

## **Modus operandi of migrant smuggling**

**PhD (C.) Aleksandar Georgiev**

*University "St. Clement of Ohrid" – Bitola  
Ministry of interior of the Republic of Macedonia*

**PhD Zlate Dimovski**

*Full professor at the Faculty of security – Skopje  
University "St. Clement of Ohrid" – Bitola*

**PhD Ice Ilievski**

*Assistant professor at the Faculty of security – Skopje  
University "St. Clement of Ohrid" – Bitola*

**PhD Kire Babanoski**

*Assistant professor at the Faculty of security sciences – Skopje  
MIT University – Skopje*

### **Abstract**

Migrations and the movements that are provided by this phenomenon can be an important factor in the field of general safety because the phenomenon of migration can cause some emergent and structural changes in the criminal activities of a certain area in a certain period of time. The main field of this paper is to emphasize the security aspects and consequences arising from migratory movements, particularly the phenomenon of smuggling migrants. Moreover, it will be elaborated current trends in the ways of proceeding the process of „smuggling“ in terms of motives and reasons for migrants to leave their home country. In order to explain the phenomenon, authors will provide relevant statistics on the field of illegal migration from all over the world. The purpose of the paper is to actualize the problems with this criminal activity and to emphasize the consequences which are deriving from it in order to find a strategy and tactics to deal with such a negative phenomenon.

**Keywords:** smuggling of migrants, migration, organized crime groups.

### **Introduction**

Migration is one of the major driving forces of the human progress and development. The movement of people around the globe influenced the construction of a lot of things throughout the history of mankind. From the past to present times, people are moving from one place to another for various reasons. For example, some people are moving in order to increase their economic opportunities, or to enable a better level of education for their children. However, from the other side of view the migration has led to a proliferation and mixing of languages, cultures and ideas all around the globe.

Migrations represent physical movement, temporary or permanent relocation of the

population from one socio-cultural setting (emigration area) to another (immigration area), or from one country (emigration) to another (immigration) (Mijalkovic, 2007). So, migrations may be internal and international. International migrations involve any cross-border movement of people and their acceptance and presence of different duration in the country where migrations flow, regardless of the subjective motives and individual characteristics of the participants in this process and migration policy of the countries in which migration takes place. Two primary elements in the definition of international migrations are significant: mobility, i.e. entry and staying in the foreign country and foreign citizenship. Currently about 190 million people worldwide have the status of international migrants, which is 3 % of the world's population, or any 30<sup>th</sup> person on the planet. Sexual intercourse of the men and women in the migrations is 51:49. It is assumed that the number of immigrants from the Republic of Macedonia is between 350,000 and 500,000 people. It is very difficult to collect official data.

Today, global migration is one of the several so called very important products of globalization. Besides the fact that the migration is important „consequence“ of globalization, it is a phenomenon that is exploited by the organized criminal groups with the purpose of acquiring material benefit. As a result of this statement, nowadays statistics are showing that there are a various emerging types of criminal activities which are related to migration movements.

The methods of execution of migrant smuggling are very dependable on the territory where the activities are taking place. From the other side of the law, criminal intelligence and special investigative measures are an important tool that helps the proactive investigation.

### **Illegal migration**

The main factor in the theory of immigration distinguishes, and both legal and illegal immigrations, it is the economic factor. Low standard of living, poverty, unemployment are just some of the reasons because of people decide to leave their country. Thereby the poor people from less developed countries may have a much higher standard of living in developed countries than in their own country. So, the flow of immigration almost entirely is composed of immigrants who come from countries with lower socioeconomic levels to countries with higher socioeconomic levels, especially from developing countries to developed countries.

Also, there are other causes associated with poorer countries; the most common motivation for immigrants is the pursuit of greater economic opportunities and quality of life in the destination country. The choice of country for migration depends on the availability of jobs and employment opportunity. If finding legal opportunities are not possible, people seek other illegal ways to meet their goal. Seeking illegal goals leads them into illicit channels and committing illegal activities so they can easily be detected while they risking to face negative consequences in terms of expulsion, prohibition of return, prison etc. By illegally entering into another country, immigrants expose themselves and expose local citizens to different types of hazards (Clarberg, Keating and Radović, 2006).

Today, are known some considerably dangerous consequences which are result from their activities, such as: illegal immigrants can be subjected to trafficking with human beings for various purposes, such as job exploitation, exploitation for prostitution, sale of human organs and so on.

Illegal migrations are increasingly characterized by more organized approach to the recruitment, transportation, acceptance and exploitation of illegal migrants in the countries of destination (Mijalkovic, 2007). Besides mediating activity of facilitating illegal entry of persons to another country, known as the smuggling of migrants, organized crime groups are increasingly resorting to smuggling victims for so-called international trafficking. Low risk and high profitability paralleled the extent of this "criminal business" with illegal circulation of narcotics and weapons globally.

Organized illegal immigrations have a negative impact on the country by several aspects: destabilization of the security situation in the country, undermines the stability and functioning of the state institutions, and reducing the country's reputation in the international community. This situation is supplemented with endangering the safety of citizens, so called human (individual) security, in terms of committing large number of crimes, misdemeanors and pathological deviations in the sphere of physical, health and economic security. Thus, are violated a big number of human rights and freedoms, which means that this phenomenon is not only criminal activity directed against the country.

Organized illegal immigration operates in secret and represents a serious and worrisome security threat to the national security of the country that causes financial, psychological and often physical harm (Kotovchevski, 2010). When immigrants are forced upon or otherwise exploited, it is considered that with that they are being traded, which represents the beginning phase of human trafficking. In reverse, illegal immigration in the countries that are on the list on their final destinations causes a rise of xenophobia and racism, as well as the continuous strengthening of far-right movements and other violent extremist organizations. These new phenomena further complicate the security situation in the host countries of immigrants and further contribute to the creation of a hopeless situation and fear of rapid change of the ethnic structure in the smaller countries that have a low birth rate. In these countries, rapid development of far-right and racist organizations which organize various violent outbursts and brutal attacks on the quarters inhabited by immigrants has been trending lately.

### **Smuggling migrants - terms and stages**

A phenomenon that is closely related to illegal migrations, which is realized for the purpose of acquiring unlawful profits by a third persons is smuggling of migrants. Smuggling of migrants today is one of the most profitable "businesses" (Arnaudovski, 2002). According to some estimates, the revenue from this type of criminal activity annually exceeds \$ 8 billion. For example, the way of a citizen of China to America costs about \$ 30,000. Despite the restrictive immigration policies that have been in place since the 1970s in most Member States, a large number of migrants and irregular migrants continued to come to the European Union in search of work and asylum

status. Using people who are looking for better living conditions and who want to go abroad, the smugglers networks take over the control over this crime across the EU. This situation implies mobility of significant resources to oppose on adequate way to the illegal immigrations. But, the European Union needs a certain number of immigrants who would work in certain sectors and regions, given the fact that a segment of the EU policy is arranged to deal with its economic and demographic needs.

The crime of smuggling migrants hadn't had a legal foothold in the laws of many countries for a long time, or it was inadequately resolved. By ratifying the United Nations Convention against trans-national crime and its two current protocols, many countries in the world in their national legislations have adopted provisions for this type of crime (including human trafficking) (Kotovchevski, 2010).. Article 2 of the Protocol against the Smuggling of Migrants by Land, Air and Sea, determined several important concepts:

- (a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;
- (c) "Fraudulent travel or identity document" shall mean any travel or identity document:
  - (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or
  - (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
  - (iii) That is being used by a person other than the rightful holder.

Protocol also indicates the following standards in the field of cooperation and combating illegal migrations: the exchange of information between the Member States; strengthening border controls; taking measures to prevent vehicles of commercial carriers to be used to commit crimes; safety and control of the documents; training and technical cooperation to prevent the smuggling of migrants and providing treatment according to international human rights standards; measures of protection and assistance and the return of smuggled migrants.

Whitin the whole process of migrant smuggling, unlike trafficking, there are two stages. The first relates to figuratively speaking, recruitment. Exploitation is absent, and this concept is replaced with the final targeted destination of the phenomenon of migrant smuggling. Today, almost every country of the world can be found "playing" one of the three roles: migrants depart, go and stay in some of them. However, there is no better example to explain the migration from the countries of the Mediterranean because of the highest level of transition among them.

Transport is the second stage that occurs immediately after the recruitment. Very often the transport is provided by the transit countries in which some of the migrants very often could stay for a while. Upon passing the border the "smugglers" are using the corruption of the border workers, or they are using false documents, while

taking away the passports and the personal documents from the victims. Globally, the most common paths of transporting the migrants are taking place from South to North America or from Africa to Europe. The process of migrant smuggling in the States usually ranges from Mexico and other Latin Countries to the United States. The number of illegal entries in the United States is around 3 million people, with material benefit and profit of 6.6 billion US dollars.

The border between Mexico and USA, which has a length of 3 000 kilometers relatively sparsely populated, especially in the desert section of the river Rio Grande, which actually separates the territory of Mexico and Texas. This border is relatively a safe place to transport the migrants because the possibility of facing police officers is really low. The smugglers have almost no security risk.

Also, there is a statistic fact that shows that most of the cocain production from Mexico to the USA comes across the border of Texas, as well as the migrants. The second most used route for migrant smuggling is from Africa (mostly from the countries of North Africa) to the countries of the European Union The number of annual passage is about 55 000 migrants, with a profit of about 150 million US dollars.

Republic of Macedonia could be engaged in the field of migrant smuggling as a transit country for the migrants who are coming to Europe from Africa and also as one of the countries where the smugglers can earn so called good money. The migrants are using Macedonia as a transit to move up in Serbia or move down in Greece.

### **The way of committing migrant smuggling**

The way of committing migrant smuggling in the narrow sense is the very act of committing the crime (Peric, 1971). On the other hand, the migrant smuggling process incorporates the type of offense, the purpose, the object of the attack, time, place, as well as other objective and subjective characteristics related to the style of committing the crime.

The actions of the organized crime groups are deeply connected with the territory where the action is undertaken. The organizing of the dark phenomenon of migrant smuggling is moving around various of types including pre-planned and highly sophisticated operations that involve various methods (forging documents, crossing the so called green border on foot) to simple ordinary services such as a simple transfer of migrants through a green border. There is a theoretical view that migrant smuggling is a business dominated by hierarchical organized crime groups.that are using the familiar routes (transfer of drugs, weapon, human trafficking) and are able to adapt to a different subject, in this particular case- migrants. Also, there are small groups of smugglers which are cooperating together if necessary.

The numbers of the actors who are going to be involved in one process of migrant smuggling depends on the situation and on the various of types of relationships among the smugglers.

Having in mind that there are different organizational features of criminal groups, in the field of migrant smuggling we can separate (UNODC, 2010):

- Ad hoc service for migrants;
- Smuggling of migrants through the use/abuse of process;

- Smuggling of migrants through an organized process from phase to phase. The key features of the Ad hoc service for migrants are the migrants themselves who are organizing the travel process on their own. The migrants usually travel by public transport But having in mind that they do not possess legal documents they look for a help from criminals who can facilitate their entry in a foreign country.

This type of smuggling is common for those migrants who have financial inability to provide themselves with relevant chances of passing a border, so that is why they are reaching for help from organized criminal groups.

The second type of smuggling is a process that is facilitated by using forged documents. The criminals offer various of forged personal documents and visas to migrants in order to make money from the migrants. It is fair to say that there are a lot of obstacles to pass the border control, but the migrants are taking their chances. It is very important to be known that the relationship between migrants and criminal is not personal, because they do not know each other. In this type of scenario it usually happens that there are just two people involved (smugglers) who have already prepared the field for the migrants.

The third type of smuggling is a process which has already been planned. Within this type of smuggling the migrants are negotiating with local people who are connected with local criminals which are providing the easy pass for the migrants. This type offers the migrants some kind of warranty because they are pretty sure that everything is already planned and organized. In this type of scenario the migrants are accompanied by smugglers while they are passing passport control. Those migrants who will probably pass the border are expecting another group of smugglers to wait for them on the opposite side of the border and to help them to reach the targeted destination. In cases of migrant smuggling in regions which are in crisis, for example, smuggling of asylum seekers), migrants rely only on existing international contacts and sufficient resources.

There is another distinction of migrant smuggling, which is based on the manner of execution and includes(UNODC, 2010):

- Smuggling of migrants by land;
- Smuggling of migrants by water;
- Smuggling of migrants by air.

Smuggling of migrants by air as the manner of the execution, it is often combined with other forms of travel. The combination depends on the routes used. For example, migrants travel one part of the destination with a plane, and after that they may transit through or between countries by land or sea.

The use of the airways also allows a degree of flexibility. Often the routes which are tested and adapted are the most common used routes, because they include a large numbers of migrants, which ultimately makes the smuggling of migrants by air very difficult to analyze.

Very frequent modus of migrant smuggling is the abuse of transit airports. At some particular time of the operation the migrants destroy their documents and intentionally miss their flight. So they wait at the airport so the criminals can provide them new documents, including new tickets , but the main point is that they have already passed the first passport control because the first documents that they had

were real documents of other people. This type of migrant smuggling is one of the most used ways because there is a small risk for the criminals because they are not traveling with the migrants.

Another way of smuggling migrants is through desert areas, where many of the migrants are exposed to extreme conditions, but they are willing to take the risk and to try their chances because the migration is the only salvation for them. The vulnerability of migrants during this phase is considered to be the most important factor, because they have a lot of cash with them because they know they will need to pay money to local or international criminals, but this factor makes them a potential target of criminals because every criminal is aware that the migrants have a lot of cash with them. Many migrants have already reported that there is a link of cooperation between smugglers and criminals.

Because migrant smuggling is illegal, those who provide it have power over those who need their services, and the abuses are common and there are many cases where many people die during the journey or are abandoned without resources during their travel.

A typical way of smuggling migrants is when the criminal groups are using two boats to transfer the migrants. A bigger boat transfers the migrants to a particular spot and then other smaller boats take the migrants to their targeted destination. Also, there are cases when migrants are left on islands where they have to wait for another boat or ship to come and take them to their next destination. The total number of deaths occurring among migrants who try to cross the sea from Africa to Europe is unknown, but it is assumed that the number is around 1000 people per year (UNODC, 2011). There is another way of smuggling the migrants through the sea when the migrants are forced to stay in the so called safe house where they wait for another criminal group to take them from there to the targeted destination. There is a problem with the time which they have to spend in those safe houses, because sometimes they have to wait for a longer time and that causes some problems among the migrants. The poorer migrants have more problems than others because those who have more money are paying more to the criminals and those are having something similar to priority listing to travel first and to abandon the safe house in order to reach the targeted destination.

The total number of death migrants occurring within their effort to travel from Africa to Europe is around 1000 people per year. In May 2011, 61 people died of dehydration and starvation on a boat in the Mediterranean. In Asia, although the number of persons attempting to reach Australia is significantly lower than that of people who want to reach Europe, but the number of deaths is significantly higher. In 2001 more than 350 people have died in an accident when a ship sank off the coast of Java, Indonesia. In December 2010, 50 people died when the ship collided with rocks near Australia.

### **Organized criminal groups which smuggle migrants – concept, structure, types**

Nowadays there are various views in defining organized criminal groups. Thus, there is one definition which is most commonly used and it is coming from one convention

in Palermo<sup>1</sup>, where the professionals have defined that organized criminal groups are structured groups of three or more persons, existing in a certain period of time, and acting jointly with the aim of committing one or more serious crimes.

Theoretical studies<sup>2</sup> are showing that criminal organizations can be considered as fluid organizations, because they are very dependable on the geographic conditions from one side and on the nationality of the migrants from the other side. Usually the criminal groups are cooperating with each other. They form small clusters which are able to communicate easily with other small clusters. Each cluster is having a specific degree of expertise and that is why the clusters among the groups are more and more considered as some of the crucial parts.

Those groups are not randomly formed, but every member knows exactly what their part of the job is. The members of the criminal group are associated in order to perform certain criminal activity more or less on a sustainable basis. They participate in organized crime in order to provide illegal goods. Like any other organization, the criminal groups are requiring a certain level of economic stability and specialization.<sup>3</sup> Very often, the criminal groups are involved in illegal migration and migrant smuggling, but there are also part of other illegal processes like trafficking, extortion and money laundering. It is very important to be known that sometimes the process of migrant smuggling can also meet small criminal groups which have no more than four or five members who work on a particular territory.

But, there are also ultimately sophisticated criminal groups which are offering full service for the migrants, including forged documents, transport and etc. They are usually decentralized and very hard to be caught. They have different so called actors which are operating on a particular field. Sometimes there are also subdivisions that are working like partner organizations in order to help the main criminal organization to perform.

The entire operation can be organized by an organizer or group of organizers who cooperate with each other. This fact is representing the melting flexibility that exists among organized crime groups. People who usually recruit are not connected to a criminal group, but depending on the needs of the operation they are offering their services to the crime groups. They usually recruit vulnerable groups or persons who may be easily exploited. Also there are people who are working on collecting money for transportation in the beginning of the trip, and after that they are helping the people through the journey (Paoli, 2002).

The most difficult part of tracing<sup>4</sup> these organizations is to collect evidence against the main actors who are coordinating the whole process of smuggling. Coordinator or organizer is the person who has the responsibility for the operation. He is the one who directly chooses who will be a member of the organization. He is also in charge

<sup>1</sup> Article 2, Convention of the UN on transnational organized crime, Palermo, 2000, downloaded from <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOC-Book-e.pdf> [22.12.2016].

<sup>2</sup> Камбовски, В., Организиран криминал, 2-ри Август С, Штип, 2005, p. 42.

<sup>3</sup> Council of Europe, Illegal migration and smuggling of migrants in the region of Western Balkan, ION, Geneva, 2006, pp. 31-32.

<sup>4</sup> More of this in Reichel, P., Handbook of transnational crime and justice, Data Pons, Skopje, 2009

of defining the route and the way of transportation.

Besides the coordinator, there are some very important roles in one criminal group. According to Shoenhart individuals and criminal groups involved in smuggling migrants may curtail their activities in one or more roles:

- Investors – people who invest money in the operation and oversee the entire process. The pyramid structure of the organization protects their anonymity;
- Researchers – people who are seeking potential migrants;
- Corrupt public officials – people who can help to secure travel documents by accepting a bribe;
- Spies – people who are collecting information on issues such as border surveillance, immigration;
- Guides and crew members – people who are responsible for the transfer of the migrants from one place to another;
- Executors – people who are responsible for supervising the staff and the migrants;
- Money launderers – people who launder assets which are acquired through criminal activity by hiding its origin.

The criminal groups are organized very well in order to perform great results. As we can see there are roles that are complement and each role is helping some other role in order to create a chain which will function effectively.

Transport across the border is carried out by local residents on both side of the border, which constitute the lowest level of the hierarchy of the organization, while the middle and the top levels of hierarchy are dominated by ethnic homogenous groups.

Often when it comes to migrant smuggling, there is a phenomenon of interdependence between the criminal groups. This phenomenon reflects the motivation of sophisticated criminal groups to increase their profits.

### **Conclusions**

When we talk about migrant smuggling, we can talk about individuals or organized criminal group. However, the purpose remains the same. Crossing the border is either illegal or it is performed with forged documents. As a measure to prevent the smuggling we would suggest a proactive investigation by law enforcement authorities and also special investigative measures. Furthermore, we would suggest greater cooperation between the state and the NGOs in particular cases where it would be helpful. And we should not forget about increased border control and constant monitoring of this negative phenomenon.

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