



Selling Migrants?

How Transnational Smuggling Networks Further Trafficking in Human Beings in Europe and Beyond

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- › There is a significant relation between the expansion of professionalised smuggling networks and the trafficking in human beings.
- › Smuggling networks have transformed. Their new flexibility and poly-criminality make migrants particularly prone to become victims of trafficking.
- › Smuggling networks themselves increasingly turn into a cause of migration and flight.
- › Swift action to prevent the expansion of smuggling networks is required.

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Introduction

In the midst of the European Union, whose fundamentals are based on human rights, a phenomenon has taken hold, which was thought to be part of past long overcome. On various occasions, people were found to be sold like a commodity and to live like modern-day slaves. These people are exploited in prostitution, in pornography, in households, in forced marriages. They are forced to work in restaurants, hotels, on construction sites, in the meat processing industries. They are exploited in forced criminality and begging. At times, their organs are traded. Occasionally, babies are sold into adoption.¹ Some call this phenomenon of selling other persons for their exploitation modern-day slavery. In the European Union, the United Nations and academic literature, this phenomenon is referred to as *trafficking in human beings*.

While all might agree that trading humans opposes everything for which the European Union stands for, a central reason for the expansion of the phenomenon within the European Union is readily overlooked.

Although the acts constituting trafficking can take place within one and the same country, in a significant number of known cases within the European Union, trafficking victims are not exploited in their country of origin,² but have crossed at least one international border. Thus, the little we know from the unreliable data³ we have gives reason to assume that in the EU, there is link between migration and trafficking in human beings.

This paper seeks to point out the essential role transnational smuggling networks play in linking trafficking in human beings to migration and in the expansion of the phenomenon of trafficked migrants within the European Union. The analysis is based on the triangulation of information provided in semi-structured interviews with representatives of non-governmental victim support organisations, of law enforcement and border control agencies at national and European level, in academic literature, in media reports and public documents.

It is argued that the professionalisation of smuggling networks active along the central migration routes to and within Europe further trafficking in human beings.

What is Trafficking, What is Smuggling and What is the Difference?

Migrant smuggling and trafficking in human beings are both considered crimes. But not all migrant smugglers are traffickers and not all traffickers engage in smuggling. What is the difference between the two crimes?

In most definitions, trafficking in human beings comprises an act, a means and a purpose. While act and means can vary, the purpose of trafficking always remains the exploitation of others. The EU defines trafficking in human beings as “The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.”⁴ Hence the definition suggests people deceived or forced into exploitative situations as well as persons sold by family members or others to be victims of trafficking irrespective of whether they were brought across international borders.

The UN Protocol against Smuggling of Migrants, adopted as part of the United Nations Convention against Transnational Organized Crime in 2000, defines migrant smuggling as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”⁵. Smuggling thus necessarily requires the crossing of borders, but the concept does not suggest that those who were smuggled were forced.

While smuggling in migrants and transnational trafficking in human beings have several touching points, there are clear conceptual differences between migrant smuggling and trafficking in human beings. The central one is the voluntariness of being part of a business. Smuggling is a service voluntarily used by the smuggled person. The smuggled person voluntarily chooses to use the services of a smuggler to be (illegally) brought across a border into a country, even if dangerous. The exchange relationship – material or financial gain for facilitation of entering a country – is voluntarily entered. In contrast, in the case of trafficking in human beings, the trafficked person cannot decide. The person neither voluntarily enters an exploitative situation, nor is able to decide where the exploitation happens. The trafficked person is brought where the traffickers want the victim to be for exploitation.

Second, trafficking in human beings does not require the crossing of borders. The acts of trafficking – including recruitment, transport, harbouring and exploitation – can entirely take place within one country. In contrast, the smuggling of migrants necessarily includes the crossing of international borders and hence is an inherently transnational phenomenon linked to migration.

Third, the main victim of trafficking is the trafficked person, who is exploited – in prostitution, in other forms of sexual exploitation, in forced labour, in forced begging, in slavery, in practices similar to slavery, in servitude, or in forced criminal activities or even through the removal of organs, among others.⁶ The wronged party of smuggling are the state and the society whose laws are violated by the smuggler and the smuggled person.

To be clear, central to trafficking is the trafficker’s intention to exploit another person for personal gain, by force, fraud or deception or by using the vulnerabilities of that person to recruit and keep him/her in the exploitative situation. Vulnerabilities, among others, emerge through dependencies limiting a person’s options for meaningful decision making.

The purpose of trafficking is always exploitation.

A smuggled person chooses to be smuggled.

Migration, which mostly takes place through network support, necessarily implicates such dependencies. In this, however, the clear conceptual difference between trafficking and smuggling turns devious.

Strategically Preying on Dependencies

Migration works through networks. Rarely is migration an individual endeavour, more often than not it is a form of collective action. That migration is closely linked to networks is neither specific to a certain community, nor to a particular time. Historic migration research has for example shown that networks were essential throughout the different waves of European migration to America.⁷ According to these findings, members of a network, who moved to America first, later helped members of their wider network to migrate. Such support networks and migrants often originated from the same place of origin, and functioned on trust, along communal and ethnic lines.

What is true for historical migration in part is true for today: migration is enabled by networks of trust, based on family or clan relations, linked to acquaintances, co-nationals or co-ethnics⁸; networks provide information, preliminary accommodation and support in finding jobs.⁹ Sometimes, networks even provide the funds for the journey, in the country of origin, transit or destination, which ought to be repaid later. Through migration into other countries and diaspora settlement there, transnational networks emerge, often informal, sometimes organised.

The reliance on such networks provides the basis for the successful shift of residence from one country to another, but also creates vulnerabilities which make migrants prone to exploitation. Situations of lacking alternatives due to dependencies, along the route or at the destination, among others due the migrant's ignorance of language, country, market and people, offer incentives and opportunities for exploitation. Detrimental dependencies on networks particularly emerge in the context of irregular migration, where migrants chose to enter a country illegally, chose to circumvent registration, or chose to overstay visa in the destination country. And although migrants and network members often mutually agree to and benefit from arrangements, there are cases of individual misbehaviour. Yet, the significant danger for migrants to be exploited arises from professionalised smuggling networks, which progressively replace informal ones. These networks spanning from the country of origin or transit to the destination country professionally use such general vulnerabilities, create new ones and sell migrants into all kinds of exploitation.

Criminal Networks Take Advantage of Political and Social Conditions

Political and social conditions are decisive in exploitation and trafficking. Lacking social control or even social acceptance of exploitation enable the recruitment of trafficking victims. Political instabilities, lacking rule of law and weak law enforcement facilitate all forms of trafficking, while rapid social change, which breaks up social control mechanisms, socially accepted disregard of certain groups, and weak states allow for the trafficking business to thrive.¹⁰ Porous borders allow traffickers to link such "recruitment markets" with markets, where there is demand for trafficked persons.

The developments in several former Soviet Republics in the late 1980s and 1990s serve as example.¹¹ In the consequence of the Soviet Union's breakdown and the subsequent rapid social, political and economic change, state control and law enforcement declined. Corrup-

Migration works
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tion was rampant. Porous borders and lacking control allowed for the unchecked movement of people. With political instability, unemployment rising, and borders open, migration flows raised as people sought a better future elsewhere. The social and political transformation offered the opportunity for certain networks to seize powerful positions, and to profit from the rapid change. Some agents found a profitable business in the trafficking in human beings, often in form of sexual exploitation of girls and women.¹² Sometimes, the latter's desire to migrate elsewhere for a more promising future was used to recruit them for trafficking, while sometimes they were selectively targeted or recruited by force. The political conditions allowed the "export" of women across borders. Eastern European women were sold in their countries of origin, smuggled and sold into neighbouring European countries and throughout the world, as far as to the Middle East and to brothels in Asia. The phenomenon reached such scale that women from Eastern Europe trafficked into prostitution got an own name and were referred to as the "Nataschas".

Trafficking in human beings is a profitable business.

A closer analysis of these trafficking cases¹³ shows that the clear conceptual line between smuggling and trafficking gets blurred in reality and that initially voluntary migration can end in brutal exploitation. However, it also shows that both smugglers and traffickers seek to bring people where they expect to reap the greatest profit for themselves.

Professionalisation of the Criminal Smuggling Networks

Political, social and economic conditions set the frame for smuggling and trafficking alike. Certain agents rationally and strategically respond to the incentives offered by these conditions and actively seize opportunities to maximise their gain. The transformation of smuggling networks has enabled them to reap greater profits and to significantly augment their capacity to move people. Resulting flexibility and poly-criminality, however, have enabled the easy shift from smuggling to trafficking.

Smuggling networks seize opportunities to maximise their gain.

The trend of smuggling networks' transformation and professionalisation is not new. With the numbers of migrants rising as the result of the political transformation following the breakdown of the Soviet Block and the accelerating globalisation on the one hand, and many countries' measures to regulate immigration on the other, smugglers were able to build a profitable business since the late 1980s, 1990s and early 2000s.¹⁴ Working at the interface of persisting diverging interests of states and societies of transit and destination countries on the one hand, and migrants and the countries of origin on the other, smugglers could enlarge their business.

While initially mostly small groups and informal networks organised the smuggling for co-ethnics into transit or destination countries,¹⁵ with rising demand and longer distances between countries of origin and destination, the organisation of smugglers transformed. Informal migrant networks and smaller networks of smugglers began to cooperate, creating loose, yet increasingly professional transnational smuggling networks, which offered diverse "packages" and services, ranging from forged documents and entry by flight to crossing land borders by foot or sea borders on vessels. Recruitment took place through social contacts and often migrants actively sought the smugglers' services.¹⁶ While with the expansion of social media, recruitment also takes place online, relations of trust still matter – networks relate to their customers through personal – even if distant – contacts, or through links of shared collective identities.

From informal and small groups to professional transnational smuggling networks

The transformation and professionalisation of smuggling networks received a boost with the political instability in the wider Mediterranean and the forced mass migration from Syria.

On the one hand, Syrian refugees were able to pay more than the average African migrant to be smuggled into Europe.¹⁷ Together with the accelerating numbers of people seeking to reach Europe, smugglers were able to significantly increase their profit. The overwhelming of border guards and the de facto opening of borders in Europe in 2015 incentivised migration of a growing number of people. Although in this period borders could be crossed without clandestine facilitation, the de facto open borders yet have not reduced the usage of smuggling services, but instead enabled criminal networks to use the increased migration flows for their ends.

Increased demand and accelerated profit of smuggling services resulted in the further professionalisation of smuggling networks. Diverse networks cooperated, expanding their territorial outreach and the offered services.¹⁸ Furthermore, smuggling networks were able to invest in their business, among others in new equipment, like vehicles, and in bribery. Smuggling networks reached a new degree of organisation and level of professionalisation, with greater capacity to smuggle more people on the one hand, but also a dependency on the profit on the other. Where needed, smugglers used migrants themselves to make profit, by extortion or by selling and renting out the migrants they smuggled – for forced labour, slavery, and sexual exploitation. The at times unregulated migration of large amounts of people has enabled smuggling networks' professionalisation, profit maximisation and subsequently increased migrants' vulnerability to exploitation.

The Dangers of Poly-Criminality

Networks increasingly are considered poly-criminal, that is, engaged in different criminal businesses. These criminal businesses include the trade of illicit goods, extortion of migrants' families, and trafficking in human beings. With their organisational transformation and diversification of their businesses, smuggling networks are able to flexibly respond to changes in their environment. This flexibility and poly-criminality make smuggling networks particularly dangerous for migrants.

The interrelation with trafficking has led smugglers to selectively target later victims of trafficking in their countries of origin, motivating them to migrate and to use their smuggling services. Once at the destination, or even already along the route, smuggling is turned into trafficking. Loans given for migration – and at times offered to motivate migration – and dependencies on the network are used to force and keep persons in exploitation. The example of women from a particular area in Nigeria, who are recruited by trusted networks, are smuggled and then trafficked into prostitution in Europe, has gained notorious prominence.

Initial smuggling is
easily turned into
trafficking.

The danger posed to migrants by poly-criminal and flexible smuggling networks is exemplified in the developments in Libya. When borders were closed for smuggling in other North African countries, smuggling networks concentrated their business in fragile Libya. A weak state, porous borders, smuggling networks' political influence, and the concentration of large numbers of irregular migrants dependent on their services allowed them to quickly turn their smuggling into trafficking in migrants, when convenient. This trend accelerated first with Libya's violent conflict, now with the Covid-19 pandemic and many states' restrictive measures to prevent its expansion. The trend of professionalisation and increasing influence, however, is not limited to Africa and the Mediterranean, but has been found along the Balkan route and within the European Union as well.

A closer analysis of trafficking cases in countries like Libya suggests an alternation between the businesses of smuggling and trafficking for profit maximisation adapting to the incentives of the "market".

Smuggling Networks as Cause of Migration and Flight

The expansion and professionalisation of smuggling networks, however, has also furthered smuggling networks themselves to become a cause of migration and flight. Not only do they enable more migration as professionalised smuggling allows quicker and easier migration compared to migration which takes place along informal networks. But smuggling networks, such as networks in Eritrea, were also found to incite migration among certain vulnerable groups.¹⁹

Next to motivating migration, some smuggling networks further the reasons for flight. Through their transformation, smuggling networks expanded their political influence and at times even gained territorial control along the smuggling routes. Smugglers' enormous profits allow them to pay officials, furthering corruption²⁰ on a large scale, and hence prevent the functioning of law enforcement. The professionalisation and the significant profitability of the business requires smuggling networks to secure their dominance over certain routes from competitors, and some do so by force. Competition between rivalling smuggling networks not only furthers their armament and thus their capacity for violence, but at times turns the smuggling networks into violent actors. In Northern Africa, the competition for smuggling routes' territory in and near Libya has brought two dominant nomadic tribes into conflict with one another. One of the tribes professionalised migrant smuggling and thereby challenged the contracted dominance of another tribe in the contested area. This territorial contention has escalated into violent clashes.²¹

Moreover, poly-criminal networks are engaged in political activities, including violent conflict. In the case of Jama'at Nasr al-Islam wal Muslimin's (JNIM) eastward offensive, in which a series of attacks on the UN mission in Mali was perpetrated, it was assumed that the group sought to seize control over migrant smuggling networks as a means of income generation. This group's income is furthermore claimed to be generated in part through migrant trafficking.²²

Smuggling networks, thus, themselves cause people to leave, create causes for forced migration and moreover themselves create conducive conditions for trafficking in human beings.

Swift and Decisive Action against Smuggling Networks Required

The interrelations between trafficking in human beings and migration are diverse, and this paper has concentrated on one link between the two phenomena only: transnational smuggling networks.

The prevention of trafficking in human beings in the context of migration requires a complex set of actions and policies in countries of origin, transit and destination.

The prevention of trafficking in human beings within the European Union and across European borders is likewise complex and requires action in a wide range of policy fields. However, swift action is required to halt the further professionalisation and expansion of smuggling networks along the migration routes to Europe. Porous and insufficiently controlled borders allow traffickers to continuously enhance their business. Europe is one of the most relevant markets for smugglers and traffickers, and the access they have allows for their continual profit maximisation. The establishment of smuggling networks in Europe needs to be countered. Once firmly established, the costs and challenges of action against these networks are distinctly higher. The consequences of failed political action against smuggling networks in Europe furthermore will be felt in a whole range of migrants' countries of origin

Competition for control of smuggling routes turns violent.

Consequences of failed political action against smuggling networks in Europe will also affect other countries.

outside the EU. Central for the success against the networks will be the coordination and cooperation between different agents within member states, between member states and in the European Union. They need to mirror the flexible structures of the transnational smuggling networks and likewise be able to flexibly respond to changes in the environment. To be able to act swiftly, the following will be required:

Flexible structures mirroring transnational smuggling networks are required.

- › The swift sharing of data between the different national and European agencies concerned with preventing, detecting and persecuting smuggling as well as trafficking in human beings.
- › The meaningful control of borders along the different stages of migration routes, which necessarily includes the deployment of specially trained border guards focussing on detecting trafficking victims, traffickers and smugglers as well as the means of illegal entry, including forged documents.
- › The support for trafficking victims and a prominent advertisement campaign for such support along migration routes, which provides information about the respective location and how and where to get help. Locations frequented by migrants need to be targeted, including airports, train and bus stations, vehicles of public transport, in public toilets along motorways, in refugee camps and centres, in migration hotspots and border crossings known to be frequented by irregular migrants.
- › The creation of anti-trafficking task forces with a clear mandate, in which specifically trained and experienced prosecutors, police, and customs officials can cooperate, share information and expertise. These task forces should be able to cooperate across administrative divisions and allowed to engage in coordinated activities at the local, national and European levels.
- › The provision of more funds and personnel for law enforcement targeting smuggling networks and both their smuggling and trafficking activities.
- › The targeted performance of more and more thorough checks in areas where trafficked persons predominantly are forced to work, such as brothels, restaurants, hotels, certain industries, construction works, agriculture etc., to raise the risks of discovery and hence to reduce the benefits of using trafficked persons' services, thus targeting the demand side.

- 1 See for example: RBB 24. "Bundespolizei geht mit Razzia in Berlin gegen Menschenhandel vor", 17.03.2021. RBB. Available online: <https://www.rbb24.de/panorama/beitrag/2021/03/razzia-berlin-vietnamesinnen-zwangsprostituierte-menschenhandel.html>, last accessed 30.06.2021. NDTV. "Babies For Sale: Bulgarian Roma Fuel Illegal Adoption Trade", 18.02.2016. Available online: <https://www.ndtv.com/world-news/babies-for-sale-bulgarian-roma-fuel-illegal-adoption-trade-1278637>, last accessed 30.06.2021.
- 2 "Report from the Commission to the European Parliament and the Council: Third report on the progress made in the fight against trafficking in human beings (2020) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims". Available online: https://ec.europa.eu/anti-trafficking/sites/default/files/third_progress_report.pdf, last accessed 30.06.2021. About one third of trafficking victims in the EU is exploited in their country of origin (p. 3).
- 3 As in other crimes, trafficking in human beings is a crime with a significant dark field. Even where trafficking is identified, not all cases are labelled as such or find their way into the statistic. Due to the difficulties in proving trafficking in human beings, for example, frequently, assumed cases of trafficking are persecuted and labelled as smuggling in migrants. At the European level, there are discrepancies between the member states regarding which information are shared, or how cases to be shared are defined. Furthermore, diverse agents collect data on trafficking in human beings in Europe, whereby data collection is not standardised. Furthermore, states, governmental and non-governmental organisations often do not share information and publish only selectively. A further challenge is posed by the increasing politicisation of the field and research.
- 4 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011.
- 5 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. New York, 15 November 2000, Article 3 (a). Available online: https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-21%20AM/Ch_XVIII_12_bp.pdf, last accessed 30.06.2021.
- 6 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011.
- 7 See Tilly, Charles. "Transplanted Networks". In *Immigration Reconsidered*, edited by Virginia Yans-McLaughlin, 79-95. Oxford: Oxford University Press, 1990.
- 8 Coluccello, Salvatore and Massey, Simon. "Out of Africa: The Human Trade between Libya and Lampedusa". *Trends Organ Crim*, 2007, (10): 77-90.
- 9 See for example Antonopoulos, Georgios A., and Winterdyk, John. "The Smuggling of Migrants in Greece". *European Journal of Criminology*, 2006, 3 (4): 439-461.
- 10 See Schelley's analysis of trafficking in human beings in Asia, Eurasia, Eastern Europe, Europe, the United States, Latin America, and Africa. Schelley, Louise. *Human Trafficking: A Global Perspective*. New York: Cambridge University Press, 2010.
- 11 See Schelley, Louise (2010: 174-200).
- 12 Later, the forms of exploitation were diversified. See Schelley, Louise (2010: 174).
- 13 For an analysis of trafficking in women from and in Eastern Europe see Schelley, Louise (2010: 185 ff.). Schelley does not refer to the trafficked women as "Nataschas".
- 14 See Coluccello, Salvatore, Massey, Simon (2007), or, Antonopoulos, Georgios A., and Winterdyk, John (2006).
- 15 Reitano, Tuesday. "A Perilous but Profitable Crossing: The Changing Nature of Migrant Smuggling through sub-Saharan Africa to Europe and EU Migration Policy (2012-2015)". *The European Review of Organised Crime*, 2015: 1-23.
- 16 Antonopoulos, Georgios A., and Winterdyk, John (2006: 451).
- 17 Reitano, Tuesday (2015: 7).
- 18 Joint Europol-INTERPOL Report. *Migrant Smuggling Networks, Executive Summary*, 2016.
- 19 Reitano, Tuesday (2015: 9).
- 20 Ibid.: 7.
- 21 Ibid.: 10.
- 22 Nellemann, C.; Henriksen, R., Pravettoni, R., Stewart, D., Kotsovou, M., Schlingemann, M.A.J, Shaw, M. and Reitano, T., ed. *World Atlas of Illicit Flows. A RHIPTO-INTERPOL-GI Assessment*, 2018. Available online: <https://globalinitiative.net/wp-content/uploads/2018/09/Atlas-Illicit-Flows-Second-Edition-EN-WEB.pdf>, last accessed 30.06.2021.

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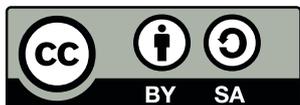
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