficiency, low self-worth, depression; suspiciously going out and unjustifiably; reluctance in telling the personal migration story; apathy; little interest in integration pathways.

Finally, another indicator relates to frequency of interception: the more a person shall be intercepted the more is possible that the person is a victim of trafficking, because she abandons the reception pathway, she goes back to street work where she shall be intercepted again by those associations operating on territory.

06.02 Required tools and competences to identify the phenomenon

On the basis of the results of the questionnaires compiled by the operators of SPRAR projects and trafficking system, and of the interviews conducted to privileged witnesses, this paragraph is intended to give a picture of training needs and of a set of instruments and competences facilitating the identification of the phenomenon. Moreover, it will include those “key” figures, namely those actors which, through their specific competences, play a role into the management of the phenomenon and, therefore, are being called on to develop coordinated actions in order to sharing knowledge and approaches.

06.03 Training needs

According to the gathered statements, there is a widespread perception of an higher general level of awareness about the connection between trafficking and asylum, among operators of both systems, than before: this could depend, on the one hand, on the increased attention, at an institutional and media level, on these issues over recent years leading to the adoption of a specific regulation; on the other hand, on the increased in frequency overlapping of the two phenomenon,

above all within SPRAR system. Nevertheless, the knowledge on trafficking issues that the operators working within the asylum system have, it seems to depend on their possibilities to experience it directly, to manage projects in cooperation with other experts and specific territorial services directed to the victims of trafficking, that is the concrete occasion to acquire transversal skills and competences.

Slightly less than half of the interviewed SPRAR operators stated that they have received an appropriate training on trafficking; despite this, almost all of them consider it important to go into more details on the phenomenon and its relating issues. In particular, the subjects that are considered as important to be improved with specific training are the following:

- Useful tools and methodologies to foster an easier identification of the cases of exploitation and trafficking: a set of indicators and methodologies for conducting more effectively the interviews aimed at recognizing the cases;
- Thorough knowledge of trafficking, exploitation and smuggling: peculiarities, the most common targeted victims, how the exploitation networks are organized, etc.;
- Legal training: International, European and national rules on such issue;
- Training in psychological approach for reception, identification process of the victim and definition of individual pathways providing specific protection and support;
- Training in the field of health: information on risks, vulnerabilities and specific health needs relating to victims of trafficking, as well as appropriate measures to adopt;
- Deepening and Exchange of experiences and knowledge, relating to practices and measures aimed to foster the social integration, with the other actors working in this sector.

Considering the dynamic nature of trafficking and exploitation in terms of organising, types of flows, routes and involved countries, that demonstrates a significant adaptive response to the market conditions and the regulation in force in the countries of arriving, SPRAR operators considers it important to have the opportunity of a constant training on the features taken by this phenomenon and the connected dynamics developed. They also consider it useful acquiring a detailed knowledge of the socio-cultural contexts of provenience of the potential victims, for example pertaining the magical and religious sphere (with reference to the coercive and instrumental use of the voodoo rituals in trafficking Nigerian victims).

Acquiring tools and competences to recognising cases of trafficking appears to be the most required training need, specially due to the fact that there could

be, besides the victim, also the exploiters and the further middle-man into the reception circuit.

It should not be underestimated, as many interviewees reported, the necessity of a psycho-relational support directed, not only to the victims, also to the operators. This should be linked, first of all, to the need of the operators to using an effective communicational approach enabling the creation of confidential relationship with the victims, required for encouraging them to tell their story. In this regard, people interviewed hope for the acquisition of tools and instruments pertaining their personal listening skills and the ability to engage pathetically in a dialogue.

Secondly, the identification of the condition of victim of trafficking and/or the concerning vulnerability and peculiarity generate different critical situations that ask for adequate competences and actions. The burden of abuses, oppressions, suffering, discomfort and vulnerability that the victim of trafficking brings could be difficult to manage from the operator without resources and instruments required to face such issues. This difficulty gets more serious when the vulnerability of the victim concerns not only the psychological sphere but also the sexual one due to the abuse suffered. Many stated their discomfort in listening detailed stories with particularly violent and traumatic experiences involving the emotional-sexual sphere, and their not being adequately ready to support such a heavy load when, on the contrary, it is opportune to adopt specific appropriate measures of care.

“Victims of trafficking and sexual exploitation carry within them suffering (some of them have suffered abuse since when they were very young) lined to sexual sphere that should be faced and, where appropriate, with a psychological support both for operators and victims. Facing the sexual exploitation hinders the operator because it confronts oneself with the sexual and emotional sphere that is still taboo into many aspects. Many women tell about brutal experiences concerning both violence suffered and also modalities of sexual relationships”.

(RS47)

Unlike other critical situations where the operator is able to adopt the opportune objectivity to evaluate the situation, the ones relating to the emotional and sexual sphere call into question the subjectivity of the operator and its ability to understand and manage the situation filtered through personal judgement, prejudice, personal inhibitions, as well as lack of preparation or lack of willingness of putting themselves in “other one’s shoes”. So it is easy to understand these issues shall need an appropriate approach from qualified personnel, such as the psychologist and the ethno-psychiatrist, able to activate the necessary care and rehabilitation intervention. It could be useful supporting the operator also in order to face further difficulties linked to behavioural dynamics of victims still

involved into sexual exploitation (for example, it is mentioned the case of women going out from the reception facilities, at night, skimpy outfits, and behaving in a embarrassing and worrying manner) or which meet difficulties in integrating within the reception facility due to their psycho-emotional discomfort linked to the trauma.

The support given by qualified personnel and the training in psychological area are key factors to be acquired, and that is even clearer when taking into consideration the different ways in which the two systems, asylum and trafficking, have developed basically on the peculiarities and needs of each target group of reference: from one side, the asylum system was made to receive migrants escaping from their country due to persecution and risk for the personal safety and, even though they have made a difficult and suffering track, their personal plan is mainly aimed at inclusion into the country of arrival, through the acquisition of an employment; from the other side, the trafficking system seeks to provide with protection and rehabilitation people in subjection or vulnerable condition which intend to come out of the trafficking and serious exploitation mechanisms. The second mentioned system is more directed to give care and psychological support than the asylum system because it is considered as essential, before initiating the pathway of work inclusion, providing the victim with an appropriate protection and with psychological assistance that may enable to rehabilitate from vulnerability and trauma.

The interviews to privileged witnesses reveal that, for those SPRAR operators working into projects directed to (potential) victims of trafficking, it is fundamental to detect the specific needs, declared and not, of this target of beneficiaries and, consequently, calibrate concerning projects, enabling the victim both to have all the time required to gain trust and confidentiality with operators to re-enact the personal story, and to follow an adequately protective and rehabilitative pathway. This is the point that mainly diverges from the projects for asylum seekers and refugees, and where it is necessary to provide training activities, exchange and cooperation with more competent actors.

The rise of the admixture of the two phenomenon, trafficking and asylum, entails the need for developing links and cooperation between the two systems, by integrating the weakest points of both. Not by chance, the majority of the respondents hope for training courses that may involve operators of both systems, promoting exchange of practices and experiences, besides the acquisition of transversal and in-depth competences. From this perspective, a legal training concerning both phenomenon is essential in order to better explore the connection.

The comparison is also useful in order to create or strengthen territorial

synergies, by fostering the development of network involving all local subjects. The lack of preparation from a significant part of SPRAR operators concerning the management of the emerging cases of trafficking results from, not only the insufficient knowledge of the phenomenon and of the adequate instruments to address it, also a general weakness of the territorial network: where there are not projects involving specifically the asylum network, the operator does not know where to go, whom to contact for reporting a case, and which measure to adopt. The training activity at a local level should aim at facilitating a greater knowledge about the subjects involved into the process of identification and taking charge victims and the further efficaciously cooperation among them.

In a symmetrical manner to what stated by SPRAR operators, the ones working in trafficking projects express, among the primary training needs, the necessity to examine in depth the forms of International protection and its relating regulations concerning the issuance, the renewal and the conversion of the residence permits, as well as the connection between the two phenomenon. This is considered as useful in order to get more tools, to develop strategy of action and promote the synergy with other local actors, both through the exchange of competences and good practices among operators of the two systems, and through the establishment of working groups, preferably extended to subjects, institutional and not.

They all agree on the need to benefit from continuous updating on the phenomenon, as well as the socio-cultural, political and economic conditions of the contexts of provenience. Within the set of skills and competences that an operators should have to identify the cases, there are also the social and listening skill, sensibility, the knowledge of general indicators, and territorial services.

From the interviews conducted to privileged witnesses it is confirmed as fundamental, for an identification and an adequate taking charge of the person, the set of skills and competences that operators should have, such as a transversal knowledge in-depth of the phenomenon, the ability to recognize the indicators, an appropriate legal training, the ability to create a confidential relationship based on trust, listening and empathic dialogue, and again the ability to cooperate with other local actors.

Providing operators with such instruments and skills should help to create a structured system that may give adequate response to each beneficiary's conditions, past story and, declared and not, specific needs, through the preparation of "flexible" projects, as some underline: that is, projects where the operators, which evaluate the conditions of the person and the typology of the most opportune pathway to activate, shall have the competence and sensibility to identify the most suitable application the person should submit, International protection or protection ex

art. 18 o 13 (depending on the level of protection required, assessing also the continued existence of ties with the exploiter and the risk for the victim), with the understanding that the two processes are not mutually exclusive, but furthermore they could be successive for the benefit of the person.

“The best thing is being part of a network, thus, if I am at the front office desk, I could choose the best place for the person who comes, for instance if they are very afraid or at risk, I can send them to a reception facility where there are a set of rules to follow but there is also a “wall” of protection and security, and maybe after sometime I could transfer them to another place... the best thing would be acting within a system and, depending on whom you have in front of you, with a wide view on available resources and training, above all legal, you realize the kind of pathway should be activated... if, for example, it is estimated that it is better to ask for the 5 years of the asylum residence permit and, after it, follow the procedure under art. 18...” (TP1)

06•04 Key Figures

We have already described that a low level of knowledge of the phenomenon of trafficking results in a lack of ability for the SRAR operators to identify and manage a potential case of victim, that could determine some risks which can be summarised as a general impossibility of guaranteeing the adequate protection: from a difficult creation of relationship based on trust, listening and patience, to the failing to take appropriate protective measures aiming at keeping the victim away from exploiters and middle-men, from the difficulty in understanding the specific needs of the victims and identifying the most adequate pathway to the difficulty of managing, possibly together, the different peculiarities of the projects for asylum seekers, refugees and victims of trafficking.

In a situation of lack of specific competences and knowledge, the identification and the proper management of the phenomenon depend on the sensibility of each operator, which can decide to ask for cooperation with other professional figures, such as psychological, health and legal assistants; but, sometimes, operators are hardly able to translate such necessity into action. A sense of frustration and powerlessness could arise from not being able to confirm whether the beneficiary is involved into a situation of trafficking or exploitation, to establish an empathic and effective relationship with alleged victim, to find a solution.

When the level of competence and knowledge of the phenomenon is higher and the experience has led to activate cooperation network with other actors, the process that makes the phenomenon emerge is, ever more frequently, the result of the cooperation among different figures: in particular, such as project coordinators and operators, social assistants, mediators, psychologist, lawyers, operators at

trafficking system. It occurs that all of them are not always involved; in any case, the aim is to create an operating multidisciplinary team or, however, a cooperation with some key figures.

Some projects organize periodical staff meetings with a psychologist⁴⁶, that is also an opportunity to share critical aspects and impressions on any single case and deepen some particular aspects.

Besides the psychologist (or ethno-psychiatrist), other key figures are legal advisers, which explain to the victim the different pathways of protection and recognition of status. Compared to asylum seekers, the victims of trafficking need a more specific legal support, into the legal process or into the civil measure for asking a compensation of the damage.

While some interviewed call on using with caution the support of mediators, remembering that due to their cultural belonging they could bring wrong prejudice and conviction, for others their support is essential in order to both establishing an effective communication with the alleged victim which often speaks only the dialect of the specific context of origin, and initiating a confidential relationship. Thus, it is important to establish a collaborative relationship with the mediator which, on the one hand, decodes to the operator the psychological obstacles and the cultural conditioning of the victims and their choice on what and how to tell the personal story (that often generate in the person feeling like shame, suspicion and rejection), and, on the other hand, reassures the victims by clearly explaining the pathway to track. The contribution of the mediator could be determining to identify the stories and, therefore, extremely delicate: it should correctly interpret, catching the states of mind, shades, the sense of the break in telling, what is not said, and report everything to the operators in a appropriate and effective manner. It is not a merely translation and very closed to the psychological sphere.

*“ We look for mediators who are already professionals trained, with a regional diploma. They know the story of their country. For example, one girl from Senegal did not remember exactly when she arrived in Italy but it was very important for us to calculate how long she had been in Italy. She could only remember that at that moment there was the *Aid Al Adha* (day of the sacrifice), thus, through the mediator we could identify the exact moment of the year. Even when the persons tell their stories, the mediators explain to us that women find it difficult to speak because of shame, being a prostitutes in their countries is a sin, so the mediators explain to them that it is the same also for our culture but it is important they speak to feel better ... if such things are said by a person of the same culture, it is easier. Unfortunately, sometimes it is difficult to find a well*

⁴⁶ In the Italian text, we often refer to female mediator and psychologist because, in this field, such job profiles are mainly covered by women, following often a specific request from project's operators.

trained mediator, such as, for example, in the case of Nigerians, who have not usually the relevant diploma. There is much to do also with them (mediators), to make them understand the important is not only the translation but also the cooperation, I have said to them many times: we are working together for the girl's benefit, so when she does not understand something you have to help me in making her understand and in catching what is going through her mind."

(TP8)

As pointed out by a privileged witness, it could help to have a mediator with a recognized professional diploma, even if it is not easy, particularly with regard to some nationalities, to find such specifically certified figures (for example, Nigerians). By the way, among the basic requirements to be met by the mediator in order to work in such projects, we could mention the training and the work experience into services specifically directed to victims of trafficking: training and experience help to find adequate communicational methodologies, to detect if a person is lying and to allow the person to open up more easily. Furthermore, as much the mediator knows about culture and geopolitical situation of the country as more help they could give to re-enact and detail the story.

It considers it as essential involving social and health professionals, from counselling operators to gynaecologists, and, in general personnel working at dispensaries called to give first aid to people which are normally reluctant to go there (for example, the case of seriously exploited workers when an incident occurs).

SPRAR operators often report people to territorial services dealing with abuse and trafficking, not so frequently to other entities such as police station (in order to conduct researches on people and places on which an alert have been issued by the victims), Prefecture, Territorial Commissions. Only one respondent reported the involvement of the competent trade union for a case of labour exploitation into agricultural sector (the trade union intervened by organizing training meetings on labour law pertaining agriculture and on its relating new forms of slavery).

Among the operators of the projects specifically dedicated to trafficking, besides the mediator, psychologist and legal adviser, other figures are particularly relevant. First of all, the street unit operator which could initiate to create a confidential relationship facilitating the identification of the case. It is equally considered as basic that all the figures that, at first, meet the alleged victims, whether they are operators at CIE, CARA, SPRAR or any other counselling point, and security forces, have specific competences and knowledge. The respondents reiterate the need of a multi-agencies approach through a local network of cooperation involving all the above mentioned entities, adding also the Territorial Commissions and other territorial actors involved into the management of the phenomenon.

The operators into the trafficking system give more relevance, than their SPRAR colleagues do, to the role of the Security Forces for the identification of the cases and to their involvement into the multi-agencies network. In particular, the operators suggest that these should be assisted in the examination of the cases by cultural mediators, as we already said, specifically trained on trafficking and having a deep knowledge of the countries of origin of the alleged victims. This is in order to prevent that the mediator role could be played by the exploiter or the middle-man which, hiding the real intentions, accompany the victim, thus affecting the decision of asking for protection and blocking the identification of the crime. The same comment concerns CIE and CARA, where unfortunately victims live together with exploiter and middle-man, the mediators are very important when it is certain that they are not included among exploiters and middle-men.

The interviews made to privileged witnesses highlighted the importance of an adequate and constantly updated training as well as the network of all the territorial subjects which may meet the victims of trafficking, including the third-sector entities, such as Caritas, Red Cross, CIR (Italian council for refugees) Onlus, the operators of reception and detention centres, social services, counselling points, dispensaries, legal offices, Security Forces (including Border Police), Territorial Commissions, labour inspectorates and trade unions: all these actors could find evidences, correctly direct the victim to the subject dealing with taking charge, or suggest appropriate pathway to undertake.

With regard to territorial Commissions, the first decisive development is occurred in 2005, when a decentralized system was established and the participation of UNHCR, as a further territorial member, was included: UNHCR representatives have a better knowledge on trafficking and exploitation than the personnel of other entities, together with the circulation of the UNHCR guide-lines relating to the application of art. 1A(2) of the Geneva Convention to the victims of trafficking (that the National Commission provided to send to each single Territorial Commission) fostered a greater sensibility in recognizing such cases. The National Commission for the right of asylum organizes also training activities on particular issues, such as techniques of more effectively interviewing pertaining trafficking, involving IOM experts. However, as recognised by the coordinator of the UNHCR members of the Territorial Commissions in Italy, such activities do not offer enough details on the phenomenon and on the set of indicator relevant to the identification of the victims of trafficking:

“The training directed to the new Territorial Commissions we do on the techniques of interviewing.. yes, it [provides with] indicators to assess the vulnerability, but, because training is often largely superficial, it do not examine in great enough details of trafficking indicators” (TP10)

Another action undertaken by the National Commission has been in promoting and informing about the anti-trafficking hotline each member of the Territorial Commission which is called to give it to the interviewed people where there is a perception of an alleged victim of trafficking that hardly emerges from the story. There are also other training events organized spontaneously at local level, involving private associations (even as trainer) and other subjects: in Genova and Bari, for example, the port authorities were involved which, due to the lack of a specific knowledge on the phenomenon of asylum, trafficking and smuggling, operate without carrying out opportune evaluations on the cases.

The majority of interviewees underlines that the increasing and updating of the knowledge of members of Commissions on a ongoing basis is a strategic aspect, by strengthening the already existing training activities at a National and local level, and that the promotion of good practices on identification and networking based on pilot experiences implemented in each single territory (for example, the Protocol adopted by the Territorial Commission in Torino) should be put more concretely and systematically into actions. An adequate and uniform knowledge among all members could limit the risk, that becomes very often a reality, of using individual discretion in assessing and identifying the case instead of shared and objective indicators. It would be very useful, as happens in some Commissions for the spontaneous initiative of members, to harmonize and standardise the internal coordination mechanisms that provide a systemic exchange of *expertise*, opinions and information among members of each Commission: these ones, indeed, come from different entities with different experiences and competences but, due to the high number of cases to examine, can hardly find time for exchange and internal updating.

“It depends on the willingness of every single member very much. We discuss a lot among us, a sort of internal training. I learned many things from the senior colleagues, which maybe were directors of scientific division police.. or people who worked in local bodies as educators for unaccompanied minors or at juvenile court... an exchange of expertise...” (TP6)

Even in the case of Commissions, the cultural mediators play a more important role as they have a more detailed knowledge and stronger experience on the issue and on contexts of origin of the victims. The regulation establishes that the National Commission, which submits the convention with the agencies providing interpreting service, is responsible for training the interpreters. However, even in such field the UNHCR promotes and organizes every year training activities directed to the interpreters of Territorial Commissions; despite that, according to the interviews, it is reported that such training is not enough to cover the existing needs, because

it mainly focus on offering information about International protection and general principles on interpreter's role during the interview (obligations, rights, code of professional conduct) but not about techniques of interviewing specifically on trafficking.

“the coordination mechanism should provide not only the training of the interpreters working for Commissions but even the presence of a specialized person which is not only an interpreter rather a mediator , an expert with linguistic skills which could separately conduct an interview directed to reassure, understand, propose and elaborate alternative solutions” (TP10)

Finally, we would like to draw the attention to a particular aspect, this is the lack of consideration given to other forms of exploitation, first of all the labour one, on which, even if they are a widely spread phenomenon, there is an even less general level of knowledge and awareness and it would be opportune to stimulate the acquisition of skills and competences as well as the development of cooperation network.

06.05 Local Network

It is understandable that, as far as the training activity may basically offer all the figures involved updated information and competences, the intervention to adopt in managing an emerging case should not be undertaken by a single actor, falling outside of its scope; once again, it is worth repeating that an integrated and multi-agencies approach is fundamental. The case of Torino, where the memorandum of understanding between the Commission and the services which support victims of trafficking makes it possible, after previous consent of the person concerned, to remove the victim from the exploiter's contact, by activating immediately the intervention of qualified staff, could be considered as a positive example of networking. For some, another element useful in identifying the phenomenon is the conclusion of Protocols among actors which meet the alleged victims, above all, if they are made compulsory and the indications of their application are transmitted following a hierarchy:

“I think, there are two main aspects that could facilitate the identification of a situation of trafficking among international protection seekers and holders: the knowledge of each operator on the phenomenon of trafficking and the ability in building a confidential relationship with the person as a first step of the creation of the individual program (based on the specific past story). Furthermore, they are also very important: Protocols with security forces/judiciary/social services; networking; synergy; compulsory training for all the operators involved into the identification process” (TP11)

“The concluded protocols are an important instrument, when compulsory.

There has been a kind of difficulty until now... security forces and judiciary have been involved into specific projects concerning individuals with, in my opinion, irrelevant results... many protocols have been concluded (I did one, for example) but their effectiveness is null. It should be made as compulsory, because if there is not an obligation, those who work in a hierarchic system are afraid of doing something that should not be done, not authorized" (TP2).

Again with regards to the identification of the phenomenon, some say that it is necessary to develop pro-active multi-agencies measures in order to identify victims of trafficking among asylum seekers. Thus, if, on the one hand, it is important to promote social intervention towards all the forms of marginalization and vulnerability, because the real condition overtake the mere connection between the two phenomenon, on the other hand, a cooperation among different actors which mainly interact with those very risky situations in order to implement actions of prevention and information.

"With regard to the identification of these cases, either we wait for a traumatic event (because these persons are at risk of trauma, situations that prevent them to carry on the pathway they have been included in) or we are able to develop those pro-active multi-agencies actions that enable the social measure, together with activities promoted by the subjects operating in the labour market (territorial directorates of labour, SPISAL, INAIL, etc.) to set up clear actions in specific sector such agriculture, manufacturing, etc... these activities are not only at support to inspection measures but also at prevention and information of foreigner workers who do not know their rights and work conditions. In my point of view, it is necessary to divide the actions in two different specific areas: the first one, it is the area where the social measure could directly intervene without the involvement of other subjects... so as it was made for street prostitution, it is necessary that street units of a first contact shall move, such as for begging, for informal streets economy (from sellers of flowers to windows washer).. the social action should take place with all people at risk and it should not be thought that trafficking refers only to migration prostitution because this concept has already been overtaken. Those who work in this sector are required to retrain and re-think the street educational activity focusing on exploitation and to identify, following the changes, the specific area where to work" (TP4)

Thus, as can be seen from the experience in the municipality of Venezia, initially there was not a formalized protocol but it developed a local network that, then, has become a practice, on the assumption that it is essential to adopt a *bottom-up* approach to effectively implement protocols:

"In such case we opted for following the experience, from bottom. We have started working together with labour inspectors, above all, for Chinese manufacturing business activities and, as a result of this good cooperation, we created a partnership and concluded protocols for the implementation of the projects under art. 13 e 18. the protocols imply, on the one hand, a joint

action, on the other hand, activities of training, awareness, and experimenting new intervention strategies directed to consolidate the results of the working together. Within our regional project under art. 13, in 2007 we started with the collaboration of only one territorial direction of Venezia and now we have partnership with all the labour territorial directions and with the regional one. This is really one thing born from bottom" (TP4).

The need of creating multi-agencies networks comes from the presence of numerous local actors which, with different role and at any step of the process, meet people seeking asylum or alleged victims of trafficking seeking asylum. Such actors as security forces, judiciary, police stations, prefecture, local police, trade unions, labour market, dispensaries, social operators. These actors cooperate on the same territory, through multi-agencies network, sharing a common objective, but these are single action, depending on sensibility or willingness of each actor or individual, in the absence of an overall design. The lack of a central coordination could attempt to obstacle the efforts and good results achieved through the good territorial practices, this is also the perspective of a judge interviewed:

"Thus, in absence of program, of identification of specific objectives, in absence of the ability to put all the other central institutional actors competent for trafficking such as the Ministry of Labour, of External Affairs, Justice, together, how could it be thought to adopt regulations and instruments through which the network strategies of intervention and specific policies could be institutionalized, with such lack? If it is so, we will remain only depending on the sensibility of individuals which today are in a territory and, when Tomorrow they leave, the good practice dies. Thus, what progresses have been in recent years made? I don't want to be pessimist, but, in my point of view, we have regressed recently, not progressed. I have also observed that the attention on the issue is decreasing, to go forward we need a positive proceeding, we should move, if we reach one certain point and then we stop, we automatically get back. The local efforts of making aware, training, promotion, and networking, loose credibility when there is not a response at central level in terms of obligatoriness, effectiveness and programming, such effort automatically shall be brought into disrepute and loose its energy, this is, if many energies have been sent in some territories in order to train Security Forces in this issue but, after it, they don't receive an input from the central direction to be operating in that direction, all the work made for promoting and training automatically risk to be intended as a radical chic trend or progressivism for its own sake. Actually it is not like that, but if certain responses, so, political, do not come, this is the risk we run" (TP9).

07 CONCLUSION

From field research, through the interviews to social operators and privileged witnesses, the presence of victims of trafficking among asylum seekers and the much more marked connection between the two phenomenon shall be confirmed. Those who potentially deal with seekers/beneficiaries of International protection or services directed to people who have suffered serious exploitation and/or trafficking are well aware that there is a connection between the two conditions and that the applicants of International protection, or potentially so, shall find themselves into such a high discomforting condition that the risk of being reduced into slavery is always more concrete. As well as, particularly following the massive migration flows landed on Italian coasts, the interviewees report the presence of a large number of victims of trafficking, being merged into the system pertaining International protection, or victims of trafficking that, because they are not able to submit a complaint, decide to apply for both system, this is, they submit the application for International protection and, at the same time or shortly after, enter a project under art.18.

Despite that the two systems have tried to give a response to such situations⁴⁷, from field experience critical aspects emerge relating to the integration of the two sectors actions: in fact, many operators dealing with trafficking show to have a little knowledge on regulations and services provided for asylum seekers, and vice versa, and the main issues are the identification process that involves, besides operators and services, Territorial Commissions, operators at place of landing, security forces, etc. and the provision of adequate services. It is necessary to support the evaluation of the cases and foster the cooperation among key figures working in the process of identification, involving both specific NGOs and other agencies of the sector (such as UNHCR) in the identification and assessment of specific needs; as seen into the previous paragraphs, the research, on the one hand, calls for identifying operational methods more suitable to promote the identification of victims of trafficking, on the other hand, for making every effort in order to guarantee the inclusion into integration pathways.

With regard to the services, it is interesting to observe that operators of both systems (trafficking and asylum) make different requests reflecting their specific professional education and the activities provided into the particular centre. In facts, SPRAR operators refer the need to offer additional services specifically for asylum seeking victims of trafficking relating mostly to: a) targeted and specific

⁴⁷ Paola Degani, *Richiedenti asilo e vittime di tratta nel quadro dei flussi migratori misti tra differenziazione dei sistemi di protezione e necessità di coordinamento dei meccanismi di referral*, in Pace Diritti Umani, 2, 2001, pp.79-116.

psychological support because of the particular vulnerability of the beneficiaries and, especially, for those who are subjected to sexual exploitation; b) the necessity to extend the multi-disciplinary competences of the project staff, including, for example, the involvement of, besides the psychologists, also health personnel such as gynaecologist, professionals of public counselling point, etc.; c) training systems directed to the victims once they leave the project, as a support for their social inclusion and residing into the territory to prevent falling again into the exploiter's net; d) stronger protection for victims of trafficking, offering, for instance, to stay into protected and hidden apartments in order to avoid being reached by further exploiters.

On the contrary, operators of reception centres for victims of trafficking, mostly, consider it as useful the offering additional services relating to legal consultancy on the rights of asylum seekers and of people who decide to enter a protection program ex art. 18 and training and vocational courses to access to labour market. The necessity to promote and develop better coordination and cooperation among all the parties involved in the sectors of human trafficking and International protection is also brought into sharp relief, in order to:

- adopt formal tools of cooperation including general shared indicators that take into account the different forms of exploitation, places where it could be conducted and biography of people involved, like the protocol of Torino signed in June 2014 does.
- distinguish the different legal paths linked to the kind of residence permit granted so to guarantee a taking charge suitable, adequate and effective to better respond the person's needs;
- implement local network supporting the Territorial Commission;
- create a National strategy starting from local good practices;
- organize joint training among those who operate on field in the two sectors (trafficking and asylum) and in different locations (community, counselling points, Territorial Commissions).

Finally, as regards the necessity of activating a different reception channel directed to asylum seeking victims of trafficking, the majority of the operators working in trafficking sector believe that the current reception projects provided by art.18 are suitable for receiving victims of trafficking seeking asylum, whereas the SPRAR operators think that another reception channel should be activated for such target group, mainly in order to guarantee for the victims safety during their staying on the territory and offer them a proper psychological support.

On this matter, when we consider the opinions of the privileged witnesses, some believe that the SPRAR reception system is not always adequate for protecting

the victims of trafficking regardless of the residence permit they have applied for, whereas others believe that it does not have to necessarily activate another reception channel from the present one but it should be more specialized for this typology of target group:

“The victim of trafficking needs a different kind of protection than the one that is now offered by the asylum system, both for the peculiarity of the trauma and from a legal point of view, to give, above all, support during the penal process or for claiming compensation for harm suffered” (TP11)

“Activating a different reception channel, not different, but a bit more specialized for asylum seeking victims of trafficking. For example, I would not have the same difficulties if the SPRAR facility was specialized for alleged victims of trafficking, I am not saying that only prostitutes should be received, but when you work with a similar target it is much easier: for example, if the asylum seekers were all also victims of trafficking” (TP8)

There are also those who prefer the establishment of a large single National system provided with a National Agency that deals with anti-trafficking policies implementation or those who prefer a connecting system able to identify contact points and interconnections between the two different systems:

“I see either a large single National system including a National Agency involved in anti-trafficking policies that, in such way, will not be released upon asylum seekers issues or a connecting system, a stable system of analysis, above all people who deal with trafficking should know about asylum, the opposite has not much sense, but certainly a stable connecting system that could catch interconnections and points of contact.” (TP9)

Once again, the decisive element is enabling the operators of different contexts to recognize alleged victims, to immediately activate interventions of first aid, assistance and cooperation with Institutions; it is necessary to assess the vulnerabilities of the victims and, based on their needs, identify the most adequate protection pathway, even using the parameter of expediency:

“I don't see such big differences or difficulties in approaching one context rather than another because we are always talking about victims of trafficking or serious exploitation so the mechanisms are the same, the instruments to be adopted are the same, what they need, the requirements to be covered are the same, it should be more a matter of the ability that the operators from different contexts should have in recognizing the potential victims, in activating immediately mechanisms of first aid, assistance and interaction with institutions, and individual pathways, thus, not only mechanisms of identification of the victims but also they should be able to understand what is more appropriate for them, it should be wondered “is it more appropriate for a victim following the pathway provided for asylum seekers or entering a protection program provided into art. 13 o 18?” such a question involves many different aspects

on which there should be fine a compromise, because it could occur that the judicial authority or police have a different view of the case than the social operators. We should always think about the situation of vulnerability of the victims of trafficking, mostly when coming from particular contexts, and the nationality, thus, preventing these victims from being exploited or remaining exploited when the first aid offered by the pathway ends. Keeping in mind they are vulnerable and victims of serious crimes, I would consider, first of all, the fact that they must be protected as victims, assisted and taken them far from the context of exploitation that, directly or not, affects them, from such point of view, probably, the program under art. 18 offers more guarantees than the asylum pathway, more attention is paid because other subjects come to be involved, further scenarios, such as investigative and procedural, develop, there are stronger enforcement measures” (TP9)

Finally, others believe that the two pathways could be followed at the same time, by calling a combined model having a specific professional qualification and an independent financial instrument, having different programs and target groups finding, in certain occasions, a point of meeting and cooperation, as provided by the decree transposing the Directive 36 of 2011:

“All those cases when the application for asylum was submitted, we have supported them, but the person was transferred to a centre ex art. 18 directed to victims of trafficking. this is due to the fact that the funding for program ex art.18 does not refer to legal proceeding but social protection (safe place, physical protection, specialized psychological support). Thus, it could be used (and it has been already done) a specific channel for protecting victims of trafficking and exploitation, for receiving, assisting, supporting and socially including a person which, legally, has chosen to submit an application for international protection. This has been done achieving very good results by people who experiences the combination of the paths... the last legislative decree that transposed the Directive 36 on trafficking hopes for the two systems to work together in order to give the best protection for person. This wish has been put into action sporadically by some entities in the past”. (...) “starting asylum procedure, granting International protection and then enter art.18, or vice versa, starting with art.18 and, at a certain point, abandoning it to seek international protection... the important is that the two mechanisms interact, both at the starting point in Lampedusa and at any stage of the path.” (TP2).



CHAPTER 3

STORIES OF VICTIMS

OF TRAFFICKING SEEKING

INTERNATIONAL PROTECTION

» THE STORY OF S.P.

Story prior to leaving the native country

(decision to leave, contacts, personal migration plan)..

S.P. woman, Nigerian nationality. The fourth of eight sons, her father worked in military service and he was the pastor of a Church, the mother worked at market. S.P. attended schooling for 12 years, she concluded high school, she has always helped the mother working at market. In July 2005 S.P. she lived in the city and she met a man in a hair salon; after some months that man asked her if she wanted to go to Europe to help his wife as baby-sitter. She immediately accepted, the man told her that his wife lived in Greece and he would have arranged all the documentation required for leaving. Four months later, the man had all the documents, the passport contained a wrong name but the fingerprints on it were her ones. At this point, without saying anything to her parents, excited for the travel and at the perspective of working in Europe, she left with the man. She wanted to surprise her parents by calling them once she got in Greece.

Migration path

S.P. left Nigeria with the man on flight, passed from Egypt and departed again to Greece. Once in Greece, the man went back to Nigeria, for two weeks, without saying anything and leaving her with other girls in a house. During those days, S.P. saw a continual coming and going of men and she quickly realized that those girls prostituted themselves. Not even for a single minute she thought she would have done the same, she was sure she would have been a baby-sitter. When the man came back, he made a voodoo to S.P., he took her hair and nails, he made her eating and drinking colanut and then he told her that she had to work as prostitute and to pay a debt of 85.000 euro. S.P. shocked, the agreement was for being a baby-sitter not prostitute; S.P. felt entrapped, she could not go back, the man had her documents, even if fake. The man also threatened to kill her if she had not collaborate. In such a way, 7 years of slavery have started she could not say anything, for three times she tried to escape but she failed, she attempted suicide many times, for two times she tried to hang herself and she took many tablets that she found at home (which the man used to make the girls aborting). S.P. was rescued by a woman who lived with her in the house. In Greece, she lived with other 6 girls in the house that was composed of a waiting hall for customers, and three rooms, each one with two beds, the sexual encounters were made at the same time. The activity started at 10 a.m. and ended at 1 a.m. They were all Nigerians, S.P. was the last person to arrive, a man from Pakistan slept in the night in the waiting room, he was very bad and kept them under his control, during the morning he was the one in determining the price of the performance, the minimum was 20 euro, the customers paid him directly. The girls were obliged to do any performance required by the customer, including unprotected encounters that were paid twice. They could not go out alone, once in a week the guardian drew one of the girls which would have accompanied him for shopping. During these

7 years she had been raped many times from this man and she aborted 17 times, she had never gone to hospital or doctor, the man provided for medicine (that were herbs from Nigeria) to give to the girls. S.P. thought to die many times, and sometimes she would have been happy for it, living in that condition had no sense. In 2007 S.P. was taken to another city in Greece, the police came in the house for control, and the police reported she had a fake document. Consequently, the girls was taken to prison where she stayed for 3 months on charge of, and subsequently conviction, prostitution and false generalities. When S.P. was released, she was transferred to CIE; she hoped to be repatriate, so her slavery could have found an end. When she was at CIE, the Boss who was afraid she could have denounce him made her many phone calls threatening her of death through the voodoo. The man told her that she should have applied for asylum to leave that place, she told her to use other false generalities, different from the ones in the passport. S.P. has never been interviewed by Commission, every 6 months she received a receipt for renewal. In 2012, a Pakistan customer, knowing the conditions she had to live in and the obligation in prostituting, wanted to help her, after 3 weeks he came back and with his mobile took her a picture useful for the new document to escape with. S.P. told him she had no money for travelling, but he said not to be worried about that, from that moment every time they have had a sexual encounter he would have not paid. When the required documents were ready, the Pakistan man asked her to find an excuse to go out from the house, and because he man was kind of friend of the boss, the idea was to send her to buy something to drink and then she should not have come back, but she should have waited in an established place. After two hours waiting, the Pakistan man took the girl to one of his friend's house where they remained for four days and where they departed from to take a boat to Italy.

Arrival in Italy and residence conditions and modalities

(the subjects whom the person has met and who had using her/his, the institutional and private actors which have made it possible to recognize the person as victim of trafficking).

The travel to reach Italy lasted 1 day and a half, S.P. does not know the port they landed, but she remembers they took a train to Piemonte. The man duplicated his wife document and replaced the picture of his wife with the one of S.P., then he dressed her up with his wife clothes (long dresses and veil, only her face was uncovered), before entering boat there was a police control and they passed it, the man explained they were husband and wife. During that travel S.P. spoke a lot with that man, telling him about the 7 years of slavery inside the house, the man did not imagine that his friend was a trafficker and women exploiter. When they arrived in Piemonte, the man said to S.P. that, from that moment, she should have provided for herself, he greeted her and took her telephone to prevent her for calling him or the exploiter. S.P. remained close to the station for two days asking for help to any black person she saw but nobody helped her, then she met a black boy, not Nigerian, who listened to her and accompanied to the Ufficio Stranieri (Foreigner Office), where he had an appointment.

» THE STORY OF K.R.

Story prior to leaving the native country

(decision to leave, contacts, personal migration plan)

K.R., man, Ghanaian nationality, Catholic, 37 year old.

Migration path

K.A. escaped from his country because his Muslim family persecuted him when he converted to Catholic religion.

Arrival in Italy and residence conditions and modalities

(the subjects whom the person has met and who had using her/his, the institutional and private actors which have made it possible to recognize the person as victim of trafficking).

K.A. arrived illegally in Italy in 2005, he boarded in Libya with other illegal migrants paying about 1000 \$ to a criminal organization managing such travels. They landed at Lampedusa coast after three days at sea. After some days he was transferred to a CARA in Puglia, where he initiated the procedure for granting the residence permit for humanitarian reasons, the application was rejected. At that point, he spontaneously left the centre and moved to Campania where he worked for a building company. After one year, he lost his job and he went to Calabria, where, at first, he worked in olive harvest and other relating activities. Since September 2007, for almost two years, he worked in a farm. During this period of time, there were about 20 Romanian, 4 Africans, working with him, all were controlled by 4 Italians. Not everybody was regularly paid, working for about 12 hours a day, during which they did not receive food and drinks. In 2008, K.A. had an accident while he was working, the boss took him to the hospital where he remained for three weeks. He did not have a medical report concerning that period because he had not a regular residence permit. Once he healed up, he came back to work in the same farm until September 2009.

The boss wanted to regularise his position, he would have paid K.A. 13 euro every day, but promising that, after regularization, he would have paid 30 euro every day. Afterwards, in September 2009, K.A. received a decree of expulsion and only at that time he realized that his boss had not started the procedure to regularise him. K.A. went to Calabria, finding as shelter a hangar of two floors, the upper floor was the dormitory, whereas they could eat downstairs. In the same shelter there were hundreds of foreigners, all working in agricultural job.

Initially, K.A. worked only for three days with a compatriot. This one managed a group of around 25 Africans, employed in tangerines harvest, they received one euro for each basket weighed around 20 kilos; during work, they did not receive food and drinks, they were only allowed to eat tangerines. One day he filled 28 baskets and received only 23 euro, 5 euro were slashed by for the transportation from the place he lived to the place he worked.

After leaving this job, K.A. found another one with an Italian man. This man passed along the road with his green lorry taking migrants to the fields. K.A. was paid 25 euro every day, working from 8 a.m to 5 p.m., the Italian managed numerous teams of 7 men each.

Current situation and legal path

K.A. was forced to leave Calabria. When he made his report to Carabinieri (police) in 2010, he stayed in a tent city in Puglia.

» THE STORY OF J.E.

Story prior to leaving the native country

(decision to leave, contacts, personal migration plan)

J.E., woman, Nigerian nationality, 33 years old.

J.E. lived with her parents and the brother of 3 years old, J.E.'s mother passed away, probably for illness, when J.E. was 2 years old. Her brother and She remained with her grandmother in a village in Nigeria, but when she was five years, the grandmother died. Then she went to live with her father in another village.

Her father was the owner of a small shop of food stuff (rice and beans); one day, a fire broke out in the village from the petrol station closed to the shop and all those who were near died, including her father which burned into the shop. J.E. does not remember exactly when this occurred, she was too young (she was safe because their house was a bit far from the village). Then her brother and she went back to the village where they lived with the grandmother to stay at their big mother's sister, uncle J..

In that village, J.E. lived for many years but when she grew (around 11-15 years old), she had to escape because traditions of that village command that the girls shall be subjected to infibulations. The chief of the village, elected by the people of the village, decides when a girl should do it. In the village, there are Muslims, Christians and unbelievers which make voodoo (juju for Nigerians), the chief of the village, named C.O., made the juju and when J.E.'s uncle refused to let them do the infibulations to J.E., because they are Christians, persecutions started. The chief of the village and other persons threatened of death J.E. and her family. Her uncle thought that the only solution was to give J.E. money and make her turn away to Lagos.

Migration path

A Lagos, J.E. she was received by her brother's friend which told her later that her brother, which remained in the village, was beaten many times and due to that he became crazy. J.E. has still not had any traces of her brother.

She was very scared because she knew those people were looking for her and that, easily, they would have found her in Lagos, thus, her brother's friend, who did not want to have problems because of her, gave her some money to travel in Senegal with other girls. Once arrived in Senegal, she met A., a Muslim Senegalese boy, which introduced her to his family that did not accept her as Christian. He decided to continue being together, and, through small jobs, they collected some money and went to Morocco in 2000.

J.E. stayed in Morocco for two weeks with A., she lived in a wood fearing that people from that place could have returned them back to Senegal, they ate dried bread for living, that a Nigerian man brought. This Nigerian man proposed them to go to Spain on boat. J.E. believes that A. gave about 800,00€ for the travel of both. After a walk of three hours, they reached the boat and the sailing lasted for two days, on a boat with many other people. When they came in close proximity to

a dock, the boat driver told them all to get off because if police had caught them, they would have been repatriated. The girl and her boyfriend hid themselves in a wood for one week, then A. went to look for something to eat and he did never get back. J.E. left the wood and started walking, she met a Nigerian lady who decided to help her offering hospitality in her house in Spain. J.E. remained there for three weeks, then the woman, who did not want to have problems because she was without documents, bought her a bus ticket to go to Italy.

Arrival in Italy and residence conditions and modalities

(the subjects whom the person has met and who had using her/his, the institutional and private actors which have made it possible to recognize the person as victim of trafficking).

J.E. arrived in Italy, in Lombardia, at the beginning of 2001. When J.E. arrived, she called the number that the lady in Spain gave to her but nobody answered, at the bus station she met a another Nigerian woman whom she told her story to and the woman accepted to give her a help taking J.E. to her house in another city in Lombardia. J.E. was without documents and if police stopped her she would have expelled from Italy and repatriated to Nigeria. The woman took her in an apartment where she lived with other three Nigerian girls, she told her to start working on the street as prostitute and that, once gained some money, she would have asked somebody to arrange her documents. J.E. did not know what to do, nobody had ever explained to her about the possibility of seeking International protection, so she started working: she used to leave the house in the night and go to the street to prostitute herself, often she was beaten or robbed by the customers, the woman told her it was normal such things happened with that kind of job; in the house the situation was calm, without quarrels. One night, while she was working, police came and took her to the police station, they took her fingerprints, J.E. did not remember the name she gave to police, then, they released her. A second time she was stopped by police while getting off the train, police transferred her to a camp in Lazio where she remained for two weeks and, at the end of 2003, she was repatriated, but still nobody have told her about the possibility of seeking asylum.. When she arrived in Nigeria, she went to Lagos to her brother's friend which told her that the chief of the village was still looking for her and the house of the uncle was destroyed: it is a duty for the chief of the village to find those who refuse infibulations. After short time (at the beginning of 2004) she decided to leave Nigeria because the situation remained dangerous. She went to Morocco again, she had some money and she knew how to do: she called the Nigerian man, who organized the travel for the first time, and he organized the travel from Lagos to Spain, transiting from Morocco but without stopping there.

Once arrived in Spain, police took her fingerprints, she gave them another name, then she was released. Among those people she travelled with, J.E. have met a girl who had a relative living in another big city in Spain, so the two went together to this city where they stayed for three days. Then J.E. called a woman whom she met when she was in Lombardia and who stayed in Veneto at that time doing prostitution. J.E. explained her situation and the woman sent her some money for

travelling to Veneto. When J.E. arrived there, she went to live with this woman who lived with her husband and four years old son and who was not a prostitute anymore.

J.E. started into prostitution on the street again for a couple of years. One day she was caught with a customer by police and then transferred to a centre where she was detained for two weeks; then, she was moved to another centre in Lazio where she stayed for two months and police took her fingerprints and J.E. declared another name because of fearing to be repatriated to Nigeria. During her staying at the centre, police informed her about the possibility to seek asylum, a girl staying at the same centre helped J.E. in writing her story that she handed over to police. In January 2008, the Police in Veneto issued a three months residence permit. Nobody has told her to go to Commission, in the CARA.

The woman who had received her in Veneto threw her out of the house because she did not want to have problems, J.E. lost her residence permit and, as scared, she bought a bus ticket to go back to Spain (2008). J.E. was received in a CARITAS centre where she met a Nigerian woman who received J.E. in her house. J.E. paid the rent of the house and worked illegally in a red peppers factory. After this job, she worked as baby-sitter but when this job finished, J.E. had no money and, in 2012, she decided to go to Switzerland because she was pregnant and somebody told her that Switzerland helps pregnant women. In Switzerland, she had problems in her pregnancy and she had to abort. They took her fingerprints so they could see she was already been identified in Italy where she had to go back. J.E. bought a ticket with the money that Swiss police gave her and she went back to Italy in 2013, in Friuli Venezia Giulia.

J.E. remained for one week at city train station until a white man gave her the address of a place where she could have been helped. Thus, J.E. went to social services and the social assistant accompanied her to police which made some investigations on her but without finding the name, because she had given wrong name. In June 2013, she was moved to a SPRAR centre in Toscana.

Current situation and legal path

After submitting the application for International protection, she was received in a SPRAR project in Toscana where she still is. She had a second pregnancy and in April 2014 she had the baby.

» THE STORY OF A.P.

Story prior to leaving the native country

(decision to leave, contacts, personal migration plan)

A.P., man, Pakistan nationality, 32 years old.

Migration path

A.P. left Pakistan following threats of deaths he received for his job as teacher, for men and woman, and he departed to Iran with a trafficker to whom he gave his money. He suffered physical and psychological mistreatment from that trafficker, whole days without food and water; he was delivered to another trafficker he followed the travel with, through Turkey, Greece and finally arrived in Puglia.

Arrival in Italy and residence conditions and modalities

(the subjects whom the person has met and who had using her/his, the institutional and private actors which have made it possible to recognize the person as victim of trafficking).

A.P. was transferred to a SPRAR centre where he asked for a permission to go out and work, in agricultural sector. When A.P. returned back to the centre, he reported to have been exploited by a Pakistan “caporale” who recruited compatriots for working in the countryside. Their residence permits were withdrawn, they lived in an abandoned overcrowded farmhouse in inhumane conditions, without toilet facilities, light and water. The “Caporale” managed, from what was reported, an activity of recruiting compatriots on behalf of some Italians; it was also reported that this Pakistan man would have threatened the family members, residing in Pakistan, of people working for him, whether they had denounced him or turned on him. A. did not have a job contract (despite that he was promised) and, at the end of a 12hours working day, he was not paid. He only received some food stuff only enough for surviving.

A.P., during an interview, tells: “I went to an area in Calabria, without asking myself if the work could have been difficult or not: the important was contributing to the difficult financial conditions of my family. When I arrived there, I was taken along the road to a place which a friend addressed me to go; when I reached that place, a boy took me to the room where the other workers lived. You will be shocked by what I felt. For a moment, I thought, I was in the jungle. I felt like an animal among other animals. I realized that I would have become like them. That room was crowded enough to be a battlefield littered with injured people. The next morning, when a boy came to wake us up to go to work, I stood up, I went to the toilet and I saw a long queue of people waiting for their turn. Our boss yelled at us that the car was waiting for us, that it was too late, so we had to leave the house without using the toilet because it was the only one. Inside the car there was a similar situation; we were 12, imagine how we stayed, and I don’t know how we could have got inside there. After forty minutes, we reached a wide zucchini field and the boss told us to start collecting them. In the meantime, the Italian owner of the field came to check how it was working. Then, another one came, fat and full of jewellery, where I was working, he noted I forgot to collect one zucchini. He yelled

at me that, I would have not been paid for that first day. I apologized but he did not accept my apologies, so I left with anger and disappointment for not having my salary of the day; our Afghan boss got really angry at me but I told him that I would have not made any mistake on the next time. We worked for eight hours on that day and nobody told us to stop; there were no break to rest a bit. When we came back home, each person had to hustle for using the toilet.

I worked there for 25 days and I went back to centre with nothing in my hands, I don't think I have been the only one in suffering so much, believe me, in that place I met hundreds of foreigners who told me they worked there for three months hoping to gain some money to send to their families but, we know, 'the money are into the lion mouth'! No one could claim its money, not even with police support or any other organization, because those people do not make job contracts to workers. Last but not least: I have spent much of my time in Calabria, so when I came back, I told what happened to me. I know there are many places in Italy where workers are treated even worse. Finally, I call on the authorities to take actions in order to stop this tragic situation, to punish and fine those cruel people who treat human beings worse than animals or slaves”.

Current situation and legal path

The case was reported to the trade union of the specific sector (FLAI-CGIL) which intervened with training courses on rights of workers in agriculture and on new forms of slavery in such sector.

» THE STORY OF A.C.

Story prior to leaving the native country

(decision to leave, contacts, personal migration plan)

A.C., Malian boy, 26 years old (22, at the relevant point in time).

Migration path

A.C. escaped from his village in Mali because, in its country, they make human sacrifices, in fact, in that village, a young man shall be sacrificed every year, chosen by the chief of the village and in 2007 A.C. is selected as victim, the boy, scared, ran away to Algeria and, later, he reached Libya where he remained for 2 days. In Libya he worked as builder man to collect the money for the travel on boat which he reached Italy. A.C. tells that in Libya there are people who make business with those money gained from those who desperately escape to find a better life, A.C., for example, says he paid 1000 \$ to cross the sea but he is not able to give the name of people whom he gave his money to.

Arrival in Italy and residence conditions and modalities

(the subjects whom the person has met and who had using her/his, the institutional and private actors which have made it possible to recognize the person as victim of trafficking).

A.C. landed in Sicily in April 2008 and, subsequently, he was transferred to a CARA in Puglia. After leaving the centre, A.C. went to another city in Puglia where he worked for about one month as rural labourer in the tomatoes harvest. He lived with other 15 – 20 people on a camp, named as “campo f back” by the “caporali”, inside huts made of wood and cardboard by the immigrants. Every morning the “caporali” go to this camp to recruit people depending on the job that they have to do. When A.C. is recruited, he is taken to the fields (three different ones) by a car driven by the boss and other two-three people. He gained one euro each basket working around 7 hours a day, without water and food.

After Puglia, A.C. moved to Basilicata where he stayed 20 days. He was employed into the pepper harvest, gaining three euro per hour and working every day from 8 a.m. to 4 p.m., without food and water. In Basilicata he was recruited in a square (a place where the immigrants stay to be recruited for work) by T., every day he went to the field to work by car with other people.

Finally, A.C. went to Calabria following a friend's advice. HE stayed there for three months working as harvester of tangerines and olives. He lived in an abandoned building without light and water with other 400 people. He paid for anything, food, warm water (provided by a Sudanese). Every morning at 4., the “caporali” went to this building to recruit people to be employed at work. He worked for T. every day from 8 a.m. to 4 p.m. for 25 euro a day. The labour camps were very far from they place where they lived, they took three hours by car. After arriving there, they took the baskets and started to work alone. The boss used to leave without giving them his telephone number, because he knew they were undocumented migrants, A.C. reported that his exploiter used to remind them many times to be very careful if police arrived and, if occurred, to escape.

Then, A.C. escaped and reached the train station but, because he is black, they did not allow him and other immigrants to get on the train. Security forces took him and transferred him to a CARA in Puglia. A.C. escaped even from the CARA and he found reception in a tent city managed by the Red Cross.

Current situation and legal path

In 2008 A.C. applied for asylum in Puglia, so in August 2008 he is granted a residence permit. At first instance the Commission rejected his application, he appealed with the support of a lawyer and is granted another residence permit in November 2008. His residence permit is now expired, but he is still waiting for the decision of the appeal.

In 2010 the boy who stayed in a tent city in Puglia contacted an help hotline and in February 2010 he met the operators of the local association that manages it. Operators explained to him what the protection program consists in and the boy has shown his willingness in filing a claim reporting all the events stated during the interview with the Territorial Commission and in telling everything at the operators of the association.



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