



Strasbourg, 12 October 2015
cdpc/docs 2015/cdpc (2015) 19 - e

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

QUESTIONNAIRE CONCERNING SMUGGLING OF MIGRANTS

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

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1. Do you have any laws or legislative measures covering the issue of migrant smuggling?
 - a. Is the issue set out in general criminal law or are there specific provisions dealing with the problem?
2. Is the smuggling of migrants a criminal offence under domestic law?
 - a. Does national law include a definition of migrant smuggling?
 - b. How is this conduct defined?
 - c. What are the material elements of the crime?
 - d. Is “financial gain” an element of the definition of smuggling of migrants?

Could you please provide, if possible, the relevant texts (in English or in French)?

3. Are the following activities criminalized under national legislation:
 - a. Attempts to smuggle migrants
 - b. Participation as an accomplice in the smuggling of migrants
 - c. Acting as instigator of the smuggling of migrants
 - d. Migrant smuggling as part of a criminal organisation
 - e. Circumstances that endanger, or are likely to endanger, the lives or safety of smuggled migrants
4. Does your domestic legislation permit use of special investigative techniques for the purpose of investigating the smuggling of migrants such as
 - a. Interceptions of telecommunication;
 - b. Undercover operations;
 - c. Financial investigations: including access to bank, financial or commercial records and/or databases;
 - d. specific form of protection for witnesses;
 - e. others; Please specify.
5. Does your domestic legislation enable seizure and/or confiscation:
 - of property, equipment or other instrumentalities used in or destined for use in offences related to smuggling of migrants?
 - of proceeds of crime derived from offences related to smuggling of migrants ? If yes specify the main features of the legal framework.
6. Is trafficking in persons defined under national law?
 - a. If so, how does this definition differ from that of migrant smuggling?
7. In relation to your country, are there any international, regional or bilateral agreements which address the issue of migrant smuggling?
8. Does your country have jurisdiction to prosecute crimes related to smuggling of migrants when they are committed outside its territory? If yes, specify the legal framework.
9. Do you have a national policy or action plan to address the issue of migrant smuggling?

10. Where possible, please provide information regarding:
 - a. Number of apprehended smugglers:
 - b. Number of investigations instigated against migrant smugglers:
 - c. Number of successful prosecutions of migrant smugglers:

11. In your country, is international cooperation on smuggling of migrants (specifically on mutual legal assistance and extradition) afforded
 - by statute?
 - by treaty or other agreement or arrangement (multilateral or bilateral)?
 - by virtue of reciprocity or comity?
 - Is the provision of mutual legal assistance subject to the double criminality requirement according to your domestic legal framework?

12. In your experience, is international co-operation regarding prosecution of migrant smugglers effective? Please specify.

13. In terms of international co-operation, what legal and/or practical obstacles have been encountered as regards co-operation with:
 - a. Council of Europe Member States:
 - b. Third party states:

14. Do you think existing Council of Europe instruments on international co-operation in criminal matters (Mutual legal assistance, extradition) are effective in dealing with migrant smuggling? If not, please specify.