

## ITALY

**This text is largely based on the report on the E-Notes, Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009), Fermo, (Italy) 2009; chapter on Italy, p. 164 – 168, written by Valeria Ferraris, Associazione On the Road, Martinsicuro.**

### The phenomenon

Italy is mainly a destination country for trafficked persons but it is also a transit country for many victims eventually exploited in other EU Member States. The exploitation exerted on women is mainly for sexual exploitation, while men are generally exploited for labour purposes and minors – of both sexes – may be exploited in prostitution, forced begging and forced illegal activities. In recent years, some transgender persons have also been trafficked and sexually exploited in Italy. The main countries of origin of the victims are: Romania, Nigeria, Albania, Moldova, Russia, Ukraine, Bulgaria, China and, to a lesser extent, Belarus, Brazil, Colombia, Kazakhstan, Kyrgyzstan, Pakistan, Poland, Bangladesh, Ecuador and other countries. The average age of trafficked persons for sexual exploitation is between 20 and 25. The growing number of exploited minors is registered. Trafficking in persons is mostly carried out through the same channels and with the same mechanisms used to smuggle irregular migrants into Italy. In many cases, the line between smuggling and trafficking – though clearly drawn by the law – fades when put into practice. This is especially true for labour exploitation.

Victims of sexual exploitation are generally recruited by an acquaintance, a friend, or even a relative. They are generally offered jobs in Italy as waitresses, factory workers, bar tenders, nurses, baby-sitters or dancers and, sometimes, openly as prostitutes, strip teasers, call girls etc. In most cases, however, they are deceived about the severe working and living conditions they will have to face. Sexual exploitation can take place either outdoor or indoor in night clubs, apartments, hotels, massage parlours, etc. Generally, women trafficked for the purpose of sexual exploitation are deprived of their passports, and they experience deceptive and abusive behaviours and are required to make at least a minimum amount of money per day. Deprivation of documents is also a common practice in labour exploitation. Both on the streets and in indoor premises, trafficked persons are controlled directly. Due to the working environment, control appears high in labour exploitation.

Most of studies on trafficking in human beings available focus on women and sexual exploitation. There is less knowledge available about men. Studies on child trafficking are scarce and research on trafficking for forced labour is still in its infancy.



## National anti-trafficking legislation and institutions

Trafficking in human beings is a distinct penal offence carrying penalties for all forms of the crime (Art. 601 of the criminal code related to Art. 600 criminal code) and crossing of national borders is not a prerequisite for the offence of trafficking. Italian criminal law punishes attempts to commit any crimes, trafficking in human beings included. Moreover, it is worth noting that Article 602 foresees a penalty for the cases other than the ones referred to in the Article 601, which involves the purchases or sales of a person in condition of slavery.

Trafficking in minors is punished more harshly (see Art. 601 penal code) and the crime is that of trafficking, not a special crime. Finally, Article 5 of Law no. 228/2003 (“Measures against trafficking in persons”) also punishes associations, companies and all legal entities involved in trafficking. Despite this comprehensive legal framework, there is no National Action Plan on trafficking in human beings. In addition, no national co-ordination structure exists as foreseen by the Council of Europe Convention. However, in 1999 the Presidency of the Council of Ministries – Department for Equal Opportunities created what is known now as “Inter-ministerial Committee for the support of victims of trafficking, violence and exploitation. It is responsible for the co-ordination of the protection programmes of trafficked persons. The Department for Equal opportunities at the Presidency of the Council of Ministers chairs the Inter-ministerial Committee. It is composed by representatives of the Ministry of Justice, Ministry of Interior, Ministry of Labour, Health and Social Policies, Department for Family Policies, Unified Conference. The Committee’s main tasks are to direct, plan and supervise the funds for the assistance and protection projects (Article 13 projects and Article 18 projects). Each year the Department for Equal Opportunities launches a call for proposals to fund these projects, which can be submitted by regional or local authorities, or by NGOs.

## Identification, protection of victims’ rights, referral

In Italy there is no formal identification procedure or a defined set of indicators with which to identify cases of trafficking in human beings. The organisations running Article 13 or 18 programmes and law enforcement agencies are in charge of the identification process and they rely on their own experience.

In general, if law enforcement officers identify a trafficked person, they will address her/him to organisations running the above-mentioned programmes. If the trafficked person firstly gets in touch with NGOs, the latter will contact the law enforcement agencies when the assisted person decides to join the protection programme and a formal complaint (judicial procedure) or a statement (social procedure) has to be submitted to the law enforcement agencies.

Trafficked persons might have access to the programme through other channels and/or the support of different actors such as: social service providers, voluntary organisations, acquaintances, friends, clients, partners, national hotline (*Numero Verde Anti-Tratta*). At the local level, there are



agreements signed by police forces, public prosecutor office, health services, NGOs and other relevant actors, which set guidelines to identify and refer trafficked people. Some of the agreements are general and not really operational. Some are more effective in practice and they include standard operating procedures to identify and refer trafficked persons.

There is no formally established reflection period in the Italian legislation. Because the anti-trafficking protection system was already set up when European legal standards introduced reflection periods, Italy did not change its system. However, in practice, a reflection period is informally granted, with its great advantage in not being limited to a certain number of days.

There are programmes in place to allow trafficked persons to receive protection and services. At first, the person is put in a safe place, and then he or she benefits from an informal reflection period. He or she will then be interviewed by social workers or the law enforcement officer, but there is no rule about the period within which she or he has to make a statement or a formal complaint or at least provide information that enables her or him to access a protection programme if not able or willing to formally report the traffickers/exploiters ("social path" of Art. 18 providing for unconditional assistance).

NGOs and law enforcement agencies will jointly evaluate the situation and cooperate to protect the person. If the cooperation is well established the system works smoothly. If NGOs lack in experience in dealing with authorities or law enforcements officers are not well trained to interview a trafficked person and gain his or her trust, the effectiveness of protection might be under risk.

Another special feature of the Italian legislation is the residence permit for humanitarian reasons (so called Article 18 residence permit). It applies to foreigners in situations of abuse or severe exploitation where their safety has been endangered as a consequence of attempts to escape from a criminal organisation or as a result of prosecution actions against the traffickers.

Two separate ways of obtaining the residence permit exist. A judicial procedure (otherwise known as the "judicial path"), and a social procedure (the "social path"). The judicial path implies cooperation with the police and the prosecutor. Within this procedure, the trafficked person files a complaint; then, the public prosecutor has to propose to grant to a residence permit to the trafficked person or has to agree with the request made by the police forces.

The social path requires the submission of a "statement" (containing provable key-information) by an accredited Article 18 agency or by the public social services on the behalf of the trafficked person. There are many reasons behind this social path procedure (e.g. trafficked persons might not have relevant information or the criminals have already been prosecuted). The most relevant is that at the beginning, people who went through the hard experience of trafficking are too scared for their own or their relatives' safety to press charges. In the Italian experience, many trafficked persons, after having been reassured and gained trust, have come to the decision to file a complaint against their traffickers and exploiters. This has happened because trafficked persons have been granted



protection regardless of their immediate cooperation with the law enforcement authorities. This distinctive feature of the Italian system, together with the existence of an informal reflection period, gives important results in the fight against human trafficking.

The Article 18 residence permit is renewable and can be converted in work or study permit. Consequently, the person does not need to go back home once the programme is over. If in regular employment, he or she can remain in Italy accordingly to their work contract's conditions and, eventually, apply for a permanent residence permit. This means that trafficked persons are greatly affected by changes in immigration rules. According to the rules, the Article 18 residence permit may apply to both children and adults. In addition, any foreign child cannot be expelled, whatever her or his situation in Italy is. As previously reported, the Article 13 and 18 programmes provide accommodation and other services to trafficked persons. The Article 13 programme lasts for three months that, when applicable, may be extended for three more months. The accredited organisations offer a set of protection and first assistance measures (accommodation, social and legal assistance, and health care services) to victims of slavery, servitude and trafficking. Once the programme is over, foreign victims can receive further assistance through the Article 18 programme.

The Article 18 programme ("Social assistance and integration programme") is longer and more comprehensive, providing access to social services, educational institutions, and enrolment with the State's employment bureau, access to employment. The final aim is the social and labour inclusion of the assisted persons. Funded projects do not necessarily provide all types of services directly. In several cases, in fact, the wide range of activities and services is assured by the projects' network. The projects work as reception centres and assistance providers that offer a so-called "individualised programme of social protection" tailored to the needs of the persons sheltered and in compliance with the law. Within each individual programme various activities and services are provided to the victims: board and lodging; social counselling; psychological counselling; social and healthcare services accompaniment; free legal consultancy and assistance; social activities; educational and training activities; Italian language classes; education; vocational guidance; training activities; job placement.

Even though men and boys trafficked for purposes of labour exploitation, forced begging and illegal and petty crime activities are also assisted by the protection programmes, women and girls still remain the largest group mainly due to the consolidated experience in detecting trafficked persons for sexual exploitation. Due to the absence of a comprehensive monitoring system, it is almost impossible to state the number of persons assisted, although not identified as trafficked ones. According to the last available data, more than 18,000 trafficked persons were assisted through the Article 18 programme between 2000 and 2011.

The Article 13 Programme provides basic measures of protection. No database keeps track of such distinction between those identified trafficked victims and those who are not. The system works equally for men, women, female and male minors. But there is a relevant gender imbalance in the



availability of services. The experience developed with trafficked women in sexual exploitation needs to be used to raise the availability of services offered to men. Italy has a tax-based National Health Care System granting a uniform level of coverage throughout the country. Nationals and authorised residents have to register with the NHS at the local health administration that provides them with a health card. Since 1998, undocumented migrants have access to the services offered by NHS as long as they are granted a “STP code” (a code for “temporarily present foreigners”). Such code allows them to have free of charge access to a wide range of health services: a) urgent and essential medical care b) preventive care c) care provided for public health reasons, including prenatal and maternity care, care for children, vaccinations and diagnosis and treatment of infectious diseases. Health coverage is connected with the status of a migrant (rather than being explicitly granted for trafficked persons).

### Access to justice

There is no special information provided to witnesses from governmental agencies; in general, information regarding criminal proceedings is given by the lawyers of the trafficked person. In the early stage of the criminal proceeding, law enforcement officers roughly inform him or her about the consequences of their statements. The Italian protection system outside the court is well developed because it is part of the Article 13 and 18 programmes. Moreover, in some particular circumstances, the trafficked person can receive protection under law no.82/1991 for the protection of witnesses of offences committed by organised crime members. Protection might include body guarding, provision of a safe and secret place to live, identity change; however, these measures are not common for trafficked persons.

Moreover, the Ministry of the Interior can establish special administrative procedures of protection, but, again, this is not ordinarily provided to trafficked persons. Regarding in-court protection, several protection measures are available. More protective measures are foreseen for minors in case of sexual violence but not specifically for victims of child trafficking. These measures do not include the possibility to hide the identity of the trafficked person from the person against whom he or she is pressing charges. By law, the defendant has the right to know who is accusing her/him. The biggest unsolved problem is the protection of family members (or any other significant person) in the origin country. In this regard, the cooperation between the competent Italian authorities and their counterparts in other countries is growing randomly. Italian legislation allows a trafficked person to receive compensation for the damages suffered. However, this possibility is frequently hampered because the convicted trafficker is insolvent. If the latter has no money, the victim cannot receive any compensation. In general, the possibility for the victim to receive compensation increases if traffickers may obtain a reduction of penalty in the criminal proceedings. According to the criminal procedure, the judge may grant a reduction of the penalty when the defendant compensates the victim.

### Prevention



In last few years, the Ministry of Foreign Affairs has been funding prevention projects mainly based in Central America, South-East Asia and Western Africa (in Nigeria).

### **Monitoring and evaluation system**

In Italy, no national thorough monitoring and evaluation system run by governmental offices or private organisations are in place to assess the anti-trafficking legislation, policies and interventions. Some NGOs have an internal evaluations of their anti-trafficking services but their reports are not available. The Department of Equal Opportunities is improving the monitoring and evaluation system; however, it has never issued a comprehensive report on the anti-trafficking interventions it funds annually throughout Italy. Generally in the country – not specifically for the issue of trafficking – data collection, monitoring and evaluation systems are lacking.

