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Transnational Organized Crime Smuggling of Migrants

The *Protocol against the Smuggling of Migrants by Land, Sea and Air* (Smuggling of Migrants Protocol) supplements the *United Nations Convention Against Transnational Organized Crime* (UNTOC). To date, 143 States have become parties to the Smuggling of Migrants Protocol. The Smuggling of Migrants Protocol requires that State Parties criminalize migrant smuggling and related conduct and take a range of measures to implement the four objectives of the Protocol: preventing and prosecuting the crime, protecting the rights of the migrants and cooperating to this end.

UNTOC applies, *mutatis mutandis*, to the Smuggling of Migrants Protocol and offences established in accordance with the Smuggling of Migrants Protocol shall also be regarded as offences established in accordance with the UNTOC. The Smuggling of Migrants Protocol addresses the involvement of organized crime in the facilitation of irregular migration for a profit. Its aim is not to regulate migration or to punish migrants. The threat addressed by the Smuggling of Migrants Protocol is organized crime, not migration. Human rights, humanitarian law, refugee law, law of the sea, many other international instruments must be complied with when implementing the Smuggling of Migrants Protocol, in particular in mixed migration flows, when the profile of the persons being smuggled greatly differ.

The United Nations Office on Drugs and Crime (UNODC) supports Member States in developing global solutions to critical challenges and both supports and delivers direct technical assistance, in close consultation and coordination with UNODC Regional and Country Offices. To accomplish this task, UNODC has established the Human Trafficking and Migrant Smuggling Section (HTMSS) in the Organized Crime Branch, created as a result of the adoption of UNODC Comprehensive Strategy to Combat Trafficking in Persons and Smuggling of Migrants. One of the core functions of HTMSS is the development of practical tools for criminal justice actors, including law enforcement, assistance providers, prosecutors, judges, policy makers and administrators. These tools are primarily developed to reflect international standards and for global use, and later on they are piloted, adapted and tailored to local needs of governments, practitioners, and service providers, and put into operational use.

KNOWLEDGE BASE EXPANSION

❖ Research, data collection and information sharing

Globally there is a lack of solid and segregated knowledge about the trends, profiles, financial flows, and prosecutions etc. concerning the smuggling of migrants. UNODC conducts research on the level of involvement of organized crime groups in the smuggling of migrants and the profits generated, as well as challenges and good practices in addressing it (e.g. Issue Papers on [Corruption](#) and the [Smuggling of Migrants](#), and on [Migrant Smuggling by Sea](#)). UNODC also created the [Smuggling of Migrants Knowledge Portal](#) that hosts a Case Law Database on officially documented court cases concerning smuggling of migrants and a Database on Legislation.

❖ Needs and gaps assessments

UNODC conducts assessments of the criminal justice response to migrant smuggling (based on the [UNODC Assessment Guide on the Criminal Justice Response to the Smuggling of Migrants](#)).

STRATEGY DEVELOPMENT AND POLICY

UNODC advises on the development/inclusion of migrant smuggling in national and regional strategies on migration, security, etc., on the basis of the [UNODC Framework for Action to Implement the Smuggling of Migrants Protocol](#) and provides guidance in intergovernmental and inter-agency fora.

PREVENTION AND AWARENESS RAISING

UNODC has developed communication strategies and awareness raising campaigns on migrant smuggling that can be further tailored and replicated (e.g. Mexico, Bangkok, etc.).

RATIFICATION AND LEGISLATIVE ASSISTANCE

Legislative assistance aims at supporting States Parties align their national legislation with the requirements of the Smuggling of Migrants Protocol and related international standards and instruments in order to comply with their implementation obligations; or to prepare non-States Parties in the pre-accession / ratification stage.

- ❖ **Gap analysis:** Legislative assistance starts with a gap analysis of the existing national legislation and its compliance with the Smuggling of Migrants Protocol and other relevant instruments.
- ❖ **Recommendations:** UNODC develops recommendations for the drafting/amendment of the national legislation for its alignment with the Protocol requirements.
- ❖ **Drafting of legislation:** UNODC further assists in clarifying the Protocol requirements for the drafters, and assisting in the legislative drafting process through close monitoring and provision of advice (desk review and workshop), on the basis of the [UNDOC Model Law against the Smuggling of Migrants](#).
- ❖ **Awareness-raising among parliamentarians:** UNODC also organizes awareness-raising sessions with Parliamentarians who would discuss and enact the law.

CAPACITY DEVELOPMENT

Building the capacities of criminal justice practitioners to address migrant smuggling can be embedded in activities targeting organized crime at large, or can be done independently. UNODC offers the following capacity building services:

- ❖ **Basic Training:** aims to raise the awareness of front-line officers and investigators and provide them the basic knowledge to identify and investigate migrant smuggling cases, (usually over 3-4 days), on the basis of the [UNODC Anti-Human Trafficking Manual for Criminal Justice Practitioners](#), and the [Training film “Ways and Means”](#) (30 min). The following topics are addressed: 1. Concepts and categories of the smuggling of migrants and related conduct; 2. Role of smuggled migrants and smugglers of migrants in investigations; 3. Investigative approaches; 4. Financial investigation; 5. Covert investigative techniques; 6. Intelligence; 7. Legislative issues; 8. International cooperation and 9. Human Rights.
- ❖ **In-depth Training:** provides a more intensive curriculum (usually over 5 days), for criminal justice practitioners (law enforcement and magistrates) on the basis of the [UNODC In-Depth Training Manual for Criminal Justice Practitioners](#). Participants are expected to increase their knowledge of: 1. Understanding migrant smuggling and related conduct; 2. Comparative analysis of migrant smuggling and trafficking in persons; 3. Detecting migrant smuggling; 4. Investigative approaches and the role of the criminal justice practitioner; 5. Risk assessment; 6. Protection and assistance issues; 7. International cooperation in criminal matters; 8. Law enforcement cooperation and information sharing; 9. Intelligence; 10. Covert investigative planning, techniques and tactics; 11. Financial investigations and prosecutions; 12. Crime scene and physical evidence examinations; 13. Debriefing, interviews and testimony; 14. Common legal issues in migrant smuggling investigations and prosecutions and 15. Sentencing.
- ❖ **Train the Trainers:** this additional workshop reviews training delivery techniques and involves participant, who were previously trained on investigating and prosecuting migrant smuggling, in delivering of the content of the training themselves.
- ❖ **Specialized training:** comes in addition to basic and in-depth training, with a focus on cross-cutting issues relevant to migrant smuggling such as money-laundering and corruption .
- ❖ **E-learning modules:** Three [on-line modules on migrant smuggling](#) are available in combination with modules on document fraud, on human trafficking and on human rights. They address 1. Introduction to Migrant Smuggling; 2. Investigative approaches and 3. Investigative techniques.
- ❖ **Mentoring** and establishment of **specialized infrastructures**, such as law enforcement units.

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HTMSS Catalogue of Materials:

www.unodc.org/documents/human-trafficking/2017/UNODC_Catalogue_of_Materials.pdf