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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15  
MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on the human rights aspects of the victims of  
trafficking in persons, especially women and children, Sigma Huda**

**Addendum**

**Summary of cases transmitted to Governments and replies received\*\***

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\* The present document, which carries the symbol number of the fourth session of the Human Rights Council, is scheduled for consideration by the fifth session of the Council.

\*\* The report is being circulated in the languages of submission only, as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

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## Introduction

1. This addendum to the report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children contains, on a country by country basis, summaries of urgent appeals and letters of allegation sent from 1 January 2006 to 31 December 2006 by the Special Rapporteur to Governments on individual cases and general situations of concern to her. It also includes summaries of Government replies received from 1 January 2006 to 31 January 2007. Government replies received after 31 December 2006 will be included in the next report of the Special Rapporteur to the Human Rights Council.
2. Statistics on the number of communications sent and Government replies received, the number of joint urgent appeals and letters of allegations sent, the number of communications sent by geographical region, and the number of joint communications sent with different mandate holders, are represented in tables in the next section of the report.
3. The Special Rapporteur identifies individual cases and general situations of concern to her mandate with reference to the definition of trafficking in persons contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol). Article 3 of the Protocol defines trafficking in persons as follows:  
  
For the purposes of this Protocol:
  - (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
  - (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
  - (c) The recruitment, transportation, trans, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
  - (d) “Child” shall mean any person under eighteen years of age.
4. The Special Rapporteur acts on information she receives from victims directly, from individuals acting on behalf of the victims, from non-governmental organisations (NGOs), as

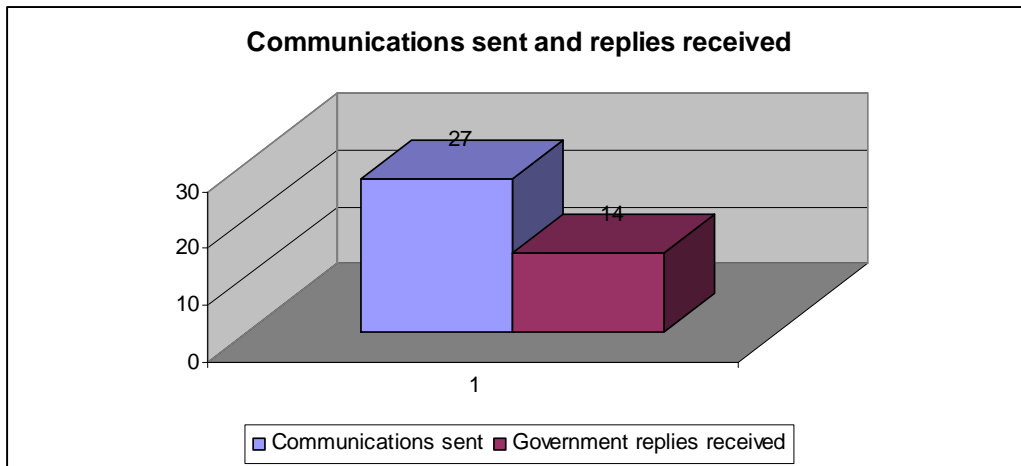
well as United Nations bodies. She recalls that in transmitting urgent appeals and letters of allegations, she does not make any judgement concerning the merits of the cases, nor does she necessarily support the opinions and activities of the persons on behalf of whom she intervenes.

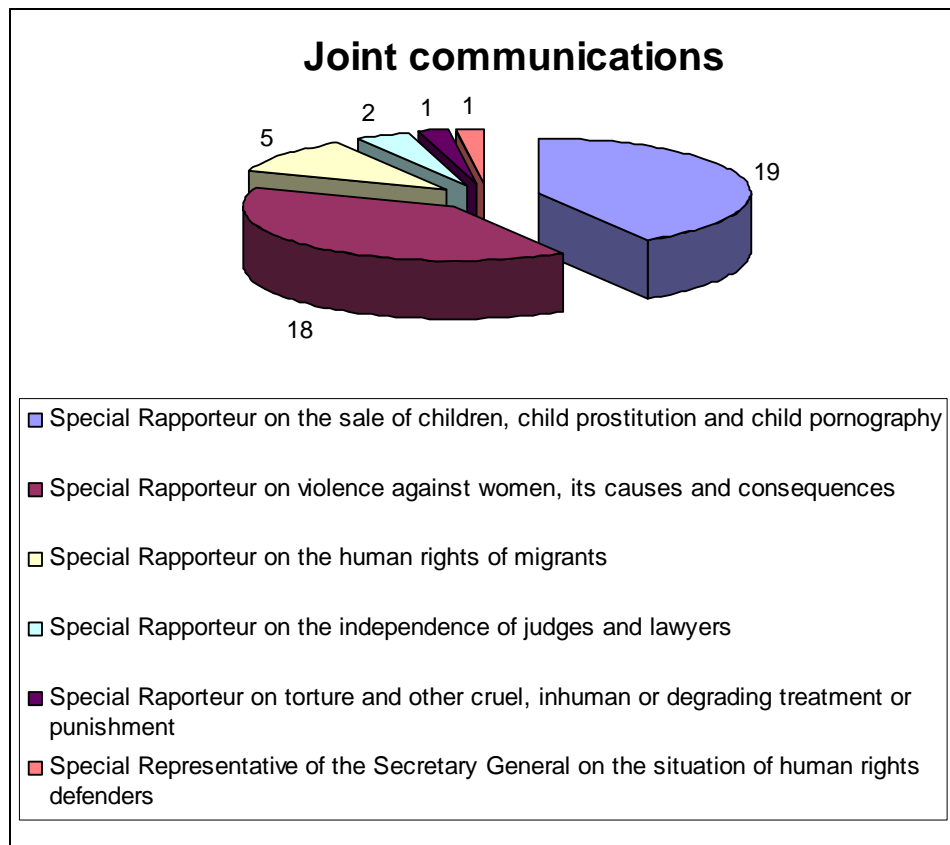
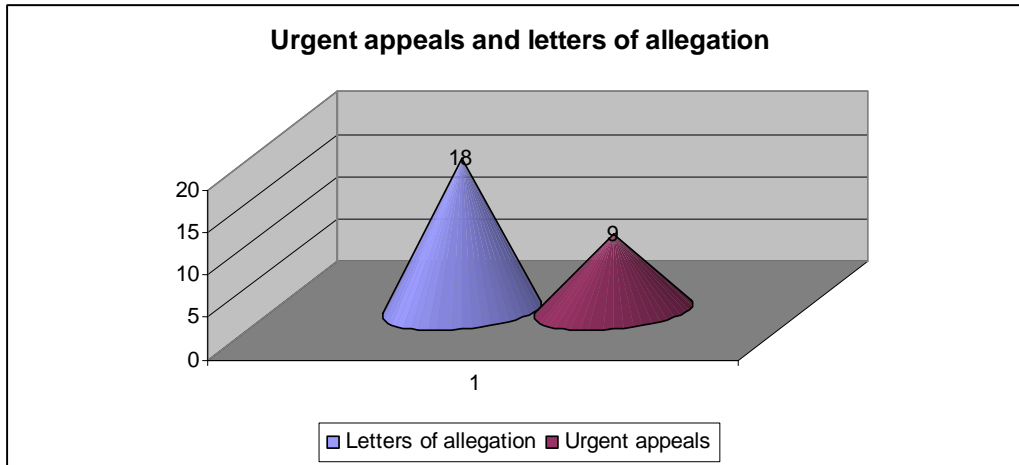
5. All of the Special Rapporteur's communications were sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the human rights of migrants, as well as with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Representative of the Secretary-General on the situation of human rights defenders. As of 31 December 2006, the Special Rapporteur had sent 27 communications and as of 31 January 2007 she had received 14 replies from concerned Governments. She expresses her appreciation for the 14 timely replies, but regrets that 13 Governments failed entirely to respond and that some of those Governments that did respond did so only selectively. The Special Rapporteur will send reminders to those Governments who are still to respond to her communications, as well as follow-up letters to those Governments who the Special Rapporteur deems have provided insufficient information in their replies or from whom she wishes to obtain further clarifications on the relevant concerns raised.

6. The communications sent within this reporting period concerned mainly women and children, but also to a lesser extent men. Communications regarding men concerned trafficking for purposes of forced labour, particularly in factories, ranching, deforestation, agriculture, logging and charcoal production. Trafficking of women mainly concerned trafficking for forced labour, particularly in factories and domestic work, and also trafficking for forced marriage and for purposes of sexual exploitation including in conditions of slavery and debt bondage. Trafficking of children concerned situations of forced labour in quarries, agricultural plantations and domestic work, as well as forced begging; cases regarding children also concerned sexual exploitation. A number of communications also addressed factors that cause or exacerbate trafficking in persons such as corruption, unemployment, situations of conflict, human rights violations, discrimination, poverty, lack of access to education, discriminatory norms and policies as well as inadequate labour laws, particularly vis-à-vis migrant workers.

7. For reasons of confidentiality, privacy and protection, the names of individual victims appear in initials in this report; the full names were, however, provided in the actual letters sent to Governments. The Special Rapporteur has also used initials for certain other persons concerned in order to minimise the risk of possible further victimization in their regard. Moreover, with a view to preserve the presumption of innocence, the same procedure has been adopted by the Special Rapporteur with regards to alleged perpetrators.

### A. Statistics





## B. Communications sent and Government replies received

### Argentina

#### Comunicaciones enviadas

8. Con carta de fecha 25 julio 2006, la Relatora Especial, juntamente con el Relator Especial sobre los derechos humanos de los migrantes, transmitió al Gobierno una carta de alegaciones acerca de la situación de trabajadores migrantes bolivianos objeto de trata de personas en Argentina.
9. Según las informaciones recibidas, en octubre de 2005, 17 trabajadores bolivianos habrían sido liberados de una fábrica textil en Buenos Aires, propiedad del Sr. J.C.S.N. Éstos habrían presentado una demanda contra el Sr. J.C.S.N. por trata y por trabajo forzoso.
10. Se informa del hecho que el Sr. J.C.S.N., también de nacionalidad boliviana, habría prometido pagar a los trabajadores por prenda producida. Sin embargo, una vez en las maquilas, se habrían visto forzados a trabajar hasta 17 horas al día y recibirían el equivalente a 6,50 dólares de los Estados Unidos de América como un “anticipo”.
11. Según las informaciones recibidas, los trabajadores testificaron que el Sr. J.C.S.N. les amenazaba, les privaba de sus documentos y restringía su libertad de movimiento, incluso llegando a encerrarles en la fábrica, con la intención de mantenerlos trabajando contra su voluntad. Asimismo, la comida sólo se proporcionaba a los empleados, es decir, los adultos debían compartir su comida con sus hijos. Algunos trabajadores habrían informado de que les impedían llevar a sus hijos al colegio o al médico, ya que ello causaría “interferencias con la producción”.
12. Se informa asimismo del hecho de que el 9 de noviembre de 2005, el juez O. sobreyó el caso contra el Sr. J.C.S.N. y su esposa argumentando que no había pruebas suficientes para demostrar que los trabajadores habían estado bajo servidumbre. Del mismo modo, habría alegado que carecía de jurisdicción en relación con violaciones de derecho laboral. Ello a pesar del hecho de que ocho antiguos empleados y vecinos habrían prestado declaración contra el Sr. J.C.S.N. Estos testigos también confirmaron que la policía acudía regularmente a la fábrica para tomar un porcentaje de los beneficios.
13. De acuerdo con la Cooperativa de Trabajo 20 de Diciembre, cuatro de los 17 trabajadores migrantes habrían sido amenazados personalmente o por teléfono antes de que J.C.S.N. fuera puesto en libertad por el juez. La Cooperativa alegó también que la policía habría intimidado a los testigos y les habría ofrecido sobornos para intentar que cambiaran sus testimonios.
14. Se estima que decenas de miles de personas podrían estar trabajando en condiciones similares en maquilas en la ciudad de Buenos Aires y sus alrededores. Sólo en el distrito Parque Avellaneda de la capital, se estima que existen unas 40 pequeñas maquilas, y cada una de ellas emplearía entre 15 y 30 personas.
15. Aunque los trabajadores bolivianos son los más afectados, paraguayos, argentinos y peruanos también estarían en riesgo de este tipo de explotación, en especial en las fábricas de producción de calzado.

16. Los Relatores Especiales llamaron la atención del Gobierno sobre el Protocolo para prevenir, reprimir y sancionar la trata de personas, especialmente mujeres y niños, que complementa la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional y en particular sobre su artículo 6 denominado “Asistencia y protección a las víctimas de la trata de personas”. Asimismo, llamaron la atención del Gobierno sobre los Principios y Directrices recomendados sobre los derechos humanos y la trata de personas (E/2002/68/Add.1) y en particular sobre el Principio 9 que establece que se proporcionará asistencia jurídica y de otra índole a las víctimas de la trata de personas mientras duren las acciones penales, civiles o de otra índole contra los presuntos tratantes. Finalmente, recordaron el Pacto Internacional de derechos Civiles y Políticos que establece en el inciso *a* del párrafo 3 de su artículo 8 que “Nadie será constreñido a ejecutar un trabajo forzoso u obligatorio” y el artículo 4 del Convenio N.º 29 de la Organización Internacional del Trabajo (OIT), relativo al trabajo forzoso u obligatorio, de 1930, que determina que las autoridades competentes no deberán imponer o dejar que se imponga el trabajo forzoso u obligatorio en provecho de particulares, de compañías o de personas jurídicas de carácter privado.

17. Los Relatores Especiales además instaron al Gobierno a que protegiera los derechos humanos de las personas afectadas y adoptara todas las medidas necesarias a investigar, procesar e imponer las sanciones necesarias a cualquier persona responsable de las violaciones alegadas y a que tomara las medidas necesarias para evitar que se repitan estos hechos.

### **Comunicaciones recibidas**

18. Con carta de fecha 17 noviembre 2006, el Gobierno transmitió la siguiente información con relación a la situación de los trabajadores migrantes bolivianos objeto de trata de personas en Argentina.

19. En primer lugar, el Gobierno de Argentina confirmó que en relación con el caso que involucra a la fábrica textil del señor J.C.S.N., tal como lo señalaron los Relatores Especiales, el mismo fue sobreseído por en la causa que lo involucraba, en fecha 9 de noviembre de 2005.

20. El Gobierno informó de que a raíz de episodios ocurridos en Buenos Aires, que pusieron en evidencia situaciones de trata de personas y de discriminación de miembros de la colectividad boliviana, la Secretaría de Derechos Humanos del Ministerio de Justicia creó el Observatorio de Derechos Humanos destinado a la colectividad boliviana residente en la República Argentina y que tiene como objetivo realizar acciones coordinadas, destinadas a monitorear junto con la República de Bolivia la situación de los migrantes, diseñar planes de acción y programas tendientes a garantizar el conocimiento de los derechos que los amparan y regularizar la situación migratoria de los miembros de la colectividad. Esta iniciativa fue coordinada con el gobierno de la República de Bolivia.

21. El Gobierno notó que una proporción alta de los migrantes bolivianos carece de una documentación adecuada, lo que dificulta conocer el número exacto de la población migrante radicada en el país. Por distintos factores, esta población es muy vulnerable al accionar de redes que los captan para trabajar en condiciones inhumanas, configurando en algunas situaciones verdaderos casos de reducción a la servidumbre y trata. El Proyecto Hacia un Plan Nacional contra la Discriminación, aprobado por Decreto N.º 1086/05 contiene un capítulo sobre migrantes que describe los problemas que tiene la colectividad boliviana.



22. El Gobierno informó de que, a partir de la intervención de distintas entidades gubernamentales, se ha detectado que existen situaciones similares de trata con fines de explotación laboral de migrantes, particularmente de nacionalidad boliviana, en otros establecimientos de la industria de la indumentaria, y probablemente en la producción frutihortícola. El incendio en un establecimiento clandestino en el mes de marzo de 2006 puso en evidencia que existe una red importante de talleres clandestinos que ocupan mano de obra en condiciones de sobreexplotación, y en algunos casos configuran situaciones de trata. El Gobierno aseguró que este episodio dio lugar a una fuerte intervención coordinadora del Gobierno de la Ciudad de Buenos Aires y el Ministerio de Trabajo, Empleo y Seguridad Social, tanto para inspeccionar establecimientos, como para clausurarlos y asistir a las víctimas. Informó también que la clandestinidad de estos establecimientos constituye un obstáculo para perseguir el delito.

23. El Gobierno afirmó que la protección de los derechos humanos es uno de los pilares de las políticas de Estado del Gobierno y que por lo tanto la lucha contra la trata de personas es una de sus prioridades. Aseguró que es por esto que el Estado argentino ha asumido diversos compromisos internacionales, tanto a nivel de las Naciones Unidas, como de la Organización de los Estados Americanos (OEA), como del Mercado Común del Sur (MERCOSUR). El Gobierno explicó que como producto de estos compromisos y de la actuación en casos concretos se tiene hoy un diagnóstico bastante detallado de la situación de trata en el país, y una mayor claridad sobre el *modus operandi* para actuar contra ella; y que es por esto que pareciera que se han incrementado los casos, cuando en realidad es que empieza a salir a la luz una situación existente previamente, pero que ahora tiene respuesta desde el Estado.

24. A partir de la casuística, el Gobierno de la República de Argentina ha podido identificar distintas formas de trata de personas. Explicó que en todos los casos se está frente a redes de personas que hacen de la captación, transporte, acogida y explotación de otros seres humanos una actividad habitual con el objetivo de obtener ingentes ganancias. Constituyen un elemento de corrupción y debilitamiento de las instituciones del Estado que deberá ser tratado con toda la rigurosidad que corresponde. Reconoció que en la República de Argentina existe tanto trata interna, como se verifica trata internacional, y que en el segundo caso, es un país de origen, tránsito y destino de trata de personas, desde y hacia distintos Estados.

25. Entre las medidas concretas tomadas por el Estado de Argentina para prevenir y luchar contra la trata de personas, el Gobierno señaló la participación en el debate internacional y regional, y adopción de compromisos, mediante la ratificación del Protocolo para prevenir, reprimir y sancionar la trata de personas, especialmente mujeres y niños, y la participación activa en el ámbito internacional y regional en el combate de la trata de personas y la asistencia y protección a las víctimas.

26. A nivel regional, Argentina participó en la Reunión de altas autoridades nacionales en materia de trata de personas, celebrada entre el 14 y el 17 de marzo de 2006 en Isla Margarita (República Bolivariana) de Venezuela. En el marco del MERCOSUR también existen varias iniciativas y compromisos relativos al combate de la trata. En su 19.ª reunión, los Ministros del Interior del MERCOSUR y países asociados firmaron un acuerdo (MERCOSUR/RMI/ACUERDO N.º 01/06) por el cual se comprometen a desarrollar un plan de acción del MERCOSUR para la lucha contra la trata de personas.

27. El Gobierno informó además sobre qué acciones concretas estaban siendo desarrolladas, destinadas a crear un ámbito de coordinación interinstitucional con incumbencias sobre el tema, armonizar la legislación interna con los compromisos asumidos, generar un programa integral de asistencia y protección de las víctimas y desarrollar estrategias de instalación de la problemática, de capacitación de funcionarios públicos y organizaciones sociales, y prevención. En el marco del Plan de Acción del MERCOSUR, se ha creado, en el ámbito del Ministerio del Interior, una Subdirección de Inteligencia Criminal, que tiene entre sus tareas la investigación de los mecanismos criminales que adopta la trata de personas en la Argentina. También funciona en el ámbito del mismo Ministerio el Programa de la Víctimas contra las Violencias, desde el cual se convoca a las otras instituciones del Estado, para coordinar enfoques y acciones.

28. Por otra parte, el Gobierno informó de la discusión en la Honorable Cámara de Senadores del Proyecto de Ley que tipifica el delito de trata de personas y le da estatus de delito federal, incluyendo un programa de asistencia y protección de las víctimas con un enfoque integral, multidisciplinario y de derechos humanos. No obstante de lo cual, el Gobierno señala que existen en el Código Penal actual figuras que integran la del delito de trata de personas y pueden utilizarse para la persecución del delito y penar a los perpetradores.

29. La Ley de Migraciones N.º 25.875, sancionada en 2004, que sienta las bases estratégicas en materia migratoria desde un enfoque de derechos humanos, integración y movilidad de los migrantes, también incorpora en su texto, entre los agravantes de los delitos al orden migratorio, cuando el tráfico ilegal de personas se hubiera realizado con el objeto de prostitución, o hubiera puesto en peligro la vida, salud o la integridad de los migrantes, o cuando la víctima sea menor de edad (artículo 121).

30. El Gobierno destacó además acciones de sensibilización y capacitación desarrolladas por la Secretaría de Derechos Humanos del Ministerio de Justicia y Derechos Humanos con funcionarios y en particular con funcionarios policiales. Parte de esta tarea se realiza en articulación con el Programa Nacional de Capacitación Policial que desarrolla la Secretaría de Seguridad Interior del Ministerio de Interior. También se ha contado con el apoyo de la Agencia Española de Cooperación Internacional en este sentido.

31. Se ha desarrollado el concepto de prevención primaria, que consiste en capacitar a organizaciones sociales, en particular de mujeres, las que tienen una importante inserción territorial. De esta manera ellas colaboran en prevenir sobre las formas de reclutamiento que tienen los tratantes e identificar en terreno propaganda o avisos engañosos. Como producto de estas capacitaciones se han recibido denuncias que han sido canalizadas a la justicia, a través de la Secretaría de Seguridad Interior.

32. Durante el año 2006, la Organización Internacional para las Migraciones (OIM) desarrolló un Programa de Sensibilización sobre trata de personas (FOINTRA I) y está previsto comenzar a ejecutar el programa FOINTRA II.

33. Por último, el Gobierno especificó las medidas que están siendo tomadas para prestar asistencia legal y protección a las víctimas de trata. Explicó que si bien no existe aún un programa integral de asistencia a las víctimas de trata de personas, varias instituciones participan dando asistencia psicológica, médica, social y legal en los casos puntuales. Entre ellas se encuentran la Oficina de Asistencia Integral a la Víctima del delito, de la Procuración General de la Nación, la Secretaría de Derechos Humanos, instituciones de asistencia a la

niñez que tienen equipos de asistencia a víctimas, el Ministerio de Desarrollo Humano y algunos hospitales están formando equipos especializados y el Consejo Federal de Derechos Humanos. También se está coordinando en este sentido con la OIM.

## Bahrain

### Communications sent

34. On 21 November 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding the situation of EYO, a 32-year old woman of Eritrean nationality.

35. According to information received, Ms. EYO was working in Bahrain as a migrant domestic worker. Allegedly, the son of her employer repeatedly raped and beat her and the family employing her restricted her freedom of movement, did not pay her and took away her passport. She finally managed to run away on 7 November 2006, and found temporary lodging with a friend who then, however, asked her to leave since she had no legal papers. He called the police who took her to a women's detention centre in ISA Town.

36. It is reported that the authorities in Bahrain did not take any steps against her employers. The Special Rapporteur expressed concern about the safety of Ms. EYO and about the alleged lack of assistance provided to Ms. EYO, who could be a trafficking victim.

37. The Special Rapporteur called the attention of the Government to the Trafficking Protocol, particularly Art. 6 (3) of the said Protocol concerning the assistance and protection of victims of trafficking in persons. The Special Rapporteur further suggested that, in the event that the Government's investigations support or suggest the above allegations to be correct, the Government takes all necessary measures to guarantee that the rights and freedoms of the aforementioned person are respected and accountability of any person guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopts effective measures to prevent the recurrence of these acts.

## Benin

### Communication envoyée

38. Le 16 mars 2006, le Rapporteur spécial a envoyé, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, un appel urgent concernant **les enfants béninois qui continueraient d'être trafiqués aux fins d'exploitation dans les carrières de graviers et dans les plantations au Nigéria.**

39. D'après les informations reçues, malgré la signature d'un accord en juin 2005 entre le Bénin et le Nigéria, des centaines d'enfants béninois, âgés de 6 ans pour les plus jeunes, travailleraient toujours dans les carrières de pierres d'Abeokuta et dans ses environs ainsi que dans de nombreuses plantations agricoles du Sud-Ouest nigérian.

40. Les carrières dans lesquelles travailleraient ces enfants seraient essentiellement des carrières de graviers, c'est-à-dire de petits gisements prenant les apparences de « trous » dans lesquels des groupes de deux à trois enfants, appelés « gangs », travailleraient durant plusieurs semaines avant de se déplacer vers un autre gisement. Les propriétaires des carrières,

généralement des notables locaux, s'adresseraient à des intermédiaires, souvent des femmes Yoruba, pour gérer l'exploitation des carrières. Ces intermédiaires feraient appel à des trafiquants béninois pour leur fournir la main d'œuvre enfantine.

41. D'après les informations reçues, les enfants travailleraient entre cinq et sept jours par semaine sur les carrières. La durée de leur « contrat » serait normalement de six ans (trois cycles de deux ans), durant lesquels ils ne percevraient pas à proprement parler de salaire. En revanche, ils pourraient gagner en fin de cycle une bicyclette et/ou une radio. Une modique somme d'argent serait remise à leurs parents à des dates précises et périodiques au cours de ces six années.

42. Cette activité physique serait intense et dangereuse, particulièrement éprouvante pour les genoux et les mains, avec de nombreux risques d'accident. Les journées de travail seraient de 8 à 10 heures. Les enfants seraient sous-nourris et ne pourraient compter que sur eux-mêmes pour trouver de quoi se laver, se vêtir et se soigner. Ils passeraient les nuits sous des abris de fortune. La violence entre enfants serait permanente, et il arriverait aussi que les adultes les maltraitent et leur infligent coups, brimades et injures.

43. Ce serait une guerre entre les trafiquants en septembre 2003 qui aurait porté au grand jour la situation d'exploitation de ces enfants. La reconnaissance de ce trafic aurait été suivie d'une action d'urgence visant au retrait, au rapatriement, à la protection et à la réintégration des enfants sous le contrôle des pouvoirs publics béninois et nigériens, avec l'assistance d'organisations internationales et non gouvernementales spécialisées dans la protection de l'enfance.

44. Officiellement, 261 enfants, dont la grande majorité proviendraient de la commune de Zakpota dans le département du Zou auraient pu être retirés des carrières et rapatriés. Ils auraient eu pour la plupart entre 10 et 15 ans. Plus de 50 % d'entre eux auraient venu de passer entre 1 et 2 ans dans les carrières, 35 % entre 3 et 4 ans et le reste entre 4 et 7 ans, ce qui attesterait de l'ampleur et de l'ancienneté du trafic. En plus de ces 261 enfants rapatriés, un millier d'autres enfants (au moins) seraient revenus dans le Zou sans aucune aide ni protection institutionnelle (enfants dits de « retour non formel »). Des dizaines voire des centaines d'autres enfants béninois qui seraient exploités à Abeokuta seraient restés cachés plusieurs semaines ou plusieurs mois dans la brousse avant d'être acheminés vers d'autres sites d'exploitation dans le sud-ouest du Nigeria (états d'Ogun, d'Osun et d'Oyo) où ils auraient probablement rejoint d'autres enfants béninois déjà exploités dans des carrières ou des plantations agricoles.

45. Seuls sept trafiquants auraient été arrêtés, et ceux-ci auraient été libérés à la fin de l'année 2004, après une période de détention provisoire et des condamnations allant de quelques mois à un an de prison. Rien n'aurait été prévu pour faciliter leur réinsertion économique ni pour les encourager à ne pas reprendre leurs activités illicites. En conséquence, les filières et les routes du trafic entre le Bénin et Abeokuta demeureraient encore en place.

46. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la Convention 182 de l'OIT concernant l'interdiction des pires formes de travail des enfants et l'action immédiate en vue de leur élimination, en vertu de laquelle les États se sont engagés à prendre des mesures immédiates et efficaces pour assurer l'interdiction et l'élimination des pires formes de travail des enfants et ce, de toute urgence. Aux fins de la convention, l'expression « les pires formes de travail des enfants » comprend notamment toutes les formes d'esclavage ou pratiques

analogues, telles que la vente et la traite des enfants, la servitude pour dettes et le servage ainsi que le travail forcé ou obligatoire, l'utilisation, le recrutement ou l'offre d'un enfant à des fins de prostitution, de production de matériel pornographique ou de spectacles pornographiques, ainsi que les travaux qui, par leur nature ou les conditions dans lesquelles ils s'exercent, sont susceptibles de nuire à la santé, à la sécurité ou à la moralité de l'enfant. Elle a aussi attiré l'attention sur la Convention 138 de l'OIT concernant l'âge minimum d'admission à l'emploi. La Convention en son article 2 prévoit que les États doivent spécifier un âge minimum d'admission à l'emploi ou au travail sur son territoire qui ne devra pas être inférieur à l'âge auquel cesse la scolarité obligatoire, ni en tout cas à 15 ans. Selon l'article 7, la législation nationale pourra autoriser l'emploi à des travaux légers des personnes de 13 à 15 ans ou l'exécution, par ces personnes, de tels travaux, à condition que ceux-ci ne soient pas susceptibles de porter préjudice à leur santé ou à leur développement; ne soient pas de nature à porter préjudice à leur assiduité scolaire, à leur participation à des programmes d'orientation ou de formation professionnelles approuvés par l'autorité compétente ou à leur aptitude à bénéficier de l'instruction reçue.

47. De plus, elle a prié le Gouvernement de prendre toutes les mesures nécessaires pour assurer la protection des droits et des libertés des individus mentionnés, de diligenter des enquêtes sur les violations qui auraient été perpétrées, de traduire les responsables en justice et d'adopter, le cas échéant, toutes les mesures nécessaires pour prévenir la répétition des faits mentionnés.

## **Brazil**

### **Communication sent**

48. On 28 August 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers sent a letter of allegation concerning **Brazilian workers who are trafficked and subjected to forced labour in the Amazon region.**

49. According to the information received, there are an estimated 25,000 to 40,000 forced labourers working under exploitative and often slavery-like conditions in Brazil. Allegedly, Maranhão, Piauí and Tocantins are the three Brazilian states that supply the largest number of forced labourers, whilst Pará is reportedly the state with the greatest demand for forced labour, followed by Mato Grosso, Tocantins and Maranhão. Labour is sought principally in ranching, deforestation, agriculture, logging and charcoal production.

50. Reportedly, the vast majority of workers in forced labour in Brazil find themselves in situations of debt bondage. Workers are often given an advance in their home town and persuaded to go and work temporarily in the Amazon region. Once they arrive at the farms they are told that they will have to pay for their transport, food and lodging and also have to pay back any advances they have been given. They are reportedly charged a very high rate of interest and often have to buy everything they need at grossly inflated prices from the estate shop.

51. It is also reported that workers are often watched by armed guards, making it impossible for them to escape from the farms. Threats of violence against them and their families are frequent. Labour rights and safety regulations are reportedly routinely ignored. Allegedly, workers risk their physical and psychological health, with many suffering from tropical diseases and work related injuries resulting from operating unsafe machinery. The

severity of their situation often leads to alcohol and drug abuse. Many workers, once released, find it extremely difficult to reintegrate into their home region and re-establish a normal family life.

52. According to the information received, greater attention to the problem of forced labour and slavery-like conditions in Brazil has been accompanied by a rise in the use of violence and intimidation against those working to stop such human rights violations, especially in the states of Pará and Tocantins. In 2004, members of the Comissão Pastoral da Terra (CPT) from the Araguaína office in Tocantins state had to leave the area after receiving repeated death threats.

53. Reportedly, State officials have also been targeted. In October 2003, the Labour Court judge Dr. JARV had to leave Parauapebas after receiving repeated threats. On 11 February 2004, his deputy was killed in a suspicious collision with a lorry while traveling from Marabá to Parauapebas. In Tocantins state, the federal prosecutor Dr. MLA had to leave the town of Palmas after receiving threats. On 28 January 2004, three officials from the Labour Ministry and their driver were murdered while carrying out investigations of farms situated in Minas Gerais.

54. The Special Rapporteur called the attention of the Government to the Trafficking Protocol, to the Principles and Guidelines on Human Rights and Human trafficking of the Office of the High Commissioner for Human Rights (OHCHR), as well as to article 8 of the International Covenant on Civil and Political Rights prohibiting slavery. The Special Rapporteur further suggested that, in the event that the Government's investigations support the above allegations, or suggest that they are correct, the Government takes all necessary measures to guarantee that the rights and freedoms of the aforementioned person are respected and the accountability of any person guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

## **Bulgaria**

### **Communications sent**

55. On 25 July 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation concerning **the trafficking of newborn infants from Bulgaria to Greece.**

56. According to information received, it was alleged that pregnant women, most of them from the Roma community in the region of Burgas in eastern Bulgaria, and many of them unemployed and living in harsh conditions, are induced by members of organized crime to go to work in Greece. They are promised employment and good salaries, but actually end up in small cities throughout Greece where they are held together in apartments for the remainder of their pregnancy before delivering at local hospitals where, with the complicity of doctors, midwives and other hospital staff, their newborn babies are taken away from them and sold by organized crime members, with the assistance of lawyers, for up to 30,000 euros. It is alleged that after having given birth in Greece, the women are sent back to their hometowns in Bulgaria and receive 1,000 Euros per child.

57. Reports also alleged that little progress had been made by Greek and Bulgarian authorities in investigating such trafficking and sale of children taking place between the two countries.

58. The Special Rapporteur called on the Government, in the event that ~~the~~ its investigations support the above allegations or suggest that they are correct, to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and the accountability of any person guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

### People's Republic of China

#### Communication sent

59. On 24 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation to the Government of China to bring to its attention allegations of **the forced repatriation of a female national of the Democratic People's Republic of Korea** by China on 28 February 2006. According to information received:

60. Six years earlier, the woman and her one-year-old daughter, were sold for RMB 3,000 to a Chinese man, whom she was forced to marry. The woman became pregnant soon thereafter and gave birth to a second daughter. It was reported that the mother was arrested during a Chinese police raid squad at 11.30 pm on 25 February 2006 and handed over to the security police of the Democratic People's Republic of Korea three days later.

61. Concern was expressed that the woman could face harsh punishment in the Democratic People's Republic of Korea, since she had already been deported on two previous occasions, but managed each time to return to her children in China. In this context, the Special Rapporteur also recalled the communication she had sent on 19 December 2005, in which she had expressed her deep concern about the trafficking and sexual exploitation of women from the Democratic People's Republic of Korea and the cruel and inhuman punishment Democratic People's Republic of Korea nationals face, when deported back to the country.

62. This case was reportedly not the only similar incident. In cities near the border, including Yanji and Longjin, an increase in information exchanges between Democratic People's Republic of Korea and Chinese authorities concerning Democratic People's Republic of Korea defectors had reportedly led to an increase in deportations of these nationals. Chinese police reportedly receive a salary bonus of RMB 2,000 for every arrest of a suspected defector from the Democratic People's Republic of Korea.

63. The Special Rapporteur appealed to the Government to protect citizens of the Democratic People's Republic of Korea from all forms of trafficking, exploitation and abuse. Moreover, the Special Rapporteur called the attention of the Government to the Trafficking Protocol, and also made reference to the OHCHR Recommended Principles and Guidelines on Human Rights and Trafficking, and in particular to Principle 2 which states that trafficked persons shall be offered legal alternatives to repatriation in cases where it is reasonable to

conclude that such repatriation would pose a serious risk to their safety and/or to the safety of their families.

### **Response by the Government**

64. By letter dated 14 June 2006, the Government informed the Special Rapporteur that because her letter of allegation only referred to a child born of a mother from the Democratic People's Republic of Korea and a Chinese father, and mentions the time that the mother was apprehended and repatriated, but provides no indication of the woman's full name, age, place of entry into China, place of residence, border-crossing point where she was repatriated or details of the Chinese father, it was very hard for the Chinese authorities to trace the woman concerned. According to investigations conducted by the Jilin and Liaoning public security authorities, the Chinese authorities did not apprehend or repatriate any illegal immigrants from the Democratic People's Republic of Korea during the last ten days of February 2006 whose description match that of the woman concerned.

65. The Government further informed the Special Rapporteur that the statement that 50,000 illegal immigrants from the Democratic People's Republic of Korea have been detained in Jilin in the Yanbian Korean Autonomous Prefecture, is an exaggeration. As a consequence of the improved economic situation in the Democratic People's Republic of Korea and the strengthened controls exercised over the frontier region by China and the Democratic People's Republic of Korea, the number of Korean illegal immigrants entering China is steadily decreasing. In accordance with the law, the Chinese Government guarantees the lawful rights and interests of foreign citizens within its territory. Regardless of whether these people have entered the country in the normal fashion or have crossed the frontier illegally, their lawful rights and interests are equally protected under Chinese law. With regard to the issue of the illegal entry into China of citizens of the Democratic People's Republic of Korea, the Chinese Government invariably proceeds in an appropriate manner, consistent with both domestic and international law and in observance of humanitarian principles. In this process, the Chinese police authorities enforce the law in an impartial manner and there are no cases of commissions being paid for the repatriation of citizens of the Democratic People's Republic of Korea who have illegally entered China and been apprehended.

66. The Chinese Government and the public security authorities always attach great importance to safeguarding the lawful rights and interests of women and children, and countering any kind of activities which infringe their rights and interests. The authorities are moreover consistently working to crack down with severity on any illegal activities involving trafficking in women and children.

67. The Government further stated that as of 2006, as a consequence of the increase in contacts between China and foreign countries, offences involving trafficking in women and children were starting to occur in China as well. The Chinese public security authorities take this very seriously and have increased their preventive measures, taken stronger action to combat such offences, stepped up cooperation with police forces in all the other countries involved and cracked down with severity on Chinese and foreign offenders who traffic women and children. Persons profiting from the abduction and trafficking of women and those involved in rape, ill-treatment and unlawful detention of others are charged, in accordance with the Chinese Criminal Code, with the offences of abducting and trafficking of women and children, rape, inflicting injury, unlawfully detaining others and other associated



offences. At the same time, the authorities attach high importance to efforts to protect the rights and interests of victims, ensuring that they receive personal care and consideration, and are actively assisting foreign women and children who have been rescued from such abusive practices, with a view to ensure their personal safety and the physical and mental health of victims.

## Cyprus

### Communication sent

68. By letter dated 9 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation to the Government of Cyprus to bring to its attention information concerning **the deportation of TS, a national of the Russian Federation**. According to information received:

69. Ms. TS initially traveled to Cyprus in 2003 to work in a night-club in Larnaka. Reportedly Ms. TS was sexually abused by the owner of the club who also greatly limited her freedom of movement. She reportedly managed to escape from this situation of abuse and exploitation and went into hiding under the protection of the Russian Embassy. According to the information received, Ms TS filed a complaint for the abuse suffered with the police in 2004. In addition, according to the Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000, Ms TS should have qualified as a victim of trafficking and should have been entitled to protection and support as well as the possibility to retain her employment with another employer. The law furthermore provides for a Court of Ministers, which may appoint a “guardian of victims” to advise, counsel, and guide victims of exploitation; to hear complaints of exploitation; to investigate those complaints; to provide victims with treatment and safe residence; to take the steps necessary through the appropriate agencies to prosecute the offenders; to take rehabilitative measures, including victim reemployment or repatriation; and to identify any deficiency in the law to combat trafficking. According to the information received, however, Ms. TS was not provided with such assistance and was deported on 29 May, before her solicitor was able to present an appeal to Cypriot immigration authorities.

70. The Special Rapporteur called the Government’s attention to the Trafficking Protocol, and also made reference to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and in particular to Guideline 2, which provided that states should ensure “that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons” and that “trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody”.

### Response by the Government

71. By letter dated 26 October 2006, the Government informed the Special Rapporteur that Ms. TS initially arrived in Cyprus in November 2002 and not in 2003. As Ms. TS informed the Cyprus police, she had previously worked in Lebanon and Syria as an entertainer. During her stay in Cyprus, she was employed at the “N” night club, where, according to her complaint to the Cyprus Police on 3 June 2005, her employer attempted to force her into prostitution. As a result, she was forced to change employer and continued working in an unidentified night club in Limassol. Afterwards, Ms. TS traveled to her country

and returned to Cyprus on 15 November 2003, to work at the night club “C” in Larnaca when she was granted a work permit for three months, which permit was renewed on 19 May 2004.

72. On 22 March 2004 she married a British citizen and on 23 March 2004 she visited the British High Commission in Nicosia with her husband, and requested a visa to enter Great Britain. This request was refused because she was required to have stayed at least one year in Cyprus before being granted such a visa. Ms. TS then subsequently separated from her husband and took refuge at the Russian Church in Limassol. On 11 June 2006 her husband applied (application n° 149/04) to the District Court of Lamaca for a divorce and on 9 June 2006 the Court delivered its decision for divorce.

73. During the above mentioned period, Ms. TS repeatedly applied to the Migration Officer for a work permit in other areas of activity and in early 2005 she applied to the Movement for Equality, Support and Anti-racism for assistance. On 26 April 2005 Ms. TS was informed by the Migration Officer that her request for a work permit was not accepted. On 3 June 2006 she complained to Larnaca Police that she was forced into prostitution by her employer at “C” night club, between 15 November and 22 March 2004. In her submission to the Police, Ms. TS provided inaccurate information and did not provide enough evidence for prosecution to be brought against her former employer. She also provided contradictory information regarding the submissions made by other people and did not reply adequately or provide certain necessary information to the Cypriot authorities. Furthermore, on 23 March 2004, when asked by the Larnaca Police whether she had any complaint against her employer, her answer had been in the negative.

74. The Government informed the Special Rapporteur that after thorough investigation of the above case according to the relevant laws of the Republic of Cyprus and the European Union, as well as the international obligations of Cyprus vis-à-vis the United Nations Conventions and with the involvement, inter alia, of the Office of the Attorney-General of the Republic of Cyprus, Ms. TS was deported to her country on 28 May 2006. It was noted that the complaints made by Ms. TS were given the necessary attention and were thoroughly investigated and that the Government of the Republic of Cyprus showed that it was and remained highly sensitive to issues concerning sexual abuses and trafficking in persons, especially of women and children.

### **Democratic People's Republic of Korea**

#### **Communication sent**

75. On 24 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on violence against women, its causes and consequences, brought to the Government's attention information concerning the **forced repatriation of a female national of the Democratic People's Republic of Korea** by China on 28 February 2006.

76. According to the information received, six years earlier, the woman and her one-year-old daughter, were sold for RMB 3,000 RMB to a Chinese man, whom she was forced to marry. The woman became pregnant soon thereafter and gave birth to a second daughter. It was reported that the mother was arrested during a Chinese police raid at 11.30 pm on 25

February 2006 and handed over to the Democratic People's Republic of Korea security police three days later.

77. Concern was expressed that the woman could face harsh punishment in the Democratic People's Republic of Korea, since she had already been deported on two previous occasions, but managed each time to return to her children in China. In this context, the Special Rapporteur also recalled the communication she had sent on 19 December 2005, in which she had expressed her deep concern about the trafficking and sexual exploitation of women from the Democratic People's Republic of Korea and the cruel and inhuman punishment Democratic People's Republic of Korea nationals face, when deported back to the country.

78. This case was reportedly not the only similar incident. In cities near the border, including Yanji and Longjin, an increase in information exchanges between Democratic People's Republic of Korea and Chinese authorities concerning defectors from the Democratic People's Republic of Korea had reportedly led to an increase in deportations of Democratic People's Republic of Korea nationals. Chinese police reportedly receive a salary bonus of RMB 2,000 RMB for every arrest of a suspected defector from the Democratic People's Republic of Korea .

79. The Special Rapporteur further urged the Government to seek clarification of the circumstances with a view to ensuring that the right to physical and mental integrity of the above-named person is protected. The Special Rapporteur further appealed to the Government to protect its citizens from all forms of trafficking, exploitation and abuse and called the its attention to the Trafficking Protocol. She also made reference to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking as a useful, practical, and rights-based blueprint for interventions on the issue of trafficking.

### **Response by the Government**

80. By letter dated 12 April 2006, the Government informed the Special Rapporteur that in its view, the Special Rapporteur's letter had no relevance to genuine human rights and categorically rejected the letter. The Government did not provide any information on the case reported on by the Special Rapporteur.

## **Ecuador**

### **Comunicaciones enviadas**

81. El 9 agosto 2006, la Relatora Especial, conjuntamente con el Relator Especial sobre los derechos humanos de los migrantes, la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, y el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, transmitió al Gobierno un llamamiento urgente en relación con **la situación de los colombianos en riesgo de ser objeto de la trata de personas en el Ecuador.**

82. Según las informaciones recibidas, en el año 2004, el número de ciudadanos colombianos refugiados, solicitantes de asilo en el Ecuador, ascendería aproximadamente a 44.800 personas. En años recientes, el Gobierno ecuatoriano habría implementado nuevas

restricciones para los colombianos que desean ingresar al país, así como para aquéllos que desean permanecer en él.

83. Los retos que enfrentarían los refugiados colombianos, los solicitantes de asilo y los migrantes les podrían poner en riesgo de ser objeto de tráfico hacia el Ecuador. Los factores que aumentarían el peligro de ser objeto de trata incluyen un aumento en las medidas de control en las fronteras recientemente implementadas por el Gobierno ecuatoriano, incluyendo la exigencia del pasado judicial para cruzar la frontera. El pasado judicial es un registro oficial de no tener historia criminal, emitido por las autoridades colombianas. Este documento sería muy difícil de obtener por las personas que viven en las zonas rurales de Colombia, ya que sólo se podría obtener en las grandes zonas urbanas, donde les sería difícil y peligroso llegar. Además, sería excesivamente costoso para los campesinos colombianos sin recursos, lo cual lo volvería inaccesible para ellos.

84. En este sentido, el hecho de que los colombianos reaccionen ante este nuevo requerimiento cruzando la frontera en áreas remotas en lugar de hacerlo en los sitios oficiales de cruce aumenta la preocupación de que se extienda la trata de personas. La presunta corrupción entre las autoridades ecuatorianas, incluyendo oficiales de frontera, también crearía un ambiente conducente a la trata de personas.

85. Se informa del hecho de que los colombianos que ingresarían indocumentados al Ecuador generalmente evitarían registrarse para solicitar asilo. De todas maneras, incluso si cruzan la frontera con los documentos requeridos, muchos escogerían permanecer no registrados por el temor de que al hacer notoria su presencia en el Ecuador, ello atraería represalias por parte de la guerrilla colombiana o de ciertos elementos paramilitares.

86. Asimismo, si bien el permanecer indocumentados puede que les proteja de ser objeto de abusos por parte de los insurgentes, irónicamente ello podría volverles más vulnerables a la explotación, incluyendo la trata de personas. La falta de estatus legal les dificultaría el poder denunciar a las autoridades ecuatorianas explotaciones o abusos de los cuales hayan sido objeto. Ello también convertiría a los colombianos en un blanco para la trata de personas, ya que serían controlados más fácilmente por los traficantes. La reciente disminución del índice de concesiones de asilo podría exacerbar este problema, ya que los individuos a los que se les deniega el asilo pasarían a vivir en la sombra de la sociedad ecuatoriana, con la esperanza de no ser detectados por las autoridades. Ellos también se tornarían presa fácil para los traficantes.

87. Según las informaciones recibidas, los colombianos, especialmente las mujeres, se enfrentarían a una significativa discriminación dentro de Ecuador. Ello les obligaría a ingresar en la economía informal, incluyendo el trabajo sexual. En muchas ocasiones, se verían obligadas a buscar protección de hombres ecuatorianos, quienes a su vez frecuentemente las explotarían. Pueblos fronterizos, como Lago Agrio, tienen ya de por sí un alto nivel de delincuencia y prostitución, por lo que las mujeres y niños colombianos frecuentemente terminarían como trabajadores sexuales.

88. Precisamente en Lago Agrio se constata un elevado número de niños no acompañados. Se informa de que existe un orfanato en ese lugar, pero solamente podrían ingresar los niños menores de 12 años. Los niños mayores serían entregados a familias de la zona y se volverían vulnerables a abusos.

89. Se informa del hecho de que los niños colombianos tendrían dificultades para recibir educación a causa de la discriminación o por los costos prohibitivos de la educación. Como resultado, frecuentemente dejarían de estudiar y se pondrían a trabajar para ayudar a mantener a sus familias. Ello también les tornaría vulnerables a la trata de personas.

90. Los Relatores Especiales llamaron la atención del Gobierno sobre el Protocolo para prevenir, reprimir y sancionar la trata de personas, especialmente mujeres y niños, que complementa la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional y en particular su artículo 6, denominado “Asistencia y protección a las víctimas de la trata de personas”. Asimismo, llamaron la atención del Gobierno sobre los Principios y Directrices recomendados sobre los derechos humanos y la trata de personas, y en particular el Principio 9 que establece que se proporcionará asistencia jurídica y de otra índole a las víctimas de la trata de personas mientras duren las acciones penales, civiles o de otra índole contra los presuntos tratantes, y que los Estados darán protección y concederán permisos de residencia temporal a las víctimas y los testigos mientras duren los procedimientos judiciales, así como la Directriz 7 que se refiere a la prevención de la trata de personas.

91. Los Relatores Especiales además instaron al Gobierno a que protegiera los derechos humanos de las personas afectadas y adoptara todas las medidas necesarias a investigar, procesar e imponer las sanciones necesarias a cualquier persona responsable de las violaciones alegadas y a que tomara las medidas necesarias para evitar que se repitan estos hechos

## Germany

### Communication sent

92. On 27 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms. **TB, a German citizen of Turkish descent.**

93. According to information received, Ms. TB is a German citizen from Hamburg. In April 2006, she travelled with her mother from Hamburg to the settlement of Karastlak Köyü in the village of Yeni Halfeti, Sanliurfa province, southeast Turkey, where her grandmother and other relatives reside. Allegedly, her family had pretended that she was going on vacation to the village. Upon Ms. TB's arrival in the village, however, her mother took her passport and identity documents and told her that she had to enter into an arranged marry with a close relative. According to the latest information received at the time this communication was sent, Ms. TB was still in Yeni Halfeti. Reportedly, she faced serious limitations on her freedom of movement and was only on rare occasions able to leave her grandmother's house. Concern was expressed that Ms. TB might have been forced to marry her relative against her will or face severe violence, if she refused. The Special Rapporteur had appealed to the Government to intervene in this case and ensure that the competent Turkish authorities undertake all necessary action to protect Ms. TB from forced marriage, any form of violence or the threat thereof.

### Response by the Government

94. By letter dated 15 August 2006, the Government informed the Special Rapporteur that Ms. TB had left Turkey on 2 June 2006 together with an officially appointed escort and was safe from the threat posed by her family, and was being well looked after by a German organization running a social programme which provides assistance to young women in similar situations.

95. The German Government assured the Special Rapporteur that it remains committed to taking decisive action against forced marriages. It will also continue to rely on the willingness of other Governments to cooperate in this regard.

## Greece

### Communication sent

96. On 25 July 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning **the trafficking of newborn infants from Bulgaria to Greece.**

97. According to information received, it was alleged that pregnant women, most of them from the Roma community in the region of Burgas in eastern Bulgaria, and many of them unemployed and living in harsh conditions, are induced by members of organized crime to go to work to Greece. They are promised employment and good salaries, but actually end up in small cities throughout Greece where they are held together in apartments for the remainder of their pregnancy before delivering at local hospitals where, with the complicity of doctors, midwives and other hospital staff, their newborn babies are taken away from them and sold by organized crime members with the assistance of lawyers for up to 30,000 Euros. It is alleged that after having given birth in Greece, the women are sent back to their hometowns in Bulgaria and receive 1,000 Euros per child.

98. Reports also alleged that little progress had been made by Greek and Bulgarian authorities in investigating such trafficking and sale of children taking place between the two countries. It was further reported that the complex and lengthy procedures for legal adoption in Greece might have led to an increase in instances of trafficking and sale of children.

99. Finally, the Special Rapporteur called on the Government, in the event that ~~the~~ its investigations supported the above allegations or suggested them to be correct, to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and the accountability of any persons guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

### Response by the Government

100. By letter dated 18 August 2006, the Government informed the Special Rapporteur that in Greece, adoptions are governed by Law 2447/1990 on “Adoption, supervision and sponsorship of minors, judicial attendance, judicial diligence of other’s affairs; relevant substantial, procedural and transitory provisions”, as well as articles 1542 to 1588 of the Civil Code, wherein the terms, conditions and procedures for the legal adoption of minors by Greek nationals are laid down.

101. In brief, legal adoption comprises the following stages: Prospective adopting parents, either through the competent social services or directly with no intermediaries, come in contact with the natural parents of the child to be adopted and obtain the latter's consent for the prospective adoption. Thereafter, the competent social services conduct an investigation, focused on the child's best interests and draw up a report based on its findings. Finally, the competent Court, after an application filed by the adopting parents, having taken into consideration the said report and any other information it may have, again basing itself primarily on the child's best interests, gives approval for the adoption to take place.

102. Considering all the relevant legal regulations which determine a purely administrative act, only the provisions of paragraphs 2 and 3, art. 10, Law 2447/96 have a criminal, and therefore, police interest. The said provisions stipulate imprisonment or incarceration penalties, depending on the regularity of perpetration, against the person(s) who give(s) away his/her/their child for adoption, or any other intermediate person(s) who act with the aim of gaining unfair benefits. By virtue of such provisions which criminalize a specific form of adoption, police authorities have been assigned the task of combating illegal adoptions and certifying the related crimes.

103. According to the statistics on illegal adoptions kept by the Directorate of Public Safety, Hellenic Police Headquarters, the following cases have been dealt with by the relevant Services: in 2002, there were 8 offenders (5 Bulgarian and 3 Greek nationals) and 1 victim (Bulgarian); in 2003, there were no cases; In 2004, there were 8 cases concerning 22 offenders (16 Bulgarian and 6 Greek nationals) and 8 infants (7 Bulgarians and 1 Greek); in 2005, there was 1 case concerning 4 offenders (3 Bulgarian nationals and 1 of unknown particulars), and one infant (Bulgarian); up to 6 April 2006, there were 7 cases concerning 27 offenders (20 Bulgarian, 2 Albanian and 5 Greek nationals), and 7 infants (6 Bulgarians and 1 Albanian).

104. As can be seen from the above statistics, all cases involved Bulgarian nationals, both as offenders and victims. Competent police authorities are aware of the places (Bulgarian cities) where pregnant Bulgarian women are recruited, the modus operandi, and the routes followed in order to enter Greece. In an effort to combat such criminal activities, the Hellenic Police Headquarters is cooperating with its Bulgarian counterpart which has yielded significant results during the last two years:

- Information exchange mechanisms have improved;
- Fruitful cooperation of liaison officers of the competent Police Authorities of the two sides has been attained;
- In cases of large-scale investigation, operational officers of both sides meet in order to eradicate criminal groups.

## **India**

### **Communication sent**

105. On 13 April 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning **the trafficking and sexual exploitation of Nepalese girls in brothels in Calcutta and Mumbai, India.**

106. According to information received, Nepalese girls, of an average age of 14 to 16 years, are trafficked from Nepal to brothels in Calcutta and Mumbai where they are required to work as prostitutes in slavery-like conditions. The girls are trafficked against their will and without knowledge of their destination. The traffickers are reported to be Nepalese men and women, who sell the girls to (Nepalese) brothel owners in Calcutta and Mumbai, at a price of approximately 60,000 to 70,000 Indian rupees (US\$ 1,360-1,590) in Calcutta and 100,000 to 120,000 Indian rupees (US\$ 2,270- 2,720) in Mumbai. There is no evidence of extensive networks of traffickers of Nepalese women and girls, and trafficking seems to take place through an informal network with the collaboration of community members, employers, local officials, border officials and others such as those who operate 'safe houses' where trafficked girls are kept prior to their sale.

107. Initially the girls are not taken to the brothels directly, but given some time to adjust to their new situation, in outside homes, sometimes owned by the brothel owner. After being told about the work that is required of them, how to dress and behave and after being convinced that they themselves, or their families, have incurred a debt which they will have to pay off by working as a prostitute after which they are 'free' to leave, the girls are put to work as *tsukri* (the Bengali word for a child in slavery or debt bondage).

108. When they start to work as *tsukris*, the girls are usually aged between 15 to 18 years. They often work in brothels that are referred to as 'bungalows': brothels that occupy a flat, usually on the first or higher floors of a building, often with a shop on the ground floor. The bungalow is distinguished by a channel gate (a sliding iron accordion gate) at the entrance to the brothel. When locked, the channel gate is virtually impenetrable; making escape from the brothel impossible for the *tsukris* kept inside. The area within Calcutta that contains most bungalow-type brothels with *tsukris* is Sonagachi; whereas in Mumbai brothels with *tsukris* can be found mainly in Kamathipura, although due to police raids these types of brothels are said to have moved to other cities in India or areas outside the known brothel areas.

109. It is reported that while clients of the brothels do not have a specific preference for *tsukris*, they do have a preference for girls between 15 and 20, which in turn creates a demand for children. Under the *tsukri* system the brothel owner retains all of the fees paid by clients for the services provided to them by the *tsukris*. Considerable profits accrue from the use of the *tsukri* system: brothel owners are said to earn four to twenty times the purchase price of the *tsukri* over the period of her servitude. The money that the trafficker earns is relatively insignificant compared to the large amount that the purchaser (brothel owner) earns.

110. The initial purchase price is recovered by the brothel owner, on average, in little over five and a half months. A Nepalese *tsukri* is also said to cost less than an Indian *tsukri* and because of continued client demand for Nepalese girls, the returns are higher. On occasions, the brothel owner may also offer "special services" such as a *tsukri's* virginity or oral or anal sex as well as sex without a condom, at a special price. The total period the girls spend in confinement as *tsukris* varies from two to ten years.

111. After being released from this situation, it is often very difficult for *tsukris* to go back to Nepal. They fear isolation and reprisal from family and community members. Many of them take up work as free-agent women in prostitution, earning their own fees by doing street prostitution or paying tenancy to brothel owners. Escape prior to being released is not only very difficult because the girls are kept in confinement; there is also fear of being brought



back to the brothels, either by police or other community members followed by severe physical punishment, as well as a more general fear of 'India outside' since few *tsukris* have a clear idea of where they are, cannot speak the language and are easily recognized as foreigners.

112. The Special Rapporteur called the Government's attention to the Trafficking Protocol, with specific reference to its article 6, 7 and 8, entitled "Assistance to and protection of victims of trafficking in persons", "Status of victims of trafficking in persons in receiving States" and "Repatriation of victims of trafficking in persons" respectively. The Special Rapporteur also made reference to OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and in particular to paragraph 7 of the Recommended Principles which states that trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. The Special Rapporteur further recalled Guidelines 6 and 8 which refer to the protection and support for trafficked persons and to special measures for the protection and support of child victims of trafficking.

### **Communication sent**

113. On 15 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation concerning **the sale of children in Talwara migrant camp in Jammu and Kashmir**.

114. According to the allegations received, children in the Talwara migrant camp in Jammu and Kashmir are sold to work as labourers and domestic workers by their parents who are living in circumstances of extreme poverty. Even if both parents work, there is not enough money within the family to feed all family members so that these children are sold, sometimes for a fixed period of time. Allegedly, over 200 children had already been sold or mortgaged in this manner for a few thousand Indian rupees, at the time this communication was sent. The reported asking price for children aged nine years old is 8,000 Indian rupees, 10,000 Indian rupees for a thirteen year old, and 15,000 Indian rupees for an older teenager.

115. It is also reported that one of the residents of the camp, Ms. KD, had been forced to sell three of her daughters for 20,000 Indian rupees, in order to feed her other two daughters. Another camp resident, Ms. TD, agreed to sell her son for 8,000 Indian rupees but never received the money and a month and a week later her son's dead body was found. Mr. PS claimed that he had mortgaged three daughters at the end of 2005 for 3,000 Indian rupees each and was forced to sell a fourth in March because of acute poverty.

116. It is further reported that the issue of children being sold was brought to the Jammu and Kashmir State government's attention after a demonstration by several hundred migrant workers. A four member Committee, headed by Lal Singh, Congress Member of Parliament, was delegated on 29 March 2006 to investigate the allegations. Apparently, testifying before the panel, the children claimed to have been working as domestic help or in the stores of their 'buyers' voluntarily. The 'buyers' claimed to pay the children's parents 1,500 to 2,000 Indian rupees per month, apart from expenses incurred by them for the education, food and clothes of the children.

117. It was further reported that entry into the Talwara camp was allegedly obstructed for the duration of the committee investigation. Following the investigations, Jammu and Kashmir Chief Minister Ghulam Nabi Azad denied that children were being sold. It is alleged that the President of the Jammu and Kashmir National Panthers Party, Bhim Singh, had offered to buy back the sold children and to return them to their parents.

118. The Special Rapporteur suggested that, in the event that the Government's investigations support the above allegations or suggest them to be correct, the Government take all necessary measures to guarantee that the rights and freedoms of the aforementioned person are respected and the accountability of any person guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

## Israel

### Communication sent

119. On 21 November 2006 the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation to the Government regarding the situation of **MJ, a minor of between 11 and 15 years of age, of Guinean nationality**, who was reportedly trafficked to Israel and who had been detained in a detention facility run by the Immigration Police in Hadera since May 2006.

120. According to the information received, MJ is a victim of trafficking who, together with other Guinean citizens, was brought to Israel by Mr. BB. The trafficked victims had paid Mr. BB a considerable amount of money to take them to Israel and to ensure their legal entry, as well as a permit to stay and work in Israel. It is reported that some of the victims were arrested at the border while others, including MJ, managed to cross the border and enter Israel. Those who did manage to enter, however, were then forced into exploitative labour conditions and threatened with remaining without food or money for their work if they did not do as they were told. Some were also threatened that they would be reported to the police who would then detain them for not having the necessary legal papers. MJ was forced to work by Mr. BB and was not paid for his work.

121. Israeli authorities, upon receipt of information on Mr. BB's activities in this regard, arrested him and had him prosecuted for several trafficking-related offences. Mr. BB was convicted on 11 July 2006 and sentenced to 2 years in prison by the Magistrate Court in Tel Aviv. No steps were, however, taken to assist the trafficking victims concerned.

122. MJ was arrested by the Immigration Police on 11 May 2006, and detention and deportation orders were issued against him. However, since he is an unaccompanied minor and since Israel has no diplomatic relations with Guinea, it is alleged that he could not be deported, as travel documents could not be arranged for him.

123. At the time this communication was sent, MJ was being held in a detention facility in Hadera run by the Immigration Police. In this facility minors are held separately from adult detainees. The only personnel in the detention center, however, are Immigration Police officers. There are no psychologists, welfare workers or other professionals who are trained to deal with the special needs of children. Many of the children are reportedly trafficking victims, and some of them are refugees or asylum seekers. MJ was being held with other

unaccompanied minors and was locked in his cell most hours of the day. He was only allowed four hours a day to go out. No education services are available at the detention centre. An English teacher had started giving the children lessons in English. However, after two months the teacher stopped working and lessons were terminated.

124. A non-governmental organization had sought to provide MJ with an alternative arrangement and managed to find an adult who was willing to let MJ stay with him. A request to release him in the care of this person was filed on 3 September 2006. The Detention Administrative Tribunal denied this request arguing that there was no reason to release MJ, since he was being detained in a facility intended for the detention for minors. On 23 October 2006, the Administrative Tribunal again denied an appeal to release him and confirmed that there was still no progress concerning the possibility to send him back to his country. The Tribunal decided to send MJ for psychiatric evaluation after he started crying and threatened to hurt himself if he was sent again to the detention facility. The psychiatrist who examined him found that there was no reason to have him committed to a psychiatric facility. MJ was then sent back to the detention facility in Hadera, where he remained in detention at the time this communication had been sent.

125. Whilst commending the Government for prosecuting Mr. BB for charges of trafficking related offences, concern was expressed for the welfare of MJ as a victim of trafficking and especially since he is believed to be a minor. Concern was further expressed that the authorities had not provided MJ, and other trafficking victims, with the assistance required by internationally accepted norms and standards for victims of trafficking which could include medical, psychological and legal assistance, including the facilitation of safe repatriation or alternatively proper reintegration into Israeli society, in accordance with, inter alia, the Trafficking Protocol, in particular its article 6 (paragraphs 3 and 4).

126. The Special Rapporteur further suggested that, in the event that the Government's investigations support the above allegations or suggest them to be correct, the Government take all necessary measures to guarantee that the rights and freedoms of the aforementioned person are respected. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

## Italy

### Communication sent

127. Le 13 avril 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants et le Rapporteur spécial sur les droits de l'homme des migrants, a envoyé une lettre d'allégation concernant des informations reçues au sujet d'un nombre croissant d'**enfants roumains victimes d'exploitation sexuelle en Italie, et notamment dans la ville de Rome.**

128. D'après les informations reçues, au cours des six premiers mois de l'année 2005, les services de la ville de Rome auraient enregistré 497 mineurs non accompagnés, soit autant que pour l'année 2004. La plupart d'entre eux seraient des adolescents victimes de trafic ou qui auraient migré de leur propre chef en Italie en provenance de Bucarest, Calarasi, Craiova, Galati et Iasi ; Craiova étant le principal lieu de provenance de ces mineurs. Si certains d'entre eux sont impliqués dans des vols, des trafics de drogue ou contraints à mendier, la majorité se prostituerait sur les principales avenues de la périphérie de Rome, et notamment dans le quartier Cristoforo et Salaria, aux côtés de mineurs non accompagnés issus d'autres pays.

129. Dans ce contexte, de vives préoccupations ont été exprimées s'agissant des moyens limités mis en œuvre jusqu'ici pour combattre l'exploitation sexuelle de ces mineurs. Il n'y aurait pas de contacts entre les deux pays en vue de résoudre ce problème. À la date d'envoi de cette communication, ni la Roumanie ni l'Italie n'aurait mis en place de système permettant d'évaluer le nombre d'enfants victimes de trafic, et de base de données au niveau national concernant les enfants victimes ayant été rapatriés vers leur pays d'origine. En outre, bien que la législation italienne comporte de nombreuses dispositions sur les droits et protections accordés aux enfants étrangers, faute de ressources financières suffisantes et de personnel spécialisé, les services sociaux n'auraient pas la capacité de fournir à ces adolescents le soutien et la protection auxquels ils ont pourtant droit.

130. Le Rapporteur spécial a rappelé au Gouvernement, le Protocole additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, et notamment les articles 6 et 9 de ce protocole sur l'assistance et la protection accordées aux victimes de la traite des personnes et la prévention de la traite des personnes. Le Rapporteur spécial a également fait référence aux Principes et Directives recommandés concernant les droits de l'homme et la traite des êtres humains, et notamment la directive 8 concernant les mesures spéciales destinées à protéger et à aider les enfants victimes de la traite des personnes. De plus elle a prié au Gouvernement de prendre toutes les mesures nécessaires pour assurer la protection des droits et des libertés de ces enfants, de diligenter des enquêtes sur les violations perpétrées, de traduire les responsables en justice et d'adopter toutes les mesures nécessaires pour prévenir la répétition des faits mentionnés.

### **Response by the Government**

131. By letter of 26 June 2006 the Government informed the Special Rapporteur that its present reply was to be read in conjunction with Italy's reply to the relevant list of issues submitted by the Committee on the Rights of the Child in Spring 2006, as well as its previous reply to the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on the human rights of migrants concerning foreign minors in reception centres. The Government informed the Special Rapporteur that regarding the legislative framework, apart from the Convention on the Rights of the Child, the Government referred to national legislation, especially Act No. 39/90 on the basis of which Italian authorities launched a comprehensive policy on immigration, which laid down inter alia the principle of the programming of migratory flows and which also envisaged administrative procedures for the entry and stay of foreigners in Italy. Moreover, certain legal Acts, including the so-called "Bossi-Fini Law" (Act No.189/02), had a two-fold aim to propose a pattern of social integration for foreigners and to ensure the implementation of ad hoc measures for the protection of and support for children, while respecting their dignity and their rights, in the cases both of children of foreign parents and children awarded to foreign adults. In this regard, it is worth recalling the following measures: Act No.40/98; Legislative Decree No.113/99; Presidential Decree DPR 5 August 1998; Legislative Decree No. 113/99; Presidential Decree No. 394/99; DPCM No. 535/99; Act No. 189/02 and its following amendments.

132. The Government further informed the Special Rapporteur that in the year 2004, about 1,200 minors arrived in Italy, 900 of whom were received in reception centres. In 2005, the number of minors received was about 1,000 from different nationalities (Romanians, Moldovans, Africans and – although fewer than in the past – Albanians). Two important facts

were recorded: an increase in unauthorized removals of these minors from the first assistance centres and an increase in episodes of abuse of both males and females on the territory of the municipality of Rome.

133. Within this framework, the Government referred to the issue of children involved in unlawful activities such as begging. The vast majority of children involved in begging are from communities of Slav origin, as well as illegal minor immigrants from Morocco, from Romania, from Albania, who are generally based in Northern Italy. The majority of these children are exposed to illegal activities, including sexual exploitation, under the threat of battery and forced into slavery.

134. In this context the Government explained that action taken to prevent the exploiters was not always effective because of difficulties encountered, including the hostility of the families of the children, their lack of stability or even the very lack of a house for the children in case of imposition of the measure to “stay home”. Last but not least, very often the minors manage to escape from these centres.

135. As to the eradication of begging related activities, some specific preventive and repressive measures had been issued: First, the Memo No. 123/A3\_/130/3/52/2003 on cooperation among police and social service providers; Second, a specific memo was also adopted in order to effectively enforce Act. No.228/03. Furthermore, on 19 June 2003, an ad hoc Protocol between the Romanian Government, the Local Council of Bucharest and the Prefecture of Turin had been adopted in order to facilitate the repatriation of Romanian children who are victims of exploitation.

136. At the practical level, it is worth mentioning the intervention carried out by the Rome crime squad. Upon being called by the relevant local authorities that had been contacted directly by citizens, the Rome crime squad launched an operation called “Flowers in the mud”. The outcome of their investigations led to the adoption of several detention measures, especially against paedophiles. In particular there was evidence of approximately 200 Roma children who had been forced into begging and prostitution.

137. As a result of its investigations, on January 2006 the responsible judicial authorities issued 20 decrees for pre-trial detention, 18 measures for the search of persons and of premises. In May 2006, pre-trial proceedings were in course. In particular, children victims of abuse were hosted in “the Rome centre against begging”, representing a unique experience in the Italian scenario because this is the only centre providing ad hoc psychological care services.

138. As to the number of Romanian minors, victims of sexual exploitation in Italy and with specific regard to the municipality of Rome, the Government provided the following information: in the first semester 2005, 497 non-accompanied minors registered; place of origin: Bucharest, Calarasi, Craiova, Galasi, Iasi; crimes: theft, drug trafficking, begging, prostitution. The Government further informed the Special Rapporteur that the Council Office for Social policies, 5th Department, and the Juvenile Department at the municipality of Rome undertook many initiatives in this respect, amongst the minors:

- The establishment of a Working Group on The Issue Of Foreign Non-accompanied Minors;

- The PALMS project led by the Municipality of Rome together with the cities of Turin, Milan, Bologna and Ancona – which focused on the implementation of pre-reception services;
- An educational project aimed at the integration into second-reception structures;
- An initiative, started in 2005, targeted young girls victims of sexual exploitation and which, to date, had provided assistance to 1,212 victims (of both Romanian and Moldovan nationality).

139. Within this framework, the Government made reference to the uninterrupted flow of nomads. At present, local authorities were engaged in several initiatives devoted to the integration of minors in this regard; the regularization of Roma communities; and the facilitation of access to the labour market. Along these lines, the following proposals or initiatives were in the pipeline at the time this reply was received:

- A proposal for summer leisure activities for Roma minors;
- A project of access to education for nomad minors. From 1999-2000 through 2003-2004, the number of Roma students increased progressively, going from 1,161 to 2,157.
- Projects for vocational courses for the Roma community and for cultural mediators to be included in the penitentiary personnel.
- GIPSY 2000/2002, an initiative devoted to the Roma people who suffer from drug addiction.

140. The Government further mentioned the relevant NGOs that are operating in Rome. It also provided additional information on the situation of the Roma community in Rome and especially Roma children in Italy, and on specific attention given to Roma Children in the Juvenile Justice system.

## **Kyrgyzstan**

### **Communication sent**

141. On 17 February 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal **concerning the alleged trafficking of over 60 women and girls from various Central Asian countries**.

142. According to information received, on 14 February 2006, Kyrgyz security forces reportedly removed more than 60 women and girls from a plane in the southern city of Osh, which was about to transport the women concerned to the United Arab Emirates (UAE), allegedly for the purpose of sexual exploitation. The women and girls, aged between 17 and 38 - including 58 Uzbek nationals, one Tajik, one Kyrgyz and one Turkmen - were smuggled into Osh in small groups in early February 2006 and were kept in private apartments prior to the flight. They had passed through passport and customs control at Osh airport and were sitting on an aircraft preparing to leave for Sharjah in the UAE when they were intercepted and taken to a detention centre in the city. The basis for detaining the group was illegal crossing of the border and violation of Kyrgyz migration rules. However, the head of the regional office of the Kyrgyz National Security Service (NSS) reportedly declared "We have evidence that all the girls were being trafficked, with trafficking gangs supposed to meet them in the Emirates."

143. Sources estimate that 4,000 women and girls are trafficked annually from or through Kyrgyzstan for purposes of sexual exploitation. Traffickers recruit young women mainly from rural areas in Central Asia promising them jobs as waitresses, nannies, cooks, saleswomen and dancers in the UAE or other countries. Upon arrival in the destination country, the women are forced to prostitute themselves. Debt bondage is very often used to subdue the women and perpetuate their exploitation.

144. Osh has reportedly become a regional transit hub for the trafficking of Central Asian women, especially Uzbek and Tajik women. Uzbek women are increasingly trafficked via Kyrgyzstan because of stricter exit controls at Uzbek airports, which aim to curb trafficking. Sources also allege that some Kyrgyz law enforcement officials collaborate with the traffickers.

145. The Special Rapporteur called the Government's attention to the Trafficking Protocol, and suggested that, in the event that the Government's investigations support the above allegations or suggest them to be correct, the Government take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and accountability of any persons guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

### **Response from the Government**

146. On 24 March 2006, the Government replied to the communication of 17 February 2006. The Government informed the Special Rapporteur that, as part of measures taken to block trans-border channels for trafficking in persons, the National Security Service (SNB) of the Kyrgyz Republic on 14 February 2006 stopped 60 citizens of the Republic of Uzbekistan, 1 Turkmen citizen and 1 Kyrgyz citizen from traveling on an Osh-Al-Fujairah (UAE) charter flight from Osh airport. The grounds for detaining the citizens of the Republic of Uzbekistan were violations of the regulations on staying in and crossing the State border of the Kyrgyz Republic.

147. It was established in the course of the investigation that the above individuals were being taken for subsequent sale into sexual slavery by organizers of people trafficking. The average age of most of the girls due to be flying out to the UAE was in fact 15-30 years. It has to be pointed out that virtually all the Uzbekistan citizens heading to the Emirates were voluntarily going to engage in prostitution to solve their material and social problems.

148. As of 15 February of this year, after filtering work, the decision was taken by the Kyrgyz SNB investigative group to gradually deport and hand over 52 of the detained citizens of the Republic of Uzbekistan and the one Turkmen citizen, who had entered the territory of Kyrgyzstan from Uzbekistan, to the Uzbekistan SNB Border Troops. Note was taken of the use by three Uzbek citizens of forged passports, as well as the discovery on yet another three citizens of the Republic of Uzbekistan of forged passports and fragments of false passports of the Kyrgyz Republic. On 17 February 2006 the Kyrgyz SNB Investigative Department initiated a criminal case based on evidence of offences under articles of the Criminal Code of the Kyrgyz Republic. However, taking into account the fact that four of the above-mentioned citizens of the Republic of Uzbekistan were victims of labour trafficking, on 21 February 2006 they were transferred to the custody of the Osh representative office of the International

Organization for Migration (IOM). Furthermore, as it was established that one of the organizers and links of the trans-border channel of people trafficking and illegal migration of citizens of the Republic of Uzbekistan are representatives of tourist firms, criminal proceedings were also brought against them pursuant to the Criminal Code of the Kyrgyz Republic.

149. With a view to the implementation of the National Plan of Action for Gender Equality in the Kyrgyz Republic, the National Security Service of the Republic is carrying out work to prevent and reduce gender violence in society, prohibit trafficking in persons, and also to afford protection and support for victims of trafficking and to raise public awareness of the problem of violence. In particular, from 2004 up to the present, the Kyrgyz SNB had initiated 10 criminal cases in relation to such offences and was conducting preventive and educational work through the mass media, as well as cooperating closely with IOM to release from forced detention citizens of the Kyrgyz Republic in countries abroad.

### **Communication sent**

150. On 23 November 2006 the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture, submitted a letter of allegation to the Government regarding the **increasing widespread practice of “bride-kidnapping”**, whereby a woman or girl is taken against her will through deception or force and forced to marry one of her abductors.

151. Sources alleged that the abductors are often intoxicated and act in groups, using physical or psychological coercion to compel the woman to “agree” to the marriage. These marriages are reportedly rarely registered with the State. Instead, a Muslim cleric conducts the ceremony or the occasion is privately celebrated. It was further alleged that kidnapped women are often raped by their abductors, but fail to report the crime for fear of repercussions. The abductions occur in all parts of Kyrgyzstan, both urban and rural. The women involved are typically under the age of 25. Some victims are also minors. Despite the fact that Article 155 of the Criminal Code, outlaws non-consensual marriage by force or kidnapping, it is reported that the perpetrators are typically not prosecuted for the crime and enjoy impunity for the sexual abuse and exploitation that is committed. The Special Rapporteur was also informed that the police often fail to investigate reported cases of bride kidnapping. Sources stated that many police officers do not view bride-kidnapping as an issue for law enforcement, but consider it to be a legitimate traditional practice.

152. The Special Rapporteur called the Government’s attention to the Trafficking Protocol, and suggested that, in the event that the Government’s investigations support the above allegations or suggest them to be correct, the Government take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and the accountability of any person guilty of the alleged violations ensured. The Special Rapporteur also requested that the Government adopt effective measures to prevent the recurrence of these acts.

## **Mauritania**

### **Communication envoyée**



153. Le 8 août 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, et le Rapporteur spécial sur la violence contre les femmes, ses causes et ses conséquences, a envoyé un appel urgent concernant la situation de plusieurs personnes qui seraient maintenues en esclavage en Mauritanie.

154. Selon les informations reçues, six enfants et deux femmes seraient maintenus en esclavage et répartis dans les foyers respectifs d'**AOS** et d'**EHOS**, deux frères, à Nwar, département de Tidkikja, dans la région du Tagant. Les personnes retenues dans le foyer d'**AOS** seront les suivantes : **S**, une jeune fille de 20 ans ; **OL** qui a environ 15 ans (et qui est orpheline de mère) ; **S**, 10 ans (orphelin de mère), inscrit à l'école mais qui, selon le témoignage de son maître d'école, serait fréquemment absent car il serait retenu par ses maîtres et enfin **T** et **F**, respectivement 5 et 6 ans (deux fillettes orphelines de mère). Le foyer d'**EHOS** retiendrait **O**, une femme d'environ 70 ans ainsi que deux garçons, **EKOM** qui a 13 ans ainsi que **BOM**, âgé d'environ 16 ans.

155. Dans cette affaire, une organisation non-gouvernementale (ONG) qui lutte contre l'esclavage aurait été confrontée à l'opposition des autorités, dont le gouverneur adjoint de la région du Tagant qui l'aurait accusée de créer de faux problèmes et de politiser les faits. Le procureur de la République aurait quant à lui déclaré que « l'esclavage n'existe pas et ceux qui prétendent le contraire peuvent être passibles de poursuites judiciaires » avant de se rendre dans les foyers où seraient retenues les personnes susmentionnées. Après son intervention, seule une vieille femme aurait été libérée du foyer d'**EHOS**.

156. Dans le cadre de différentes actions menées pour parvenir à la libération de personnes tenues en situation d'esclavage, il ressort que cette ONG obtiendrait des résultats plus ou moins efficaces selon la région du pays dans laquelle elle agit. Dans cette région du Tagant où seraient retenues les personnes susmentionnées et où les militants anti-esclavagistes seraient accusés, entre autres, de nuire à l'image du pays, un sentiment d'impunité règnerait et l'esclavagisme demeurerait. En effet, les autorités chargées de l'application des lois refuseraient souvent de reconnaître des situations d'esclavage. En Mauritanie, la possibilité d'une éradication de ce fléau dépendrait surtout de la volonté des autorités administratives et judiciaires d'appliquer la législation nationale et les normes internationales dans leur pays.

157. Cette pratique serait apparemment tolérée alors que les droits à la liberté, à l'égalité et à la dignité de tous les citoyens sont proclamés dans le préambule de la Constitution de 1991. De plus, en 1981, à la suite de la publication d'une ordonnance, l'esclavage a été aboli en Mauritanie. Cependant, aucune loi d'application de ce texte n'aurait été votée afin de parvenir à une abolition effective. L'ordonnance, qui proclame l'illégalité de l'esclavage, n'en donne pas de définition précise et ne l'érige pas non plus en infraction pénale. Il ressort de cette constatation que la suppression de l'esclavage dépendrait aussi de la volonté des autorités politiques qui ont le pouvoir de prendre de réelles mesures pour parvenir à l'abolition de cette pratique.

158. Le Rapporteur spécial a invité le Gouvernement à prendre toutes les mesures nécessaires pour assurer la protection des droits et des libertés des individus mentionnés, de diligenter des enquêtes sur les violations qui auraient été perpétrées et de traduire les responsables en justice. De plus, elle a prié le Gouvernement d'adopter, le cas échéant, toutes les mesures nécessaires pour prévenir la répétition des faits mentionnés.

## Réponse du Gouvernement

159. Le 30 octobre 2006, le Gouvernement a répondu à la communication, en affirmant que le Département de la justice a diligenté une enquête dès que les allégations de la lettre ont été portées à sa connaissance. Cette enquête a été menée sous la direction du procureur de la République territorialement compétent, assisté par la gendarmerie. L'enquête a révélé que les allégations avancées n'étaient pas fondées et que, par conséquent, il ne s'agissait nullement de cas d'esclavage. Les personnes citées dans la communication sont des citoyens libres qui ne souffrent d'aucune forme de discrimination ni de contraintes. Elles ne se plaignent de rien et sont libres d'aller et venir là où elles le désirent. Dans un souci de transparence, le procureur de la République a associé à l'enquête des représentants de l'ONG qui est à l'origine cette affaire.

160. Pour ce qui est de la question relative à la législation en vigueur, le Gouvernement a estimé qu'il y avait lieu de faire les précisions suivantes. L'esclavage a été aboli par la Puissance coloniale. Cette abolition a été confirmée en 1961 par la première Constitution de la République islamique de Mauritanie laquelle proclame la liberté et l'égalité entre tous les citoyens sans distinction aucune. La Constitution du 20 juillet 1991, actuellement en vigueur, reprend la même disposition dans son article premier : « ...la République assure à tous les citoyens sans distinction d'origine, de race, de sexe ou de condition sociale, l'égalité devant la loi. » De plus, le Code pénal prévoit de lourdes peines pour les personnes coupables d'arrestation, de détention ou de séquestration arbitraires (art. 319 à 322).

161. L'Ordonnance n° 81-234 du 9 novembre 1981 portant abolition de l'esclavage n'a pas été suivie de décrets d'application, parce qu'elle visait essentiellement à marquer l'adhésion des juristes de droit musulman à l'abolition décrétée auparavant en vertu du droit positif. Tous les textes juridiques de base avaient, en effet, été revus à l'époque pour s'assurer de leur compatibilité avec le droit musulman. En tous cas, cette « lacune » a été comblée par les dispositions de la loi n°2003-025 du 17 juillet 2003 portant répression de la traite des personnes qui dispose dans son article premier : « Nonobstant les définitions prévues par les traités et conventions internationaux relatifs aux droits de l'homme ratifiés par la Mauritanie, l'expression « traite des personnes » désigne l'enrôlement, le transport, le transfert des personnes par la force ou le recours à la force ou à la menace ou à d'autres formes de contraintes par enlèvement, tromperie, abus d'autorité ou l'exploitation d'une situation de vulnérabilité ou par l'offre de l'acceptation de paiement ou d'avantage pour obtenir le consentement d'une personne ayant autorité sur une autre aux fins d'exploitation. L'exploitation comprend au minimum le travail non rémunéré, le travail ou les services forcés ainsi que les pratiques analogues, le prélèvement d'organes à des fins lucratives, l'exploitation de la prostitution d'autrui ou d'autres formes d'exploitation sexuelle».

162. Par ailleurs le Code du travail a été révisé en 2004 sur recommandation de l'Organisation internationale du Travail (OIT) afin de renforcer et d'élargir, entre autres, ses dispositions relatives au travail forcé.

163. L'article 5 du Code du travail adopté en juin 2004 interdit le travail forcé ou obligatoire par lequel un travail ou un service est exigé d'une personne sous la menace d'une peine quelconque et pour lequel cette personne ne s'est pas offerte de son plein gré, de même que toute relation de travail, même si elle ne résulte pas d'un contrat de travail et dans laquelle une personne fournirait un travail ou un service pour lequel elle ne s'est pas offerte de son propre gré. L'article 435 du même Code érige en infraction pénale le fait d'exiger

illégalement du travail forcé ou obligatoire au sens de l'article 5 du Code et les violences caractérisées ou les menaces de violences exercées par une personne sur une autre au fin de s'assurer du maintien de ses services ou du produit de son activité, c'est-à-dire les violences portant atteintes à la liberté d'aller et venir, à la liberté du travail à la libre disposition de ses biens et du libre exercice des responsabilités parentales .

164. La Mauritanie a en même temps ratifié les principaux instruments de droits de l'homme et les conventions fondamentales de l'OIT. Ces instruments et conventions priment sur le droit interne, en vertu de l'article 80 de la Constitution, et peuvent être invoqués devant les tribunaux.

## Morocco

### Communication envoyée

165. Le 13 juin 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, et le Rapporteur spécial chargé de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé une lettre d'allégation concernant des abus perpétrés contre les **enfants travaillant comme domestiques**.

166. Selon les informations reçues, il semblerait qu'un nombre élevé d'enfants domestiques dans des maisons privées commenceraient à travailler avant d'avoir atteint l'âge de 10 ans. Selon les statistiques officielles provenant d'une enquête sur la main d'œuvre datée de l'an 2000, il semblerait que 11 % des enfants âgés de 7 à 14 ans seraient actifs dans le marché du travail. Cette situation concernerait surtout les filles, âgées de moins de 15 ans, appelées communément « petites bonnes ».

167. Les informations reçues précisent que les « petites bonnes » employées comme domestiques ou servantes dans les maisons privées seraient originaires de régions rurales du Maroc où la pauvreté et le manque d'accès à l'enseignement seraient à l'origine de leur embauche comme domestiques. La majorité des enfants seraient recrutés à travers des intermédiaires, des agents recruteurs connus comme « samasra » qui, sur sollicitation des parents ou autres membres de la famille des enfants accepteraient de « placer » ceux-ci chez un employeur à travers leurs connaissances, amis, contacts ou voisins. Dans d'autres cas, les enfants seraient placés directement chez l'employeur par les parents eux-mêmes. Les enfants travaillant comme domestiques recevraient un salaire très minime (l'équivalent de 0,04 dollars des États-Unis à 0,11 dollars par heure), ou, dans de nombreux cas, ne seraient pas payés du tout, l'employeur se chargerait seulement de les loger et les nourrir et de leur acheter parfois quelques biens nécessaires (vêtements). La majorité des enfants embauchés comme domestiques seraient astreints à des horaires de travail exténuants, pouvant aller de 14 à 18 heures par jour. Beaucoup de ces enfants seraient victimes d'abus physiques ou émotionnels de la part de leurs employeurs et se retrouveraient à leur merci. Certaines filles seraient aussi victimes d'abus sexuels de la part de leur employeur.

168. Bien que l'emploi des mineurs de moins de 15 ans soit interdit par le Code du travail, le travail des enfants domestiques se ferait de façon informelle et ils ne seraient pas protégés par les normes du Code du travail. De plus, les inspecteurs du travail ne seraient pas habilités à entrer dans des maisons privées et enquêter sur les violations aux normes du Code du travail

qui interdit sous toute forme le travail des mineurs de moins de 15 ans, et les autres formes d'abus dont seraient victimes les enfants employés comme domestiques. De plus, les pouvoirs publics, notamment la police, le parquet et les juges seraient réticents à appliquer les sanctions prévues dans le Code du travail pour l'emploi de mineurs en dessous de l'âge autorisé et de celles prévues dans le Code pénal interdisant les abus dont seraient victimes ces enfants. Les parents de ces enfants seraient aussi réticents à intenter des poursuites au nom de leurs enfants, étant donné que de telles procédures seraient coûteuses, longues et ne garantiraient aucun résultat ni bénéfique. De plus, dans beaucoup de cas ce seraient ces mêmes parents qui auraient placés leurs enfants à travailler comme domestiques.

169. Les informations reçues concluent qu'il serait difficile, voire impossible pour les enfants placés comme domestiques de pouvoir se soustraire à cette exploitation. Beaucoup craindraient des actes violents ou d'autres représailles de la part de leur employeur s'ils viendraient à être rattrapés après leur fugue. Les filles auraient aussi peur d'être attaquées ou abusées seules dans la rue.

170. Le Rapporteur spécial, sans vouloir préjuger des faits qui lui ont été soumis, a fait référence à l'article 32 de la Convention relative aux droits de l'enfant à laquelle le Maroc est partie, qui reconnaît le droit de l'enfant d'être protégé contre l'exploitation économique. Elle a souhaité également attirer l'attention sur la Convention 182 de l'OIT concernant l'interdiction des pires formes de travail des enfants et l'action immédiate en vue de leur élimination en vertu de laquelle les États se sont engagés à prendre des mesures immédiates et efficaces pour assurer l'interdiction et l'élimination des pires formes de travail des enfants et ce, de toute urgence. Aux fins de la Convention, l'expression « les pires formes de travail des enfants » comprend, notamment toutes les formes d'esclavage ou pratiques analogues, telles que la vente et la traite des enfants, la servitude pour dettes et le servage ainsi que le travail forcé ou obligatoire, l'utilisation, le recrutement ou l'offre d'un enfant à des fins de prostitution, de production de matériel pornographique ou de spectacles pornographiques, ainsi que les travaux qui, par leur nature ou les conditions dans lesquelles ils s'exercent, sont susceptibles de nuire à la santé, à la sécurité ou à la moralité de l'enfant. Elle a de plus prié au Gouvernement de prendre toutes les mesures nécessaires pour assurer la protection des droits et des libertés des individus mentionnés, de diligenter des enquêtes sur les violations perpétrées, de traduire les responsables en justice et d'adopter toutes les mesures nécessaires pour prévenir la répétition des faits mentionnés.

## Nepal

### Communication sent

171. On 13 April 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning the **trafficking and sexual exploitation of Nepalese girls in brothels in Calcutta and Mumbai, India.**

172. According to information received, Nepalese girls, of an average age of 14 to 16 years, are trafficked from Nepal to brothels in Calcutta and Mumbai where they are required to work as prostitutes in slavery-like conditions. The girls are trafficked against their will and without knowledge of their destination. The traffickers are reported to be Nepalese men and women, who sell the girls to (Nepalese) brothel owners in Calcutta and Mumbai, at a price of

approximately 60,000 to 70,000 Indian rupees (US\$ 1,360-1,590) in Calcutta and 100,000 to 120,000 Indian Rupees (US\$ 2,270- 2,720) in Mumbai. There is no evidence of extensive networks of traffickers of Nepalese women and girls, and trafficking seems to take place through an informal network with the collaboration of community members, employers, local officials, border officials and others such as those who operate 'safe houses' where trafficked girls are kept prior to their sale.

173. Initially the girls are not taken to the brothels directly, but given some time to adjust to their new situation in outside homes, sometimes owned by the brothel owner. After being told about the work that is required of them, how to dress and behave and after being convinced that they themselves, or their families, have incurred a debt which they will have to pay off by working as a prostitute after which they are 'free' to leave, the girls are put to work as *tsukri* (the Bengali word for a child in slavery or debt bondage).

174. When they start to work as *tsukris*, the girls are usually aged between 15 to 18 years. They often work in brothels that are referred to as 'bungalows': brothels that occupy a flat, usually on the first or higher floors of a building, often with a shop on the ground floor. The bungalow is distinguished by a channel gate (a sliding iron accordion gate) at the entrance to the brothel. When locked, the channel gate is virtually impenetrable; making escape from the brothel impossible for the *tsukris* kept inside. The area within Calcutta that contains most bungalow-type brothels with *tsukris* is Sonagachi; whereas in Mumbai brothels with *tsukris* can be found mainly in Kamathipura, although due to police raids these types of brothels are said to have moved to other cities in India or areas outside the known brothel areas.

175. It is reported that while clients of the brothels do not have a specific preference for *tsukris*, they do have a preference for girls between 15 and 20, which in turn creates a demand for children. Under the *tsukri* system the brothel owner retains all of the fees paid by clients for the services provided to them by the *tsukris*. Considerable profits accrue from the use of the *tsukri* system: brothel owners are said to earn four to twenty times the purchase price of the *tsukri* over the period of her servitude. The money that the trafficker earns is relatively insignificant compared to the large amount that the purchaser (brothel owner) earns.

176. The initial purchase price is recovered by the brothel owner, on average, in little over five and a half months. A Nepalese *tsukri* is also said to cost less than an Indian *tsukri* and because of continued client demand for Nepalese girls, the returns are higher. On occasions, the brothel owner may also offer 'special services' such as a *tsukri's* virginity or oral or anal sex, as well as sex without a condom, at a special price. The total period the girls spend in confinement as *tsukris* varies from two to ten years.

177. After being released from this situation, it is often very difficult for *tsukris* to go back to Nepal. They fear isolation and reprisal from family and community members. Many of them take up work as free-agent women in prostitution, earning their own fees by doing street prostitution or paying tenancy to brothel owners. Escape prior to being released is not only very difficult because the girls are kept in confinement, there is also fear of being brought back to the brothels, either by police or other community members followed by severe physical punishment, as well as a more general fear of 'India outside' since few *tsukris* have a clear idea of where they are, cannot speak the language and are easily recognized as foreigners.

178. The Special Rapporteur called the Government's attention to the Trafficking Protocol, with specific reference to its article 6, 7 and 8, entitled "Assistance to and protection of victims of trafficking in persons", "Status of victims of trafficking in persons in receiving States" and "Repatriation of victims of trafficking in persons" respectively. The Special Rapporteur also made reference to OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and in particular paragraph 7 of the Recommended Principles, which states that trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. The Special Rapporteur further recalled Guidelines 6 and 8 which refer to the protection and support for trafficked persons and to special measures for the protection and support of child victims of trafficking.

### **Response by the Government**

179. By letter dated 23 January 2007, the Government of Nepal responded to the Special Rapporteur's communication of 13 April 2006. The Government indicated that Nepal had adopted a series of policies and programmes to control the crime of trafficking in persons in general and trafficking of girls and children in particular, and to protect their rights.

180. The Government noted that Nepal was a party to many international and regional instruments. At the national level, there was the Trafficking in Person (Control) Act, 1987 which was amended in 2003. The Government described this Act as a comprehensive legal framework that governs investigation, prosecution and punishment of the crimes related to human trafficking. Amendments had incorporated harsher penalties for perpetrators and had further elaborated provisions to address new complexities of trafficking.

181. In 1995, the Ministry of Labour had prepared a National Master Plan on Child Labour that included trafficking in children as an important component of the action programmes. A revision of this Plan was completed in 2001 for the period 2001-2010. Moreover, a National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation (NPA) was formulated in 1998. In July 2001, a thorough review of the National Plan of Action was undertaken in order to incorporate the changing dynamics of trafficking in persons and to make it more inclusive of the SAARC Regional Convention on Preventing and Combating Trafficking of Women and Children for Prostitution as well as to strengthen the implementation of the Action Plan. To make the NPA more inclusive and comprehensive, to address all facets of the problem, the issue of trafficking in women was included. The revised NPA has set eight broad strategic objectives. These objectives are policy, research and institutional development; enactment of appropriate legislation and enforcement; awareness creation, advocacy, networking and social mobilization; income and employment generation; health and education for the prevention as well as the treatment of victims; rescue and reintegration of the victims; increase trans-border, regional and international efforts to strengthen anti-trafficking efforts at the bilateral, regional and international levels; as well as the monitoring and evaluation of the action plan and its performance.

182. Furthermore, the establishment of the Ministry of Women and Social Welfare in 1995 was expanded to include the component of children and renamed the Ministry of Women, Children and Social Welfare (MWCSW) in 2000. The Ministry outlined 13 priority areas to control trafficking of women and children: a public awareness campaign; non discriminatory laws; cooperation with NGOs and donor agencies; acting as the focal point for anti-trafficking programmes; protection and promotion of the human rights of women and children; harsh

penalties for the traffickers and exploiters; control and prevention of sexually transmitted diseases and HIV/AIDS, poverty alleviation programmes and employment opportunities for women of high-risk communities; formation of coordination committees at the national, district and village/municipality levels to control trafficking; implementation of informal and vocational education; rehabilitation programmes for the rescued women and children in collaboration with NGOs; and, seeking commitment of political parties to combat the menace of trafficking of women and children.

183. The Government further added that the Ministry of Women, Children and Social Welfare was currently working as the national focal point for implementing the NPA and all other activities geared against the trafficking of women and children. A sixteen-member high level National Coordination Committee to Control Trafficking in Women and Children (NCC) headed by the Minister of MWCSW, was in place and includes representatives from various ministries and NGOs. Under the NCC, there was a broad-based National Task Force, representing senior officials of the relevant government departments and NGOs and INGOs working in this area. The National Task Force coordinates activities at the national level and provides guidelines for anti-trafficking activities. Moreover, there were district and village/municipality level task forces that were implementing preventive and curative activities against trafficking. There were also 67 district level Women Development Offices (WDO) which were entrusted to work as the Secretariat of the District Level Task Force and to liaise with the village/municipality level.

184. The Government indicated that the Nepal Police had created a Women's Cell at its headquarters, and had also launched, in coordination with UNICEF, awareness programmes in various districts with regard to trafficking and related exploitation. This project also had other components such as capacity building of police officers and database management on criminal activities in this field. The Nepal Police had set up 16 Women's Cells in its district level security units. It had implemented a five year long project to train and mobilize the police in awareness raising and prevention of trafficking. There were also several instances of apprehension of the traffickers and victims by the Nepal Police, often in collaboration and cooperation with civil society actors, before the traffickers took the girls away from the Nepal-India border. Such girls were then either handed over to their parents or sent to rescue homes for education and income generating training.

185. In addition, the Government of Nepal had established a rescue/emergency fund in Kathmandu, Jhapa, Parsa, Rupandehi and Banke districts which are considered major transit points of trafficking victims. Several district level plans of action had also been formulated in Jhapa, Parsa, Rupandehi and Banke. A documentation and information centre on trafficking of women and children had been set up at the MWCSW. The Government of Nepal had also prepared action research reports on several trafficking related issues as, for example, the report entitled: "Situational analysis of rescue, rehabilitation and reintegration activities on trafficking in children for commercial sexual exploitation in Nepal".

186. In view of the need for special care and protection of the victims of crimes related to trafficking, the MWCSW had started running a "women self-reliance and rehabilitation home" since 1998. Civil society organizations were being encouraged to run such centres. In addition, many NGOs were working for the prevention of trafficking. In order to address the problem of young girls at risk, some NGOs had initiated childcare shelters to accommodate street girls, homeless girls, orphans, destitute girls and those who had been subjected to trafficking. Some United Nations agencies were providing assistance in this regard.

187. Concerning the preventive front, the issue of poverty, especially of women, was being addressed within the framework of the tenth five-year development plan (2002-2007). In addition, other sectoral plans and programmes of the Government ministries including microfinance schemes were geared to reducing women's poverty. These efforts were supported by skills promotion programmes and vocational training schemes with the view of enhancing income-generating employment opportunities to women and providing educational opportunities to girls. Particular emphasis was given to enhancing educational opportunities for girls at the formal and informal level such as programmes of scholarships, enforcement of compulsory primary education, free lunch at school, as well as non-formal education including for school dropouts.

188. The Government noted that it was also working with civil society organizations, social workers, media persons, and girl students in promoting awareness among people, focusing on trafficking-prone areas. Media campaigns had been launched against trafficking. Networks of NGOs – the National Network against Girl trafficking and Alliance against Trafficking in Women in Nepal, had been actively promoting this cause. The Task Force on Trafficking and the Inter Agencies Task Forces on Trafficking were also actively engaged in fighting against the problem of trafficking.

189. With regards to the specific queries raised in the communication, the Government stated that there were no specific empirical studies carried out by the Government of Nepal to ascertain the statements narrated in the letter. However, the Government declared that being aware of the problem of trafficking in women and children and cognizant of Nepal's obligation as a State party to various international human rights instruments, the State had made legal arrangements to curb such activities, as described above. As per the provisions of the Trafficking in Person (Control) Act of 1987, a criminal convicted of trafficking is liable for a maximum of 20 years of imprisonment and up to Rs. 200,000 penalty. The Act also provides for extra-territorial jurisdiction in such cases, allowing indicted persons to be prosecuted in the court of Nepal wherever the crime may have been committed. Any of the police offices in Nepal can accept the complaint in such cases. The principle of strict liability is applied, under which the statement of the victim or the plaintiff is considered as strong evidence against the defendant who has to prove his/her innocence. Cases under this Act are investigated and prosecuted by the Government Attorney as a party to the case.

190. Regarding the question as to whether complaints had been lodged, the Government indicated that as per the existing legal provisions, such complaints may be lodged at any police station verbally or in writing. The police office then proceeds with the investigation of the case and, in close coordination with the concerned Office of the District Government Attorney, files the case to the court. According to the record available with the Office of the Attorney General, the following figures on the cases filed by the prosecution officer to the court are reported: from July 2001 to June 2002, 136 cases were filed and 72 cases were adjudicated by the court; from July 2002 to June 2004, 133 cases were filed and 50 adjudicated by the court; and, from July 2003 to June 2004, 173 cases were filed and 88 adjudicated by the court.

191. Regarding investigation, medical examinations, rehabilitation offered to returned women and girls and judicial or other inquiries which may have been carried out, the Government specified that investigations and prosecutions of every individual case takes place after the complaint is lodged. This may follow necessary physical examinations as per



nature of the case and condition of the victim, which is determined by the investigating officer. The investigating officer, in coordination with the Office of the District Government Attorney, files the case to the competent court for the adjudication of the case.

192. The Government further indicated that the relevant statistics mentioned above show that perpetrators have been identified and penalized by court decisions. In cases where sufficient evidence proves that a person is involved in trafficking in persons, he/she is kept in judicial custody during the prosecution of the case. Even when the court of first instance acquits an accused, the Office of the Government Attorney files appeal to the higher court for the review of the verdict.

193. Finally, the Government specified that there are instances of compensation provided to the victims. Half of the penalty amount accrued from the convicted criminal of trafficking is awarded to the victim or her/his minor children, in case the victim has already died.

### **The Netherlands**

#### **Communication sent**

194. On 16 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation concerning the **trafficking of Somalian children to facilitate benefit fraud**.

195. According to information received, in the past few years young Somalian children have been brought to the Netherlands by Somalian individuals living in the country claiming that these children are theirs in order to receive social benefits from the Dutch State. Children are sometimes led to believe that the people who have brought them to the Netherlands are their parents. Some of the children are reported to suffer child abuse and maltreatment at the hands of their “guardians” in the Netherlands. After a certain time, when the risk of exposure becomes too great or the advantages are not outweighed anymore by the costs of raising the children, the children are taken back to Somalia where they are left on the street. Having attended school in the Netherlands for many years, the children only speak Dutch and often do not know of any other relatives than those people they thought were ‘family’ in the Netherlands.

196. In the past two years, an estimated 20 children of Somalian descent have approached the Dutch embassy in Addis Ababa, Ethiopia. The reason the embassy in Addis Ababa is sought out is because the Netherlands does not have an embassy in Somalia. The children speak fluent Dutch and are brought back from the Netherlands without knowing where they are going and dumped back in Somalia against their will. The children however do not possess documents, such as passports or school diplomas, to prove that they resided in the Netherlands for many years. Therefore they are reported to be often turned away by the Dutch embassy.

197. The situation of these children was brought to the attention of the media by a Dutch national who lives and works in Addis Ababa. After having encountered these Dutch-speaking minors, he reportedly devoted his time to helping these children gain entrance to embassy authorities and gather evidence to substantiate their stories. His estimations are that there are more than 100 children in Addis Ababa who have lived in various European countries and have been trafficked back to Somalia or Ethiopia.

198. On 14 February 2006, the TV Programme, Netwerk, devoted part of its broadcast to the issue of trafficking of Somalian children for the purpose of benefit fraud. In the programme, details were given on the cases of several children specifically, such as **K, F and A**, who are currently residing in the Netherlands. K was able to return to the Netherlands with the help of the Dutch national. She is reported to encounter difficulties in relation to her identity papers and status of residence in the Netherlands.

199. A and J are currently living in Ethiopia. J was taken to the Netherlands in 1991 as a 5-year old and taken back to Somalia in 2000 when he was 14 years old. He has been living in the streets in Addis Ababa for 6 years and the only evidence he had of his residence in the Netherlands, an expired ID-card, was reportedly taken from him by the embassy as they claimed the ID-card was State property. A and J have no address in Ethiopia so that they cannot receive information from the Netherlands to back up their stories.

200. A and S are also still in Ethiopia although their cases are reported to be currently under review by the Dutch authorities. A and S are brothers of A who with help from the above-mentioned Dutch national in Ethiopia was able to return to the Netherlands. The Dutch individual facilitated contact with A's old school in the Netherlands so that he was able to substantiate his claims.

201. Netwerk also reported that an investigation into the matter was carried out by the District Attorney's Office (OM) in 2002. However it remains unclear what the outcome of this investigation was. In response to the Netwerk broadcast, representatives of a political party, Christian Union, called for a hearing in the House of Representatives and submitted written questions to the Ministers of Foreign Affairs, Justice, Alien Affairs and Integration and the State Secretary of Social Affairs. In a joint letter dated 17 February 2006 (reference 28 638-18) the authorities reportedly illustrated the procedures followed by Immigration Services and the embassy in Addis Ababa with regard to the trafficked children. The above-mentioned estimation of 20 children is derived from this letter. In a hearing on 23 February 2006 in the House of Representatives, representatives from all political parties allegedly demanded a more thorough investigation of the matter and accepted a motion which proposed to extend residence permits to all victims of this trafficking scheme. The Ministers are reported to have pledged to investigate the matter more thoroughly, among others by having the National Ombudsman investigate the matter, and to inform the House of Representatives of their findings in March 2006. Also, the Minister of Foreign Affairs allegedly declared that he would look into the possibility of a new directive for embassy handling of these cases.

202. The Special Rapporteur expressed concern at these practices and stated that she would appreciate being kept informed of further developments in this case, such as the outcome of the investigation by the national Ombudsman.

### **Response by the Government**

203. By letter dated 22 June 2006 the Government informed the Special Rapporteur that it had conducted a thorough investigation after the television documentaries mentioned in the communication sent by the Special Rapporteur and the debate in Parliament on 23 February concerning the allegations of trafficking in Somali children. The Government attached a translation of the report which was sent to the Dutch Parliament on 18 April by the Minister of Foreign Affairs, the Minister of Justice, the Minister for Immigration and Integration, the

Minister for Administrative Renewal and Kingdom Relations and the Minister for Social Security. The Government informed the Special Rapporteur in its reply that the Dutch Parliament intends to have a debate with the Minister of Foreign Affairs and the Minister for Immigration and Integration on this report in the near future.

204. The Letter to the House of Representatives addresses in four different chapters respectively the following questions: people smuggling and document fraud; child abandonment in Somalia; possible social security fraud; and consultation between the government and the Dutch-Somali community.

205. The report considers that people smuggling from Somalia is entirely a Somali affair since both the smugglers and the people smuggled are ethnic Somalis. The people smuggling networks are firmly embedded in the close-knit Somali diaspora in Europe. The networks are very well organized. The Netherlands is an important base for the smuggling of Somalis to Europe, both as a transit and a destination country. Dutch passports are frequently used to smuggle Somalis into Europe. The letter further describes the costs and methods used to smuggle people into Europe.

206. The document establishes a distinction between people smuggling and trafficking in persons. People smuggling is usually defined as aiding illegal entry, residence or transit. The smuggled person will often have asked himself to be smuggled, and will therefore by no means always consider himself as a victim. People smuggling is considered a cross-border crime where the interests of the State, in particular, are at issue, and is incriminated by the Dutch Criminal Code under article 197 (1). In human trafficking, however, exploitation is the key aspect and the crossing of national borders is not strictly necessary. These are situations where people are forced or induced to work or provide particular services or to part with their organs, which can be done by applying pressure or violence, or simply by taking advantage of a person's vulnerability. Intentionally profiting from such exploitation is also punishable (art. 273 (a), Criminal Code).

207. According to the report, the cases discussed in the Netwerk programmes broadcast on 14, 20, 21 and 23 February 2006 involved children who were reportedly brought to the Netherlands illegally and under false pretences to be housed, with someone wanting to profit from their stay by spending less on them than the child benefit received. If this were the case, the practice could not generally be referred to as "human trafficking" because the key aspect of "human trafficking" is exploitation. It is not clear whether or not this was indeed the case. If the children attend school and are fed and dressed, the aspect of exploitation is not immediately evident. If the children are made to work hard in the home, and do not attend school, however, they could be said to be exploited. The practices portrayed in the media may well be punishable in other aspects, e.g. fraud or people smuggling. In respect to cases which may concern human trafficking, the letter refers to the Human Trafficking Action Plan and supplementary measures as submitted to the House of Representatives on 17 February 2006. The report further examines several recent developments intended to improve and simplify the prevention of people smuggling, details the role of the Royal Military Constabulary and addresses the issue of misuse of travel documents.

208. Regarding the question of children who are abandoned in Somalia, the Minister of Foreign Affairs sent a delegation to Addis Ababa, immediately after the emergency debate that took place on 23 February 2006, to gather as much information as possible. The delegation spoke with the Dutch evangelist who raised the issue, with three of the young

people interviewed in the Network programmes, with all staff concerned at the Dutch embassy in Addis Ababa, with other embassies facing similar problems, and with the UNHCR, IOM, UNICEF and the refugee organization ZAO. The delegation also went through all the applications for a passport, emergency passport or authorization for temporary stay made by young Somalis in the period 2000-2006. Finally, during transit in Nairobi, the issue was discussed with the Dutch embassy there. The chapter on children who are abandoned in Somalia further details the situation of Somali children smuggled into the Netherlands; the reasons for abandonment in Somalia; the issue of Dutch Somalis going to Somalia on holiday and lending their passports for substantial fees to members of their family or clan, or to people smugglers; the number of abandoned children; the children's background; the children's situation in Somalia; consular assistance from the Dutch embassy in Addis Ababa; parents who oppose return; practical assistance during the procedure; access to the embassy in Addis Ababa; and immigration policy and Dutch nationality.

209. The third chapter explains that child benefit has always been a contribution towards the cost of maintenance, meaning that the cost of maintaining a child in the Netherlands is higher than the child benefit and that there is no evidence to suggest that obtaining child benefit is the main reason for (alleged) child smuggling. It further details issues related to the application for child benefit and social security fraud.

210. Finally, regarding consultation with the Somali community, chapter IV mentions consultations taking place between the Minister for Immigration and Integration and local Somali organizations, the National Ethnic Minorities Consultative Committee (LOM) and the VON Refugee Organization which also represents Somali refugees. Other Ministries also maintain contacts with Dutch-Somali NGOs.

## Nigeria

### Communication sent

211. On 21 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, sent an urgent appeal concerning **children from Benin who continue to be trafficked to Nigeria for purposes of forced labour in gravel pits and plantations.**

212. According to information received, in spite of a June 2005 agreement between Benin and Nigeria, hundreds of children from Benin, the youngest of which are six years old, are reported to work in the gravel pits of Abeokuta and surrounding areas as well as in numerous agricultural plantations in South-West Nigeria.

213. The gravel pits in which these children have to work would have the appearance of 'holes' in which groups of two to three children, called 'gangs', work during several weeks before moving on to another pit. The owners of the sites are, in general, local notables. The owners rely on intermediaries, often Yoruba women, to manage the exploitation of the pits. The intermediaries allegedly call on traffickers from Benin to supply them with child labourers.

214. Reportedly the children work between 5 to 7 days a week in the pit. The length of their 'contracts' is normally 6 years (consisting of 3 periods of two years each). During these 6 years the children are not paid wages. As remuneration the children can earn a bicycle and/or

a radio at the end of each period. The children's parents are paid a moderate amount of money on periodic and precise dates during the 6 year contract. The physical exertions required of the children are intensive and dangerous and especially trying on the knees and hands with a high risk of accidents. The children work 8 to 10 hours each day, are malnourished and they have to rely on themselves to wash, dress and care for themselves. The children sleep in slum-like dwellings. There is permanent violence among the children who are also subjected to ill-treatment by adults who beat and insult them.

215. A dispute between traffickers in September 2003 made the situation of these children publicly known. Knowledge of the trafficking was followed by urgent action aimed at the withdrawal, repatriation, protection and rehabilitation of the children under the control of the Benin and Nigerian authorities, with the assistance of international and non-governmental organizations that are specialized in child protection. Officially 261 children, the great majority of which come from the community of Zakpota in the Department of Zou, were withdrawn from the pits and repatriated. The majority of this group consisted of children aged between 10 to 15 years. More than 50 per cent of them had spent one to two years working in the pits, 35 per cent spent three to four years in the pits and the remaining children spent between four and seven years in the pits. These figures serve as an illustration of the scope and duration of the trafficking. In addition to the 261 repatriated children, at least 1,000 other children have reportedly returned to the Department of Zou without, however, any help or institutional protection (these children are said to have 'returned informally').

216. However, tens or even hundreds of other children from Benin who were exploited at Abeokuta were reportedly hidden in the bush for several weeks or even months before being sent on to other sites of exploitation in the South-West of Nigeria (States of Ogun, Osun and Oyo) where they probably joined other children from Benin who have been exploited in gravel pits or plantations there. Only seven traffickers were arrested in connection with the above-mentioned allegations. They were released at the end of 2004 following a period of pre-trial detention or after serving several months to a year of their prison sentences. No measures have been taken to facilitate their economic reintegration or to discourage them from reverting to their illegal practices. As a consequence the trafficking network and the routes between Benin and Nigeria have remained in place.

217. The Special Rapporteur called the Government's attention to the Trafficking Protocol, with specific reference to its article 6, 7 and 8, entitled "Assistance to and protection of victims of trafficking in persons", "Status of victims of trafficking in persons in receiving States" and "Repatriation of victims of trafficking in persons" respectively. The Special Rapporteur also made reference to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and in particular to paragraph 7 of the Recommended Principles, which states that trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. The Special Rapporteur further recalled Guidelines 6 and 8 which refer to the protection and support for trafficked persons and to special measures for the protection and support of child victims of trafficking.

## **Romania**

### **Communication envoyée**

218. Le 13 avril 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants et le Rapporteur spécial sur les droits de l'homme des migrants, a envoyé une lettre d'allégation concernant des informations reçues au sujet du nombre croissant d'**enfants roumains victimes d'exploitation sexuelle en Italie, et notamment dans la ville de Rome.**

219. D'après les informations reçues, au cours des six premiers mois de l'année 2005, les services de la ville de Rome auraient enregistré 497 mineurs non accompagnés, soit autant que pour l'année 2004. La plupart d'entre eux seraient des adolescents victimes de trafic ou qui auraient migré de leur propre chef en Italie depuis Bucarest, Calarasi, Craiova, Galati et Iasi ; Craiova étant le principal lieu de provenance de ces mineurs. Si certains d'entre eux sont impliqués dans des vols, des trafics de drogue ou contraints à mendier, la majorité se prostituerait sur les principales avenues de la périphérie de Rome et notamment dans le quartier Cristoforo et Salaria aux côtés de mineurs non accompagnés issus d'autres pays.

220. Dans ce contexte, de vives préoccupations ont été exprimées s'agissant des moyens limités mis en œuvre jusqu'ici pour combattre l'exploitation sexuelle de ces mineurs. Il n'y aurait pas de contacts entre les deux pays en vue de résoudre ce problème. À la date d'envoi de cette communication, ni la Roumanie ni l'Italie n'aurait mis en place de système permettant d'évaluer le nombre d'enfants victimes de trafic, et de base de données au niveau national concernant les enfants victimes ayant été rapatriés vers leur pays d'origine. En outre, bien que la législation italienne comporte de nombreuses dispositions sur les droits et protections accordées aux enfants étrangers, faute de ressources financières suffisantes et de personnel spécialisé, les services sociaux n'auraient pas la capacité de fournir à ces adolescents le soutien et la protection auxquels ils ont pourtant droit.

221. Le Rapporteur spécial a rappelé au Gouvernement le Protocole additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, et notamment les articles 6 et 9 de ce protocole sur l'assistance et la protection accordées aux victimes de la traite des personnes et la prévention de la traite des personnes. Elle a également fait référence aux principes et directives concernant les droits de l'homme et la traite des êtres humains, et notamment à la directive 8 concernant les mesures spéciales destinées à protéger et à aider les enfants victimes de la traite des personnes. De plus, elle a prié le Gouvernement de prendre toutes les mesures nécessaires pour assurer la protection des droits et des libertés de ces enfants, de diligenter des enquêtes sur les violations perpétrées, de traduire les responsables en justice et d'adopter toutes les mesures nécessaires pour prévenir la répétition des faits mentionnés.

### **Response by the Government**

222. By letter dated 20 July 2006 the Government informed the Special Rapporteur that the situation on which she had reported represented a major concern to the Romanian Government. The Romanian Government has adopted a "Programme of preventing and countering sexual abuse against minors" and a "National Action Plan for preventing and countering children trafficking". On the basis of these documents, joint actions are performed with foreign partners in order to prevent and combat cases of exploitation of minors.

223. On 29 January 2006, Law No. 248/2005 concerning the freedom of movement of Romanian citizens abroad entered into force; according to its provisions minors (under 18

years of age) are not allowed to travel abroad unaccompanied. The case brought to the attention of the Romanian authorities by the Special Rapporteur is similar to the information presented within the study “Extension of the prostitution phenomenon among the Romanian minors from Rome”, drawn up by the Casa dei Diritti Sociali Focus, Rome and the Romanian Foundation for Children, Community and Family. According to the statistics drawn up by the above-mentioned foundations, “during the first 6 months of 2005, the public services had registered 487 Romanian unaccompanied minors, almost the total number registered in 2004”.

224. The Romanian authorities, supported by the Office of the Romanian attachés of internal affairs in Italy and the Romanian Consulate in Rome, initiated investigations on the situation of Romanian minors. Furthermore, they cooperated with the Italian authorities in order to identify the persons which have exploited those children. Specific activities were carried out through countering crime structures with a view to identifying the victims and the traffickers’ networks in order to punish them.

225. After receiving the letter of the Special Rapporteur letter, the Ministry of Administration of Interior requested the Romanian liaison officer in Italy, as well as the Italian liaison officer in Bucharest, to carefully analyse the facts presented by the Special Rapporteur, in order to identify the solutions that would safeguard the fundamental rights of the affected children. Following the briefing of the Italian and Romanian liaison officers, the following conclusions were found: the judicial authorities of Rome had not registered the 497 Romanian minors as victims of trafficking in persons and had not made any reports in this respect to the Romanian authorities; not all the minors discovered by the Italian authorities were unaccompanied, some of them hid the fact that they were in Italy with their families.

226. The identification and punishment of traffickers is the responsibility of the Italian authorities. The Embassy of Romania in Italy, having two attachés for internal affairs, has always been fully available to cooperate with the local police in order to identify and combat the networks of traffickers. In the case of arrested minors, Italian legislation does not allow the local authorities to inform the diplomatic mission in the country concerned if the minor does not give his/her consent in this respect; in most cases the minors do not wish to notify the Romanian authorities that they are detained.

227. The Romanian authorities have developed close cooperation and mutual exchange of operational data with their Italian counterparts, to combat trafficking in persons, especially minors. The existing collaboration with the Italian authorities is satisfactory as regards the identification of undocumented children that accept the protection and social integration programmes and contacts with the family of origin. The project “Illegal migration and exploitation of unaccompanied minors - urgent measures in favour of extremely vulnerable minors”, financed by the Italian Ministry of Foreign Affairs (Ministero Degli Affari Esteri), was being put in place at the time that this reply was sent. The project, covering the period between January 2006 and January 2007, presents social issues determined by the psychosocial impact of migration on local communities and families, such as the abandonment and abuse of minors in Romania and the Moldova and aims at reducing the risk of trafficking in persons or that of becoming illegal immigrants. The project aims to strengthen the cooperation between the central and local administrations and also to involve civil society in the protection and supporting activities for unaccompanied minors in Italy, Romania, and the Moldova. Cooperation with representatives of civil society will be achieved by common training activities, exchanges of experience and expertise in the field of child protection, the target group being represented by socially disadvantaged families, one parent

families, minors with a high risk of becoming victims of abuse, unaccompanied minors from Italy, Romania and the Moldova.

228. The agreement between the Governments of Romania and Italy concerning cooperation for the protection of Romanian minors encountering difficulties on the territory of Italy and their return to their country of origin, as well as the field of combating the exploitation of minors is under negotiation. This agreement will set up the legal framework and the necessary procedures in order to identify and ensure assisted repatriation for the Romanian minors identified on the territory of Italy. Moreover, in 2005 the General Directorate for Countering Organised Crime in the Ministry of Administration and Interior in Romania registered the following data on trafficking in Romanian children in Italy: 65 files sent to the Prosecutor's office, referring to cases involving 128 minor victims; in 80% of these cases, requests for assistance were addressed to the Italian authorities; the cooperation with the Italian authorities aimed at investigating cases of trafficking in persons and at identifying and arresting the perpetrators.

229. In April 2006, following an action by Italian police, 13 Italian citizens and six Romanian citizens were arrested, accused of prostitution with minors, pornography with minors and blackmail. Twenty-two victims were identified, out of which 16 are Romanian, minors (the majority of Roma origin), the others are Italian, Albanian, Macedonian and Moroccan minors. During 2005, the Romanian National Authority for the protection of the Rights of the Child (NAPRC) received 398 requests regarding unaccompanied Romanian children on Italian territory; the repatriation procedure was initiated for all the children and in eight cases the procedure was completed. During the first semester of 2006, NAPRC received 60 requests regarding unaccompanied Romanian children on Italian territory; the repatriation procedure was initiated and was completed in 11 cases.

## Singapore

### Communication sent

230. On 16 February 2006, the Special Rapporteur, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning **norms and procedures that discriminate against women domestic migrant workers, and make them more vulnerable to exploitation, abuse and restrictions of their physical freedom.**

231. According to information received, there are 150,000 women domestic migrant workers in Singapore who are in the majority from Indonesia, the Philippines and Sri Lanka. Private employment agencies typically recruit the women in their countries of origin and place them with Singaporean employers. These agencies usually charge significant recruitment, transfer and placement fees (S\$1,400-2,100), which the women often have to repay by working the initial 4 to 10 months of their contract without pay. Additional fees are often charged and have to be worked off, if a domestic worker decides to change employers during her stay. Some employment agents, especially unlicensed ones, have threatened workers with severe reprisals, including trafficking into prostitution, if they try to leave their job and return home before they have worked off their debt. Other agents have also intimidated workers by way of physical abuse.



232. Once in Singapore, many domestic migrant workers are required to work between 13 and 19 hours a day, seven days a week. In a large number of cases, the women also experience verbal abuse and food deprivation at the hands of their employers. Employers often prohibit their domestic migrant workers from leaving the house unaccompanied and also confiscate their passports and other identity documents. These restrictions isolate the workers and make them more vulnerable to physical and sexual abuse in the employer's home.

233. The Special Rapporteur commended the Government on a number of important measures implemented in recent years to prevent abuse and exploitation of domestic migrant workers. However, she also noted that certain discriminatory norms and policies continue to exist, which inadvertently render these migrant domestic workers more vulnerable to abuse, trafficking, exploitation and restrictions of physical freedom: Domestic workers are explicitly excluded from the protection of the Employment Act, which guarantees the right to one day of rest per week and a maximum of 44 work hours per week. The Employment Act also limits salary deductions to 25% of the monthly salary for a maximum period of 12 months. The Employment of Foreign Workers Act, which applies also to domestic migrant workers, does not provide for equivalent rights. The Employment Agencies Act stipulates that employment agencies must not charge job seekers more than 10 percent of their first month's earnings. However, the Ministry of Manpower considers the recruitment, transfer and placement fees, which domestic migrant workers are charged by their agents, to be private loans that are not subject to the limit imposed by the Employment Agencies Act. Employers hiring domestic migrant workers have to take out a S\$5,000 bond, which they forfeit if they fail to pay for the domestic worker's repatriation costs or if the domestic worker runs away from the employer's home. The latter gives employers an incentive to prohibit their domestic workers from leaving their workplace in the employer's home unaccompanied.

234. Domestic migrant workers also face limitations of their reproductive and marriage rights: Singaporean labour regulations prohibit domestic migrant workers from becoming pregnant or giving birth during the course of their stay in Singapore. Unless pregnant workers agree to an abortion, they will be deported. For employers, who have economic and personal interests not to see their domestic workers deported, this limitation of reproductive rights provides further incentive to limit their workers' outside contacts and prohibit them from leaving the house on their own; The same set of labour regulations prohibits domestic workers from marrying Singaporean citizens or permanent residents during their stay, unless they receive a special permission from the Comptroller of Work Permits.

235. The Special Rapporteur called the Government's attention to various relevant international norms, including the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery which requires States parties to take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

### **Response by the Government**

236. By letter dated 5 April 2006, the Government informed the Special Rapporteur that Singapore is committed to protecting the well-being of the 160,000 foreign domestic workers

(FDWs) working in Singapore. The vast majority of FDWs experience safe, productive and fulfilling work in Singapore. Over 80 per cent of FDWs have indicated that they are happy to work in Singapore, according to an independent poll conducted by the Singapore Press Holdings in December 2003. One in three FDWs extend their two year employment contracts with the same employer. Thus, FDWs who choose to work in Singapore do so because of better pay and working conditions compared to their home and other countries.

237. Moreover, FDWs in Singapore receive full protection under Singapore laws including the Employment of Foreign Workers Act (EFWA), Employment Agencies and the Penal Code. The Singapore Government has taken firm enforcement actions against errant local employers and employment agents. In addition, the Government has extensive outreach programmes to educate the FDWs in Singapore on their rights under the law and the channels of assistance available to them.

238. The Employment of Foreign Domestic Act (EFWA) imposes work permit conditions on employers to provide adequate rest and meals, and ensure work safety, proper housing and prompt salary payment. Employers who breach these conditions can be punished with a fine of up to \$5,000 and a jail term of up to 6 months. FDWs also receive special protection under the Penal Code. In 1998, the Penal Code was amended to increase by one-and-a-half times the penalties for acts of abuse against FDWs by their employers or household members, compared to the same acts against any other persons including Singaporeans. This has led to a marked decrease in abuses against FDWs, from 157 in 1997 to 59 cases last year. In 2005, five employers were fined for failing to pay their FDWs and ordered to make full restitution of the outstanding salary. Three of these employers were subsequently jailed when they defaulted on the court order. From 2001 to 2005, a total of 26 FDW employers or their household members were also jailed for abusing their FDWs. All convicted employers and their spouses are permanently barred from employing FDWs.

239. Furthermore, to ensure that FDWs are equipped to protect themselves and are fully aware of their rights, Singapore has in place extensive measures to educate FDWs on these aspects, and various channels of assistance that FDWs can turn to for help. Upon their arrival in Singapore, each FDW is given a pocket-sized handy guide published in their native languages, containing the Ministry of Manpower's hotline number for FDWs to seek help or report grievances. It also contains the contact numbers of the Police, the relevant Embassies and volunteer organizations. All first-time FDWs are also required to attend a Safety Awareness Course to acclimatize them to working in a high-rise urban environment. The channels of assistance they can turn to are again highlighted during the course. As the FDWs attend these course on their own, without their employers or agents present, it also accords them ample opportunity to express any problems on their employment freely or seek help if they so wish. In addition, to ensure that FDWs are better able to understand and exercise their rights under Singapore law, with effect from 1 January 2005, all new FDWs entering Singapore must be at least 23 years of age (the previous minimum age being 18 years) and have undergone eight years of formal education.

240. In addition, to remind employers of their responsibilities and empower FDWs to exercise self-help in safeguarding their rights and safety, the Ministry of Manpower (MOM) has stepped up its public outreach efforts to emphasize key messages such as safety in high-rise buildings, the rights and obligations of employers, as well as avenues through which FDWs can seek help. These outreach efforts include posters displayed in residential neighbourhoods and bus stops, as well as the distribution of goody bags containing collaterals

imprinted with MOM's helpline at community events. MOM closely regulates the employment agency (EA) to prevent any exploitation of FDWs. All EAs are licensed, and can be punished with a fine of up to \$5,000 and/or 2 years imprisonment if convicted under any offence under the EA Act. EAs also risk losing their license permanently for any infringements of the Act. Since January 2004, the Ministry has revoked the licenses of three EAs and not renewed the licenses of another ten. Furthermore, MOM also requires all EAs involved in placing FDWs to be accredited by independent bodies. One key accreditation criterion is that EAs must ensure that employers and FDWs enter into employment contracts, which specify the terms of employment. As such, FDWs have the same right as all employees to accept or reject work conditions imposed, including the number of rest days.

241. To further shape the behaviour of the EA industry, the Ministry has introduced a demerit point system (DPS) for EAs since 1 February 2006. This awards demerit points to EAs for regulatory infringements. The points that each EA has accumulated are also made public. EAs that accumulate excessive demerit points will also have their licences removed by the Ministry. Nonetheless, while MOM regulates the commission charged by Singapore-based EAs, the loans that FDWs take in their home countries fall outside Singapore's jurisdiction. They have to be handled within the jurisdictions of the labour exporting countries.

242. The Government further specified that it is a serious offence under the Penal Code to wrongfully confine any person. Anyone found wrongfully confining a person faces a jail term of up to one year, and/or a fine of up to \$1,000 under the Penal Code. It is also an offence under the EA rules for the EA to withhold either the passport or work permit of an FDW. The Police and MOM take such offences seriously and will prosecute any EA seeking to restrict the FDW's movement. In addition, as a small city-state of four million people with limited land resources, it is necessary for Singapore to maintain a strict immigration policy. Singapore therefore requires work permit holders to obtain prior approval from the Controller of Work Permits to go through any form of marriage or apply to marry a Singapore Citizen or Permanent Resident (CS/PR). A key consideration in determining the grant of approval is whether the couple would be financially self-reliant. The Government noted that other countries also impose certain restrictions of marriage on foreign workers.

## **Thailand**

### **Communication sent**

243. On 18 July 2006, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning **women and children refugees from Myanmar at risk of trafficking**.

244. According to the information received, it was reported that hundreds of thousands of people from Myanmar, many of them women and children, have fled into neighbouring Thailand in the course of the past two decades, escaping armed conflict and rampant human rights violations in their homeland. Concern had been expressed about their vulnerable situation, which reportedly puts them at risk of continued human rights abuses. It was also reported that these women and children are particularly at risk of trafficking, and sexual and physical exploitation and forced labour associated with it. It was further alleged that these persons sought assistance in crossing the border. Sometimes family or community members

offered such help. At other times, people paid “carriers” to help them cross the border undetected. Such transportation can sometimes be accompanied by an offer of employment.

245. It is also reported that people from Myanmar who wish to enter Thailand and do not have enough money when they arrive at the border to pay a carrier, have to wait at the border area anywhere from a few days to months before crossing it. It seems that trafficking often occurs during this vulnerable time. It is further reported that sometimes carriers themselves are in fact engaged in trafficking. The carriers tell relatives of women or children that life is better in Thailand. These persons are then forced to work without pay. It is alleged that some Thai officials collaborate with the traffickers. Concern had also been expressed about the fact that, after being trafficked, women and children may end up in a range of abusive situations, including forced prostitution, forced begging, abusive domestic work, or work in substandard labour conditions in textile factories, fishing or other industrial settings. According to the allegations received, sometimes, the victims are not paid at all or are paid a wage far below that promised or allowed under Thai law. Labour conditions for trafficked persons are reportedly characterized by long hours and physical and sexual abuse. Some women working as domestic servants reported that their inability to speak Thai left them isolated, and the nature of their work, which often involved living in their employer’s homes, left them vulnerable to abuse.

246. Moreover, people living without status, including victims of trafficking, fear deportation. Women and children may be especially susceptible to ill-treatment, and are reluctant to complain due to fear of persecution by the Myanmar military if returned, as well as the fear of leaving their families without economic support if they lose their source of income, as abusive as their employment situation might be. Sources also allege that the number of children who arrive alone in Thailand has significantly increased in the past four years. Families are often separated once in Thailand. In other cases, children may be left alone while their parents are at work.

247. Children who are alone are reportedly more vulnerable to abuses such as trafficking. It is further alleged that some children are trafficked from inside Myanmar across the border into Thailand. The traffickers then collect a large group of children in Mae Sot (Thailand), directly across the border and transport the children to Bangkok. The traffickers lie to the children’s parents, telling them that the children will live “an easy, better life”. Once they arrive in Bangkok, the traffickers reportedly force the children to communicate to their parents that they are well cared for. Gradually, however, the traffickers tell the parents that the children are misbehaving, that they are not working hard enough, and that the children are forgetting them. Therefore, when a child does not send money back to the parents, the parents assume it is because the child is not working hard enough or is no longer gainfully employed. This is to drive a wedge between the children and their parents in order to sever the child’s familial ties. If the parents continue to insist that they want to see their children, the trafficker may send the child back in order to avoid trouble and unwanted attention. In most cases, however, the parents are unable to investigate the whereabouts of their child and thus are forced to give up finding them, at which point the trafficker may sell the child to someone else. It is alleged that a common strategy is to force the children to sell flowers or trinkets or to beg on the streets of Bangkok. If the child does not make the required amount of money each day, he is reportedly deprived of food, beaten or forced to stay on the street.

248. Concerning the sex industry in Thailand, in addition to the lack of legal residence and employment options, trafficked persons who are removed from the brothels are reportedly not

screened for refugee status. Sources alleged that these trafficked victims are reluctant to share information because they typically do not want to return home to Myanmar. Besides, according to the information received, witness protection in Thailand is insufficient and if the trafficked person presents testimony, the person would be at risk of retaliation. Furthermore, prosecutions that are supposed to result from the brothel raids are often unsuccessful. The prosecution effort is primarily aimed at actors who are only minor figures in the trafficking networks, such as the pimps and brothel owners. In the meantime, the trafficking victims may be held at the shelters indefinitely, waiting to testify in the proceedings. After testifying, the victims are reportedly deported, including those under age 18.

249. The Special Rapporteur called the Government's attention to the Trafficking Protocol, particularly to its article 1, read together with article 9 of the United Nations Convention against Transnational Organized Crime, which provides that States parties shall, to the extent appropriate and consistent with its legal system, adopt legislative, administrative, and other effective measures to promote integrity and to prevent, detect and punish the corruption of officials. In addition, reference was made to OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and in particular to paragraph 7 of the recommended Principles, which states that trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons. The Special Rapporteur further highlighted Guidelines 6 and 8 which refer to the protection and support for trafficked persons and to special measures for the protection and support of child victims of trafficking.

## **Turkey**

### **Communication sent**

250. On 23 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Ms. TB, a German citizen of Turkish descent**.

251. According to information received, Ms. TB is a German citizen from Hamburg. In April 2006, Ms. TB traveled with her mother from Hamburg to the settlement of Karastlak Köyü in the village of Yeni Halfeti, Sanliurfa province, southeast Turkey, where her grandmother and other relatives reside. Allegedly, her family had pretended that she was going on vacation to the village. Upon Ms. TB's arrival in the village, however, her mother took her passport and identity documents and told her that she had to enter into an arranged marriage with a close relative. According to the latest information received at the time this communication was sent, Ms. TB was still in Yeni Halfeti. Reportedly, she faced serious limitations on her freedom of movement and was only on rare occasions able to leave her grandmother's house. Concern was expressed that Ms. TB might have been forced to marry her relative against her will or face severe violence, if she refused. The Special Rapporteur has appealed to the Government to intervene in this case and ensure that the competent Turkish authorities undertake all necessary action to protect Ms. TB from forced marriage, any form of violence or the threat thereof.

### **Response by the Government**

252. On 29 June 2006, the Government informed the Special Rapporteur that investigations found that, during her vacation in Turkey, Ms. TB contacted the Provincial Gendarmerie Command in Sanliurfa by phone on 30 May 2006 and requested help from the authorities,

stating that there were attempts to force her to get married to her uncle's son. The gendarmerie authorities had to refer the matter to the Foreigners Section of the Police, since Ms. TB was a German citizen. Ms. TB was then assisted by the authorities to return to Germany on 2 June, 2006. On 27 June 2006, the Provincial Gendarmerie Commander in Yeni Halfeti visited Ms. TB's grandmother's premises and confirmed that she was not in Turkey. According to a relative in Germany whom the Turkish authorities have contacted, Ms. TB was granted protection at a social institution in Germany under German law and she was to be hosted in this institution until October 2006 when she would be 18. In this framework, it had been confirmed that a forced marriage had not taken place during her stay in Turkey.

## **United Arab Emirates**

### **Communication sent**

253. On 18 October 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Representative of the Secretary-General on the situation of human rights defenders, and the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation concerning **SM, the founder of Villa N. 18 - City of Hope**, a shelter for abused and/or exploited women, including abused migrant domestic workers, trafficked women and minor girls.

254. In early August 2006, the competent authorities reportedly accused SM of having assaulted a 15-year old girl who had sought refuge in the shelter. The authorities reportedly also threatened to close the shelter, although no formal decision to that effect had yet been taken at the time this communication was sent. Sources alleged that the criminal charges against SM were fabricated. Concerns were expressed that these charges and the possible closure of the shelter might have been in retaliation for her activities in defence of women's rights, since the shelter's work was reportedly viewed as a threat to the traditional culture and family values of the country and its continued operation largely depended on SM's work. Concerns were further expressed that the charges against SM and the possible closure of the women and children shelter could lead to a protection gap for women and children at risk of violence, including migrant domestic workers and minor girls.

255. The Special Rapporteur appealed to the Government to take all necessary measures to prevent and combat trafficking and provide adequate assistance to the victims of this crime. In this context, she also drew the Government's attention to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, as a useful, practical, and rights-based blueprint for interventions on the issue of trafficking, and underlined the relevance of Guideline 6, in particular, which refers to the protection and support for trafficked persons, which includes the provision of safe and adequate shelter that meets the needs of trafficked persons.

## **United Kingdom of Great Britain and Northern Ireland**

### **Response to previously transmitted communication**

256. On 28 April 2006, the Government responded to the communication sent jointly by the Special Rapporteur, the Special Rapporteur on the sale of children, child prostitution, and child pornography, and the Special Rapporteur on violence against women on 28 November

2005 concerning the **situation of children trafficked to and abused in the United Kingdom.**

257. The Government assured the Special Rapporteur that it remained committed to providing support to all victims of trafficking and that it was fully committed to the implementation of the Trafficking Protocol. Its strategy to combat human trafficking is multi-faceted and aims to assure that there is legislation in place to criminalize trafficking, that there is cooperation with international partners to work to prevent trafficking at its source and that enforcement action against traffickers is effective.

258. Legislation has actually been strengthened in order to cover trafficking for all purposes. The offence of trafficking for prostitution was introduced in the Nationality, Immigration and Asylum Act 2002 and carries a maximum penalty of 14 years imprisonment. Moreover, the Sexual Offence Act 2003 introduced new wide-ranging offences covering trafficking into, out of or within the United Kingdom for any form of sexual offence, which also carries a 14 year maximum penalty. The Act also introduced a range of new offences covering the commercial sexual exploitation of a child, protecting children up to 18. These include buying the sexual services of a child (for which the penalty ranges from imprisonment for seven years to life, depending on the age of the child) and causing or inciting, arranging or facilitating and controlling the commercial sexual exploitation of a child in prostitution or pornography, for which the maximum penalty is 14 years imprisonment. Another new offence, of “trafficking for exploitation”, which covers trafficking for forced labour and the removal of organs, was introduced in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. All these measures have taken into account the United Kingdom’s international obligations and fully comply with all legislative requirements under the Trafficking Protocol.

259. The Government added that there had been a number of arrests and convictions since the new legislation received Royal Assent. In April 2004, L. P. was sentenced to 23 years in prison for trafficking women for prostitution. In December 2004, two men were the first to be prosecuted under the specific offences of trafficking contained in the Sexual Offences Act 2003, together with associated charges such as rape and false imprisonment. This was quickly followed by three further successful prosecutions in March 2005 for human trafficking.

260. In order to strengthen enforcement, a multi-agency task force was set up, under the name of REFLEX, which is overseen by the National Crime Squad. REFLEX aims to reduce the harm caused by the serious and organized crime involved in people smuggling and human trafficking. Its establishment has enhanced the coherence of the United Kingdom’s broad response to organized immigration crime and brings government departments and law enforcement agencies together to foster an intelligence-led operational response.

261. Knowledge of child trafficking amongst appropriate professionals has also improved and a best practice toolkit on trafficking has even been published (available at [www.crimereduction.co.uk/toolkits](http://www.crimereduction.co.uk/toolkits)). This acts as a guide for immigration officers, police and other professionals who might potentially deal with the victims of trafficking, whether they are adults or children. In particular, it helps those concerned to treat victims of trafficking fairly and appropriately.

262. In addition, the Immigration Service has reviewed and updated the Unaccompanied Minors Best Practice Guide to include a chapter on child trafficking. The guide aims to equip

officers with the tools they need to recognize children who may have been trafficked and contains also a section on trafficking, the aim of which is to enable Immigration Officers to refer any children who may have been trafficked to the appropriate practitioners. An Interviewing Minors training course has been made available to border control staff since November 2003. Recognizing signs of trafficking is an important aspect of this course. Staff who have received this training have formed “Minors Teams” at ports, and deal with cases of unaccompanied minors arriving in the United Kingdom and work closely with Social Services, police and child protection officers.

263. The Government recognizes that when victims of trafficking are children, they are likely to be in need of welfare services and, in many cases, protection under the Children Act 1989. Children’s services have a duty to safeguard and promote the welfare of trafficked children following an assessment of their circumstances. Where there is risk to the life of the child or a likelihood of serious harm, an agency with statutory child protection powers, such as the police or councils with responsibilities for children’s services, should act quickly to secure the immediate safety of the child. Under Section 20 of the Children Act 1989, a local authority may also provide accommodation for any child within its area if it considers that this would safeguard or promote the child’s welfare.

264. The Government added that after the murder of Victoria Climbié, the United Kingdom Government announced in January 2001 a statutory inquiry, chaired by Lord Laming, to look at every aspect of the case. In January 2003, the Laming report was published (and can be viewed at <http://www.victoria-climbié-inquiry.org.uk/>.) In response to the said report, the Government published a Green Paper, entitled “Every Child Matters”. Following extensive public consultation on it, the Children Act 2004 was introduced. In conjunction with the legislation a highly significant cross-Government strategy known as the “Every Child Matters: Change for Children Programme” is also currently underway. Moreover, officers in the Department for Education and Skills will be publishing revised and updated multi-agency guidance to all statutory bodies which have a role in safeguarding children and protecting their welfare. This guidance entitled “Working Together to Safeguard Children” provides focused guidance to practitioners working with children who may be particularly vulnerable to abuse or exploitation.

265. Regarding the identification of children missing education, the Government mentioned that it had strengthened arrangements. Local authorities have now a named individual responsible for receiving details of children found to be missing education and for brokering support for them through the most appropriate agencies. This is supported by the good practice guide, Identifying and Maintaining Contact with Children Missing or At Risk of Going Missing from Education” (available at <http://www.everychildmatters.gov.uk/files/12CD63286B690820CE9CE21C7ED5A877.doc>.) that has provided a practical model of process steps to help Local Education Authorities (LEAs) in their implementation of effective systems for identifying and maintaining contact with children missing, or at risk of going missing, from education. Nevertheless, it noted its deep concern about any child missing from education, as it is not just the child’s educational development that is at risk, but also potentially his/her safety and welfare. The Department for Education and Skills, the Home Office, and the police are continuing to work together to reinforce local procedures to ensure that any children at risk will be identified and appropriate safeguarding action taken (further information on this and the other elements of the change for children programme is made available on [www.everychildmatters.gov.uk](http://www.everychildmatters.gov.uk)).



266. Furthermore, there have been circumstances where concerns about the safety and welfare of children missing from school are sufficient to warrant police involvement. Initial enquiries made by the Metropolitan Police officers investigating the “Adam” murder (the case of the torso of a boy found in the Thames) actually identified 300 cases where African or Caribbean children had not returned to school following the 2001 summer break. However, no evidence was uncovered to suggest that any of them had come to harm, and there were no allegations from any of their families or schools that the welfare of these children was significantly at risk. The Metropolitan Police Service has made it clear that they believe the type of crime of which Adam was the victim to be extremely rare. This case did, nevertheless, increase concerns about a type of abuse which it was thought might emanate as a consequence of some belief systems in African communities. As a result, Operation Violet was launched by London’s Metropolitan Police to support the education of new community groups and representatives in acceptable and legal methods of child discipline in this country. The operation will also initiate intelligence-led, proactive investigations into allegations of ritualistic belief-related child abuse to identify and prosecute any offenders.

267. On the question pertaining to children brought to the United Kingdom to cure sufferers from HIV through sexual intercourse, the Government indicated that it had no information to support this, although they were aware that it is a belief in some regions of Africa where HIV/AIDS has reached endemic proportions.

268. The Government of the United Kingdom was furthermore surprised by the claim mentioned in the communication of the shortcomings within the children’s services, police, and the immigration service resulting in children becoming victims of abuse. It indicated that there had been several operational projects dedicated to the investigation of children entering the United Kingdom who may be at risk from different forms of exploitation. For example, in order to improve the sharing of information between the Immigration Services and local authorities, joint Treasury and Home Office funding has been used to set up a National Register of Unaccompanied Children (NRUC) database. By linking the databases with others concerning children at risk, the Government noted that it would be able to better address their needs, and ultimately improve child protection amongst this group of vulnerable children.

269. Information on the work from Operation Paladin Child, an operation led by London’s Metropolitan Police Service between August and November 2004 to explore the nature of child migration from non-EU countries to the United Kingdom through London was also provided. The communication referred to 1,738 children at Heathrow under “suspicious circumstances” between August and November 2004, but the Government notes that this is surely a misunderstanding. The number actually refers to the results of Operation Paladin Child, where 1,738 non asylum-seeking unaccompanied minors were purposely identified by UK Immigration Service during a three month study period, so that the researchers could evaluate their circumstances in detail. Of these, 551 (30 per cent) were identified as potentially vulnerable. Social Services departments were unable to trace 12 of the 551 unaccompanied minors, and police enquires into their whereabouts continue. Operation Paladin did not find conclusive evidence that children were being trafficked into the United Kingdom through Heathrow, although it was acknowledged that the study was too limited in scale to predict fully the level of illegal child migration to the United Kingdom. Moreover, it is to be mentioned that the Metropolitan Police Child Abuse Investigation Command (CAIC), with funding from REFLEX have continued a presence at Heathrow airport as a result of Operation Paladin as part of a permanent multi-agency partnership to address the specific safeguarding needs of unaccompanied minors. They also have safeguarding responsibilities at

Lunar House Asylum Screening Unit in Croydon, at Waterloo Station, and at London City and Gatwick Airports, together with other smaller airports within London, such as Biggin Hill. Police forces in other parts of the country are now working with immigration officers to use experience gained during Operation Paladin to work more effectively to safeguard children at other ports of entry.

270. The Government also added that by 2006 the Serious Organized Crime Agency (SOCA) aimed at reducing the harm caused to the United Kingdom and its citizens by organized crime including the trafficking of drugs and people would be created. This will surely have a country-wide remit. The Home Secretary has made it clear that people smuggling and trafficking should be SOCA's second priority after drugs trafficking.

271. Furthermore, on 1 April 2005, the Home Secretary announced plans to create a new national centre to protect children from sexual exploitation and combat online child abuse. This new centre will be called the Child Exploitation and Online Protection (CEOP) and will be affiliated to SOCA and will provide a specific service to address internet-based child abuse, as well as developing a strategic role in using its international networks to raise awareness, collect intelligence and combat child trafficking.

272. Finally, the Home Office recently published a draft United Kingdom Action Plan to combat Human Trafficking, which was out for public consultation until April 2006 (available at <http://www.homeoffice.gov.uk/documents/TacklingTrafficking.pdf>). This action plan sets out the progress the United Kingdom has made so far in the fight against people trafficking, and proposes future plans for building on the existing work in this area. It also aims at addressing all forms of trafficking, and covering the prevention, investigation, law enforcement, prosecution, and the provision of protection and assistance to all victims of trafficking.

## Yemen

### Response to previously transmitted communication

273. On 20 March 2006, the Government responded to the communication sent jointly by the Special Rapporteur and the Special Rapporteur on the sale of children, child prostitution and child pornography on 13 December 2005 concerning the issue of **smuggling of children into the Kingdom of Saudi Arabia**.

274. The Government indicated that the said problem was being treated as a social problem and that the Chamber of Deputies, the Higher Council for Motherhood and Childhood, the Ministry of Social Affairs and Labour, the Ministry of Justice and the Ministry of the Interior, a number of non-governmental organizations and international organizations, including UNICEF, were concerned with it.

275. According to the Government, the issue of smuggling has a number of causes and a study conducted in the governorates of al-Mahwit and Hajjah in 2004 identified several aspects contributing to the phenomenon, such as families' low standard of living and lack of employment opportunities, a low level of social awareness, family disputes and unsatisfactory public services.

276. The Government agreed with the Special Rapporteur that the problem of trafficking in children had increased after the 1990 Gulf War and the return of nearly 2 million Yemeni

émigrés from Saudi Arabia to their native land. It added that the figure of 3,500 children being trafficked into Saudi Arabia every month appears however to be exaggerated. Furthermore, a child may be smuggled or leave the country unlawfully as a member of a group consisting of the child's family of other persons whom the child knows and who are related to him, or the operation may be handled by a professional trafficker. The same study referred to above found that children who left Yemen did indeed contribute to their families' income and enabled them to enjoy a higher standard of living.

277. It also noted that the members of Yemeni society are being made aware of the dangers to which these children are exposed, such as having to perform hard and dangerous labour, through a human rights information campaign conducted in the hardest-hit regions of the country. In fact, according to the Yemeni Government, trafficked children will inevitably be at risk of violence and abuse as long as they are out of reach of the protection of their families or the competent agencies. However, there have been no reports of children being subjected to sexual abuse and extortion at the hands of border guards or in places of detention.

278. The Government also expressed its appreciation for the Special Rapporteur's expression of welcome concerning the creation of a reception centre. The operating budget of this centre has been included as a separate item within the overall State budget for 2006.

279. An information campaign on human rights and the hazards and adverse impacts of child trafficking and their future was furthermore recently conducted in the governorates of Hajja, al-Mahwit, Sa'dah and al-Mahrah with a view to heightening the awareness of children, families and opinion leaders in society. According to the same study, poverty is directly related to the trafficking of children in Yemen. Consequently, low-income family support programmes must take this factor into account in their future policies.

280. Yemen signed the Convention on the Rights of the Child in 1991, and is also a signatory to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The Government indicated that those instruments were reflected in Yemen's Children's Rights Act (law No. 45 of 2002), and as such are the foundations for action in the area of the protection and safeguarding of children's rights. They are, actually, regarded as fundamental to the National Strategy on Childhood and Youth, 2006-2016, which was announced at the National Conference on Childhood and Youth held on 19-22 February 2006.

281. Bilateral cooperation measures with Saudi Arabia are also being implemented, in the form of action to coordinate the drafting of a bilateral agreement aimed at enhanced cooperation to combat child smuggling. The Government added that preparations were under way for a joint Yemeni-Saudi field study on the said issue.

282. Concerning young offenders in detention, the Government indicated that they are kept separate from adults under Yemeni law. In fact, the issue was addressed in law No. 26 of 1997, amending a number of the articles of a Republican Decree (law No. 24 of 1992) concerning the custody of minors. The amended text of article 11, paragraph (b), reads as follows: "A minor who is at least 12 years of age may be lawfully detained at a police station provided he is not detained for more than 24 hours and provided he is held in separate quarters and not allowed to associate with older detainees". Finally, the Special Rapporteur's recommendations to ratify a number of instruments, including the Trafficking Protocol, is being given due consideration.

283. The Government also provided information on the smuggling of children into Saudi Arabia, available from numerous sources. The Ministry of Interior supplied data on cases of the smuggling of children intercepted at the Harad border crossing point. The total for 2004-2005 was 216 children, including 205 boys and 11 girls. In fact, these children originated from the governorates of San'a, Aden, Ibb, al-Mahwit, al-Hudaydah, Raimah, Sa'dah, Dhamar, Ta'izz, 'Amran and Hajjah, all bordering Saudi Arabia. The largest number came from Hajjah which accounted for 97 of the children.

284. The Ministry of Social Affairs and Labour noted that a total of 386 children were referred to the Temporary Protection Centre reception facility in Harad. These children originated from the governorates of Hajjah, al-Hudaydah, Sa'dah, al-Mahwit, Dhamar, Tai'zz, 'Amran, al-Bayda, Raimah, San'a, Ibb, Aden and Lahij. And here again, Hajjah heads the list with 160 children. Finally, the Ministry of Justice indicated that in 2005, prosecutions for child smuggling resulted in a total of approximately 22 convictions in Hajjah Governorate alone.

285. Finally, the Government provided information on measures it had taken to address the problem of child smuggling which included:

- A field study on the problem of child smuggling in the governorates of Hajjah and al-Mahwit, and a workshop for leaders and officials concerned with the issue, for the purpose of considering the findings of that study, with a view to developing a plan of action to deal with child smuggling;
- The establishment of a temporary protection centre in the Harad border region which will remain operational until the problem is solved;
- A review of Yemeni law and the enactment of amendments to the Criminal Code to prescribe a penalty for a child smuggler or the father of a child smuggled with his knowledge and consent;
- Training for security officers with the Ministry of the Interior and the border police in dealing with cases of child smuggling;
- The establishment of an information desk ("hot line") on cases of child smuggling within the Ministry of Human Rights;
- Campaigns designed to raise awareness of children's rights in the governorates of Hajjah, al-Mahwit, Sa'dah and al-Mahrah focused on the dangers of child smuggling. These campaigns are primarily aimed at children, their families, members of local councils in each of the regions mentioned and members of the Chamber of deputies and also involving media programmes carried out by local outlets;
- An action to promote participation by children in the effort to combat the problem through field visits to the Children's Parliament, and encouragement for them to express their opinions by means of drawings at workshops for children on the hazards of smuggling;
- The preparation of a documentary video on the subject;
- The publication of leaflets and other materials;
- The creation of a child protection climate in the Aflah al-Sham district by the establishment of children's rights protection teams; the establishment of a children's recreational centre; the founding of non-governmental organizations active in the field of human rights;
- Support for and promotion of the protection of children through the organization of a workshop for parliamentarians;
- The development of a communication strategy aimed at heightening awareness of children's rights and the hazards of smuggling;

The celebration of Arab Children's Day 2005 in Hajjah Governorate, with the participation of children from the reception centre, highlighting the problem of child smuggling.

286. Finally, the Government concluded by adding that the problem of child smuggling is a high-priority issue for the Government. However, it is an issue that calls for action on a diverse number of fronts including legislative measures, information technology, economic development, and training for the personnel who deal with these children, stronger ties of cooperation with neighbouring States, enhancement of society's awareness of children's rights in general and of the hazards of smuggling, and greater participation by the local community and by children themselves.

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