



**Note No. 01/2021**

The Ministry of Foreign Affairs and International Cooperation of the Kingdom of Eswatini presents its compliments to the office of the United Nations Commissioner for Human Rights, and has the honour to refer the latter to correspondence dated 14<sup>th</sup> December 2020, on the Mandate of the Special Rapporteur on trafficking in persons, especially women and children.

In this regard, the Ministry has the further honour to transmit the attached **Special Report on Trafficking in Persons**, on behalf of the government of the Kingdom of Eswatini, to your esteemed office.

The Ministry of Foreign Affairs and International Cooperation of the Kingdom of Eswatini avails itself of this opportunity to renew to the office of the United Nations Commissioner for Human Rights, the assurances of its highest consideration.

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**  
**GENEVA**

**10<sup>th</sup> FEBRUARY, 2021**





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**GENEVA**

**10<sup>th</sup> FEBRUARY, 2021**



**THE GOVERNMENT OF THE KINGDOM OF ESWATINI COMMENTS: THE SPECIAL  
RAPPORTEUR ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN-THE  
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER OF HUMAN RIGHTS**

**1. THE APPLICATION OF THE NON-PUNISHMENT PRINCIPLE**

The People Trafficking and People Smuggling (Prohibition) Act, 2009 prohibits the prosecution or punishment of victims of people trafficking. The Act further states that victims are immune from prosecution for offences committed during the act of being trafficked.

The principle of non-punishment applies to all victims, gender, age and nationality.

Citizenship deprivation is not utilised as a form of punishment to any victims.

**2. ARREST, DETENTION OR OTHER FORMS OF CUSTODY OF TRAFFICKED PERSONS AS  
FORMS OF PUNISHMENT**

Victims of people trafficking are not arrested, detained or punished in any way. In terms of the legislation once victims are identified as such, they are presented before a court of law wherein an application for their protection order is made. The court is given a report by the respective investigating officer in collaboration with a protection officer (an officer responsible for the welfare of the victim on behalf of the State). The protection order is granted by the court wherein the court is satisfied that indeed the person identified as a victim is a victim. Subsequently, the victim is placed at a suitable place / shelter.

The country further has Victim Identification Guidelines and National Referral Mechanism which enables the continued support and provision of victim care and assistance by all relevant players.

**3. FORCED RETURN AS A FORM OF PUNISHMENT**

There are no cases of forced returns. In terms of the operational tools a victim is repatriated willingly. The return is also carried out in collaboration with the country of origin through the country's Ministry of Foreign Affairs and International Co-operation.

**4. LIMITS OR CHALLENGES ON THE APPLICATION OF THE NON PUNISHMENT  
PRINCIPLE IN LAW OR IN PRACTICE**

Initial trainings were conducted on the implementation of The Act and on trafficking in persons through international partners such as the United Nations Office on Drugs and Crime (UNODC). This ensured a full understanding by implementers including law enforcement and prosecutors on the victim centred approach when dealing with people trafficking. As a result there are no limits reported hereunder.

**5. DISCRIMINATORY PROVISIONS IN THE LAW OR POLICY OF NON-PUNISHMENT**

There are no discriminatory provisions in law or policy on the principle of non-punishment.

**6. INFORMATION ON LAWS, POLICIES, GOOD PRACTICES WHICH EFFECTIVELY PREVENTED TRAFFICKED PERSONS FROM BEING HELD LIABLE UNDER CRIMINAL LAW, CIVIL OR ADMINISTRATIVE LAWS, INCLUDING IMMIGRATION OFFENCES**

The People Trafficking and People Smuggling (Prohibition) Act, 2009 which provides for the protection of victims, the processes to be followed and provision for immunity from prosecution of victims for acts or offences committed during the act of them being trafficked; The Victim Identification Guidelines which detail what a victim is, how to know if one is a victim and how a victim is handled as well as the National Referral Mechanism which details the key responders or service providers and steps to be taken in victim care and referral.

The Inter Agency Task Force for The Prevention of People Trafficking and People Smuggling. This is a multi-sectorial committee which ensures the implementation of all principles, policies and laws which seek to combat people trafficking among others, as per the protection, prosecution, prevention, national coordination and international cooperation pillars.

The Secretariat for the Prevention of People Trafficking and People Smuggling housed at the Prime Minister's Office. The Secretariat is the national focal point for issues of people trafficking and people smuggling which ensures coordination of country programmes and works with the Task Force.

Operational tools such as the Victim Identification Guidelines and the National Referral Mechanism have proved useful in ensuring that principles are followed accordingly.

**7. MODELS OF IMPLEMENTATION OF THE PRINCIPLE OF NON-PUNISHMENT**

The principle is applied through legislation

The criterion used is as per the legal definition of trafficking which determines who a victim of trafficking is.

The principle applies to all types of unlawful acts that may have been committed by the victim whilst being trafficked or during the act of trafficking.

This principle is applied at the beginning of the investigations, once a victim is identified as such all precautionary measures to protect victim are taken. In our case a victim as per the Act is offered protection at the very beginning, this therefore ensures protection of victims' rights.