**Written observations submitted by DIFFERENZA DONNA-NGO**

**General discussion on the Technical Working Group on General Recommendations on Trafficking in Women and Girls in the Context of Global Migration.**

For the attention of Ms Buchmann (dbuchmann@ochcr.org)

*Differenza Donna (hereinafter DD) is a feminist organization of women based in Rome, Italy which since 1989 pursues the aim to fight, prevent and overcome all forms of violence against women. DD is founding partner of D.I.R.E-Italian National Network of Women’s shelters.*

*Since 2010 DD is part of WAVE-Women Against Violence Europe, the European network of NGO’s aiming to combat Gender Based Violence and promote women’s rights. DD is also part, since 2015, of the Platform for Cooperation on Undocumented Migrants (PICUM).*

*DD was granted special consultative Status by ECOSOC in 2016 and is active on both a national and international level, running women’s shelters and several help-desks which target survivors of all forms of GBV, including THB for sexual exploitation.*

*Since 1992, when the first Italian central-south shelter for women victims of gender violence was established in Rome, the “Anti-violence shelter of Rome’s Province,” DD has received more than 30.000 women of which 50% migrants and asylum seekers and more than 1000 women survivors of human trafficking.*

*Since 2013, through the activities carried out within the EU-funded project “GendeRIS: the gender dimension in anti-trafficking policies and prevention activities in Romania, Italy and Spain”, DD cooperates with territorial commissions for international protection in order to strengthen the capacity of operators to detect indicators of trafficking and exploitation among asylum seekers.*

Ladies and Gentlemen, Members of the Working group,

According to DD’s methodology, based on a feminist perspective and developed from practices and interventions based on years of **direct experience** and **working closely with women and girls who have survived trafficking,** trafficking of human beings remains a strongly gender-based structured phenomenon, underestimated at a national level as a serious violation of human rights perpetrated by means of gender-specific forms of violence and persecutions.

In Italy THB shows its gender-based characteristics: according to the GRETA report (2018) in Italy in 2017 there were 1050 of identified and assisted THB survivors and 121 children, and **the majority of them (85,6%) were female, mostly exploited for sexual purposes** (78% in 2017, 90% in 2018, succeeded by labour exploitation (13% in 2017, 7% in 2018), forced begging (1.9% in 2017, 1.5% in 2018) and forced criminality (0.2% in 2018, 2.7% in 2017).

In 2017-2018 the main countries of origin were Nigeria, Romania, Morocco, Bangladesh, Pakistan, Albania and Bulgaria. In relation to the THB phenomenon, there are currently 21 projects funded by the Department of Equal Opportunities spread throughout the Italian territory. DD is actually part of the “Rete Antitratta Lazio II” (Anti-trafficking Lazio Network II), in partnership with 11 other organizations. This project is led by the Lazio Region and grants assistance and protection programs, including shelters and safe-houses to women, men, trans people and children survivors of THB. At present, in Italy, there is a shortage of shelters for victims of THB, who are often hosted both in first line reception centres and structures part of the SPRAR system. In order to combat trafficking in 2016, the government published the first National Action Plan against Trafficking of Human Beings.

Women victims of THB who have contacted, over the years, DD, report that the main reasons why they escaped from their countries of origin were: a) child and forced marriage, b) FGM and religious persecution, c) gender-based discrimination, neglect, denial of access to education as women, d) domestic violence.

Women survivors of trafficking, apart from exploitation, usually suffer **multiple forms of Gender Based Violence**. DD is highly concerned about the elevated number of women involved in THB but denied protection, even if they were also survivors of FGM. Most women do not know that such forms of violence that they have suffered, entitle them to international protection.

Over 200 women have been referred to DD by the Territorial Commissions for the Recognition International Protection over these past years, with a large increase in numbers during 2017 and 2018. DD has been receiving similar referrals from NGOs working with migrants, reception centres, health professionals. The scope of the referrals goes beyond their formal identification as THB survivors. In fact, all women met by DD lack knowledge and information regarding their rights as victims of trafficking. DD experts specialized in GBV and trafficking provide them information on national and international legislation and the assistance and protected programs.

DD recalls the attention of the Honorable Members of the Working group to **new risk factors** to be considered in designing *General Recommendations on Trafficking in Women and Girls in the Context of Global Migration*.

In fact, apart from the well-known social and economic risk factors[[1]](#footnote-1), at the moment there are several risk factors for THB victimization that stem from the EU legal and policy trends in immigration control and criminalization, externalization of borders and international agreements on repatriation that ignore the principle of due diligence which binds states in the protection of human rights, including women’s right to be free from all forms of GBV. At the same time, the process of normalization of sexual exploitation of women and girls is nourishing a public discourse encouraging the demand instead of rising awareness against all form of sexual exploitation.

**In Italy immigration law and policy prevents THB survivors to effective access to justice and protection.**

Italian immigration policy has increasingly become more restrictive and repressive, curtailing migrants’, refugees’ and asylum seekers’ access to fundamental rights and favouring migrants’ criminalization over reception and inclusion.

Despite the Italian pioneering legal framework on prevention and protection of THB survivors, current immigration policy has progressively and negatively affected the practice of operators (law enforcement officers, magistrates, social workers, public officers and healthcare staff, etc.) who work with migrants, refugees and asylum seekers, increasing the risk for the latter to suffer multiple violations of their fundamental rights and diminishing the detection of risk factors and indicators of THB.

The recent security law issued by the Italian Government (approved on November 7, 2018) represents a decline in living standards of the migrant population in Italy, increasing uncertainty and vulnerabilities. These involutions of the legal system heavily affect women suffering from THB in violation of articles 2,3, 4 ECHR, incrementing their risk to suffer **further forms of GBV both in the public and private dimensions and limiting their access to protection and justice, with a higher risk of secondary victimization due to the lack of specialization and awareness of officers and law professionals.**

At the moment, international and European obligations binding national authorities to grant protection, access to justice and compensation to THB survivors seem to be de facto systematically violated because of the prevailing aim of removal of foreign citizens.

**The contemporary management of reception, detention and removal of so-called irregular migrants and asylum seekers represents a very serious additional risk factor for THB survivors**: due to a lack of organized, coordinated and stabled communication there is no systematic joint network in Italy which brings together all the actors involved in the migrant reception such as civil society and government institutions. The management of reception and accommodation of migrants and asylum-seekers, in fact, seems to be done on highly confused and inadequate grounds. In the past years there has been an enhancement of the reception system responding to accommodation emergencies due to the elevated number of migrants arriving in Italy. However, in the light of the recent update in the national migration law, the government has actually cut off funds and reduced the number of accommodation structures. The Italian legislator provides almost no guidelines on the reception system set up and leaves the management of centres to different private firms with no particular skills and or qualifications in migration issues. In fact, call for bids on managing reception centres is won on the sole basis of the lowest economic offer, without adequate consideration of the quality of services and operators’ skills/capacity. In a few reports compiled by different NGOs there is a courageous denouncement of the very poor reception conditions in the reception system but there is little mentioning of vulnerable people’s conditions. To date, we have almost no data on how gender-based suffering women's (including those suffering THB) needs are met and little is known on their presence in the reception centres.

The reception and accommodation systems in Italy, lack gender-based sensitive approaches and services and are often isolated and located far away from the main towns. Many women have difficulties accessing accommodation, which exposes them to find alternative help making them vulnerable to violence and exploitation. Operators working in reception facilities very often lack gender-based and THB training.

Many victims of THB are accommodated in these reception centres and they point out the presence in these structures of traffickers, the lack of access to appropriate legal information, little access to health care and total lack of vocational training and employment opportunities.

Migrants are received upon their arrival in Italy in Hotspots where they are given first-aid medical treatments, their nationality is identified, and they are fingerprinted and photographed. In a second moment asylum seekers are transferred to Hubs, CAS and SPRAR centres, whereas those who have not asked for international protection or do not meet the requirements established by law for a regular stay in Italy are sent to Permanent Centres for Repatriation (CPR).

Often women survivors of THB report being held in detention along with the same people responsible for their sexual exploitation. They are generally disoriented and hold no information about their rights to ask for asylum or access to protection due to their status as victims of human trafficking. DD notes that the detention condition exacerbates psychological symptoms in women victims of GBV and trafficking.

Over 80% of undocumented women who have contacted DD's helpdesk in the detention centre of Ponte Galeria (Rome), report to have suffered from trafficking or smuggling and have been exposed to sexual violence, servitude, torture, arbitrary detention, starvation and sexual exploitation during the journey escaping their country of origin. Once in Libya, many women declare to have been tortured, raped and sexually exploited. They refer to have been sold to different traffickers, held prisoners in ghettos and connection houses, where they suffer systematic sexual violence and exploitation perpetrated with the sole aim to total subjugation and annihilation of the victims. Once in Italy, they frequently refer to have been stopped by Italian police forces on streets while they are subject to sexual exploitation and brought to detention centres since undocumented and where they are at risk of being repatriated. Deportation to their countries of origin expose survivors of trafficking to an elevated risk of re-victimization and re-trafficking.

The "hotspot" approach has been proposed by the European Commission aiming to manage the high numbers of mixed migrant flows arriving in member states. Italy, along with Greece, has been among the first countries to implement this approach.

The identification of migrants at this stage is done quickly and in a highly confused way with the sole aim to spot, and separate asylum seekers from other types of migrant population, and deport those from the latter group who are not eligible to any kind of residence permit towards countries with serious human rights violations.

**According to the Greta (2016) report the police procedures are fast and aiming to register and fingerprint migrants thus not able to detect women victims of THB and police forces do not have the necessary skills and training to carry out such identification.**

Although at the Pozzallo hotspot members of UNHCR and IOM Italy are present, they claim there is a lack of space and of qualified interpreters to carry out interviews aiming to identify women survivors of THB. At times of increased arrivals, the UN staff has delayed access to the centre making it very difficult to identify women, victims of THB, although identification is essential at an early stage before women are contacted and sexually exploited by criminal organizations.

**No survivors of THB who have come in contact with DD have been identified early when hosted in hotspots.**

DD also highlights the lack of identification of survivors of THB **at the Italian borders**.

Moreover, many women and girls trafficked have been deported to Italy in light of the Dublin regulation and they have been directly brought to the Ponte Galeria detention centre for repatriation, facing secondary victimization, aggravating of their traumas and **re-trafficking**.

**New trends of trafficking for sexual exploitation** include **internal trafficking routes** within European countries: DD is cooperating with many organizations within EU Member States to collect information on women and girls who have been firstly identified as victims of THB in Italy, but then re-trafficked in other EU Member States, where they risk having their request for protection denied due to the lack of documentation identifying them as survivors of THB. Such condition and the increasing number of women and girls re-trafficked reveals the failure of the national protection system.

**Another serious risk factor of THB for sexual exploitation of women and girls is the normalization of prostitution, always more labelled by policymakers as a work-sector to be ruled by the State**. At the moment national provisions punishing the exploitation of person in prostitution is under the control of the Constitutional Court upon request of the lawyers of exploiters involved in criminal trials, furthermore proposals of regularization of prostitution through “dedicated houses” are increasing.

**DD calls for the following recommendations**:

* A precise collection data system, disaggregated on gender, should be filled by all actors who offer aid and protection to victims of THB and this system should include the necessary measures to respect the right of data protection. National authorities should also provide data on the number of investigations and criminal proceedings related to THB and exploitation.
* Italian authorities and the European Union should stop collaborating with the Libyan Coastguard. In line with the non-refoulement principle, they should ensure migrants are not pushed back towards Libya. Based on more than 200 trafficked women’s narratives which DD has met during the past three years, Libya could not be considered a safe country but one where serious human rights violations occur such

as rape, sexual and labour exploitation, starvation, torture and slavery.

* An independent inquiry is needed to investigate the implication of public officers of origin, transit and destination countries in the trafficking of women and girls.
* National authorities should raise women’s awareness of their rights and of the remedies available to them when a violation occurs, starting from their arrival at the First Aid and Reception Centres. In the first identification phase, this would help recognize victims of trafficking or other forms of GBV and identify those women who qualify for international protection. Thus, it is important: (a) to ensure that there are appropriate facilities to hold confidential interviews aimed at identifying survivors of trafficking and GBV in hotspots and other centres where asylum seekers and migrants are held; (b) to strengthen multi-agency involvement in victim identification efforts by introducing a National Referral Mechanism and further engaging NGOs and IOs, granting them increased access to hotspots, reception and detention centers.
* Professionals such as police and immigration officers, reception centre operators, health providers, magistrates, cultural mediators, lawyers should receive specific training on THB and implement gender-sensitive skills when approaching survivors of THB.
* Gender-sensitive procedures should be provided to all the actors involved in the early identification of victims. For this purpose, it is important to take into consideration that the strict dependence of victims to criminal networks makes it hard for them to recognize themselves as victims of trafficking (self-identification) and, consequently, there are repercussions for their credibility statements before authorities and Territorial Commissions. Young women and girls are often not in a position to provide sufficient and consistent information of their experiences.
* Women survivors of THB should be provided with gender-specific medical assistance and detailed information on how to access the national health system. Information should clearly explain all the procedures related to the NHS. In order to overcome language barriers when women seek medical treatment, cultural mediators’ assistance should be provided. Survivors of THB lacking economic resources should be entitled to free medical assistance. Medical professionals should receive training on THB.
* National authorities should expand the Italian reception system. All women asylum seekers should be provided with adequate accommodation. Especially the ones who have suffered gender-based violence. A lack of accommodation makes women vulnerable to additional violence and exploitation.
* Reception centres should guarantee a safe and gender violence-free environment for women. They should not be overcrowded and grant women access to gender-specific medical, psychological and legal assistance. Reception centre operators should receive adequate training on GBV and THB. Reception centres should not be remotely located and avoid isolation and ghettoization.
* National authorities should ensure women's full integration and independence into Italian society. They should ensure survivors are not left for years in reception centres being isolated and ghettoised, but rather provide services and support enabling them to access housing, vocational training, internships and jobs.
* National authorities should ensure that the irregular permanence of survivors of THB on the national territory should not be treated as a crime and thus prevent detaining of the women victims of trafficking, along with secondary victimization and further trauma and respect of basic human rights. Moreover, women should have access to free legal representation, asylum claims and adequate information about their rights. Authorities should ensure strict compliance with the principle of non-refoulement in all applicable cases regarding women and girls in need of international protection according to an individual risk assessment approach in line with the National Plan on Trafficking in Human Beings (NPA) and with the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).
* National authorities should enhance the social protection provided for in Article 18 T.U. Imm (Italian Consolidated Immigration Act) ensuring that victims’ protection is not dependent on their cooperation with police operations and investigations. The duration of the residence permit for social protection purposes pursuant to Article 18 T.U. Imm should be extended to three years, as the current six-month period is inadequate to ensure that victims have sufficient time to process and overcome their trauma and to adapt to the new Italian context. In addition, it would also be important to extend the possibility of obtaining a residence permit for family reunification to kin of victims of trafficking, who may be exposed to the risk of retaliation from traffickers in their home country; current constraints to such reunification procedures regarding the degree of kinship, housing capacity and income, should be eliminated.
* National authorities should ensure the full implementation of the article 18-Immigration Act 286/1998. Survivors of THB should be able to access assistance and protected programmes and should be entitled to residency permits regardless of their cooperation and involvement in criminal proceedings.
* Gender-based persecutions (including GBV and THB) should be considered as a factor in recognizing membership of a particular social group under the 1951 Geneva Convention, under article 60 Istanbul Convention.
* National authorities should adopt and implement gender guidelines and guarantee women asylum seekers' access to the asylum protection system. Authorities should take measures to ensure and monitor appropriate short timing from the lodge of the asylum claim and the hearing session. The same attention should be paid to the timing between the hearing and the decision making. Asylum seekers should receive appropriate information about the content and the aim of the interview before the hearing session. Women should be informed of the importance of disclosing their stories of suffered gender-based violence and THB.
* Authorities should strengthen, expand and provide more funding to the network of assistance and protected programmes for victims of THB. Adequate accommodation should be provided to all the survivors. All operators and professionals involved should receive gender-based training. A national multi-agency coordination is imperative, able to involve the civil society and institutions into elaborating efficient gender sensitive national strategies to prevent and combat trafficking in human beings.
* Further efforts and gender sensitive research are crucial in order to explore other types of exploitation such as forced marriages and begging, labour exploitation, online recruitment and sexual exploitation and forced criminality. Particular attention should be paid to the overlapping of different types of GBV and THB.

**On CEDAW’s concept note and general recommendations** on the trafficking of women and girls in the context of global migration, DD calls for the following recommendations:

* To quote ARTICLE 6 CEDAW: “*State Parties shall take all appropriate measures, including legislation, to stop all forms of trafficking in women and the exploitation of women through prostitution*” **without discarding** “**the exploitation of women through prostitution**”.
* To revise terminology in order to avoid all explicit or implicit recognition of prostitution as a potential dimension for women and girls. In particular, it is recommended to remove the terms “forced prostitution” and “forced sexual exploitation”, because they imply the acceptance of a consensual form of prostitution, which is, on the contrary, stigmatised by international human rights conventions as contrary to human dignity and danger for the wellbeing of the human beings.
* To mention positive obligations of the Trafficking Protocol “*to discourage the demand for all forms of exploitation of persons, in particular of women and children, that can lead to trafficking*.” (article 9,§5). It is DD’s view that preventing and ending trafficking of women and children should start by reducing the demand for prostitution and by tackling the violent, undignifying, harmful system of prostitution itself.
* To eliminate all references to **ILO Convention No. 182** on the ‘Worst Forms of Child Labour’, because its framework encourages the normalization of prostitution and minors’ prostitution as a job. All forms of exploitation of women and children in prostitution shall be labelled as sexual violence and abuse and a such a crime to be persecuted.

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**For Differenza Donna NGO**

Ilaria Boiano (attorney at law)

Migena Lahi (gender expert)

Chiara Spampinati (gender expert)

1. See Fondazione Giacomo Brodolini, Center for Partnership and Equality, SURT Foundation, Differenza Donna, *Gender Matters! A practical handbook to implement gender sensitive initiatives to better tackle human trafficking*, May 2014, available at <http://www.fondazionebrodolini.it/sites/default/files/gender_sensitive_handbook_-_eng.pdf>. [↑](#footnote-ref-1)