



Wilton Park



Report

**Insights to Organised Crime and Migration in the
Central Mediterranean**

Thursday 10 December 2020 | WP1857V

In association with:



British
High Commission
Malta

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Introduction

Despite seeing a general fall in numbers since 2017, tens of thousands of migrants made the dangerous crossing from North Africa to Malta and Italy in 2020. Irregular migration in the Central Mediterranean continues to be exploited by organised crime groups, with enablers such as smugglers, counterfeiters and document forgers present in all countries. Furthermore, smugglers use land, sea and air routes to facilitate illegal migration both into and within the EU, abusing legal migration structures of the EU.

The criminals involved in the migrant trade are part of complex networks with links to human trafficking, modern slavery, terrorism, sanctions violations, corruption of officials and money laundering. The ongoing Covid-19 pandemic adds to the complexity of the challenge for policy makers, law enforcement, criminal justice practitioners and others involved in efforts to build an effective response.

Migrant deaths, often at sea, and the seriousness of human rights violations associated with smuggling are a constant reminder of the importance of international cooperation to dismantle criminal networks and bring those responsible to justice.

This three-hour, invitation only event brought together experts from Government, law enforcement, criminal justice, academia and international organisations. Participants were asked to share perspectives and experiences with the aim of developing recommendations that would enhance national and international efforts to tackle human trafficking and smuggling and protect victims and their fundamental rights.

Context of irregular migration in Central Mediterranean

1. The Central Mediterranean migration route continues to be 'supplied' by human trafficking and smuggling activity in North Africa. Most irregular migrants experience some form of violence or coercion.
2. Despite the risks, irregular migrants would embark on dangerous journeys in the hope of finding better economic opportunities, to escape war and find places of safety.

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3. The majority or 85% of irregular migrants stayed in the first country of safety after leaving their home country. The remaining 15% moved on from the first country of safety and would often continue moving as they would find they had no access to healthcare, right to work or education.
4. The Covid-19 pandemic also created a ‘pull’ effect on migrants who were persuaded by smugglers and traffickers that safety could be found in western countries.
5. Other trends during 2020 included an increase in racism and prejudice against migrants in the region and an atmosphere of impunity, with law enforcement and authorities focussed on responding to the Covid-19 pandemic.
6. There were significant gaps in the international community’s response. National Governments often focussed on stopping the migrants themselves rather than focus resources on the criminals. Few resources were focussed on victims of trafficking.
7. Cash incentives for irregular migrants to return to their home countries were shown to be less effective than offering them ‘shelter’ at earlier stages in their journey. This included access to services and information about resettlement so that migrants could make informed decisions about future movement, lowering the risk of them being targeted by traffickers and smugglers.
8. Migrants were often targeted by smugglers and traffickers in remote places where NGOs and international assistance cannot reach them.

The challenge of tackling organised crime groups

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9. In tackling the criminals, law enforcement was faced with four key tasks:
 - Understanding who were the high value or “principal” targets in organised crime groups.
 - Identifying hotspots such as key transit routes, disembarkation and landing points.
 - Developing analysis of business models by linking different investigations and evidential chains (for example who organised transport and how were payments transferred?).
 - Harnessing preventative measures and creating a hostile environment for organised criminals.
10. Participants thought that organised criminals were adept at responding to changes in border policies and identifying gaps in regulatory or jurisdictional boundaries including during the Covid-19 pandemic.
11. Law enforcement approaches were defined by experience of well-structured traditional European criminal organisations, compared to African criminal organisations, which were looser with ‘flatter’ networks that were hard to detect.
12. Criminal business models had also evolved since the Palermo Convention. They were no longer family, honour, and respect-based structures. Instead, organised crime groups included professional enablers with ‘contractual’ links between different activity-based criminal groups and often involved legitimate entities.
13. Organised crime groups in the region were also involved in a broader range of activity such as smuggling, drugs trafficking, arms proliferation, and money laundering.
14. The situation in Libya presented a significant challenge for law enforcement investigations into human trafficking and smuggling. There were few reliable partners for law enforcement. The Libyan authorities also lacked equipment including patrol vessels and surveillance tools such as radar and cameras/sensors.
15. Intelligence gathering operations did not require evidence and often were an

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important step to guide law enforcement. However, in some jurisdictions, intelligence could not be used in investigations and they relied on evidential chains. There were often challenges in proving a predicate offence in trafficking cases when the only evidence available was from victim statements.

16. Some states had the capacity to tackle traffickers but chose not to because trafficking was enabled by corrupt officials.
17. There was a perception of a lack of willingness among some European jurisdictions to share actionable migration data with African partners, despite this being prohibited by law.
18. National and International strategies to defeat human traffickers also often overlooked cooperation with transit countries and countries of origin. Disrupting human trafficking at all stages was the best way of making routes unviable.
19. Sudan was a key transit route to the Central Mediterranean with routes linking to the Middle East and South Asia.
20. One transit country in West Africa had shown innovation by making the decision to prosecute the parents and those who had provided funding for child migrants who had drowned during crossings.
21. There have been good examples of cooperation between the UN and EU on sanctions policies with close consultation with the panel of experts.
22. Some European law enforcement agencies were cooperating on a pilot evacuation platform in Niger which offered resettlement in exchange for victim cooperation in investigation of traffickers and witness statements in prosecutions.
23. Public perception of illegal migration often drove national strategies resulting in a ‘war on migrants’ rather than a ‘war on the criminals’. Efforts to change public perceptions should build awareness of the harm caused by trafficking to victims as well as to society and economies.

Participants took part in group discussions about a fictional law enforcement case study and were asked to consider ways to improve the following areas of cooperation

- Sharing actionable intelligence in a secure and timely manner
 - Maximising disruption and arrest opportunities
 - Increasing understanding of the criminal business model
 - Making better use of operational resources
24. Participants thought that sharing intelligence was vital to guide and support law enforcement investigations. There were good examples of progress made to investigations from partners sharing intelligence through Europol and EUROJUST.
 25. The UK and France have created a Joint Intelligence Centre to share intelligence with the aim of preventing irregular migrant’s journeys across the English Channel. Could a similar initiative work in the Central Mediterranean?
 26. Regional partners also had complementing intelligence capabilities and coverage such as telephone interception and analysis of social media platforms used by organised criminals.
 27. Migrants themselves disclosed important information about organised crime during interviews with asylum agencies and NGOs. However, that information was often locked in data protection and confidentiality protocols. There need to be legal and confidential ways for this information to be shared with law enforcement where it might aid investigations and protect victims.
 28. Requirements for prosecutions in jurisdictions differ, for example in Malta, the

evidential chain needed to lead to a predicate offence in order to secure a conviction. By comparison, in Italian courts, intelligence such as telephone intercept could be admissible without witness statements. Participants thought jurisdictions should coordinate prosecutions in joint investigations and identify which criminal justice system had the best chance of securing convictions.

29. There was limited sharing of analysis from investigations of domestic enablers (counterfeiters, forgers and suppliers of boats etc) which might help improve understanding of business models.
30. Compliance with the European Convention for Human Rights (ECHR) was a key principle for law enforcement cooperation between EU and non-EU jurisdictions in the region and required rigorous scrutiny of investigations in conflict zones.
31. Targeting finances could reveal and significantly disrupt criminal networks. However, traffickers and smugglers often used informal value transfer systems which could be difficult to detect and required expertise.

“The effect of international sanctions could be improved through disruptive measures”

Participants were also asked how to strengthen international legal frameworks

32. International sanctions against human traffickers sent a political message but the impact could often be weakened if sanctions were not coordinated with law enforcement investigations. This was particularly true when subjects were located in countries where they could not be extradited.
33. The effect of international sanctions could be improved through disruptive measures such as asset freezing orders, travel bans and coordination with overlapping with other sanctions regimes.
34. Malta has championed increased cooperation between international shipping registries with the aim of preventing problematic vessels and operators from switching flags and names in order to avoid detection.
35. Recent UK experience has shown that, whilst slavery has been criminalised for a long time, there was a gap in legislation; the act of holding someone for exploitation had not been criminalised. This led to the Modern Slavery Act 2015 which placed Modern Slavery among top priorities for UK Law Enforcement.
36. Legal protections have proven to be effective in securing victim testimonies in prosecutions. This included shelter for trafficking victims in safe houses and protection from punishment for crimes committed as a result of trafficking and exploitation.
37. Compensation would also help promote the fundamental rights of victims, especially if it could be taken from the proceeds of crime. In the UK, judges are now required to give an explanation when compensation is not awarded to victims.
38. Closer scrutiny is needed of states responsibility. Under ECHR case law, EU Member States were required to take action under ‘positive obligations’ of Article 4 to investigate whenever there was suspicion that human trafficking had taken place.
39. Prosecutor exchange schemes with African countries had been utilised by Italy to increase legal cooperation and develop understanding of criminal networks.

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Recommendations for the UK and International Partners working to disrupt and dismantle human trafficking and smuggling networks in the Central Mediterranean

- Improve migrant access to shelter, essential services and awareness of modern slavery and human trafficking in the first country of safety reached. This should assist informed decision-making about movement before people come into

contact with traffickers and smugglers.

- Regional partners could improve understanding of organised crime networks through joint briefing at working groups in multilateral platforms (eg EUROJUST).
- Increase the sharing of intelligence about human trafficking and smuggling through established mechanisms. Where appropriate consider formation of fusion centres to enhance analysis and sharing of intelligence between international law enforcement partners working on joint investigations.
- The Central Mediterranean Security Initiative (CMSI) may offer a useful network to support law enforcement liaison, coordinate strategy and engagement with partners in countries of transit and embarkation.
- Regional partners may wish to examine lessons learned from the UK Modern Slavery Act and consider whether legal protections for victims and access to compensation would encourage victims to give evidence against traffickers and smugglers.
- The impact and deterrence value of international sanctions against traffickers and smugglers could be improved through closer coordination with law enforcement agencies.
- On a case-by-case basis and where human rights compliance allows, increase the use of extradition of principal targets to jurisdictions where there is a greater chance of a human trafficking or smuggling conviction and subsequently a harsher sentence.

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