



IOM International Organization for Migration



**TRANS-REGIONAL WORKSHOP ON ENHANCING CO-OPERATION IN COMBATING  
IRREGULAR MIGRATION AND SMUGGLING OF MIGRANTS THROUGH THE WESTERN  
BALKANS**

**Athens, Greece**

**11-13 June 2014**

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**KEY FINDINGS AND OUTCOMES**

**Concluding phase of the IOM-OSCE-UNODC joint project on:  
Strengthening Understanding of the Link between Irregular Migration and  
Transnational Crimes Impacting Migrants in Irregular Situation**

The workshop, implemented in co-operation with the Government of Greece, Hellenic Presidency of the European Union, in Athens on 11-12 June 2014, represented the closing activity of the IOM-OSCE-UNODC project “Strengthening Understanding of the Link between Irregular Migration and Transnational Crime Impacting Migrants in Irregular Situation”. The project aimed at bringing together migration authorities and criminal justice actors who deal with transnational crimes that impact on migrants in irregular situations (namely migrant smuggling and human trafficking) from countries of origin, transit and destination along the Eastern Mediterranean migration route. The workshop focused on the South Eastern Europe region and the Eastern Mediterranean migration route, based on the previous three phases of the project, which included a mapping seminar, a desk research and expert consultations<sup>1</sup>. Participants shared their experience and exchanged their views on various approaches to increase the effectiveness of measures for combating irregular migration, related organized crime, and enhancing the protection of the human rights of migrants, particularly the most vulnerable.

### Background

The current global migration scenario is characterized by a general dwindling of legal channels of migration – both for labour and family reunification purposes, including asylum policies - vis-à-vis an increasing portion of the world population that considers migration as a way to achieve individual and community development goals as well as a way to preserve individual safety from political instability, conflicts, persecutions, and environmental changes. In such a scenario, human mobility increasingly becomes a cause and a consequence of individual vulnerability, pushing would-be and *de facto* migrants to use irregular migration means and routes, often resorting to profit seeking facilitators. Consequently, irregular migration becomes a source of social and political alarm that can undermine security and stability of the countries affected by the phenomenon, and an area for criminal organizations and unscrupulous exploiters to take advantage from the situation of vulnerability of migrants, particularly if irregular. As it emerged from the project activities, the main challenge in dealing with migration-related transnational crimes – namely migrant smuggling and human trafficking - is represented by the continuous striving towards a balanced approach between the legitimate interest of States in safeguarding their borders and the individual rights to protection from harm and threats, keeping in due consideration the needs of smuggled migrants, trafficked persons and individuals in need of international protection. To this end, in line with the policy recommendations of the Office of the High Commissioner for Human Rights, terminology should also reflect this balanced approach, refraining from the use of terms such as “illegal” when referring to irregular migration or migrants in an irregular situation, or “combatting” or “fighting” when referring to actions aimed at identifying proper responses to migration-related policy dilemmas.

Based on the presentations and discussions at the meeting, the following findings and outcomes were compiled<sup>2</sup>:

### **Overall challenges and areas for enhanced co-operation:**

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<sup>1</sup> The desk research and the experts’ consultations were conducted with the financial contribution to the OSCE from the following donors: Czech Republic, Italy, Germany and South Korea.

<sup>2</sup> This is a non-exhaustive list which does not imply consensus among the workshop participants or endorsement by participating States, or organizing agencies.

## **1. Fostering a better understanding of the complexities of human mobility and related transnational crimes.**

*While the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols on migrant smuggling and human trafficking are the main instruments in the fight against transnational migration-related crimes, in the current global migration scenario human trafficking and migrants' smuggling become blurred and difficult to discern. A better understanding of the features and trends of the two phenomena is therefore an important preliminary step to determine the real needs and scope of possible future support.*

- o More in-depth and targeted research is advisable. Innovative methodologies and a multi-disciplinary approach, combining perspectives from different areas of expertise, are strongly suggested;
- o Conduct a specific analysis aimed at identifying: the quality and quantity of data collected in the area of migration-related crimes; data collection tools and methods for migration; the level of disaggregation of data; the levels of statistical analysis of the available data; the overlapping as well as lacking data, to foster exchange and comparability of data on migration-related crimes;
- o Human trafficking should be analyzed and investigated beyond the narrow boundaries of sexual exploitation as data shows that labor exploitation is a major form of abuse and a progressively prevailing form of exploitation, together with other emerging forms such as begging, forced criminality, organs' removal. As a general trend in the countries analyzed in the project, widespread misconceptions on human trafficking have placed an excessive attention on one of its forms, sexual exploitation, reinforcing detrimental stereotypes.

## **2. Enhancing prosecution of irregular migration-related crimes and victims' protection**

*Criminal Justice authorities would benefit from a greater insight into the complexities of human mobility and migration-related crimes, with a comprehensive approach which should include, inter alia, the following:*

- o Authorities in transit and destination countries should enhance human trafficking detection by more thoroughly investigating the "exploitation bond". As long as the focus is on the immediate deportation of irregular migrants, without appropriate procedures wherein the person is interviewed and screened and indications of exploitation are recognized, trafficking will not be detected and impunity of perpetrators will be reinforced. In this latter respect, forced removal from countries of destination to countries of transit should be avoided;
- o Authorities in origin, transit and destination countries should enhance detection of organized crime networks involvement in the facilitation of irregular migration through a more proactive use of special investigation techniques and financial investigations;
- o Authorities in origin, transit and destination countries should consider to amend national legislations to incorporate the non-punishment provision with regard to victims of trafficking and ensure the full enforcement of such principle through *ad hoc* training of law enforcement and judicial authorities;

- o Freezing and confiscation of assets as a critical deterrence measure should be promoted as widely as possible at national and trans-national level, through ad hoc agreements and training programs targeting local actors. Confiscated assets should then contribute to support law enforcement work assistance measures for trafficked persons as well as victims' compensation for lost wages and other damages;
- o A specific study on possible forms of judicial and law enforcement co-operation among origin, transit and destination countries along the Eastern Mediterranean migration route should be conducted, considering the relevant difference among judicial systems of the countries along this route.
- o As migration-responses and criminal justice responses to migration-related crimes can reinforce positively each other, the allocation of institutional competencies should facilitate communication and cooperation to the extent possible;

### **3. Building needs-oriented and rights-based responses to the challenges posed by mixed migration flows**

*There is an urgent need to recognize the multiple vulnerabilities affecting irregular migrants along the Eastern Mediterranean migration route, i.e. an irregular migrant could be both an asylum seekers and a victim of trafficking. In this respect, the proposed IOM/UNHCR joint initiative and Plan of Action for Western Balkans represent an excellent platform to build and co-ordinate tailored initiatives, together with national, regional and international partners, possibly taking into account the following issues:*

- o Ensure proper interviewing services, by building capacities and skills of social workers, law enforcement and immigration personnel in interviewing migrants in order to assess their respective needs;
- o Ensure that National Referral Mechanisms are in place and efficiently functioning. Also ensure that the current offer of assistance services meets the real needs of different groups and categories of migrants, including victims of trafficking. For instance, there would seem to be a lack of proper services for men victims of (THB for) labour exploitation (shelter, legal counselling, and forms of protection). The special needs, vulnerabilities and rights of unaccompanied and separated minors should be addressed, including the promotion of rights-based age assessment practices;
- o Proper services and programs for voluntary return from countries of transit in the SEE region should be ensured, including re-settlement in third countries.

### **4. Enhancing prevention measures of migration-related trans-national crimes**

*Purely restrictive migration policies are a component of the social vulnerability of migrants that are exploited by organized crime groups and unscrupulous employers. Criminalizing irregular migration tends to exacerbate the vulnerabilities deriving from any migration process, hinders rights-based solutions and fosters xenophobic attitudes against irregular migrants.*

- o Consider revising the criminalization of irregular entry and stay to consider breaches of entry and residency requirements at most an administrative rather than a criminal matter, while the criminal justice response should be addressed towards smugglers and traffickers;

- o Closely monitor and regulate intermediaries for the issuance of entry visas and residency permits (such as tourist agencies in countries of transit and destination or private “consultants” in countries of origin) in order to avoid abusive practices and fraudulent recruitment of would-be migrants or transit of irregular migrants;
- o Further explore the use of social media and Information and communications technology (ICTs) as a facilitating tool in irregular migration movements;
- o Conduct awareness-raising targeting the general public to reduce xenophobic attitudes towards migrants and refugees, in transit and destination countries;
- o Better understand the profile of would-be migrant in specific regions/geographic areas in countries of origin, as well as push-pull factors and irregular migration practices in order to tailor ad hoc prevention actions, also through the setting up of enhanced social and economic re-integration programs for returnees;
- o More effective and accessible labour migration policies for low-skilled and seasonal jobs through recruitment schemes that minimize abuses for workers, both in countries of destination (through enhanced access to information about rights and available support mechanisms for current migrant workers in destination countries) and in countries of origin (through pre-departure orientation programs), in co-operation with Labour Ministries, trade unions and NGOs and paying a special attention to those sectors that are less regulated and usually resort to temporary labour, such as agriculture, domestic work, fishery, construction and tourism.