



Serious Transnational Organized Crime: International Actors and Actions to Counter Human Trafficking and Smuggling of Human Beings

by David Ellero

Introduction.

In one way or another, globalization has had an impact on our lives. The world nowadays is definitely smaller: cheap travel, a very developed transport infrastructure and an unprecedented efficiency of the communication networks, has brought a series of positive developments in the day-to-day life of people world-wide. The best example of a globalized world is probably the European Union (EU), which, along with its shared values, has created a vast array of rules which commonly apply to all its Member States, covering aspects of our day-to-day life which go, to name but a few, from

Agriculture and Rural Development to the Defence industry, Economic and Financial affairs and Competition and so on: there are little or no aspects of European life which are not covered by European policies, fully or in part. The Union has been built on the principles of the free movement of goods, services, labour and capital; of equal rights for all citizens before Euro-

EU citizens to live where they like, work where they like and commute freely, effectively carrying on with their lives as if the EU as a whole was their Country. Looking at the Schengen area, which currently includes 26 European countries totalling 420 million people, approximately 1.7 million people reside in one country while regularly working in another: this is defini-

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pean law; of equality among the member-states; and of significant financial transfers from richer regions to poorer ones. These pillars of EU integration, enable most

tely a "new normal".

Unfortunately, as it often happens, the great benefits and opportunities offered by globalization have



also benefited – amongst others - organised crime, which however has an edge: whilst, as I explained above, in many instances the world is small and often borderless, different countries still bare different legislations, juridical cultures, languages and even organisational structures of the competent Law Enforcement (LE) authorities. This in turn has created a “water bed” effect, by which criminals tend to displace their activities over numerous different countries, exploiting national differences, favourable legislation, and the fact that LE and judicial authorities, often tied down by complex national caveats and different competing priorities, struggle to cooperate in a faster and more efficient way.

This represents a serious challenge which is cross cutting to almost all crime areas, and just by listening to the news anyone can understand the concept that, nowadays, cases with no international aspects are becoming quite rare: the opposite is true for cases involving Organised Crime Groups (OCG) which are now regularly operating across borders and in multiple jurisdictions.

Some crimes are particularly likely to develop an international dimension, Human Trafficking and Smuggling are definitely two good examples.

Human Trafficking and Human Smuggling, what is the difference?

Before looking into the actors and the actions useful to fight these serious crimes, it is important to underline the differences between the two. Too often, in fact, the two are mistakenly confused, and even in the course of high level events

it is not uncommon to sit through presentations on Human Smuggling sold under the heading of Human Trafficking: this may seem as a petty mistake, but unfortunately it is not, and can bring to very dire consequences that are sometimes under to eyes of everyone, with victims of Human Trafficking mistakenly confused with migrants and returned to their country of origin, or being incarcerated without having been provided the protection foreseen in the main international legal instruments, which advocate for a “victim-centred” approach to this crime.

organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Clearly the first two protocols are topical for this article, and are particularly important for its purposes because they provide a definition of the crime areas that can then help the reader to understand the issue at stake. The Protocol to Prevent, Suppress



Delving into the legal aspects of both crime areas falls outside the scope of this article, however it is worth citing the main legal instruments which deal with the definitions. The United Nations Convention against Transnational Organized Crime (UNTOC), adopted by General Assembly resolution 55/25 of 15 November 2000, and entered into force on 29 September 2003, is the main international instrument in the fight against transnational organized crime. The Convention is supplemented by three Protocols, which target specific areas and manifestations of

and Punish Trafficking in Persons, especially Women and Children, defines this serious crime as “(...) the recruitment, transportation, transfer, harbouring or receipt of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others



or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (...). This is the first global legally binding instrument with an agreed definition on trafficking in persons, and has paved the way for harmonizing national legislations, stepping-up international cooperation in investigating and prosecuting this serious crime, whilst protecting and assisting victims of trafficking in persons, putting their interest at the centre of any intervention.

me (UNODC), the Protocol aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process. The two definitions can already provide the reader with the main differences between these two serious crimes, which can be summarized as follows:

- As for the act itself, whilst traf-

- Whilst the purpose of trafficking is always exploitative, this is not necessarily part of the smuggling process. Clearly the boundaries set by the above mentioned definitions are sometimes blurred, in the sense that often smuggled migrants are exploited to pay off their debts and end up trafficked, or are victims of human trafficking from the start, but regard themselves as migrants paying for a service, effectively not even realizing they are in fact illegally exploited. The two key learning points to keep in mind are therefore that the two crime areas are clearly distinct, and that, for this reason, they require a very different approach. For example, whilst Human Trafficking routes are important to know, but not essential (the important aspect is the exploitation phase rather than "how" the victim reached its destination), Smuggling routes are indispensable to plan any successful counter strategy.



Similarly, the Protocol against the Smuggling of Migrants by Land, Sea and Air, for the first time provides an agreed definition of the crime in a global international instrument, which is "(...) 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 (...)". In the words of the United Nations Office on Drugs and Cri-

fickers may transport and transfer people even within the same Country, without crossing a border, smugglers require the irregular crossing of an international border;

- Traffickers will use the means listed in the above mentioned definition, which normally include deception or one or more elements of coercion, whilst smugglers will have effectively been asked to provide a service, albeit illicit;

International actors

It should not come as a surprise that trafficking and smuggling, more often than not, bare a transnational angle, and this is what really provides an edge to the criminals involved and many (unnecessary) headaches to the national competent authorities. There are so many different aspects to the fight against these two serious crimes, ranging from trafficking victims' protection, to pre-





vention and prosecution, asylum seeking legislation, migration laws and all the human rights, safety and logistic burdens that are under the eyes of the world when masses of migrants desperately attempt to reach their country of destination. For this reason, listing them all and providing a brief explanation of their portfolio would require a book to be written rather than an article, I therefore invite all those interested to visit the websites of the main international organisations which can be easily found on the internet. Furthermore, many countries have an international cooperation cell, normally at ministerial level, which provides assistance to those in need to establish a channel of cooperation to progress an investigation, and may

advise on the favourite option. I would like, however, to provide a brief explanation of the issue at stake here: if this article is about actors and actions, I would in fact focus on the latter and then let the reader figure out, with some hints from myself, who to approach when faced with an international investigation on either of these serious crimes. Because of the target audience of the magazine, I will clearly focus on international LE cooperation, reminding the first, however, that smuggled migrants and victims of human trafficking should always be placed at the centre of any effective strategy, especially in the case of trafficking, with a clear primacy over the investigation itself, which should never harm the interest of the victim.

Actions to counter Human Trafficking and Smuggling of Human Beings

As I mentioned, the actions here are looking at the LE side of the fight against these serious crimes, but being the two very different from one another, the actions also may differ in some aspects. One essential aspect which is common between the two, however, is the need to cooperate transnationally. International organisations such as Interpol¹, Europol², Selec³, Afripol⁴, Ameripol⁵, Frontex⁶, to name but a few (and in no particular order of importance), are directly involved in supporting, each within their remit, and providing a value which is linked to their spe-



cific mandate. The same goes for all those LE Liaison Officers posted throughout the world. The need to cooperate is essential, and is self-explanatory, but just for the sake of simplicity, it's easy to imagine the case of a LE officer stumbling across a possible trafficking victim in the course of an investigation: very often the victim itself is unaware of being a victim. Thinking of a detection at a border crossing, it could well be the victim has been provided with a fake contract of employment, and when asked, is genuinely thinking of a legitimate job as a server, secretary or dancer. The victim may be accompanied, as it often happens, by a suspect involved in the case. How will the investigator be able to detect the trafficking case, if not cooperating with LE from the source and/or transit countries? Clearly this is a simplification, but assuming not all readers are trafficking experts, it should answer the question on the "business need" to cooperate. The situation however is much more complex than this, and just thinking of the investigation side (adding victim protection clearly adds complexity, and therefore will not be covered in this article), it is easy to imagine how many countries may be involved at the same time in a single case. Just by analysing the financial transactions that certain key individuals are connected to (middlemen, "passeurs" or any other offender involved in the process) may prove extremely challenging. A single individual can be connected to trans-

sactions in numerous countries (I witnessed twelve in a single case I encountered years ago), and this often causes the issue to be labelled as "too difficult to take care of" and just not investigated. Bilateral cooperation is simply not sophisticated enough, and the simple exchange of information is often obsolete. What is needed is an in-depth analysis of the data emerging from on-going cases, taken care of at international level. Agencies such as Europol are well placed in the international scene to do this, especially because all data collected across all crime areas fall-

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ling within its mandate end up in the same analytical database, which can therefore be used as a unique platform to make sense of this large volume of entities. Another example can be the telephonic data linked to all those facilitating migration, which normally counts hundreds of thousands of entities connected to dozens of countries (which normally reflect the smuggling routes followed by the migrants) in a single case: no single country can make this intelligence operational on its own, but combining it through analysis provided by a dedicated platform may support investigators in "making sense" of the data, identifying useful investigative leads and prioritising them over other less remunerative ones. To summarize what I have attempted to explain, the most important

action that must be taken when facing serious and organised crime of a transnational nature is international police cooperation. Whilst bilateral cooperation has many merits and often gets the job done, the complexity and scale of current cases, due to the progressive globalization of organised crime, makes it indispensable to step up the fight and cooperate in an integrated and efficient way.

What about NATO

Whilst organisations such as the ones listed above have the fight against serious and organised crime as a core responsibility, others have not such a primary role. Writing from the NATO Stability Policing Centre of Excellence, I find it interesting to highlight what NATO is doing at the moment, and whether the latter should actively pursue a more prominent role. Conflict has clear linkages with both crime areas, as it constitutes a "push factor" for those who actively seek a better and secure life outside their country of origin, and fall easily for deceptive offers, but also a "pull factor" for those who are driven to areas where they are trafficked into sexual or labour exploitation. In the field of fighting Migrant Smuggling, NATO definitely plays an important role, also in cooperation with the EU, as clearly stated in the 2018 Joint Declaration on EU-NATO Cooperation. As an example, during his visit to Greece in October 2019, NATO Secretary General underlined that NATO's presence in the Aegean helps



counter illegal human smuggling by providing real-time information to coastguards, and by helping to address the instability and violence at the root of the migrant crisis by working with partners in the Middle East and North Africa. The contribution of NATO from this point of view, although not focussed on the investigation side of Human Smuggling, is clear and self-explanatory. In the field of Human Trafficking, however, the role is more difficult to define. Let us not forget that trafficking is a form of modern day slavery, but very often needs to be investigated thoroughly to be detected. As an organisation, NATO is firmly committed to address Human Trafficking, and has a zero-tolerance policy in place, which was endorsed at the Istanbul Summit in June 2004. The policy, which is currently under review, commits NATO member countries and other troop-contributing nations participating in NATO-led operations to reinforce efforts to prevent and combat such serious crime. Whilst NATO is not a primary responder on Human Trafficking, its role could go two ways: the Alliance could continue “not fuelling” this serious crime, by, for example, keep thoroughly reviewing its supply chains to ensure no victim of human trafficking is exploited to provide services, and keeping forbidding its troops to engage with victims of trafficking for sexual exploitation, or the Alliance could take a more active role and “fight” against this serious crime by, for example, investigating it with the use of dedicated assets. And this however brings us to the next paragraph.

What about Stability Policing

Although the need for Stabili-

ty Policing has been identified by NATO since 1998, when a Multi-national Specialized Unit (MSU) was deployed to Bosnia Herzegovina within the NATO Stabilization Force (SFOR), the Alliance has defined it in a NATO Doctrine fairly recently, in 2016, with its “Allied Joint Doctrine for Stability Policing” (AJP-3.22). This doctrinal document defines it as “police related activities intended to reinforce or temporarily replace the indigenous police in order to contribute to the

lity brings a typical LE dimension in a Theatre of Operations since it implies an executive mandate, and is a precious tool in the hands of the Mission’s Commander. This is very important for the purpose of this article, because, especially in the case of replacement missions, Stability Policing may be the only asset available in theatre to investigate these serious crimes, which are both listed as tasks under annex A of the above-mentioned doctrine, and to offer an



restoration and/or upholding of the public order and security, rule of law, and the protection of human rights”. Whether Stability Policing is employed in a reinforcement mission, which may consist in monitoring, mentoring, advising and training as well as reforming and partnering Indigenous Police Forces (IPF) to improve their performance, or in a temporary replacement mission, this capabi-

indispensable support to LE world-wide. As an example, who, in fact, would a European LE Agency contact if, debriefing a suspect, a series of contacts would lead to a Country which is lacking functioning LE, but is a theatre where NATO Troops are deployed? Stability Policing would be the obvious solution, either taking the burden on its shoulders, or acting as a “bridge” with what is left by the lo-



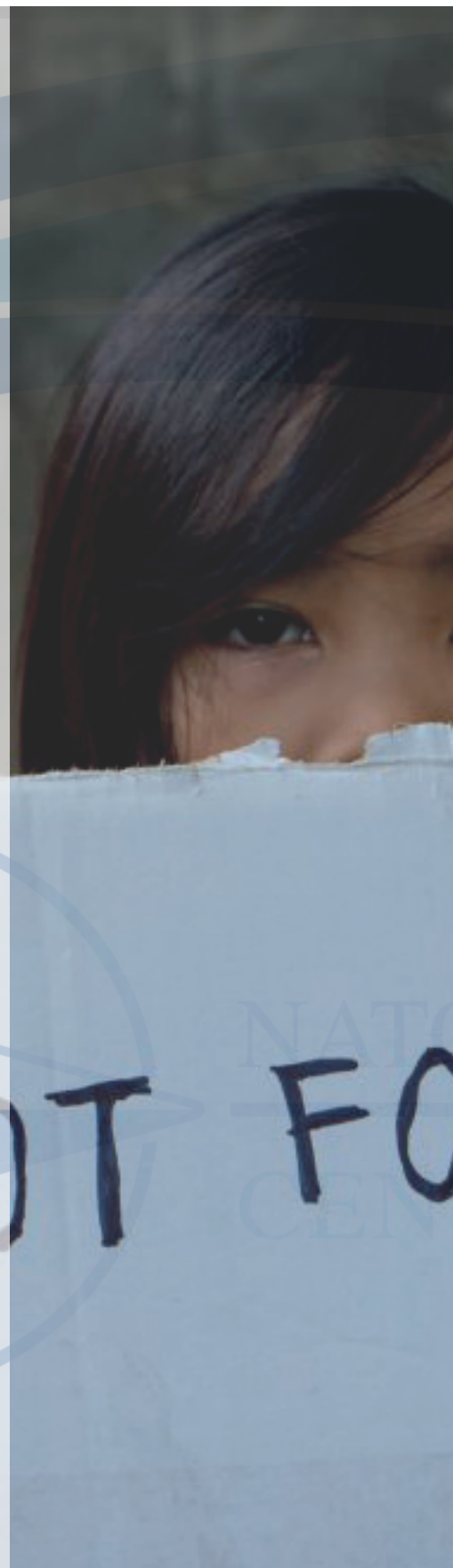
cal competent authorities. Given that war, civil unrest, poverty and a lack of perspectives are all clear push factors for both trafficking and smuggling, it is highly likely that the countries of origin will be subject of international assistance missions. When the situation on the ground is prohibitive, NATO would most likely be the instrument of first choice to stabilize the area, hence the important role that may be played by Stability Policing assets.

Conclusions

This article is titled “Serious Transnational Organized Crime: International actors and actions to counter Human Trafficking and Smuggling of Human Beings”, I therefore made an effort to define both, highlighting differences and similarities, identified the business need behind international cooperation as well as some of the actors that may play a role in curbing these crimes, and provided some easy-to-understand examples of what kind of challenges LE may face. I then moved on and, working out of the NATO Stability Policing Centre of Excellence, tried to find a role, if any for the Alliance as a whole and for Stability Policing as a specific capability. The main conclusion is, therefore, that in this globalized world no single country can face these forms of crime in isolation, and must cooperate effectively to find globalized solutions to globalized challenges. This is followed by a second conclusion, which is that, thankfully, the international environment provides for a series of organisations that support investigators faced with the difficult task of progressing transnational cases, often linked to thousands of entities located in nu-

merous jurisdictions. When these jurisdictions happen to be located in prohibitive areas of the world, it may be that a NATO Mission is in fact endowed with the task of substituting or reinforce the IPF: in this case the Alliance could prove that, not only through its “zero tolerance” policy it does not wish to fuel crime, but that it can take an active part in fighting it, also offering itself as a reliable partner for LE Agencies in the countries of destination, wishing to identify contacts in the countries of origin or transit.

Disclaimer: this paper is a product of the NATO Stability Policing Centre of Excellence and its content does not reflect NATO policies or positions, nor represent NATO in any way, but only the NSPCoE or author(s) depending on the circumstances.





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3. www.selec.org
4. <https://afrapol.africa-union.org/>
5. www.ameripol.org
6. www.frontex.europa.eu

PICTURES:

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