

CROSS-BORDER ORGANISED CRIME

BULGARIA AND NORWAY IN THE CONTEXT OF THE MIGRANT CRISIS



**CENTER FOR
THE STUDY OF
DEMOCRACY**

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The irregular migrant and refugee crisis poses serious challenges for Europe. The unprecedented migration pressure presents an opportunity for the generation of substantial profits by organised criminal networks. The large influx of irregular migrants looking for facilitation has led to the development of human smuggling as a substantial criminal market in Europe. On the other hand, some countries have experienced a concurrent rise in human trafficking cases. The current publication presents an analysis of recent developments in transnational organised crime in Norway and Bulgaria in the context of the migrant crisis. The study presents the first in-depth examination of human smuggling networks and operations in Bulgaria, as well as the synergies and differences between this illicit activity and other organised criminal enterprises, particularly human trafficking. The publication also reviews trends in Norway related to both human trafficking and smuggling, two crimes which have rarely been examined together, with the latter being the focus of little overall research.

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With the financial support of Program BG 13 "Schengen Cooperation and Combating Cross-border and Organised Crime, including Trafficking and Itinerant Criminal Groups" of the Norwegian Financial Mechanism, 2009 – 2014.

ISBN: 978-954-477-314-4

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TABLE OF CONTENTS

Introduction	7
1. Human smuggling in Bulgaria	11
1.1. Trends in irregular migration and smuggling in Bulgaria	12
1.1.1. The emergence of smuggling networks (1990 – 2001)	12
1.1.2. The smuggling networks in the pre-accession period (2001 – 2007) and through 2013	14
1.1.3. The refugee crisis and the smuggling networks, 2013 – 2017	16
1.2. The structure of human smuggling operations in Bulgaria	21
1.2.1. Organisation of smuggling operations	21
1.2.2. Perpetrators	28
1.2.3. Payments	32
1.2.4. Human smuggling and human trafficking networks: synergies and differences	34
1.3. Countering human smuggling	36
1.3.1. Law enforcement response	36
1.3.2. Legislative framework	41
1.3.3. Criminal prosecution and judicial practice	42
2. Human smuggling and human trafficking in Norway	51
2.1. The extent and specifics of the trafficking and smuggling of humans in Norway	52
2.1.1. Human trafficking	53
2.1.2. Human smuggling	55
2.2. Legislative and institutional framework for tackling human trafficking and smuggling	58
2.2.1. Human trafficking	59
2.2.2. Human smuggling	61
2.3. The criminal justice response: major challenges and good practices	62
2.3.1. Institutional capacity	63
2.3.2. Mechanisms for prevention, victim identification and support	64
2.3.3. Policing human smuggling	66
2.4. Good practices in countering human trafficking	67
Conclusion	73
Annex. Coding of Bulgarian respondents	75
Bibliography	77

ACRONYMS

AFIS	Automated Fingerprint Identification System
BCP	border checkpoint
CSD	Center for the Study of Democracy
CC	Criminal Code
CPC	Criminal Procedure Code
EU	European Union
GDBP	General Directorate Border Police
GDNP	General Directorate National Police
GDCOC	General Directorate Combatting Organised Crime
GRETA	Group of Experts on Action Against Trafficking in Human Beings
IOM	International Organisation for Migration
JIT	joint investigation team
KOM	Koordineringsenheden for ofre for menneskehandel (The Coordinating Unit for Victims of Human Trafficking of Norway)
MoI	Ministry of Interior
NCIS	National Criminal Investigation Service
OCG	organised criminal group
SANS	State Agency for National Security
SIT	special investigative techniques
SCC	Specialised Criminal Court
SP	Specialised Prosecution
THB	trafficking in human beings
UK	United Kingdom

LIST OF FIGURES

Figure 1. Structure of Bulgarian smuggling networks and organisation of an average smuggling operation from source to destination.....	27
Figure 2. Registered and cleared crimes: illegal border crossings (Art. 279) vs facilitation of illegal crossings (smuggling) (Art. 280) in Bulgaria	38
Figure 3. Indictments under Articles 280 and 281 of the Bulgarian Criminal Code.....	46

LIST OF TABLES

Table 1. Number of irregular migrants crossing the Turkish-Greek border.....	17
Table 2. Comparison between the official data and the annual estimates of migrant flows in Bulgaria (estimates A and B).....	20
Table 3. Closed cases, convicted and acquitted persons under Articles 280 and 281 of the Bulgarian Criminal Code.....	47
Table 4. Human trafficking cases reported to the police in Norway.....	55
Table 5. Human smuggling cases reported to the police in Norway.....	56

INTRODUCTION

The refugee crisis presents a serious challenge to European societies. Both transit and desired destination countries experience significant difficulties in dealing with the large influx of people entering their territories. Countries like Bulgaria and Greece, which are among the main entry points for the refugee flow, proved unprepared to address the problem when it intensified. As external borders of Schengen these countries have the responsibility to protect the European free movement area. At the same time, Dublin regulations mean that a vast majority of the migrants are unwilling to be registered in these entry points. Therefore, in these external border states there is an increased risk of irregular entry, which can be both assisted and unassisted. According to Europol, an estimated 90 % migrants that enter the EU have used facilitation services at some point.¹

The fight against facilitation of illicit migration and addressing human trafficking are at the top of the nine priorities of the current EU Policy Cycle on Serious and Organised Crime and the European multidisciplinary platform against criminal threats (EMPACT).² In its last SOCTA report, Europol noted that human smuggling has emerged as a large and profitable criminal market in the Union, generating an estimated EUR 4.7-5.7 billion in 2015,³ comparable to the drug markets in the Union in terms of sophistication of actors. The increasing involvement of organised crime and the professionalisation of smuggling services have presented new challenges to effective law enforcement compared to a criminal market dominated by single, disorganised and opportunistic actors. At the same time, the impact that organised human smuggling has had on transnational organised crime more broadly and the convergence between criminal markets and actors have not been sufficiently understood as the mechanisms through which multi-criminal networks take advantage of the new opportunities provided by the illicit migration flow.

A report by Europol found that where smuggling suspects were connected to other crimes, 20 % were involved in human trafficking, 22 % in drug trafficking, 20 % in property crime and 18 % in document counterfeiting and a further rise in perpetrators engaged in multiple offences is expected.⁴ Yet, beyond these indications, little is known about the extent of synergies between human smuggling and other criminal markets. Recognising the necessity for coordinated response to the facilitation of irregular migration, in 2015 the EU adopted an Action Plan against Migrant Smuggling (2015 – 2020). In the Action Plan, the Commission underscored the need for increased understanding

¹ Europol. (2016b) *Migrant Smuggling in the EU*. The Hague: Europol.

² Europol. (2016a) *EU Policy Cycle Serious Organised Crime Priorities*. The Hague: Europol.

³ Europol. (2017) *Serious and Organised Threat Assessment*. The Hague: Europol, p. 50.

⁴ Europol. (2016b), *op.cit.*, p. 9.

of human smuggling networks, noting that “organisations involved in migrant smuggling may be active both in legitimate and illicit businesses, although lack of research and evidence obscures our understanding of these links.”⁵

In contrast to human smuggling, human trafficking is an established area of concern for the EU. A number of key policy and legislative initiatives have been adopted, notably the EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016⁶ and the 2014 Anti-Trafficking Directive.⁷ However, in its assessment of the transposition of the Directive, the Commission noted a number of remaining problems related to prevention, prosecution of perpetrators, victim identification and assistance. The Commission’s analysis further highlighted that “there is strong evidence that the migration crisis has been exploited by criminal networks involved in trafficking in human beings.”⁸ An increase in the number of Nigerian women and girls leaving Libya has been registered, 80 % of whom IOM Italy estimates to be potential victims of trafficking.⁹ The migrant crisis, therefore, adds a new dimension to a criminal activity which is already difficult to address effectively.

However, it remains unclear whether this development applies to other contexts. The mechanisms and extent of involvement of organised crime in human smuggling, as well as the degree to which human smuggling and human trafficking specifically can be viewed as complementary criminal activities remain unclear. The present study aims to increase understanding of developments in transnational organised crime practices in two very different national settings, with specific focus on challenges presented by the migrant crisis. By examining the implications for law enforcement as well, the analysis aims to aid the development of better-suited responses to new developments in transnational crime.

Bulgaria and Norway present appropriate case studies for shedding light on the ways organised crime exploits opportunities for increases in profits. Bulgaria is a transit country for human smuggling and an important source country for both human trafficking perpetrators and victims¹⁰ and has well-established organised criminal groups engaged in a variety of criminal markets.¹¹ Due to the established nature of human trafficking as a criminal threat, the country has managed to build experience, institutional infrastructure and channels of cross-border law enforcement cooperation for countering trafficking in human beings

⁵ European Commission. (2015) *EU Action Plan against migrant smuggling (2015 – 2020)*. Brussels: European Commission, p. 4.

⁶ European Commission. (2012) *EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016*. Brussels: EC.

⁷ European Commission. (2016) *Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. Brussels: EC.

⁸ European Commission. (2015) *EU Action Plan against migrant smuggling (2015 – 2020)*. Brussels: EC, p. 10.

⁹ Organizzazione Internazionale per le Migrazioni. (2017) *La Tratta di Esseri Umani Attraverso la Rotta del Mediterraneo Centrale: Dati, Storie e Informazioni Raccolte dall' Organizzazione Internazionale per le Migrazioni*. Rome: IOM Italia.

¹⁰ Eurostat. (2015) *Trafficking in Human Beings 2015 Edition*. Luxembourg: Eurostat.

¹¹ CSD. (2012a) *Serious and Organised Threat Assessment 2010 – 2011*. Sofia: CSD.

(THB).¹² The effective tackling of human smuggling, however, remains a challenge.

On the other hand, Norway is a destination for both asylum seekers, irregular migrants and human trafficking victims. While not a member of the EU, Norway is a Schengen associated country and can be strongly affected by developments in transnational crime elsewhere in the Union. At the same time, as some have argued,¹³ as a closely associated third-country Norway applies more EU policing and internal security instruments than some other EU member states. As such, Norway's judicial and law-enforcement response to international organised criminality is, in turn, shaped by EU-level political and regulatory dynamics.¹⁴ In addition, Norway experienced a brief surge of numbers of asylum seekers entering through the Arctic route in 2015.¹⁵

This study reviews trends in transnational organised crime in Norway and Bulgaria, taking stock of the impact of the migrant crisis on two criminal markets – human smuggling and trafficking, the actors involved and their modus operandi, as well as the implications for law enforcement and criminal justice. In the case of Bulgaria, the study presents the first in-depth analysis of human smuggling and the networks involved. It reviews the emergence of smuggling networks from the 1990s to date but puts emphasis on the development of the migrant crisis and the quickly evolving structure of human smuggling operations since 2013, followed by an assessment of the institutional response towards these new threats, the challenges faced and possible strategies for improvement.

In the case of Norway, the study reviews trends in organised crime activities in Norway related to both THB and smuggling, two criminal activities which have rarely been examined together. It also looks at a criminal activity, human smuggling, which has not been the focus of much research in the country. The chapter provides a comprehensive picture of the legislative and institutional framework in place to counter these phenomena and assesses challenges and good practices for the criminal justice response and policing the two phenomena. Particular attention is paid to human trafficking, which continues to present one of the main fields of operation of organised crime in Norway as a major destination country.

The report further discusses the potential links and convergence between smuggling and THB in both countries, compares and contrasts the law enforcement responses towards the two phenomena, and concludes

¹² Ibid.

¹³ Hufnagel, S. (2016) "'Third Party' Status in EU Policing and Security," *Nordisk Politiforskning*, 3 (2): p. 165-180.

¹⁴ Norway is fully integrated and actively participates in the decision-making processes in EU's justice and home affairs domains as a non-voting country. For example, Norway is involved in, among others, the Dublin Cooperation, the European Migration Network and the European Asylum Support Office. Norwegian police representatives and prosecutors work for Europol and Eurojust respectively. Norway is party to the Mutual Assistance arrangement, the Prum Treaty and is awaiting entering into force of the European Arrest Warrant.

¹⁵ Jokinen, A. (2016) "Irregular Migration, Trafficking in Persons and Prevention of Exploitation." In Carrera, S. and Guild, E. (eds) *Irregular Migration, Trafficking and Smuggling of Human Beings: Policy Dilemmas in the EU*. Brussels: Centre for European Policy Studies, 70-73.

with recommendations for a more effective fight against transnational organised crime. These underline the need for law enforcement to develop crosscutting competences to be able to respond effectively to the evolving complexity and scale of transnational criminal activities across the spectrum of serious and organised crime.

1. HUMAN SMUGGLING IN BULGARIA

Cross-border trafficking and smuggling in persons and goods remain among the essential income sources for organised crime in Bulgaria and pose a high public threat.¹⁶ Following the lifting in 2001 of the Schengen area visa requirements for Bulgarians and Romanians, the largest market for Balkan organised crime became trafficking for sexual exploitation. This, however, changed quickly in 2013, when Bulgaria found itself affected by the migrant crisis triggered by events in the Middle East.

While the organisation of human trafficking as a transnational crime is well documented and researched, emerging trends such as human smuggling and other forms of cross-border crime afforded by the most recent migration wave from the Middle East and North Africa to Europe are less well understood and law enforcement methods are yet to adapt to these threats. Although smuggling networks in Bulgaria date back to the early 1990s, the unprecedented migration pressure triggered by the European migrant and refugee crisis since 2013 has turned the country into a transit zone. The majority of irregular migrants and asylum seekers have been smuggled by organised criminals and opportunistic facilitators via the Eastern Mediterranean Route towards Western European countries as their final destination. This has presented new challenges for EU and Bulgarian border control and the fight against organised crime networks involved in cross-border smuggling operations. Despite the increased political and media attention, the level and nature of involvement of organised crime in human smuggling and the changing patterns of facilitation of irregular entry, stay or transit remain little understood.

As the crisis developed, Bulgarian and transnational organised criminal groups active in other more traditional criminal activities – such as the trafficking of drugs or cigarettes – have increasingly switched to or become simultaneously engaged in smuggling of irregular migrants, using their know-how and previously established smuggling routes and networks. However, despite the extent of the migrant flow and the numerous cases of human smuggling detected, irregular migration facilitation in Bulgaria and its development since 2013 has not been thoroughly explored.

This chapter contributes to closing this knowledge gap and aids law enforcement in countering this crime by assessing the patterns and modalities of human smuggling in Bulgaria, the actors involved and the effectiveness of law enforcement responses.¹⁷ The chapter explores the ways criminal

¹⁶ CSD. (2012a), *op.cit.*

¹⁷ The present study is based on a review of policy documents and grey literature, review of official statistics provided by the Ministry of the Interior, the Supreme Judicial Council, the Specialised Criminal Court, review of court cases on human smuggling, as well as on in-depth semi-structured interviews with experts from law enforcement and judicial authorities. A total of 42 interviews were carried out with officials from the General Directorate Border Police

actors adapt to opportunities for the generation of substantial profits and the implications for law enforcement. It also reviews the history of human smuggling in Bulgaria since the early 1990s, followed by an assessment of the effects the European migrant crisis has had in terms of opportunities created for existing and emerging criminal groups. It then provides an analysis of networks and perpetrator roles, *modi operandi* and routes, with particular emphasis on payment modalities.

The report analyses the intersection and overlap between Bulgarian criminal networks in human trafficking and human smuggling. It addresses the impact the new opportunities created by the migrant crisis has had on the largest organised crime market in Bulgaria – human trafficking for sexual exploitation in Europe more generally and in Norway specifically.

An assessment of the institutional response towards tackling facilitated irregular migration is then provided, problem areas are mapped and strategies to improve law enforcement measures and prosecution are suggested.

1.1. TRENDS IN IRREGULAR MIGRATION AND SMUGGLING IN BULGARIA

1.1.1. The emergence of smuggling networks (1990 – 2001)

The start of organised smuggling operations in Bulgaria can be traced back to 1990 – 1991, when the need to smuggle Bulgarian citizens from the Turkish minority into Turkey arose.¹⁸ It was prompted by the sudden closure of the border by Turkey in August 1989, following the mass migration wave from Bulgaria in June-July 1989.¹⁹ Due to the closure, a large number of families remained divided. In the following years, the smuggling of members of the Turkish minority from Bulgaria into Turkey developed as a large and sustainable criminal market. This process continued almost throughout the 1990s, despite several agreements between Turkey and Bulgaria²⁰ for family reunification.

(GDBP), the General Directorate National Police (GDNP), General Directorate Combatting Organised Crime (GDCOC), the Internal Security Directorate, the Specialised Prosecution, regional prosecutions in relevant regions of the country, former border police officers and human smugglers. Below, references to these interviews are made using a coding table in which each respondent was given a code; see the Annex for details.

¹⁸ Here the illicit transfer of people across the Balkan borders organised by the Bulgarian State Security (the equivalent of KGB) prior to 1990 will not be addressed.

¹⁹ The emigration of the Turkish minority from Bulgaria began in the mid-1980s when the regime of communist leader Todor Zhivkov decided to force the change of the Turkish names of Bulgarian citizens of Turkish origin. As part of the campaign, it was forbidden to speak in Turkish in public places and to wear traditional Turkish clothes. In the spring of 1989, the Bulgarian government allowed citizens of the Turkish minority to leave the country, providing them with travel passports. On June 3, Turkey opened its border with Bulgaria and this led to the mass migration of about 360,000 people to Turkey. On August 21, the border was again closed by Turkey. As a result of the poor conditions in the Turkish reception centres, a return process began. By the end of 1990, over 150,000 immigrants had returned back to Bulgaria.

²⁰ For example, a 1998 agreement allowed the reunification for family members with regular residence documents in Turkey. The problem was that part of the immigrants from Bulgaria had only temporary permits or had entered illegally in Turkey.

Following the political changes in Bulgaria, the Soviet-style control of the borders was suspended,²¹ which reduced the risks for smugglers. The so-called “guides” (residents of the border regions who know intimately the terrain at the border) started to offer their services for illegal crossing of the Bulgarian-Turkish border. Initially, their number was very low and the transfer prices were high, because the Turkish border was still guarded by two fencing facilities, one of them equipped with a signalling system.

By the mid-1990s, these guides were already organised in loose networks. A clear structure began to emerge, with specific roles for **guides** who accompany the people through the green border, guides who meet the migrants in Turkey, and even **brokers** who sign up people planning to migrate to Turkey. The brokers were usually from the Turkish minority from the regions of Kardzhali, Momchilgrad, Krumovgrad, but also from North-eastern Bulgaria. They negotiated the prices and the number of people to be smuggled. Other minor roles included **drivers** (providing rides to the border for potential migrants), **accommodation providers**, and **informers** (people with contacts among the border guards, providing information about their routes and schedules). In the mid-1990s, demand for smuggling in the opposite direction, from Turkey to Bulgaria, began to rise rapidly.²²

Following the 1999 earthquake in Turkey, the number of emigrants to Turkey fell sharply,²³ and once Turkey introduced visa-free travel for Bulgarian citizens, there was no longer a need for smuggling them across the Turkish border.

It is difficult to estimate the exact size of the human smuggling market. According to Turkish sources, the number of Bulgarian citizens from the Turkish minority living in Turkey in the 1990s was anywhere from 100,000 to 300,000. The average price per person smuggled was DM 1,000 (EUR 500).²⁴ Former police officers who had investigated smuggling networks estimate that no more than 50,000 to 60,000 people had been smuggled across the Turkish border, with prices ranging from DM 500 and 2,000.

²¹ During the communist regime, the borders were guarded by a system of fences and signalling installations, coupled with systematic use of border dogs and weapons against persons who tried to cross the border illegally. Archives reveal that between 1945 and 1990 hundreds of Bulgarians and citizens from other countries of the Soviet bloc were killed when trying to cross the border. These measures were supplemented by a large network of locals of border regions informing the police about violations. Incentives for the local population to provide information were in place to maintain this network. In the early 1990s, these strict border control measures lingered for some time before being abolished.

²² While no border police data is available for the period, respondents (BG-P28, BG-P29, BG-P30, BG-P31) point to cases of apprehended persons from different countries from the Middle East.

²³ The earthquake in Northwest Turkey in August 1999 changed abruptly attitudes among the Turkish minority in Bulgaria, and the number of people planning to emigrate went down significantly. See United Nations Development Programme. (2000) *Early Warning System Annual Report*. Sofia.

²⁴ *Дневник* „300 млн. марки са спечелили каналджиите” 3.06.2001.

1.1.2. The smuggling networks in the pre-accession period (2001 – 2007) and through 2013

In 2001, Bulgaria started pre-accession negotiations with the EU and Bulgarian citizens were granted visa-free travel in the Schengen area. This marked the beginning of a significant wave of Bulgarian immigration to EU countries. At the same time, after the collapse of the Milosevic regime in Serbia, the traditional direct routes to Central and Western Europe via Serbia became fully accessible. As Bulgaria became a convenient transit country for migrants from North Africa and the Middle East to Western Europe, new opportunities opened up for the existing smuggling networks. At that time, smuggling networks had already developed a smoothly operating infrastructure for illegal crossing of the Bulgarian borders.²⁵ According to official data of the Ministry of Interior, at the beginning of 2001, about 900 persons had been registered by the Bulgarian border police as smugglers. Of them, 275 were convicted in 2000, but only 4 had effective sentences.²⁶

A major factor for the rise of migrant smuggling was the existence in Bulgaria of diasporas from North Africa and the Middle East. These communities evolved around former students who had studied in Bulgaria (in line with the Soviet doctrine to maintain influence in the Third World). Some of these students had settled in Bulgaria while retaining their contacts in their home countries. After 1990, these communities, in particular well-to-do representatives of the Arab²⁷ and Kurdish ones, began to help their countrymen to obtain legal residence in Bulgaria.

The Bulgarian smuggling networks built upon the experience and resources developed in smuggling persons from the Turkish minority. For example, according to interviews and publications in the media, deserted migrant houses in the regions populated by the Turkish minority, such as Kardzhali, have been used to accommodate migrants from the Middle East.²⁸ An important role was played by members of the Bulgarian Turkish minority who had emigrated from Bulgaria to Turkey. In the past, some among them had turned smuggling into a profitable business by facilitating illegal transfers across the border for Bulgarian Turks. Under the new circumstances, living in Turkey they served a sustainable flow of foreign citizens wishing to cross the border illegally to Bulgaria. This group of smugglers is so active that some of them expand their services, offering smuggling of people across the Greek-Turkish border as well. Their most valuable asset is the trust they enjoy at the highest levels in the rapidly expanding smuggling industry in Turkey (and in particular in Istanbul).

²⁵ CSD. (2002) *Corruption, Trafficking and Institutional Reform*. Sofia: CSD.

²⁶ Богданов, А. 5.03.2001 „Полк. Валери Григоров: 275 души са осъдени миналата година за нелегалните канали за имигранти“ Сега.

²⁷ In a 2010 study by Vitosha Research of long-term foreign residents in Bulgaria many Chinese citizens claimed that solving problems with residence documents “is difficult without the mediation of the Arab communities”.

²⁸ Стангарт „Трафиканти на хора правят бази в Родопите“ 23.01.2002.

The onset of military actions in Afghanistan and Iraq in 2002 – 2003 led to a significant increase of refugees using Bulgaria as a transit country.²⁹ Economic migrants joined the refugees from the war, and smugglers took advantage of this mixed migration flow.

New smuggling models and new players emerged. Probably the most profitable supplementary activity was the counterfeiting of Bulgarian and EU travel documents, where the highly qualified currency counterfeiters operating in Bulgaria excelled. The price was fixed and depended on the complexity of the national documents to be counterfeited. However, most often migrants were supplied with illegally issued or stolen authentic Bulgarian identity documents.³⁰

Two very important new types of players working in partnership with smuggling networks emerged. The first one was bus companies providing transport from Bulgaria to countries of the European Union. As Bulgarians could travel visa-free to the countries of the Schengen area, smugglers started mixing Bulgarian citizens and irregular migrants. The second player were the travel agencies: they facilitated legal entry of potential migrants to Bulgaria, from where smugglers transferred them illegally to EU countries.³¹

A 2002 report of the Center for the Study of Democracy (CSD) showed that a significant number of foreign nationals entered the country but there was no record that they had left.³² During the late 1990s and early 2000s, a few basic “corridors” for migrants charging sustainable prices, was established, with no significant changes since then (excluding in 2015).³³ The prices are as follows:

- from Istanbul to Sofia – USD 500 – 700;
- from Sofia to Thessaloniki or Athens: USD 700 – 1,200;
- from Sofia through Romania or Yugoslavia to Budapest: USD 1,000 – 1,200;
- from Sofia through Romania, Yugoslavia, Hungary, Slovakia to Austria: USD 2,000 – 2,300;
- from Sofia to Germany: USD 2,000 – 2,500;
- from Sofia to Italy: USD 2,000 – 2,500;
- from Sofia to Denmark or Norway: USD 5,000 – 6,000.³⁴

Bulgaria’s accession to the EU opened up new opportunities but also created challenges for the operation of smuggling networks. From

²⁹ *Дневник* „Царево протестира срещу бежански лагери до плажовете”, 7.01.2002; *Дневник* „Бежанци атакуват България през Гърция” 27.05.2002; *Труд* „Заловихме 66 бегълци, каналджия прострелян” 14.11.2004.

³⁰ Various corruption schemes were used, such as payments to officials at the passport department of the Ministry of Interior (at that time Bulgarian passports did not have biometric data), or using stolen documents of Bulgarian citizens who had visual resemblance to the migrants. Documents of representatives of Turkish minority were in high demand.

³¹ Smuggling networks and networks for trafficking in human beings for the purpose of sexual exploitation often use the same transport companies.

³² CSD. (2002), *op.cit.*

³³ BG-P28, BG-P29, BG-P30, BG-P31.

³⁴ CSD. (2002), *op.cit.*

1 January 2007, Bulgarian citizens could travel freely to the EU, using only their national identity cards. The new regime made it easier for smugglers to move around in the Schengen area. At the same time, however, the bilateral agreements between Bulgaria and third countries for visa-free travel had to be cancelled, making it harder to smuggle third country nationals into Bulgaria and then to Western European countries.

Another obstacle for the smuggling networks was the introduction of mandatory registration of biometric data for persons seeking refugee or humanitarian status in Bulgaria. Since 2007, pursuant to the Dublin Agreement, foreign nationals seeking refugee or humanitarian status in Bulgaria must remain in Bulgaria. If apprehended in another EU country, they are subject to return to the country of first entry. The already established channels continued to operate under their own momentum, thus trapping thousands of migrants heading to Western Europe. Later, smuggling networks rarely used this option.³⁵

The predictions that after Bulgaria's EU entry some of the irregular migrant flow would be redirected from Greece through Bulgaria did not materialise. The reason is that compared to Greece, the Bulgarian route has two disadvantages. First, Bulgaria, together with Romania, is still not part of the Schengen area.³⁶ To reach the area of free movement, migrants who have been smuggled into Bulgaria need to go through at least two other controlled land borders. Second, contrary to practices at the Turkish-Greek border, Turkish border police at the Turkish-Bulgarian border cooperate with their Bulgarian counterparts and stop migrants who try to cross the border illegally.

1.1.3. The refugee crisis and the smuggling networks, 2013 – 2017

The Bulgarian smuggling networks found themselves in a radically different situation in the summer of 2013. Until then, Bulgaria had been a marginal migratory path compared to the huge wave of migrants entering Europe on the major Balkan route through Greece. In the 2007 – 2011 period, Greek police reported between 35,000 and 55,000 irregular crossings per year at its land and maritime borders,³⁷ while the respective numbers for Bulgaria were between 1,000 and 2,000. In 2013, however, the migration routes through Greece were practically closed following the reinforcement of its borders with additional police and fencing facilities,

³⁵ A 2009 survey of Vitosha Research targeted a large number of non-EU citizens who were returned to Bulgaria as illegal migrants from other EU countries. All of them had assumed (based on outdated information) that they could request asylum in Bulgaria, and then continue on their way to Western Europe. With the introduction in 2007 of mandatory EURODAC entry procedures in Bulgaria, these migrants were treated as illegal immigrants in Western European countries and most of them left the EU.

³⁶ In 2010, the French President Nicolas Sarkozy claimed that Bulgaria and Romania were not ready to join the Schengen area. The entry of the two countries has been a politically sensitive issue since then.

³⁷ Various analyses indicate that the major factor for the enormous migration wave through Greece was the liberal visa policy of Turkey towards countries of the Middle East and Africa (<http://frontex.europa.eu/trends-and-routes/eastern-mediterranean-route/>).

bringing down the illegal border crossings to 1,122 at its land border with Turkey, and 2,525 at its maritime borders (Table 1).

TABLE 1. NUMBER OF IRREGULAR MIGRANTS CROSSING THE TURKISH-GREEK BORDER

	2007	2008	2009	2010	2011	2012	2013	2014
Greek-Turkish land border	16,789	14,461	8,787	47,088	54,974	30,433	1,122	1,141
Greek-Turkish sea border	16,781	30,149	27,685	6,204	814	3,610	2,525	21,983

Source: Greek police data as cited in: Triandafyllidou, A. (2014) *Migration in Greece: Recent Developments in 2014*. Athens: Hellenic Foundation for European and Foreign Policy.

As a consequence, migration pressure on the Bulgarian-Turkish border increased drastically. The flow of transiting Syrian and other migrants coming from Turkey that hit the Bulgarian borders in August 2013 could not be stopped. It should be noted that Bulgaria was in a political crisis at that time, and the way the country should react to the migration pressure was the subject of heated political debates.³⁸ On one hand, there were refugees fleeing a civil war in Syria; on the other, there was the issue of massive numbers of foreign citizens crossing the national borders illegally.

The smuggling networks were undergoing a shock at all levels, with new players and new organisational forms quickly emerging. At the highest level, a significant number of coordinators entered the market, setting up new structural units where Syrian and Kurdish coordinators were particularly influential. At the level of guides (who sensed the upcoming pressure as early as the summer of 2012), the size of groups to be smuggled increased from 4-8 migrants in earlier periods to 10-15 by the spring of 2012 and 20-30 in a group in August 2013.³⁹

The most important change was the entry of new players. Until then, almost all smugglers at the lower levels (guides, drivers, accommodation providers, informers) had been experienced members of the networks. After August 2013, the numerous new entrants included mostly persons with criminal records, but also regular residents of the towns close to the border (Svilengrad, Harmanli, Haskovo) who offered transport and housing to migrants. At the time, some of these services had not been incriminated, as political attitudes to migrants were equivocal. Typically, "the Syrians" – a byword for all migrants from the Middle East and Northern Africa who reside in Bulgaria – are transported by taxi drivers or other legal transportation companies, and are offered accommodation in inexpensive motels, hostels or private residencies. The migration flow is served by an extensive and chaotic periphery of service providers.

³⁸ Beginning on 14 June 2013, daily street protests took place in Sofia and other large cities. The opposition managed to block the work of the Parliament.

³⁹ 24 часа „Триъгълникът на каналджиите“ е между Свиленград, Елхово и Малко Търново“ 3.10.2012.

Initially, media, politicians and the general public tended to show compassion to the Syrian refugees. These attitudes changed abruptly when a large number of migrants became stuck in Sofia due to the insufficient capacity of the existing smuggling networks (demand exceeded several times the throughput of the channels used for transferring migrants to Central and Western Europe). The sight of thousands of migrants in downtown Sofia, along with the media reports of criminal incidents involving migrants, intensified negative attitudes and even led to actions by far right organisations. Fearing that these attitudes could deepen the political crisis, the government decided to put an end to the free flow of migrants into the country. An additional 1,200 police officers were positioned along the borders in November 2013,⁴⁰ and the influx of migrants sharply declined.⁴¹ Intermittently during the crisis, at times of especially strong migration pressure, the government would reinforce the border police with additional troops from Mol or the military.

After November 2013, the operations of the smuggling networks continued in their traditional fashion. If up to August 2013 passage was easy and the guides took the migrant groups through convenient spots at the border, where it could be safely crossed, while border guards took the apprehended migrants to migration centres, since November 2013 this had no longer been possible. The organisers now needed to take care of instructing the guides on both sides of the border about safe spots where the groups can be smuggled. They needed several months to identify corruptible border guards⁴² who were willing to cooperate with the smugglers, in order to return to the previous rates of successful smuggling.⁴³ Within two-three months the smuggling networks managed to remove the irregular migrants from public spaces in the cities, and to make their movement across the country less visible. The new facilitators, providing transport and housing services, absorbed most of the risks.

If before the crisis, Bulgarian smuggling networks could service between 1,000 – 2,000 irregular migrants, in 2014, the second year of the refugee crisis, the Bulgarian smuggling networks increased their capacity tenfold (see Table 2). In addition, Bulgarian smugglers established permanent presence in the neighbouring Balkan countries. Their area of operation is no longer limited to the territory of Bulgaria.

Coordinators active in Bulgaria and Bulgarian organisers expand their operations beyond the borders of the country to destinations, as indicated by the infamous “coffin truck” case (See Case 1). The smuggling units are capable of crossing three or four foreign borders, and the charge per smuggled migrant for delivery to Germany, France, Netherlands or other

⁴⁰ The government of Plamen Oresharski (2013 – 2014) failed to react immediately to the migration pressure. As police from all over the country was involved in guarding mass anti-government protests, there were no spare police forces that could be sent to strengthen the regular border police units.

⁴¹ As per statistics available in: MBP. (2016) *Ситуационна картина на миграционната обстановка за периода 2013 – 2016 г.* София: MBP.

⁴² Based on interviews with police officers from the Directorate Internal Security.

⁴³ The rate of irregular migrants (those with no police registration) apprehended when exiting the country rose to 50 % in April 2014 and reached 86 % by October the same year.

EU countries is around EUR 5,000 – 6,000. In 2016, Bulgarians have also been apprehended on several occasions in countries not neighbouring on Bulgaria – for example Croatia⁴⁴ or the Czech Republic.⁴⁵

Case 1. The “coffin truck”

On 27 August 2015, the Austrian police uncovered an abandoned truck with 71 suffocated irregular migrants on the highway near Pandorf, close to the Austrian-Hungarian border. In total, 11 persons were charged with human smuggling and with causing the death of the irregular migrants: one Afghan national residing with a refugee status in Hungary,⁴⁶ pointed as the leader of the group, a Lebanese with a Bulgarian passport, who had allegedly procured the vehicles and the temporary license plates⁴⁷ and nine Bulgarian drivers. The Afghan leader had resided in Hungary since 2013 and is suspected to have been involved in smuggling since February 2015.⁴⁸ Upon investigation, it became clear that the German police had more than 10 open investigations in human smuggling perpetrated by the same OCG.⁴⁹

The criminal group had 31 vehicles in its possession with which it is estimated to have transported at least 1,200 people to Western Europe.⁵⁰ The group would recruit drivers from Bulgaria and irregular migrants from Serbia, while the means of transport were purchased in Hungary.⁵¹

Five of the indicted Bulgarians are from the North-western Bulgarian town of Lom. All of them have criminal records for theft.⁵² The alleged driver of the truck has 11 criminal registrations, most for minor infractions but media accounts connect him to a number of criminal enterprises such as pimping, cigarette smuggling and assisting in fraud involving transfers of indebted companies.⁵³ Furthermore, the driver was allegedly involved in another smuggling incident in Germany, when a vehicle registered in his name was stopped with 38 irregular migrants.⁵⁴

The tremendous capacity developed by the smuggling networks is demonstrated by 2015 data. Based on official statistics, between 23,000 and 34,000 persons who have passed through the country have an AFIS registration and are subject to return to Bulgaria under the provisions of the Dublin Regulation. At the same time, the total number of irregular migrants who crossed the borders in 2015 is estimated to have been between 110,000 and 150,000 (see Table 2), which is between 12 % and 17 % of the irregular migrants entering Europe through Greece and the Western Balkan route.

⁴⁴ Василева, Е. 30.11.2016 „Шестима българи заловени в Хърватия за трафик на мигранти“ *Dnes.bg*.

⁴⁵ *Dnes.bg* „В Чехия хванаха 26 нелегални мигранти в български бус“ 21.4.2016.

⁴⁶ *Nova.bg* „Обвинения в убийство и трафик на хора грозят 7 българи в Унгария“ 12.10.2016.

⁴⁷ *168chasa.bg* „В Унгария 11 души, включително и българи, са обвиняеми за смъртта на 71 мигранти“ 4.5.2017.

⁴⁸ *Reuters.com* “Police recount journey of 71 migrants who died in Austria as investigation ends” 12.10.2016.

⁴⁹ Eurojust. (2017) *Annual Report 2016*. The Hague: Eurojust.

⁵⁰ Димитров, М. 5.5.2016 „Претъпкани, нечовешки, мъчителни условия“ довели до смъртта на 71 мигранти“ *Capital.bg*.

⁵¹ Europol Press Release. 12.10.2016 “Hungary concludes investigation into the death of 71 migrants.”

⁵² Борисова, Б. 2.9.2015 „Нови данни за арестуваните българи-трафиканти“ *Nova.bg*.

⁵³ Александрова, К. и Борисов, К. 1.9.2015 „Ломският Митьо Крика карал камиона ковчег с бежанците“ *24chasa.bg*.

⁵⁴ *Standartnews.bg* „Трафикантът от Лом живее в лукс“ 7.9.2015.

TABLE 2. COMPARISON BETWEEN THE OFFICIAL DATA AND THE ANNUAL ESTIMATES OF MIGRANT FLOWS IN BULGARIA (ESTIMATES A AND B)⁵⁵

Year	Entry	Exit	Interior	Entry+ Exit	Entry+ Exit+ Interior	Estimate A (excl. apprehended in the territory)	Estimate B (all data)
2013	11,618	-	-	11,618	11,618	12,000	12,000**
2014	6,499	3,009	2,867	9,508	12,375	27,000	37,000
2015	10,900	11,805	11,140	22,705	33,845	110,000	175,000
2016	4,600	14,310	9,267	18,836	28,103	17,000	33,000
Total	33,617	29,124	-	62,667	85,941	166,000	257,000

** Due to lack of data on apprehended without an AFIS registration at exit and a lack of policy discouraging passage through the country it can be assumed that the registered at entry correspond to the number of migrants passing through the country.

Source: Ministry of Interior monthly migration statistics.

In 2015, Bulgaria built fencing facilities at the border with Turkey to cover the most vulnerable sections. The smuggling networks were forced to look for remote spots further away from the usual smuggling paths, reaching as far as the Black Sea coast. To respond to the new hike in demand, several thousand facilitators from all over the country got involved, sporadically or full time. Another change was the further increase of the size of smuggled groups to 70-80 people, and occasionally over 100 in a group.

The agreement between Turkey and the European Union of 2016 put an end to the migration crisis, despite fears that Bulgaria might again become a major migratory route. At the same time, irregular migrants were being returned from Austria to Hungary, from Hungary back to Serbia, and subsequently Serbia started returning them to Bulgaria. The closure of the migratory route through Serbia posed further challenges to the smuggling networks. While in the first half of 2016 migrant and refugee centres in Bulgaria were occupied at about 10-20 % of their capacity, in September the number of occupants exceeded the capacity (106 %).⁵⁶ After the failed coup in Turkey, the situation at the Bulgarian-Turkish border improved dramatically as the number of entering migrants

⁵⁵ The migration data collected by the Ministry of Interior allows for the estimation of the amount of irregular migrants who crossed the territory of Bulgaria in 2014 – 2017. Four types of data on irregular migrants is used: 1) apprehended at entry; 2) apprehended inside the territory of the country (with regard to this indicator, it is possible for irregular migrants to have been counted more than once); 2) apprehended at exit; 4) apprehended at exit without AFIS registration. Two estimates can be derived, each based on three steps. Estimate A: in order to minimize errors resulting from the possibility of irregular migrants being counted more than once if apprehended inside the country, a monthly estimate can be derived by summing the number of apprehended at entry and apprehended at exit. Estimate B: the monthly number of apprehended irregular migrants is derived by summing the number of apprehended upon entrance, inside the country and at exit without AFIS registration. Subsequently, both estimates are multiplied by a coefficient, inversely proportional to the ratio between apprehended migrants with AFIS registration and all apprehended migrants. All monthly figures are summed to arrive at an annual estimate.

⁵⁶ As per data from the weekly reports on the migration situation by the MoI (<https://www.mvr.bg>).

dropped. The setting up by the Turkish government of 3 control lines along the Bulgarian and Greek land borders to prevent its various adversaries (Gülenists, military officers fleeing persecution, Kurdish activists, etc.) from leaving the country also contributed to the disruption of smuggling operations. On the Bulgarian side, the new fence was almost complete, second and third lines of control at the green border were introduced, and border police were reinforced with units of the gendarmerie, the national army and seconded border guards from Frontex. Indicative of the effectiveness of the measures is the fact that even before Turkey and Serbia took those steps, the share of irregular migrants apprehended at exit without an AFIS registration went down from 70.7 % in the first six months of 2015 to 43.7 % for the same period in 2016.⁵⁷ At the end of 2016, the smuggling networks experienced sharp shrinking of demand. The number of irregular migrants entering the country fell to 15-20 people per week, while the share of unregistered migrants apprehended at exit went down to 12-18 %. No significant changes have been observed in the first six months of 2017, with about 20 irregular crossings per week, with the share of unregistered irregular migrants at exit about 15 %.

1.2. THE STRUCTURE OF HUMAN SMUGGLING OPERATIONS IN BULGARIA

This section reviews the organisation of human smuggling networks and routes since the beginning of the migrant and refugee crisis in 2013 and takes stock of most recent developments. While some facets of the smuggling networks (such as the core roles within the networks) are the same as prior to the crisis, the involvement of new actors brought about more diversity of smuggling operations, routes and *modi operandi*.

1.2.1. Organisation of smuggling operations

Since 2001 – 2002, Bulgaria has become a transit zone for the flow of irregular migrants on their way to Western Europe. As a result, demand for smuggling services, including facilitation of entry and exit without registration, or irregular exit of those already registered in Bulgaria increased significantly. While during the migrant crisis the organisation of smuggling operations varied significantly, commonalities have been observed as regards routes taken to enter and exit the country, the hub to which irregular migrants were taken and the division of tasks within the smuggling networks. However, the changing migration routes, intensity of migration flows and stricter border control measures are all factors that have impacted on the organisation of smuggling operations.

Smuggling networks are transnational in nature, including both foreign and domestic perpetrators. Several roles can be distinguished within

⁵⁷ MoI monthly migration statistics.

Bulgarian facilitation networks:⁵⁸ **coordinators (liaisons), organisers, informers, guides, road scouts, and those providing transport and accommodation.** Depending on the complexity of the organisation, there might be strict division of labour with different people being in charge of specific aspects of the smuggling operation.

Essential for a smuggling network is the figure of the **coordinator**, who is of foreign origin.⁵⁹ Coordinators are members of different communities from the Middle East⁶⁰ who are usually long term immigrants owning a business and/or married to Bulgarians, persons of foreign descent born in Bulgaria, etc.^{61,62} The coordinator is usually not involved in operations of the network. Instead, he makes arrangements on the number of irregular migrants to be smuggled, the prices to be charged and selects the network operating on the local level.⁶³

Coordinators in different countries are part of a larger network, which can stretch from migrant source countries through transit countries to desired destinations.⁶⁴ These networks recruit migrants mainly from among their national or ethnic communities already in the countries of origin⁶⁵ and contact key Turkish smuggling network leaders.^{66,67} The coordinator for Bulgaria also contacts **an organiser**, who is in charge of finding guides, transport and accommodation in Bulgaria. The coordinator makes the connection between the Bulgarian organiser and his Turkish counterpart, who subsequently arrange the specificities and initiate

⁵⁸ Similar roles, with some variations, have been identified by other studies in different contexts. However, they have been given different labels. See Antonopoulos, A. and Winterdyk, J. (2006) "The smuggling of migrants in Greece: an examination of its social organization," *European Journal of Criminology* 3 (4): 439-461; In Turkey, the organisation of smuggling operations also includes similar roles, but is more complex as it includes one more level compared to Bulgarian networks (Demir, O., Sever, M. and Kahya, Y. (2017) "The Social Organisation of Migrant Smugglers in Turkey: Roles and Functions," *European Journal on Criminal Policy and Research* 23 (3): 371-391.).

⁵⁹ It is likely that social relations and hierarchies in the countries of origin of irregular migrants determine the coordinators in charge of arranging smuggling operations in other countries. Respondents have noted that conflicts between rival clans in Afghanistan led to clashes for control of smuggling channels in Bulgaria (BG-P9, BG-P10).

⁶⁰ There have also been several coordinators from African countries, who almost completely disappeared during the migrant crisis.

⁶¹ BG-P1, BG-P2, BG-P3, BG-P4, BG-P5.

⁶² For example, media reports suggest that the brother of a prominent Bulgarian-born movie director and PR professional from Syrian descent is involved in a smuggling ring for Syrians (*24chasa.bg* „Братът на Нидал Алгафари бил замесен в канал за бежанци“ 23.9.2015).

⁶³ BG-P3, BG-P32, BG-P33.

⁶⁴ BG-P33; In other studies, these networks might be referred to by different names. For example, Demir, Sever and Kahya (2017) divide these networks along two roles – intermediaries, who are active in source countries and recruit or are approached by migrants and liaisons who operate in transit countries and communicate with organisers (Demir, Sever & Kahya, *op.cit.*).

⁶⁵ Other studies have also concluded that the process usually begins in countries of origin with the smugglers approaching potential migrants or the other way around. E.g. Heckmann, F. (2005) *The Social Organisation of Human Smuggling*. Warsaw: Center for International Relations.

⁶⁶ BG-P33.

⁶⁷ According to the experts interviewed for this report, unlike those in Bulgaria, the senior levels at the smuggling networks in Turkey are occupied mostly by Turkish citizens who maintain contacts with the Turkish security services. This puts key Turkish smugglers in a privileged position. After the coup in that country, many smugglers have been jailed convicted for being Gülenists, having contacts with PKK, terrorist organisations, etc. (BG-P32, BG-P33, BG-S3). As a result, the Turkish security services have considerably enhanced their control of smuggling networks (BG-S3). In Bulgaria, the counterintelligence service also influences smuggling networks but provides "cover" only for foreign coordinators with the justification that these are valuable agents in anti-terrorist efforts (BG-S2, BG-S3).

smuggling operations from Istanbul⁶⁸ or Edirne.⁶⁹ Before initiating more stable smuggling activities, a few irregular migrants might be sent to test out the channel and see if it is safe and operational.⁷⁰

The **organisers** are mostly Bulgarians, with only some coming from the Turkish minority in Bulgaria. They can arrange the transport and accommodation for the journey along the whole distance of the country, from the Turkish-Bulgarian border to exit or split it in sections. In the most typical case, locally based participants in smuggling operations service certain sections of the distance – smugglers from Bourgas and Svilengrad would bring the irregular migrants from the Turkish border to Sofia, which is a main hub, or another city, such as Plovdiv.⁷¹

Once the organisers in Turkey and Bulgaria work out the details of the operations, irregular migrant groups are transported to the border area. The most common method for crossing the Turkish-Bulgarian border is by foot⁷² and less often concealed in trucks.⁷³ **Guides** take groups across the border or escort them close to it, giving detailed instructions on how to pass. After the group crosses from Turkey into Bulgarian territory, they are often taken over by other guides.⁷⁴ The guides on both sides of the border can vary in profile significantly. They could be Turkish or Bulgarian citizens (including from the Roma or Turkish minorities, usually locals from border areas). However, police sources and cases reported in the media suggest that foreigners who have received refugee or humanitarian status are more often involved as guides.⁷⁵ Since 2016, Afghans have been encountered in this role more frequently.⁷⁶

Routes taken to enter Bulgaria have shifted due to measures taken by the Bulgarian government. Until 2015, a major part of the flow would enter through the border district of Haskovo – around the towns of Elhovo and Bolyarovo (in 2013 – 2014 especially) where the terrain is easily accessible.⁷⁷ In response, as already mentioned, in November 2013 the Bulgarian government tightened control measures and stationed additional police forces on the Bulgarian-Turkish border, thus limiting unhindered passage. Due to this measure and subsequent initiation of the construction of a fence covering the most easily accessible terrain around BCP Lessovo, it is thought that a portion of the flow redirected east towards the district of Bourgas.⁷⁸ Nevertheless, the large number of irregular migrants combined with strengthened control necessitated the

⁶⁸ BG-P8, BG-P11.

⁶⁹ BG-P3, BG-P4, BG-P5, BG-P11.

⁷⁰ BG-P3, BG-P4, BG-P5.

⁷¹ BG-P12, BG-P13.

⁷² BG-P11, BG-P8.

⁷³ Събев, Б. 23.4.2017 „Хванаха четирима чужденци в камион с лешниково брашно“ *Monitor.bg*.

⁷⁴ BG-P3, BG-P4, BG-P5, BG-P8.

⁷⁵ BG-P2, BG-P3, BG-P4, BG-P5, BG-P8; *24chasa.bg* „Сириец влиза в затвора за каналджийство на 21 сьнародници, минали през границата до Гоце Делчев“ 16.2.2017.

⁷⁶ BG-P8, BG-P9, BG-P10, BG-P11, BG-P23, BG-S1.

⁷⁷ BG-P26, BG-27.

⁷⁸ *Ibid.*

use of additional tactics beyond simple change in routes to secure entry into the country.

In response to the increased police presence at the border, smugglers and less often the irregular migrants themselves employed corruption to secure passage into the country. At this stage, **informers** working for the organiser (persons with contacts in the border police or other relevant police bodies) can be involved to secure corrupt law enforcement officials for the needs of the respective criminal operation.

Two distinct models of crossing involving corrupt border guards emerged in the period 2013 – 2015.⁷⁹ The first model involved paying not to be pushed back to Turkey and was most commonly used in end-2013 and beginning of 2014. The second model, used throughout the crisis, ensured that irregular migrants could cross the country without being detained and without having their fingerprints taken. The second model has a substantial advantage, making it more expensive – it reduces the risk of being returned to Bulgaria under the Dublin regulation. In 2015, a variation of the first model emerged – paying to be taken to a reception centre.

Irregular migrant groups which have managed to cross into the country are subsequently moved to a hub. Transportation can be provided by a variety of persons (e.g. taxi drivers,⁸⁰ owners of trucks or vans). The organiser might have a number of drivers in his employment, in arrangements where they are a more stable feature of the network.⁸¹ On the other hand, drivers could also be randomly hired for the purpose.⁸² Highways are preferred for transportation as the risk of encountering a police check is lower.⁸³

At the height of the crisis in 2015, large groups of irregular migrants were transported in busses and trucks.⁸⁴ However, when police increasingly targeted such vehicles for inspections, groups were split and transported in luxurious cars to avoid drawing attention.⁸⁵ Currently, the tendency is for smaller groups to be smuggled.⁸⁶ This trend could already be observed during 2016 and is even more visible in 2017. The size of the groups is often attributed to the decrease in migrant pressure due to enforcement efforts by Turkey.⁸⁷

Organisers provide irregular migrants with accommodation in hubs, before the groups are taken outside of the country. Sofia is a de-facto

⁷⁹ BG-P24, BG-P25, BG-S1.

⁸⁰ *Kanal3.bg* „Разбиха канал за трафик на мигранти: Таксиджии в схема за превоз на сирийци и афганистанци“ 22.5.2016.

⁸¹ BG-P1, BG-P2.

⁸² BG-P11, BG-PR6.

⁸³ BG-P17.

⁸⁴ BG-P6, BG-P7; The largest number of migrants found in a single vehicle as reported in the media is 120. (Димитров, Б. 29.6.2016 „ТИР изсипа 120 имигранти на Тракия.“ *Monitor.bg*).

⁸⁵ BG-P1, BG-P2, BG-P8, BG-P12, BG-26, BG-P27.

⁸⁶ BG-P8, BG-P13 BG-P17.

⁸⁷ BG-P17, BG-P18, BG-P19, BG-P21.

key clearing hub for incoming and outgoing irregular migrants. Many of them are housed in or around the city regardless of chosen route and destination. Nevertheless, some law enforcement sources have suggested that operations which do not involve passing through Sofia exist as well,⁸⁸ even though such arrangements are rarer. Another hub mentioned by some respondents is the town of Harmanli⁸⁹ close to the Turkish border, where a large refugee centre is situated.

Temporary accommodation of migrants in transit can vary from abandoned buildings to private residences and hostels. Hostels located in a central area of Sofia close to the Banya Bashi Mosque dubbed “little Beirut” were popular spots for housing irregular migrants and asylum seekers in 2013 and 2014, due to the concentration of Middle Eastern immigrant communities.⁹⁰ However, since police intensified raids and searches in the area, alternative housing for the irregular migrants would be arranged, often in Roma ghettos. Roma quarters are considered especially suitable for this purpose due to the ease with which information of incoming police spreads.⁹¹ Another recent development noted in Sofia is the locking up the irregular migrants in the place of accommodation to prevent drawing unwanted attention.⁹²

Depending on how the operation is arranged, irregular migrants might spend some time in Sofia, before the onward journey. Most often, smuggling networks organise exit from Bulgaria to Serbia or Romania. The proportion of irregular migrants smuggled through Romania remains much smaller, as crossing the border is more challenging due to the short stretch of land border and the difficulty of crossing the Danube.⁹³ On their way to Serbia, irregular migrant groups usually pass through Bregovo or Vidin.⁹⁴ However, since the fall of 2016 and spring of 2017 smugglers appear to be diversifying routes by organising border crossing into Romania⁹⁵ due to tightened border control at the Serbian border by police and the military.⁹⁶ Smuggling networks have attempted a number of methods to cross the Romanian border including by boat⁹⁷ or through concealing migrants in trucks.⁹⁸

While the previous paragraphs outline the most prevalent organisation of smuggling operations it should be noted that the modus operandi and the degree of sophistication of smuggling networks and operations

⁸⁸ BG-P3, BG-P13.

⁸⁹ BG-S1, BG-P8.

⁹⁰ BG-P9, BG-P10, BG-P11.

⁹¹ Ibid.

⁹² Ibid.

⁹³ BG-P21.

⁹⁴ BG-P8, BG-P11.

⁹⁵ BG-P21.

⁹⁶ BG-P11, BG-P18, BG-P19.

⁹⁷ In September 2016, six irregular migrants drowned in the Danube when the boat that the facilitators had arranged to cross to the shore on the Romanian side capsized (*Trud.bg* „Шест удавени при обръщане на каналджийска лодка” 12.9.2016).

⁹⁸ On 23 April 2017, 53 irregular migrants were discovered in a secret compartment of a truck trying to cross the Bulgarian-Romanian border (*Nova.bg* „Хванаха 53 нелегални мигранти при опит да преминат ГКПП „Дунав мост” 23.4.2017).

vary significantly based on the perpetrators involved, the intensity of the migrant flow and measures taken by law enforcement.

Rudimentary organisation of smuggling operations was most common in late 2013.⁹⁹ Portions of the large flow could pass without assistance or by employing opportunistic criminal actors, not all of whom provided the service they were paid for. Irregular migrants were often misled by criminals, who would “take their money, drive them around for a while, drop them off around Pernik and welcome them to Germany.”¹⁰⁰ Nevertheless, towards the end of the year, the smuggling networks started growing to accommodate demand and many new networks emerged. The expansion of smuggling channels to Western Europe was solidified in 2014. Most of these networks were run by Iraqi, Syrian and more recently Afghan nationals and smuggled mainly their own compatriots (see Figure 1).¹⁰¹ Various accounts also claim that a separate Kurdish channel exists as well.¹⁰²

Since 2014, and especially following the peak of the migration flows in 2016, smuggling networks underwent a **process of professionalisation**¹⁰³ due to tightened border control measures and closure of routes. Case 2 illustrates how sophisticated a smuggling operation can be.

Case 2. The “twin” truck case

On 23 March 2017, near the village of Rezovo, Southern Bulgaria, 27 irregular migrants were found in a secret compartment of a burning truck transporting gravel.¹⁰⁴ Upon investigation it became clear that the number on license plate of the truck was exactly the same as the license plate of another truck owned by a company subcontracted to carry out services for the construction of the fence on the Turkish-Bulgarian border. The company, however, could prove through camera recordings that at the time their vehicle was in a garage 500 km away from where the burning truck was found. It appeared therefore, that the license plate of the smugglers’ truck had been a falsified copy, which allowed for inconspicuous transportation of irregular migrants in border areas.

Intensive anti-smuggling operations by law enforcement coupled with a 2015 change in legislation criminalising transportation of irregular migrants, necessitated investment into risk management measures by smuggling networks. Criminal networks use a number of conspiracy tactics in order to evade detection. Networks with more resources have more intricate organisation and usually include more such measures. A common method is to use pilot cars driving ahead of the vehicles with the irregular migrants and scouting for police. Law enforcement has intercepted up to five pilot cars for one smuggling operation.¹⁰⁵

⁹⁹ Such operations are not necessarily part of transnational smuggling networks. Due to the large number of irregular migrants, they would themselves find facilitation or would be approached by opportunistic actors.

¹⁰⁰ BG-P9.

¹⁰¹ BG-P22, BG-23, BG-S1.

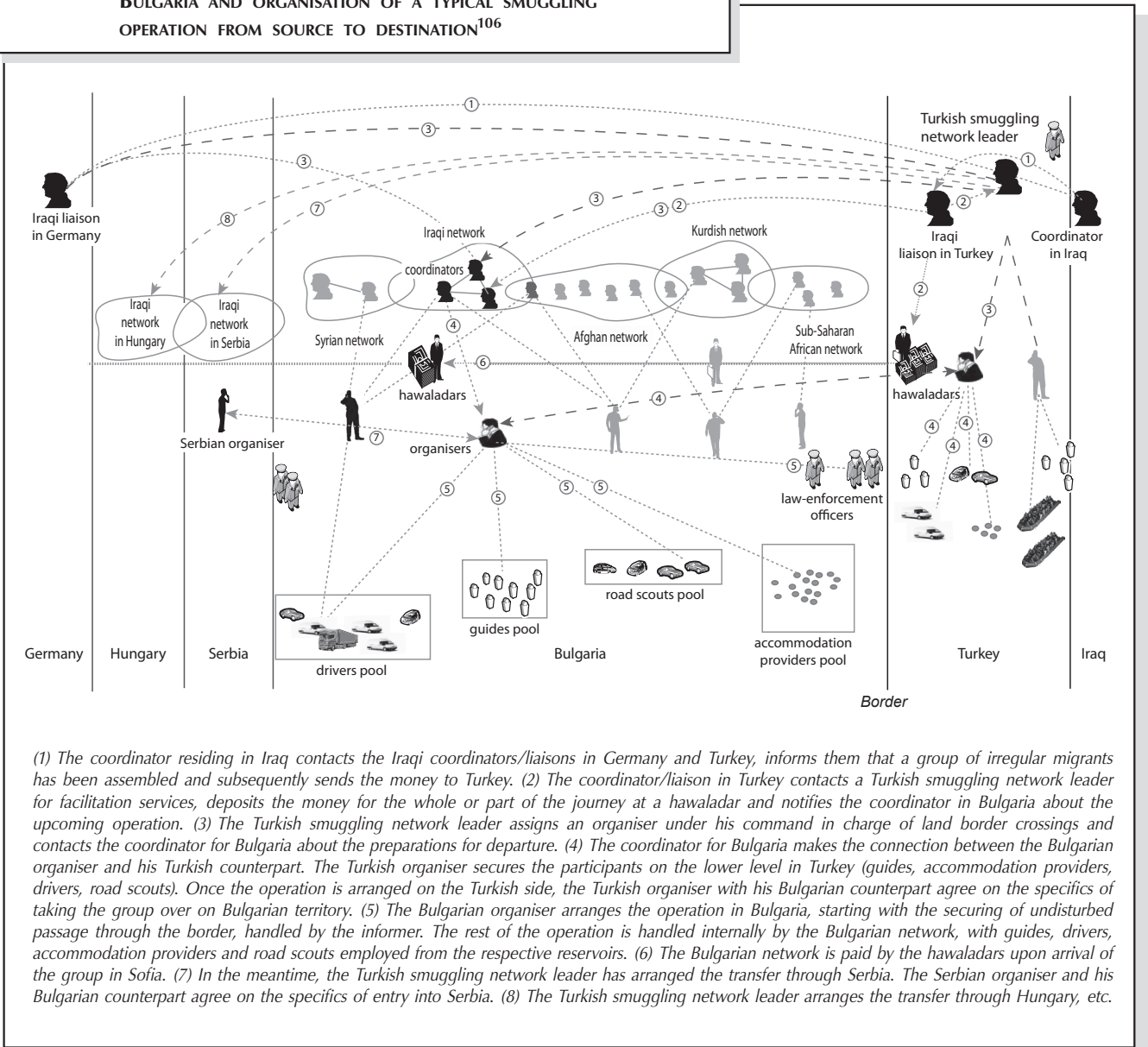
¹⁰² BG-P9, BG-P10, BG-P11, BG-P22, BG-P23.

¹⁰³ BG-P17.

¹⁰⁴ Димитрова, Л. 24. 3.2017 „Близнак на горящия камион с мигрантите“ *Dariknews.bg*.

¹⁰⁵ BG-P1, BG-P2.

FIGURE 1. STRUCTURE OF A TYPICAL SMUGGLING NETWORK THROUGH BULGARIA AND ORGANISATION OF A TYPICAL SMUGGLING OPERATION FROM SOURCE TO DESTINATION¹⁰⁶



In addition, steps are taken to minimise the risk of detection in case of failure of a smuggling operation. Participants in the smuggling networks at the lowest level (such as drivers and guides) are most likely to be apprehended,¹⁰⁷ hence their selection is important to protect the

¹⁰⁶ The schematic shows a provisional structure of human smuggling operations in Bulgaria. Turkish networks are shown in more detail since smuggling operations often begin from Turkey and Turkish networks have a significant impact on subsequent stages. The schematic furthermore illustrates an average step-by-step smuggling operation organised from source to destination by an Iraqi network of coordinators. The nationality of the example network is chosen randomly in order to show that different national or ethnic networks usually arrange the smuggling of irregular migrants from their respective communities. Still, the operations organised by these different networks are similar in terms of steps undertaken. This example, however, does not demonstrate the organisation behind expensive smuggling channels. In addition, it does not account for operations that have been arranged in other ways – as has been mentioned before, it is possible for the Bulgarian network to cover the whole journey to destination.

¹⁰⁷ BG-P6, BG-P7, BG-PR1.

smuggling operations. **Intermediaries** often approach drivers in order to avoid contact of the lower levels with the core members of the network. The drivers may be recruited at random among local youth. In one case a driver with a mental disability was hired, ensuring that a potential testimony would be unusable in court.¹⁰⁸ Alternatively, they might be a more permanent feature of the operation.¹⁰⁹ Drivers (and vehicles) used repeatedly would be rotated and would still know little about the larger organisation of the operation.¹¹⁰ Telephone SIM cards are also changed frequently and various voice messenger and encrypted chat applications are used extensively for communication.

In addition, new and more expensive routes and smuggling strategies emerged over the past two years in response to tightened border controls. Sham marriages with Bulgarian women were detected for the first time in 2016.¹¹¹ In June 2017, a scheme for smuggling persons through Sofia airport was uncovered, organised by two legally residing Bangladeshi nationals and assisted by two border police officers.¹¹² In addition, in August 2017, two smugglers, one of which Bulgarian, were apprehended in the Black Sea near Romania, on a boat with 70 irregular migrants.¹¹³ Law enforcement had previously recorded very few previous instances of attempted passage through the Black Sea.

1.2.2. Perpetrators

Section 1.1.1. has shown that Bulgaria had established smuggling channels and networks already before the crisis. However, the scale of the migrant crisis meant these networks could not satisfy demand, opening up opportunities for the generation of substantial criminal profit and leading to the involvement of a large portions of the criminal underground.

The **reorientation of traditional Bulgarian criminal networks** to human smuggling is confirmed by law enforcement sources.¹¹⁴ This phenomenon has been observed with regard to both criminal bosses and lower-level criminals engaged in a myriad of criminal activities, ranging from car theft, burglaries to drug trafficking and tobacco smuggling. In addition, there are ancillary networks, whose main area of activity is not smuggling. These networks provide vital services (handling Hawala payments) or important supporting services (securing counterfeit documents).¹¹⁵

¹⁰⁸ BG-PR6.

¹⁰⁹ BG-PR1, BG-PR6.

¹¹⁰ BG-P1, BG-P2, BG-P27.

¹¹¹ Захаријева, М. 24.11.2016 „Нова мода сред бежанците: Фиктивен брак с българка“ *Dnes.bg*.

¹¹² Николов, К. 26.5.2017 „Разбит е канал за трафик на хора през летище „София“, таксата била 5000 евро“ *Mediapool.bg*.

¹¹³ *Dnevnik.bg* „Лодка с 69 мигранти е задържана в Черно море край Румъния, един от каналджиите е българин“ 13.7.2017.

¹¹⁴ BG-P1 – BP-28.

¹¹⁵ At least two known cases of groups manufacturing counterfeit documents specifically for irregular migrants have been uncovered. (*Btvnovinite.bg* „МВР разби престъпна група, изготвяла фалшиви документи за незаконни мигранти“ 4.5.2017; *Offnews.bg* „Разбиха престъпна група, изготвяла фалшиви документи за нелегални мигранти“ 28.11.2015).

A number of the criminals associated with other criminal activities got involved in human smuggling, including from trafficking networks for prostitution. Prominent examples include figures from the criminal underground of Bourgas¹¹⁶ and Lom.¹¹⁷ Other career criminals known for drug dealing¹¹⁸ and extortion racketeering¹¹⁹ have also surfaced as perpetrators in smuggling operations. In April 2017, the police apprehended an OCG during an attempt to smuggle 6 irregular migrants in wooden boxes through the Bulgarian-Romanian border.¹²⁰ Searches in the residences of those involved uncovered large amounts of drugs and cash.

Offenders engaged in more complex crimes, such as drug trafficking organise more intricate operations including more risk management measures.¹²¹ It should be noted, however, that even well-established Bulgarian criminal organisations with experience in other illicit activities provide services to the coordinator (connection to corrupt police officers, drivers, pilot cars and drivers, accommodation; see Case 3) as they do not have the means to secure the main resource for the criminal activities – the third country nationals to be smuggled.¹²²

Case 3. The Bourgas drug lord

Tabloid media reports citing anonymous police sources claim that one of the key players on the southern Black Sea drug market has become involved in human smuggling.¹²³ The Bourgas drug lord has previously been convicted for leading and participating in an OCG, drug dealing, pimping and money laundry.¹²⁴ The criminal leader allegedly managed to make connections to Serbian smugglers and through extortion and violence to secure regular payments from Bulgarian smugglers via the Turkish border in exchange for protection and organisation of transportation.¹²⁵

¹¹⁶ For example, Boksiora (the Boxer), who was previously indicted for pimping and participation in an organised criminal group (*Blitz.bg* „Диян Боксьора влиза на топло за 3 години за сводничество, дясната му ръка го предаде“ 30.9.2016).

¹¹⁷ One of the Bulgarian drivers that transported 71 irregular migrants from Hungary, subsequently found dead in the abandoned truck in Austria, reportedly had a criminal dossier in Germany and was unofficially connected to pimping (*Standartnews.com* „Трафикантът от Лом живее в лукс, наричат го Крика“ 1.9.2015). See also Case 1.

¹¹⁸ In March 2016, the police arrested fifteen irregular migrants from Iraq in the Haskovo area, together with four Bulgarian men, three of whom with criminal records. One of them, nicknamed “Blackie,” had nearly 400 g of amphetamines in his vehicle at the time of apprehension and had 13 convictions for different crimes related to drugs, fraud, extortion racketeering and hooliganism (*Glas.bg* „Бутнаха Черния в ареста за дрога, 3-ма негови авери крили мигранти“ 22.3.2016). In another case, a convicted smuggler was arrested with a total of 35 kg of heroin, reportedly the second largest amounts seized of this drug in 2016 in Bulgaria (Христов, Х. 23.12.2016 „Спишаха каналджия и родата му с 35 кила хероин“ *Monitor.bg*).

¹¹⁹ One of the key figures of the Bourgas underground, who had been involved in extortion racketeering during the 90s was arrested while scouting for police in front of a van transporting irregular migrants (Янакиева, П. 30.3.2016 „Арестуваха Филип Фратев за каналджийство“ *Vnr.bg*).

¹²⁰ *Nova.bg* „Разбиха канал за превеждане на мигранти в дървени сандъци“ 25.4.2017.

¹²¹ BG-P1, BG-P2, BG-P3, BG-P4, BG-P5.

¹²² BG-P32, BG-P33.

¹²³ *Epicenter.bg* „Митьо Очите заграбил бизнеса с бежанците“ 15.6.2016.

¹²⁴ *Offnews.bg* „Митьо Очите за последно в съда като свидетел по дело срещу Баретата“ 8.6.2016.

¹²⁵ *Ibid.*

Law enforcement information also allege his involvement in smuggling.¹²⁶ The criminal boss allegedly has in his employment a border police officer, who transports irregular migrants in his personal camper.¹²⁷ The migrants are purportedly taken to their desired destination, bringing the criminal boss EUR 3,000 in profit per irregular migrant.¹²⁸

Despite the involvement of the criminal underground, law enforcement officials have differing views on the effect of the reorientation to human smuggling on criminal networks' other illicit enterprises. These differences are likely related to regional specifics and the different scopes of operation of the law enforcement agencies interviewed. Some law enforcement sources consider human smuggling is an additional highly lucrative source of revenue, which does not interfere with other illicit activities and is carried out in parallel.¹²⁹ Others suggest that local criminal networks have entirely shifted to smuggling, effectively abandoning their previous areas of operation (which might have been riskier, especially prior to the 2015 legislative amendment and less lucrative). As a result, local police registered a drop in other types of crimes.¹³⁰ Therefore, it appears that the lower levels of perpetrators in the smuggling networks are more likely to change occupations as well as networks,¹³¹ depending on the respective revenue to be made. On the other hand, more influential figures can afford to include new illicit activities in their portfolio and thus to control a number of criminal enterprises at the same time.¹³²

While there is evidence that criminals engaged in other criminal activities are smuggling irregular migrants, the simultaneous use of smuggling channels and operations for the conduct of other criminal activities seems to be rather limited. In one court case, the defendant was found guilty of trying to smuggle irregular migrants and counterfeit money at the same time.¹³³ In addition, there have been a few instances where backpacks with drugs had been uncovered on a route where irregular migrants were smuggled leading to speculations in the media of combined activity.¹³⁴ However, few additional details are available that may suggest convergence of different criminal enterprises. Despite some allegations of payment for facilitation through drug smuggling¹³⁵ there are no confirmed cases and police sources consider irregular migrants carrying drugs as

¹²⁶ BG-12, BG-P13.

¹²⁷ BG-P13.

¹²⁸ Ibid.

¹²⁹ BG-P3, BG-P4, BG-P5.

¹³⁰ BG-P26, BG-P27.

¹³¹ Some interviewees have noted that the networks are intertwined (BG-P6, BG-P7) and that the lower levels can change and work for different networks (BG-P3, BG-P5, BG-P17, BG-P19).

¹³² BG-P3, BG-P4, BG-P5. Other studies have also concluded that the higher echelons of smuggling networks are involved in other criminal activities such as drug trafficking. E.g. Triandafyllidou, A. et al. (2012) "Human Smuggling from/via North Africa and Turkey to Greece," In Triandafyllidou, A., and Maroukis, T. *Migrant Smuggling: Irregular Migration from Asia and Africa to Europe*. London: Palgrave Macmillan.

¹³³ Criminal Case № 00074/2016, District Court General Toshevo.

¹³⁴ Саватова, Д. 6.1.2017 „Стана ли пътят на бежанците трасе за наркотрафик?“ *168chasa.bg*.

¹³⁵ BG-P2, BG-P4, BG-P8.

unnecessary risk for criminals.¹³⁶ Some illicit activities thus might not be complementary enough to warrant joint activities.

In addition to the involvement of the Bulgarian criminal underground in smuggling, other important developments in the profile of human smuggling actors has been noted in 2016. There is evidence that Afghans are becoming more prominent in the smuggling business. They are increasingly used as guides due to their navigation skills and resilience.¹³⁷ However, they are also becoming active in other aspects of the organisation of smuggling operations, such as providing accommodation through the acquisition of apartments and houses¹³⁸ or transportation. Despite the entry of these new actors, however, there is no evidence of any counteraction by Bulgarian smuggling networks,¹³⁹ possibly since due to the large number of irregular migrants looking for facilitation services at the peak of the crisis, “there is work for everyone.”¹⁴⁰ However, some law enforcement sources noted that intensification of anti-smuggling efforts by police has led to indebtedness and conflicts within networks, hindering their operations.¹⁴¹

In section 1.2.1. the emergence of corrupt relations between smuggling networks and border police officers was noted. The involvement of police officers in smuggling operations is a controversial issue and law enforcement sources hold differing views. Some respondents see corrupt relations with a border police officer as indispensable for the successful operation of the business,¹⁴² while others acknowledge that this is frequent¹⁴³ or that it occurs but it is not an essential feature.¹⁴⁴

Historically, penetration of corruption practices among border police is believed to be significantly lower than the average in the MoI.¹⁴⁵ Corruption pressure on border police, however, increased substantially with the intensification of the flow and the stationing of additional police. The present study found that corruption rates vary depending on migrant pressure. In late 2013, when additional police were stationed at the Turkish-Bulgarian border, irregular migrants and asylum seekers would pay EUR 500 to not be pushed back to Turkey. This fee decreased especially during peak pressure in the summer and autumn of 2015.¹⁴⁶ In 2015, the price paid for entering the country and being taken to a reception centre stood at around EUR 400. The fee for passing without a registration in AFIS initially stood at EUR 1,500 and later fell to

¹³⁶ BG-P1, BG-P33.

¹³⁷ BG-P8, BG-P23.

¹³⁸ BG-P9, BG-P10.

¹³⁹ BG-P18, BG-P19.

¹⁴⁰ BG-P12.

¹⁴¹ BG-P19.

¹⁴² BG-P3, BG-P4, BG-P5.

¹⁴³ BG-P8.

¹⁴⁴ BG-P5, BG-P6.

¹⁴⁵ This is due to the fact that the border control used to be performed by the army, insulating it to a certain extent from corruption influences. Gounev, P., Dzhekova R. and Bezlov, T. (2012) *Anti-corruption Measures in EU Border Control*. Sofia: CSD.

¹⁴⁶ BG-P13, BG-P32.

EUR 500.¹⁴⁷ The corruption payments per irregular migrant for being allowed through the border decreased to a low of EUR 100-150 in the fall of 2015, when the migration pressure was strongest. Nevertheless, due to the large number of passing irregular migrants, total sums collected by corrupt border police officers increased significantly.

Considering that Bulgarian border police make an average of BGN 10,000 leva (EUR 5,000) annually compared to an estimate of BGN 40,000 to BGN 60,000¹⁴⁸ which were to be earned through cooperation with smuggling networks at the peak of the irregular migration flow in 2015-2016. As elaborated above, there was an increase in corruption among police stationed at the Turkish-Bulgarian border. However, there is limited evidence of corruption on the Bulgarian-Romanian borders and none for the Bulgarian-Serbian one.¹⁴⁹ The involvement of corrupt border police is usually limited to allowing entry into the country.

Traffic police within the country may extort money when they intercept vehicles transporting irregular migrants en route.¹⁵⁰ However, in some instances police officers have deliberately refrained from stopping vehicles transporting irregular migrants. This is usually a result of a deal struck on the spot with smugglers driving in pilot cars.¹⁵¹ More direct involvement has also been detected, with police officers acting as drivers.¹⁵²

1.2.3. Payments

Payment for smuggling services is the most obscure aspect of smuggling activities in Bulgaria and is rarely investigated by police, partially because smuggling operations are usually initiated in Turkey or the countries of origin and the money is deposited in the respective location/country.

The study revealed that various payment models are being used by the smuggling networks. Smugglers from the border region of Svilengrad would travel to Turkey to collect their payment in cash.¹⁵³ Payments can also be transferred through companies such as Western Union and Moneygram or through the Hawala system. It appears, however, that the former method might be decreasing in importance. Hawala, on the other hand, has become crucial for the operation of smuggling networks as transactions through the system are practically untraceable.¹⁵⁴

¹⁴⁷ Ibid.

¹⁴⁸ Estimate by report authors based on information provided by respondents BG-P12, BG-P32.

¹⁴⁹ BG-P32. Nevertheless, one recent case alleged the involvement of a corrupt border police officer at the Bulgarian-Romanian border (*Nova.bg* „Хванаха 53 нелегални мигранти при опит да преминат ГКПП „Дунав мост“ 23.4.2017).

¹⁵⁰ BG-P3, BG-P4, BG-P5.

¹⁵¹ Ibid.

¹⁵² In one case it was alleged that police officers themselves transport irregular migrants when not on duty (*Kanal3.bg* „Оставиха зад решетките тримата полицаи, замесени в каналджиство“ 30.7.2016). In another case, a Mol official had been transporting migrants in his personal vehicles with a police siren turned on (Вельова, В. 23.7.2017 „Полицаи участват в организиран трафик на бежанци“ *Dnes.bg*).

¹⁵³ BG-P25.

¹⁵⁴ BG-P8, BG-P11.

As already noted, many irregular migrants carrying cash in late 2013 were defrauded and robbed before the smuggling networks could accommodate demand. Investigations by journalists also suggest that border guards have also stolen or extorted money from migrants.¹⁵⁵ In response, almost all payments are now deposited in Turkey, and migrants carry limited amount of cash. Human smuggling networks operating along the way are paid on the basis of completed assignments, once the final destination or the next point in the journey is reached.¹⁵⁶ Upon arrival to Sofia or the destination, a code given to the migrants is communicated and a portion of the money is released and transferred to Bulgarian smugglers. Usually, Hawala points would be small businesses like change bureaus, doner kebab restaurants etc. Nevertheless, it is possible that the trend of depositing all finances in Turkey is now reversing. Irregular migrants might prefer to pay cash for crossing the border,¹⁵⁷ since due to the increased difficulty of crossing, they might be unable to continue their journey for long periods of time while their money is blocked elsewhere.

The deposit option and the various Hawala schemes make the smuggling networks highly effective. The network recuperates easily after any failure, such as detection and apprehension of a group of migrants, or of guides, drivers and even coordinators.¹⁵⁸ The smuggling network servicing a route cannot be paid until the migrants reach the agreed upon destination. Unlike with goods smuggling, where once a shipment gets apprehended it's lost forever, human smugglers have the option to try to get the irregular migrants further again and again, with practically no limit of the potential trials. It is not unusual for a migrant (paying a medium or low fee for a smuggling service) to be detected five or six times when crossing the border and each time to be returned to Turkey. As the cost of the unsuccessful trials is borne by the guides and the drivers, the migrants can continue with their attempts to cross the border, and the coordinators are offering a variety of new options. The network will get paid only when the migrants confirm that they have reached the agreed upon destination. On the other hand, migrants are not in a position to defraud the network, as they have to make payments on reaching each point on their way in order to be able to proceed to the next one. A large network covering all the way from Turkey to Western Europe cannot afford to lose the trust it has built by allowing a certain link in the chain not to deliver as promised.¹⁵⁹

The financial model with deposits is probably the single most important mechanism explaining the success of the human smuggling operations.¹⁶⁰ This model connects a great number of heterogeneous local and national networks on the Balkan route to Western Europe. Bulgarian police is trying to destroy this financial model of human smuggling by returning

¹⁵⁵ Human Rights Watch. (2014) *Containment Plan: Bulgaria's Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants*. Chicago: Human Rights Watch; *Nbox.bg* „Арестуваха гранични полицаи, пускали имигранти срещу пари” 05.09.2015.

¹⁵⁶ BG-P1, BG-P3, BG-P4, BG-P5, BG-P6, BG-P7, BG-P8, BG-P9, BG-P10, BG-P11.

¹⁵⁷ BG-P21.

¹⁵⁸ BG-P32, BG-S1, BG-S2, BG-S3.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

detected irregular migrants as far back as possible. For instance, if a payment has been made by a group of irregular migrants for reaching Sofia, and then the group is caught at the Bulgarian-Serbian border, it is no longer returned to the Sofia migration centers (which are relatively close to the Serbian border), but is taken all the way back to the Turkish border, or even to Turkey (if migrants decline to apply for a refugee status in Bulgaria).¹⁶¹ Thus, migrants are forced to make new payments to continue on their way to the final destination.

While the mechanism through which Hawala operates is similar across countries and older Bulgarian smuggling networks also used this system, there is little concrete knowledge among law enforcement authorities about the network which operates this type of payment services.¹⁶² Some instances the use of such services has been intercepted by law enforcement. In 2012, a Syrian national was arrested for illegal banking services connected to Hawala, whose business partner was allegedly involved in goods smuggling operations through Plovdiv customs.¹⁶³ In its report for 2013, the Specialised Administrative Directorate Financial Investigation of the SANS noted that an Afghan couple residing in Bulgaria with a refugee status had in the span of a month received a 180 suspected Hawala settlements through different subagents of a system for money transfer from senders from fifteen different countries.¹⁶⁴ Nevertheless, investigations of this aspect of smuggling operations are few.¹⁶⁵

1.2.4. Human smuggling and human trafficking networks: synergies and differences

There are indications that the migrant and refugee crisis has changed the dynamic relationship between trafficking and smuggling networks. Information from the interviews suggests that while in the period 2001 – 2007 there appears to be a negligible merging of the channels,¹⁶⁶ the increased migrant pressure of the recent years has **driven the two criminal activities apart**. Thus, a divergence between smuggling and trafficking is observed, wherein either OCGs attempt to keep smuggling and trafficking activities as separate operations within a multi-criminal network, or the two activities are operated by wholly unrelated entities.

The established models for recruitment for trafficking for sexual services are employed by local networks, who are well aware of the environment and the risks involved. The migrant girls and women who enter Bulgaria usually come from traditional and more conservative cultures and so far no cases have been recorded of such migrants being trafficked for sexual purposes. Moreover, no instances of labour trafficking of migrants

¹⁶¹ BG-P32, BG-S1, BG-S2, BG-S3.

¹⁶² BG-PR2.

¹⁶³ Константинова, Г. и Иванова, П. 13.4.2014. „Задържаха сириец свързан с Хавала“ *Marica.bg*.

¹⁶⁴ Държавна Агенция „Национална Сигурност“ (ДАНС). (2013) *Годишен доклад за дейността на САД „Финансово разузнаване“-ДАНС*. София: ДАНС.

¹⁶⁵ BG-P10, BG-PR2.

¹⁶⁶ BG-P1.

in Bulgaria have been reported. This may be explained by the desire of most migrants to continue their travel to their desired destination, usually countries in Western and Northern Europe, whereby the average duration of their stay in Bulgaria is around one week.¹⁶⁷ These transiting migrants do not seek any kind of employment and the relations they establish serve only their logistic purposes.

In addition, the transportation phase of human trafficking for sexual or labour exploitation has been described as relatively problem-free activity (due to the legal cross-border travel of trafficked victims with authentic documents) which would be made unnecessarily risky if irregular migrants were to be transported in the same vehicle.¹⁶⁸

Similar to the problem preventing the use of shared transportation of smuggled migrants and THB victims, there seem to be no synergies in terms of other aspects of the trafficking and smuggling operations. In Western Europe, Bulgarian traffickers have acquired infrastructure (hotels/motels, hostels, rooms for rent) where victims of THB can work and live while under the control of the network.¹⁶⁹ There is evidence that up until 2007, this infrastructure was also used to house irregular migrants.¹⁷⁰ However, later traffickers also became unwilling to compromise their infrastructure by involving migrants. Thus, the smuggled migrants would find accommodation elsewhere, usually in specialised refugee centres, as well as with relatives.

An examination of investigations of smuggling networks, which involve persons with a history in pimping and/or transporting for trafficking purposes, suggests that some such persons have cut connections with their previous criminal associations.¹⁷¹

There are, however, instances of multi-criminal networks in Bourgas,¹⁷² Sliven, Yambol, and Haskovo, among others, which engage in human trafficking as one of their criminal activities. Such networks penetrated the human smuggling market at the height of the migration pressure. Information from the interviews, however, strongly suggests that the smuggling activities have been developed in addition to the already established trafficking channels and do not interfere with the human trafficking operations. The respondents in this study maintain that the outlook for lucrative profits to be made in smuggling prompted OCGs to branch out and form largely separate structures. The network organisers typically agree terms with the coordinators from the target communities and may make use of criminal contacts also utilised in the OCG's other criminal activities, such as corrupt border guard officers. However,

¹⁶⁷ BG-PM1.

¹⁶⁸ BG-P1, BG-P2.

¹⁶⁹ Bezlov, T., Yordanova, M. and Stoynova N. (2016a) *Exploring Links between Corruption and Trafficking of Women: The Case of Bulgaria*. Sofia: CSD.

¹⁷⁰ BG-M1, BG-P1.

¹⁷¹ BG-P20.

¹⁷² One example is the Bourgas drug lord (see Case 3), who also controls the prostitution market in the Bulgarian Black Sea resort Sunny Beach, which operates as a reservoir of women who are also trafficked to specific destinations in Western Europe.

the smuggling and trafficking activities remain largely operationally independent.

Information from the interviews points to specialisation and regionalisation of the trafficking routes from Bulgaria into Western and Northern Europe, meaning that women from one locality will usually be brought to a specific country. For example, girls and women from the Dobrich region in Bulgaria are often trafficked by air to the Oslo region in Norway.¹⁷³

The smuggling networks operating the routes toward the Scandinavian countries are independent of those in Dobrich. The Scandinavian countries as destinations for smuggling are typically the most resource intensive and necessitate sophisticated organisation. First, the initial stretch of the journey from Turkey to Germany is typically arranged.¹⁷⁴ This is followed by a new arrangement for the trip from Germany into the Nordic countries. Evidence gathered during interviews suggest that Bulgarian smuggling networks have operated the Turkey-Germany route, but no data is available on Bulgarian networks providing their services directly to Scandinavian countries.

1.3. COUNTERING HUMAN SMUGGLING

1.3.1. Law enforcement response

As has been elaborated in the previous section, the migrant crisis resulted in the expansion of existing migrant smuggling networks and the emergence of new ones. The beginning of the migrant inflow saw the involvement of opportunistic criminal actors alongside traditional smuggling networks. However, the revenues which could be generated increasingly led to the involvement of organised criminal actors with experience in other illicit activities, while intensified law enforcement led to the evolution and professionalisation of smuggling operations. Given this intersection between smuggling and other organised crime, the more general challenges of countering the latter also have a bearing on how organised smuggling activities are tackled.

A number of law enforcement, administrative and analytical government bodies have prerogatives and supporting functions in countering organised crime in Bulgaria. However, many of the specialised institutions tasked with combatting this phenomenon have been established relatively recently under EU pressure. As a result, often their creation has not been motivated by a sufficient analysis of the nature and extent of the threats, challenges encountered in countering these threats and resulting institutional needs.¹⁷⁵ Instead, such adjustments have too often been piecemeal and done for “box-ticking” or election campaign purposes rather than being driven by

¹⁷³ BG-P1, BG-P2.

¹⁷⁴ BG-P21.

¹⁷⁵ See CSD. (2012), *op.cit.*;

actual needs. Subsequently, many of the specialised bodies have been subject to numerous changes in mandate and structure. This has led to momentary setbacks and generally uncoordinated approach. In addition, there has been political interference in the work of specialised institutions tasked with combating organised crime.¹⁷⁶

The lack of a coordinated and informed approach is even more evident in the fight against human smuggling. It evolved quickly as a criminal market but the law enforcement response was delayed and this type of offence was not prioritised sufficiently. As a result, a number of practical difficulties have been encountered by police and prosecution in the investigation of human smuggling, including issues related to the legal framework, the availability and effectiveness of deployment of required resources, gaps in institutional mandates and restructuring, and the changing nature of the crime itself.

As shown in Figure 2, the spike in registered illegal border crossings in 2013, and similarly high numbers in 2014 and 2015 was not equally met with a concurrent rise in investigations into human smuggling. Crimes registered under Art. 280 of the *Criminal Code* (CC) began to pile up in 2014 and 2015, but their number remained much lower compared to the scale of the irregular migration flow passing through the country over the past years. With the intensification of the crisis in 2014 and 2015, the clearing rates fell to around 50 % from around 70 % in the previous two years, probably due to the scale of migration pressure and overstretching of resources. However, in 2016 an increase in clearing rates can be observed, although this also coincides with falling migration pressure. Assuming that a large proportion of the irregular migration flow is usually facilitated by smuggling networks, countering these illicit activities does not seem to be prioritised sufficiently in the work of police and prosecutors.

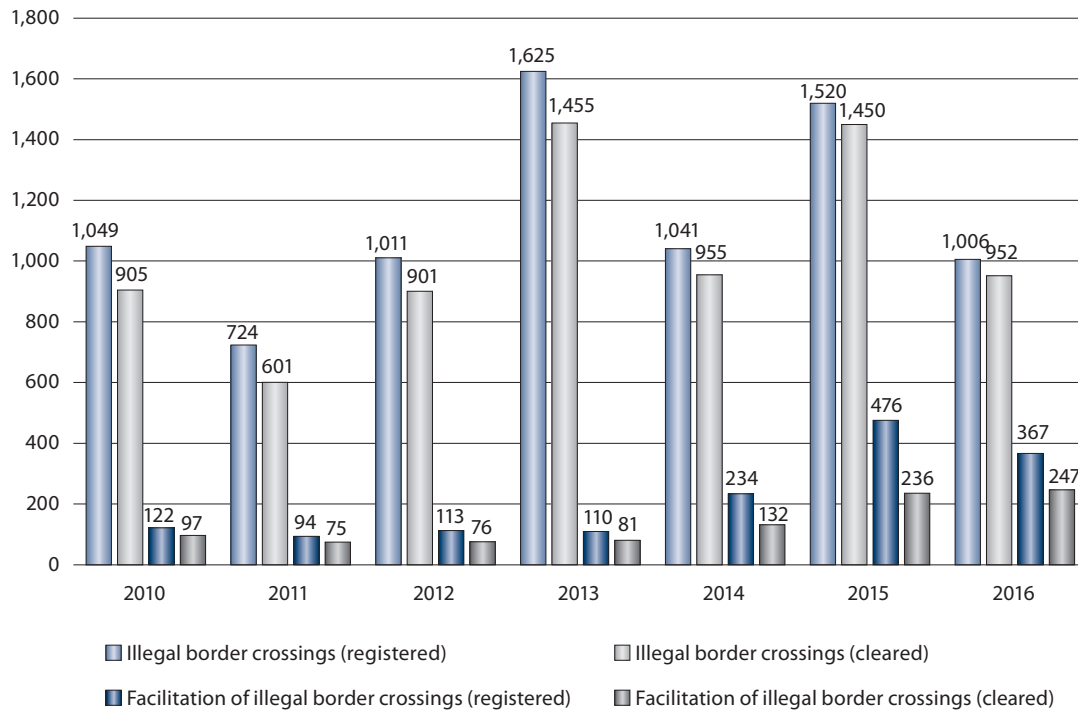
While a number of law enforcement bodies previously not engaged in countering smuggling were given such prerogatives, certain **institutional lag in response** has been observed. Specialised units for countering illegal migration and smuggling at the General Directorate Combatting Organised Crime (GDCOC) and General Directorate National Police (GDNP) started work with a significant delay, while currently the border police has a restricted mandate in this field.

Detecting and investigating human smuggling and related acts until recently fell mostly within the mandate of the **General Directorate Border Police** (GDBP). However, the border police's competence extends only within thirty kilometres from the border, which meant offences related to illegal crossing of the country's territory or housing of irregular migrants beyond the thirty kilometre zone fell outside its mandate. As a result, the GDBP initiated a working group to propose an amendment to the Mol Act for extending its competences.¹⁷⁷

¹⁷⁶ Di Nicola, Gounev et al. (2015) *Study on paving the way for future policy initiatives in the field of fight against organised crime: the effectiveness of specific criminal law measures targeting organised crime*. Luxembourg: Publications Office of the European Union.

¹⁷⁷ BG-P6, BG-P7. The result of this is so far unknown.

FIGURE 2. REGISTERED AND CLEARED CRIMES: ILLEGAL BORDER CROSSINGS (ART. 279) VS FACILITATION OF ILLEGAL CROSSINGS (SMUGGLING) (ART. 280) IN BULGARIA¹⁷⁸



Source: Ministry of the Interior.

After the rise in smuggling activities and the increasing professionalisation of smuggling networks, a number of other law enforcement institutions became active in countering the phenomenon. **The GDCOC** is the main law enforcement body tasked with investigation and interception of OC activities. In 2013, when smuggling began to intensify due to the growing irregular migration flow, a politically controversial decision was taken for the GDCOC to become a part of the State Agency for National Security (SANS). The reorganisation was reversed in 2014 but nevertheless effectively disrupted work on organised crime cases exactly when the migrant crisis intensified.¹⁷⁹ In addition, it was only in 2016 when the GDCOC received an officially mandated role in tackling human smuggling as it relates to OCG activity.¹⁸⁰ The specialised section of the GDCOC

¹⁷⁸ It is noteworthy that despite the serious increase of the number of migrants apprehended at entry, exit and in the interior of the country since the commencement of the crisis (as shown in Table 2), no significant rise is observed in the number of registered crimes under Art. 279. This can possibly be explained by how the data is recorded (number of cases vs. number of migrants), as well as possible omissions in Art. 279 registrations due to the large number of irregular migrants.

¹⁷⁹ Специализиран наказателен съд. (2016) Доклад за дейността на Специализирания наказателен съд през 2015 година. София: СпНС.

¹⁸⁰ Недева, М. 15.9.2016 „ГДБОП с искане за правомощия по линия на трафика на емигранти“ *Dnes.bg*; Министерство на вътрешните работи (МВР). (23.12.2016) Отговор на Министъра на вътрешните работи Румяна Бъчварова чрез Председателя на Народното събрание Цеца Цачева на запитване от г-н Красимир Богданов, народен представител. София: МВР.

focused on human smuggling became operational in the spring of 2017,¹⁸¹ when the irregular inflow had already decreased considerably.

Other police bodies with competence to address human smuggling also did not have specialised units focused on this crime at the peak of the crisis. When offences related to irregular stay and crossing are committed or intercepted within the territory of the country, the acts would also fall under the competence of the **General Directorate National Police (GDNP)**. In 2015, a new sector “Crimes related to the illegal stay or transit of foreigners”¹⁸² was created at the criminal police department of GDNP, focused on countering acts under Art. 281, namely assisting a foreigner to stay or cross the country illegally for material benefit. However, it became operational only in 2016, which means that similar task forces created within the district directorates of Sofia, Haskovo and Bourgas were also off to a delayed start. While law enforcement in some border areas had built up expertise with regard to investigation of smuggling,¹⁸³ in many jurisdictions inside the country this type of crime was unfamiliar prior to the crisis.

The proliferation of law enforcement agencies with prerogatives in investigation of smuggling has brought its own problems. Coordination and information exchange between law enforcement agencies seem to be problematic. While the different bodies within the police have been cooperating within the bounds of their competence, there are also instances where work is duplicated or even hindered by the involvement of more actors,¹⁸⁴ each with their own practices and institutional culture. One such example is the submission to the Specialised Prosecution of information about the same persons by different police bodies.¹⁸⁵ The Integrated Information System for Combatting Crime seems to only be operational at the prosecution’s end¹⁸⁶ and allows for cross-checking of information once persons are entered as defendants.¹⁸⁷

To strengthen interinstitutional cooperation on the issue of smuggling, in August 2016, a **Coordination Centre on Countering Illegal Migration** was created involving representatives of GDBP, GDNP, Migration Directorate, Sofia Directorate of Interior and other stakeholders.¹⁸⁸ However, reflections on its effectiveness are mixed and respondents described it as falling short of its intended purpose due to a lingering unwillingness to share operational information.¹⁸⁹ On the other hand, some law enforcement

¹⁸¹ BG-P1, BG-P2.

¹⁸² Министерство на вътрешните работи (МВР). (23.12.2016) *Отговор на Министъра на вътрешните работи Румяна Бъчварова чрез Председателя на Народното събрание Цеца Цачева на запитване от г-н Красимир Богданов, народен представител*. София: МВР.

¹⁸³ BG-P25, BG-P17, BG-P26, BG-P27.

¹⁸⁴ BG-P3, BG-P4, BG-P5.

¹⁸⁵ BG-PR2.

¹⁸⁶ Дачкова, Д. 16.3.2016 „Европроектите на съдебната власт – много пари и съмнителен ефект“ *Segabg.com*.

¹⁸⁷ BG-PR2.

¹⁸⁸ Министерство на вътрешните работи (МВР). (23.12.2016) *Отговор на Министъра на вътрешните работи Румяна Бъчварова чрез Председателя на Народното събрание Цеца Цачева на запитване от г-н Красимир Богданов, народен представител*. София: МВР.

¹⁸⁹ BG-P3, BG-P4, BG-P5, BG-P6, BG-P7, BG-P8.

officials have also stated the problem stems from the fact that the information which is in fact shared does not lead to any executive decision about calibration of approach.¹⁹⁰ Positive aspects noted by respondents include the dissemination by the Centre of a list of names of persons suspected of human smuggling to be monitored by border police.¹⁹¹

Another problem also appears to be the shortage of law enforcement personnel, especially in border regions.¹⁹² Similar problems have been faced by the prosecution and courts where there was an overflow of cases of irregular migration and human smuggling, increasing immensely the workload of the few available prosecutors and judges.¹⁹³

Issues related to the effectiveness of surveillance measures and maintenance of the integrated border surveillance system have also been mentioned by respondents as factors affecting apprehension and detection at the border. The border fence has been cut or climbed on multiple occasions in areas not covered by surveillance equipment. Usually, sections where equipment is not present or not operational are filled in by stationing extra border police units, opening opportunities for smugglers to attempt to corrupt border guards.

As with organised crime, countering **corruption** has been a long-standing issue which has not been addressed through coherent, targeted and evidence-based policies.¹⁹⁴ At the same time, addressing police corruption which facilitates smuggling is a crucial aspect of a holistic approach towards countering human smuggling networks effectively. Previous analyses of the spread of corrupt practices among EU border control agencies has shown a number of factors play a role in variances. These include the level of corruption pressure and corruption opportunities, the specific functions and powers of the respective border authorities, the type of borders and crossings, the preventive, deterrence and punitive measures in place against police corruption, and the income and salary factor.¹⁹⁵

The unprecedented irregular migration flow over the past few years has without a doubt created significant corruption pressure and a new scope of corruption opportunities for border guards and other law enforcement personnel. Previous analyses have shown that there are specific corruption tactics and mechanisms employed by criminal actors, depending on the barriers they encounter when carrying out specific illicit activities.¹⁹⁶ The current study suggests that corruption as it relates to smuggling usually involves payment for facilitating unhindered irregular passage and less so for obstruction of effective prosecution and investigations as is the case

¹⁹⁰ BG-P11.

¹⁹¹ BG-P22.

¹⁹² BG-P13, BG-26, BG-P27.

¹⁹³ *News.bg* „Подкрепления за съдилищата по границата, иска Цацаров“ 21.6.2016.

¹⁹⁴ Gounev, P. and Bezlov, T. (2010) *Examining the Links between Organised Crime and Corruption*. Sofia: CSD.

¹⁹⁵ Gounev, P., Dzhekova, R. and Bezlov, T. (2012), *op.cit.*

¹⁹⁶ Bezlov, T., Yordanova, M. and Stoynova N. (2016a) *Exploring Links between Corruption and Trafficking of Women: The Case of Bulgaria*. Sofia: CSD; Bezlov, T., Yordanova, M. and Stoynova N. (2016b) *Analytical Report of Interview Findings: Corruption and Trafficking in Women*. Sofia: CSD.

with other more well-established organised crime activities in Bulgaria such as human trafficking.¹⁹⁷

The MoI **Internal Security Directorate**, which is charged with prevention, detection and investigation of illicit activities perpetrated by employees of the MoI saw a notable increase in investigations against police officers engaged in human smuggling or in corruption facilitating smuggling operations with up to 20-30 % of resources allocated on combatting this phenomenon.¹⁹⁸

At the same time, a number of external developments have had an indirect impact on reducing corruption pressure at the border, the most important being the decrease of the migration flow itself. The increase in Afghans as part of the migrant flow, who are generally considered a less affluent group, seems to have played a role as well, as well as the tightening of border security policies of other neighbouring countries and the stationing of Frontex border guards at the Bulgarian-Turkish border.

1.3.2. Legislative framework

The Bulgarian legal framework criminalises a number of acts related to human smuggling. The two core provisions dealing with this crime are Articles 280 and 281 of the *Criminal Code*.

Art. 280 par. (1) envisions a penalty of one to six years and a fine of between BGN 5,000 and 20,000 for “whoever transfers through the border of the country individuals or groups of people without the permission of the respective authorities or with permission but not in the designated places”. **Art. 280 par. (2)** sets out a higher penalty of between one and ten years and a fine of between BGN 10,000 and 30,000 in the presence of the following aggravating circumstances: **it. 1** the person (s) transferred is/are under 16 years of age; **it. 2** the person(s) was/were transferred without their knowledge; **it. 3** the person(s) is/are not Bulgarian citizen; **it. 4** a transportation device is used; **it. 5** the transfer is organised by a group or organisation; **it. 6** the transfer is carried out in a manner that is dangerous to the life of the transferred person(s). **Art. 280 par. (3)** prohibits the involvement of an official in smuggling activities upon penalty of between three and twelve years in prison and a fine of between BGN 10,000 and BGN 30,000. **Art. 280 par. (4)** stipulates the confiscation of vehicles when they are owned by the perpetrator or have been given willingly.

Art. 281 par. (1) stipulates that an individual who, to the purpose of providing himself or somebody else with property benefits, illegally assists a foreigner to sojourn in the state in violation of the law, is imposed a sentence of up to five years in prison and a fine of between BGN 3,000 and BGN 10,000. **Art. 281 par. (2)** sets out the similar aggravating circumstances as considered under Art. 280, par. (2), in the presence of which punishment is increased to between one and six years and a fine between BGN 5,000 and BGN 20,000, with three differences: the penalty under Art. 280, par. (2) is also higher when the assistance is carried out with regard to more than one person, while the nationality and awareness of the individual crossing unlawfully is not considered. **Art. 281 par. (3)** stipulates the confiscation of vehicles when they are owned by the perpetrator or has been given willingly.

¹⁹⁷ Rusev, A. (2013). *Human Trafficking, Border Security and Related Corruption in the EU*. Geneva: Center for the Democratic Control of Armed Forces; Bezlov, Yordanova & Stoyanova (2016a), *op.cit.*

¹⁹⁸ BG-P3, BG-P4, BG-P5.

The *Criminal Code* was amended in 2015 to include **more severe sanctions and to criminalise additional acts** related to smuggling. Key changes include the tenfold increase of fines under Art. 280 and the addition of a prison sentence to the fine previously foreseen under Art. 281. Perhaps most importantly, however the transportation of irregular migrants was criminalised under Art. 281.

In addition, in both articles a reference to organised crime was inserted, namely the aggravating circumstance of the act of smuggling being organised by an organisation or group. This necessitated the amendment of Art. 411a of the *Criminal Procedure Code* (CPC), which sets out the jurisdiction of the Specialised Criminal Court (SCC) and the Specialised Prosecution (SP) on organised crime offences. The SCC and SP already had jurisdiction over all cases involving an organised criminal group which commits crimes under articles 280 and 281. However, where the organised nature of the offence is an aggravating circumstance to a crime, jurisdiction has to be explicitly granted. The CPC was thus amended to allow the SCC and SP to preside over cases tried under Article 280, par. (2), it. 5. However, in what has been described by respondents as a mistake,¹⁹⁹ the identical Art. 281, par. 2, it. 1 remained in the jurisdiction of regional prosecutions.

The increased number and sophistication of perpetrators and groups also led to the more frequent use of Art. 321 (leadership and participation in an organised criminal group) in the prosecutions of acts related to smuggling.

Art. 321 par. (1) and (2) criminalise the formation, leadership and participation in an organised criminal group. In **Art. 321 par. (3)**, a number of criminal offences are set out (including human smuggling),²⁰⁰ for which there is a higher penalty provided these were the goal of the group: five to fifteen years for formation and leadership and three to ten years for participation. **Art. 321a par. (1)** criminalises the “leadership of organisation or group, which through the use of force or instillation of fear, concludes deals or draws property benefits” under punishment of three to eight years in prison and **Art. 321a par. (2)** the criminalises the participation in such a group under punishment of up to five years in prison.

1.3.3. Criminal prosecution and judicial practice

The novelty, scale and international outreach of human smuggling has compounded long-standing problems in the prosecution of organised crime. Law enforcement and the judiciary have faced a number of challenges related to the gathering of usable evidence (due to the tactics criminals employ, which prove to be a sufficient deterrent for law enforcement and changes in respective governing regimes), interpretation of the relevant legal provisions on smuggling and organised crime, referral of relevant cases to responsible bodies, and differences in judicial practice.

¹⁹⁹ BG-PR1, BG-PR2.

²⁰⁰ Articles 142, 142a, 143a, 243, 244, 253, 280, 337, 339 (1-4), 354a (1&2), 354b (1-4).

The key challenge faced by law enforcement which applies to all investigations under the relevant CC articles (including Art. 321 on organised criminal group) is the difficulty to motivate irregular migrants and apprehended smugglers to share information with law enforcement. This is most problematic with regard to crimes where few other evidentiary materials are available and testimonies become central to the case (save for larger-scale, lengthier investigations).²⁰¹ A related challenge is communication with the irregular migrants and the foreign perpetrators due to shortage of translators,²⁰² which also hinders the translation of evidentiary materials.²⁰³ Even when the perpetrators can be motivated to testify, there are strategies that smuggling networks use to minimise risk as described in section 1.2.1. Due to these difficulties, law enforcement would also consider apprehension and conviction of smugglers for other offences unrelated to smuggling as at least a partial success.²⁰⁴

Some respondents have pointed out other problems related to evidence gathering. The two types of special investigative techniques (SITs) mostly used by law enforcement when investigating smuggling are phone interceptions and surveillance.²⁰⁵ When it comes to investigation of organised criminal groups engaged in human smuggling, the use of SITs is considered by investigators a key method for collecting evidence.²⁰⁶ However, recent scandals related to irregular phone interceptions led to changes in the SIT regime and a decline in authorisations for their use amidst rising public criticism.²⁰⁷ Law enforcement interviewees pointed to this negative public image and sensitivity of some judges in authorising SITs as problematic for their work.²⁰⁸ Nevertheless, there are significant variations with regard to this, both regional and depending on the competent court.²⁰⁹ Similarly, in 2015, there was a change in the regime for obtaining data under the Electronic Communications Act (ECA), with court authorisation needed for every authority requesting them, including law enforcement, intelligence agencies and the prosecution. Respondents stated there are no mechanisms to prioritise ECA requests and the court might take long, thus hindering investigations that are time-sensitive.²¹⁰

²⁰¹ BG-P8, BG-PR1. For example, in art. 281, the “for profit element” is a necessary feature. However, as many respondents noted, the financial aspect is very difficult to prove as upon apprehension neither the irregular migrants nor the perpetrators have any money on them as payment is usually settled later.

²⁰² BG-P6, BG-P7.

²⁰³ Ibid.

²⁰⁴ BG-P18, BG-P19.

²⁰⁵ BG-PR1.

²⁰⁶ BG-PR2.

²⁰⁷ The number of persons subject to SITs fell almost fourfold, from a high point in 2011, when SITs were used on 8,184 persons to 2,794 in 2016. (Национално бюро за контрол на специалните разузнавателни средства. (2017) Доклад на националното бюро за контрол на специалните разузнавателни средства за извършената дейност през 2016. София: НБКРС.

²⁰⁸ BG-P9, BG-P10, BG-P18, BG-P19.

²⁰⁹ The drop in authorisations with regard to both SIT and ECA authorisations has been most dramatic in Sofia City Court. Софийски градски съд. (2017) Доклад за дейността на отдел „Защита на класифицираната информация“ по ЗСРС и ЗЕС за 2015 и 2016 година на Софийски градски съд. София: СГС.

²¹⁰ BG-9, BG-P10. While an amendment to the ECA allows for urgent court decision on a request to be delivered in 24 hours, the legal grounds for such a time frame are limited to terrorism and some related serious offences.

Still, the use of more SITs is not a guarantee for success. Law enforcement lacks sufficient resources to extract data from mobile applications, which are widely utilised by criminals, even when the devices are seized.²¹¹ Even if communication is carried out through tapped phones, often vague expressions are used, which are considered unusable by the prosecution.²¹²

Beyond issues related to evidence gathering, other problems include the lack of better coordinated, large scale investigations, the interpretation of the applicable CC articles and communication between relevant competent prosecutions resulting in few completed cases on OCGs involved in smuggling.

While the analysis presented in Section 1.1. illustrates that many human smuggling operations have the character of organised crime and include criminals engaged in other illicit activities, the number of cases which are initiated against OCGs for this type of crime are relatively low. In order for an OCG activity to be present as opposed to simple complicity, the temporal and quantitative factors are decisive,²¹³ meaning that an organised criminal group has to be durable and be established to commit more than one crime. Thus, when acting upon information about human smuggling, disruption of smuggling operations and apprehension of suspects would need to be held off before more evidence is gathered. However, due to low prioritisation of larger scale investigations, some district police departments often act immediately on signals, thus ensuring that the perpetrators and the irregular migrants do not move out of their jurisdiction.²¹⁴ Subsequently, there seems to be a tendency to hold on to own cases and investigating them but not proactively looking into aspects suggesting larger organisation.²¹⁵

The lack of prioritisation of large-scale investigations also reflects on the prosecution. Regional prosecutions like the local police might prefer to keep cases within their jurisdictions and considering the paucity of evidence gathered have no incentive to send the case to the Specialised Prosecution. On the other hand, prosecutors lead pre-trial proceedings and thus have a role in how the investigation is conducted. However, even when there is a desire to communicate cases to the SP, some respondents have expressed a view that the SP would rather not take on cases where the involvement of an OCG is debatable. This is likely related to the fact that the specialised judicial institutions are strained in terms of resources.²¹⁶ Nevertheless, this practice is problematic, since a number of examples have been mentioned where SP rejections have led prosecutors to cease referrals altogether and to prosecute cases as simple complicity.²¹⁷

²¹¹ BG-P21.

²¹² BG-PR1.

²¹³ Шекерджиев, К. *Анализ на практиката на съдилищата по дела за престъпления, свързани с организираната престъпност по чл. 321 НК и чл. 321А.*

²¹⁴ BG-PR5.

²¹⁵ BG-PR4.

²¹⁶ Indeed, the problem of shortage of prosecutors in the Specialised Prosecution is persistent and leads to an overload of cases per available prosecutor (Прокуратура на Република България (ПРБ). (2017) *Доклад за прилагането на закона и дейността на прокуратурата и на разследващите органи през 2016.* София: ПРБ).

²¹⁷ BG-PR3, BG-PR4.

The international dimension of human smuggling operations further complicates larger investigations in Bulgaria.²¹⁸ This problem, however, seems to be EU-wide with the number of joint investigation teams (JITs) aimed at countering human smuggling remaining constant in 2014 and 2015, despite an almost twofold increase in cases.²¹⁹

Even when law enforcement initiates larger investigations, proving organised criminal activity is complicated by a number of factors. Part of the problem lies in the OCG articles in the *Criminal Code*. It has been noted that that even though a number of publications have been written on the topic of defining and interpreting organised crime in the Bulgarian legal context, this remains problematic even for the Specialised judicial bodies.²²⁰

Unfortunately, it is unclear how many organised criminal groups engaged in smuggling have been subject to court proceedings, as the SCC does not segregate statistics on cases per secondary crimes perpetrated by OCGs. A search in the database of the Supreme Judicial Council, the judicial governing body, identified seven cases of OCGs engaged in smuggling for the period 2012 – 2017.²²¹ Out of those, six have ended with a settlement showing a clear preference for this method rather than a lengthy and difficult trial. The penalties given out are also relatively mild, with only three of the total 31 perpetrators receiving a prison sentence. Considering the 523 cases concluded under Art. 321 for the same period,²²² this is a very minor fraction. Even taking into account the caveat that probably not all such cases are published in the Supreme Judicial Council's database,²²³ this still suggests there are difficulties with proving OCG activity in smuggling. It is however likely that the lag in law enforcement response will be magnified in the trial phase and lead to a delay of the accumulation of concluded cases on OCG and smuggling.²²⁴

²¹⁸ BG-PR2.

²¹⁹ Eurojust. (2015) *Eurojust Annual Report 2015*. The Hague: Eurojust.

²²⁰ BG-PR2. The problems with regard to the *Criminal Code* articles which deal with organised crime are numerous. The CC includes three difficult to distinguish types of criminal associations (ordinary criminal group, criminal organisation and organised criminal group). Beside the main provision, there are a number of items in the CC which consider a connection between a perpetrator and organised crime (short of participation in the criminal association) to be an aggravating circumstance. These items, however, are terminologically inconsistent with some referring only to OCG while others, such as Art. 280 and 281, only to group or organisation. In addition, the OCG definition allows for too many crimes to be handled by the Specialised Prosecution (SP) and Specialised Criminal Court. A study commissioned by the prosecution on the first half year of operation of the SP concluded that: "The quantitative criterion that the legislator has chosen for the determination of an organised criminal group allows for the referral to the Specialised Prosecution of cases involving concerted forms of criminal activity that do not fit in with the stated aims and mission of the Specialised Prosecution". (Прокуратура на Република България. (2012) *Резюме от социологическо проучване в рамките на проекта „Укрепване на капацитета на Прокуратурата на Република България при изграждане на Специализирани структури за противодействие на организираната престъпност и свързаните с нея престъпления“*. София: ПРБ). For an in-depth analysis of the legal framework on organised crime and related challenges, see CSD. (2012b) *Countering Organised Crime in Bulgaria: Study on the Legal Framework*. Sofia: CSD.

²²¹ As it is not known whether all SCC cases are filed in this database, this search does not claim completeness of the data on cases on OCG smuggling.

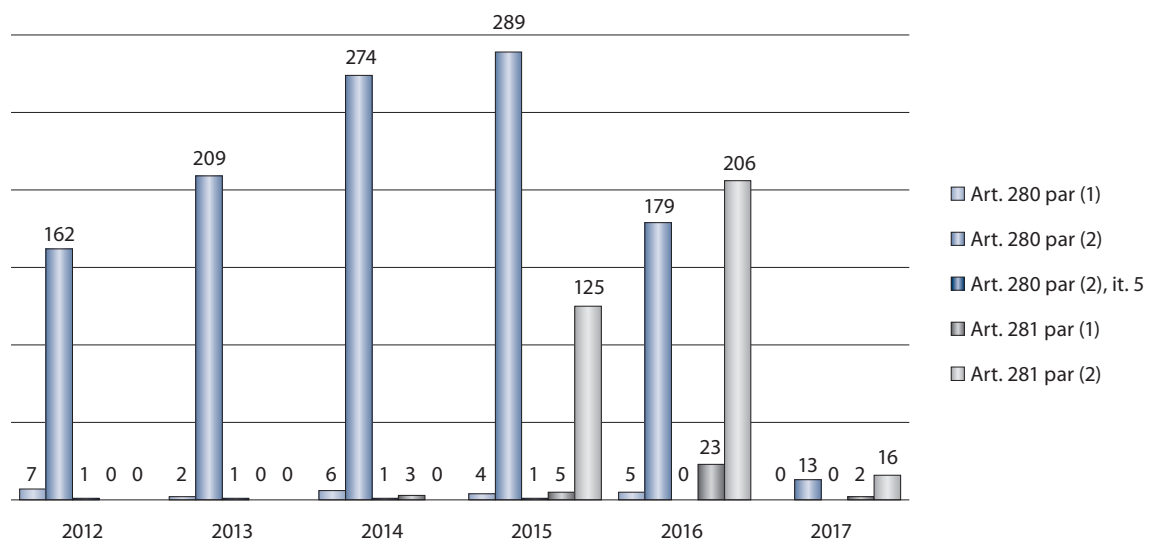
²²² Supreme Judicial Council data.

²²³ The concluded cases where the organised nature of smuggling operations is treated as an aggravating circumstance to the crime (cases under Art. 280, par. 2, it.5), are presented separately in SCC data and are 11 in total for the period 2012 – 2017, with 6 identified during the database search, suggesting a higher than 50 % publishing rate in the Supreme Judicial Council's database.

²²⁴ The Specialised Prosecution has stated that 18 % of 554 supervised pre-trial proceedings in 2016 are for OCG smuggling under Art. 321 in connection to Art. 280 (Специализирана прокуратура. (2017) *Доклад за дейността на Специализираната прокуратура през 2016*. София: ПРБ).

Prosecution of human smuggling by regional courts and prosecutions far outpaces the prosecution of OCGs engaged in human smuggling, despite the current analysis showing that smuggling often is an organised activity. While the two articles (280 and 281) had barely been applied prior to the 2013 migrant crisis and have been described as “exotic”²²⁵ and unfamiliar to prosecutors, with exceptions in some border areas, the irregular migration flow led to the twofold increase in the number of indictments under Art. 280 (see Figure 3). Art. 281, however, was rarely used until the CC amendment criminalising transportation of irregular migrants. This lack of practice has been approached differently by prosecutors who are not familiar with the smuggling articles, with some trying on the basis of trial and error to establish the court’s interpretation of the law.²²⁶ However, there is a preference for provisions that prosecutors are familiar with and which thus afford them a better chance of success in court.

FIGURE 3. INDICTMENTS UNDER ARTICLES 280 AND 281 OF THE BULGARIAN CRIMINAL CODE



Source: Statistics provided by the Prosecution Office.

The increase in cases under art. 281 in 2015 and 2016 appears to confirm respondent claims that it is the **transportation of irregular migrants which is most often intercepted** and drivers apprehended under this article.²²⁷ Indeed, while housing of irregular migrants, which was criminalised before the amendment was widespread, it seems to not have been vigorously prosecuted (see Table 3).

Regional courts and prosecution offices have also faced challenges with regard to human smuggling. Art. 281, par. 2, it. 2, which considers

²²⁵ BG-PR1.

²²⁶ BG-PR3.

²²⁷ BG-PR1, BG-PR6.

TABLE 3. CLOSED CASES, CONVICTED AND ACQUITTED PERSONS UNDER ARTICLES 280 AND 281 OF THE BULGARIAN CRIMINAL CODE

	Art. 280 CC (without par. 2, it. 5)			Art. 280, par. 2, it. 5 CC			Art. 281, par. 1 and 2 CC		
	Closed cases	Convicted persons	Acquitted persons	Closed cases	Convicted persons	Acquitted persons	Closed cases	Convicted persons	Acquitted persons
2012	108	177	0	2	1	2	0	0	0
2013	129	219	1	3	1	1	2	3	0
2014	184	405	3	3	4	2	0	0	0
2015	220	280	3	1	1	1	34	51	0
2016	165	194	0	2	0	0	141	194	6

Source: Supreme Judicial Council.

participation in smuggling activities organised by a group or organisation as an aggravating circumstance has generated no cases so far. As explained in section 1.3.2, the jurisdiction for this item remained with the regional prosecutions and courts. However, its application is complicated by the fact that regional prosecutions might experience difficulties distinguishing between the two types of criminal associations and proving their involvement. More importantly perhaps, the added value of trying to prove that smuggling is “organised by a group or organisation” has been questioned²²⁸ due to the fact that the penalty is the same as when there is presence of other aggravating circumstances. The other aggravating circumstances are often encountered and are much easier to prove.

Last but not least, substantial differences can be noted in the interpretation of the smuggling articles and the respective evidence required. This can be noted with regard to both regional courts as well as courts with national jurisdiction and with a variety of issues: whether the physical crossing of the border needs to be proven for Art. 280 to apply,²²⁹ whether Ministry officials are to be considered as stakeholders in trails,²³⁰ and whether it is necessary for the owner of a vehicle to have explicit knowledge that a specific car will be used for the commission of crimes in order to have it seized.²³¹

²²⁸ BG-PR6.

²²⁹ For example, it was suggested that the SCC might require specific proof of assistance in the physical crossing of the border as necessary for the application of Art. 280 (PR-2). On the other hand, the Supreme Court of Cassation in its Ruling № 380/06.11.2012 r. on criminal case № 1262/2012 discounted this. While it should be noted that this ruling is not an interpretative ruling and is thus not binding on other courts, such differences in interpretation are nevertheless noteworthy.

²³⁰ BG-P18, BG-P19. The CPC allows MoI officials to be witnesses. However, some courts consider them stakeholders in the case with an interest in the outcome of the proceedings and do not credit their testimonies.

²³¹ Ibid.

The issues pointed out in the present study illustrate how long-standing problems with prioritisation and the lack of clearly formulated, evidence-based approach to countering organised crime and corruption are exacerbated by shock events, which give the criminal underground opportunities to generate large amounts of revenue. The quick reorientation of the criminal networks to service the increasing demand and their adaptation to the barriers placed in front of their activities was contrasted by the delayed reaction of the authorities. The lack of a clearly formulated, coherent strategy on how to deal with these complex problems and their most recent manifestations is evidenced by the low number of large-scale investigations and concluded criminal cases on OCC engaged in smuggling.

Strengthening prosecution of complex transnational crimes necessitates the implementation of a number of different measures. In Bulgaria, far-reaching changes to improve response to transnational crime are needed including a better functioning, reformed criminal justice system, an improved anti-corruption legal framework and infrastructure and a coherent, holistic strategy for countering organised crime. Below some suggestions are advanced for both broader and more targeted steps to improve response towards human smuggling specifically and to strengthen capacity to allow for more effective management of shock events with potential criminogenic effects.

Forward looking analysis and mechanisms to increase preparedness

As has been shown in this analysis, the response of the Bulgarian government and institutions to the migrant crisis and related wide-scale smuggling activities was significantly delayed. In addition, considering the few OCC cases and mass smuggling activities in the country, it was also largely insufficient in terms of the allocated resources. Analysing trends in organised crime and potential threats stemming from international and domestic developments (especially such liable to lead to crises unless addressed) can help law enforcement and judicial institutions to respond more effectively to changes in organised crime groups and activities. The findings of such analysis can aid both operational and strategic decision-making. In order for this to happen, flexible mechanisms need to be in place, allowing for the evidence base generated to result in a calibration of law enforcement approach in terms of better resource allocation and deployment to tackle new developments in a timely and effective manner. In addition, a political mechanism for decision making in crisis situations should be in place, allowing for swift allocation of significant human and financial resource to control the consequences of shock events.

Information sharing and prioritisation of larger-scale investigation

As is shown in the previous sections, information sharing and prioritisation of large-scale investigations is paramount for countering complex crimes. The utilisation of the Integrated Information System for Combatting Crime to its full functionality at the MoI will help diminish duplication of effort and miscommunication between different directorates and the

prosecution. At the same time, with increased information sharing more connections between perpetrators and offences are likely to be revealed, increasing opportunities for conducting further large-scale investigations. While operational information sharing between bodies with different institutional culture and strategic priorities is understandably challenging, it can nevertheless lead to improved results in countering organised crime.

International cooperation

The results of this and other studies show that human smuggling has international dimensions.²³² Enhanced international police and judicial cooperation is therefore key for countering smuggling, as it will contribute to the dismantling of larger sections of the networks and to the reaching of higher levels compared to isolated efforts of national law enforcement. Increased use of joint investigation teams (JITs) and the more active involvement of EU agencies (Europol and Eurojust) is one way to do this. However, a more permanent form of operational cooperation between key transit and destination countries in the EU will likely yield better results. In addition, considering the fact that smuggling operations are often initiated in the countries of origin and Turkey, the inclusion of law enforcement from these countries in large-scale investigations is also important.

Investigations of criminal assets accumulated through smuggling

As demonstrated in the analysis above, law enforcement have made an effort to investigate more complex smuggling activities. However, the financial aspect is still very poorly understood, despite being a crucial piece of the puzzle. Part of the challenge is that payments, like most of the operations of the networks, have an international dimension. In this sense, investigating illicit money flows connected to smuggling can only be done in the context of large, international investigations.

Countering corruption in the police

Corruption appears to have been an important aspect allowing for the flourishing of human smuggling which necessitates the institution of measures to enhance the effectiveness of the current anti-corruption system. An optimisation of the regime for verifying asset and tax declarations as well as the implementation of integrity tests are some steps to be taken in this direction. More importantly, however, currently the bodies that deal with corruption in the police are understaffed and underfunded.²³³ Thus, strengthening the capacity of these bodies is necessary as part of an integrated approach for countering corruption in the police.

²³² Optimity Advisors. (2015) *A study on smuggling of migrants: Characteristics, responses and cooperation with third countries*. Brussels: European Commission.

²³³ Dzhékova, R., Gounev, P., & Bezlov, T. (2013). *Countering Police Corruption: European Perspectives*. Sofia: CSD.

Training and communication of best practices

Training for law enforcement, prosecutors and judges, both joint and on questions regarding their respective competence can improve the prosecution of complex crimes by the communication of best practices identified by studies in the country and/or abroad. In addition, the referral of viable cases can be strengthened. Even though it is not in their competence, law enforcement and prosecutors from institutions other than the specialised bodies will also benefit from training on investigation and communication of cases where the involvement of OCGs is suspected. However, problems of work overload will likely continue to have a bearing on effective prosecution and also need addressing.

Unambiguous legislative framework

Analyses conducted by the prosecution²³⁴ and NGOs²³⁵ show that the definition of an OCG allows for too broad a spectrum of crimes to fall in the jurisdiction of the Specialised judicial bodies. In addition, inconsistencies in terminology, especially with regard to organised crime hinder effective prosecution. The existence of three difficult to distinguish types of criminal association makes the respective CC articles difficult to apply even for the institutions which have a special mandate for this. Clear definitions of all three types of associations and consistent terminology used across the CC will help both the judiciary and law enforcement by more clearly demarcating areas of competence with regard to OCGs.

Consistency in interpretation of relevant CC articles

Divergent judicial practice currently leads to inconsistent application in different parts of the country and hinders unnecessarily the prosecution of this crime. Bringing the discrepancies in judicial practice on Art. 280 and 281 to the attention of the competent bodies which can request the issuing of an interpretative ruling by the Supreme Court of Cassation can help solve this problem.

²³⁴ Прокуратура на Република България (2012) Резюме от социологическо проучване в рамките на проекта „Укрепване капацитета на Прокуратурата на Република България при изграждане на Специализирани структури за противодействие на организираната престъпност и свързаните с нея пестъпления“. София: ПРБ.

²³⁵ Yordanova, M., Markov, D. (2012) *Countering Organised Crime. Countering Organised Crime in Bulgaria: Study on the Legal Framework*. Sofia: CSD.

2. HUMAN SMUGGLING AND HUMAN TRAFFICKING IN NORWAY

The criminogenic environment in Norway is facilitated by the forces driving globalisation, particularly the high levels of mobility, which have led to an influx of foreign criminal actors and networks. As a result, foreign criminal groups are increasingly involved in organised crime in Norway. Increased use of technology affects the crime picture both internationally and in Norway,²³⁶ and makes geographical borders less relevant. Due to its geographic position and socioeconomic status, Norway is essentially a **country of destination** for human trafficking and smuggling, rather than a country of origin or transit.

The National Criminal Investigation Service (NCIS) is the Norwegian police's national expertise centre in the fight against organised and other types of serious crime. NCIS is thus the national focal point for human trafficking in Norway for Europol and Empact cooperation. NCIS has national responsibility for analysis, assistance to the police districts and participation in international efforts to combat human trafficking and human smuggling.

Norway has several liaison officers who establish and maintain contact among organisations and countries with a remit to facilitate communication and coordinate joint activities. The Nordic liaison officers are police and customs officials who are stationed outside the Nordic region. The liaison officer also acts as a counsellor that provides the Nordic police with hard-to-understand knowledge about how police cooperation can take place across borders, and as a facilitator for initial contact of interested parties.²³⁷ In some locations, the Nordic liaison officers are also accredited to conduct their activities in the neighbouring countries as well. This applies, for example, to Romania, where the liaison officer also covers Bulgaria.

Over the past years, the National Criminal Investigation Service has published annual trend reports in order to provide a degree of situational understanding of organised crime in Norway. The reports provide typologies of criminal activities and modus operandi of OCGs, which constitute a major challenge in the area of organised crime in Norway. In the most recent report,²³⁸ which looks at the trends for 2016, human trafficking and irregular migration are included as both current and upcoming crime challenges in Norway. Human smuggling, however, is not included in the report. Since the experience of Norwegian authorities in combatting

²³⁶ NCIS. (2015) *Trendrapport 2016. Organisert og annen alvorlig kriminalitet i Norge*. National Criminal Investigation Service.

²³⁷ Nilssen, M. S. and Myhrvold-Hanssen, M. (2014) *"Mannen i midten": de nordiske liaisonoffiserenes rolle i internasjonalt politisamarbeid*. Master Thesis. Oslo: Norwegian Police University College.

²³⁸ NCIS, *op.cit.*

human smuggling is limited, the present study inevitably reflects this constraint and focuses more on the crime of human trafficking.

This chapter explores the Norwegian law enforcement response to THB and smuggling with a focus on police work.²³⁹ Although the Norwegian police investigate cases of both trafficking and smuggling, they are considerably more experienced in tackling human trafficking.

2.1. THE EXTENT AND SPECIFICS OF THE TRAFFICKING AND SMUGGLING OF HUMANS IN NORWAY

Norway incorporated human trafficking related offenses in a separate article in the Norwegian *Criminal Code* in 2003. Since then, human trafficking has evolved from being a rather unfamiliar type of crime in the Norwegian context to being an activity that is now considered a serious form of organised crime that requires political action and extensive law enforcement efforts. Human trafficking requires specialised expertise and substantial resources in order to identify, investigate and prosecute. Almost 15 years after the implementation of the human trafficking act, the police continue to experience a number of challenges in their work.

Similar to trafficking, human smuggling is considered a serious form of organised crime that requires expertise and resources that may only be brought to fruition through broad national and international cooperation. However, up to date, human smuggling does not seem to occupy a prominent place in the overall political agenda in Norway nor in the agenda of Norwegian law enforcement. According to the Norwegian Criminal Investigation Service, the Norwegian police have little knowledge regarding human smuggling in Norway, and too little effort is invested in extensive investigation to expose human smuggling networks.²⁴⁰

Asylum seekers are a vulnerable group, whose members are at risk of becoming victims of human trafficking.²⁴¹ Unaccompanied minors, too, are considered particularly vulnerable to exploitation for human trafficking. In 2014, there were almost 60 million refugees, asylum seekers and internally displaced persons registered in the world.²⁴² Europe as a whole experienced a substantial migration pressure in 2015 and over 30,000 asylum seekers arrived in Norway in 2015. In 2016, however,

²³⁹ The present study is based on the review of publically available policy documents, grey literature, court cases and official statistics provided by the National Criminal Investigation Service, Oslo Police District, the National Police Directorate, the Police Internal Learning Platform (KODE), the Norwegian Coordination Unit for Victims of Human Trafficking (KOM). In-depth semi-structured interviews were carried out with officials from the Norwegian Criminal Investigation Service, as well as semi-structured interviews with additional experts within the two crime fields.

²⁴⁰ The Director General of Public Prosecutions. (2017) *Mål og prioriteringer for straffesaksbehandlingen i 2017 – politiet og statsadvokatene*. Rundskriv 1/2017.

²⁴¹ KOM. (2016) *Rapport fra Koordineringsenheter for Ofre for Menneskehandel 2015*.

²⁴² The National Police Directorate (2016). *The Norwegian Police Environmental Scan 2015*. POD Publication 2016/04.

the numbers decreased considerably, with only about 3,500 asylum seekers.²⁴³ The most common countries of origin for the asylum seekers in 2016 were Eritrea, Syria and Afghanistan.

2.1.1. Human trafficking

In Norway, the majority of the THB victims are women who are trafficked for prostitution or other sexual purposes (there is also a small minority of male prostitutes). The prostitution market consists of both an indoor and an outdoor market. The indoor market is dominated by Romanian and ethnic Albanian networks, while the outdoor market is controlled by Nigerian and Romanian networks. In a report by Pro Senteret, a national centre of expertise that provides assistance to men and women who sell sexual services, concerns are expressed regarding Romanian and Bulgarian migrants in relation to human trafficking.²⁴⁴ These concerns are based on “both known trafficking cases within this group, suspicion thereof, and a high concentration of very vulnerable persons.”²⁴⁵

According to NCIS,²⁴⁶ the criminal networks that organize prostitution are multi-criminals. For instance, police investigation has revealed that Nigerian networks who are active in forced sex trafficking are also active in drug crime and trafficking activities.²⁴⁷

For many years, police initiatives were primarily directed against human trafficking for prostitution. There were very few reports of cases of human trafficking for forced labour after the implementation of the THB Act in 2003, and little focus was placed on this type of exploitation. A study of human trafficking for forced labour from 2014 revealed that there were no national guidelines for tackling this type of exploitation, that there was a lack of police co-ordination, and that efforts against forced labour trafficking to a large degree were dependent on local initiatives and local driving forces.²⁴⁸ The police districts varied in terms of effort, understanding and organisation. The study further argued that for both the police and for other enforcement agencies, forced labour is a field that intersects with several internal categories, such as the fight against financial crimes, workplace crimes and organised crime. The report illustrates the importance of improving knowledge and raising awareness among all levels in the police, and concludes that “enhanced knowledge, awareness and experience of combating forced labour trafficking will probably also increase the number of cases revealed and eventually lead to more investigations and convictions.”²⁴⁹

²⁴³ www.udi.no

²⁴⁴ Kock, I. E. (2017) *Vulnerable persons from Bulgaria and Romania who sell sexual services in Oslo. Experiences from Pro Senteret and other actors in Oslo*. Oslo: Pro Senteret.

²⁴⁵ Ibid, p. 14.

²⁴⁶ NCIS, *op.cit.*

²⁴⁷ Oslo Police District (2015). *Trender i kriminalitet 2016-2017. Utfordringer i den globale byen*. Strategisk stab. October 2015.

²⁴⁸ Jahnsen, S. Ø. (2014b) *Menneskehandel og tvangsarbeid. En forstudie om gråsoneproblematikk innenfor innsatsområdet arbeidsmarkeds kriminalitet*. PHS Forskning 2014:3.

²⁴⁹ Ibid., p. 10.

Currently, we see an increase in reports of forced labour trafficking. Looking at the forced labour cases that have been reported to the national coordination unit for victims of human trafficking, the irregular and/or criminal activities typically take place in sectors such as cleaning, car repair, farming/horticulture, construction and au pair services.²⁵⁰ In addition, massage parlours, fishing/maritime industries and hotel, restaurant and service industries are considered to be particularly vulnerable to forced labour exploitation. These industries are characterised by the predominant use of manual labour and are rarely subjects of inspections by the respective enforcement agencies.²⁵¹ Presently, the Norwegian police are working more actively against forced labour trafficking, and the past few years have seen several examples of extensive forced labour cases in Norwegian courts. Although men, women and minors may become victims of forced labour exploitation, men tend to be overrepresented. Still, the reported number of victims of forced labour trafficking is still quite low. In 2015, 42 men were regarded as potential victims of forced labour trafficking by KOM – the Coordinating Unit for Victims of THB. Romania, India, Pakistan and Poland are the most common countries of origin among these men.²⁵²

The UN, the EU and several other international organisations have warned against the increased number of people who will be exposed to human trafficking as a result of the migration flows towards Europe.²⁵³ The Director General of Public Prosecution in Norway has pointed out that there may be a dynamic interplay between human smuggling and trafficking.²⁵⁴

Unaccompanied minors are asylum seekers under 18 years of age who have arrived in Norway without their parents or any other relations who may have parental responsibilities. Unaccompanied minors are considered to be particularly vulnerable for exploitation of human trafficking. In 2015, 5,300 unaccompanied minors applied for asylum in Norway.²⁵⁵ In 2016, this number decreased to 320. Both in 2015 and in 2016, half of the unaccompanied minors were from Afghanistan. The vast majority of the unaccompanied minors are boys (93 %). Although there have been some incidents of unaccompanied minors missing from reception centres or from transit centres, most of the missing minors are presumed to have left at their own initiative and there is no reliable evidence to conclude that the minors who are unaccounted for in the reception centres are trafficked out of them. The police find that most of the unaccompanied minors that go missing leave reception/transit centres just before they turn 18, often in cases when they have been refused asylum status or if they have been granted only a temporarily stay in Norway. An important note, however, is that although unaccompanied minors choose to leave reception centres by their own will, they remain particularly vulnerable for subsequent exploitation.

²⁵⁰ KOM, *op.cit.*

²⁵¹ Jahnsen, S. Ø., *op.cit.*

²⁵² KOM, *op.cit.*

²⁵³ KOM, *op.cit.*

²⁵⁴ Director General of Public Prosecutions, *op.cit.*

²⁵⁵ www.udi.no

Table 4 presents the annual number of trafficking cases that have been reported to the police as violations of the human trafficking act. The cases were either uncovered by the police or reported to the police by actors outside the police (e.g. victims, safe houses, immigration authorities, child protection services).

TABLE 4. HUMAN TRAFFICKING CASES REPORTED TO THE POLICE IN NORWAY

	Reported cases, annual numbers						
	2010	2011	2012	2013	2014	2015	2016
Prostitution (incl. aggravated prostitution)	30	32	26	30	36	43	35
Forced labour (incl. aggravated forced labour)	10	12	22	39	68	18	8
Removal of organs/war service	-	-	-	1	1	-	-

Source: National Police Directorate. (2017) Statistical report JUS065. Unpublished, retrieved from BL/STRASAK.

Between 2010 and 2016, 28 cases of human trafficking led to convictions in court. Forced prostitution or other sexual services were involved in 21 of these cases. In general, traffickers and victims tend to be from the same country. The perpetrators convicted of human trafficking for prostitution or other sexual services between 2010 and 2016 came from Nigeria, Romania, Norway, Bulgaria, Albania, Lithuania, Slovakia, the US, and India. Also in the cases that concern various forms of forced labour and begging, traffickers and victims generally share the same nationality. The perpetrators convicted of human trafficking for forced labour are in the majority of cases nationals from Romania, Lithuania and the Netherlands.²⁵⁶

2.1.2. Human smuggling

In the general sense human smuggling means illegally helping people to enter or stay in a country. The term “help” is broad and encompasses most of the related activities, such as those of physically transporting or escorting the migrant, organising the trip, purchasing tickets, providing guidance, procuring travel documents (be they forged, counterfeit or genuine documents), preparing fraudulent visa applications, fabricating statements to the immigration authorities, facilitating sham marriages, actively concealing information and preparing cover-up stories, hiring the immigrants or providing accommodations to them.²⁵⁷ In many instances, the service is rendered for a significant fee and executed under perilous

²⁵⁶ KOM, *op.cit.*

²⁵⁷ Vevstad, V. (2010) Utlendingsloven (Commentated version of the Immigration Act).

conditions. Human smuggling is contingent upon the consent of the migrant to be smuggled into a country.

The extent of networks that drive human smuggling to Europe has increased both in scope and professionalism.²⁵⁸ It is not possible to estimate exactly how many people have been smuggled to Europe or Norway, but according to NCIS,²⁵⁹ there is little evidence of close connections between human smuggling networks in the Mediterranean region and Norway. Table 5 presents the annual number of reported cases of human smuggling and organised human smuggling that have been reported to the police between 2010 and 2016. As shown in the table, the number of reported human smuggling cases strongly increased in 2015. In 2016, however, the number of reports had decreased back to previous levels.

TABLE 5. HUMAN SMUGGLING CASES REPORTED TO THE POLICE IN NORWAY

	Reported cases, annual numbers						
	2010	2011	2012	2013	2014	2015	2016
Human smuggling	54	50	37	42	38	96	41
Organised human smuggling	0	10	12	5	9	7	8

Source: National Police Directorate. (2017). *Statistical report JUS065. Unpublished, retrieved from BL/STRASAK.*

According to NCIS, in some cases there is a close relationship between the smugglers and those who are smuggled. They may be family members, or claim to be. Due to these allegedly close family relations, it is difficult to detect both the degree of exploitation, as well as how organised the travel arrangement has been. This is particularly the case in travel across Schengen countries. Swedish police report that they have several indications that criminal actors in Sweden coordinate whole journeys (i.e. from the home country, via transit country, to the recipient country) even though the criminal actors do not reside in the given home county themselves.²⁶⁰ It cannot be ruled out that the same phenomenon also takes place in Norway. NCIS report that there are at least **indications** of persons residing in Norway being involved in facilitation of human smuggling to Norway.²⁶¹ There are also reports of cases wherein irregular migrants have been smuggled by airplane through Norway on their way to Sweden. In addition, there are those who travel by road through Sweden before they arrive in Norway.²⁶² Lastly, several instances in Norway in 2015 suggest that human smugglers

²⁵⁸ KOM, *op.cit.*

²⁵⁹ NCIS, *op.cit.*

²⁶⁰ Polisen. (2015) *Polisens rapport om organiserad brottslighet 2015*. Polismyndigheten, Nationella operativa avdelningen, p. 60.

²⁶¹ NCIS, *op.cit.*

²⁶² *Ibid.*

may also appear to be well-meaning individuals illegally helping refugees and migrants to cross borders.

Between 2013 and June 2015, 144 people were charged for human smuggling. Twenty-six were convicted in court (13 in 2013, 9 in 2014 and 4 by June 2015). Most are from Norway, Sweden, Syria, Eritrea and Afghanistan. Among those with Norwegian or Swedish citizenship, more than 80 % are born outside of Europe.²⁶³

According to NCIS,²⁶⁴ many of those who come illegally to Norway claim that their travel was organised. Most arrive by bus, train or car from southern Europe through Germany, Denmark and Sweden. For a short period, there was an upsurge in the number of Syrian asylum seekers arriving via Russia and Storskog in the north of Norway. However, there are no clear indications that these asylum seekers were facilitated or organised by human smugglers. These asylum seekers did not constitute a significant number, but rather illustrated that modes and routes may change quickly. Some asylum seekers also arrive by plane, mainly from other Schengen countries, but also from third countries, including Turkey.²⁶⁵ According to the NCIS, the infrastructure behind the large migration flow in the Mediterranean Sea has not been extensively exploited for the purposes of organised trafficking. Organised transportation of persons who are recruited for trafficking in Europe takes place mainly by air, and very rarely by land or sea. Accordingly, the Norwegian police do not find it likely that organised trafficking networks in Norway can be linked to migration across the Mediterranean. However, the police consider it possible that migrants who use routes across the Mediterranean may be exploited for sexual purposes, forced labour or other forced services in order to pay their debts to smugglers. In such cases the trafficking is not the result of specific planning and organisation and is thus different from organised trafficking in Norway. There is little information that relates this type of crime to people in Norway, neither to victims, perpetrators or facilitators.

According to NCIS, there is a clear correlation between the most nationalities that are at the top of the arrival statistics to Europe across the Mediterranean, and those coming to Norway and seeking asylum. In arrival interviews conducted by Frontex, some migrants (especially Eritreans and Iraqis, but also Syrians and Afghans) say they were planning to travel to Norway.²⁶⁶ With the current trends in migration flows, it is vital that anyone who comes into contact with potential victims of THB possesses sufficient expertise to detect and identify potential victims. Further, there is an increased need for information campaigns, both towards the general public as well as more targeted measures in connection with asylum registrations and reception centres.

²⁶³ Ibid.

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ Ibid.

2.2. LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR TACKLING HUMAN TRAFFICKING AND SMUGGLING

In December 2016, the Norwegian government presented a new Action Plan against trafficking of human beings, which included requirements for improvements in overall police organisation and effort. A particular emphasis was placed on identifying and engaging vulnerable groups of children that are at risk of becoming victims of THB. Unaccompanied minors who leave reception centres or transit centres are to be prioritised in line with other disappearance cases and all police districts shall establish good cooperation procedures with immigration authorities and child welfare services in such cases.²⁶⁷ It is considered likely that human traffickers (or, human smugglers) will exploit persons when they are not in possession of legal identity documents. Moreover, much like irregular migrants in general, unaccompanied minors without proper documentation are likely to avoid contact with authorities.

The Norwegian justice sector includes the police, police prosecutors and courts. **The Police Authority** is organised under the Norwegian Ministry of Justice and Public Security and the Norwegian Police Directorate. The Police Service is divided into 12 police districts.²⁶⁸ Each police district is led by a chief of police and is subdivided into several police stations in towns and cities. **The Prosecuting Authority** is partially integrated with the police, and is responsible for the handling of criminal cases, i.e. criminal investigation. Police prosecutors are organised under the Director of Public Prosecutions, who is independent of the police. **The courts** are independent bodies.

All criminal offences are investigated by the police and the most serious cases are sent to the Public Prosecutors who make a formal indictment and prosecute the cases in court. The remaining cases are returned to the Prosecuting Authority in the Police. In complex cases the Public Prosecutor is assisted in court by a police prosecutor.²⁶⁹

Norway signed an Association Agreement to Schengen in 1999, and has participated in the operational cooperation since 2001. The Schengen Agreement means that there are no longer controls at the geographical borders between the Schengen states, as a result of the establishment of a common travel area. To counteract cross-border crime and illegal immigration, including human trafficking, it is considered crucial to have effective police cooperation between the Schengen states. The Association Agreement includes a set of common rules for combating terrorism, illegal drug trafficking and other forms of serious international crime.

²⁶⁷ Director General of Public Prosecutions, *op.cit.*

²⁶⁸ A new police reform was introduced on 1 January 2016, reducing the number of police districts from 27 to 12.

²⁶⁹ GRETA. (2017) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway*. Second Evaluation Round. Council of Europe, p. 38.

2.2.1. Human trafficking

Three key laws and conventions define trafficking in human beings in Norway. First, Norway ratified the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol)* in 2003. The same year, THB was incorporated as a separate article in the *Norwegian Criminal Code* (Art. 224). After the implementation of a new *Criminal Code* on 1 October 2015, Art. 224 was replaced by Art. 257 (human trafficking) and Art. 258 (aggravated human trafficking). With the revision of the Code, the maximum penalty for human trafficking was increased to six years' imprisonment (10 years in case of aggravated circumstances). Lastly, the *Council of Europe Convention on Action against Trafficking in Human Beings* came into effect in 2008.

Based on the Palermo Protocol's definition of trafficking, trafficking in human beings is criminalised as follows:

Article 257: "Any person who by violence, threats, misuse of another person's vulnerability, or other improper conduct forces, exploits or induces another person to: a) prostitution or other sexual purposes, b) labour or services, including begging, c) war service in a foreign country, or d) removal of any of the said person's organ, shall be guilty of human trafficking and shall be liable to imprisonment for a term not exceeding six years. Any person who commits an act referred to in the first or second paragraph against a person who is under 18 years of age shall be liable to a penalty independently of any use of force or threats, misuse of a person's vulnerability, or other improper conduct. A person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be liable to a penalty if he in any way can be blamed for his ignorance."

Article 258: "Aggravated human trafficking is punishable by imprisonment for a term not exceeding ten years. In deciding whether the offence is aggravated, particular importance shall be attached to whether the person exposed to the act was under 18 years of age, whether serious violence or coercion was used or whether the act led to considerable gain. A person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be liable to a penalty if he in any way can be blamed for his ignorance." (Translation from GRETA, 2017)

Victims of trafficking are entitled to a range of assistance measures. These measures include a recovery and reflection period which gives the right to temporary residence and work permit for six months, legal assistance and free legal aid in advance of any criminal charges, safety and security measures (following a risk assessment) provided by the police, a safe place to live, follow-up care provided by social services or immigration authorities, medical assistance, financial support, safe voluntary return and re-establishment in the home country (provided by the International Organisation for Migration (IOM) with which the Norwegian Government has an agreement).²⁷⁰ Presumed THB victims who apply for a recovery and reflection period are entitled such assistance. Victims of trafficking among asylum seekers are also entitled to these assistance measures, but the precise forms of assistance depend on the resources different municipalities have and

²⁷⁰ GRETA, *op.cit.*, p. 19.

are not identical to those provided to victims granted a recovery and reflection period.²⁷¹

The first Governmental Action Plan for fighting THB was presented in 2003.²⁷² Several action plans have followed in 2006 and in 2010, while the latest was published in November 2016.²⁷³ The current action plan highlights the need for: 1) concerted and effective measures to protect and promote victims' rights; 2) improvement of the police's organisation and efforts toward tackling THB; 3) better knowledge to identify and prevent cases of THB; and 4) stronger international cooperation against THB. Furthermore, a special emphasis is placed on measures to prevent minors from being exploited.

The police efforts in the fight against human trafficking have also been included in the annual directives issued by the Director General of Public Prosecutions since the implementation of the human trafficking article in the penal code. More specifically, the Director General emphasised that "the police must actively seek to uncover the closed networks that are responsible for trafficking of human beings, where there is usually considerable profit, and carry out more targeted financial investigations. It is not possible to wait for victims to report their cases, after which they are offered assistance and protection."²⁷⁴

Currently, five Norwegian police districts have special units responsible for the investigation and prosecution of human trafficking. These special units, which became operational in 2016, cover Norway's five largest cities (Oslo, Bergen, Trondheim, Stavanger and Kristiansand). The special units consist of 6 to 10 staff in each unit and either include police prosecutors or co-operate closely with regional public prosecutors and financial investigators.²⁷⁵ The seven police districts that do not employ special units responsible for human trafficking are expected to have a THB point of contact (although the routines or responsibilities of such a recommendation are not specifically defined). Taken together, this means that all police districts are responsible for preventing, detecting and investigating human trafficking. However, in practice, the police districts that do not have specialised units have few resources to fight human trafficking.

A National THB Competence Group has been operational since mid-2016.²⁷⁶ The group is led by the NCIS and consists of some 15-20 national experts – police officers, prosecutors and collaborating partners, including representatives from the specialised anti-THB police units, the Coordinating Unit for Victims of THB (KOM), the National

²⁷¹ Ibid.

²⁷² Justis- og politidepartementet (2003). *Regjeringens handlingsplan mot handel med kvinner og barn 2003 – 2005*. Publikasjonsnummer G-0345 B.

²⁷³ Justis- og beredskapsdepartementet (2016). *Regjeringens handlingsplan mot menneskehandel (2011 – 2014)*. Publikasjonskode G-0438 B.

²⁷⁴ Director General of Public Prosecutions, *op.cit.*

²⁷⁵ GRETA, *op.cit.*

²⁷⁶ One of the authors of this report, Heidi Fischer Bjelland, is member of the competence group.

Police Immigration Service, and from the Police University College.²⁷⁷ The Competence Group convenes regular meetings, arranges national seminars for police, prosecutors and collaborating partners, and is currently developing a standard national training tool for future training events, which is aimed at increasing the overall police competence on THB related issues. As the Group includes representatives from all the specialised anti-trafficking police units, the group also acts as an intermediary to stimulate the exchange of experiences and best practices.

In Norway, the identification of potential victims is carried out by a number of different agencies and organisations, such as the police, safe houses, immigration authorities and child protection services.²⁷⁸ Through Norway's ratification of the Council of Europe's Convention, all agencies, organisations or individuals that frequently make contact with potential victims of trafficking have the statutory duty to identify victims and refer them to relevant authorities for further assistance. This means that rank-and-file police officers should also be able to recognise potential incidents of THB. When the police come into contact with people who they suspect may be a victim of human trafficking, they are obliged to identify them as well as offer individual consultation with a legal counsel and refer the potential victims to the available channels for assistance. Victims, as well as other parties, who wish to report offenders should contact their local police department.

Nevertheless, human trafficking is a relatively new field with Norwegian authorities, and generally, THB cases are regarded as difficult to identify, investigate and prosecute. Cases of human trafficking are frequently related to other types of crimes, and the modus operandi often range across police districts and jurisdictions.²⁷⁹

2.2.2. Human smuggling

Human smuggling offenses are defined in the *Norwegian Immigration Act* of May 2008 no. 35, section 108. The maximum penalty for isolated instances of human smuggling is three years' imprisonment (section 108, subsection 4, letter b). The penalty is not contingent on the smuggling as being profit-motivated. Establishment of guilt requires criminal intent. The law states that:

A fine or imprisonment for a term not exceeding three years shall be imposed on anyone who (a) willfully helps a foreign national to stay illegally in the realm or in another country participating in cooperation under the Schengen Agreement, or (b) willfully helps a foreign national to enter the realm or any other state illegally. However, this shall not apply if the intention is to help

²⁷⁷ GRETA, *op.cit.*

²⁷⁸ Bjelland, H. F. (2017) "Identifying human trafficking in Norway: A register-based study of cases, outcomes and police practices," *European Journal of Criminology*, 1-21, doi:10.1177/1477370816677619.

²⁷⁹ Bjelland, H. F., & Vestby, A. (2017) "It's about using the full sanction catalogue': on boundary negotiations in a multi-agency organised crime investigation," *Policing and Society*, 1-16. doi:10.1080/10439463.2017.1341510.

a foreign national coming under section 28 of this Act to enter the first safe country he or she comes to.

This part of the law describes what is considered “simple human smuggling.” It is possible to convict someone for helping another person cross the border, in any kind of way, such as buying a ticket or driving across the border. This kind of smuggling is usually not done for profit and does not have to be organised.

Aggravated human smuggling is covered by subsection 5 of section 108 and is punishable by up to 6 years’ imprisonment. The offenses pursuant to these clauses presuppose that the human smuggling represented an integral part of the activities of a criminal group and were profit-motivated. The law states that:

A fine or imprisonment for a term not exceeding six years shall be imposed on anyone who (a) for the purpose of gain engages in organised illegal activity with a view to helping a foreign national to enter the realm or any other state, or (b) for the purpose of gain helps a foreign national to enter the realm or any other state illegally if as a consequence of such action the person affected by the action is put in danger of his or her life.

The most recent annual directive by the Director General of Public Prosecutions²⁸⁰ states that human smuggling poses a security challenge and that profit-motivated organised human smuggling needs to be regarded with a greater concern. Further, it recommends that more human smuggling cases should be identified. Currently, there are very few national and co-localised resources with a targeted mandate to combat human smuggling, and it largely remains within the discretion of each district to tackle this type of crime. While there are five specialised anti-trafficking police units in Norway, there is in fact no specialised unit on human smuggling. Finally, the directive indicates that much of the effort put forward in tackling human smuggling is fragmented, fractional and random.

2.3. THE CRIMINAL JUSTICE RESPONSE: MAJOR CHALLENGES AND GOOD PRACTICES

Norwegian law enforcement and judicial authorities encounter a number of challenges in tackling THB and human smuggling. Although some of the challenges that hinder the fight against these two forms of crime may overlap, the two crime types are substantially different and will be dealt with separately below. Still, one central issue to the criminal justice response against both types of crimes is the importance of having sufficient knowledge and competence. Of particular importance is the ability to identify human trafficking and human smuggling and to be able to make a distinction between them.

²⁸⁰ *Op.cit.*

The concept of human trafficking is sometimes used interchangeably with human smuggling, and the distinction between these concepts has been much discussed in the criminological literature.²⁸¹ Police officers with limited knowledge about the specifics of THB may find it particularly difficult to differentiate between potential victims of trafficking and illegal (smuggled) migrants. This may have severe consequences. As noted by Perrin,²⁸² trafficked individuals who are mistaken for smuggled migrants may be deported and denied the protection they are entitled to as potential victims of THB.²⁸³

2.3.1. Institutional capacity

The Coordinating Unit for Victims of THB (KOM) provides several different types of training materials such as lists of indicators, which are supposed to contribute to better identification practices, including among frontline police officers. Despite such information material, however, there is still a need for guidelines and specific tools to fight human trafficking among the general police force.²⁸⁴ A recent study of the police investigation of THB notes that there is a severe lack of competence within the field, and that this affects the outcome of THB cases.²⁸⁵ Several of the respondents mentioned that it is not sufficient that experts have knowledge of THB. The interviewees discussed the importance of enhancing the knowledge about THB cases across the police force, also for front-line officers patrolling the streets. Additionally, it was mentioned that judges, too, may benefit from improved knowledge of the field. Two respondents stated that THB should be more integrated into the curriculum of the Police University College. The need to improve the knowledge of police investigators, prosecutors and judges across Norway is also brought up in GRETA's evaluation report on Norway.²⁸⁶

Tackling forced labour trafficking involves an interdisciplinary approach that requires high degree of cooperation and coordination. A key point in the fight against this type of crime is thus the importance of anchoring a comprehensive effort on the field and establishing good cooperation between police and non-police agencies.²⁸⁷

Most human trafficking cases are complex, resource-intensive and often involve a lengthy criminal investigation. A recurring argument from the expert interviews is that there is a general lack of resources in the human trafficking fields – a circumstance that has also been demonstrated in

²⁸¹ Perrin, B. (2010). *Invisible chains: Canada's underground world of human trafficking*. New York & Toronto: Viking Canada, Penguin Group; Segrave, M., Milivojevic, S. and Pickering, S. (2009) *Sex Trafficking. International Context and Response*. Cullompton, Devon: Willan Publishing; Shelley, L. (2010) *Human Trafficking: A Global Perspective*. Cambridge: Cambridge University Press.

²⁸² Perrin, *op.cit.*, p. 14.

²⁸³ Bjelland, *op.cit.*

²⁸⁴ Jahnsen (2014b), *op.cit.*

²⁸⁵ Pettersen, L. (2015) The investigation of human trafficking in Norway. Master Thesis. Oslo: The Norwegian Police University College.

²⁸⁶ GRETA, *op.cit.*

²⁸⁷ Bjelland and Vestby (2017), *op.cit.*; Jahnsen (2014b), *op.cit.*

previous research.²⁸⁸ Earlier studies on the policing of THB have also suggested that lack of resources may potentially cause police officers to be reluctant to open THB cases if they recognise the related investigation to be lengthy, intricate and resource intensive, as these cases are likely to divert resources from other priorities.²⁸⁹

Due to the international aspect of the THB cases, there is also a particular need for information and intelligence sharing with other countries. The police often lack the necessary information to be able to proceed with THB cases. In particular, in many cases information about the offender is absent, or it proves difficult or impossible to corroborate existing intelligence. Often, the police have little information that may help the investigation of human trafficking.

KOM maintains that there is a need for more effective coordination in the fight against THB at the national and international level and within organisations.²⁹⁰ Investigation of multi-criminal networks is often very challenging, as demonstrated by recent, large multi-agency investigations such as in the 'Lime' case.²⁹¹ Investigation of multi-criminal networks requires significant investigative resources, especially from local police districts. In addition, it entails a great deal of cooperation and coordination between districts and other countries. The need for enhanced information exchange between agencies, was brought up by several of the THB experts, and is also supported by previous research on THB and coordination between agencies in the fight against THB.²⁹²

2.3.2. Mechanisms for prevention, victim identification and support

Many of the challenges law enforcement faces have been thoroughly discussed in the human trafficking literature. For instance, some researchers have pointed out specific cultural issues that make police identification of THB and human smuggling victims difficult.²⁹³ One particular challenge concerns the inability or unwillingness of many victims to cooperate with the police.²⁹⁴ Victims of THB often demonstrate distrust in the police and in authorities in general. They often fear reprisals against themselves or their families if they report a criminal offence to the police.²⁹⁵ Cultural peculiarities and individual circumstances may prevent some persons from perceiving their reality

²⁸⁸ Sønsterudbråten, S. (2013) *Bistand og beskyttelse til ofre for menneskehandel. Tverretattlig samarbeid i Oslo og Bergen*. Oslo: FAFO; Jahnsen, S. Ø. (2014a) *Innestengt eller utestengt? Norsk prostitusjonspolitikk og kampen mot menneskehandel*. (PhD Thesis), University of Bergen, Bergen.

²⁸⁹ Bjelland, *op.cit.*

²⁹⁰ KOM, *op.cit.*

²⁹¹ Bjelland and Vestby (2017), *op.cit.*

²⁹² Ibid; Jahnsen (2014b), *op.cit.*

²⁹³ Shelley, *op.cit.*; Baarda, C. (2015) Human trafficking for sexual exploitation from Nigeria into Western Europe: The role of voodoo rituals in the functioning of a criminal network. *European Journal of Criminology* 13(2): 257-273.

²⁹⁴ Bjelland, *op.cit.*

²⁹⁵ Shelley, *op.cit.*, pp. 129-130.

as that of being a victim of THB. Moreover, certain victims often deem their present situation as less desperate compared with their life in their home country.²⁹⁶ Typically, traffickers seek to establish close and emotional relationships with their victims (often referred to as the “lover boy” method) and this creates a strong bond of loyalty between perpetrator and victim, which proves difficult to break in police investigations.²⁹⁷ Victims’ debts to traffickers as well as other aspects of the victims’ life situation can make it difficult for victims to cooperate with the authorities. Furthermore, KOM argues that the information about what Norwegian authorities can offer if the victims cooperate with the police is complicated and may be difficult to grasp.²⁹⁸

KOM points out that for potential victims of THB, knowledge about the experience of other victims reporting to the police may have an impact on the potential victims’ decision on whether or not to seek formal involvement from the authorities. Instances about victims who have testified against the traffickers and who have not received adequate assistance and protection may prevent other victims to report their cases to the police. Further, knowledge about THB cases that are frequently dropped or that traffickers are acquitted or receive low penalties, may also discourage victims from reporting their cases.²⁹⁹ KOM therefore points out that it is important that potential victims of trafficking learn about cases where traffickers have been prosecuted, as well as cases where other victims have obtained redress and assistance.

A common view among the respondents in this study is that crime prevention is paramount, but challenging, when dealing with human trafficking. One of the prevention strategies considered most important involves pursuing and investigating the leaders of the criminal networks. Focusing on the criminal networks rather than concentrating exclusively on a single trafficker or a single type of crime is considered most effective. However, investigating multi-criminal networks tends to be extremely resource-demanding and time-consuming, which prevents such a strategy to be applied to every potential THB network.

Some of the interviewees also pointed out the importance of undertaking preventive efforts in the victims’ country of origin. One such measure is assuring that penal sanctions such as confiscation of criminal assets are also imposed and enforced on traffickers’ possessions in their home countries. Such a measure is regarded as having a potent preventive effect, as it increases the cost and diminishes the motivation for re-offending. Demonstrating to potential traffickers that the Norwegian police are able to confiscate assets also in the traffickers’ home countries is thus considered an effective preventive effort.

²⁹⁶ Segrave, Milivojevic Pickering, *op.cit.*, p. 45.

²⁹⁷ Kock, *op.cit.*

²⁹⁸ KOM, *op.cit.*

²⁹⁹ *Ibid.*, p. 49.

In GRETA's recent evaluation report on Norway,³⁰⁰ it is noted that the police's preventive THB efforts focused mainly on reducing the demand for sexual services. Preventive efforts in the field of prostitution and sexual services are a result of Norway's criminalisation of the purchase of sexual services in 2008, which also criminalises the use of services of victims of trafficking exploited in prostitution.

Although crime prevention is challenging and produces outcomes that are extremely difficult to evaluate, there are examples that indicate the importance of preventative efforts. In its annual report from 2014, the Coordinating Unit for Victims of THB states that in the preceding years, several national agencies and bodies had been very attentive to the exploitation of minors in human trafficking. In 2012, an extensive trial in Bergen District Court took place, where six Romanians were convicted of having exploited Roma children through begging. In 2012, two Lithuanian men were convicted for having exploited Lithuanian minors for property crimes. Norwegian police and prosecutors used both these cases as examples to shift focus on children and young people's vulnerability to exploitation through trafficking. The two criminal cases received much publicity in the national media. Increased focus on potential criminal communities, inter-agency cooperation, assuring potential victims receive information about their rights and opportunities, as well as criminal prosecution of traffickers, may have contributed to making trafficking of minors less attractive in Norway.

2.3.3. Policing human smuggling

Although there have been several reported cases of human smuggling in Norway in the past years, there has not yet been a noticeable national or centralised effort in the field. In fact, there is currently no formal organisation of the fight against human smuggling, and there are few national and co-localised resources with a targeted mandate in the fight against human smuggling in Norway. It may be speculated that the limited efforts focused on human smuggling are due to Norway's geographical location, its status as a recipient country and the fact that most smugglers operate from abroad. Data from the conducted interviews and desk research suggests that the police have less experience with tackling this type of crime compared to other types of criminality. Nevertheless, there are indications that human smuggling is finding its place on the agenda of the relevant authorities and policy makers.

As there are no specialised units to combat human smuggling, it is generally within the discretion of each police district how to address this type of crime. This contributes to an incidental law enforcement response. Both the expert interviews and the official police reports indicate that to a large extent much of the work against smuggling is fragmented, fractional and random. Further, while issues related to human **trafficking** are often discussed thoroughly in publicly available police documents and reports, human **smuggling** is a field where

³⁰⁰ GRETA, *op.cit.*

there is scarce information consisting of intelligence reports that are not publically accessible.

Relatively few cases of human smuggling are reported as the relationship between smuggler and smuggled is often a mutually beneficial one and no party has an interest in exposing the activity. Police experience also confirms the difficulty in obtaining information on the smuggling activities as even in identified cases of human smuggling, none of the involved parties are interested in providing information to solve the case.

As pointed out by some respondents, it may be difficult to differentiate between human trafficking and smuggling. Both types of crime involve vulnerable groups of people. What may have started as human smuggling may develop into trafficking after the destination is reached, as the victim appears often at the mercy of the smuggler. The migrant may subsequently be forced to pay for services rendered with illegal work or by engaging in criminal activities. Because of the probability and prevalence rates of such transitioning from one offense to the other some of the respondents maintained that an increase in the volume of human smuggling may also lead to higher numbers of victims of trafficking. The dynamic interplay between human smuggling and human trafficking may prove difficult for the police to categorise a case as trafficking or smuggling before they have conducted a thorough investigation.

The responsibility for gathering and analysing intelligence about human smuggling (including intelligence about false identities) could be held by a national body that coordinates information exchange and investigation. This would enable the establishment and maintenance of expertise and dialogue that would result in more in-depth understanding of human smuggling in Norway and prevent knowledge fragmentation.

One of the major challenges in investigating human smuggling networks is their cross-border multi-crime nature. This requires significant efforts in coordinating national and international law-enforcement activities. Combating human smuggling requires considerable national and international police cooperation.

2.4. GOOD PRACTICES IN COUNTERING HUMAN TRAFFICKING

The importance of **specialised anti-trafficking units** has been noted in several of the annual reports published by KOM. This is also supported by several of the respondents, as specialised units develop specific knowledge about human trafficking typologies. One key issue that is highlighted in the interviews is the importance of having sufficient competence on the phenomenon THB. This is considered imperative in order to identify and prosecute human trafficking, to understand the situation of the victim, and to be able to facilitate the victim for further assistance. Data from the expert interviews indicates that in order to increase awareness of THB, representatives from such specialised units

visit other police structures and cooperating NGOs. Allegedly, this has contributed to more intelligence tips and improved the general knowledge of THB within the police and NGOs.

Although the current organisational structure with five specialised anti-trafficking units is relatively new, there have been specialised units on THB in the two largest cities in Norway for a number of years.³⁰¹ These groups have investigated and solved a number of cases. Another advantage of having specialised police units is the availability of dedicated resources with which they operate, including staff and special investigative means. As confirmed by the interviewed informants, lack of resources affects the quality of an investigation.

Several of the respondents stressed the importance of the language barrier when working with THB cases, where both the criminals and victims are foreign. Although not always possible, mastering the victim's first language is considered invaluable for the police investigation. As mentioned in the GRETA report,³⁰² the specialised anti-trafficking unit in Oslo includes a Romanian-speaking police officer.

In their annual report, KOM discusses several issues that are regarded as good practices in the fight against human trafficking. One such good practice is **bilateral cooperation between the police and support services in Norway and the respective authorities in the victims' home countries**. Such cooperation may help prevent potential reprisals against the victims' families. Both the coordinating unit and some of the respondents point out that such bilateral cooperation should also seek to facilitate the return and reintegration of victims, as well as to prosecute the traffickers in their home countries.³⁰³

One respondent specifically underlined the importance of having good relationships with presumed victims of trafficking and having a good standing in environments where trafficking is known to be a challenge. The significance of having specific knowledge about the cultural specificities of the environment where trafficking may potentially be identified and building relationships with the members of the community was also emphasised by the respondents. Such cultural understanding also consists of knowledge about how the particular criminal activities are in different countries and cultures. Additionally, the importance of language skills was mentioned as a way of obtaining trust from victims. Among the interviewees, there was a general consent that this kind of trust-building effort would increase the chances that potential victims of trafficking will seek help from the police.

Several of the informants mentioned the importance of **liaison officers** and how they enable collaboration between relevant authorities in different countries. Liaison officers are seen to contribute with coordination of cases from the northern countries to the host countries, as well as with

³⁰¹ While the dedicated THB group in Bergen has been active since 2009, the THB group in Oslo has been alternatingly active and inactive since 2007.

³⁰² GRETA, *op.cit.*

³⁰³ KOM, *op.cit.*, p. 49.

providing contacts and information about local conditions. Sometimes the activities of a liaison officer would compensate for the lack of JITs, which are often difficult to initiate and implement. The respondents noted that some cases would not have been successful without the active involvement of liaison officers. They are often viewed as indispensable in human trafficking cases, as such cases are not necessarily a high priority in all countries, as opposed to, for example drug cases.

Several of the respondents mentioned the importance of the use of **intelligence and strategic analysis** in tackling THB by way of facilitating knowledge transfer across police districts. Further, it was considered that such activities would enable the police to work based on analytical evidence, thus ensuring more efficient and effective use of resources in policing.

As noted above, the use of intelligence-led policing is considered of high value in tackling THB. Covert investigation strategies such as wire-tapping are often employed in such cases. Special investigative means are regarded as particularly valuable for investigating crimes such as THB, where it is usually extremely difficult to prove exploitation and consequently reach a conviction in court. For instance, in a recent extensive investigation against a large organised crime network in Norway (against grocery chain Lime), the use of covert investigation methods and wiretapping was considered crucial in bringing charges to the suspect.

More effective **inter-agency cooperation** or use of JITs may also potentially increase the police's use of special investigative tools. For instance, a study of the multi-agency investigation in the Lime case³⁰⁴ indicated that when the police cooperate with other law enforcement agencies in joint investigations, this facilitates a broader set of accessible investigation tools, particularly in regard to the investigation of financial aspects of the crimes. Below some **recommendations** are advanced to improve law enforcement response to human trafficking and human smuggling.

Increased knowledge and competence

A common feature in investigating cases of human trafficking and smuggling is the importance of having adequate knowledge and competence in the specific crime field. The present study indicates that there is a need to improve the knowledge and competence levels among the general police force. However, as shown above, there are currently ongoing efforts to develop and implement a national training tool for the policing of human trafficking. The training tool is intended to considerably enhance knowledge, awareness and competence of law enforcement officers, including staff who usually do not work with THB issues. Further, it seems that the issue of human smuggling is now gaining some political salience and that it also more strongly figures on the agenda of the relevant law enforcement agencies.

³⁰⁴ Bjelland & Vestby, *op.cit.*

Several respondents stated that when working with crimes where the criminals and the victims tend to be foreigners, the issues of **language** and **cultural understanding** are of great importance. Knowledge about specific cultural issues makes communication and cooperation easier with all parties involved. Accordingly, when developing training tools to facilitate investigations of THB or human smuggling, particular attention should be paid to the way cultural issues may affect law enforcement efforts from the pre-trial investigation to the eventual court proceedings.

Specialised police units

There is a broad agreement about the importance and advantage of having specialised police units working primarily with human trafficking and smuggling. According to the respondents, such specialised police units should consist of investigators, intelligence officers and analysts. This would enable enhanced intelligence-led police investigations. Some interviewees also highlighted the importance of including prosecuting authorities in the specialised police units. Prosecutors will have a better understanding of the specific cases and will therefore be able to bring focus and expertise to the teams. The active involvement of prosecutors may also facilitate the effective utilisation of special investigation means when necessary. Direct communication between police and prosecutors and rapid decision making are claimed to be of paramount importance when tackling cross-border crime that is dynamic in its nature.

Broaden the focus

One of the challenges in tackling both THB and human smuggling is that the criminal networks involved often include multi-criminals. Data from the interviews suggests that one preferred strategy to tackling such organised criminal groups is to investigate the ring leaders. A widely held view among the respondents is that it is crucial to broaden the focus rather than concentrating exclusively on one crime type. As discussed above, inter-agency cooperation is considered indispensable for the effective investigation of multi-criminal and transnational crimes.

Organisational response

The present study points to the importance of specialised national structures with a remit to tackle human trafficking and smuggling. It has been suggested that a national competence centre for human trafficking or, alternatively, a national competence group to coordinate efforts in the field would be a step in the right direction, as it would facilitate information and intelligence sharing across the police districts. Such a structure at the national level is also envisaged to be responsible for organising training seminars and awareness raising activities and facilitate the further adoption of THB and human smuggling on the political and law enforcement agenda. The introduction of permanent contact persons in each district, to be responsible for keeping track of human trafficking and smuggling operational situation, has also been proposed as a good practice.

Crime prevention

Conducting crime prevention is considered extremely important, but also, very difficult. Looking at both human trafficking and human smuggling, it is often difficult to know where to aim the preventive efforts, and the effects of crime prevention are also difficult to measure. Still, seeing the extensiveness and complexity of both THB and human smuggling, the police is no matter how able to handle all existing cases of these crimes. The police should therefore continue – and strongly increase – their focus on strategies to prevent future THB and human smuggling.

CONCLUSION

The migrant crisis was a transformative development for many European countries, generating a number of challenges and threats. The strong migration pressure has led to an increase in human smuggling and the revenue generated by criminal actors engaged in this type of crime. At the same time, the entry of large number of irregular migrants and asylum seekers has resulted in an increase in instances of exploitation in some countries, giving rise to concerns that a portion of this vulnerable group will end up in an exploitative situation in destination countries in Europe. The present report has shown that while a rise in THB is not necessarily to be expected in all destinations, strong migration pressure can serve to generate significant opportunities for OCG involved in other activities, prompting them to enter this market and become more skilled in executing the crime.

Bulgaria and Norway have been affected by the migrant crisis and related human smuggling activities very differently. Bulgaria has experienced unprecedented migration pressure, following the shift in migration routes in 2013. There were established smuggling channels in the country prior to the crisis, but the large migrant flow could not be serviced by these criminal actors. The result was the expansion of existing smuggling networks and the creation of new ones, with a significant involvement of the existing criminal underground with experience in other crimes. The phenomenon of human smuggling, on the other hand, seems to be rather recent in the Norwegian experience and cases are relatively few as Norway has generally remained marginally affected by the migrant crisis. Consequently, work on human smuggling has not been markedly prioritised by either law enforcement or policy makers, although that might be changing.

A prominent characteristic in the experiences of both Norway and Bulgaria is that despite the abundant research on human trafficking, incipient trends such as human smuggling and other forms of transnational crime facilitated by the most recent migration wave from the Middle East and North Africa to Europe are less well understood and law enforcement approach is yet to adapt to these threats.

On the other hand, both countries have a much better developed institutional infrastructure and response to human trafficking, which is a much more established criminal threat in both countries. Bulgaria has traditionally been a significant country of human smuggling victims and perpetrators. Bulgarian organised crime generates an estimated EUR 1.46 billion annually from trafficking for sexual exploitation and between EUR 123 million and 205 million from domestic prostitution.³⁰⁵ Norway also has an established market for services by trafficked

³⁰⁵ CSD (2012a), *op.cit.*, pp. 22-23.

individuals, mostly relating to sexual services, with a variety of criminal networks active.

Despite the rise in cases of human smuggling in other key countries affected by the migrant crisis, the current study identified few synergies between the human trafficking and human smuggling. In Bulgaria, some perpetrators who have been active in THB have also been detected engaging in human smuggling. However, this can be viewed in the context of the general reorientation of the criminal underground to human smuggling, prompted by its profitability, especially during the peak years of the crisis. In Norway, on the other hand, it appears that the limited migration pressure it experienced has not led to an increase in THB, despite the presence of unaccompanied minors vulnerable to exploitation. Nevertheless, it should be noted that the criminal networks that have been engaged in human trafficking are usually engaged in other crimes such as the drug trade.

In efforts to counter the phenomena of human smuggling and human trafficking in their respective national contexts Bulgarian and Norwegian law enforcement and judiciary have encountered a number of problems, some of which have a similar nature. The complexity of both crimes necessitate the adoption of a coordinated approach. In Norway and Bulgaria dedicated law enforcement bodies have been instituted with a remit to counter human smuggling and trafficking respectively, while arrangements for inter-agency information exchange have been set up to facilitate more effective information sharing and institutional learning. However, insufficient information exchange has still hindered investigations.

The present inquiry into the nature and modus operandi of perpetrators has revealed that the majority of the smuggling networks are in fact multi-criminal transnational organisations dealing in several different criminal activities, including human and drug trafficking. Thus, a swift and effective international cooperation is key in tackling such transnational organised crimes, although this is an area which requires significant improvements.

Similarly, prioritisation of large-scale investigations is paramount for uncovering organised crime behind smuggling and THB. Nevertheless, this has been problematic in both countries, as such investigations are often lengthy and resource intensive. However, in Bulgaria, this has been even more pronounced, with the lack of prioritisation of large-scale investigation being one of the symptoms of lack of political will to counter organised crime effectively. The evolving threat of human smuggling has once again emphasised long-standing problems with the Bulgarian institutional and legislative framework for the effective investigation and prosecution of transnational organised crime. This has resulted in few investigations and respectively few completed cases in human smuggling perpetrated and a generally disjointed approach when prosecuting human smuggling elsewhere in the country, even when there are indications of OCG activity.

ANNEX. CODING OF BULGARIAN RESPONDENTS

Code	Position	Institution/Role
BG-P1	Head of Unit	Directorate General Combating Organized Crime (DGCOG), Ministry of Interior
BG-P2	Head of Unit	Directorate General Combating Organized Crime (DGCOG), Ministry of Interior
BG-P3	Head of Unit	Directorate Internal Security
BG-P4	Senior Police Officer	Directorate Internal Security
BG-P5	Police Officer	Directorate Internal Security
BG-P6	Senior Police Manager	Directorate General Border Police
BG-P7	Head of Unit	Directorate General Border Police
BG-P8	Inspector	Directorate General Border Police
BG-P9	Senior Police Officer	Sofia Directorate of Interior
BG-P10	Head of Unit	Sofia Directorate of Interior
BG-P11	Inspector	Directorate General National Police
BG-P12	Inspector	Regional Directorate Combating Organized Crime
BG-P13	Inspector	Regional Directorate Internal Security
BG-P14	Director	Regional Directorate Border Police
BG-P15	Head of Unit	Regional Directorate Border Police
BG-P16	Head of Unit	Regional Directorate Border Police
BG-PR1	Prosecutor	Regional Prosecution
BG-P17	Head of Unit	Regional Directorate of Interior
BG-P18	Head of Unit	Regional Directorate Border Police
BG-P19	Head of Unit	Regional Directorate Border Police
BG-PR2	Prosecutor	Specialised Prosecution
BG-P20	Inspector	Regional Directorate Combating Organized Crime
BG-P21	Inspector	Regional Directorate Internal Security
BG-P22	Director	Regional Directorate Border Police
BG-PR3	Administrative Head	Regional Prosecution
BG-PR4	Administrative Head	Regional Prosecution
BG-P23	Director	Regional Directorate Border Police
BG-PR5	Administrative Head	Regional Prosecution
BG-P24	Inspector	Regional Directorate Internal Security
BG-P25	Inspector	Regional Directorate Combating Organized Crime
BG-PR6	Administrative Head	Regional Prosecution

BG-P26	Head of Unit	Regional Directorate of Interior
BG-P27	Head of Unit	Regional Directorate of Interior
BG-P28	Former Police Officer	General Directorate Border Police
BG-P29	Former Senior Manager	General Directorate Border Police
BG-P30	Former Police Officer	General Directorate Border Police
BG-P31	Former Police Officer	General Directorate Border Police
BG-P32	Senior Police Manager	Directorate Internal Security
BG-M1	Former Deputy Minister	Ministry of Interior
BG-S1	Smuggler	-
BG-S2	Smuggler	-
BG-S3	Smuggler	Coordinator

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