

**STATEMENT BY  
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ESPECIALLY WOMEN AND CHILDREN  
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Global Compact for safe, orderly and regular migration  
Fifth Informal Thematic Session on  
“Smuggling of migrants, trafficking in persons and contemporary forms of  
slavery, including appropriate identification, protection and assistance to  
migrants and trafficking victims”

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Excellencies, ladies and gentlemen,

First of all, let me to underline the importance of the discussion which is underway in the context of the Global Compact for safe, orderly and regular migration.

The process opened by the High-level summit to address large movements of refugees and migrants of the General Assembly and resulted in the New York Declaration has been focused on the protection of migrants rather than on the so called fight against illegal migration.

This innovative discussion is going on in a context in which a poisonous political discourse leads in many countries to anti-migration and even racist positions, or gives rise to fears and intolerance. In these situations, the main concern of many governments, including many European governments, is to drastically limit or even block migration flows, with little attention paid to the human rights implications of such policies, and no significant solutions, so far, in terms of shared responsibility with countries of first arrival. NGOs giving an essential contribution to search and rescue operations in the Mediterranean Sea have been addressed with unfair criticism, while the impact of institutional search and rescue activities, mainly carried out by the Italian Coastguard was clearly insufficient.

Today, after MSF and others, also MOAS decided to stop their activities, as a consequence of the lack of guarantees of disembarkation in a safe harbor.

This happens in a situation in which repeated tragedies occurred during migrants' perilous journeys, through deserts, rivers, mountains and at the sea. According to IOM, 3,228 people died in the Mediterranean Sea in 2016, and 2410 in the first half of 2017. So many members of the Rohingya minority have lost their lives or risk their lives in an attempt to flee persecutions.

Those surviving their journey, very often end up in exploitative situations that can amount to trafficking and slavery. On the basis of 1,400 interviews with migrants in the Central Mediterranean route carried out by IOM in Italy, 76% showed at least one indicator of trafficking. Moreover, we have recently realized – I have issued two reports last year on this issue – that people in conflict situations, displaced persons, and people fleeing conflict, are

particularly vulnerable to trafficking and exploitation, and that trafficking is a systemic component and consequence of conflict.

Everywhere systematic violations of migrants rights occur during their journey, including death, enforced disappearances, detention including in private detention facilities controlled by various armed groups, torture, rape, early and exploitative marriages, trafficking, slavery, forced labour and child labour, sexual and labour exploitation.

In this context, what should be the outcome of the Global Compact?

- A) There is a need for general guidance about migration policies, which are today part of the problem, not part of the solution, as such policies contribute to exacerbate migrants' vulnerabilities. The first imperative is to establish significant and legal channel for migration, including for work and family reunification. In addition, I would like to echo prof. Mattar, talking yesterday about the need of reconciling migration policies and anti-trafficking policies. I agree, and in less diplomatic terms I would say that migration policies very often are in evident contrast with the declared aim of eradicating trafficking in persons, as they create irregularity and make it easier to exploit migrants, who are induced to accept exploitative conditions for fear of deportation.
- B) The Global Compact, as the 2030 Agenda, the Global plan of action to combat trafficking in persons, and the Alliance 8.7 promoted by ILO, bring together various notions and standards such as trafficking, slavery, forced labour and child labour, to achieve better protection of migrants' rights. I believe that these notions, although they have different legal basis, can reinforce each other and should be used to improve the protection of migrants' rights. I am aware of the importance of clear definitions – as Gulnara Shainian pointed out yesterday - especially with a view to improving investigation and prosecution, and international cooperation. I agree. In my view, however, the priority today is to improve and extend to all victims – be they victims of trafficking, forced labour or slavery - assistance and support measures, access to justice and remedies including compensation, and the non-punishment provision for illicit acts they have committed as a direct consequence of their victimization. Such protection measures should never be made conditional to cooperation with the authorities in charge of investigation and prosecution.

- C) The outcome of the Global Compact should also include concrete recommendations to Member States and private actors about measures aimed at ensuring more effective protection of the rights of migrants, refugees and asylum seekers from trafficking and exploitation, both in terms of the quality of protection measures, and in terms of a wider area of people entitled to such measures.

Madame moderator, let me further elaborate on the last point.

- 1) In the context of the Global Compact, we are talking about trafficked persons, smuggled persons, asylum seekers, people subjected to slavery, and vulnerable migrants. UNHCR, IOM and OHCHR; on the basis of their experience in the field, are trying to clarify the last notion. Migrants' vulnerabilities can be linked with the reasons for leaving their countries, especially as a consequence of conflict, natural disasters, environmental degradation, discrimination, gender violence, extreme poverty, often a combination of different factors. Vulnerabilities can derive from circumstances encountered during the travel, such as extortion, rape, sexual and labour exploitation, detention in inhuman conditions, and the use hazardous means of transportation. Finally, vulnerabilities can derive from personal conditions such as age, pregnancy, disabilities, poor health conditions.
- 2) How should this categorization be used to ensure more effective protection of migrants' rights? To start with procedures of accurate and early screening should be established in places of first arrival of large influx of migrants, based on interviews carried out in a friendly setting, preferably by trained social workers. As it was pointed out yesterday by all speakers, although the definitions of trafficking and smuggling are different, in reality it is very difficult to distinguish between the two situations, as people originally smuggled can be trafficked at a certain stage. Therefore such an early screening should rather aim to listen to the person, check the credibility of the story - as no police operations are involved in places of first arrival, and exploitation has taken place in another country - and identify the most appropriate protection channel, without infringing the right to apply for asylum or other forms of international protection.
- 3) Such protection channels are partially in place, namely asylum and international protection, child protection, assistance measures for trafficked persons, and in very

limited terms for smuggled persons. All these channels should be taken into consideration and used on the basis of an individual assessment, to identify the best solution for every person. To this end, interviewers should be trained to recognize simultaneously indications of trafficking, risk of trafficking, smuggling, grounds of international protection and for child protection as the same time.

- 4) As far as anti-trafficking measures are concerned, it is necessary to understand why existing anti-trafficking regulations are so rarely applied. In fact, the trafficking definition provided for by national legislation – not always in full compliance with the Palermo Protocol by the way - is generally interpreted and applied in a restrictive way. Moreover, trafficking is not recognized when exploitation has taken place in a country other than the country of arrival.
- 5) However, this are not the only reasons for such a limited implementation. Yesterday Anne Gallagher was talking about modest results regarding prosecution. The results are equally modest regarding victim identification and assistance. On the basis of the experience of about twenty years, I'm now convinced that an innovative model is needed, not primarily based on police operations and decision making of immigration authorities, which is very often have made the granting of a residence status conditional on cooperation with investigation and prosecution, but rather based on the assessment of every migrant's background and personal conditions, by social authorities and in cooperation with civil society organizations.
- 6) Regarding migrants in vulnerable situations, new protection schemes should be designed and implemented. This is a problem that, under the trafficking standard, has been analyzed as a prevention issue. In other words, migrants in vulnerable situations are always at high risk of falling prey to traffickers. In this respect, migrants in vulnerable situations, identified also on the basis of indicators of risk of trafficking.
- 7) Therefore assistance, temporary residence status, access to justice and remedies including compensation, non-punishment safeguards, legal counseling and help to find job opportunities should be granted regardless of whether the person is willing or able to cooperate with authorities in charge of investigation and prosecution, and regardless of whether a criminal proceeding has been initiated for trafficking or related crimes. This implies that Member States, in addition to existing identification procedures,

which predominantly are shaped as a conditional model, should establish an additional channel of identification, based on cooperation between NGOs and civil authorities, and based on indicators of vulnerabilities, which are at the same time indicators of risk of trafficking.

- 8) This second social path for protection would significantly lower the threshold for protection entitlements, as it makes unnecessary to reach definitive evidence to build a judicial case of trafficking or related crimes, and allows competent social authorities to extend protection measures to vulnerable migrants, as potential or presumed victims of trafficking. In particular, this last “social model” would be decisive to extend protection to people subjected to forced labour and people trafficked for labour exploitation, very rarely identified as trafficked persons, people – especially women and girls – subjected to sexual exploitation and often moved by traffickers from a country to another country, and migrants in hotspots or reception centers, when exploitation has not taken place in the country of arrival but in transit countries.
- 9) Last but not least, children on the move, especially children traveling alone, are always at high risk of being trafficked for any illicit purpose, and constitute a vulnerable group. They must be protected first and foremost as children. Child protection systems, and best interest determination procedures must be established in order to identify and implement viable and long term solutions for every child. Detention of children for immigration reasons must be banned, as it is never in the best interest of the child.