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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

**1st meeting of the Working Group on
fostering international co-operation and investigative
strategies in fighting the smuggling of migrants**

Paris, 20 – 21 June / 20 – 21 juin 2018

Council of Europe / Conseil de l'Europe
55, avenue Kléber, 75016 Paris
Room 1 / Salle 1

Conclusive observations

In 2016, the European Committee on Crime Problems (CDPC) commissioned two studies on “National Laws Relating to Smuggling of Migrants in Council of Europe Member States” and on “Preventing and suppressing the smuggling of migrants in Council of Europe member States – ‘a way forward’”. On 23 June 2017, the Council of Europe held the Conference on the Smuggling of Migrants in Strasbourg. The Conference’s final observations included suggestions for Council of Europe’s further action in this field. To ensure follow-up to the outcome of the Conference the CDPC decided to set up two Working Groups dealing with a) preventive measures and b) practical measures to improve international co-operation.

The first meeting of the Working Group on fostering international co-operation and investigative strategies in fighting the smuggling of migrants took place in Paris on 20 - 21 June 2018. The Working Group’s membership comprised highly qualified experts, including national practitioners working in the field, representatives of international organisations as well as specialists from academia and research community.

Under the Chairmanship of Mr Calogero Ferrara, Magistrate Coordinator of the Trafficking and Immigration Division, Public Prosecutor’s Office at Tribunal of Palermo, the Working Group focused on topical issues, including: data-collection and research; law enforcement, prosecutorial and judicial co-operation; co-operation with non-CoE member States; “new” and innovative forms of cooperation; and, knowledge sharing.

As general remarks, participants to the Working Group noted that:

- 1) The **smuggling of migrants is a transnational crime** and should be treated as such. International co-ordination faces a broad spectrum of challenges ranging from the applicable legal framework, investigative and prosecutorial powers and cultural understanding and perception of the crime.
- 2) **Sharing of information amongst relevant stakeholders is key** to fighting the smuggling of migrants. Further efforts are urged in order to improve not merely the volume, but also the quality of shared information. International co-operation would benefit from more specificity and a critical approach in the identification of all the actors in the smuggling business, such as: coordinators of the journey, recruiters of migrants, providers of false or forged documents, safe houses’ keepers, money guarantors, money collectors, supervisors on parking lots, trucks, drivers of trucks, etc.
- 3) Migrant smugglers have a remarkable capacity to adapt to new situations and regulations. Similarly, international co-operation must evolve its approach and boost its efforts in **setting-up concrete and proactive strategies**. Instruments of mutual legal assistance (MLA) allow States to afford each other the widest measure of support with a view to gathering evidence, hearing witnesses, experts and prosecuted persons etc. While crucial for investigations, prosecutions and judicial proceedings in the field of migrant smuggling, MLA mechanisms are sometimes too slow to be effective. In many experiences, recourse to alternative measures of co-operation, more modern and flexible, proved fruitful. This has been the case of remote testimony of witnesses; recourse to United Nations Sanctions List; employment of liaison magistrates; stipulation of ad hoc memorandum; creation of specialized teams operating in different countries; application of general legal conventions on co-operation (i.e. UNTOC; COE Judicial cooperation, etc.); and, resort to various forms of co-operation at prosecutorial level. Further analysis of new forms of co-operation with the potential of bringing added value to fostering international co-operation and investigative strategies in fighting the smuggling of migrants is desirable. To this scope, a Network of Prosecutors on Migrant Smuggling, meeting under the auspices of the Council of Europe, could enable the discussion of practical cooperation strategies, the information sharing on legislation, and the strengthening of professional exchange of information between prosecutors.
- 4) **Channels of co-operation with relevant non-Council of Europe member States** should be established and/or strengthened. Due to its transnational nature, international co-operation remains a

critical factor. To be effective, co-operation strategies must focus on three relevant areas: i.e. source, transit and destination countries. Co-operation mechanisms do exist but they are not equally developed and/or effective in all interested countries. Spreading the knowledge of the effective impact of the criminal phenomena in the source countries is material for strengthening the co-operation with them.

- 5) A **24/7 Network of points of contact can be set-up for the timely exchange of information** concerning the smuggling of migrants. Through a simple, lightweight and cost-effective mechanism, contact points can be enabled to exchange information on a 24-hour, seven-days-a-week-basis. Without duplicating other existing instruments, a list of existing and/or newly designated contact points could be compiled to this scope, giving the opportunity to designate contact points also to non-CoE member States.
- 6) **Databases** providing overview of available judgments, arrest warrant, police reports in the field of migrant smuggling would be useful to step-up the information knowledge in this subject matter. Some platforms are already available, such as the UNODC Smuggling of Migrants Knowledge Portal, created to facilitate the dissemination of information regarding the implementation of the UN Convention against Transnational Organized Crime and specifically the Protocol against the Smuggling of Migrants by Land, Sea and Air.
- 7) **Closer co-operation with relevant international and regional organisations** could increase the visibility of best practices and lessons learned and facilitate the promotion of awareness of the realities of these organised criminal groups. A co-ordinated action is desirable to avoid duplications of efforts and concentrate synergies.
- 8) **Business economics analysis** can apply to criminal organizations. A business model canvas can serve as an additional investigative tool for law enforcement authorities. By identifying critical factors, such as value proposition, customer relationship and segments, channels, revenue streams, key partnership, activities, resources and costs, the model could determine the modus operandi of smugglers and help in spotting the best suitable investigative strategies and opportunities.

In light of the above, participants to the Working Group agreed to make use of their next meeting (date and venue to be determined) to discuss in further details how to translate their observations in concrete Council of Europe's actions. In particular, the Working Group will:

- i. further discuss investigative approaches, exchange of information and gathering of evidence, including through presentation of high value cases on migrants smuggling where international co-operation was crucial to overcome investigative, prosecutorial and judicial challenges;
- ii. identify opportunities where the Council of Europe can play a crucial role in standardising and encouraging the elaboration, adoption and implementation of alternative measures;
- iii. discuss the possible improvement of MLA mechanisms in combating the smuggling of migrants, while respecting international law and domestic legislations;
- iv. consider the opportunity to establish a Network of Prosecutors on Migrant Smuggling;
- v. analyse means to enhance co-operation amongst source, transit and destination countries, including through different and innovative ways of MLA;
- vi. examine the setting up of a 24/7 points of contact for the expeditious exchange of information between law enforcement authorities;

- vii. evaluate the setting up and/or contribution to a platform facilitating knowledge sharing;
- viii. explore further means to boost co-ordination with other international and regional organisation aimed;
- ix. further elaborate the idea of making use of a business model canvas by applying the model to existing criminal organizations which manage different routes using the information supplied by member States.