Parliamentary Assembly
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Resolution 2089 (2016)[1]

Organised crime and migrants

Parliamentary Assembly

1. Irregular migration to Europe is facilitated and even promoted by the activities of networks of migrant smugglers. The number of migrants arriving in Europe as a result of these activities has increased dramatically in recent years. Organised criminal groups are now believed to make more money from smuggling migrants than from more traditional contraband such as arms or drugs, and tens of thousands of smugglers are believed to be involved in bringing migrants into Europe, forming more or less loosely structured networks with connections across the continent and beyond to countries of origin and transit.

2. Furthermore, a wide range of ancillary illegal activities is connected to migrant smuggling, including document fraud, corruption of officials to obtain documents, the failure of lorry drivers to declare concealed passengers when crossing borders, and corruption of border and coast guards. Migrant smuggling groups may also relatedly engage in trafficking of human beings, drug trafficking and money laundering. They and other organised crime groups are also involved in, for example, labour exploitation of irregular migrants and corruption associated with national asylum systems.

3. Despite various international instruments and mechanisms and the efforts of national authorities, when compared with the scale of migrant smuggling into Europe in recent years, it is striking how difficult it has proved to prosecute and convict migrant smugglers. Co-operation between European police forces is already taking place, and co-ordinated efforts to dismantle international smuggling networks have met with some success, at least as regards their European elements. This means, however, that smuggling pipelines are only being disrupted at one "end" and, given their nature, not in a way that could definitively close them or even necessarily cause serious, long-standing damage.

4. The Assembly concludes that international co-operation and intelligence sharing, bringing the widest range of expertise and resources to bear, with a view to developing innovative, holistic responses, are essential if the activities of organised criminal groups in relation to migration are to be combated effectively. These responses should target all potentially vulnerable aspects of these groups' business models, including money laundering, corruption of public officials and misuse of the Internet. The aim must be to use all possible means to transform migrant smuggling, and the various offences often associated with it, from low-risk, high-return to high-risk, low-return activities.

5. To this end, the Assembly therefore welcomes and encourages the ongoing efforts and initiatives of bodies such as the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and the Financial Action Task Force (FATF), the Council of Europe Group of States against Corruption (GRECO), the United Nations Office on Drugs and Crime (UNODC), Europol and Interpol.

6. In particular, the Assembly welcomes and encourages the initiative by the European Committee on Crime Problems to analyse legal shortcomings presently inhibiting prosecution of migrant smugglers, with a possible view to drafting a new regional instrument, reinforcing those of the United Nations, intended to enhance practical co-operation amongst member States of the Council of Europe and States in neighbouring regions. The Assembly looks forward to a prompt and constructive conclusion to this work.

1. *Assembly debate* on 27 January 2016 (5th Sitting) (see Doc. 13941, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Irakli Chikovani). *Text adopted by the Assembly* on 27 January 2016 (5th Sitting).

7. The Assembly considers that efforts to combat migrant smuggling should also address the root causes of forced migration that drive migrants into the hands of migrant smugglers. Adequate and effective resettlement programmes for refugees and safe and legal channels for migration should also be introduced in order to reduce recourse to migrant smugglers.

8. The Assembly recommends that member States:

8.1. ratify and fully implement, if they have not already done so, the United Nations Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air;

8.2. ratify and fully implement, if they have not already done so, the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198);

8.3. fully implement the specific recommendations of MONEYVAL and the FATF relevant to money laundering associated with migrant smuggling and trafficking in human beings;

8.4. ratify and fully implement, if they have not already done so, the Council of Europe Criminal Law Convention on Corruption (ETS No. 173);

8.5. as appropriate, take a proactive approach to co-operation with other States' relevant domestic authorities and with international bodies responsible for co-ordinating and supporting international co-operation, notably the UNODC, Europol and Interpol;

8.6. develop and effectively apply a full range of investigative and prosecutorial techniques against migrant smugglers, including notably the following measures:

8.6.1. more effective participation in intelligence- and information-sharing systems involving other member States and international agencies;

8.6.2. better exploitation of existing information-sharing platforms (for example the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the European external border surveillance system (EUROSUR)) to collect evidence of trends in smuggling and migrant smugglers' modus operandi, routes and business models;

8.6.3. better co-operation with third countries in collecting evidence and facilitating extradition;

8.6.4. ensuring that the competent authorities are entitled to seize, confiscate and forensically examine instrumentalities used in smuggling offences;

8.6.5. providing protection and assistance to migrants who co-operate with the authorities in judicial proceedings, including by granting temporary residence permits;

8.6.6. extensive use of interception of communications, including international communications, in accordance with the safeguards set out in the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights in its case law;

8.6.7. establishing jurisdiction for offences occurring in the course of smuggling of migrants onto national territory, even when ostensibly committed outside it.

9. With a view to harmonising legal standards and facilitating international co-operation, the Assembly also encourages non-member States, in particular the principal countries of origin and transit for smuggled migrants, to ratify and implement relevant international instruments as mentioned in paragraph 8, including those of the Council of Europe that are open to them.

10. Finally, the Assembly encourages the European Union and its member States to implement fully the Action Plan against migrant smuggling (2015-2020), and to pursue EUNAVFOR MED's "Operation Sophia" with full respect for the provisions of United Nations Security Council Resolution 2240 (2015), in particular by ensuring that all migrants directly affected are treated with humanity and dignity and their rights fully respected, in accordance with obligations under international law, including international human rights and international refugee law.