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## Working Group on the Smuggling of Migrants

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**Practical measures to prevent the smuggling of migrants  
and children, in particular unaccompanied children, such  
as the issuance of visas on arrival, public information  
campaigns and training sessions on fraudulent documents**

### **Practical measures to prevent the smuggling of migrants and children, in particular unaccompanied children, such as the issuance of visas on arrival, public information campaigns and training sessions on fraudulent documents**

Note by the Secretariat

## **I. Introduction**

1. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto” the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided that the Working Group on the Smuggling of Migrants would be a constant element of the Conference, forwarding its reports and recommendations to the Conference.
2. At its first meeting, the Working Group on the Smuggling of Migrants recommended that States parties should take a comprehensive approach to preventing the smuggling of migrants that includes measures relating to effective border control, strengthened document integrity and control, capacity-building, awareness-raising and measures relating to the root causes of such smuggling.<sup>1</sup>
3. At its second meeting, the Working Group recommended that States parties to the Convention that are countries of origin, transit and destination of smuggled migrants should be encouraged to enhance cooperation in a comprehensive manner

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\* CTOC/COP/WG.7/2015/1.

<sup>1</sup> CTOC/COP/WG.7/2012/6.



to develop effective measures to prevent the smuggling of migrants, while ensuring the protection of the rights of smuggled migrants.<sup>2</sup>

4. Also at its second meeting, the Working Group also identified the topics of “Smuggling of vulnerable migrants, such as children, including unaccompanied children” and “Practical measures to prevent the smuggling of migrants, such as visa on arrival, public information campaigns and training sessions on fraudulent documents” as main issues to be considered at future meetings of the Working Group.<sup>3</sup>

5. In its resolution 2014/23, entitled “Strengthening international cooperation in addressing the smuggling of migrants”, the Economic and Social Council stressed the importance of enhancing preventive measures in order to address the smuggling of migrants.<sup>4</sup> The Council also highlighted the need to promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socioeconomic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socioeconomic causes of the smuggling of migrants, especially those related to poverty.

6. The present background paper was prepared by the Secretariat to aid in the discussions of the Working Group at its third meeting.

## **II. Issues for discussion**

7. The Working Group may wish to consider the following issues as a basis for its deliberations:

(a) How can migration be better managed to discourage the demand for smuggling services?

(b) How can socioeconomic measures to prevent smuggling of migrants be evidence-based and effectively targeted to reduce demand for smuggling services?

(c) What are the root causes of smuggling of migrants, in particular of unaccompanied children, and how can they be addressed?

(d) What are good practices in fostering cross-border information-sharing, while taking into consideration the diversity of law enforcement structures, linguistic and cultural challenges and data protection regulations?

(e) What kind of border control measures effectively prevent and detect the smuggling of migrants?

(f) What are the lessons learned in implementing commercial carrier obligations at the national level?

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<sup>2</sup> CTOC/COP/WG.7/2013/5.

<sup>3</sup> Ibid.

<sup>4</sup> In the same resolution, the Economic and Social Council also urged Member States, where appropriate, to adopt measures to increase public awareness of the fact that the smuggling of migrants was a criminal activity frequently perpetrated by organized criminal groups for profit, posing serious risks to the migrants concerned.

(g) How can document integrity and control be improved in order to prevent the smuggling of migrants?

(h) How can existing travel and identity document databases be strengthened in order to prevent the smuggling of migrants?

(i) How can international organizations, non-governmental organizations, other relevant organizations and other elements of civil society become more effectively engaged in preventing the smuggling of migrants?

(j) How can the role of the media, including social media, be strengthened in raising awareness to prevent the smuggling of migrants?

### **III. Overview of issues and guidance for response**

8. The present background paper focuses on practical measures to prevent the smuggling of migrants and children, in particular unaccompanied children. According to article 5 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, migrants shall not become liable to criminal prosecution under the Protocol for the fact of having been smuggled. However, article 6, paragraph 4, provides that a State party can take measures against a person whose conduct constitutes an offence under its domestic law.

#### **A. Addressing the root causes of smuggling of migrants**

9. The purpose of the Smuggling of Migrants Protocol, pursuant to its article 2, is “to prevent and combat the smuggling of migrants, as well as to promote cooperation among States parties to that end, while protecting the rights of smuggled migrants.” To achieve this purpose, the Smuggling of Migrants Protocol sets out a comprehensive approach that includes the need to address the pull and push factors, including the root causes of smuggling of migrants. All of those factors must be addressed in a comprehensive way, involving various stakeholders, including States, international organizations, civil society, academia and the media.

10. The Protocol recognizes that a root cause of smuggling of migrants is the desire of people to improve their lives, coupled with a lack of opportunities to do so in their homeland and a lack of legal opportunities to do so elsewhere. Article 15 of the Protocol requires States parties “to promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socioeconomic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socioeconomic causes of smuggling of migrants, such as poverty and underdevelopment.”

11. International migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination. It is a cross-cutting phenomenon that should be addressed in a coherent, comprehensive and balanced

manner, while respecting human rights and integrating development aspects, with due regard for social, economic and environmental dimensions.<sup>5</sup>

12. The General Assembly, in its resolution 69/187, entitled “Migrant children and adolescents”, called upon States to recognize that human mobility has become an integral part of the current social, economic and environmental situation and recognized, in the process of elaborating future sustainable development goals, the importance of considering the reality of migration and its multiple direct impacts on the development prospects of migrants, their families and communities and on the development of countries of origin and destination.<sup>6</sup>

13. The migration of accompanied and unaccompanied children, including adolescents (defined as those under 18 years of age), or those separated from their parents, may be the result of diverse causes and factors, such as poverty, crisis situations or a lack of social and economic opportunities in their communities of origin. In the case of unaccompanied children, the root causes may also include the death of one or both parents, the search for family reunification, all forms of violence and lack of personal safety.<sup>7</sup>

14. Given these root causes, law enforcement measures alone cannot prevent the smuggling of migrants. Rather, effective prevention of the smuggling of migrants requires a comprehensive, multidimensional response, which begins with addressing the socioeconomic root causes of irregular migration and the collection of accurate and reliable data. Without accurate information on the smuggling of migrants, prevention strategies and appropriate policies cannot be developed or resources allocated, suppression activities are rendered useless, and the effective prosecution of offenders is hindered. It is therefore important that data on the scale, trends and patterns of the smuggling of migrants are collected and analysed; a good practice example in this regard is *Migrant Smuggling in Asia. Current Trends and Related Challenges*, published in 2015 by the United Nations Office on Drugs and Crime (UNODC).

15. Development programmes to support countries of origin are a necessary part of a long-term approach to prevent the smuggling of migrants. In the short and medium term, migration should be managed in a way that supports this long-term goal. Effective and complementary approaches to migration and development can mean that migration policies have positive impacts on development, and vice versa. Significant gains in human development can be achieved by lowering barriers to movement and improving the treatment of those who move, to the benefit of migrants, communities and States alike.

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<sup>5</sup> Economic and Social Council resolution 2014/23.

<sup>6</sup> On 2 August 2015, the 193 States Members of the United Nations reached agreement on the outcome document that will constitute the new sustainable development agenda. Agreed by consensus, the draft outcome document “Transforming our world: the 2030 Agenda for Sustainable Development”, will be formally adopted by world leaders at the Sustainable Development Summit to be held at the United Nations Headquarters in New York from 25 to 27 September 2015. The new development agenda features 17 new sustainable development goals and 169 targets that aim to end poverty, combat inequalities and promote prosperity while protecting the environment by 2030. Available at: <https://sustainabledevelopment.un.org/post2015>.

<sup>7</sup> General Assembly resolution 69/187.

### **Addressing the special needs of women and children**

16. Article 16 of the Smuggling of Migrants Protocol specifically calls on States parties to offer protection and assistance measures that take into account the special needs of children as well as women. Children, in particular unaccompanied children, and women may be at particular risk of exploitation and abuse by smugglers and others who try to take advantage of their vulnerability, which is compounded if they do not speak the local language or have no legal status.

17. The General Assembly, in its resolution 69/187, called upon States to strengthen their public policies and programmes, especially in the social and economic fields, aimed at the most vulnerable sectors of the population in order to help reduce irregular migration push factors. The General Assembly also called upon States and all other relevant stakeholders to join those efforts in a systematic way, promoting investment and economic exchange, as well as cooperation, at all levels.

18. In the same resolution, the General Assembly urged all States to intensify cooperation with relevant stakeholders in different areas in order to jointly identify positive alternatives to reduce, mitigate and eliminate the causes and structural factors that lead to irregular migration, so as to prevent minors from feeling compelled to migrate from their communities. The importance of coordinating efforts among countries of origin, transit and destination, while also recognizing their roles and their responsibilities to address the irregular migration of unaccompanied children, including adolescents, and to safeguard their human rights, with due consideration for the protection of the best interest of the child, was also recognized.

19. The need to address the smuggling of migrants from the perspective of gender equality also needs to be recognized, to ensure that the special needs of women, who generally are in a position of greater vulnerability to become victims of related offences, are taken into account.

### **Policies addressing the root causes of smuggling of migrants**

20. Policies directed at preventing the crime of the smuggling of migrants should be coherently developed as part of a series of other relevant policies, including those relating to crime, migration, education, employment, health, security, non-discrimination, economic and social development, human rights, child protection and gender equality.

21. Policy reform that supports human development may include opening existing entry channels into a country so that more people can migrate; ensuring basic rights for migrants; finding solutions that benefit both destination communities and the migrants they receive; facilitating the movement of people within their own countries; and including the issue of migration in national development strategies.

22. States should aim at reducing the vulnerabilities to the smuggling of migrants through, for example, microcredit programmes, skills training, job counselling, education programmes, programmes to promote women's participation in economic decision-making; programmes to keep children in school, family reunification programmes and grants to nongovernmental organizations. Finally, policies tackling

the root causes of the smuggling of migrants should be evidence-based in order to be successful and to properly allocate resources.

## **B. Information-sharing and border measures**

23. Pursuant to article 10 of the Smuggling of Migrants Protocol, States are required to exchange information about: embarkation and destination points, as well as routes, carriers and means of transportation known to be or suspected of being used by smugglers of migrants; the identity and methods of smugglers; the authenticity and proper form of travel documents issued by a State party and the theft or related misuse of blank travel or identity documents; means and methods of concealment and transportation of persons as well as the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents; legislative experiences and practices and measures to prevent and combat smuggling of migrants; and scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate smuggling of migrants. Further to this, article 27 of the United Nations Convention against Transnational Organized Crime encourages States to cooperate closely with one another to enhance the effectiveness of law enforcement action.

24. Article 10 of the Smuggling of Migrants Protocol suggests that information should be exchanged particularly between States parties with common borders or located along smuggling routes. A good practice is to seek information exchange as widely as possible at the regional and transregional levels, so that migrant smugglers are not simply able to relocate smuggling routes to areas where cooperation has not been achieved.<sup>8</sup> Article 10 of the Smuggling of Migrants Protocol further requires States parties that receive such information to comply with any restrictions placed on its use by the State that has provided it. To overcome the reluctance to share information owing to concerns about security of information, a good practice is to put in place methods to protect the security of information so that only those who need to know information have access to it. Sanctions should also be imposed on those who inappropriately divulge or misuse information.<sup>9</sup>

25. To enhance States' cooperation in this respect, available systems of information-sharing at the regional and international levels should be further used. For instance, the International Criminal Police Organization's (INTERPOL) Colour Code Notice system can be used to inform countries of individuals or methods involved in the smuggling of migrants, such as information-sharing on wanted persons, warnings about individuals suspected of involvement in irregular migration, and alerts for missing persons, or to identify dead bodies.<sup>10</sup> Also, the International Contact Directory for People Smuggling Issues contains contact details for individuals responsible against the smuggling of migrants and irregular migration issues within INTERPOL national central bureaux around the world.<sup>11</sup>

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<sup>8</sup> CTOC/COP/WG.7/2012/5.

<sup>9</sup> Ibid.

<sup>10</sup> [www.interpol.int/INTERPOL-expertise/Notices](http://www.interpol.int/INTERPOL-expertise/Notices);  
[www.interpol.int/News-and-media/News/2015/N2015-046](http://www.interpol.int/News-and-media/News/2015/N2015-046).

<sup>11</sup> [www.interpol.int/Crime-areas/Trafficking-in-human-beings/People-smuggling](http://www.interpol.int/Crime-areas/Trafficking-in-human-beings/People-smuggling).

26. In addition, the European Police Office (Europol) operates a system of Analysis Work File. An Analysis Work File is an information-processing system on specific crime areas which is intrinsically linked to specific forms of operational support offered by Europol and is the legal tool at the European level to simultaneously store, process and analyse factual information and intelligence, including personal data of a sensitive nature.<sup>12</sup> The information provided to Europol is stored in a large, structured database which is the Europol Analysis System where it is linked, where relevant, and available for analysis.<sup>13</sup> There are other available tools to gather information for early identification of smugglers and prevention of irregular departures of migrants, inter alia, Eurosur<sup>14</sup> and the European Union information technology systems such as the second generation Schengen Information System and the Visa Information System.<sup>15</sup>

27. The UNODC Voluntary Reporting System on Migrant Smuggling and Related Conduct (VRS-MSRC)<sup>16</sup> is another tool that States can use to collect, exchange and analyse information on the smuggling of migrants. The VRS-MSRC is an Internet-based data collection system on all forms of the smuggling of migrants that helps members identify emerging trends and patterns and develop knowledge-based responses and targeted cooperation against the smuggling of migrants.

28. With regard to border measures, the Smuggling of Migrants Protocol, in its article 11, requires States parties to strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants. This requirement is without prejudice to international commitments in relation to the free movement of people. In other words, States have a duty and responsibility to control their borders so as to prevent the smuggling of migrants. The key challenge for States in regulating their borders is to do so in a way that is compliant with the Organized Crime Convention, the Smuggling of Migrants Protocol and other international law, including international humanitarian law and international human rights law and, in particular, where applicable, the Convention relating to the Status

<sup>12</sup> The legal basis for the Analysis Work File can be found in the Council Decision of 6 April 2009 establishing the European Police Office (2009/371/JHA), and in the Analysis Rules, Council Decision (2009/936/JHA) of 30 November 2009 adopting the implementing rules for Europol analysis work files.

<sup>13</sup> Europol (2012), *New AWF Concept. Guide for MS and Third Parties*, pp. 4-5.

<sup>14</sup> The European border surveillance system (Eurosur) is an information-exchange framework designed to improve the management of Europe's external borders. It aims to support European Union Member States by increasing their situational awareness and reaction capability in combating cross-border crime, tackling irregular migration and preventing loss of migrant lives at sea. The Eurosur Regulation contains a range of fundamental rights safeguards, including the principles of data protection and non-refoulement, or the practice of not forcing migrants to return to a State where they may be subject to persecution. Regulation EU No. 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur). OJ L 295/11, 6.11.2013.

<sup>15</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2015) 285 final, *EU Action Plan against migrant smuggling* (2015-2020).

<sup>16</sup> [www.unodc.org/documents/southeastasiaandpacific/topics/Illicit\\_trafficking/migrant-smuggling/reporting\\_system\\_leaflet.pdf](http://www.unodc.org/documents/southeastasiaandpacific/topics/Illicit_trafficking/migrant-smuggling/reporting_system_leaflet.pdf).

of Refugees<sup>17</sup> and the Protocol relating to the Status of Refugees<sup>18</sup> and the principle of non-refoulement.<sup>19</sup>

29. In designing and implementing border protection measures, the realities of migration must be taken into consideration. Where people have no choice but to leave a place, strong border controls can have no deterrent impact but only make it more difficult for them to move, possibly fuelling demand for smuggling services to circumvent border controls in ways that may risk safety and lives.<sup>20</sup>

30. Recent State practice suggests that the concept of “border control” has expanded from checks undertaken at the physical border to encompass a number of measures that are undertaken before the border, at the border and even after entry, involving not only the country of destination but also countries of origin and transit, as well as private industry partners.<sup>21</sup>

31. Article 11 of the Protocol requires States parties to adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used to smuggle migrants. Pursuant to article 10 of the Organized Crime Convention, liability of legal persons may be criminal, civil or administrative. The carrier responsibility includes the obligation to ascertain that all passengers are in possession of necessary travel documents for entry into the receiving State and to provide sanctions in the event that they fail to do so.<sup>22</sup>

32. The interpretative notes to the Smuggling of Migrants Protocol note that such measures and sanctions should take into account international obligations of the State party concerned, including the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, as specifically underlined by article 19 of the Smuggling of Migrants Protocol. The Model Law against the Smuggling of Migrants proposes a specific exemption for carrier liability, in circumstances where the smuggled migrant has submitted an asylum claim or has been granted refugee status or a complementary form of protection, and also where the entry results from a rescue, either at sea or elsewhere.<sup>23</sup>

33. Article 11 of the Smuggling of Migrants Protocol further requires States parties to consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication. Given that prevention of smuggling across one border can result in the diversion of smuggling routes across other borders, in order to remove all possible routes of diversion from smugglers, a good practice is to achieve effective cooperation between border control agencies beyond those sharing the same border.

34. Other good practices include the establishment of border liaison offices to encourage cooperation between law enforcement units, and strengthen their capacity

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<sup>17</sup> United Nations, *Treaty Series*, vol. 189, No. 2545.

<sup>18</sup> *Ibid.*, vol. 606, No. 8791.

<sup>19</sup> See also the saving clause in article 19 of the Smuggling of Migrants Protocol.

<sup>20</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, p. 43.

<sup>21</sup> Gallagher, Anne T. and David, Fiona (2014) *The International Law of Migrant Smuggling*, p. 503.

<sup>22</sup> UNODC (2004) *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*, p. 373.

<sup>23</sup> UNODC (2010) *Model Law against the Smuggling of Migrants*, p. 58.



to share information, so that border responses can be cooperative and the value of jointly held information is maximized.

35. Existing examples at regional level could be further used, reinforced and replicated such as the European Network of Immigration Liaison Officers,<sup>24</sup> the Regional Immigration Liaison Officer Network<sup>25</sup> with member countries of the Bali Process, and the Border Liaison Offices in the Greater Mekong Subregion.<sup>26</sup>

36. Another example of a good practice is the creation and establishment of border enforcement security task forces as a comprehensive multidisciplinary approach to identifying, disrupting and dismantling criminal organizations posing significant threats to border security. The United States of America Immigration and Customs Enforcement has partnered with federal, state, local and foreign law enforcement counterparts to create the Border Enforcement Security Task Force initiative.<sup>27</sup> Agencies participating in the Border Enforcement Security Task Force help with the collection and analysis of intelligence and coordinate and collaborate on investigative efforts to identify and dismantle smuggling organizations.<sup>28</sup>

37. In order to improve cooperation between sending, transit and receiving countries, some States have developed bilateral cooperation agreements related to migration management and readmission to, inter alia, provide technical assistance against irregular migration; organize training for consular staff and immigration officials from both signatory parties, including specialized training on the detection of false documents; strengthen border controls including joint patrols, etc. For example, States in West Africa and the Maghreb have signed different bilateral cooperation agreements with some countries in the European Union.<sup>29</sup>

<sup>24</sup> Council Regulation (EC) No. 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. OJ L 64/1, 2.3.2004. According to the EU Action Plan against migrant smuggling (2015-2020) COM(2015) 285 final, the European Commission will evaluate, in 2016, and consider a possible revision of the existing European Union legislation on Immigration Liaison Officers to enhance their ability to obtain and share relevant information.

<sup>25</sup> [www.baliprocess.net/ad-hoc-group/regional-immigration-liaison-officer-network-rilon](http://www.baliprocess.net/ad-hoc-group/regional-immigration-liaison-officer-network-rilon).

<sup>26</sup> UNODC (2013) Border Control in the Greater Mekong Subregion. Baseline, challenges and opportunities to build effective law enforcement response to organized crime along land borders. Available at:

[www.unodc.org/documents/southeastasiaandpacific/2014/01/patrol/Border\\_Control\\_GMS\\_report.pdf](http://www.unodc.org/documents/southeastasiaandpacific/2014/01/patrol/Border_Control_GMS_report.pdf) and

UNODC Supporting Regional Integration with Effective Border Management: Border Liaison Offices: [www.unodc.org/documents/southeastasiaandpacific/Publications/2015/patrol/BLO\\_Brochure\\_web.pdf](http://www.unodc.org/documents/southeastasiaandpacific/Publications/2015/patrol/BLO_Brochure_web.pdf).

<sup>27</sup> UNODC (2010) *Toolkit to Combat Smuggling of Migrants*. Tool 9 (Prevention of smuggling of migrants), pp. 50-51. Also: [www.ice.gov/best](http://www.ice.gov/best).

<sup>28</sup> For additional examples on the establishment of multi-agency centres, see the previous background paper prepared by the Secretariat on good practices in the establishment of multi-agency centres (CTOC/COP/WG.7/2013/3).

<sup>29</sup> European Migration Network (2012), *Practical Measures to Reduce Irregular Migration*, p. 80, available at:

[www.emn.at/images/stories/2013/Studien\\_/Practical\\_measures/0a\\_EMN\\_Synthesis\\_Report\\_Irregular\\_Migration\\_PUBLICATION\\_April\\_2013.pdf](http://www.emn.at/images/stories/2013/Studien_/Practical_measures/0a_EMN_Synthesis_Report_Irregular_Migration_PUBLICATION_April_2013.pdf) and European Migration Network (2011), *Medidas Prácticas para la Reducción de la Inmigración Irregular, España*, p. 7, available at: [http://extranjeros.empleo.gob.es/es/redeuropeamigracion/Estudios\\_monograficos/EMN-ES-Inmigracion-Irregular.pdf](http://extranjeros.empleo.gob.es/es/redeuropeamigracion/Estudios_monograficos/EMN-ES-Inmigracion-Irregular.pdf).

38. To ensure well-functioning border crossing procedures, other good practices include the development of tools such as codes of conduct and standard operating procedures, including for search and rescue; use of modern technology such as biometrics; specialized training for border officials; and use of relevant language resources available at borders. In order to assess the effectiveness of such practices, a monitoring and evaluation mechanism should be put in place.<sup>30</sup>

### **C. Document integrity and control**

39. Article 12 of the Smuggling of Migrants Protocol requires States parties to ensure that travel and identity documents are of such quality that they cannot be altered or misused, and to ensure the security of States parties' travel documents so they are not unlawfully issued. Entailed in this obligation are technical measures to make documents more difficult to falsify, forge or alter, and security elements to protect production and issuance processes against corruption, theft or other means of diverting documents.<sup>31</sup> Such use of documents can either be in the form of forged documents or fraudulently altered documents; fraudulently obtained documents, for instance passports issued on the basis of false birth certificates; or in the form of misuse of valid documents, for instance, where documents are used by a person who is not the owner of the documents, the so-called lookalikes. The quality of forgeries is reported to be increasing, as is the use of genuine documents. Forged and fraudulently obtained documents can be reused several times after being returned to the country of origin. The same visa for instance, can be used repeatedly within its date of validity. There have also been situations where the same passport will be used several times to smuggle several people.<sup>32</sup>

40. Article 13 of the Protocol requires States, at the request of another State Party, to verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name when they are suspected of being used for smuggling of migrants. Organized criminal groups involved in the smuggling of migrants often evade such measures by submitting fraudulent passport and visa applications. Measures should therefore be put in place to scrutinize the applications.<sup>33</sup>

41. States parties should also consider enhanced scrutiny when issuing visas, as well as enforcing the terms of their visas to help prevent their territories from being used by smugglers.<sup>34</sup> Visa procedures often combine two steps: pre-departure, including visa application, examination and decision, as well as verification at entry. According to common State practice, visa applications are lodged at the consulates

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<sup>30</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, Table 3 (Prevention), pp. 97-98.

<sup>31</sup> Article 3 of the Smuggling of Migrants Protocol states that "fraudulent travel or identity document" shall mean any travel or identity document: (a) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; (b) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (c) that is being used by a person other than the rightful holder.

<sup>32</sup> UNODC (2010) *Issue Paper. Smuggling of Migrants by air*, p. 8.

<sup>33</sup> CTOC/COP/WG.7/2012/6.

<sup>34</sup> Ibid.

and consular officials are responsible for the examination of and decision on an application. However, there are cases when consultation of the central visa authority and/or other authorities is required. There may be cases when the central visa authority makes the decision on the application.

42. For example, as a general rule in the European Union, third-country nationals who are subject to the visa requirement must apply for a visa at the consulates in their country of origin or residence. However, under certain exceptional circumstances, visas may be issued by the border guards or immigration officers at border crossing points. The reason behind these strict provisions is that at the border, there is no time, knowledge and capacity to carry out the necessary checks and consultations required by the rules for issuing visas.<sup>35</sup>

43. The International Civil Aviation Organization (ICAO) is the leading international organization in setting travel document standards and recommended practices relating to travel-document security. ICAO works with Member States and international organizations in addressing capacity gaps in machine-readable travel documents and has developed an integrated strategy to assist Member States to utilize those tools.<sup>36</sup>

44. In addition, the INTERPOL Stolen and Lost Travel Documents Database is a powerful tool for detecting the smuggling of migrants. Borders and ports around the world can be directly linked to the database through a secure INTERPOL channel. Countries can also contribute data to the database when they become aware of lost or stolen passports or travel documents.<sup>37</sup>

#### **D. Capacity-building, training and technical cooperation**

45. Article 14 of the Smuggling of Migrants Protocol obliges States parties to provide or strengthen specialized training programmes for immigration and other relevant officials involved in the prevention of the smuggling of migrants and in the humane treatment of migrants who have been smuggled. The Protocol mandates that such training shall include: (a) improving the security and quality of travel documents; (b) recognizing and detecting fraudulent travel or identity documents; (c) gathering criminal intelligence, particularly in relation to the identification of organized criminal groups, methods used to transport migrants, the misuse of travel or identity documents and the means of concealment used in the smuggling process; (d) improving procedures for detecting smuggled migrants at conventional and non-conventional points of entry and exit; and (e) the humane treatment of migrants and the protection of their rights. In addition, the specific needs and rights of refugees should be taken into account in such training. Such training should be carried out in collaboration with other States, international organizations, non-governmental organizations, other relevant organizations and other elements of civil society, as appropriate.

<sup>35</sup> European Commission (2011), *Guidelines for Integrated Border Management in European Commission External Cooperation*, p. 79.

<sup>36</sup> [www.icao.int/Security/mrtd/Pages/default.aspx](http://www.icao.int/Security/mrtd/Pages/default.aspx).

<sup>37</sup> [www.interpol.int/INTERPOL-expertise/Border-management/SLTD-Database](http://www.interpol.int/INTERPOL-expertise/Border-management/SLTD-Database).

46. In its resolution 2014/23, the Economic and Social Council invited Member States, through bilateral, regional and international cooperation, where appropriate, to collaborate to prevent and combat the smuggling of migrants through the provision of assistance, including technical assistance, upon request, with a view to building capacities and enhancing abilities to prevent and combat the smuggling of migrants. In particular, the Council identified immigration and border control officials and coastguard personnel, as well as forensic experts, prosecutors and judges, as key stakeholders who should receive specialized training, so that they are better able to recognize and deal with issues related to the smuggling of migrants.

47. A good practice on the provision of capacity-building and technical assistance may include assessing the existing capacity of law enforcement, border, immigration and coastguard officials, criminal justice officers, medical and health-care workers and other actors, as necessary, on the smuggling of migrants and related issues. Such related issues include identifying victims of trafficking in persons and of violence, refugee protection, human rights and discrimination; delivering regular and sustainable specialized training on preventing and combating the smuggling of migrants and on the humane treatment of migrants; developing and updating training materials and mainstreaming of training on the smuggling of migrants into curricula; and regular monitoring and evaluation of the sustainability and impact of technical assistance provided.<sup>38</sup>

48. States may consider making use of training material provided by international organizations such as UNODC, inter alia, *Basic and In-depth Training Manuals on Investigating and Prosecuting Smuggling of Migrants*, *Introduction to security document examination: Training programme and trainers' guide*, *Guide for the development of forensic document examination capacity*, including e-learning modules against the smuggling of migrants and document examination. Such materials reflect international good practice, are compatible with all legal systems and have been designed for adaptation into local country contexts. UNODC delivers specialized training based on those tools in order to support implementation by States of the Smuggling of Migrants Protocol.

## **E. Awareness-raising and public information campaigns**

49. The General Assembly, in its resolution 69/187 entitled "Migrant children and adolescents", underlined the importance for States, in cooperation with civil society, including non-governmental organizations, workers' organizations and the private sector, among other relevant stakeholders, to undertake information campaigns aimed at clarifying opportunities, limitations, risks and rights in the context of migration in order to enable everyone to make informed decisions and to prevent anyone from utilizing dangerous means to cross international borders.

50. The resolution was adopted in recognition that the general public as well as relevant authorities do not always adequately understand the smuggling of migrants. In some countries of origin, smuggling of migrants may not be perceived as a criminal activity that poses serious risks to the migrants and the societies concerned, but as a legitimate service that helps people to escape poverty, conflict or natural

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<sup>38</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, Table 3 (Prevention), pp. 102-103.

disasters. Similarly, in countries of destination and transit, the criminality of activities related to the smuggling of migrants is often misunderstood, with the result that migrants themselves are stigmatized, as the wider issues at play are not taken into consideration.<sup>39,40</sup>

51. Without a full understanding of the reasons why a person embarks on a risky journey in the hands of criminals and of the risks posed to society and national security by allowing crime to flourish, there remains a lack of incentive to fight smuggling. There also remain significant misunderstandings about both the distinctions and the areas of overlap between the crime of the smuggling of migrants and that of trafficking in persons.<sup>41</sup>

52. These factors underscore the need to raise awareness and understanding of the smuggling of migrants as a criminal activity perpetrated through the delivery of smuggling services for the purpose of profit. Such awareness needs to be raised, not only among the stakeholders to combat smuggling but also among potential perpetrators and those who are vulnerable to placing themselves in the hands of smugglers.<sup>42</sup>

53. Article 15 of the Smuggling of Migrants Protocol requires States parties to take measures to provide or strengthen information programmes to increase public awareness of the fact that smuggling of migrants is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned. It further requires States parties to cooperate in public information campaigns to prevent migrants from falling into the hands of organized criminal groups. Such awareness-raising campaigns could also involve social media.<sup>43</sup>

54. Awareness-raising campaigns can save lives and prevent people falling victim to serious crimes such as trafficking in persons. Campaigns should be formulated in ways that will be understood by their target audience, including vulnerable migrants, using materials in appropriate language that are adapted and relevant to the people they are aimed at.

55. The recent communication strategy launched in Mexico and Central America aims to inform on the risks of the smuggling of migrants and its links with organized crime. The main objectives of the strategy are to create awareness among authorities and the media that the smuggling of migrants is a business that funds organized crime and violates human rights, as well as to build public warning mechanisms to reduce the vulnerability of migrants and inform them on the risks of using a smuggler (land, sea and air). The communication strategy also aims to inform the general public and generate knowledge about the smuggling of migrants; create a dialogue among the media, the authorities, the civil society and academia; promote partnerships and coordinate efforts to tackle the crime effectively; protect

<sup>39</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, p. 8.

<sup>40</sup> Gallagher, Anne T. and David, Fiona (2014) *The International Law of Migrant Smuggling*, p. 499.

<sup>41</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, p. 8.

<sup>42</sup> Ibid.

<sup>43</sup> CTOC/COP/WG.7/2012/6.

the rights of migrants; and demonstrate coordinated and integrated efforts of the States parties to the Smuggling of Migrants Protocol.<sup>44</sup>

56. The steps towards the development of public information campaigns include conducting baseline research, including household studies, to evaluate awareness of the smuggling of migrants; identifying the target audience, including, for example, potential smuggled migrants, potential migrant smugglers, parliamentarians, legislators, diaspora communities, public officials, commercial carriers,<sup>45</sup> local communities, civil society and the public at large; involving the target audience in the design and implementation of public awareness campaigns, as well as monitoring and evaluating the campaigns based on concrete standards; and finally, sharing lessons learned.<sup>46</sup>

57. In developing information campaigns, it is important for the responsible authorities to give consideration to the right of all persons to leave any country, including their own,<sup>47</sup> and the rights of persons to seek asylum from persecution.

### **Role of the media in preventing the smuggling of migrants**

58. The media has a key role to play in preventing the smuggling of migrants. For instance, reports of interceptions and prosecutions of smugglers can have a deterrent effect on criminal activities related to the smuggling of migrants and reports of rescues or failed smuggling attempts can deter people from falling into the hands of smugglers of migrants. However, when reporting in the media of the smuggling of migrants is not responsible, it can encourage smuggling of migrants or even inform smugglers of new possible routes and methods. Investigative journalism on the smuggling of migrants should be promoted, be it through television and radio programmes, documentaries or other media, including films, Internet sites, social media or even comic books. By writing an article or broadcasting an item on the smuggling of migrants, the media not only raises awareness of dangerous organized criminal activity, but also sheds light on a largely clandestine activity. Regrettably, journalists and media outlets are often not adequately aware of issues surrounding the smuggling of migrants or do not have understanding of the scope of the problem. As a result, some media coverage confuses the smuggling of migrants with other issues such as trafficking in persons and thus misinforms.<sup>48</sup>

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<sup>44</sup> The creative line of the campaign, developed by UNODC with inputs from public officials, non-governmental organizations, academia, migrant shelters and journalists from seven countries (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama) has been designed in a way that can easily be adapted to different contexts and can serve as a basis for other awareness-raising initiatives.

<sup>45</sup> The Working Group on the Smuggling of Migrants also suggested that States parties may wish to consider raising awareness among transport companies, especially airline companies, of the risks associated with document fraud. See CTOC/COP/WG.7/2012/6.

<sup>46</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, Table 3 (Prevention), pp. 103-104.

<sup>47</sup> International Covenant on Civil and Political Rights, article 12. According to article 12, paragraph 3, of the Covenant, the above-mentioned right to leave shall not be subject to any restrictions, except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the Covenant.

<sup>48</sup> UNODC (2011) *International Framework for Action to Implement the Smuggling of Migrants Protocol*, Table 3 (Prevention), pp. 104-105.

59. When printing or broadcasting news about the smuggling of migrants, a good practice is to provide information that equips the audience with knowledge on the appropriate actions to take. This may be done through providing a hotline to report illegal activity or through providing information about legal channels for migration; such reporting should not violate the rights of smuggled migrants, smugglers or any other party mentioned in their reports.

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