



Strasbourg, 13 May 2022

CDPC-NPMS(2022)01

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

1st meeting of the Council of Europe Network of Prosecutors on Migrant Smuggling (CDPC-NPMS)

10-11 May 2022

Council of Europe Office, Paris, Room 1

Meeting Report

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

1. Opening of the meeting

Mr Carlo Chiaromonte, Secretary to the CDPC, opened the meeting, extended a warm welcome to all participants and briefly presented its main objectives, i.e. to determine the functioning modalities and future tasks of this Network. He underlined that, as the Council of Europe is already involved in issues related to migrant smuggling (including from human rights and trafficking of human beings perspectives), the Network should focus on the criminal dimension of this phenomenon. He also informed the participants about the cessation of the membership of the Russian Federation to the Council of Europe and its consequences.

Mr Calogero Ferrara, Council of Europe General Consultant to the Network, presented the drafting process of the Action Plan on the smuggling of migrants, which was approved by the CDPC at the end of 2019, before the Covid-19 pandemic suspended its implementation. He also reviewed the five actions defined within the Action Plan, and more particularly Action 1, which consists of the setting up of the Network with the aim to foster co-operation and closely monitor evolutions of relevant criminal activities. Finally, he further invited participants to consider the following issues during their discussion:

- the need for such a Network and its efficiency as a co-operation and information sharing tool; and
- the possibility for the activities of this Network to pave the way for the drafting of an instrument/legal standards at a later stage, given the lack of an international framework on this specific issue.

2. Tour de table and presentation of national situations

Following these preliminary remarks, participants introduced their respective positions, expertise and national situation with regard to migrant smuggling. This session allowed the identification of **some discrepancies across Council of Europe member states**, transit vs. destination countries, the number and nature of cases related to migrant smuggling, as well as the adaptation of national frameworks to efficiently address this phenomenon and prosecute those involved.

All participants expressed **the need and willingness to expand international co-operation** on this topic, in addition to already existing structures. They also underlined the benefits of establishing direct contacts with other prosecutors involved in similar cases (smuggling being a transnational phenomenon by nature), especially since some of them lack proper and relevant interlocutors at national level.

To conclude this session, **the specific situation of Ukrainian migrants was addressed**. It was noted that this recent migration wave has and will continue to have a significant impact in terms of flow at the borders, especially for countries located in eastern Europe. Even though several participants underlined that criminal activities related to this new migratory flow currently mostly concern trafficking aspects, it was still decided **to closely monitor this question and keep it on the future agenda of the Network**, particularly since the criminal dimension may evolve towards smuggling issues and taking into account the specificities of investigating cases while the Ukrainian border is open for humanitarian reasons.

3. Discussion on the need for such a Network

The added value of expanding the scope of exchanges to all Council of Europe countries, as well as the need to set up a Network with a quicker response time were notably raised during the discussion. Several participants mentioned that **bilateral co-operation** on migrant smuggling was most of the time a long process, with no guarantee of response, which would benefit from **more flexibility** (for instance when cases concern very specific geographic areas inside countries).

In this regard, **there was an agreement between participants to officially set up the Network** and to encourage, via the CDPC Secretariat, countries which have not yet done so to nominate a member, with the aim to cover the widest possible geographic range.

4. Discussion on the modalities, role and possible outcomes of the Network

Having agreed on the “operational” need to set up the Network, participants then discussed its organisation, functioning and tasks, taking as reference other Council of Europe Networks and other fora.

Putting an emphasis on the individual level and experience, participants agreed that **this Network should be composed of “referents/first respondents”, within identified structures/offices**, potentially able to reorientate requests across their national partners (for instance towards relevant law enforcement agencies or other prosecutors in charge of specific cases). Direct exchanges between these “referents/first respondents” would permit quicker information sharing, especially during the investigation phase, compared to other official assistance channels. As a result, the CDPC Secretariat was tasked with **the creation of restricted website**, accessible only to members of the Network. The main features of this website would be a full list of contact details, tools for the rapid sharing of information and documents, and a live discussion forum.

From an organisational standpoint, it was agreed to hold a meeting of the Network twice a year. It was also decided to **involve other partners** in future events (such as workshops), **in particular third states**, where most of the migratory flows and related criminal activities originate, and with whom the co-operation suffers from significant gaps. Participants then discussed the potential difficulties in finding suitable interlocutors in this regard.

With regard to the outcome resulting from the work of the Network, **the question of the potential drafting of an instrument**, at a later stage, was discussed. On the **scope** of such an instrument, the lack of a Council of Europe framework specifically dealing with migrant smuggling, contrary to trafficking aspects, was raised by several members who also underlined that recent years have seen this particular criminal activity rising significantly (compared to when the question of a potential instrument was first addressed). With regards to its **nature**, participants notably discussed the possible drafting of a recommendation, which would allow the harmonisation of relevant national legislations, responding to the need for professional dealing with this issue to be provided with common standards.

5. Way forward and next meeting

Ahead of the next meeting and based on exchanges held, **the Expert to the Network was tasked with the drafting**, with the support of the CDPC Secretariat, of **a document presenting the “mandate” of the Network** which would highlight the powers of its members, as well as its aims in the short and long term.

During discussions, it was also mentioned that it would be beneficial for members **to have access to more information about national frameworks** addressing migrants smuggling. For this purpose, the CDPC Secretariat will redistribute previous documents, which supported the drafting of the Action Plan, dealing with relevant national laws and the fight against migrant smuggling at national level (CDPC(2016)3 and CDPC(2016)4).

The next meeting of CDPC-NPMS was tentatively scheduled for **late Autumn 2022** (November/December period), potentially at the Council of Europe premises in Strasbourg or Paris. The possibility to hold this meeting directly in countries represented in the Network, allowing a closer look at what is happening “in the field”, was also discussed with Mr Ferrara mentioning the possible hosting of the meeting in Palermo.

For this next meeting, participants agreed to **invite representatives from Brazil, Niger and Tunisia** (or people specialised in these countries’ migration issues), as well as from **the Financial Action Task Force (FATF)**. It was also decided that five members of the Network would present their national situation, focusing on specific cases and operational aspects (30 minutes maximum per presentation). In this regard, members of the Network who have connexions in the countries mentioned above or would like to make a presentation during the next meeting (one presentation will be done by the Slovak representative), are kindly invited to inform the CDPC Secretariat about it.