

## La Strada International Anniversary webinars 29 and 30 October 2020



### Thursday 29 October 2020

#### 10.00 – 11.30 - Webinar I – Q & A UN Special Rapporteur Siobhán Mullally

Moderation: Suzanne Hoff/LSI

Speaker: [Siobhán Mullally](#), UN Special Rapporteur on Trafficking in Persons, especially in Women and Children.

In July 2020, the mandate of the Special Rapporteur on Trafficking in Human Beings, especially Women and Children was extended again for three years by Human Rights Council resolution [44/4](#). That month also a new UNSR was appointed, Siobhan Mullally. Siobhán Mullally is Professor of Human Rights Law and Director of the Irish Centre for Human Rights at the School of Law, National University of Ireland, Galway. From 2012-2018, she was a member of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) and President of GRETA from 2016-2018.

This webinar is organised to learn more about the opportunities of the mandate of the UNSR and the plans for the coming year. In general the Special Rapporteur takes action on violations committed against trafficked persons and on situations in which there has been a failure to protect their human rights; undertakes [country visits](#) in order to study the situation and formulate recommendations to prevent and/or combat trafficking, and protect the human rights of victims and submits [annual reports](#) to the UN Human Rights Council and the General Assembly. UNSR Siobhan Mullally is invited to share her ideas and plans for her mandate, in particular also for Europe. This webinar will offer an opportunity for the LSI members to raise questions on the mandate and focusses of the UNSR; on specific issues of concern and related possible action of the UN Special Rapporteur, also related to the focusses of LSI strategic advocacy directions including Unconditional access to support; Identification and recognition for all forms of trafficking in human beings; Access to residence permits and long term social inclusion; and access to justice, including compensation but also non-criminalisation and non-punishment of victims and persons at risk.

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### 12.30 – 14.30 Webinar II – Migration of and assistance to (trafficked)

**Nigerian women** Moderation Evelyn Probst, LSI board/LEFO IBF

#### Speakers:

[Maria Shaidrova](#) (Ukrainian), Researcher at Tilburg Law School. Her current research is focused on the persistence in risk-taking among West Africans migrating to the EU – for her study she lived in 2019 in Nigeria, where she conducted research among Nigerian returnees and lived in a Nigerian community in Sicily, Italy for 3 months in 2020.

[Ismail Einashe](#), an award winning Somali / British investigative Senior journalist of Lost in Europe, a cross-border journalism project investigating the disappearance of child migrants in Europe. He is currently conducting research within the Nigerian community in Italy. More about Lost in Europe research in [English](#)

**Vanessa Simoni**, Director of the French NGO Mist [www.mist-association.org](http://www.mist-association.org) an organisation created with a group a former victims of trafficking of sexual exploitation, all Nigerian women. The organisation is focusing on how to combat human trafficking for the purpose of sexual exploitation and to provide assistance to its victims through a participatory approach. They develop a participative methodology to promote better involvement of former victims into social work and policy making.

This webinar will focus on Nigerians that have been migrated to Europe and are at risks of exploitation and abuse. All over Europe Anti-trafficking NGOs support large groups of Nigerian victims, in particular women that have been trafficked for sexual exploitation<sup>1</sup>, although Nigerians work in different sectors including in the irregular economy to survive in Europe. Historically, the majority of Nigerian trafficking victims in Europe have come from Edo State, via Libya; however, French authorities reported an increasing number of Nigerian trafficking victims originating from northern states. Media and an international organisations reported traffickers recruited women and girls from IDP camps in Northeast Nigeria for ostensibly legitimate jobs in Europe but exploit them in commercial sex in Niger, North Africa, the Persian Gulf, and Europe. Nigerian traffickers operate in highly organized criminal webs throughout Europe.

NGOs have reported that Italy was primarily an entry point for Nigerian trafficked persons, which then moved all over Europe<sup>2</sup> but trafficking networks are shifting to other destinations such as Spain and possibly Portugal as well. In 2018, 48 percent of trafficked persons were

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<sup>1</sup> According the TIP report, Nigerian trafficking victims—often exploited by Nigerian traffickers—have been identified in at least 36 countries in Africa, Europe, and the Middle East during 2019. Nigerian women and girls are subjected to trafficking for sexual exploitation within Nigeria and throughout Europe, including in France, Italy, Spain, Austria, and Russia – TIP report edition 2000

<sup>2</sup> Hence the reason to organize a webinar on 30 October 2020, to discuss Dublin return of primarily women from Nigeria to Italy),

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identified in France, also many trafficked persons identified in other European countries were Nigerian. In 2015, a foreign government reported that with the exception of internal trafficking within the EU, Nigerian nationals are the most common trafficking victims in the EU.<sup>3</sup> This webinar will look at migration routes of Nigerian migrants including internal migration in Europe, their situation and how they live and work in European countries; in particular in Italy and France. Panellists will focus on the existing structures, returnees, the impact of migration and factors for exploitation (versus economic surviving), stigma's, the challenges faced by NGOs related to practical obstacles in assisting and referring Nigerian victims etc and empowerment and support programmes. NGO participants are asked to share challenges and best practises in relation to their work and assistance to Nigerian persons and discuss with the panellists the possible ways forward to address these challenges.

**Further reading:** [Human Rights Watch report 2019](#); <https://accountabilityhub.org/country/nigeria/>; [IOM reports](#) on Nigeria and [Lost in Europe/ARGOS reports](#) on missing Nigerians

### **15.00 – 17.00 - Webinar III 'Violation of labour rights versus trafficking for labour exploitation** - Moderation Suzanne Hoff

Speakers:

**Petya Nestorova**, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings/Council of Europe<sup>4</sup>/GRETA secretariat.

**Irene Wintermayr**, Policy officer at ILO office for the European Union and Benelux in Brussels<sup>5</sup>.

**Amy Wheatherburn**, Post-doctoral Researcher, Centre for European Law and Institute for European Studies, Université Libre de Bruxelles. Her earlier doctoral research focused upon trafficking in human beings for the purposes of labour exploitation, analysing the effectiveness of the implementation of the European legal framework and the handling of labour exploitation in law<sup>6</sup>

Recently the Council of Europe published a [compendium](#) of good practices in addressing trafficking in human beings for the purpose of labour exploitation. The Council of Europe will also start to develop a [HELP](#) training on labour exploitation. Irena and Amy worked on research

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<sup>3</sup> The Council of Europe is now also developing a new Help Line training on labour exploitation and recently published a compendium on labour exploitation, also the Council of Europe is advocating for a new legal instrument on labour exploitation.

<sup>4</sup> Irene Wintermayr works on ILO policy issues of employment and social policy issues, labour rights, social corporate responsibility as well as forced labour and human trafficking. Previously she worked for the European Agency for Safety and Health at Work and gained work experience at the German NGO Weltfriedensdienst and at ICLEI-Local Governments for Sustainability. She has also been involved in numerous development projects in Latin America and South Africa. Ms. Wintermayr holds a Masters in Comparative Politics (Conflict Studies) from the London School of Economics and Political Science as well as an LL.M. in International Human Rights Law from the University of London

<sup>5</sup> Amy completed her PhD candidate at Tilburg Law School and Vrije Universiteit Brussel and co-coordinator of the Master in Victimology and Criminal Justice (MSc).

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that will be published soon on 'Access to support and remedy for victims of trafficking for forced labour and workers vulnerable to exploitation in the Netherlands and Belgium'.

This webinar will reflect at the legal context of labour exploitation, review different European practises and legislation in place and discuss possibilities how to ensure that victims of (trafficking for) labour exploitation can access support and protection. Panellists will provide an overview of the European situation and international legal instruments (including ILO Forced Labour Protocol), while highlighting practical obstacles including the lack of awareness, lack of prosecution and the exploitative practises related to recruitment fees, housing etc. It is aimed to also discuss improvements for change and possible common action to address the issue.

As noted in GRETA's 7th General Report, trafficking in human beings for the purpose of labour exploitation is one of the most challenging aspects of "modern-day slavery". It is challenging on many accounts ... including because differences arise in practice in the interpretation and application of labour standards and in defining labour exploitation. Awareness among institutions of the specificities of trafficking for the purpose of labour exploitation has for a long time been limited compared to the level of awareness about trafficking for the purpose of sexual exploitation. This clearly has implications with respect to the lack of proactive identification of situations of labour exploitation.

Participants are requested to share information about the interpretation and application of labour standards in their countries, challenges and best practices.

### Further reading:

<https://fra.europa.eu/en/publication/2019/protecting-migrant-workers-exploitation-eu-workers-perspectives>

## Friday 30 October 2020

### 11.00 – 13.00 Webinar IV – Non-punishment; scope and application

Moderator: Liliana Sorrentino, LSI Board

Speakers: [Ryszard Piotrowicz](#), Professor of Law at Aberystwyth University in Wales and Vice-President GRETA; [Parosha Chandran](#), Professor of Practice in Modern Slavery Law in The Dickson Poon School of Law, King's College London and Human Rights Barrister

[Maria Grazia Giammarinaro](#), Judge and former UN Special Rapporteur on trafficking in persons, especially in women and children.

### Description webinar

During this webinar we will examine the principle of non-punishment in international law, as well as explore the scope of its application in recent years and discuss the challenges in its practical implementation. It is aimed that this webinar will provide more insight and knowledge for further LSI (and member's) strategies on the issue, in particular to ensure that the non-punishment clause will be better implemented at national level.

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The 2002 Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights (OHCHR)<sup>5</sup> recognised for the first time both that trafficking in persons could be aimed at the exploitation of the victims' involvement in unlawful activities but also that victims might incidentally commit unlawful acts in the context of their status as trafficking victims. The Recommended Principles and Guidelines firmly advised, therefore, that such victims must be provided with protection, not punishment, for their unlawful acts arising as a direct consequence of their trafficking<sup>7</sup>. Since then, several other international anti-trafficking instruments have explicitly included a binding non-punishment provision. The first binding treaty to include a non-punishment provision was the Council of Europe Convention on Action against Trafficking in Human Beings 2005, Art 26.<sup>8</sup> Pursuant to this article, Parties must provide for the possibility of not imposing penalties upon victims of human trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.

The later adopted EU Anti-Trafficking Directive (2011/36/EU) included also an article on non-punishment, article 8: 'Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2'.

Not all European countries have though specific national legal provisions on non-punishment.<sup>9</sup> Non-compliance with the non-punishment provision, is another severe gap noticed at European level. It is reported that victims still are punished – e.g. through administrative detention and the imposition of fines amongst other means - and prosecuted for crimes which were committed as a direct consequence of their trafficking, such as for immigration offences, the use of false documents and drug cultivation.

LSI members are requested to intervene, raise questions and share in particular concrete cases and challenges related to non-punishment, including cases of victims detained.

Further reading for LSI members:

- <https://www.ohchr.org/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>

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<sup>5</sup> Office of the High Commissioner for Human Rights, Principles and Guidelines for Human Rights and Human Trafficking (2002) (hereinafter "OHCHR Principles"). See <https://www.ohchr.org/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>

<sup>7</sup> <https://www.ohchr.org/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>

<sup>9</sup> Of the 42 (CofE) countries, at the time of the second evaluation by GRETA, 17 had specific legal provisions concerning the non-punishment of victims of trafficking,<sup>9</sup> but GRETA urged 16 countries to ensure that specific legal provision or guidance on the non-punishment provision are in place, or when there were indications that victims of trafficking are punished for unlawful acts.

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- [https://www.unodc.org/documents/treaties/WG\\_TIP/WEBSITE/CTOC\\_COP\\_WG.4\\_2020\\_2/CTOC\\_COP-WG.4\\_2020\\_2\\_E.pdf](https://www.unodc.org/documents/treaties/WG_TIP/WEBSITE/CTOC_COP_WG.4_2020_2/CTOC_COP-WG.4_2020_2_E.pdf)
- <https://www.osce.org/mission-to-skopje/450124>
- [https://www.unodc.org/documents/human-trafficking/ICAT/19-10800\\_ICAT\\_Issue\\_Brief\\_8\\_Ebook.pdf](https://www.unodc.org/documents/human-trafficking/ICAT/19-10800_ICAT_Issue_Brief_8_Ebook.pdf)
- [https://www.unicef.org.uk/wp-content/uploads/2017/05/Unicef-UK-Briefing\\_Victim-Not-Criminal\\_2017.pdf](https://www.unicef.org.uk/wp-content/uploads/2017/05/Unicef-UK-Briefing_Victim-Not-Criminal_2017.pdf)
- <https://academic.oup.com/hrlr/article-abstract/16/4/669/2581354?redirectedFrom=fulltext>
- <https://www.osce.org/secretariat/101002>
- [https://www.unodc.org/documents/treaties/organized\\_crime/2010\\_CTOC\\_COP\\_WG4/WG4\\_2010\\_4\\_E.pdf](https://www.unodc.org/documents/treaties/organized_crime/2010_CTOC_COP_WG4/WG4_2010_4_E.pdf)

### 14.30 – 16.00 V - Webinar on Dublin returns and cooperation with Italy

**Moderation:** Liliana Sorrentino

**Speakers:**

- Francesca Nicodemi, Asylum and Trafficking Expert UNCHR/Italy.
- Stefania Massucci, Anti-Trafficking Project Coordinator, On the Road
- Laura Volonterio & Silvia Antonetti – Cooperation Lotta

Currently many difficulties are faced by LSI members and other NGOs to ensure adequate support to (presumed) trafficked persons who have to return to other European countries, due to the Dublin Regulation, including persons whose applications for international protection have been refused. In many European countries it is noted that such cases of human trafficking are not sufficiently investigated and that presumed trafficked persons with a 'Dublin Claim' are told to report their victimhood in the countries of return, in particular when there is no or not sufficient evidence for exploitation to have occurred in the country where they are residing and the right to assistance and protection is then overruled by the Dublin convention.

Worrying is that returned victims often have no access to adequate protection and support. In Italy, the main issue is that art 18 of the 1998 Immigration law requires that the person is in immediate danger to be able to access the protection program. This condition is often not present when the person is returned 'with a Dublin claim', sometime after experiencing human trafficking in Italy. In many cases the trafficked person is unable to provide circumstantiated information about the trafficking experience and so cannot cooperate with law enforcement and does not easily enter the protection program. Moreover the 'famous social path for victims

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of trafficking in Italy' is often not implemented and even when applied, this requirement of danger remains to exist.

This webinar will focus on the return procedures, as well as the situation in Italy for returned presumed trafficked persons, the work and assistance provided by NGOs and lawyers, and the role of relevant actors. The main question to be discussed is how to ensure that these returned persons can access their right to a reflection and recovery period and have access to residence. Further it is aimed to explore how to use and combine the anti-trafficking framework and the international protection system to complement each other and increase the protection of rights of people and how to legally challenge the return of victims of trafficking under Dublin procedures when this is done without consideration for the risks of re-trafficking and without the necessary and required safeguards. Where possible some findings of the [REST project](#) research will also be shared.

Participants are asked to intervene, share information about Dublin returns and their cooperation with Italy, as well as challenges and best or bad practices. The idea is to come with some recommendations to improve the referral, return and assistance to trafficked persons to Italy.