



SMUGGLING OF MIGRANTS ON THE CENTRAL MEDITERRANEAN ROUTE



ISSUES, CHALLENGES AND PERSPECTIVES



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List of Acronyms

ANLTP/TIM	National Agency to Fight Trafficking in Persons and Smuggling of Migrants - Agence nationale de lutte contre la traite des personnes et le trafic illicite de migrants (Niger).
BRTMTEH	Migrant smuggling and human trafficking squad - Brigade de répression du trafic de migrants et de la traite d'êtres humains (Mali).
CNCLTP/TIM	National Commission for the Coordination of the Fight against Trafficking in Persons and Smuggling of Migrants - Commission nationale de coordination de la lutte contre la traite des personnes et le trafic illicite des migrants (Niger).
DTM	Displacement Tracking Matrix
ECOWAS	Economic Community of West African States
EU	European Union
EUBAM	Libya European Union Border Assistance Mission in Libya
EUCAP	European Union Capacity Building Mission
GATIA	Imghad Tuareg Self-Defense Group and Allies
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
IOM	International Organization for Migration
ISIL	Islamic State of Iraq and the Levant
JIT	Joint Investigation Team
MLNA	National Movement for the Liberation of Azawad
MMC	Mixed Migration Centre
MSPC	Ministry of Security and Civil Protection (Mali) Ministère de la sécurité et de la protection civile (Mali).
OHCHR	Office of the United Nations High Commissioner for Human Rights
PONAM	National migration policy (Mali) - Politique nationale de migration (Mali)
SIPAO	Police information system in West Africa - Système d'information policière en Afrique de l'Ouest
AU	African Union
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
UNSMIL	United Nations Support Mission in Libya

Before reaching the Mediterranean Coast, the vast majority of the people have used the services of smugglers to transit from sub-Saharan Africa to Algeria or Libya, and then to organize the crossing of the Mediterranean. Others use the services of traffickers directly from their country of origin, resulting in everything having been prearranged up until their arrival in a European country. Thus, it is believed that the smuggling of migrants to Europe has become an extremely lucrative activity worth several hundred million dollars each year. Several recent studies highlight the increasing professionalization of trafficking networks along the Central Mediterranean route, but also the risks of violence linked to competition between different groups, as well as the links with other forms of transnational organized crime, such as drugs or arms trafficking, and even links with terrorist groups.

Drawn up between February and September 2020 within the framework of the MIRAC project¹ implemented by the IOM-Mali, this report proposes an inventory of the issue of the smuggling of migrants along the Central Mediterranean route, with particular reference to movements from West Africa and through Mali and Niger to Algeria and/or Libya and then to Europe. The report is primarily directed at the national authorities of these four countries, which are particularly affected by the smuggling of migrants.

Finally, the report examines some initiatives to support the States concerned in their fight against the smuggling of migrants.

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Legal and policy framework in the fight against smuggling of migrants

- Algeria, Libya, Mali and Niger have acceded to the United Nations Convention against Transnational Organized Crime and the Protocol against the Smuggling of Migrants by Land, Sea and Air. All four countries are also parties to major human rights instruments, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Libya is the only country not party to the Convention relating to the Status of Refugees.
- Under the Protocol, States are required to recognize the smuggling of migrants as a criminal offence. Niger is to date the only one of the four countries to have adopted national legislation relating to the fight against the smuggling of migrants.
- At the regional level, African States have adopted several declarations, including jointly with the European Union, reaffirming their commitment to combat the smuggling of migrants.

Profiles and characteristics of migrants using the Central Mediterranean route

- Nationals from West African countries accounted for almost half of the migration flows along the Central Mediterranean route between 2015 and 2017. Their proportion then decreased to 22% and 15% in 2018 and 2019.
- More than a quarter of the migrants on the Central Mediterranean route are women and children. The proportion of children has been growing in recent years, reaching 20% of migration flows in 2019.
- Most migrants from West African countries migrate for economic reasons. The distinction between voluntary and forced migration needs to be nuanced, however; it is recognized that most people migrate for a complex set of reasons and with varying degrees of coercion.

Profiles of actors involved in migrant smuggling

- Migrants are likely to come into contact with a large number of people involved to varying degrees in the smuggling of migrants. Generally speaking, a distinction is made between the organizers and coordinators of migrant smuggling; transporters and guides; recruiters; and various other “service providers” involved to varying degrees in this activity.
- Corruption facilitates the smuggling of migrants, including in countries along the Central Mediterranean route. The Convention against Transnational Organized Crime requires States Parties to combat both active corruption (promising, offering or giving an undue advantage to a public official in order that the official act or refrain from acting an act) and passive corruption (acceptance by a public official of an undue advantage to act or refrain from acting).
- There is a significant fragmentation in terms of the actors involved in the smuggling of migrants along the Central Mediterranean route; The market is not dominated by one group but rather by a plurality of actors with varying levels of coordination.

- While traffickers are also involved in other types of trafficking such as tramadol or fuel trafficking, the link between smuggling of migrants and other more serious types of crime (arms or drug trafficking, affiliation to terrorist groups) has not been the subject of sufficiently conclusive studies and research as to its extent in the region.
- Facilitating the movement of people between countries is not always perceived as a crime by the traffickers themselves or by local populations. Similarly, the brutality, violence and exploitation of migrants are not inherent to being involved in this type of activity.

Overview of the main migration routes and traffickers' modus operandi

- The Central Mediterranean route combines two routes from sub-Saharan Africa that converge towards Libya: the route from East Africa (including Eritrea, Sudan and to a lesser extent Somalia); and the route from West Africa through Mali, Niger, Algeria and/or Libya.
- Migration routes are changing rapidly as a result of a number of factors, not least of which are the controls put in place by the authorities to tackle irregular movements and the smuggling of migrants.
- The use of traffickers is limited in West Africa because of the rules on freedom of movement within ECOWAS. However, resort to traffickers is necessary when crossing the desert.
- Traditionally, the most used route led migrants through Agadez to Libya via Dirkou and Madama in northern Niger, then through southern Libya to Mourzouk or Sabha. Movements to Libya continue, but the routes have diversified to bypass the controls.
- The route leading from Niger (via Agadez or Tchin Tabaraden) to Assamaka and then In-Guezzam in Algeria, has become more important since the implementation of the 2015-36 law against the smuggling of migrants in Niger. The vast majority of people using this road are Niger nationals.
- Movements through Mali have decreased considerably since the start of the armed conflict in the north of the country in 2012, but the route remains important for many West African migrants. Timbuktu or Gao are the main transit places for migrants on their way to Algeria.
- Movements across the desert are mainly done by pick-up trucks or trucks off the established roads.
- Most of the migrants who go to Algeria are not planning to go to Europe, or they stay in Algeria to work before continuing their journey. Although crossings to Europe take place from the Algerian Coast, Algeria is more of a transit country towards Morocco, Tunisia or Libya.
- There are three main entry points into Libya from Niger or Algeria: most migrants who transit from Niger enter Libya via the southern border of the country. From Algeria, the passage to Libya is through Ghat or Ghadames.
- Most migrants attempting to cross the Mediterranean Sea to Italy leave from Libya, but conditions have changed considerably since 2017 with departures being organized more clandestinely by or under the control of local militias.

The economic dimension of migrant smuggling

- Little is known about the income generated by the smuggling of migrants, but it is estimated that the market weighs several billion dollars a year, including several hundred million that is said to be going into the pockets of traffickers active along the Central Mediterranean route.
- Some migrants pay in advance for a “package” guaranteeing the transfer from a certain point to a predetermined destination. The package system is the safest in terms of security for migrants, but it presents a greater financial risk.
- The vast majority of West African migrants prefer to organize the journey in different stages, in which case payment to traffickers and other smugglers are made as they progress along the migration route. However, the money migrants initially have at their disposal soon proves insufficient to cover the costs of the journey and migrants can quickly become vulnerable to the risks of exploitation.
- Finally, other migrants pay for the passage on credit, and pay, for example, once they have reached their destination. This type of arrangement is more attractive to those with few resources, but it can easily lead to a form of debt bondage.
- It is also worth noting the importance of the economy linked to migration in many places of transit along the Central Mediterranean route. A significant part of the population in relatively poor areas along the migration route live off the services offered to migrants in transit. The fight against the smuggling of migrants can jeopardize their livelihoods.

Main risks for smuggled migrants

- Movements along the Central Mediterranean route are characterized by a high level of danger as well as a significant risk of abuse and violence against migrants.
- Some of the measures taken by governments to tackle the smuggling of migrants have also had the effect of amplifying the vulnerabilities of migrants. In order to avoid controls, traffickers are inclined to take more risks, to the detriment of migrants’ safety.
- Crossing borders is another step that presents significant risks for smuggled migrants. The risk of detection results in resorting to traffickers all the more necessary.
- Crossing the desert and crossing the Mediterranean Sea are particularly perilous stages. While there are few figures on migrants who disappeared while crossing the Sahara, the IOM estimates that at least 16,571 people died or disappeared while attempting to cross the Central Mediterranean between 2014 and June 2020.
- For the migrants who manage to enter Algeria, other problems arise which mainly have to do with their absence of legal status in the country. In addition to the risks of exploitation, migrants may be subject to checks and in the absence of documents they risk being arrested and deported to the border.
- There are many reports of violence and serious abuses (detention, exploitation, violence) against migrants from the moment they set foot in Libya. This type of abuse is facilitated by the impunity that comes with the lack of authority and control over Libyan Territory.
- For migrants who are smuggled along the Central Mediterranean route, in Libya but not exclusively, there is a particularly high risk of finding themselves in a situation of exploitation, which in some cases could qualify as trafficking in persons under international law.

Key recommendations

Migrant smuggling is a form of transnational crime that affects various areas, including migration management, border control or respect for human rights. Because of these diverse but interdependent considerations, the fight against the smuggling of migrants requires a range of nuanced responses from a variety of actors. Thus, the report identifies ten key elements in the fight against the smuggling of migrants that should be strengthened, in particular on the basis of the following recommendations:

Ensuring national leadership in the fight against smuggling of migrants

- As smuggling of migrants is by definition a type of transnational crime, the fight against this phenomenon cannot be carried out effectively unless all the affected countries make it a priority. In this context, it is essential to ensure that national authorities see that it also is in their interest to combat the smuggling of migrants and that they take action to do so.
- It also means better integration of the national priorities of the affected countries in the reflection on the fight against irregular migration and smuggling of migrants. In particular, interventions to combat the smuggling of migrants must be based on a better understanding of the political economy and the dynamics operating at the local level, and take into account the situation of communities that benefit economically from migration.

Criminalizing the smuggling of migrants

- Investigation and cooperation between States in the fight against transnational organized crime can be difficult as countries have different legislative frameworks resulting in not all countries criminalizing the smuggling of migrants, or criminalizing it differently. In these circumstances, the adoption of national legislation on the smuggling of migrants, in accordance with States' obligations under the Smuggling of Migrants Protocol, is a fundamental element of any national criminal justice response.
- The fight against the smuggling of migrants also requires some harmonization of laws between countries, including with regard to the criminalization of this type of activity. States along the Central Mediterranean route should ensure that the definitions they adopt are consistent with the definitions contained in the Smuggling of Migrants Protocol.
- Policies on migrant smuggling should be developed in consultation with relevant stakeholders, including international organizations and civil society actors; they should include appropriate sanctions for the migrant smuggling offence that are proportionate to the gravity of the offences committed.
- On the basis of the United Nations Convention against Transnational Organized Crime, States must also take measures to combat active and passive corruption. The fight against the smuggling of migrants can only be successful if anti-corruption mechanisms and measures are implemented.

Identification and arrest of traffickers

- Another important aspect of efforts against the smuggling of migrants is the strengthening of investigations and prosecution of smuggling networks in order to dismantle criminal organizations. Measures should be taken to strengthen the operational and judicial capacities of the services involved in the fight against organized crime networks.
- In too many cases, the fight against the smuggling of migrants is limited to arresting the perpetrators caught in the act rather than targeting high ranking members of criminal organizations. In order to dismantle criminal groups in the long term, including tracing those responsible for smuggling of migrants, it is necessary to use specific investigative and prosecutorial techniques that allow crimes and suspects to be detected and investigated without alerting them.

Strengthening border control

- *Effective border control is an important aspect of the fight against the smuggling of migrants. The borders of the countries along the Central Mediterranean route are particularly extensive and the affected countries need both financial and technical support in order to better control the borders. The authorities in charge of border control or immigration must be given the necessary support to fulfil their tasks.*
- *Efficient border management includes implementing a system for checking the validity and authenticity of identity documents when entering a country. There should be more efforts to ensure that the authorities are able to verify that persons from the ECOWAS entering their territory have the proper documents with them.*
- *While strengthening the States capacity to control their borders is a priority in the fight against the smuggling of migrants, all measures taken to tackle the smuggling of migrants must be carried out in full compliance with international law, in particular international human rights and refugee law.*
- *It is essential to recognize that migration between sub-Saharan and North Africa is also a resilience strategy for vulnerable communities, particularly at certain times of the year. Strengthening border controls in a way that does not take this dimension into account would only contribute to making some communities even more vulnerable.*

Strengthening inter-institutional coordination

- Another challenge in combating the smuggling of migrants is to ensure that States have adequate structures in place to respond effectively to the multiple dimensions of this phenomenon. Investigations into the smuggling of migrants should not only involve law enforcement agencies; coordination, consultation with relevant actors and building partnerships are essential for an effective response to the smuggling of migrants.
- Strengthening the sharing of information and the implementation of mechanisms to ensure effective cooperation between different authorities involved in the fight against the smuggling of migrants is essential to effectively tackle transnational organized crime. The implementation of inter-institutional coordination frameworks, memorandum of understanding or ad hoc committees at the national level could facilitate consultations and partnerships.

Strengthening cooperation between countries

- An effective and comprehensive action against the smuggling of migrants must be based on increased international cooperation between States located on trafficking routes or otherwise affected by this activity. It is essential to promote the cooperation of States in preventing and combating the smuggling of migrants, including in the area of information exchange, cooperation between border control services of the States concerned, verification of travel or identity documents, as well as investigation and mutual legal assistance.
- In line with commitments made within the framework of the African Union, governments should take measures to remove any legal, administrative, security, cultural or technical obstacles that may hinder the strengthening and smooth functioning of cross-border cooperation and to facilitate the sharing of information and intelligence. Affected states should consider the adoption of bilateral or multilateral agreements or arrangements on these matters.
- Several regional platforms have been set up to facilitate cooperation and exchange of information between countries on issues related to the fight against smuggling of migrants (and more broadly against irregular migration). Other types of cooperation mechanisms could be considered, including the development of investigation protocols and action plans to promote a common understanding of and common responses to the smuggling of migrants; the appointment of liaison officers to coordinate requests for assistance and information; the creation of cross-border cooperation centres and exchange programmes between officers, officials or magistrates from different countries to facilitate experience sharing between practitioners.

Training and technical cooperation

- There is a significant need for training on the issue of migrant smuggling, whether to identify the differences between different types of transnational organized crime, to build the capacity of authorities in investigative techniques, or to raise awareness on issues related to the protection of smuggled and trafficked migrants, among other topics.
- The fight against the smuggling of migrants should be more systematically integrated into the training curriculum for officers, including in initial training, for example at national police academies. Consideration could also be given to training national experts on tackling migrant smuggling, who could provide long-term training and facilitate national ownership.
- Developing capacity building programmes for actors and expertise sharing at the regional level could also help to strengthen the level of cooperation between the different countries.

Collecting, managing, analysing and sharing information

- There is also a need to strengthen the knowledge base on the smuggling of migrants through increased efforts in research, data collection and analysis on the extent of irregular migration and smuggling of migrants, the structure and modus operandi of criminal networks, and links with other forms of transnational organized crime.
- Information management and sharing is another essential aspect of the fight against the smuggling of migrants. Initiatives to ensure the management and sharing of information at national, regional and international level should be strengthened.

Ensuring the protection of trafficked persons

- The fight against the smuggling of migrants must focus on traffickers and the violations perpetrated against migrants; the aim must not be to criminalize migrants or migration.
- One of the objectives of the Protocol against the Smuggling of Migrants is to protect the rights of migrants and prevent the worst forms of exploitation that are often linked to the smuggling of migrants. In particular, the authorities are required to take all appropriate measures to protect smuggled persons from death, torture or other cruel, inhuman or degrading treatment or punishment; to provide migrants with adequate protection against any violence that may be inflicted upon them by the perpetrators of trafficking; and to provide appropriate assistance to migrants whose lives or safety are endangered as a result of being subjected to smuggling.
- Smuggled migrants are the best witnesses in legal proceedings. Implementing adequate protection measures, including protection and assistance to ensure their physical safety and well-being, especially through access to food, shelter, medical care, consular services and legal advice, would enable them to play a more active role in the investigation and prosecution of trafficking cases.

Addressing the root causes of irregular migration

- It is widely recognized that migrant smuggling is demand-driven - the fact that people want to migrate, in most cases for economic reasons, and cannot do so through regular channels. To be sustainable and effective, a strategy to tackle the smuggling of migrants must be combined with measures to address the root causes of migration and the factors that push people to leave their homes.
- Measures to address the root causes of migration should entail an expansion in regular migration routes to Europe. This includes measures to increase labour mobility, facilitate family reunification or increase the number of resettlement places available for refugees.



Introduction

The Central Mediterranean route, which covers movements from North Africa to Italy via the Mediterranean Sea, is the most common route used by migrants to reach Europe irregularly.² It is estimated that between 2015 and 2019, almost 657,000 migrants arrived in Italy by this route, compared to a few thousand who reached Malta.³ Before reaching the Mediterranean coasts, the vast majority of migrants have used the services of smugglers to travel from sub-Saharan Africa to Algeria or Libya, and then to organize the crossing of the Mediterranean Sea. Others used the services of traffickers from their country of origin, so that everything has been prearranged up until their arrival in a European country. Thus, it is believed that the smuggling of migrants to Europe has become an extremely lucrative activity worth several hundred million dollars each year. Several recent studies highlight the increasing professionalization of trafficking networks along the Central Mediterranean route, but also the risks of violence linked to competition between different groups, as well as the links with other forms of transnational organized crime, such as drugs or arms trafficking, and even links with terrorist groups.

The use of traffickers does not even guarantee safe arrival at the destination. The Central Mediterranean route is also the deadliest migration route in the world. According to the International Organization for Migration (IOM), more than 20,000 migrants have died or disappeared while attempting to cross the Mediterranean since 2014; probably even more.⁴ Many “never made it”, as explained quite respectfully by the migrants met in Agadez for this research, and will never see the shores of the Mediterranean. Crossing the desert, according to some estimates, could indeed be as much, if not more, deadly than crossing the sea. Not to mention the situation in Libya, and even to some extent in Algeria, where many migrants are reportedly victims of abuse, violence and exploitation by traffickers, when they are not sold to other criminal groups.

The fight against the smuggling of migrants along the Central Mediterranean route has become a priority for many States, whether it is to tackle transnational organized crime and prevent irregular migration, or to prevent further tragedies. Initiatives aimed at strengthening the capacities of States along the Central Mediterranean route to tackle the smuggling of migrants have multiplied in recent years, leading to a clear decrease in migratory flows through this corridor.

After a calm period, however, movements along the Central Mediterranean route resumed, but under different conditions. The crossing the Sahara is now carried out by longer, more difficult and more dangerous routes; boat departures are scheduled at night, not only from Libya but increasingly also from the coasts of Algeria, Tunisia or Egypt. In addition, part of the migration flows of the Central Mediterranean route has been diverted to other countries in the region. The Western Mediterranean route, which passes through Morocco and Spain, is sometimes more used than the Central Mediterranean route, but also much more expensive for migrants.

² According to the definition used by the IOM, the term «migrant» refers to «a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes a number of well-defined legal categories of people, such as migrant workers; persons whose particular types of movements are legally-defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students.» See IOM, *Who is a migrant*, <https://www.iom.int/who-is-a-migrant>

³ In 2014, some 170,100 migrants arrived in Italy by sea (568 in Malta), compared to 153,842 migrants in 2015 (105 in Malta), 181,436 in 2016, 119,369 in 2017, 23,370 in 2018 (1,445 in Malta) and 10,565 in 2019. Source: UNHCR, Operational portal, Mediterranean Situation, <https://data2.unhcr.org/en/situations/mediterranean>.

⁴ IOM, *Shipwreck off Coast of Libya pushes Migrant Deaths on the Mediterranean Past 20,000 Mark*, 3 mai 2020, https://www.iom.int/news/shipwreck-coast-libya-pushes-migrant-deaths-mediterranean-past-20000-mark?mc_cid=b8a1aa86e1&mc_eid=6169557ccd.

If the price were to become prohibitive, as noted by Frontex in its 2020 report, the Central Mediterranean route could once again become an option for many migrants from sub-Saharan Africa.⁵ However, it remains extremely difficult to predict or anticipate developments of migrant smuggling as this type of activity is constantly changing based on other considerations. In these circumstances, any attempt to analyse the situation, including this report, can only provide a “snapshot” of the situation at a certain point in time. The best example of this is the recent crisis related to the COVID-19 pandemic, which has had a considerable impact on migratory movements around the world. While mobility restrictions have multiplied, movements across the Central Mediterranean route first decreased between March and April 2020 and then increased significantly in the following months. Between January and August 2020, for example, 19,339 migrants arrived in Italy, far more than the number of arrivals (11,471) recorded in Italy during the whole of 2019.⁶ While it remains difficult to establish a link between the COVID-19 pandemic and the socio-economic consequences of the measures taken by governments to combat the spread of the virus, on the one hand, and the increase in movements along the Central Mediterranean route, on the other hand,⁷ it is clear that restrictions on mobility offer new opportunities for actors engaged in the smuggling of migrants, whose role is precisely to circumvent restrictions and obstacles to movement.

Written within the framework of the MIRAC project implemented by IOM-Mali, this report provides an inventory of the migrant smuggling issue along the Central Mediterranean Sea, particularly with regard to movements from West Africa and through Mali and Niger to the Maghreb and then to Europe.⁸ It is primarily intended for the national authorities of Mali, Niger, Algeria and Libya, four countries that are particularly affected by the smuggling of migrants; but it can also be of interest to a wider audience interested in issues relating to irregular migration.

The research aims to shed light on a number of important questions related to the smuggling of migrants from West Africa: where do migrants come from and what are their motivations? How are the movements from West Africa to North Africa and Europe organized? Who are the actors who facilitate these journeys? How are they organized? What is their modus operandi? What are the economic stakes involved in the smuggling of migrants? And what are the risks to which migrants are exposed? The report then explores some of the initiatives taken by the European Union and international organizations to support the States concerned in their fight against the smuggling of migrants.

⁵ Frontex, Risks Analysis for 2020, March 2020, p. 51.

⁶ HCR, Operational portal, <https://data2.unhcr.org/en/situations/mediterranean/location/5205>.

⁷ IOM et HCR, *COVID-19 and mixed population movements: emerging dynamics, risks and opportunities. A UNHCR/IOM discussion paper*, May 2020.

⁸ Thus, this report does not cover the smuggling of migrants from East Africa to Libya and then to Europe, which is another important part of the Central Mediterranean route.

Migrant smuggling is a form of transnational crime that affects various areas, including migration management, border control or human rights compliance. Because of these diverse but interdependent considerations, the fight against the smuggling of migrants requires a range of informed responses from a variety of actors. Thus, the report identifies ten key elements in the fight against the smuggling of migrants that should be strengthened, namely:

1. The national ownership in the fight against the smuggling of migrants ;
2. The criminalization of the smuggling of migrants ;
3. The detection and arrest of traffickers ;
4. The strengthening of border controls ;
5. Inter-institutional coordination ;
6. International cooperation ;
7. Training and technical cooperation ;
8. The management, analysis and sharing of information;
9. The protection of smuggled migrants ;
10. The root causes of irregular migration.

Methodology

A significant number of reports have been written in recent years on migratory movements to Europe across the Mediterranean Sea. However, despite the interest generated, the issue of illicit trafficking is still very poorly understood, in particular because of its clandestine nature and the lack of data and information on how the networks operate. The best sources of information on the subject remain the migrants themselves.

This report was prepared from a literature review on the subject, academic articles and “grey” literature, in addition to some 50 interviews conducted in Mali and Niger with migrants as well as with people who facilitate the movement of migrants between Niger, Mali, Algeria and Libya. The interviews were semi-structured, anonymous, and aimed to better understand how migrants travel from their country of origin to the north of Libya or Algeria, the routes they chose, how they make contact with traffickers, the planning of the journey, and the difficulties encountered. Interviews were also conducted with representatives of international and non-governmental organizations, as well as with representatives of national authorities (police, gendarmerie, judicial authorities, and so forth), directly in Niger, Mali and Algeria, and by telephone in the case of Libya.

MAIN MIGRATION ROAD ALONG THE CENTRAL MEDITERRANEAN ROAD



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by IOM.



1. Legal and Policy Framework in the Fight Against Smuggling of Migrants

This first section presents the legal and policy framework relating to the fight against the smuggling of migrants at the international and regional level as well as at the national level for the countries that are the subject of this research, namely Mali, Niger, Algeria and Libya. At the international level, the United Nations Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air are the main instruments in the fight against the smuggling of migrants; however, other instruments need to be taken into account with regard more specifically to the protection of smuggled migrants. At the regional level, the importance of the fight against the smuggling of migrants has been reaffirmed on numerous occasions, whether at the level of the African Union (AU), the Economic Community of West African States (ECOWAS) or in the framework of cooperation in the field of migration with the European Union (EU). At the national level, finally, to date only Niger has adopted a law dealing specifically with the smuggling of migrants, but Mali could do the same soon.

1. The Legal Framework for Combating the Smuggling of Migrants at the International Level

At the international level, States adopted the United Nations Convention against Transnational Organized Crime in 2000, which focuses on promoting cooperation to prevent and combat transnational organized crime more effectively.⁹ Two Protocols to the UN Convention against Transnational Organized Crime on more specific topics were adopted in the same year: the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereafter: the Protocol against Smuggling of Migrants)¹⁰ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter: the Trafficking Protocol).¹¹ The two protocols are also known as the “Palermo Protocols”. These instruments establish general and specific arrangements for cooperation and assistance in the prevention, investigation and prosecution of the offences covered by their provisions.

The Protocol against the Smuggling of Migrants, which entered into force in January 2004, is the most important instrument in the fight against the smuggling of migrants. With regard to the protection of trafficked persons, the Convention relating to the Status of Refugees and the main human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights (Covenant I)¹² and the International Covenant on Civil and Political Rights (Covenant II), should be mentioned.¹³

⁹ United Nations Convention against Transnational Organized Crime, 15 November 2000 (entered into force in September 2003).

¹⁰ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (entered into force in January 2004).

¹¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000 (entered into force in December 2003).

¹² International Covenant on Economic, Social and Cultural Rights, 16 December 1966 (entered into force January 1976).

¹³ International Covenant on Civil and Political Rights, 16 December 1966 (entered into force March 1976).

1.1. The Protocol Against the Smuggling of Migrants

The most important instrument in the fight against the smuggling of migrants is the Protocol against the Smuggling of Migrants by Land, Sea and Air. The purpose of the Protocol is “to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants”.¹⁴ Offences established in accordance with the Protocol are also considered offences established in accordance with the Transnational Organized Crime Convention. States Parties are required to harmonize their legislation with the provisions of these instruments. With 149 States Parties as of 30 June 2020,¹⁵ the Protocol against the Smuggling of Migrants offers the most widely accepted definition of this form of transnational organized crime. Smuggling of migrants is defined in Article 3 of the Protocol as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.¹⁶ Article 6 of the Protocol adds that States Parties are required to establish as a criminal offence, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit, the production, procurement, provision or possession of a fraudulent travel or identity document for the purpose of enabling the smuggling of migrants;¹⁷ enabling a person who is not a national or a permanent resident to remain in a State by producing, procuring, providing or possessing a fraudulent travel or identity document, or by any other illegal means.¹⁸

Smuggling of migrants therefore includes an action, that is the act of illegally bringing a person who is neither a national nor a permanent resident of a State across the border of that State, namely a migrant. It also includes intent - criminalization only covers those who obtain, or hope to obtain, “a financial or other material benefit” from this type of activity. This excludes migrants themselves as well as any other person or organization (individuals, NGOs, local or religious associations, and so forth) that could facilitate in one way or another the illegal entry of persons into the territory of a State for humanitarian reasons. As a matter of fact, according to the interpretative notes to the Protocol, the reference to “a financial or other material benefit” had been introduced in order to underline that the intention was “to include the activities of organized criminal groups acting for profit”, but also “to exclude the activities of those who provided support to migrants for humanitarian reasons or on the basis of close family ties”.¹⁹ The term covers a wider range of situations than financial payment, including for example sexual gratification or other types of privileges or services.

1.2. The Protection of Smuggled Migrants

The protection of smuggled migrants is an important aspect of the fight against migrant smuggling. Governments also have an obligation to protect trafficked persons under the Protocol against the smuggling of migrants by land, sea and air. In particular, the Protocol provides that migrants should not be subject to criminal prosecution because they have been trafficked - a measure that illustrates the fact that the Protocol is primarily aimed at traffickers and not at the migrants themselves.²⁰

¹⁴ Protocol against the Smuggling of Migrants, Article 2.

¹⁵ United Nations, Treaty Collection : https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=en.

¹⁶ Protocol against the Smuggling of Migrants, Article 3(a)

¹⁷ Protocol against the Smuggling of Migrants, Article 6.1.b).

¹⁸ Protocol against the Smuggling of Migrants, Article 6.1.c).

¹⁹ United Nations General Assembly, *Interpretative notes for the official records (travaux préparatoires) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, A/55/383/Add.1, 3 November 2000.

²⁰ Protocol against the Smuggling of Migrants, Article 5. Article 6.4. of the Protocol states, however, that «nothing in this Protocol shall prevent a State Party from taking measures against a person whose acts constitute an offence under its domestic law». Thus, migrants can be prosecuted for other types of offences under domestic law, including irregular entry into the territory of a State and violations of immigration laws.

The Protocol contains a further provision specifically relating to the protection and assistance of smuggled persons.²¹ Finally, there is a “saving clause” which guarantees other rights, obligations and responsibilities of States under international law, including international human rights and refugee law.²²

Therefore, international human rights law and refugee law must also be taken into account. On the one hand, human rights and refugee law imposes certain limits on the measures that States are entitled to take in their fight against the smuggling of migrants, particularly with regard to the prohibition of refoulement. On the other hand, human rights, and refugee law where applicable, guarantee certain rights to those who are trafficked.

The 1951 Convention relating to the Status of Refugees is particularly important as refugees and asylum-seekers often resort to smugglers and traffickers when fleeing persecution or armed conflict to seek refuge in another country. In these circumstances, it is imperative to ensure effective access to asylum and protection.²³ Two articles of the Convention relating to the Status of Refugees are particularly important in this regard. On the one hand, the principle of non-refoulement, provided for in Article 33.1 of the Convention, which states that “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.²⁴ On the other hand, the principle of non-penalization for irregular entry or presence in the territory of a State, provided for in Article 31.1 of the Convention, which states that Contracting States “shall not impose penalties, on account of their illegal entry or presence”, provided that they arrive directly from the territory where their life or freedom is threatened and present themselves without delay to the authorities.²⁵ This provision had been added to take into account the specific situation of refugees who, when fleeing, are generally unable to complete the administrative formalities for entry into a country. The principle of non-refoulement and the principle of non-criminalization for irregular entry or presence on the territory of a State are the two provisions of the Convention relating to the Status of Refugees that also apply to asylum seekers.

Smuggled migrants are also protected by international human rights law as long as they are under the jurisdiction of a State, that is as long as they are on the territory of a State or under the control of State authorities. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights contain a set of provisions that apply to everyone, regardless of legal status. This includes, inter alia, the right to life, the prohibition of torture and cruel, inhuman or degrading treatment, the prohibition of arbitrary detention, the right to leave any country and the right to enter or return to one’s own country, a set of judicial guarantees and the right to enjoy the highest attainable standard of physical and mental health. It should also be noted that the principle of non-refoulement is also part of human rights through Article 7 of Covenant II and Article 3 of the Convention against Torture. The human rights principle of non-refoulement specifically covers the prohibition to return a person where there is a risk to his or her life or a risk that he or she will be subjected to torture or inhuman or degrading treatment.

²¹ Protocol against the Smuggling of Migrants, Article 16.

²² Protocol against the Smuggling of Migrants, Article 19.

²³ See IOM, IOM’s Comprehensive Approach to Counter Migrant Smuggling, <https://rosanjose.iom.int/site/sites/default/files/Documents/IOM%27s%20Comprehensive%20Approach%20to%20CMS%20-%20e-mail%20version%20-%20ENGLISH.pdf>.

²⁴ Convention relating to the Status of Refugees, 28 July 1951, Article 33.1.

²⁵ Convention relating to the Status of Refugees, Article 31.1.

	Algeria	Libya	Mali	Niger
United Nations Convention against Transnational Organized Crime	7 October 2002	18 June 2004	12 April 2002	30 September 2004
Trafficking in Persons Protocol	9 March 2004	24 September 2004	12 April 2002	30 September 2004
Protocol against the Smuggling of Migrants	9 March 2004	24 September 2004	12 April 2002	18 March 2009
Convention relating to the Status of Refugees	21 February 1963	N/A	2 February 1973	25 August 1961
International Covenant on Economic, Social and Cultural Rights	12 September 1989	15 May 1970	16 July 1974	7 March 1986
International Covenant on Civil and Political Rights	12 September 1989	15 May 1970	16 July 1974	7 March 1986

Overview of the ratification of the main instruments on smuggling of migrants

2. The Fight Against the Smuggling of Migrants at the Regional Level

While there are no treaties on the more specific issue of migrant smuggling at the African continent level, there are, however, a number of instruments or texts adopted at the regional level which constitute a policy framework in the fight against migrant smuggling. The European Union, which has made the fight against irregular migration one of its priorities, also plays an important role in the fight against the smuggling of migrants in Africa. In response to the 2015 migration crisis in the Mediterranean Sea, the European states have set up a partnership on migration management with the countries of the African continent.

2.1. The Revised Migration Policy Framework for Africa

At the level of the African Union, for example, the revised Migration Policy Framework for Africa and the Plan of Action for the period 2018-2030 includes a section on irregular migration, including a section on migrant smuggling. While noting that migrant smuggling is linked to other forms of transnational organized crime, such as trafficking in persons, the document notes that migrants who use the services of traffickers are often extremely vulnerable. In these circumstances, the document specifies that “government responses and policies to smuggling should at all stages take account of migrants’ human rights”.²⁶ The Migration Policy Framework also notes the importance of regional approaches and regional capacity building to respond to the rapidly changing circumstances, routes and modus operandi of trafficking networks. It also mentions the need to “strengthen regional and international collaboration between African and European countries”.

²⁶ AU, *Revised Migration Policy Framework for Africa and Plan of Action (2018-2030)*, 2018, available at https://au.int/sites/default/files/documents/35956-doc-au-mpfa_2018-eng.pdf.

In terms of strategy against the smuggling of migrants, the Migration Policy Framework recommends that AU member States take action on five levels, namely

- (i) to strengthen their legal framework;
- (ii) to enhance investigation and prosecution of migrant smugglers;
- (iii) to protect the rights of smuggled migrants;
- (iv) to prevent migrant smuggling; and
- (v) to strengthen transnational cooperation in the fight against migrant smuggling.

2.2. The ECOWAS Common Approach on Migration

At the level of West Africa, the Economic Community of West African States (ECOWAS), which brings together 15 States of the sub-region,²⁷ has also adopted a policy framework on migration. The ECOWAS migration strategy is outlined in the 2008 ECOWAS Common Approach to Migration, which reaffirms the principle of free movement of people within the ECOWA.²⁸ The Common Approach presents the fight against trafficking in persons as “a moral and humanitarian imperative” and reaffirms the will of ECOWAS Member States, “to fight against any form of organization [...] that promotes the recruitment, transportation and exploitation of irregular migrants, especially women and children”. In particular, the document highlights the importance of strengthening cooperation between ECOWAS Member States in judicial and police matters as well as between countries of origin, transit and destination in order to “dismantle criminal organizations that control trafficking across national borders”.²⁹ To date, however, ECOWAS has not included migrant smuggling among its priorities and in its work plan

2.3. The Africa-Europe Partnership

The fight against irregular migration, including the smuggling of migrants, is one of the priorities of the European migration policy.³⁰ In May 2015, Europe adopted an Action Plan against the smuggling of migrants for the 2015-2020 period, which provides that “strong cooperation at the EU level, as well as with third countries of origin and transit, [...], is essential” to disrupt the activities of smugglers and bring them to justice. In this context, migration management and the fight against migrant smuggling has become a key aspect of the cooperation between the European Union and Africa; in order to understand the legal and political framework relating to the fight against migrant smuggling in Africa, it is necessary to also consider initiatives aimed at strengthening the partnership between Africa and Europe in the field of the fight against irregular migration. In November 2015, a large number of European and African governments met at a summit in Valletta, Malta, to strengthen cooperation on migration. Participants at the Valletta Summit on Migration pledged, inter alia, to “scale up [their] joint efforts in preventing and fighting migrant smuggling,

²⁷ Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea Conakry, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

²⁸ The free movement of persons within the ECOWAS is an essential component of regional integration. See in particular the Revised Treaty of the Economic Community of West African States (ECOWAS), 24 July 1993, art. 59. See also the Protocol on Free Movement of Persons, Residence and Establishment, 29 May 1979, and the four supplementary protocols: the Supplementary Protocol on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, Right of Residence and Establishment, 6 July 1985; the Supplementary Protocol on the Implementation of the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, Residence and Establishment, 1 July 1986; the Supplementary Protocol amending and complementing the provisions of Article 7 of the Protocol on Free Movement of Persons, Right of Residence and Establishment, 30 June 1989; and the Supplementary Protocol on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment, 29 May 1990.

²⁹ ECOWAS, *ECOWAS Common Approach on Migration*, 33rd Ordinary Session of the Head of State and Government, Ouagadougou, 18 January 2008.

³⁰ See in particular European Commission, *A European Agenda on Migration*, COM(2015) 240 final, Brussels, 13 May 2015.

eradicating trafficking in human beings and combating those who exploit vulnerable people”.³¹ The Joint Action Plan annexed to the Political Declaration adopted in Valletta includes commitments to prevent and combat irregular migration, smuggling and trafficking in human beings. Among the measures to this end, the Action Plan includes the development of appropriate legislative and institutional frameworks; the strengthening of police and judicial cooperation at the operational level; support to border management authorities; the establishment of specialized police units to combat migrant smuggling and trafficking in human beings; capacity building to combat the production and use of false and falsified documents; improved intelligence collection and information sharing; and the protection of migrants.³² Another important decision taken in Valletta regards the establishment of an EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa (hereafter “Trust Fund”).³³ The Trust Fund has financed numerous projects related to stabilizing and combating irregular migration in the Sahel and Lake Chad, Horn of Africa and North Africa regions.

In July 2016, the European Union launched a new “partnership framework” with third-party countries as part of the European Migration Agenda. Linking development aid and trade policy as levers, the partnership framework aimed to ensure better cooperation of some key states along the migration route - Ethiopia, Mali, Nigeria, Niger and Senegal were identified as priorities - in the fight against irregular migration. The emphasis on the return and readmission of migrants to their country of origin is considered to be an essential element in dismantling the economic model of smugglers and traffickers.³⁴ The Partnership Framework has led to a significant degree of cooperation between the EU and partner countries on migration management.

Several joint declarations including European and African countries have since been made reaffirming the importance of the fight against smuggling networks. On 3 February 2017, the Heads of State and Government of the EU countries adopted the Malta Declaration on the external aspects of migration, which defined a set of priorities to “address the Central Mediterranean route”.³⁵ Among these priorities was the intensification of the fight against smuggling and trafficking networks on migration routes with the ambition “to significantly reduce migratory flows along the Central Mediterranean route and break the business model of smugglers”. Measures considered included capacity building for the Libyan authorities in land and maritime border control and anti-trafficking; training, equipment, and support to the Libyan national coast guard and other relevant agencies; strengthening operational action to disrupt the smuggling business model; or monitoring the routes and possible relocation of smuggling activities.³⁶

³¹ See the Political Declaration of the Valletta Summit, November 2015, https://www.consilium.europa.eu/media/21841/political_decl_en.pdf.

³² Valletta Action Plan, 11-12 November 2015.

³³ The Trust Fund is a rapid financing tool of the European Union. The agreement establishing the Trust Fund states that the Fund «support[s] all aspects of stability and contribute[s] to better migration management as well as addressing the root causes of destabilisation, forced displacement and irregular migration, in particular by promoting resilience, economic and equal opportunities, security and development and addressing human rights’ abuses». *Agreement Establishing the European Union Emergency Trust Fund for Stability and Addressing Root Causes of Irregular Migration and Displaced Persons in Africa*, November 2015, para. 15. As at 31 December 2019, the resources allocated to the Trust Fund amounted to some EUR 4.7 billion.

³⁴ European Commission, *Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank on establishing a new Partnership Framework with third countries under the European Agenda on Migration*, COM(2016) 385 final, 7 June 2016.

³⁵ Malta Declaration of the Heads of State and Government of the European Council on the External Aspects of Migration: Addressing the Central Mediterranean Route, 3 February 2017.

³⁶ *Ibid.*

A few months later, on 28 August 2017, the Heads of State and Government of Chad, France, Germany, Italy, Niger and Spain, together with the President of the Libyan Presidential Council and representatives of the European Union adopted in Paris the “Addressing the challenge of migration and asylum,” Joint Declaration in which they underlined, “their determination to work with countries of origin and transit to better coordinate the fight against smuggling networks by building on and strengthening existing Community instruments”.³⁷

Finally, the commitment to strengthen coordination in the fight against migrant smuggling and trafficking in persons was more recently reaffirmed in the Niamey Declaration on the Coordination of the Fight against the Smuggling of Migrants and Trafficking in Human Beings. At the initiative of the Government of Niger, the Niamey Declaration was adopted in March 2018 by the Ministers of Interior and Foreign Affairs of Burkina Faso, Chad, Ivory Coast, France, Germany, Guinea, Italy, Libya, Mali, Mauritania, Niger, Senegal, Spain and a number of organizations. The Declaration creates a permanent mechanism to follow up on the commitments made during the meeting with regard to the fight against migrant smuggling and trafficking in human beings.

3. National Legal Frameworks

Few West African countries have put in place a legal framework and a policy to tackle migrant smuggling. So far, while initiatives in this regard are under way in other countries, only Niger has adopted national legislation to address migrant smuggling.

3.1. Niger

In terms of the legal framework, Niger has acceded to the United Nations Convention against Transnational Organized Crime as well as the Trafficking in Persons Protocol and the Protocol against the Smuggling of Migrants. The country is also a party to the Convention relating to the Status of Refugees, the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights.

At the domestic level, a first ordinance on the fight against trafficking in persons was adopted in December 2010.³⁸ However, it was the discovery of 92 bodies in the Sahara in October 2013 that prompted Niger to become more committed in the fight against trafficking in persons and smuggling of migrants.³⁹ On 22 July 2014, the Government of Niger adopted a national action plan to combat trafficking in persons (which has been extended pending the adoption of a new draft action plan for the period 2019-2023). In May 2015, it adopted Law No. 2015-36 relating to the smuggling of migrants, which criminalizes in particular the practices of those who transport migrants across the desert to Algeria or Libya. The law on the smuggling of migrants mainly aims at punishing traffickers, ensuring border security through the management of migration flows and protecting migrants. To date, it remains the only law dealing specifically with the smuggling of migrants in West Africa (pending the adoption of a similar law in Mali).⁴⁰

Law No. 2015-36 defines smuggling of migrants as “the act of ensuring, in order to obtain, directly or indirectly, a financial or other material benefit, the illegal entry into a State

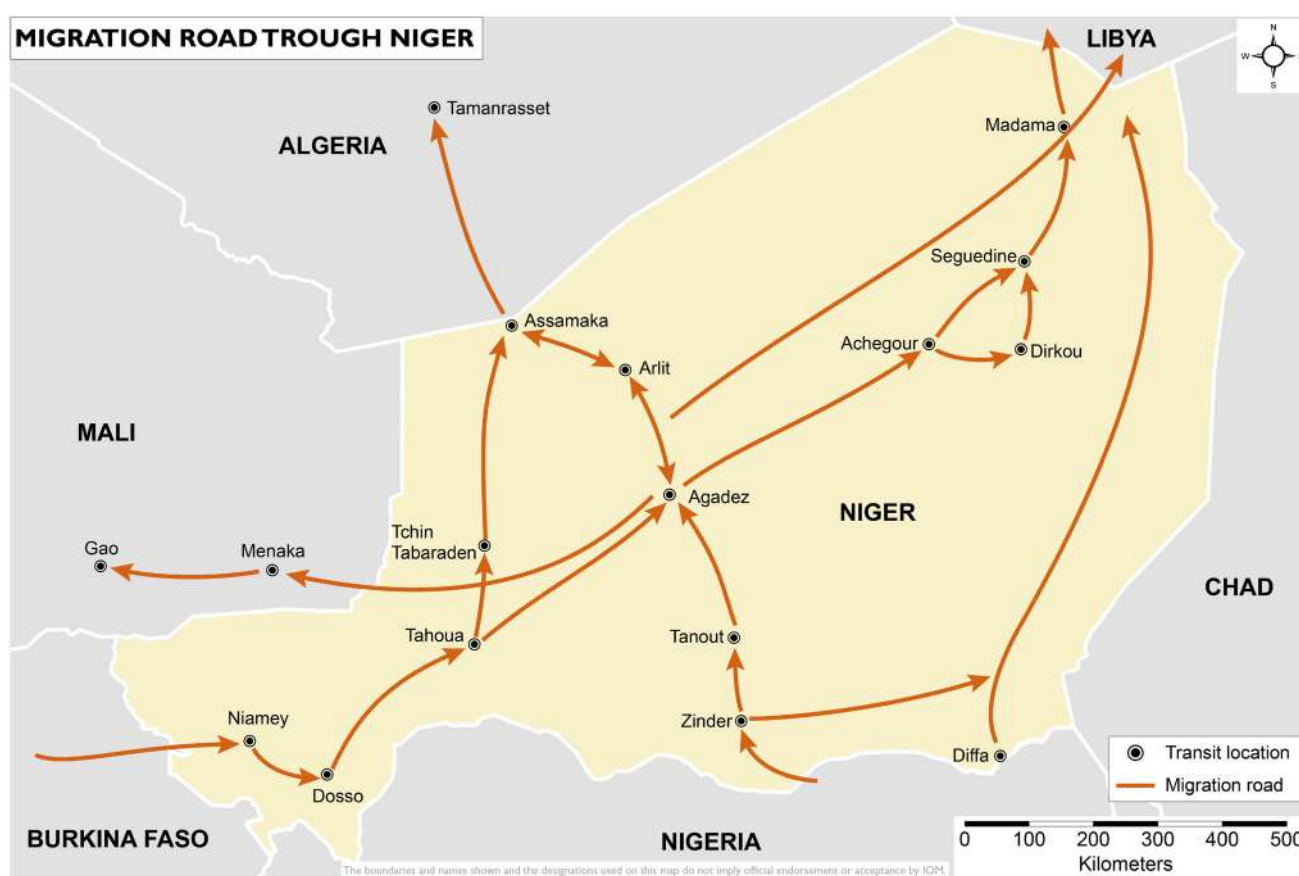
³⁷ Joint Declaration «Addressing the Challenge of Migration and Asylum», 28 August 2017, https://ec.europa.eu/commission/presscorner/api/files/document/print/it/statement_17_2981/STATEMENT_17_2981_FR.pdf.

³⁸ Republic of Niger, Ordinance No. 2010-86 of 16 December 2010 on the fight against trafficking in persons, 16 December 2010.

³⁹ See in particular « Les cadavres de 92 migrants retrouvés dans le désert au Niger », in *Le Monde Afrique*, 30 October 2013, https://www.lemonde.fr/afrique/article/2013/10/30/87-cadavres-de-migrants-nigeriens-retrouves-dans-le-desert-pres-de-l-algerie_3505703_3212.html.

⁴⁰ Republic of Niger, Loi No. 2015-36, 26 mai 2015 relative au trafic illicite de migrants.

Party of a person who is neither a national nor a permanent resident of that State”.⁴¹ The definition is relatively similar to that provided in the Protocol against the Smuggling of Migrants; however, Niger law criminalizes not only ensuring the irregular entry into Niger of a person who is not a national or permanent resident of Niger, in accordance with the definition provided in the Protocol against the Smuggling of Migrants, but also ensuring the illegal exit of a person .⁴² The law was in fact aimed more at the practices of those transporting migrants from Niger to Algeria or Libya than at those facilitating the irregular passage of migrants to Niger. In addition, the national authorities have created specific structures to combat trafficking in persons and smuggling of migrants, namely the National Coordination Commission to Combat Trafficking in Persons and Smuggling of Migrants (CNCLTP/TIM) and the National Agency to Combat Trafficking in Persons and Smuggling of Migrants (ANLTP/TIM).⁴³ The CNCLTP/TIM is the competent national institution for the design and development of national policies and programmes to fight against the smuggling of migrants, while the ANLTP/TIM is responsible for the implementation strategy of field activities. The creation of these two structures, in addition to the adoption of a law on the smuggling of migrants, represents important advances in the fight against this type of criminal activity in Niger.



Map of migration routes through Niger (IOM)

⁴¹ *Ibid.*, Article 3.

⁴² *Ibid.*, Article 10.

⁴³ See Republic of Niger, Décret N°2012-082/PRN/MJ, 21 mars 2012 déterminant l'organisation, la composition et le fonctionnement de la Commission Nationale de Coordination de Lutte contre la Traite des Personnes (CNCLTP) ; Republic of Niger, Décret N° 2012-083/PRN/MJ, 21 mars 2012 déterminant l'organisation, la composition et les modalités de fonctionnement de l'Agence Nationale de Lutte contre la Traite des Personnes (ANLTP). Article 31 of Law No. 2015-36 of 26 May 2015 relating to the smuggling of migrants entrusts the CNCLTP and the ANLTP with the same attributions and missions in terms of coordination in the fight against the smuggling of migrants as in the fight against trafficking in persons.

Two years after the implementation of Law No. 2015-36 of 26 May 2015, and in a context where criticisms against this text and its application have multiplied, particularly with regard to certain aspects relating to human rights or its adequacy with ECOWAS texts on the free movement of persons,⁴⁴ Niger undertook to assess its implementation. It should also be noted that a National Action Plan to combat the smuggling of migrants for the period 2020-2024 developed under the CNCLTP/TIM is also being validated. It is the first Action Plan in the region specifically addressing the smuggling of migrants, developed under a joint project (PROMIS) between the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁴⁵ Among other actions, the Action Plan provides for a revision of Law 2015-36.

3.2. Mali

Generally speaking, the issue of migration in Mali has traditionally been seen as an opportunity for the country's development rather than a security threat. With a large diaspora outside the country, Mali is more interested in emigration and the protection of its own nationals abroad than in the presence of foreigners on its territory. With this in mind, Mali's National Migration Policy (PONAM) was developed in 2014. The four specific objectives of PONAM (the protection of migrants, the organization and facilitation of legal migration, the reintegration of returning migrants and the enhancement of the role of the diaspora in the development of Mali) are primarily aimed at Malian nationals from abroad or returning Malians rather than foreigners.⁴⁶ The PONAM was drafted and adopted under the authority of the Ministry of Malians Abroad, one of the two Ministries involved in migration issues with the Ministry of Security and Civil Protection (MSPC).

With regard to the fight against transnational organized crime, Mali acceded to the Convention against Transnational Organized Crime and its two Protocols in April 2002. The country is also a party to the Convention relating to the Status of Refugees as well as to the main instruments for the protection of human rights, including Covenant I and Covenant II.

The government established in 2011 a National Coordinating Committee to Combat Trafficking in Persons and Related Practices, which is chaired by the Ministry of Justice. In 2012, Mali adopted Law No. 2012-023 on the fight against trafficking in persons and related practices. The law specifies that smuggling of migrants is a "practice assimilated" to trafficking in persons and contains certain provisions relating to migrant smuggling.⁴⁷ Migrant smuggling is defined in Law No. 2012-23 as "the act of any person or group of persons organizing the transport on land, air, sea or river, the accommodation or transit of clandestine migrants in order to obtain directly or indirectly a financial, material or any other benefit and whether the national territory serves as an area of origin, transit or destination".⁴⁸ The major difference between this definition and the definition in the Smuggling of Migrants Protocol is the explicit reference to the fact that the national territory may serve as an "area of origin, transit or destination". In other words, as in the case of Niger, the law leaves the possibility of prosecuting people who take migrants out of the territory - which is not required by the Smuggling of Migrants Protocol - rather than returning them to the country.

⁴⁴ See in particular the end of mission statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe Gonzalez Morales, during his visit to Niger (1-8 October 2018), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>.

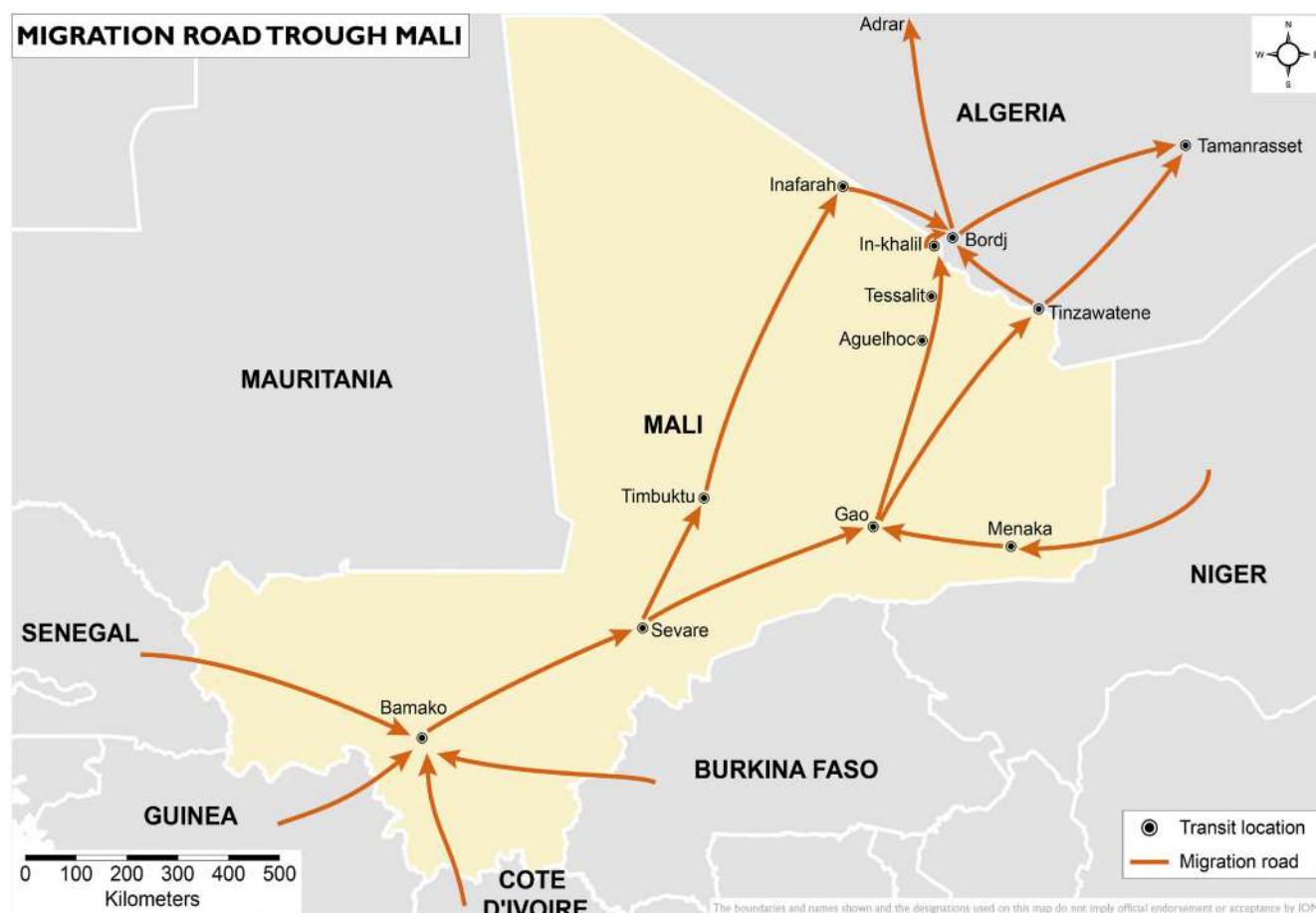
⁴⁵ The PROMIS project is a joint initiative between UNODC and OHCHR aimed at strengthening the capacity of West African countries to develop a human rights-based response to the smuggling of migrants and to respond effectively to human rights violations related to irregular migration.

⁴⁶ Republic of Mali, National Migration Policy of Mali, 2014.

⁴⁷ Republic of Mali, Loi No 2012-023, 12 juillet 2012 relative à la lutte contre la traite des personnes et les pratiques assimilées.

⁴⁸ *Ibid.*, Article 4.

The implementation of the law has been relatively inconsistent so far and only a handful of people have reportedly been arrested in February 2018 in connection with migrant smuggling.⁴⁹ The confusion between smuggling and trafficking in persons, in Law No. 2012-023 is considered problematic as they are two separate crimes under international law. In this context, it was considered appropriate to make a better distinction between trafficking in human beings and migrant smuggling, in accordance with the two Palermo Protocols. Law No. 2012-023 should thus be repealed with the adoption of two new laws relating respectively to trafficking in persons and smuggling of migrants. The draft laws were finalized in 2019 and have yet to be approved by Parliament. In the meantime, Law No. 2012-23 remains the only law in place in Mali relating to the fight against the smuggling of migrants.



Map of migration routes through Mali (IOM)

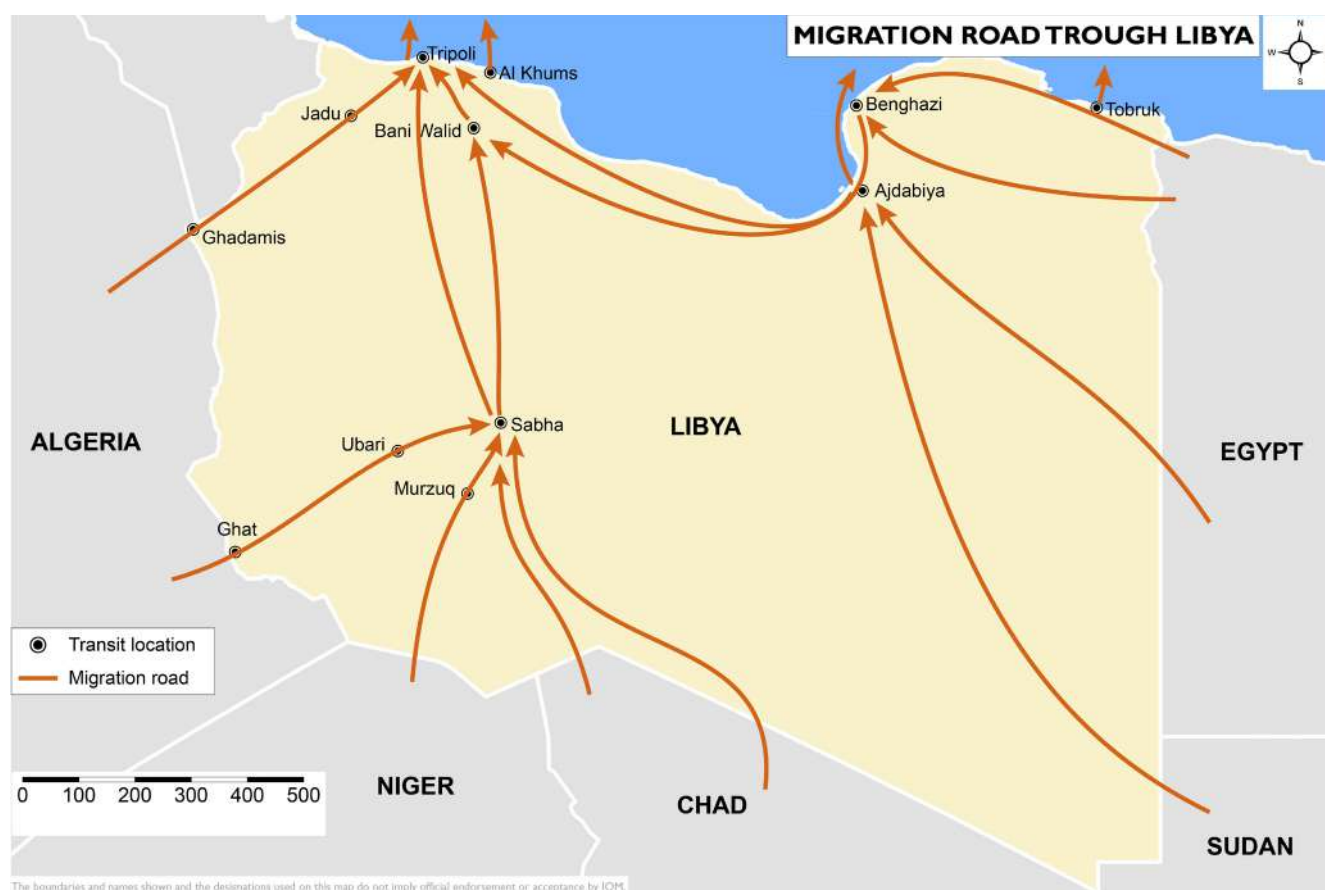
3.3. Libya

Libya ratified the UN Convention against Transnational Organized Crime in October 2002; it then acceded to the two protocols against smuggling of migrants and trafficking in persons in March 2004. Libya is not a party to the Convention relating to the Status of Refugees, but the country has ratified the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. Libya is also a party to the main human rights instruments, including Covenant I and Covenant II.

⁴⁹ Security Council, Final Report of the Panel of Experts on Mali established pursuant to Security Council resolution 2374 (2017), S/2018/581, 9 August 2018, para. 139

Several laws and decrees regulate immigration in Libya, but to date there is no coherent legal framework governing the management of migration, whether it is refugee issues - Libya has not adopted legislation or established asylum procedures - or issues related to smuggling and trafficking. The most relevant law on migrant smuggling is Law No. 6 of 1987 on the entry, residence and departure of foreigners in Libya,⁵⁰ amended in 2004. In particular, the law criminalizes illegal entry, stay or exit from the country and provides for imprisonment and/or a fine as well as deportation for anyone who enters, stays or attempts to leave the country without a valid visa.⁵¹ The law was amended in 2004 with the addition of a new article (19) bis which criminalizes the smuggling of migrants (without defining it) and provides for a penalty of at least one year plus a fine for those involved in the organization of such acts.⁵²

Another law to be taken into consideration is the Law N ° 19 of 2010 on the fight against irregular migration which provides for prison sentences and deportation for irregular migrants.⁵³ Article (4) of the law provides for a penalty of up to one year of imprisonment as well as a fine for any person who commits, in order to obtain material or non-material benefit, acts which are essentially those that characterize the smuggling of migrants, including the act of transporting or facilitating the transport of irregular migrants within the country. The article adds that if the persons concerned were part of an organized group for the smuggling of migrants, the penalties applied would be much more severe. The law further provides that irregular migrants must be treated in a humane manner that respects their rights and dignity.⁵⁴



Map of migration routes through Libya (IOM)

⁵⁰ Libya, Law No. (6) of 1987 on organizing the entry, residence, and exit of foreigners in Libya.

⁵¹ Libya, Law No. (6) of 1987 on organizing the entry, residence, and exit of foreigners in Libya, art. 17 et 19.

⁵² Libya, Law No. (2) of 2004 amending certain provisions of Law No. (6) of 1987 on organizing the entry and residence of foreigners in Libya.

⁵³ Libya, Law No. (19) of 1378 FDP – 2010 AD on Combating Irregular Migration, Article (6).

⁵⁴ *Ibid.*, Article (10).

In 2014, the authorities established the Department for Combating Illegal Immigration, a government agency responsible for combating irregular migration in the country. The mandate of the Department for Combating Illegal Immigration specifically provides for the fight against the smuggling of migrants, including through the collection of information, the development and implementation of plans to combat the smuggling of migrants, the conduct of investigations and the arrest of traffickers.⁵⁵ In practice, however, the role of this agency is mainly related to the administration of the migrant detention centres under its control.⁵⁶

3.4 Algeria

At the domestic level, Algeria's priorities, in terms of border control and the fight against transnational organized crime, are more related to the prevention of terrorist movements and trafficking in arms and drugs than to the fight against the illegal trafficking of migrant workers.⁵⁷ To date there is no law specifically covering migrant smuggling and trafficking in persons but a draft law is under development. Meanwhile, the most relevant law on the matter remains Law No. 08-11 of 21 Jumada Ethania 1429 corresponding to 25 June 2008 relating the conditions of entry, residence and movement of foreigners in Algeria.⁵⁸

Although the term "smuggling" does not appear in the text, the law reflects some of the provisions of the Protocol against the smuggling of migrants. In particular, the law provides for penalties, ranging from two to five years' imprisonment and a fine of 60,000 to 200,000 dinars (around USD 500 to 1,500), for "any person who, directly or indirectly, facilitates or attempts to facilitate the illegal entry, movement, residence or exit of a foreigner on Algerian Territory".⁵⁹ The penalty is more severe in certain circumstances, in particular when the offence is committed by more than two persons; when the number of migrants introduced into Algerian Territory is more than two; when the offence is committed in a manner which exposes, "foreigners directly to an immediate risk of death or injury likely to cause mutilation or permanent disability"; and when the offence has the effect of "subjecting foreigners to conditions of life, transport, work or accommodation incompatible with the dignity of the human person".⁶⁰ Criminal sanctions may also be imposed on any person, foreigner or Algerian, who accommodates a foreigner without having made a prior declaration to the competent security services.⁶¹

Smuggling of migrants is also covered by the Algerian Penal Code since the adoption of the revision of the Penal Code,⁶² but only when it involves facilitating irregular movements from Algerian Territory. According to Art. 303 bis 30 of the Penal Code, is in fact considered as smuggling of migrants "the act of organizing the illegal exit of one or more persons from the national territory in order to obtain, directly or indirectly, a financial or other advantage".⁶³

⁵⁵ Libye, Cabinet Decree No. (386) of 2014 on the establishment of an anti-illegal migration agency.

⁵⁶ Floor El Kamouni-Janssen, Nancy Ezzeddine and Jalel Harchaoui, *From abuse to cohabitation: A way forward for positive migration governance in Libya*, The Global Initiative against Transnational Crime and Clingendael, Octobre 2019, p. 20.

⁵⁷ Mark Micallef, Raouf Farrah, Alexandre Bish and Victor Tanner, *After the Storm. Organized crime across the Sahel-Sahara following upheaval in Libya and Mali*, The Global Initiative against Transnational Organized Crime, 2019, pp. 40-49.

⁵⁸ Algeria, Loi n° 08-11 du 21 Jumada Ethania 1429 correspondant au 25 juin 2008 relative aux conditions d'entrée, de séjour et de circulation des étrangers en Algérie, 2 July 2008.

⁵⁹ *Ibid.*, Art. 46.

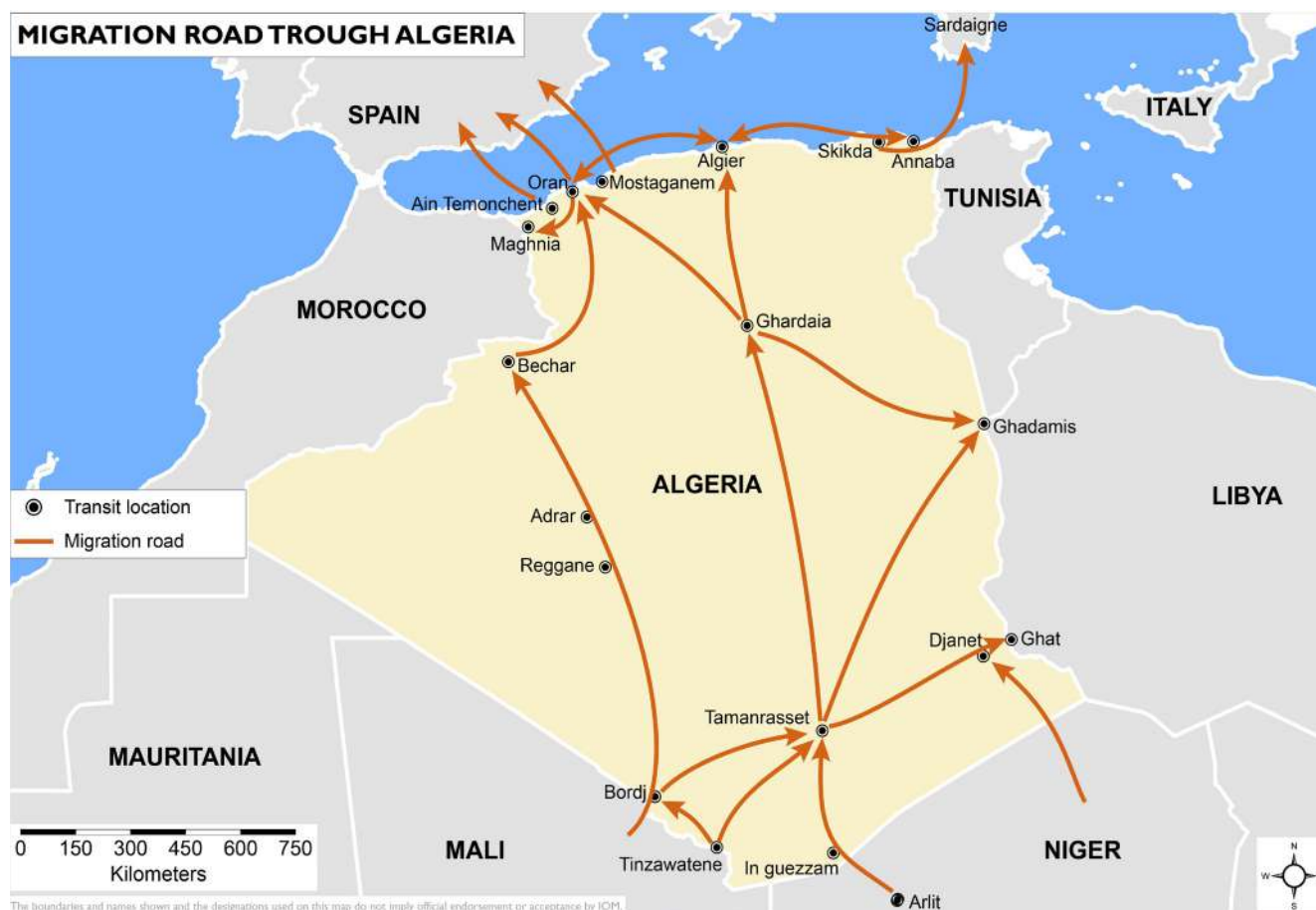
⁶⁰ *Ibid.*, Art. 46.

⁶¹ *Ibid.*, Art. 38.

⁶² Law n°09-01 of 29 Safar 1430 corresponding to 25 February 2009 amending and supplementing Order n°66-156 of 8 June 1966 enacting the Penal Code.

⁶³ Algeria, Penal Code, 2015, Art. 303 bis 30.

Smuggling of migrants in these circumstances is punishable by a prison sentence of three to five years and a fine of 300,000 to 500,000 dinars (approximately USD 2,300 to 4,000). Tougher penalties may be imposed under certain circumstances, such as when the life or safety of migrants is endangered or is at risk of being endangered; when migrants are subjected to inhuman or degrading treatment; or when the offence is committed by more than one person or by an organized criminal group.⁶⁴ It should be noted that the Algerian Civil Aviation Code and Maritime Code also provide for penalties in cases where actors facilitate the embarkation or disembarkation of passengers without authorization.⁶⁵



Map of migration routes through Algeria (IOM)

⁶⁴ *Ibid.*, Art. 303 bis 31 and Art. 303 bis 32.

⁶⁵ Law n°98-06 of 3 Rabie El Aouel 1419 Corresponding to June 27, 1998 fixing the General Rules Relating to Civil Aviation (JORA N°48 of 28-06-1998), Art. 200 and 202.f); Law n°98-05 of 25 June 1998 amending and supplementing Ordinance n°76/80 of 23 October 1976 on the Maritime Code, Art. 545.

Box 1 : Migrant Smuggling and Human Trafficking

Although often mistaken, smuggling of migrants and trafficking in human beings are separate offences under the United Nations Convention against Transnational Organized Crime. It is essential to differentiate between the two phenomena for the following reasons :

- The constituent elements of the two offences are different ;
- Penalties for persons convicted of trafficking in persons are generally more severe than for persons convicted of migrant smuggling ;
- Being recognized as a smuggled migrant or as a trafficked person has important implications for the individuals concerned, as trafficked persons are better protected.

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, defines the smuggling of migrants as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry into a State Party of a person who is neither a national nor a permanent resident”, of that State.⁶⁶

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, trafficking in persons means “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.⁶⁷

There are four fundamental differences between migrant smuggling and trafficking in persons :

1. Trafficking in persons involves the use of violence, coercion or deception, whereas smuggling of migrants takes place with the consent of the persons concerned.
2. The main source of profit in the case of trafficking is the exploitation of persons, whereas smugglers offer migrants the opportunity to enter a country by illegal means. The relationship between smugglers and smuggled migrants normally ends once the migrants have arrived at their destination.
3. Trafficking in persons can take place within a State, whereas migrant smuggling necessarily has a transnational dimension requiring illegal entry into one country from another.
4. Trafficking in persons is always a violation of human rights, which is not necessarily the case with migrant smuggling, which is primarily an infringement of State sovereignty (although many smuggled migrants are victims of abuse).

⁶⁶ Protocol against the Smuggling of Migrants, Article 3(a)

⁶⁷ *Ibid.*, Article 3.

2. Profiles and Characteristics of Migrants using the Central Mediterranean Route

For migrants of African origin, the Central Mediterranean route has long been the main migratory route to Europe, with increasing numbers of migrants attempting the crossing. In 2012, 15,151 people travelled to Italy from North Africa via the Mediterranean Sea, rising to 45,298 in 2013 and over 170,000 in 2014. Even if movements along the so-called Eastern Mediterranean route were higher in 2015, due in particular to the large number of Syrian refugees, migration flows along the Central Mediterranean route continued at the same pace, with 153,842 people arriving in Italy in 2015 for 181,436 arrivals in 2016. The number of crossings then drastically decreased from mid-2017 following the implementation of measures to limit migration flows to Europe.⁶⁸ While almost 119,362 migrants crossed in 2017, only 23,370 people arrived in 2018 and 11,500 in 2019.

The figures, however, say nothing about the composition of the movements, which has changed considerably over the years, and about the causes of this phenomenon. This section looks in more detail at the composition of migration flows along the Central Mediterranean route, with a particular focus on movements from West Africa.

2.1. Origin of Migrants Using the Central Mediterranean Route

The Central Mediterranean route combines two routes from sub-Saharan Africa that converge in Libya. There are movements from East Africa, particularly from countries such as Eritrea or Sudan and, to a lesser extent, Somalia. Sudan is not only a country of origin but also an important transit country along this corridor. The second route, which is more specifically the subject of this report, comes from West Africa and passes through Mali and Niger before reaching Algeria and/or Libya.

2015		2016		2017		2018		2019		2020 ⁶⁹	
Eritrea	39,534	Nigeria	37,551	Nigeria	18,100	Tunisia	5,244	Tunisia	2,700	Tunisia	9,884
Nigeria	22,455	Eritrea	20,718	Guinea	9,700	Eritrea	3,320	Pakistan	1,200	Bangladesh	3,175
Others	12,776	Guinea	13,345	Ivory Coast	9,500	Iraq	1,744	Ivory Coast	1,100	Algeria	1,125
Mali	12,433	Ivory Coast	12,396	Bangladesh	9,000	Sudan	1,619	Algeria	1,000	Ivory Coast	1,031
Guinea	8,937	The Gambia	11,929	Mali	7,100	Pakistan	1,589	Iraq	1,000	Pakistan	1,011
Ivory Coast	8,637	Senegal	10,327	Eritrea	7,000	Nigeria	1,250	Bangladesh	600	Sudan	799
Syria	7,448	Mali	1,010	Sudan	6,200	Algeria	1,213	Iran	500	Maroc	619
Bangladesh	6,121	Sudan	9,327	Tunisia	6,100	Ivory Coast	1,064	Sudan	400	Somalia	598
Sudan	5,843	Bangladesh	8,131	Morocco	6,000	Mali	876	Guinea	300	Egypt	587
Somalia	5,041	Somalia	7,281	Senegal	6,000	Guinea	810	Somalia	300	Guinea	425

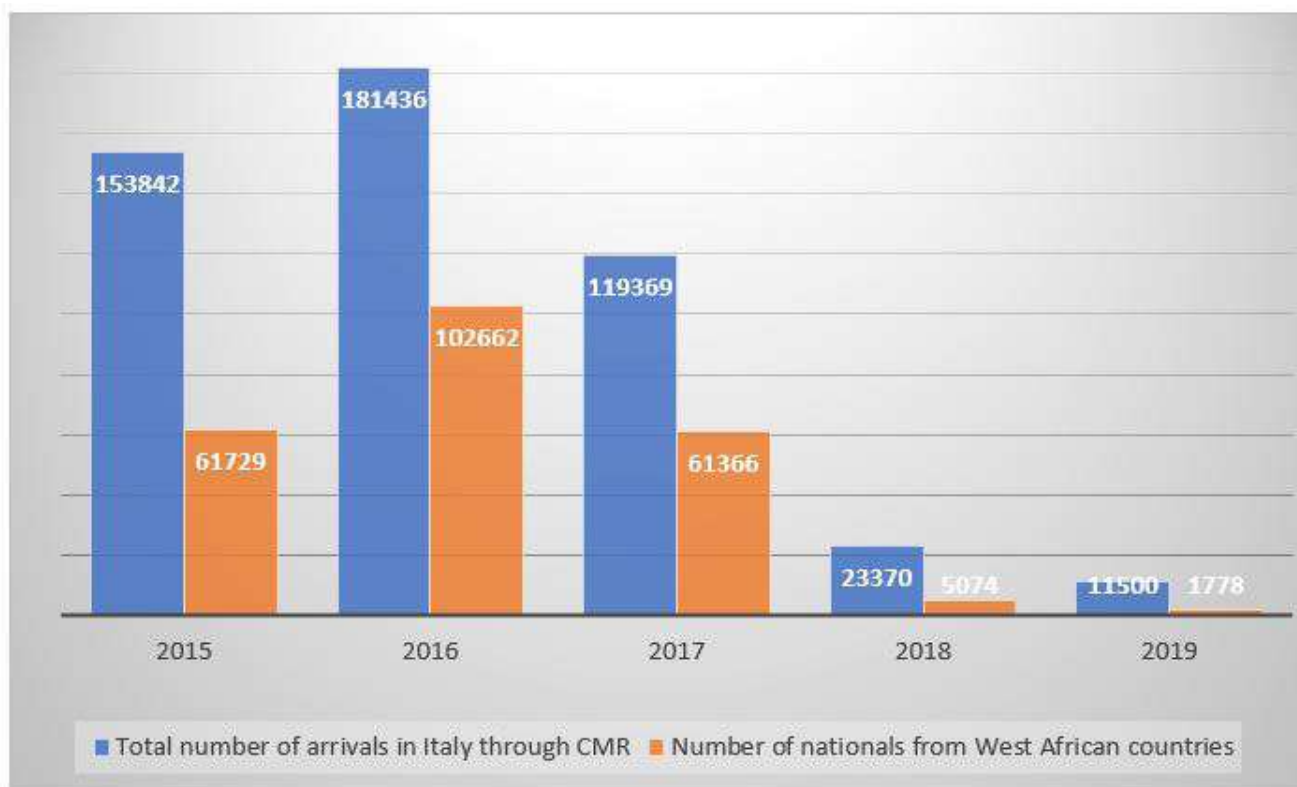
Main countries of origin of migrants using the Central Mediterranean route to Italy

The proportion of migrants arriving in Italy from West African countries was relatively high between 2015 and 2017, when West African migrants accounted for almost half of the migration flows along the Central Mediterranean route, mainly from Nigeria and, to a lesser extent, from Ivory Coast, Guinea, Mali, Senegal and the Gambia. The other part of the migrants came mainly from East Africa.

⁶⁸ All figures relating to migration movements in this section come from the website of the Office of the High Commissioner for Refugees on the Mediterranean situation: <https://data2.unhcr.org/en/situations/mediterranean>.

⁶⁹ Figures for the period from 1 January to 19 October 2020.

The drastic decrease in the number of arrivals in Italy of migrants from sub-Saharan African countries as of 2017 is the result of the measures put in place by the European Union and its partners as of 2016 to combat irregular migration, trafficking in persons and smuggling of migrants. The number of arrivals dropped by almost 80% between 2017 and 2018. In 2019, only 11,500 arrivals were registered. Very few of the people concerned came from countries that traditionally have a high level of emigration to Europe, such as Nigeria or Eritrea. The proportion of people from West African countries in migration flows dropped to “only” 22% in 2018 and 15% in 2019. However, it seems that these measures have had the effect of shifting part of the migration flows from West Africa to other routes, in particular the Western Mediterranean route linking Morocco (or Algeria) to Spain,⁷⁰ and to a lesser extent the Eastern Mediterranean route through Turkey and Greece.⁷¹



Proportions of people from West Africa in migration flows along the Central Mediterranean Route

Finally, there is a third migratory “route”, relatively limited but stable, in addition to migrants from sub-Saharan or North Africa travelling along the Central Mediterranean route. A small number of Pakistanis and Bangladeshis continue to arrive in Italy from West Africa and/or North Africa. There is a network of smugglers from South Asia to Europe via Africa (see Box 2).

Also noteworthy is the large number of vulnerable migrants, especially women and children. According to figures on arrivals via the Central Mediterranean route to Italy, the vast majority of migrants are male - the proportion of males has remained relatively stable between 2015 and 2019, accounting for between 70% and 75% of migration flows. The proportion of women during this same period varied somewhat between 10% and 15% of the flows, while the proportion of minors increased significantly - from 11% in 2015 to 20% in 2019.

⁷⁰ Maria Fedorova and Tashia Shupert, “Trends and evolving arrival patterns through the Central and Western Mediterranean Routes”, dans IOM, *Migration in West and North Africa and across the Mediterranean. Trends, risks, development and governance*, 2020, pp. 41-52.

⁷¹ Frontex, *Risk Analysis for 2020*, 2020.

2.2. Motivations of West African Migrants

West Africa has always been characterized by a high level of mobility, whether due to conflict, weather hazards, demographic pressure, poverty, lack of access to services or lack of opportunities in terms of education and work in particular. Considering the importance of migration in the region, mobility is considered an essential aspect of the integration process of the States of the sub-region within the framework of the Economic Community of West African States. Under the ECOWAS, citizens of ECOWAS States in possession of travel documents and a vaccination booklet may enter any of the other Member States without a visa for a maximum period of 90 days.

Historically, the vast majority of migrants from West African countries remain within the ECOWAS and only a minority attempt to reach Europe. According to a report published in 2015 by the International Centre for Migration Policy Development (ICMPD) and the IOM, more than 80% of population movements take place within the sub-region, particularly to coastal wetlands.⁷² Since the 1970s and the development of the oil sector in Libya and Algeria, however, many migrants from West Africa have been passing through Mali and/or Niger on their way to North Africa in search of work, generally in the agricultural or construction sectors.⁷³ These movements are largely irregular and seasonal - migrants travel to Maghreb countries without necessarily being subject to border controls and then return home. Despite the situation in Libya today, many West African migrants continue to travel to Libya to work, many with the intention of returning home later. The same goes for Algeria, where the vast majority of people travelling from Algeria to Niger are Niger nationals looking for work.⁷⁴ A 2017 report by the Clingendael Institute noted in this respect that the vast majority of migrants seeking to go to either of these two countries considered it as their final destination.⁷⁵

It is only more recently, following the Libyan Revolution in 2011, that more migrants from the sub-region have attempted to travel to Europe. Most people move for economic reasons and because of Europe's attractiveness to African youth who have few opportunities. A report by the Mixed Migration Centre (MMC) published in November 2019 noted, for example, that 91% of migrants in transit in the Liptako-Gourma region who had been surveyed about their motivations mentioned "economic reasons" to explain their departure.⁷⁶ Similarly, nearly 90% of migrants interviewed by the IOM in Libya in 2019 had indicated that they had left their country of origin for economic reasons.⁷⁷

⁷² ICMPD and IOM, *A Survey on migration Policies in West Africa*, 2015, p. 23.

⁷³ See in particular Hein de Haas, «The Myth of Invasion: the inconvenient realities of African migration to Europe», in *Third World Quarterly*, Vol. 29, No. 7, 2008, pp. 1305-1322.

⁷⁴ Lorelle Yuen, « Overview of migration trends and patterns in the Republic of the Niger, 2016-2019 », in IOM, *Migration in West and North Africa and across the Mediterranean. Trends, risks, development and governance*, 2020, p. 80.

⁷⁵ Fransje Molenaar and Floor El Kamouni-Janssen, "Turning the tide. The politics of irregular migration in the Sahel and Libya", CRU Report, February 2017, page 16. See also UNHCR, *Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges. Evolution of the Journey and Situations of Refugees and Migrants in Southern Libya*, 2017, p. 16.

⁷⁶ MMC, "Navigating borderlands in the Sahel. Border security governance and mixed migration in Liptako-Gourma", MMC Research Report, Novembre 2019, p. 8.

⁷⁷ Tassilo Teppert and Lorenza Rossi, « Migration in Libya post-2016: recently arrived migrants and refugees who have been in Libya for at least one year », in IOM, *Migration in West and North Africa and across the Mediterranean. Trends, risks, development and governance*, 2020, p. 60.

Some of the movements along the Central Mediterranean route include refugees and asylum seekers fleeing persecution or violence, although this proportion is difficult to quantify.⁷⁸ According to Eurostat data, the average percentage of migrants arriving in Italy in 2017 and benefiting from some form of protection in European countries was 25% for those coming from the seven most represented West African countries (Nigeria, Guinea, Ivory Coast, Mali, Senegal, Gambia and Ghana).⁷⁹ However, the number of refugees is higher for those from East Africa. Still according to Eurostat, the proportion of people benefiting from some form of protection in Europe was 74% for people from Eritrea, Somalia and Sudan.

However, this binary distinction between economic and forced migration does not necessarily reflect reality. Most people migrate for a complex set of reasons and under varying degrees of compulsion.⁸⁰ The reasons why people move, as well as their needs for protection, may also change as their migration experience unfolds. The Office of the United Nations High Commissioner for Refugees (UNHCR) and the IOM consider that movements through Niger or Mali along the Central Mediterranean route are “mixed movements”, that is complex movements involving different categories of migrants using the same routes and the same means of transport, sometimes with the help of the same smugglers.

Finally, a third category of migrants along the Central Mediterranean route includes victims of trafficking. This includes in particular women who come from Nigeria and are sent to Libya and Italy. Nigeria, in particular, is known for its networks of trafficked persons. The routes used to bring women to Europe are the same routes taken by other migrants.⁸¹

⁷⁸ Interviews with representatives of international and non-governmental organisations in Niger and Mali 79(February-March 2020).

⁷⁹ Security Council, Implementation of resolution 2380 (2017). Report of the Secretary-General, S/2017/761, 7 September 2017, para. 7.

⁸⁰ Matthew Kirwin and Jessica Anderson, “Identifying the factors driving West African Migration”, *West African Papers* 17, OECD Publishing, July 2018, p. 7.

⁸¹ Security Council, *Final Report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011)*, S/2018/812, 5 September 2018, para. 47-57

3. Profiles of Actors Involved in Migrant Smuggling

Regardless of the reasons that drive people to embark on the Central Mediterranean route, the vast majority of migrants resort to traffickers at some point during their journey. In 2017 and 2018, Frontex estimated that between 85% and 90% of irregular movements to Europe through the Central Mediterranean route had been facilitated in one way or another by traffickers.⁸² The word “trafficker” refers to a wide range of actors who contribute in one way or another to facilitating irregular movements. Generally speaking, traffickers exist because they respond to a demand: considering the economic disparities between the South and the North, and the lack of regular migration routes to Western countries, many migrants are prepared to pay large sums of money and take risks in order to go to other countries.

Since the adoption of the Protocol against the Smuggling of Migrants, the term “trafficker” when referring to migrants has come to take on a criminal connotation (traffickers are, for example, qualified as “merchants of death” in Algeria). But facilitating the movement of people between countries is not always perceived so negatively. In West Africa, for example, the word “smuggler” is used much more frequently to refer to people who are involved in this type of activity. The term is more neutral and reflects the fact that these people are not necessarily perceived as being engaged in criminal activity. The same is true in Libya, where the term “muhareb” is more often used, indicating that the persons concerned consider themselves to be “carriers” providing a service.⁸³ Until recently, and this could be taken into consideration in certain circumstances, most traffickers or facilitators in West Africa were not even aware that they were committing an offence.

3.1. Typology of the Actors Involved in Migrant Smuggling

In their attempt to reach other countries through irregular channels, migrants are likely to come into contact with a large number of people involved to varying degrees in migrant smuggling - whether they are persons engaged in this type of activity occasionally and on their own account, small networks present in some countries, or larger criminal organizations. Although activities may vary in different contexts, and regardless of the denominations used, migrant smuggling studies (as well as legislation) have identified several typical roles in this process.⁸⁴

3.1.1. Organizers and Coordinators of Migrant Smuggling

The Protocol against the Smuggling of Migrants Protocol requires States to establish as criminal offences any attempt to commit migrant smuggling, to participate in, to organize or instruct others to commit migrant smuggling.⁸⁵ Therefore, a distinction must be made between the persons who organize or coordinate activities related to the smuggling of migrants, that is the persons who have overall responsibility for the operations and who control the resources that are used for the smuggling of migrants (accommodation, vehicles, and so forth). The provision of a boat to organize the crossing of the Central Mediterranean Sea, for example, costs a sum that few people can afford to pay in advance. In addition to the resources they can mobilize, it is these people who are most often connected with other important actors, including the authorities or armed groups.⁸⁶ They employ other intermediaries and it is usually extremely difficult to obtain information against them and thus to arrest them.

⁸² Frontex, Risk Analysis for 2018, February 2018, p. 35; Frontex, Risk Analysis for 2019, February 2019, p. 7.

⁸³ UNHCR, *Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges. Evolution of the Journey and Situations of Refugees and Migrants in Southern Libya*, 2017, p. 76.

⁸⁴ See in particular UNODC, *A short introduction to migrant smuggling*, 2010, pp. 14-16.

⁸⁵ Protocol against the Smuggling of Migrants, Article 6.2.

⁸⁶ UNODC, *A short introduction to migrant smuggling*, *op. cit.*, p. 14.

Only limited information is known about the people behind the organization of irregular movements in Niger and Mali (known as “Gurus” in some West African countries). Most of the people who organize movements from Niger are believed to be Niger nationals who are seemingly operating from Libya or Algeria since the 2015 law on the smuggling of migrants made their activities illegal, and who have links on both sides of the borders with the tribes that control the areas through which migrants pass. In most cases it is the same people who control the “ghettos” where the migrants are housed in Agadez before they cross the desert. However, the management of ghettos has been delegated to others - the ghetto heads - following the implementation of the 2015 Law which made this activity too dangerous.⁸⁷ The ghetto chiefs are most often migrants, which makes it more difficult for the authorities in case of arrest; in most cases the people concerned will simply be released.

Similarly, in Mali, where there is little information on the people behind the movements to Algeria. The United Nations has identified certain traffickers, who are said to be Malian or Guinean nationals, and who have links with certain armed groups (MLNA, GATIA) as well as with the Security and Defence Forces, which would explain their relative impunity.⁸⁸ They are also managing the accommodation - called “garages” - in which migrants are sheltered while awaiting their departure. These people are not in direct contact with the migrants - they finance the operations, pay bribes to others to ensure that there will be no interference, and more generally ensure that all the conditions are in place to conduct the operations.

In Libya, however, and particularly in the north along the coast, the people responsible for migrant smuggling are mainly Libyans, generally members (or former members) of the armed forces or police forces.⁸⁹ The organization of the smuggling of migrants in the region – whether it involves the management of certain detention centres for migrants or the organization of the crossing of the Mediterranean Sea - is now closely linked to armed groups: either the actors responsible for the smuggling of migrants across the Mediterranean Sea operate under the control of armed groups, or this type of activity has been taken over by the militias themselves. These groups often manage all the criminal activities in the areas under their control - the smuggling of migrants, of course, which brings in money, but also and above all the smuggling of fuel, which represents the largest source of income for them, as well as arms and drug trafficking.

3.1.2. Transporters (Drivers) and Guides

Even if they are not themselves behind the organization of the movement of people, transporters are directly involved in the smuggling of migrants. They are in fact the ones who manage the operational part of the traffic and ensure the effective transfer of migrants from one point of the route to another - whether it is a matter of crossing the desert, passing or avoiding controls, or crossing borders.⁹⁰ They are the people driving the trucks and vehicles and/or accompanying migrants on foot across borders. They are also often the link with other intermediaries or other transporters and guides in charge of another part of the migration route. The transporters or guides are usually people from the region who know the territory inside out. They may work for one or more organizers at a time, but they may also carry out these activities on their own account if they have the opportunity to do so.

⁸⁷ Interview with actors working on the issue of migrant smuggling in Niger (March 2020).

⁸⁸ Security Council, *Final Report of the Panel of Experts established pursuant to Security Council resolution 2374 (2017) on Mali*, S/2018/581, 9 August 2018, para. 138-143.

⁸⁹ See in particular Frontex, *Africa-Frontex Intelligence Community Joint Report*, 2016, 2017, pp. 17-18; Security Council, *Final Report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2017/466, 1 June 2017, para. 258.

⁹⁰ UNODC, *A short introduction to migrant smuggling*, op.cit., p. 15.

Transporters and guides play a crucial role in the sense that they literally have the lives of migrants in their hands. In many cases, they facilitate movements as agreed with migrants and organizers. By definition, migrant smuggling is indeed a commercial transaction between a client and a service provider based on trust and it remains in theory in the interest of traffickers to fulfil their part of the contract if they want to enjoy a good reputation and obtain other clients. It should be noted that for migrants, traffickers are often perceived as actors who can ensure their protection rather than as those responsible for abuses. In other cases, however, traffickers may indeed abuse their position of power and endanger the lives and safety of migrants. Numerous abuses committed by transporters have been reported, including stripping migrants of their belongings; forcing them to call their families to operate money transfers (extortion); abandoning migrants in the desert, or handing them over to other groups responsible for human trafficking in Libya.⁹¹

In the Sahel-Sahara region, nomadic groups with knowledge and experience of the desert play a fundamental role in the trafficking of migrants. Two groups seem to be particularly important in organizing movements across Niger to Algeria and Libya. The Toubou people, on the one hand, are mainly present in the region between northern Niger, southern Libya and the border with Chad. Usually, they are in charge of transporting migrants across the desert from northern Niger to Libya, linking Dirkou in the Agadez region to Sebha in Libya via the towns of Qatrun and Murzuq. In Niger, the Toubou people represent a crippled part of the population, of about 0.4% of the population according to official statistics.

The Tuaregs, on the other hand, essentially control the part of northern Niger that stretches from Agadez to the borders of Algeria and Libya, including the Pass of Salvador (Passe de Salvador) at the crossroads of the three countries. It is said that many Tuaregs who were involved in the Tuareg rebellions in Niger (1990-1996; 2007-2009) became “smugglers” having found in the trafficking of migrants between Niger and Algeria a relatively lucrative activity. Indeed, it is the Tuaregs who carry out most of the movements between the two countries. The cities of Ghat and Ubari in south-west Libya are also under Tuareg control, which facilitates movement between Algeria and Libya.

The role that private transport companies operating between various capitals or cities in West Africa play in the smuggling of migrants and their responsibility in this regard is also sometimes discussed. The Protocol against the Smuggling of Migrants provides to this effect that the authorities may provide for the obligation of commercial carriers to check the travel documents of passengers.⁹² Companies may therefore be required to carry out checks under penalty of sanctions; however, it is not their responsibility to assess the authenticity or validity of these documents or to verify whether they have been validly issued to the person who holds them.

⁹¹ Interviews with migrants and with people working in the field of migrant protection in Mali, Niger and Libya (February-June 2020).

⁹² Protocol against the Smuggling of Migrants Article 11.2-11.3.

3.1.3. Recruiters

The Protocol against the Smuggling of Migrants requires States Parties to establish as criminal offences the conduct of acting as an “accomplice” in the smuggling of migrants - which clearly covers recruiters.⁹³ The main accomplices of migrant smugglers are the recruiters, that is the people who make contact with migrants and connect them to the smugglers. Recruiters may work in the migrants’ countries of origin, in which case they may seek to encourage people to migrate, or in transit countries, in which case they give migrants the means to continue their journey with the necessary support. Recruiters often belong to the migrants’ communities of origin and speak their language, which facilitates contacts.

In West Africa, recruiters are often called “coxeurs”; in Libya they are called “samsar”.⁹⁴ They are mainly found in places of transit, such as bus stations, in the main cities along the migration route - in Bamako, Gao and Timbuktu in Mali; in Niamey or Agadez in Niger. The coxeurs are actively looking for migrants to whom they can sell services, so all a migrant has to do is get off a bus or go to a bus station to be immediately approached by coxeurs who offer accommodation and transport to get them where they want to go. Establishing contact with these intermediaries is therefore fairly easy; the coxeurs will then take the migrants to hostels where other people will come to find them and ask them for the money needed to organize the rest of the journey to Algeria or Libya. They themselves, as intermediaries, will receive money for this service. Coxeurs are usually migrants, either because they have settled permanently in the places of transit, or because they are themselves trying to get the money they need to continue their journey. In Agadez, the coxeurs are often migrants who have repeatedly failed in their attempts to reach Europe - they are called “cartouchars” - but who know how movements are organized.

3.1.4. Other “Service Providers”

Other people offer a multitude of services that can facilitate the smuggling of migrants in one way or another. The link with migrant smuggling may be obvious, such as when false identity documents are produced, or when resources - vehicles, boats - are made available to traffickers. In these circumstances, the persons concerned could be prosecuted for complicity in the organization of migrant smuggling. But the link with the smuggling of migrants may be less obvious, as in the case of people temporarily sheltering migrants. Providing shelter to migrants, even if they are in an irregular situation, is not in itself a criminal offence under the Smuggling of Migrants Protocol; this would require a demonstration that those providing this type of service are aware that the migrants are in an irregular situation and that they are sheltering them for a specific purpose, namely to prevent the migrants from being detected by the authorities. What about people who transport migrants by motorbike from one place to another, who sell some of the goods migrants need before starting another part of their journey, or who facilitate the international transfer of money?

In the context of the fight against irregular migration, there is a risk of considering any economic activity related to irregular migration or even smuggling of migrants as a criminal offence of smuggling of migrants. This is far from being the case, however, as service providers are not necessarily part of an organized criminal group; many offer such services on the basis of opportunities to make money, without necessarily even realizing that they are involved in criminal activity - for example, in the case of motorbike drivers who may be paid a regular fare to drive a migrant from one place to another within the same city. The decision to consider a particular activity as smuggling of migrants will usually depend on the circumstances; but it may also be a policy choice aimed at dissuading individuals from engaging in certain types of activities that would be perceived as facilitating irregular migration.

⁹³ Protocol against the Smuggling of Migrants Article 6.2.b). In Niger, Law 2015-36 relating to the smuggling of migrants provides that the accomplice in offences relating to the smuggling of migrants will be punished with the same penalties as the principal perpetrator (Article 14).

⁹⁴ UNHCR, Mixed Migration: Libya at the crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya, November 2013, p. 52.

3.1.5. The Role of the Authorities and the Corruption

There is no definition of corruption in international law, but the United Nations Convention on Transnational Organized Crime includes among the offences under the Convention “promising, offering or giving a public official, directly or indirectly, an undue advantage ... in order that the public official act or refrain from acting in the exercise of his or her official functions”.⁹⁵ The fact that a public official “solicits or accepts”, an undue advantage that would induce him or her to perform or refrain from performing such acts would also be considered corruption.⁹⁶ Corruption greatly facilitates the smuggling of migrants; for example, when officials accept (or extort) money to turn a blind eye and let migrants through, or when embassy employees facilitate the issuance of visas in exchange for undue advantages.

In general, corruption is considered a major obstacle in the fight against the smuggling of migrants.⁹⁷ Several studies on the smuggling of migrants, including in the Sahel-Saharan region, have thus highlighted the role of authorities - police, border guards, immigration officers, or embassy employees, among others - in the smuggling of migrants in the region.⁹⁸ Migrants interviewed for this study consistently mentioned the fact that they had to pay state officials at border crossings - with a higher price to pay for those whose papers are not in order. Apart from border crossings, there have been reports of numerous government roadblocks in West African countries, mainly in Burkina Faso but also in Mali and Niger. Migrants have to pay sums ranging from CFA 1,000 (2 USD) to CFA 5,000 (10 USD) to be able to continue their journey. In Niger, some analysts have even reported a possible resurgence of such practices following the implementation of the 2015 Law against the smuggling of migrants.⁹⁹

The situation is even more serious in Libya, where migrants themselves admit that they cannot trust “anyone” and where the distinctions between traffickers, armed groups and the authorities tend to blur. According to some reports, in Libya the Department for Combating Illegal Immigration, which runs the so-called “official” migrant detention centres, “rents” migrants to others who use them as cheap labour.¹⁰⁰ There are proven cases of the Libyan Coast Guard, whose role is to intercept or rescue migrants at sea, who are also responsible for smuggling migrants.¹⁰¹

Preventing corruption is an essential dimension of the fight against the smuggling of migrants. In this regard, the United Nations Convention on Transnational Organized Crime requires States Parties to criminalize such practices.¹⁰² The Convention further recommends that States Parties, “adopt effective legislative, administrative or other measures to promote integrity and to prevent, detect and punish corruption of public officials”.¹⁰³

⁹⁵ United Nations Convention against Transnational Organized Crime, Art. 8.

⁹⁶ *Ibid.*

⁹⁷ See in this regard UNODC, *Corruption and the Smuggling of Migrants*, 2013.

⁹⁸ See for example UNODC, «The role of organized crime in the smuggling of migrants from West Africa to the European Union», 2011, pp. 50-51 ; UNODC, *Global Study on Smuggling of Migrants*, 2018, pp. 50-51.

⁹⁹ Fransje Molenaar, *Conflict-sensitive and humane migration management in the Sahel*, CRU Policy Brief, December 2018, p. 6.

¹⁰⁰ Interviews with representatives of international and non-governmental organisations in Libya (June 2020).

¹⁰¹ In June 2018, six Libyans accused of being involved in migrant smuggling and human trafficking were subject to sanctions by the UN Security Council, including one who was described as the head of a regional Libyan Coast Guard unit in Zawiya. See UN News Service, *As Security Council imposes sanctions on six human traffickers in Libya, UN chief calls for more accountability*, 8 June 2018, <https://www.refworld.org/country,....,LB,Y,,5b64659e4,0.html>. This is the first time that the names of smugglers and traffickers have been put on a Security Council sanctions list.

¹⁰² United Nations Convention against Transnational Organized Crime, 2000, Art. 8.

¹⁰³ *Ibid.*, Art. 9.1.

3.2. Level of Organization of Traffickers' Networks

In the context of the fight against irregular migration and the smuggling of migrants, there is a certain tendency to portray traffickers as part of highly sophisticated networks, specialized in this type of activity and capable of reorganizing their operations to respond to changing circumstances. In this type of narrative, traffickers are also portrayed as potential criminals who unscrupulously abuse desperate migrants.¹⁰⁴ In Europe in particular, this speech has become relatively common since the fall of Gaddafi in 2011 and the arrival of record numbers of migrants in Europe in 2015 and 2016. Several commentators have thus highlighted the growing importance of what they call the migrant smuggling “industry” and the fact that trafficking networks have reportedly become increasingly professional and organized, and thus increasingly criminal, to the point of posing a threat not only to migrants but also to the security and stability of States.¹⁰⁵

According to the United Nations Convention on Transnational Organized Crime, the term “organized criminal group” means “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit”.¹⁰⁶ The definition, which had been deliberately left vague in order to cover a wide range of situations, undoubtedly applies to most of the actors involved in the smuggling of migrants along the Central Mediterranean route, with the exception of those who, without being part of a structure, are engaged in cross-border commercial activities, typically between Niger and Libya or between Mali and Algeria, and occasionally take migrants on board their vehicles to earn additional income. In the case of Niger, however, it should be noted that Law N °2015-36 relating to the smuggling of migrants in fact applies “to all forms of smuggling of migrants, whether or not they are linked to organized crime or an organized criminal group”.¹⁰⁷

The fact remains that there are, of course, different types of organized criminal groups, whether in terms of size, level of activity, degree of organization or even dangerousness. Schematically, a distinction can be made between two levels of organization of the actors involved in the smuggling of migrants. On the one hand, traffickers may be part of organized criminal structures with a high level of hierarchy and professionalism and activities that extend over several countries along one or more migration routes. In such cases, traffickers may be able to facilitate movement across several countries, for example from a country of origin in West Africa to the country of final destination - Italy or Sweden, for example. Migrants could therefore pay a kind of “package” to be taken to another country, which would include a range of services such as transport and transfers, accommodation, payment of bribes and other “taxes” that could be levied along the migration route, and possibly even the handing over of false identity documents.

¹⁰⁴ Gabriella Sanchez, “Five Misconceptions About Migrant Smuggling”, Policy Brief, Migration Policy Centre, Issue 2018/07, May 2018, p. 1.

¹⁰⁵ See in particular Tuesday Reitano and Peter Tinti, “Survive and advance. The economics of smuggling refugees and migrants into Europe”, ISS Paper 289, November 2015; Tuesday Reitano, “A Perilous but Profitable Crossing: The Changing Nature of Migrant Smuggling through sub-Saharan Africa to Europe and EU Migration Policy (2012-2015)”, *The European Review of Organized Crime*, 2016; Luca Raineri, « The collateral damage of the war on smugglers along the Central Mediterranean Route », in IOM, *Migration in West and North Africa and across the Mediterranean. Trends, risks, development and governance*, 2020, pp. 41-52. 366-368.

¹⁰⁶ United Nations Convention against Transnational Organized Crime, 2000, Art. 2.a).

¹⁰⁷ Republic of Niger, Loi No. 2015-36, 26 mai 2015 relative au trafic illicite de migrants, Article 3.

On the other hand, migrant smuggling could take place through a series of informal services that migrants use generally in an ad hoc manner as they progress along their journey, and which are provided by a chain of individuals or groups of individuals who are not subject to a hierarchy but between whom there would nevertheless be a certain level of coordination.¹⁰⁸ In this case, we will speak of “networks” of traffickers considering the link between several independent actors. In these situations, migrants organize their journey themselves, most often in different stages, and they only use the services of traffickers to facilitate their movements in certain segments, especially when it is impossible for them to continue by their own means. This type of scenario where migrant smuggling is organized in a rather horizontal way and where the different actors have few structural links between them makes the fight against migrant smuggling more difficult for the authorities, but it certainly does not pose the same risks for the security of States.

In contrast to movements from East Africa, which are known to be organized by powerful actors, there is a certain lack of consensus in the literature about the degree of organization and structure of migrant smuggling networks in West Africa and the Sahel region, and whether they are genuine criminal groups whose size and level of organization can actually pose a threat to states. With the possible exception of movements organized by Nigerian criminal groups, heavily involved in human trafficking,¹⁰⁹ movements across the Sahel and the Sahara have generally been facilitated by a set of local actors, in particular nomadic tribes, who have an in-depth knowledge of the environment and who know how to navigate in the desert or in border regions. Several studies note in this respect that most traffickers are nationals of the country from which the movements are organized, which seems to show that this activity remains essentially in the hands of local actors.¹¹⁰ According to a recent study on migrant smuggling in Niger and Mali conducted by the Mixed Migration Centre, 87% of the traffickers used by the migrants questioned were Niger nationals, and 68% were Malians among the traffickers operating from Mali.¹¹¹ The same study noted that a large majority of traffickers in Niger (86%) and Mali (69%) could work alone rather than in a group.¹¹² Although the context has changed since 2015, with more measures to combat migrant smuggling and movements that have become increasingly clandestine, it is not clear whether recent developments in West Africa have actually led to the establishment of much more powerful, sophisticated and hierarchical “mafia” type transnational organized crime networks.

The fragmentation of the groups involved in the smuggling of migrants is also visible in Libya, where different actors are involved, in particular the Toubou people and Tuaregs in the southern part of the country as well as Arab tribes for transporting migrants within the country. There are no groups that would seemingly have more extensive control over the smuggling of migrants and the organization of the actors involved in this type of activity literally varies from one city to another.¹¹³

¹⁰⁸ Gabriella Sanchez, « Critical Perspectives on Clandestine Migration Facilitation: An Overview of Migrant Smuggling Research », *Journal on Migration and Human Security*, Vol. 5, No. 1, 2017, p. 14.

¹⁰⁹ On the organisation of networks in Nigeria, see in particular UNODC, *Organized Crime and Irregular Migration from Africa to Europe*, July 2006, pp. 13-14. See also Security Council, *Report of the Panel of Experts on Libya pursuant to resolution 2441, S/2018/812*, 5 September 2018, para. 50-57.

¹¹⁰ UNODC, *Global Study on Smuggling of Migrants*, 2018, p. 6.

¹¹¹ MMC, *Players of many parts: The evolving role of smugglers in West Africa's migration economy*, Briefing paper, May 2019, p. 14.

¹¹² *Ibid.*, p. 22.

¹¹³ Interviews with people working on migrant smuggling issues in Libya (2020). See in particular Gabriella Sanchez, *Beyond Militias and Tribes: The Facilitation of Migration in Libya*, Robert Schuman Centre for Advanced Studies, RSCAS 2020/09, 2020.

It is different in northern Libya, however, where those responsible for smuggling migrants across the Mediterranean have often been integrated into the various militias that control parts of the territory. In these circumstances, one could speak of groups with a high level of hierarchy and organization; but migrant smuggling represents only a small part of their activities. Some groups did not hesitate to stop this type of activity, even changing their approach and then trying to stop irregular movements from Libya when it was in their political interest to do so.¹¹⁴ In this respect, Frontex noted in a 2020 report that the significant decrease in revenues linked to the smuggling of migrants along the Central Mediterranean route had not diminished the military capabilities and strength of Libyan armed groups involved in criminal activities; this would tend to prove that they have other sources of funding much more important than the smuggling of migrants (in particular oil trafficking).¹¹⁵

There is not one group that dominates the market of migrant smuggling through the Central Mediterranean route and that would concentrate the income from this activity in its hands, but rather a plurality of actors and groups with varying levels of coordination. Moreover, it would seem that some of the actors involved in migrant smuggling, whether in Niger, Mali or Libya, only engage in activities considered as migrant smuggling from time to time, according to opportunities as a way of obtaining additional income.¹¹⁶ Most of the migrants interviewed for this research also explained that they paid several actors to facilitate different parts of their journeys; and while traffickers could put them in contact with other people, in many cases the migrants kept the possibility of organizing their journeys differently as they met them. In these circumstances, it appears that migrant smuggling along the Central Mediterranean route corresponds well to the second type of organization discussed above - which several recent research studies seem to confirm.¹¹⁷ While these different actors are interconnected and collaborate to a certain extent, particularly at intersections where the passage takes place from one group to another, the organization of migrant smuggling along the Central Mediterranean route does not seem to have the level of structure, organization and sophistication of other types of transnational organized crime networks such as those involved in drugs or arms trafficking.

3.3. Links Between Smuggling of Migrants and Other Forms of Crime

One of the recurring issues in the area of smuggling of migrants, particularly in the context of measures to tackle this activity, concerns the link between smuggling of migrants and other forms of transnational organized crime, or the link between smuggling of migrants and terrorism. It is often argued that people engaged in migrant smuggling may also be involved in other forms of trafficking, such as drugs or arms smuggling - or may be part of terrorist or jihadist networks. According to a Security Council report on the smuggling of migrants and trafficking in human beings in the Mediterranean, for example, migrant smuggling "is not an isolated activity, as individuals and networks are generally engaged in other forms of criminal activity". The report adds that "the infrastructure and logistics available to existing smuggling networks can also be used to smuggle illicit goods such as drugs or weapons".¹¹⁸

¹¹⁴ The Global Initiative against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human-smuggling industry in Libya and the central Sahel*, March 2019, pp. 9-29 ; Mark Micallef and Tuesday Reitano, *The anti-human smuggling business and Libya's political end game*, Institute for Security Studies and The Global Initiative against Transnational Crime, December 2017.

¹¹⁵ Frontex, Risk Analysis for 2020, March 2020, p. 51.

¹¹⁶ Interviews with several actors working on issues related to the smuggling of migrants along the Central Mediterranean route (2020).

¹¹⁷ Frontex, Risk Analysis for 2019, op. cit., pp. 28-29 ; Gabriella Sanchez, *Beyond Militias and Tribes: The Facilitation of Migration in Libya*, op.cit.

¹¹⁸ Security Council, *Report of the Secretary-General pursuant to Security Council resolution 2240 (2015)*, S/2016/766, 7 September 2016, para. 8.

This combination of different forms of crime justifies increasingly strong measures against irregular migration, such as the use of armed force in certain contexts. However, with a few exceptions, in particular in the north of Libya, there are no conclusive studies on this subject to date. According to a recent UNODC report, such links between different forms of transnational organized crime are the “exception” rather than the rule.¹¹⁹

The fact that several types of traffic often take place on the same cross-border routes and by members of the same groups or communities is often put forward to justify this type of statement. The city of Ghadames in Algeria, on the border with Libya, is a crossing point for drugs and migrants, as is Ghat further south in Libya, which is under the control of the Tuaregs. In Niger, people carrying migrants have taken more distant routes, used for other types of trafficking, in order to avoid controls. It is also clear that there are links between migrant traffickers and those who organize the smuggling of certain goods such as fuel and cigarettes, which are cheaper in Algeria and Libya than in Mali and Niger. Some people who go back and forth between countries to take advantage of the price difference and resell the goods take migrants with them across the border with Algeria or Libya. However, there remains one essential difference between the smuggling of migrants and other forms of trafficking: the way in which these two activities are perceived. In Libya, transporting migrants is considered a legitimate activity in the country, in the context of the economic crisis, when other types of trafficking remain taboo within communities.¹²⁰ Some say in this respect that it is the smuggling of migrants, and not arms or drug trafficking, that “holds the country together”: regardless of the opposition and tensions at a higher level, cooperation between different actors in migrant smuggling continues because it is a widely tolerated activity.¹²¹ In Mali, Niger or Algeria, migrant smuggling is not necessarily perceived as a crime in the same way as drugs or arms trafficking. As a matter of fact, the same ethnic groups, those who control parts of the territory, may be engaged in several types of trafficking at the same time, without necessarily the same individuals being behind these activities.

What about the link between people involved in migrant smuggling and armed groups? One argument often put forward is that migrant smuggling has become an important source of income for armed or terrorist groups.¹²² In Libya, more specifically in the north of the country, it seems that the people behind the smuggling of migrants along the Libyan Coast are also involved in other forms of trafficking, such as arms trafficking or drug trafficking.¹²³ Engaging in these various criminal activities is facilitated by the fact that those responsible are generally high-ranking members of the armed groups controlling parts of the territory and can act with impunity. However, the situation in northern Libya remains exceptional. In Niger and Mali, there are certainly relations at some level between migrant traffickers and the armed groups that control parts of the territory. For example, the United Nations identified in Mali the owner of a transport company which was engaged in the trafficking of migrants from the region of Gao; the person concerned also had a high position within the GATIA group, which also controlled certain (obviously paying) roadblocks along the migration route. These links made it possible to guarantee, to a certain extent, the security of migrants in the part of the territory controlled by the armed group, while at the same time financing the activities of the same group.¹²⁴

¹¹⁹ UNODC, *Global Study on Smuggling of Migrants*, op. cit., p. 52. See also Lounnas Djallil, *The links between Jihadi organizations and illegal trafficking in the Sahel*, MENARA Working Papers 25, November 2018, p. 2.

¹²⁰ Mark Micallef, *Shifting sands – Libya’s changing drug trafficking dynamics on the coastal and desert borders*, European Monitoring Centre for Drugs and Drug Addiction, 2019, p. 8 ; Gabriella Sanchez, *Beyond Militias and Tribes: The Facilitation of Migration in Libya*, op. cit., p. 14.

¹²¹ Interviews with people working on the issue of migrant smuggling in Libya (May 2020).

¹²² See for example, Fransje Molenaar and Floor El Kamouni-Janssen, *Turning the tide. The politics of irregular migration in the Sahel and Libya*, op. cit., p. 9.

¹²³ Security Council, *Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2017/466, op. cit., para. 255.

¹²⁴ Security Council, *Final report of the Panel of Experts established pursuant to Security Council resolution 2374 (2017) on Mali and extended by resolution 2432 (2018)*, S/2019/636, 7 August 2019, para. 123.





However, in this example, the smuggling of migrants is not organized by the armed group itself - the activities of the armed group and the smuggling of migrants remain quite distinct and the link between the two is essentially a form of racketeering, or a form of transaction similar to a right of passage through the territory controlled by the armed groups in exchange for a financial contribution. Although the sums collected may allow other types of activities to be financed, this remains to be proven; the sums are around CFA 5,000 (USD 10) per migrant and would essentially serve to enable these groups to get supplies.¹²⁵ In comparison, a vehicle loaded with drugs or weapons would bring in much more money.

It is also often alleged that former smugglers would convert to other forms of illegal activities, such as drug trafficking or arms dealing. In Niger, some commentators have estimated that the implementation of Law 2015-36 against the smuggling of migrants would have pushed former smugglers to convert to trafficking tramadol, an opioid analgaesic whose use is quite widespread in Niger and Libya; it is said that this allowed them to compensate to some extent for the drop in income linked to the end of activities relating to the smuggling of migrants between the north of Niger and Libya.¹²⁶ Tramadol trafficking is, however, considered low risk - it is essentially a painkiller - and therefore of interest to small-scale traffickers. The same phenomenon has been evoked in the case of Libya, where it is said that the reduction of activities linked to the trafficking of migrants from 2017 onwards, which is partly a consequence of the measures taken in Niger, would also have forced some of the people concerned to turn to drug trafficking, particularly the export of Moroccan hashish to Europe.¹²⁷ However, the risks are not the same and not all former smugglers are prepared to take them - the sums involved and the interests at stake in drugs trafficking make it an area that remains in the hands of more organized criminal networks.

Finally, there appears to be no conclusive evidence of a link between smugglers and terrorist groups.¹²⁸ It is possible that terrorist groups may dominate part of a migratory route and seek to profit from the smuggling of migrants. The question had arisen in 2015 when a group that had pledged allegiance to the Islamic State of Iraq and the Levant (ISIL) had settled in northern Libya and sought to organize the crossing of the Mediterranean Sea for migrants. There was also concern that the Islamic State might be trying to smuggle terrorists among the flows of migrants across the Mediterranean Sea.¹²⁹ Other traffickers, however, quickly distanced themselves from these groups as they had no interest in being associated with terrorists, and it does not appear that ISIL ultimately benefited substantially from its migrant smuggling or human trafficking activities on the Central Mediterranean route.¹³⁰ According to a recent report on the issue, terrorist or jihadist groups derive most of their resources from abductions and ransom demands or through arms and drug trafficking.¹³¹

¹²⁵ Interviews with migrants as well as with people working on the issue of migrant smuggling in Mali (February 2020).

¹²⁶ See in particular Peter Tinti, New trends in tramadol trafficking in Niger, The Global Initiative Against Transnational Organized Crime, 25 June 2018, <https://globalinitiative.net/tramadol-traffic/king-in-niger>.

¹²⁷ The Global Initiative against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human-smuggling industry in Libya and the central Sahel*, op. cit., p. 18.

¹²⁸ UNCTED, *Identifying and exploring the nexus between human trafficking, terrorism, and terrorism financing*, 2019, pp. 20-21.

¹²⁹ « Islamic State militants 'smuggled to Europe' », in BBC, 17 May 2015, <https://www.bbc.com/news/world-africa-32770390>.

¹³⁰ Interviews with people working on the issue of migrant smuggling in Libya (June 2020).

¹³¹ Lounnas Djallil, The links between Jihadi organizations and illegal trafficking in the Sahel, op. cit., p. 4.

Box 2 : Migrant Smuggling From South Asia

The high level of specialization and professionalism in the case of migrant smuggling networks is most evident in the context of the smuggling of non-African migrants from South Asia through West Africa and/or North Africa to Europe. Criminal groups capable of organizing the smuggling of migrants across three continents and several countries are far more organized and structured than the multiple actors who transport migrants from one point to another from West Africa.

Initially relatively invisible in the statistics due to the large number of migrants from sub-Saharan Africa, the smuggling of persons from South Asia, which exists since the early 2000s, has become more evident with Bangladesh and Pakistan now being among the main countries of origin of migrants arriving in Italy after crossing the Mediterranean Sea from Libya. Between January and October 2020, Bangladesh was the second most important country of origin for migrants arriving in Italy (after Tunisia).

Movements from South Asia to some West African cities is by air from India or Pakistan, which implies the existence of a smuggling organization capable of bribing agents or providing migrants with travel documents to cross border controls. Once they arrive in a capital in a West African country, Mali, Ivory Coast or Guinea in particular, migrants take the Central Mediterranean route, passing through Mali and Algeria to reach Libya and then the Mediterranean Coast. Tuareg and Arab groups in the Sahel are said to be working together with traffickers in South Asia, demonstrating a high level of organization and coordination. Migrants would either be accompanied during the journey or “guided” by telephone.¹³²

The cost of such services, which are paid for in the country of origin prior to departure, is obviously much higher than in the case of migrants leaving West Africa by land; UNODC recently estimated that the prices for travelling from India to Western Europe range from \$15,000 to \$30,000.¹³³ Generally, the conditions in which movements take place are also much safer for migrants, even if the risk of an incident exists, as was recalled by the “Mezdah massacre” in May 2020, when 26 Bangladeshi migrants were executed after an altercation with traffickers in Libya.¹³⁴

¹³² Interviews with police authorities in Mali (February 2020). See also UNODC, *The role of organized crime in the smuggling of migrants from West Africa to the European Union*, 2011, p. 52.

¹³³ UNODC, *Global Study on Smuggling of Migrants*, op. cit, p. 119.

¹³⁴ « Libye : pour venger sa mort, la famille d'un passeur tue 30 migrants », in *Le Parisien*, 28 May 2020, <https://www.leparisien.fr/faits-divers/libye-pour-venger-sa-mort-la-famille-d-un-passeur-tue-30-migrants-28-05-2020-8325816.php>.

4. Overview of the Main Migration Routes and Traffickers' Modus Operandi

Migration routes are changing rapidly as a result of a number of factors, not least of which are the controls put in place by the authorities to tackle irregular movements and the smuggling of migrants. There are two major migration routes between West Africa and North Africa that connect the Sahel region with the coastal regions of Algeria and Libya in the context of the Central Mediterranean route. There are, on the one hand, the road that passes through Niger and leads to the borders of Algeria and Libya, and on the other hand, a road, further west, that passes through Mali and leads to the Algerian border.

Movements within West Africa generally do not require the use of traffickers; as a matter of fact, migrants have relative freedom of movement within the region under ECOWAS freedom of movement rules. However, resorting to traffickers is necessary when crossing the desert. There are several important points (or “hubs”) along these migration routes which are the places of choice for migrants to transit, find information and establish the contacts they need to continue their journey. In Mali, these include Gao, Sévaré and Timbuktu; in Niger, these are mainly Niamey, Zinder and Agadez in the north of the country. In addition to crossing the desert, border crossings are another dangerous part of the journey because of the controls operated by the authorities.

4.1. Movements Within ECOWAS

In West Africa more specifically, it is necessary to take into account the treaties adopted within ECOWAS which guarantee freedom of movement in the sub-region. Provided that the persons concerned are in possession of valid travel documents and a vaccination record, they are authorized to enter the territory of another ECOWAS country without a visa for a period of 90 days. In other words, for nationals of West African countries, there can only be smuggling of migrants within ECOWAS if the persons concerned do not have valid documents or do not cross the borders of the countries through official entry points. However, traffickers play a role with regard to the entry of people from other ECOWAS countries into the ECOWAS territory, particularly in Niger so that they can then travel to North Africa and Europe.

In these circumstances, migrants from West Africa who would like to travel to North Africa or Europe do not, usually, need to use the services of traffickers for movements within the sub-region as far as the borders with Algeria or Libya,¹³⁵ as they can travel on their own or through public and private transport companies. According to a study carried out by the Mixed Migration Centre in 2019, only 20% of the migrants interviewed in Niger and 8% of the migrants interviewed in Mali have started their journey by using the services of smugglers.¹³⁶ Migrants who undertake the journey on their own are generally well informed about the route to be taken and the main transit points in Mali or Niger (there are even maps detailing the route that migrants must follow). Many seem to already have the telephone numbers of people they need to contact when they arrive somewhere - usually in Bamako or Agadez - who could help them organize the rest of their journey, or at least put them in touch with others. In any case, it is not too difficult to establish contact with “coxeurs” - One simply need to reach the bus station of a city along the migration route to be approached by people looking for clients for the traffickers.

¹³⁵ Jorgen Carling, “West and Central Africa”, in *Migrant Smuggling Data and Research: A global review of the emerging evidence base*, IOM, 2016, p. 25.

¹³⁶ MMC, *Players of many parts: The evolving role of smugglers in West Africa's migration economy*, op. cit., p. 5.

While the principle of freedom of movement is recognized as an important pillar of ECOWAS, in practice, however, there are numerous difficulties. In particular, many testimonies refer to checkpoints run by the authorities, not only at the borders but also along the route within countries, in particular in Burkina Faso, where migrants - even those with valid papers - would be required to pay if they wished to continue their journey. With regard to the rules on freedom of movement within ECOWAS, it appears that a large number of migrants are not necessarily aware of the requirements, that is being in possession of valid identity documents, and that they start their journey without meeting these requirements, which makes their movements irregular.¹³⁷

Border authorities in countries such as Mali and Niger have to apply the rules and deny access to migrants if their documents are not valid. However, testimonies reveal that in some cases migrants were able to pass if they pay a certain amount of money. Another problem for authorities that would seek to implement ECOWAS provisions on limitations of stay in other countries in the region is that migrants, if they are in possession of an ECOWAS travel booklet and identity card instead of a passport, which is the case for many, do not receive stamps or any other type of document that would attest to their date of entry into a territory. Whether migrants stay ten days or ten years on the territory of a State in the sub-region, as one person interviewed for this report indicated, makes no difference insofar as the authorities do not have the means to verify this kind of information.

4.2. The Route Between Niger and Libya

Crossing the borders of West African countries to get to North Africa is much more complicated and requires the help of people who know the roads through the desert. The most common and most travelled road until recently took migrants from the city of Agadez in Libya via Dirkou and Madama in northern Niger, then through southern Libya to Mourzouk or Sabha.

With its relatively prosperous economy largely dependent on foreign labour, Libya has long been an important destination country for West African migrants. Until 2016, migrants could easily reach Agadez from Niamey using public transport or one of the many private transport companies linking the two cities. Movements beyond Agadez were then organized with the help of the authorities: a convoy protected by the Niger armed forces left the city of Agadez every Monday to go to Dirkou, which people transporting migrants were free to join against payment. If the first part of the journey was generally organized by Tuaregs, once in Dirkou the migrants were then handed over to Toubous, who control most of the road between Dirkou and southern Libya. The rest of the journey was across the desert to Madama, then across the border between Niger and Libya at the Tumo border post and through Al-Wigh and Al-Qatrun in southern Libya to Mourzouk or Sabha. Most of the movements on the road from Agadez were done on board of Toyota Hilux-type pick-ups or on board of cargo trucks. The cost of the journey between Agadez and Sabha in the south of Libya was around CFA 100,000 to 150,000 (USD 200 to 300), paid directly to the smugglers from Niger - the transporters then pay the traffickers who bring the migrants to the south of Libya.¹³⁸

¹³⁷ See for example Fransje Molenaar and Floor El Kamouni-Janssen, *Turning the tide. The politics of irregular migration in the Sahel and Libya*, op. cit., p. 23.

¹³⁸ Interviews with former smugglers in Agadez (March 2020).

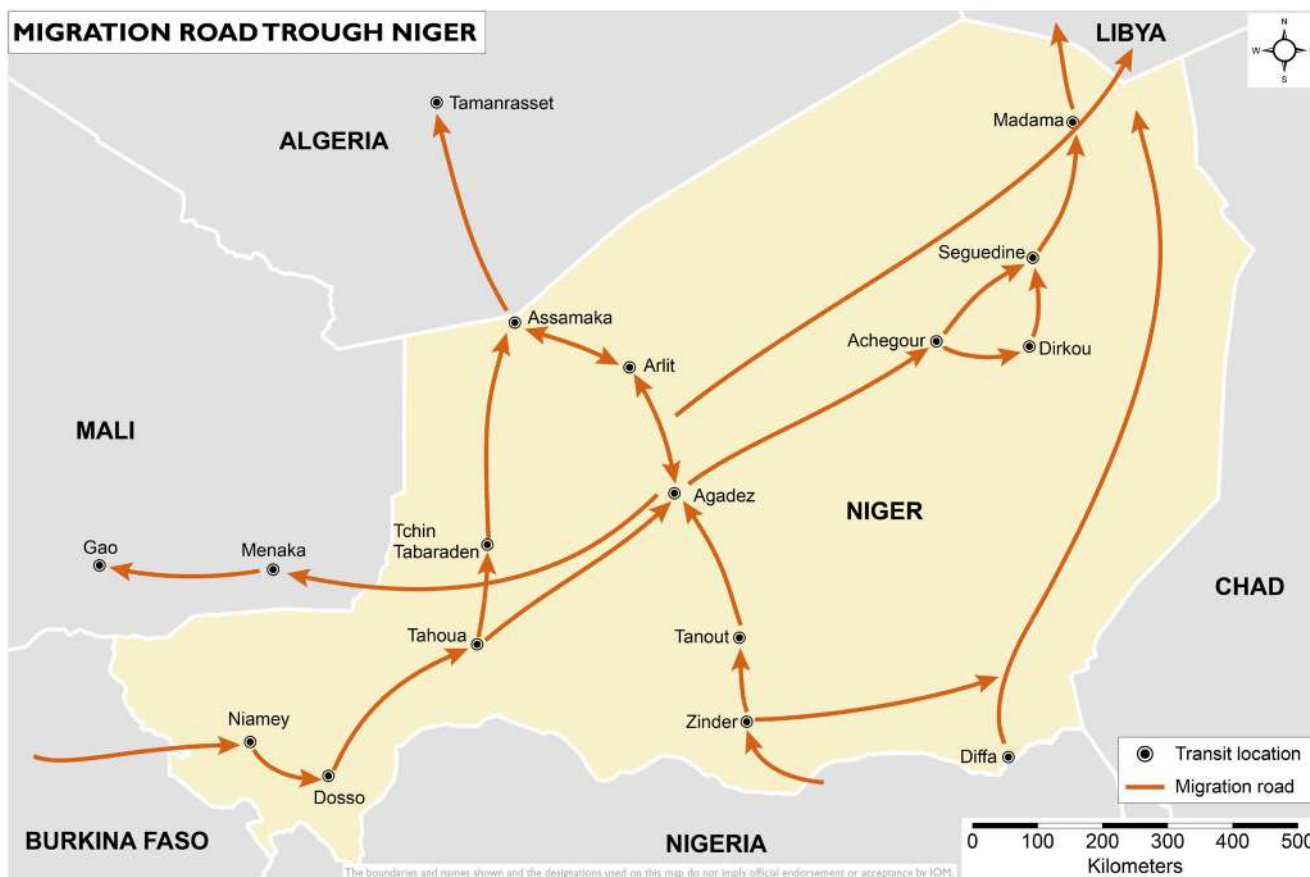
Until then, transporting people to Libya was not illegal or clandestine; it was a tolerated or even institutionalized activity in the case of Niger, carried out in full view of everyone. The dozens of travel agencies that organized this type of movement from Agadez were registered with the authorities, paid taxes and openly promoted their activities. The transport of migrants was then carried out by individuals or small teams with also a certain degree of coordination with other actors, as demonstrated by the relay between the Tuaregs and the Toubou people in Dirkou.

But the situation changed when Law 2015-36 relating to the smuggling of migrants in Niger began to be implemented from September 2016. Dozens of people, in particular the people who were driving the migrants across the desert, were arrested and imprisoned; hundreds of vehicles were seized. Checks along the road between Niamey and Agadez, and beyond towards Libya, have been considerably reinforced with the establishment of checkpoints on the Tahoua-Agadez axis in Abalak and on the Zinder-Agadez axis in Tanout. Although this is still the ECOWAS territory, it has become more difficult for migrants to board a bus to the north of Niger. For example, private transport companies operating between different countries have been required as of 2016, in application of Law 2015-36 on the smuggling of migrants, to check migrants' documents before taking them on board.¹³⁹ Those who have their papers can continue but as soon as they pass Niamey it will be difficult for them to reach Agadez without drawing suspicion as to their intentions to continue on to Libya or Algeria. In the end, the people who organized the transport of migrants beyond Agadez suddenly found themselves with no options, forced to stop these activities.

Officially, these measures have largely contributed to slowing down the flow of migrants to Libya and Europe from the end of the first half of 2017. It is not clear, however, to what extent migration flows from Niger to North Africa have actually decreased. After a period of uncertainty following the abrupt implementation of Law 2015-36, movements have resumed, but the journey has since been following other routes, which makes estimates difficult. The routes are not necessarily new but have been used so far for other types of smuggling, including drug trafficking - a convergence that tends to fuel the combination of migrant smuggling and other forms of transnational organized crime.¹⁴⁰ Determining the new routes precisely is difficult because the routes have become more diversified and are constantly changing.

¹³⁹ This is provided for in Article 11.2-3 of the Smuggling of Migrants Protocol. The obligation for carriers is to check whether passengers are in possession of the documents, not to assess the authenticity or validity of these documents.

¹⁴⁰ Jérôme Tubiana, Clotilde Warin and Gaffar Mohammud Saeneen, *Multilateral Damage. The impact of EU migration policies on central Saharan routes*, CRU Report, September 2018, p. 24.



Map of migration routes through Niger (IOM)

For example, some migrants continue to take buses from Niamey, but it seems that they manage to get off before arriving in Agadez and are then taken to other departure points in Libya or Algeria. The town of Tahoua seems to have become an important transit point; it is from there that many vehicles avoid the national road to Agadez by passing through Tchin Tabaraden. Other migrants completely avoid the Niamey-Agadez axis, where they would be easily spotted, and go to Zinder, in the south of the country, on the border with Nigeria, and then head north again. Most vehicles now pass within tens or hundreds of kilometres of the city of Agadez and other localities such as Dirkou to avoid police checkpoints. Some roads seem to pass through Achegour and Lateye to reach Madama.¹⁴¹ Other roads bypass Agadez from the east and follow the border with Chad, or even pass through Chad and then reach southern Libya. The opening of the route via Chad is said to be facilitated by the fact that the Toubou people are also present in the Tibesti region in the north of the country.¹⁴² The traffickers mainly use Toyota pick-ups and cross the desert to the south of Libya at full speed. The journey seemingly takes between three and four days. Prices have reportedly risen from 2016 to reach CFA 500,000 (USD 1,000) at the time when the situation was particularly tense, only to fall back to CFA 250,000 (USD 500) today.¹⁴³

¹⁴¹ See in particular The Global Initiative against Transnational Crime et Clingendael, *The Human Conveyor Belt Broken - assessing the collapse of the human smuggling industry in Libya and the central Sahel*, op. cit., pp. 60-61.

¹⁴² See in particular The Global Initiative against Transnational Crime et Clingendael, *The Human Conveyor Belt Broken - assessing the collapse of the human smuggling industry in Libya and the central Sahel*, op. cit., pp. 66-74.

¹⁴³ Interviews with smugglers in Agadez (March 2020).

Some traffickers take migrants as far as Mourzouk, others as far as Sabha, another important hub in the south of Libya where migrants have to find other smugglers operating in the region to continue the route to the north of the country. The city of Sabha, as one commentator noted, represents in this respect a fairly clear “dividing line” between the traffickers operating on the Niger-Libya axis, essentially the Toubous from Niger, and those who organize movements within Libya and towards the Mediterranean Coast.

4.3. The Road Between Niger and Algeria

For people trying to travel to Europe, the route to Libya was traditionally more common considering the absence of authorities in Libya, the lack of border controls and the relative safety along the route. In comparison, the other migration route from Niger, which leads to Algeria via Arlit and Assamaka in northern Niger and then to Tamanrasset in Algeria, was less frequented. On the one hand, this route was considered more dangerous due in particular to the presence of “road cutters” (“coupeurs de routes”) who attack vehicles and abduct migrants for ransom.¹⁴⁴ In addition, the border between Niger and Algeria is subject to significant control by the Algeria and Niger authorities who seek to intercept migrants. On the Niger side, this collaboration follows the same logic as that which had presided over the development of Law 2015-36 following the discovery of 92 migrant bodies in October 2013.

Movement along this route is mainly facilitated by the Tuaregs, who are present in the border area between northern Niger, Mali, southern Algeria and southern Libya. The Tuaregs have traditionally been involved in the trade and trafficking of different types of goods - cigarettes, fuel, weapons and drugs - across the Sahara; it is only relatively more recently that migrant smuggling has become a more important activity for them. The journey between Agadez and Algeria is mainly by pick up across the desert to Assamaka, where you have to pass a border post to leave Niger and then go to in-Guezzam to cross the Algerian border. The smugglers either bypass the guard posts or pay the authorities on one side and/or the other side of the border to be able to pass. Once the border is crossed, most migrants continue to Tamanrasset, where it is easy for them to find work or continue their journey. The cost of the journey to Tamanrasset was about CFA 70,000 (140 USD) before 2015/2016;¹⁴⁵ it is now about CFA 100,000 (200 USD).

Most people who traditionally use this route, including migrants from Niger who cross the border each season to work in Algeria, do not seek to travel to Europe. Algeria is a country where it is easy for people from West Africa to find work in the construction sector in particular, or for women and children to earn some money through begging. The most striking example in this respect is undoubtedly that of the women from the region of Zinder (Matamey) who go with their children to Algeria to beg in the big cities' streets. A large majority of the bodies found in the desert in October 2013 were precisely women and children. However, the measures taken in 2016 by the Niger authorities to combat the smuggling of migrants, which seemed to target mainly movements to Libya, seem to have diverted some of the flows to Algeria.¹⁴⁶ Departures to Algeria are either from Agadez or directly from Tahoua across the desert to Assamaka.

¹⁴⁴ UNHCR, *Mixed Migration: Libya at the crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya*, op. cit., p. 39.

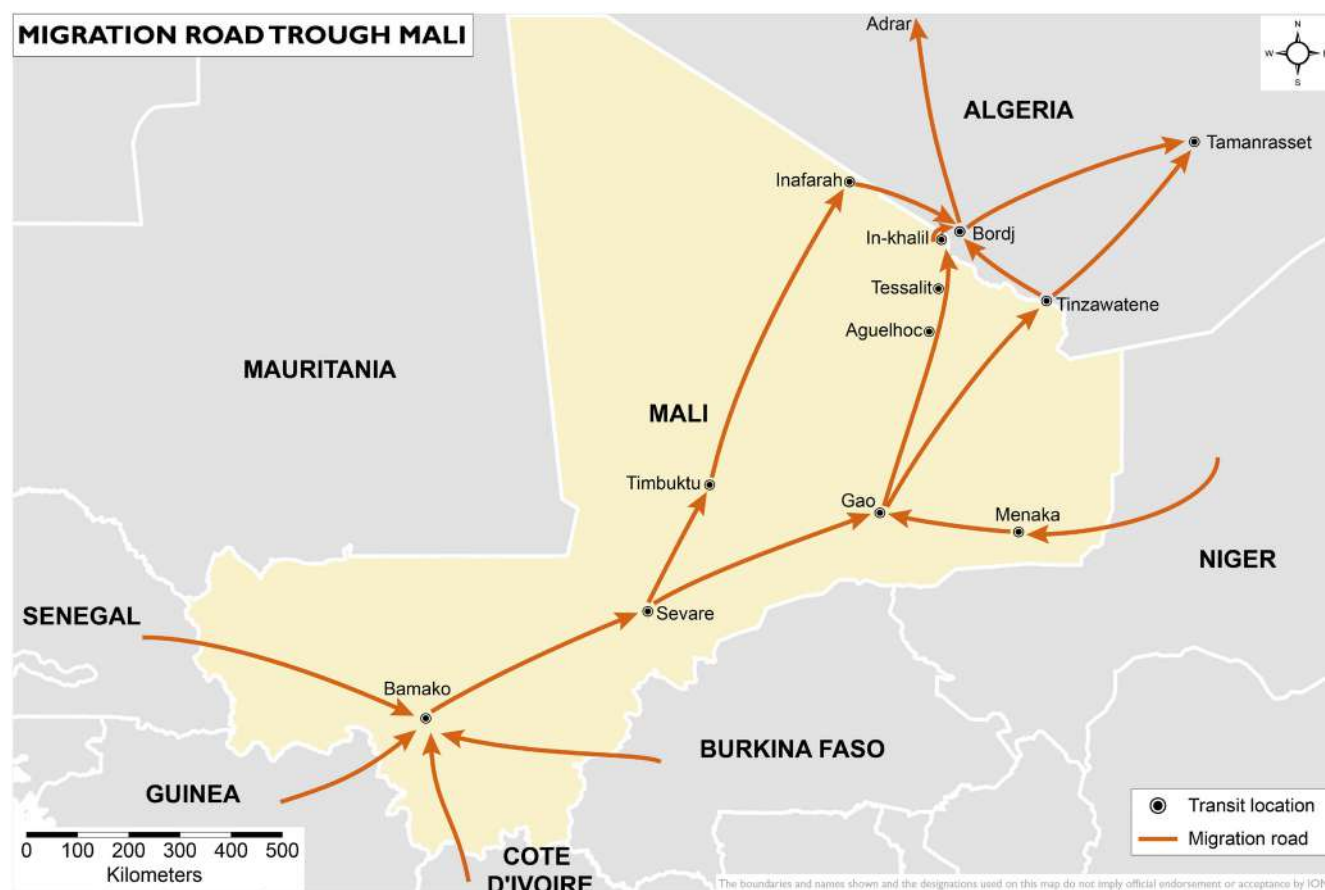
¹⁴⁵ *Ibid.*, p. 39.

¹⁴⁶ IOM, *DTM Libya's Migrant Report. Round 9*, March-April 2017.

4.4. The Road Between Mali and Algeria

Although movements through Mali have decreased considerably since the start of the armed conflict in the north of the country in 2012, the route between Mali and Algeria remains important for many West African migrants. This is all the more so in the context of the measures taken by the Niger authorities to combat the smuggling of migrants in the north of the country and considering the risks in Libya. While getting to Bamako does not usually pose any particular problem, resorting to traffickers is necessary for the rest of the route due, on the one hand, to the presence of armed groups and, on the other hand, to controls at the Algerian border. With the exception of nationals from Mali, nationals from West African countries must be in possession of a visa to enter Algeria.

Bamako is an important transit point on the road to Algeria. In many cases, migrants arriving in Bamako already have the number of a coxeur. For others, it is relatively easy to establish contact with intermediaries in one of the many bus stations in the Malian capital. Migrants can choose to obtain false Malian passports - for a price of around CFA 20,000 (USD 40) - and organize the next stage of the journey. Different options are possible at this stage, ranging from the journey to Algeria to the organization of the trip to Europe. From Bamako, the most common routes pass through Gao or Timbuktu (via Sévaré) before reaching Algeria.



Map of migration routes through Mali (IOM)

It is possible to reach Gao or Timbuktu by bus from private companies for around CFA 30,000 (USD 60) and most migrants organize this part of the journey themselves. The next stage leading from Gao or Timbuktu to Algeria is more complicated and riskier, however, hence the need to resort to traffickers. The coxeurs are also numerous in Gao and the migrants remain in hostels while waiting to leave for Algeria. The routes traditionally used to reach Algeria from Gao pass either through Kidal or through the Aghuelok-Tessalit axis to continue then to the villages of In-Khalil, Thalandak or Tindiska which face respectively the communes of Bordj Badji Mokhtar, Timaouine and Tinzaouten on the Algerian side. It would appear, however, that the route from Gao has lost some importance in recent times due to the growing insecurity on the route, although it is in fact difficult to have a good estimate of the migration flows in the area.¹⁴⁷ Crossing to Algeria from Gao would cost between CFA 100,000 and 200,000 (between USD 200 and 400).

The transport of migrants on this road is done by truck or pick up across the desert and takes three to four days. The vehicles pass through several checkpoints set up by armed groups in the region such as the MLNA or GATIA, which controls part of the territory through which the migration route passes. Migrants pay a tax of around CFA 5,000 (USD 10) each to continue their journey. It is clear that there are links between drivers and armed groups in Mali, which explains the ease with which some drivers pass certain checkpoints rather than others run by different groups. It is also likely that the driver will contact certain groups in advance so that they can effectively intercept the vehicle on the road and demand payment.

According to some estimates, Timbuktu may have supplanted Gao as the main transit point for migrants on their way to Algeria.¹⁴⁸ The vast majority of migrants interviewed in Mali for this report had also transited through Sévaré and then Timbuktu, which seems to confirm this trend. From Sévaré, the journey to Timbuktu can be made by bus or boat - an alternative that seems to be not only faster but also cheaper as it avoids checkpoints. Timbuktu is another place of transit and those who have already arranged the crossing to Algeria from Bamako are taken care of as soon as they get off the bus or boat and distributed to different hostels depending on the traffickers with whom they have made an agreement. The price of the journey from Timbuktu to Bordj seems to vary from CFA 80,000 to 150,000 (USD 160 to 300).

Several migrants, for example, said they crossed the desert in a pick-up truck or lorry to a small village called Inafarah on the border with Algeria, opposite Bordj Badji Mokhtar. During the journey, which takes between three and four days, the vehicles also pass through several checkpoints run by armed groups and each migrant has to pay between CFA 5,000 and 10,000 (between USD 10 and 20). What happens at the checkpoints is relatively similar from one story to another. Usually, people who are able to pay the requested sums can continue their journey without any problems. In the case of migrants who have paid a kind of fixed price to be driven to Algeria, contact is made by telephone between the members of the armed group and an intermediary to confirm the arrangement, or the driver himself sends a list with the names of those who have already paid. Another migrant indicated that he had received a kind of ticket to be presented at the checkpoints. If everything is in order, migrants can continue their journey. This system demonstrates a certain level of coordination between movement organizers and armed groups in Mali. Those who are unwilling or unable to pay are usually excluded from the group and threatened not to be able to continue their journey. Most of the migrants interviewed indicated that members of the armed groups then searched their belongings and took what they could - money, telephone, even clothes. Some reported being beaten or seeing other migrants being beaten. In other cases, migrants have been forced to call some of their relatives to transfer the required amount immediately. It also happens that other migrants pay for those who cannot afford it, in which case the vehicle can leave again.

¹⁴⁷ See Security Council, *Final report of the Panel of Experts established pursuant to Security Council resolution 2374 (2017) on Mali and extended by resolution 2432 (2018)*, S/2019/636, op. cit., para. 122; Security Council, *Final Report of the Panel of Experts established pursuant to Security Council resolution 2374 (2017) on Mali*, S/2018/581, op. cit., para. 139-141.

¹⁴⁸ See in particular the IOM Travel Monitoring Matrix for Mali, available at <https://dtm.iom.int/mali?page=4>.

Once they arrive in Inafarah, migrants have to pay around CFA 20,000 (USD 40) to cross the border with Algeria. Those who no longer have enough money with them can either contact other people to ask for help or stay and work in Inafarah. The work essentially consists of unloading illegally imported petrol cans from Algeria, which shows that some migrant traffickers are also involved in fuel smuggling. When everything is settled, the migrants are dropped off at night by a pick-up truck about fifteen kilometres from the border, then ordered to continue the road by themselves and on foot following the lights of the town until they reach Bordj Badji Mokhtar.

Bordj Badji Mokhtar, Timiaouine and Tinzaouten, through which migrants return to Algeria, are also places of transit where there are many coxers from different countries and speaking several languages. Once in town, migrants will be able to call a contact if they have the number - which is usually the case for those who have paid for some sort of package to travel to another country - or find someone who will redirect them to a hostel where they can spend the night and prepare for the next stage of their journey. Unfortunately, there is very little information available on the links between traffickers in Mali and those involved in this type of activity in Algeria.

4.5. Destination Europe: Crossing Libya and Algeria

Having arrived in Libya or Algeria, some of the migrants try to travel fairly quickly towards the north of the country and the Mediterranean coasts in order to reach Europe, either directly from Libya, or via Morocco or Tunisia. Another part of the migrants spends some time in Libya or Algeria to work and earn the money they need to continue their journey. Depending on the opportunities, however, what was perhaps initially envisaged as a short halt can be extended over several years.

4.5.1. Transit in Algeria

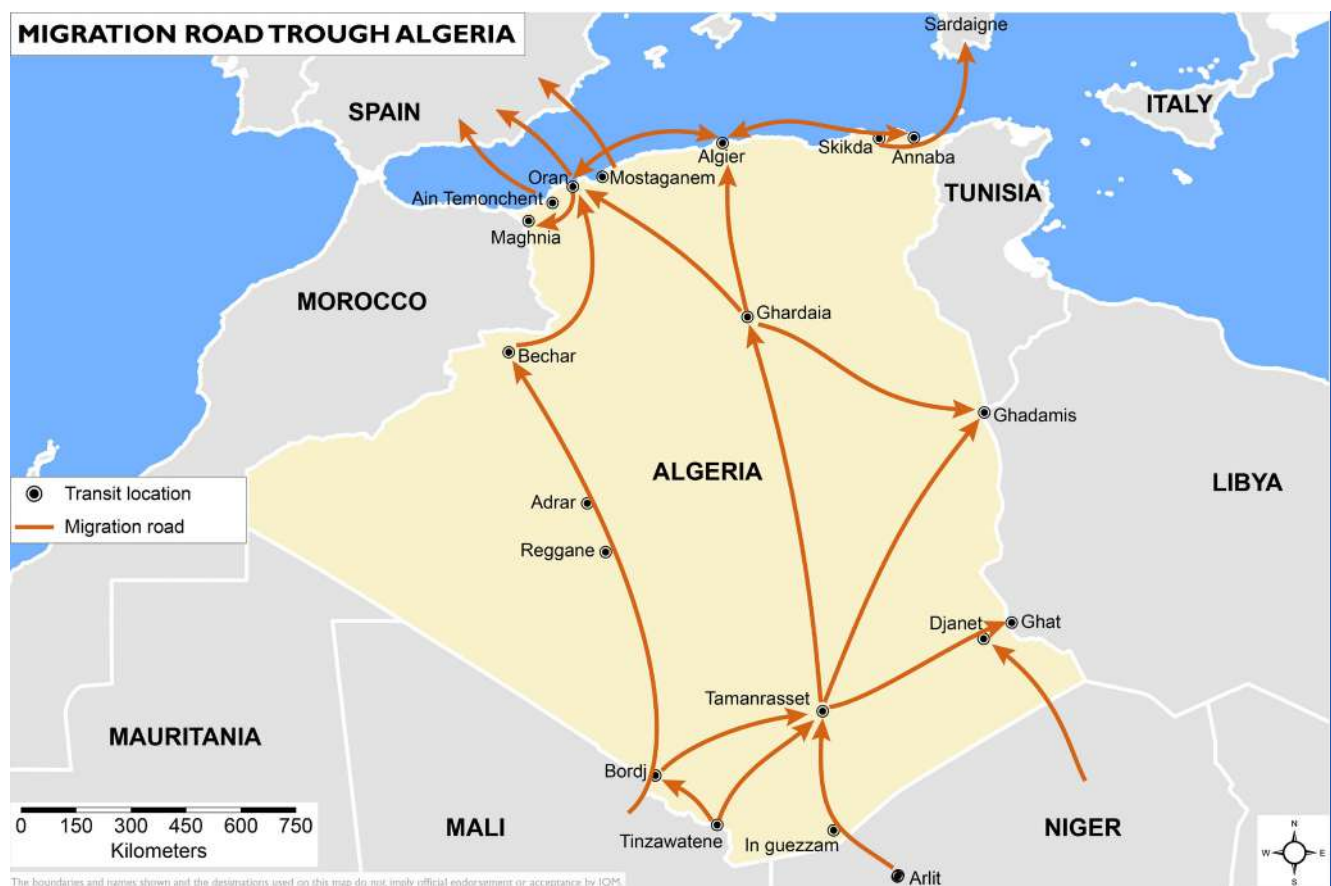
Due to developments in Niger and Libya, Algeria has come to play a more important role for West African migrants. According to some estimates, some 500 people enter Algerian Territory every day in an irregular manner across the country's southern border, that is around 182,500 people over the course of a year.¹⁴⁹ Algeria is both a country of transit to Libya, Morocco or Tunisia, for those who intend to reach Europe, but also, for many, a country of destination. In fact, the majority of migrants transiting through Algeria stop there to work for a while; however, many stay longer than expected in the country as it is easy for them to find a relatively well-paid job.

Once they have arrived in Bordj Badji Mokhtar (from Mali) or Tamanrasset (from Niger), most migrants stay for a few days in "hostels" managed mainly by foreigners (Maliens, Guineans, Ivorians or others). The testimonies collected for this report show, however, that migrants have a relatively large freedom of action when it comes to organizing the rest of their journey. Some had chosen to continue north; others had preferred to stay and work in Bordj Badji Mokhtar or Tamanrasset to earn money before leaving when a good opportunity to do so presented itself. The smugglers from Bordj Badji Mokhtar organize kinds of convoys to take migrants to other cities - for example to Reggane, then from Reggane to Adrar, Béchar, Oran or Algiers - avoiding possible roadblocks. From Tamanrasset, the route passes through In Salah then Ghardaia and then connects Algiers to the north of the country. Another option for migrants, cheaper but a little riskier, is to take public transport or to leave with other individuals who agree to accompany the migrants to another city to make some money. Prices are largely negotiable and it is possible to reach Oran or Algiers from Bordj Badji Mokhtar or Tamanrasset for 15,000 or 20,000 dinars (from USD 60 to 80).

¹⁴⁹ Algérie Presse Service, *Bedoui : 500 tentatives d'entrée illégale sur le territoire national enregistrées aux frontières sud du pays*, 19 October 2020, <http://www.aps.dz/algerie/71882-bedoui-500-tentatives-d-entree-illegale-sur-le-territoire-national-enregistrees-aux-frontieres-sud-du-pay>.

work, without any intention of going further, saw the opportunity to go to Europe and tried to go there. The main risk for irregular migrants, however, is to be arrested by the authorities, who generally escort irregular migrants back to Mali or Niger.

Migrants sometimes attempt the crossing to Europe from the Algerian coasts, either towards Spain from the coasts to the west of Algeria (in particular from Bou Zadjar or Ghazaouet), or towards Italy from the coasts to the east of the country (for example from Sidi Salem on the outskirts of the city of Annaba).¹⁵⁰ However, despite an increase in departures by boat from Algeria in 2019 and 2020, Algeria is not an important departure point to Europe but rather a transit point to Morocco, Tunisia or Libya. Other migrants pass through Algeria on their way to Libya and then reach the coasts in the north of Libya. The two crossing points for Libya are Ghat, in the south of the country, and Ghadames further north.



Map of migration routes through Algeria (IOM)

¹⁵⁰ « A Sidi Salem, les harraga rapportent plus que le poisson », dans El Watan.com, 16 July 2010, <https://www.elwatan.com/edition/actualite/a-sidi-salem-les-harraga-rapportent-plus-que-le-poisson-16-07-2010>.

4.5.2. Crossing Libya

Although Libya remains the main transit country on the Central Mediterranean route, the number of migrants crossing the country on their way to the Mediterranean Coast has decreased considerably in recent years. The passage through Libya has become longer, more expensive and more dangerous than before.

There are several entry points into Libya from Niger or Algeria. Most of the migrants who have transited through Niger return to Libya via the country's southern border, by far the most porous. To enter Libyan Territory would normally require a visa, but in the absence of a legitimate authority exercising control over this part of the territory there is in fact no border control system that can prevent migrants from entering the country. Since the fall of Gaddafi, the region is essentially controlled by the Toubou People. The majority of traffickers using this route cross or bypass the Tumo border post and continue directly through the Fezzan region via Al-Wigh to Al-Qatron and then Mourzouq.¹⁵¹ Some smugglers do not go beyond Mourzouq, in which case the migrants have to make other arrangements to continue their journey; but others take the migrants to Sebha, which marks the end of the area over which the Toubou people exercise a certain control. From Sebha, the migrants have to find other people who can take them to the north. Northern Libya is not only the starting point to Europe, but also a part of the country where there are more job opportunities.

The other entry point into Libya for migrants from West Africa is the city of Ghat, which is close to the border with Algeria in the south of the country and accessible from Tamanrasset, although the journey is relatively long with almost 1,000 kilometres of distance. The route crosses the Algerian town of Djanet before reaching Ghat. The city of Ghat is controlled by the Tuaregs who are also present in northern Niger and Algeria - so it is quite easy for them to drive migrants across the border between Algeria and Libya. The route is quite old and was used by migrants going to Libya to find work; it ceased to be active in 2014 and 2015 following a conflict between the Tuaregs and the Toubous but has since been reopened.¹⁵² From Ghat, migrants are brought by smugglers to Ubari where they are handed over to other groups and can continue to Sebha or northwards across the desert.¹⁵³

The city of Sebha is the main transit point on the road from the south to the north of Libya and the Mediterranean Coast for migrants entering Algeria via Ghat, through the southern borders of the country from Niger, or through the east from Chad or Sudan. The city of Sabha is shared between Toubous and Arabs, in particular the Awlad Suleiman tribe. Usually, the Toubous do not venture beyond Sabha. Depending on the arrangements, migrants are usually handed over to members of the Awlad Suleiman tribe to continue north, or they are dropped off by the traffickers in Sabha and then left on their own. Due to lack of means, many migrants stay in Sabha for a while to work and earn the money they need to continue.¹⁵⁴ While migrants could still travel to Tripoli by bus or taxi in the early years after the revolution,¹⁵⁵ this is no longer possible and the use of smugglers to make the journey between Sabha and the north of the country is now necessary.

¹⁵¹ The Global Initiative against Transnational Organized Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human smuggling industry in Libya and the central Sahel*, op. cit., pp. 40-41.

¹⁵² Peter Tinti and Tom Westcott, *The Niger-Libya corridor. Smugglers' perspectives*, ISS paper 299, November 2016, p. 5.

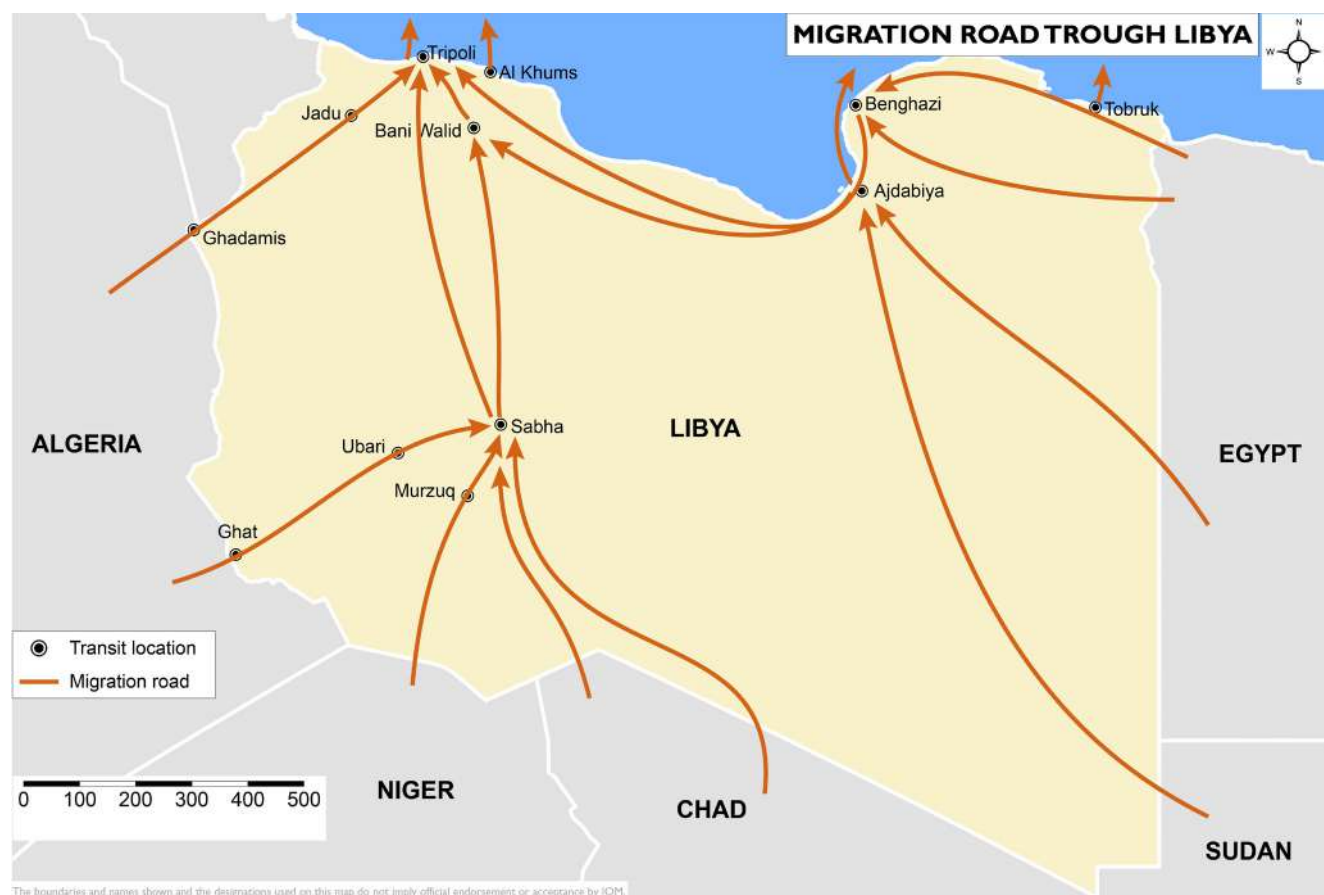
¹⁵³ The Global Initiative against Transnational Organized Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human smuggling industry in Libya and the central Sahel*, op. cit., pp. 43-44.

¹⁵⁴ Interviews with representatives of international and non-governmental organisations working on Libya (June 2020).

¹⁵⁵ UNHCR, *Mixed Migration: Libya at the crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya*, op. cit., p. 43.

The migrant smuggling market in Libya appears to be fairly open and “almost anyone”, in the words of people interviewed for this report, can become a trafficker in Libya provided the opportunity arises. The journeys are usually made by pick-up across the desert and the routes vary according to the evolution of the conflict. However, there is a good chance that vehicles will be intercepted along the road and that migrants will be attacked or abducted for extortion in one of the many “detention” centres for migrants that abound throughout the country. The town of Bani Walid, south-east of Tripoli, remains the main transit point to Tripoli and the coastal cities in the west of the country; but it is also the location of many informal detention centres where migrants are victims of exploitation and abuse. The most “prominent” aspect of the migration issue in Libya, as noted by the Panel of Experts on Libya, is indeed “the successive passage of migrant populations from one detention centre to another for months or even years”.¹⁵⁶ For those who want to go to Europe, passing through this type of place now seems to be an unavoidable step.

There is yet another route between Algeria and Libya. Migrants further north in Algeria - those working in Algiers or Oran for example - can enter Libya via Debdeb on the Algerian border to reach the town of Ghadames in the north-west of Libya, close to the Tunisian border. From there they can continue to Tiji or Jadu, which are other important transit points to the Mediterranean Coast, or continue to Bani Walid.¹⁵⁷ Movements along this route are mainly organized by members of the Zintan Brigade.¹⁵⁸



Map of migration routes through Libya (IOM)

¹⁵⁶ Security Council, *Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2019/914, 9 December 2019, para. 50.

¹⁵⁷ Interviews with representatives of international and non-governmental organisations working on Libya (June 2020).

¹⁵⁸ Security Council, *Final Report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2017/466, 1 June 2017, para. 257.

4.6. The crossing of the Mediterranean Sea

For migrants wishing to reach Europe, the crossing of the Mediterranean Sea - the last step before Europe - is one of the most trying stages. Most migrants attempting to cross the Mediterranean to Italy leave from Libya. Between 2015 and 2017, it was estimated that almost 90% of the people arriving by sea in Italy had left the Libyan Coast.¹⁵⁹ It is difficult to give an accurate description of the situation in the north of Libya and to identify the main points of departure as the situation is changing very quickly. However, a distinction can be made between two periods: the period up until 2016, characterized by a large number of movements in the Mediterranean from the Libyan Coast; and the other period from 2017 marked by a net decrease in the number of departures and consequent changes in terms of the organization of the smuggling of migrants on the Central Mediterranean route.

The Libyan coasts are controlled by different militias which are also involved, to varying degrees, in the smuggling of migrants in the Mediterranean Sea. Until 2017, the departure points to Europe were mainly located west of Tripoli (Zawiyah, Zuwarah, Sabratha).¹⁶⁰ Migrants were generally kept in temporary accommodation and under protection before being taken to embarkation points when the conditions were met to be able to take to sea.¹⁶¹ Departures were made openly, in broad daylight, from coastal strips controlled by militias.¹⁶² The Italian islands of Lampedusa and Pantelleria could be reached within two or three days under good conditions. As Search and Rescue at Sea (SAR) operations moved closer to the Libyan Coast, however, the large boats used in the early years after Gaddafi's fall gave way to much more hazardous and overloaded inflatable boats; the traffickers' objective was no longer to take the migrants to Italian Territory but to enable them to reach oil platforms in Libyan territorial waters, or international waters, and then to call the maritime rescue coordination centre in Rome using a satellite telephone. Migrants were specially trained to drive the boats and make a call once the boats were far enough away from the Libyan Coast.

But the situation changed considerably in 2017 when some militias previously involved in migrant smuggling gave up this activity, or even openly opposed it. According to some analysts, this turnaround seems to be essentially due to two factors: European pressure and the fact that the involvement of these groups in the smuggling of migrants had become an obstacle in their quest for legitimacy, on the one hand; and, on the other hand, the co-option of several militias into the security forces after the arrival of the Libyan Government of National Accord (GNA) in Tripoli in March 2016.¹⁶³ At the same time, and with the support of Italy, the Libyan coast guard began to play a more important role in intercepting boats leaving Libya. As a result of these developments, the number of departures from the Libyan coasts decreased considerably during this period. In 2016, the number of departures from Libya was estimated at 103,100; in 2018 and 2019 it was estimated at 17,000 and 13,800 respectively.¹⁶⁴ Movements now take place at night and in small groups of migrants from ports in the east (Sabrata, Zouara) and west of Tripoli (Khoms, Qaraboulli, Misrata).¹⁶⁵

¹⁵⁹ Security Council, Report of the Secretary-General pursuant to Security Council resolution 2240 (2015), S/2016/766, *op. cit.*, para. 4; Security Council, Report of the Secretary-General pursuant to Security Council resolution 2312 (2016), S/2017/761, *op. cit.*, para. 3; Security Council, Implementation of resolution 2380 (2017). Report of the Secretary-General, S/2018/807, 31 August 2018, para. 3.

¹⁶⁰ See for example Fransje Molenaar and Floor El Kamouni-Janssen, *Turning the tide. The politics of irregular migration in the Sahel and Libya*, *op. cit.*, p. 52.

¹⁶¹ UNHCR, *Mixed Migration: Libya at the crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya*, *op. cit.*, p. 44.

¹⁶² The Global Initiative against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken – assessing the collapse of the human smuggling industry in Libya and the central Sahel*, *op. cit.*, p. 11.

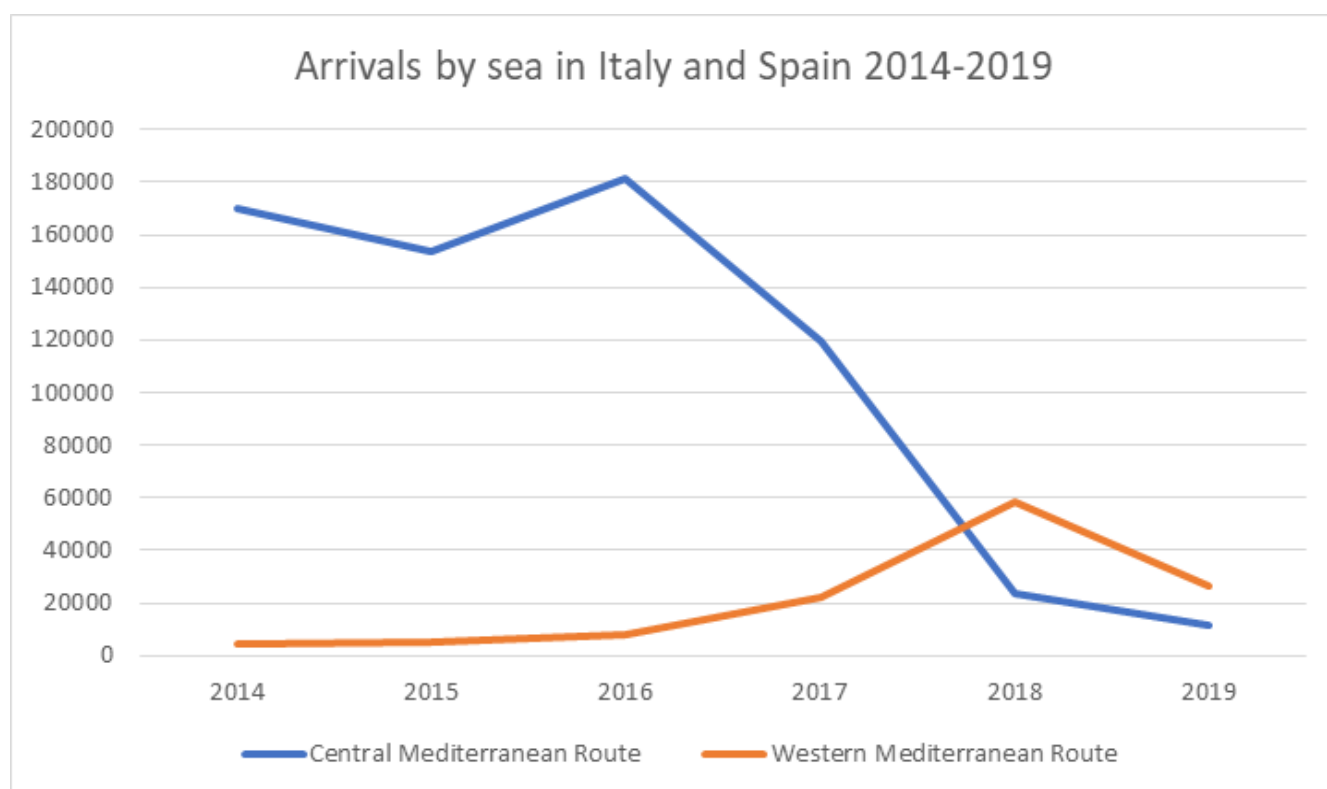
¹⁶³ *Ibid.*, p. 13.

¹⁶⁴ Security Council, *Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2019/914, 9 December 2019, para. 47.

¹⁶⁵ The Global Initiative against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken – assessing the collapse of the human smuggling industry in Libya and the central Sahel*, *op. cit.*, p. 11.

The use of rubber dinghies seems to be less frequent, whereas other types of boats previously used - made of wood or fibreglass - are being used again in order to allow migrants to cover a greater distance to escape from the Libyan coast guards. The boats now reach the territorial waters of Italy or Malta.¹⁶⁶ The price of the crossing varies between EUR 500 and 1,500 (between USD 600 and 1,800) depending on the quality of the boat and the number of people.¹⁶⁷

In response to the situation in Libya, traffickers have sought other alternatives to bring migrants to Europe and departures have increased from other countries such as Tunisia and to some extent Algeria. In 2018, arrivals in Europe from Libya had decreased by 86% and represented only 11% of the total number of arrivals in Europe, compared to 59% in 2017. At the end of 2018, Frontex noted that Tunisia was becoming by period the main departure point for migrants detected along the Central Mediterranean route.¹⁶⁸ Since 2017, there has also been a significant resurgence of movements along the Western Mediterranean route linking Morocco to Spain. While many of the migrants on this route come from North African countries, particularly Morocco or Algeria, there is also a large proportion of West African migrants, particularly from Guinea, Mali, Ivory Coast or Senegal. From West Africa, migrants now pass through Mauritania on their way to Morocco. Others pass through Algeria, then through Morocco (via Maghnia) hoping to reach Spain. While this route was almost closed a few years ago, it is now more important than the Central Mediterranean route, which is now considered too dangerous. By 2019, some 26,200 people had crossed the Mediterranean Sea to Spain, more than double the number of people arriving in Italy (11,500) during the same period.¹⁶⁹



Arrivals by sea in Italy and Spain 2014-2019

¹⁶⁶ The Global Initiative against Transnational Organized Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human smuggling industry in Libya and the central Sahel*, op. cit., pp. 19-20.

¹⁶⁷ Ibid., p. 21.

¹⁶⁸ Frontex, *Risk Analysis for 2019*, op. cit., p. 16.

¹⁶⁹ UNHCR, *Mediterranean Portal Situation*, <https://data2.unhcr.org/en/situations>.



Box 3 : Impact of the COVID-19 pandemic on the smuggling of migrants along the Central Mediterranean route

The impact of the COVID-19 pandemic on the smuggling of migrants along the Central Mediterranean route remains difficult to assess.

The movement of people, including irregular movements, has more than ever become a security issue for States in the context of the fight against COVID-19. In many countries, including Algeria and Niger, controls at known crossing points have been tightened, making it all the more difficult for migrants and traffickers to cross borders. Movements within countries are also more complicated: in Niger, for example, special permission was required to travel within the country and additional checkpoints had been established by the authorities, including along the route between the south of the country and the Agadez region.¹⁷⁰ Some local communities along the migration routes, which until then had been relatively tolerant of the passage of migrants, insofar as they benefited economically from it, would now oppose it for fear of contributing to the spread of the virus. In Libya, for example, it has been reported that communities in several transit locations on the road to the north of the country, including Sabha, have restricted access to towns and closed some access points to prevent the passage of migrants.¹⁷¹

Although there was indeed a drop in the number of arrivals in Italy in the first months of the crisis, between March and April 2020, with only 241 and 671 arrivals recorded in Italy, it was, however, for a short period of time only. In practice, the smuggling of migrants continues, with even a significant increase in the number of arrivals since May compared to the figures collected during the same period the previous year.¹⁷² The socio-economic consequences linked to the crisis of the COVID-19 pandemic, coupled with the reduction of regular channels, could also push many people to seek other opportunities elsewhere by resorting to the services of traffickers.

It is unlikely that the COVID-19 pandemic crisis will fundamentally alter the smuggling of migrants along the Central Mediterranean route. On the one hand, because major restrictions on the movement of people between countries - such as the closure of airports or borders - imposed by states do not necessarily have a significant impact on the way irregular movements take place in the Sahel region. On the other hand, because these measures do not affect the request for services related to the smuggling of migrants - or it affects it with an increase. In these circumstances, logic would dictate that some traffickers continue to offer their services while adapting to the new restrictive measures - potentially with new routes, certainly more dangerous, but with higher prices that would push migrants into even more vulnerable situations.¹⁷³

¹⁷⁰ Lucia Bird, *Smuggling in the time of COVID-19. The impact of the pandemic on human-smuggling dynamics and migrant-protection risks*, The Global Initiative against Transnational Crime, April 2020, p. 9.

¹⁷¹ *Ibid.*

¹⁷² There were 782 arrivals in May 2019 compared to 1'654 arrivals in May 2020, 1'218 arrivals in June 2019 compared to 1'830 arrivals in June 2020, 1'088 arrivals in July 2019 compared to 7'065 arrivals in July 2020, and 1'268 arrivals in August 2019 compared to 5'007 in August 2020. See UNHCR, *Italy weekly snapshot*, 20 August 2020, <https://data2.unhcr.org/en/documents/download/78649>. See also Irene Schöfberger and Marzia Rango, "COVID-19 and migration in West and North Africa and across the Mediterranean", in IOM, *Migration in West and North Africa and across the Mediterranean. Trends, risks, development and governance*, 2020, pp. 41-52. XX-XXIX.

¹⁷³ Gabriella Sanchez and Luigi Achilli, *Stranded: The Impacts of COVID-19 on Irregular Migration and Migrant Smuggling*, 2020/20, Robert Schuman Centre for Advanced Studies et Migration Policy Centre, May 2020.

5. The Economic Dimension of Migrant Smuggling

By definition, migrant smuggling is a transaction whereby a person undertakes to ensure the illegal entry of another person into a territory “in order to obtain, directly or indirectly, a financial or other material benefit”.¹⁷⁴ Several studies have highlighted the fact that migrant smuggling has reportedly become an extremely lucrative industry generating billions of dollars. In 2016, Europol estimated, for example, that the income generated by groups involved in this type of activity, at the global level, is around 3 to 6 billion Euros.¹⁷⁵ The UNODC estimated in the same year that this amount would be in the range of USD 5.5 to 7 million.¹⁷⁶ The sums cited would explain the development of powerful criminal networks involved in the smuggling of migrants, their increasing professionalization and their propensity to take more risks.

While it is clear that a significant economy has developed around the smuggling of migrants from West Africa to Europe, little is known about how things work in economic terms, either the way money circulates or the income generated by this activity. Focusing on the financial aspects to facilitate the investigation and prosecution of high-ranking organizers - those who benefit most from this activity, but also those who are generally the hardest to reach - is legitimate and important, but difficult in practice given that the transactions take place mainly outside the banking system. Finally, recent experience in terms of the fight against the smuggling of migrants has also highlighted the importance of this activity for a whole section of the population, mainly along major migration routes, which benefits in one way or another from an economy based on irregular migration.

5.1. Methods Used to Fund the Smuggling of Migrants

What is known is that migrants need substantial financial resources in order to use the services of smugglers and facilitators. Several migrants who were interviewed for this research explained that they or their families had to sell or pawn their property and other assets in order to raise the necessary funds to travel to the Maghreb or Europe. The price they are able to pay determines to a certain extent their experience in terms of routes, time and safety. In general, there are three ways in which a migrant can organize his or her journey using the services of smugglers and traffickers. Migrants who have more means can afford a kind of package that will make things much easier when those who do not have access to the same resources choose to fragment their journey into different steps. There are also cases where migrants become indebted to traffickers, making them more vulnerable to the risk of abuse.

5.1.1. The “Package” Option

In certain circumstances, it is possible for migrants to pay in advance for what could be called a “package” guaranteeing the transfer from a certain point to a prearranged destination. This can go from the country of origin to a country of destination - Italy, for example. Usually, migrants who obtain a package do not need to negotiate with traffickers during their journey; they are guided and protected throughout their journey - they can be accompanied on some segments while in others they will be told precisely what to do, where to go, how to get there and whom to contact once there. They are even given small amounts of money that correspond to what they might have to pay for food or to get through certain checkpoints, for example, so that they do not carry valuables with them. They also have the telephone number of a contact person in case of problems.

¹⁷⁴ Protocol against the Smuggling of Migrants, Article 6.

¹⁷⁵ Europol, *Migrant smuggling in the EU*, February 2016, p. 2.

¹⁷⁶ UNODC, *Global Study on Smuggling of Migrants*, *op. cit.*, p. 5.

According to the information gathered, this system is relatively reliable - at least up to a certain point in the journey. In several cases, particularly in Mali, migrants reported having given a name or called the contact person to pass through checkpoints without any problems and without even having to pay the passage fees. Most of them arrived safely to their intended destinations in Algeria, such as Tamanrasset or cities in the north of the country. In Niger, those who use this type of service are handed over to other groups once they arrive in Sabah to continue northwards. Migrants' trust in those who organize their movements is necessary for the system to work, and it is in the interest of each of the smugglers involved in the operation to lead the migrants to their destination if they want to be paid. Contact with traffickers is mainly by recommendations, so it is in the traffickers' interest to ensure that they fulfil their part of the market.

This system where migrants are handed over from one group to another demonstrates a fairly high level of coordination between several actors along the migration route, who are all links from the same chain. Relatively few actors in West Africa, however, seem to be able to offer such services. According to the information gathered, this type of package extending from the country of origin is mainly available from Guinea, Senegal, Ghana and Guinea Conakry, where the networks are fairly extensive. Alternatively, these services can be accessed from major transit hubs such as Bamako or Agadez, where migrants have access to more options. It is often the same names that have been mentioned by migrants, which seems to confirm that only a small number of actors on certain routes are capable of organizing this type of service.

The cost of such arrangements is relatively high and is partly paid for by transferring money between countries. However, it is extremely difficult for the authorities to trace these flows in order to identify the perpetrators of migrant smuggling. Knowing that it is increasingly difficult for them to use the conventional banking system to transfer and conceal the proceeds of their offences, traffickers prefer alternative means of payment for money transfers. A fairly common system in the region is known as Hawala; the system essentially allows money to be given to a person in one place to benefit a beneficiary elsewhere. An example is a person who lives in a migrant's country of origin and is going to receive a sum of money from the migrant's family and then inform his or her partners in other countries that everything is in order. The difficulty with this type of arrangement is that it is very difficult to trace the financial flows linked to the smuggling of migrants.

The package system also presents a greater financial risk for migrants, who could lose large sums of money if the attempt to reach Europe fails. Indeed, there is a risk that migrants find themselves in other types of situation that were not foreseen, or that they may be cheated by actors who would abandon them somewhere. In Libya, for example, it is now impossible for traffickers to guarantee that the journey within the country will be safe. The other problem is the arrival of opportunistic actors who see migrants as an opportunity to make money easily and who do not intend, or are not in a position, to fulfil their commitments. It is understandable in these circumstances that migrants have become more reluctant to pay a large amount without a guarantee that they will reach their destination.

5.1.2. Step-by-step Payment

Most of the research on migrant smuggling in the region, which is confirmed by the information collected directly from migrants in the context of this report, shows that the vast majority of West African migrants prefer to organize the journey in different stages, in which case payment to traffickers and other smugglers will be made as they move along the migration route. Compared to the package discussed above, this system is more accessible in that it also allows migrants with limited resources to start their journey, knowing that they will probably be able to stop and work to earn more money later on. The system also gives migrants the impression that they have more control over their journey.

The testimonies collected show that there is certainly often room for negotiation with traffickers as to the price migrants should pay to facilitate part of the journey; at least until arrival in Libya. Prices can vary considerably for the same service. If they take money with them, migrants carefully hide it on themselves to prevent it from being stolen during journeys, or arrange to have money sent to them by a third party when necessary, at different stages of the journey. Contact with traffickers at different points of the journey is often by referral - migrants are put into ghettos or hostels run by other smugglers, or they are given the number of another person they can contact if necessary. In other cases, particularly at the main transit points, migrants will easily be able to establish the contacts they need at bus stations. The importance of this system seems to confirm the analysis that the smuggling of migrants along the migratory route is organized essentially horizontally through several independent but interconnected actors who ensure the transport of migrants on different segments of the route.

But this impression of having more control over events and spending is often just an illusion. In most cases, the money migrants initially have at their disposal soon turns out to be insufficient to cover the costs of the journey. To the price paid for transport from one point to another must be added the taxes requested at the many checkpoints run by the authorities or armed groups along the migration route, which are generally non-negotiable. According to the testimonies collected, migrants who are unable to pay the sums requested are generally threatened and beaten; they also sometimes have to contact other people they know to have money sent to them immediately. This type of abuse is facilitated by the use of informal remittance systems, particularly by mobile phone, such as Orange money. Here again, tracing financial flows proves impossible, especially as they are essentially a multitude of small rather than large amounts.

The costs of the journey can be much higher than initially planned, and migrants can quickly run out of resources, making them vulnerable to exploitation.¹⁷⁷ Many will have no choice but to stop at some point during their journey to work and earn the money to finance the next steps.

5.1.3. Payment on Credit

Finally, migrants may pay on credit, which means that smugglers or their associates may grant loans to migrants or offer to transport them or facilitate their journey provided that the fees are paid at a later stage, for example once the migrants have reached their destination. This method of payment is more interesting for migrants who do not have the resources to pay for the services of traffickers; however, it is problematic as it can easily lead to a form of debt bondage.

Traffickers are businessmen in the sense that they offer a service at a certain price and their interest is, of course, to minimize the risk of loss. Safeguards will be taken to ensure that a migrant who has not yet paid to be taken to another country does not evaporate into thin air; typically the parents or relatives will have to pledge something, perhaps their land, and could be subject to reprisals if the agreement is not respected. It could also be other fellow travellers held “hostage” by traffickers. Another way for a trafficker to get back the money due to him, which is quite common in Libya, is to “sell” the migrant to other groups of people who will try to get as much money from him as possible or make him available to others as labour. What is sometimes considered as the sale of slaves in Libya is also a way for traffickers to recover their money if the agreement provided for them to be paid once the migrants have arrived at their destination;¹⁷⁸ in many cases, these practices are carried out with the agreement of the migrants who thus pay their debt.¹⁷⁹

¹⁷⁷ IOM, *Assessing the Risks of migration along the Central and Eastern Mediterranean Routes: Iraq and Nigeria as Case Study Countries*, 2016, pp. 52-53.

¹⁷⁸ See, for example, CNN's November 2017 report on the existence of «slave markets» in Libya (<https://edition.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html>).

¹⁷⁹ Gabriella Sanchez, *Beyond Militias and Tribes: The Facilitation of Migration in Libya*, op. cit., pp. 26-27.

5.2. Revenues Generated by the Smuggling of Migrants

Despite the means invested to better understand and combat the smuggling of migrants, it remains difficult to offer an accurate estimate of the amounts involved. These difficulties can firstly be explained by the very nature of migrant smuggling, an activity that is by definition illicit and clandestine, which makes it difficult to gather precise information. Furthermore, because the prices charged by traffickers can vary considerably over short periods of time depending on multiple factors: the number of people travelling, the migration policies of States and the controls to be avoided, the conflicting dynamics in places of transit, the situation in the countries of destination, and so forth. Finally, the sums are generally not paid in one instalment - except in the case of a package - but through multiple payments to different actors, which makes it difficult to estimate an overall cost paid by migrants to cross a specific migration route. For these reasons, any figures that might be put forward as to the sums generated by the smuggling of migrants should be taken with caution.

5.2.1. Sums Generated by the Smuggling of Migrants along the Central Mediterranean Route

It is also difficult to have a precise idea of the sums generated by the smuggling of migrants along the Central Mediterranean route. In 2006, UNODC estimated that the volume of money generated through the smuggling of migrants from Africa to Europe was around USD 300 million per year.¹⁸⁰ However, migrant smuggling has grown considerably and it is clear that the sums generated in recent years are much higher. For example, a report on the issue estimated that in 2014 the migrant smuggling market along the Libyan Coast alone represented between USD 255 and 323 million,¹⁸¹ which is as much as for all migrant smuggling from Africa to Europe a few years earlier. Although these figures are only estimates, they reflect the importance of migrant smuggling in recent years and give an idea of the sums that are now at stake.

While it is quite simply impossible to obtain precise figures regarding the sums generated by the smuggling of migrants along the Central Mediterranean route, it is also risky to make estimates, as there are so many unknowns. The only thing that can be done is to take a closer look at certain segments for which more information is available and try to better understand how it works and who first benefits from the income linked to the smuggling of migrants. Looking at the route from Niger to Libya, for example, the Clingendael Institute estimated in 2014 that migrants paid about CFA 17.25 billion (USD 34.5 million) to smugglers, for an estimated 115,000 transit migrants and an estimated cost of the journey of CFA 150,000 (USD 300). In 2016, the total amount would have amounted to CFA 52.5 billion (EUR 105 million) for 350,000 migrants in transit, with the price of the journey remaining unchanged. The price of the journey seems to have risen to CFA 500,000 (USD 1,000) per person in 2017, which would make a total of CFA 44,375 billion (USD 88.75 million) for an estimated 88,750 people.¹⁸²

If one considers the “outflows” recorded by the IOM in 2018 and 2019 at the level of Séguédine, that is to say about 50,000 people each year,¹⁸³ and a price of the journey between Agadez and Sabha estimated today at CFA 250,000 (USD 500), the income of traffickers on this route would have been around CFA 12.5 billion (USD 25 million) per year. These estimates do not, of course, take into account other movements on more remote and unobserved routes.

¹⁸⁰ UNODC, *The role of organized crime in the smuggling of migrants from West Africa to the European Union*, 2011, p. 45.

¹⁸¹ The Global Initiative Against Transnational Organized Crime, *Libya: a growing hub for Criminal Economies and Terrorist Financing in the Trans-Sahara*, Policy Brief, 11 May 2015, p. 1. Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives*

¹⁸² Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives économiques à l'industrie migratoire*, CRU Report, October 2017, pp. 19-20.

¹⁸³ See the IOM Travel Monitoring Matrix for Niger, available at <https://dtm.iom.int/niger>.

To this sum should be added the money paid by migrants to the coxers, of around a few thousand CFA per person, and the rents paid to stay in the ghettos, of around CFA 500 to 1,000 (USD 1 to 2) per night. But these are certainly not the biggest expenses. What is particularly expensive for migrants, according to the testimonies received, are the taxes paid at the various checkpoints along the migration route - and there are many of them, held by the armed forces, the police, the gendarmerie or various armed groups. This system of taxation starts in the core of West Africa. Numerous reports, corroborated by the testimonies received, attest to the existence of numerous checkpoints established by the authorities on the roads and which seem to be aimed more specifically at migrants. The sums required generally range from CFA 2,000 to 5,000 (USD 4 to 10) per person per checkpoint; and those who do not pay are not allowed to continue. Burkina Faso is by far the country the most mentioned regarding this kind of practice, with some migrants mentioning having been arrested six or seven times in the country while trying to reach Niger or Mali.¹⁸⁴

But checkpoints seem in fact to multiply along the migration route. In Niger, for example, an increasing number of checkpoints have been established on the road to Agadez and beyond since the implementation of the 2015 Law on the Smuggling of Migrants. Some reports mention practices by some police officers that constitutes corruption and extortion.¹⁸⁵ In 2017, it was estimated that nearly ten police checkpoints had been established on the section between Niamey and Agadez.¹⁸⁶ It would also seem that migrants now have to pay quite large sums to pass these controls, ranging from CFA 5,000 to 20,000 (USD 10 to 40 USD) according to the testimonies collected. According to some estimates, the total amount paid by each migrant at the checkpoints between Agadez and Libya alone would be between CFA 300,000 and 600,000 (USD 600 to 1,200).¹⁸⁷ In Mali, migrants leaving Timbuktu or Gao for the Algerian border also have to pass through several checkpoints run by different armed groups. The sum required is usually CFA 5,000 CFA (USD 10) and the groups concerned do not seem to ask for more money as long as the migrants pay, which shows that this is indeed a kind of “right of passage” instituted rather than predatory behaviour aimed at extracting as much money as possible from the migrants. The situation is different, however, for those who would be unwilling or unable to pay.¹⁸⁸

Extortion represents another non-negligible source of profit for many actors involved in the smuggling of migrants. Extortion attempt here refers to the practice of forcing migrants to call family members or other relatives to ask them to send money to traffickers. This type of practice can occur at different points along the migration route and be carried out by different actors, such as armed groups in the north of Mali, bandits in the north of Niger, the traffickers themselves, or even the authorities, particularly but not only in Libya.

¹⁸⁴ Interviews with migrants in Mali and Niger (February-March 2020).

¹⁸⁵ Fransje Molenaar and Floor El Kamouni-Janssen, *Turning the tide. The politics of irregular migration in the Sahel and Libya*, op. cit., p. 24; Jérôme Tubiana and Claudio Gramizzi, *Lost in Trans-Nation, Tubu and Other Armed Groups and Smugglers along Libya's Southern Border*, Small Arms Survey, December 2018, p. 87.

¹⁸⁶ Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives économiques à l'industrie migratoire*, op. cit., pp. 29-30.

¹⁸⁷ Jérôme Tubiana, Clotilde Warin and Gaffar Mohammud Saeneen, *Multilateral Damage. The impact of EU migration policies on central Saharan routes*, op. cit., p. 27.

¹⁸⁸ Interviews with migrants in Mali and Niger (February-March 2020).

As for the crossing of the Mediterranean Sea, prices seem to fluctuate considerably depending on the period. According to some estimates, in 2017 migrants paid on average USD 1,500 per person to cross from Libya to Italy, with prices varying according to the type of boat. With almost 100,000 departures from Libya that year, the European Border and Coast Guard Agency (Frontex) estimated that the criminal networks organizing the smuggling of migrants from northern Libya to Italy had generated an income of around USD 150 million. With the decrease in the number of migrants in transit through Libya, this figure seems to be around 24 million for 2018 and 12 million for 2019.¹⁸⁹ In comparison, the sums generated by the smuggling of migrants on the Western Mediterranean route have increased considerably; it is estimated that the crossing between Morocco and Spain have increased from around EUR 1,500 to 3,000, bringing traffickers some EUR 35 million in 2017 and EUR 105 million in 2018.¹⁹⁰

5.2.2. A Broader Economy Around Migration: The Example of Agadez

In addition to the amount paid to traffickers, the importance of the economy linked to migration in many places of transit along the Central Mediterranean route should be noted. A significant part of the population in relatively poor areas - in Agadez and in the north of Niger, in Sabha, Ghat or in other villages far from the coast in the case of Libya, for example - live off the services offered to migrants passing through, selling necessities, internet access, money transfers, and so forth. All these people can benefit to some extent from migrant smuggling by providing services to trafficked persons; however, this does not mean that they are part of trafficking networks. In some cases, there is evidence that irregular migration and smuggling of migrants can therefore help to stabilize communities and prevent the resurgence of new conflicts.

Perhaps Agadez is the most striking example, as the city has been the subject of numerous studies since the implementation of Law 2015-36 from September 2016 that put a stop to the smuggling of migrants in the region, depriving thousands of people of what used to be their main source of income. The implementation of the law, which was carried out in a somewhat brutal manner, has indeed had important consequences at several levels. Migration to Agadez represented an alternative to tourism, which had largely declined since the Tuareg rebellions, as well as a factor of political stabilization. A number of former rebels who knew the desert in-depth had in fact converted to the passage of migrants to Libya or Algeria, a particularly lucrative activity, it seems. According to estimates provided by the Association of Former Smugglers of Agadez, nearly 7,000 people were directly involved in transporting migrants from Agadez before the implementation of the law.¹⁹¹ The number of people who benefited in one way or another from the migration-related economy was difficult to determine, but some estimated that the “migration industry” was indirectly financially supported more than half of the households in Agadez.¹⁹²

¹⁸⁹ Frontex, *Risk Analysis for 2020*, op. cit., p. 51.

¹⁹⁰ Frontex, *Risk Analysis for 2020*, op. cit., p. 51.

¹⁹¹ Interview with the President of the Association of Former Smugglers of Agadez (March 2020).

¹⁹² Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives économiques à l'industrie migratoire*, op. cit., p. 4.

But the population was not the only one to benefit from the money linked to migration - the authorities, and in particular the commune of Agadez, also obtained significant income from migratory movements. Before the implementation of Law 2015-36, for example, when a hundred or so vehicles left Agadez for Dirkou each week, with the support of the authorities, it was estimated that the urban commune of Agadez collected more than CFA 18 million (USD 36,000) per week in taxes and duties. According to an evaluation which seems to have been undertaken at the level of the commune, the economy generated by migration amounted to nearly CFA 65 billion (USD 130 million) for one year and for an estimated number of 30,000 migrants in transit.¹⁹³ The financial windfall generated by migration also contributed to the development of the villages along the migration route. Séguédine, for example, east of Agadez and on the road to Libya, had seen the development of a hotel industry and a health clinic.¹⁹⁴ Similarly, some of the money illegally collected by the Niger security forces at the numerous checkpoints established along the migration route also contributed to their operation.

For all these reasons, what can be called transit migration was perceived positively in the region. Things changed, however, with the sudden implementation of Law 2015-36 relating to the smuggling of migrants from September 2016, which led to a sudden decrease in the number of migrants transiting through Agadez. From one day to the next, literally, even though facilitation of movement from Agadez had become illegal since May 2015, an activity that had previously been tolerated had become an offence punishable by a prison sentence of 5 to 10 years and a fine of up to CFA 5 million (USD 10,000) - or more if there were to be aggravating circumstances.¹⁹⁵ Those arrested in the early stages of the implementation of the law were mainly carriers or operators of the ghettos in which migrants lived. Few were then aware that what they were doing was an offence; and for good reason, it was technically legal, under the principle of free movement within ECOWAS, to transport West African nationals within the territory of Niger, or even as far as the borders of Algeria or Libya, as long as their documents were valid. The application of Law 2015-36 was therefore in contradiction with ECOWAS texts.

Among the effects of the implementation of Law 2015-36, many noted the negative impact on the economy of the Agadez region - an aspect that few had thought of when it was decided to implement the law. As noted by the Clingendael Institute, "given the deep entanglement between the migration industry and people's livelihoods, the criminalization of emigration has deprived large segments of the population of an important source of income".¹⁹⁶ Travel agencies have been forced to close their doors, thousands of people working in the sector were left without work and a significant proportion of the population has been deprived of its main source of income. The effects of these changes were felt far beyond Agadez to affect all stages of the journey along the route in northern Niger, such as the communes of Dirkou and Séguédine.

But several commentators have also pointed out the dangers of this situation at the political and social level. In addition to the number of people who found themselves in an even more precarious situation, there was a risk that some of the actors might turn to other types of activities to make up for the loss of income, including banditry, which seems to have increased in northern Niger.¹⁹⁷ Others spoke of a risk of destabilization of the region, as the situation could, for example, push some of those left behind by this policy to join terrorist groups or to launch a new rebellion.¹⁹⁸

¹⁹³ Interview with the municipal authorities of Agadez (March 2020).

¹⁹⁴ Fransje Molenaar, Anca-Elena Ursu, Bachirou Ayoub Tinni, *Opportunités de gouvernance locale pour une gestion durable de la migration à Agadez*, CRU Report, October 2017, p. 16

¹⁹⁵ Republic of Niger, *Loi No. 2015-36, 26 mai 2015 relative au trafic illicite de migrants*, Article 10-12 et 17.

¹⁹⁶ Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives économiques à l'industrie migratoire*, *op. cit.*, page 3.

¹⁹⁷ Jérôme Tubiana and Claudio Gramizzi, *Lost in Trans-Nation, Tubu and Other Armed Groups and Smugglers along Libya's Southern Border*, *op. cit.*, pp. 87-88 ; Jérôme Tubiana, Clotilde Warin and Gaffar Mohammad Saeneen, *Multilateral Damage. The impact of EU migration policies on central Saharan routes*, *op. cit.*, p. 30.

¹⁹⁸ See for example Tsion Tadesse Abebe, *Securitisation of migration in Africa. The case of Agadez in Niger*, ISS Africa Report 20, December 2019; Fransje Molenaar, *Conflict-sensitive and humane migration management in the Sahel*, CRU Policy Brief, December 2018.

The implementation of policies to combat migrant smuggling, and irregular migration more generally, have also opposed the local population of Agadez to the local state authorities, who have themselves turned to the national authorities to ask for more flexible measures.¹⁹⁹ Realizing the consequences of this situation for the economy and for the stability of Agadez, the local authorities thus wanted to put in place a “reconversion plan” for those who were directly involved in transporting migrants and who had agreed to give up their activities. Funding, however, proved to be largely insufficient; of the approximately 6,565 people who had wished to enter the retraining programme, only 521 obtained funding - much less than they had hoped for and much less than they earned by transporting migrants to Libya or Algeria - between 2017 and the end of 2019. In these circumstances, many have chosen to return to their former activity, even if it means taking more risks.

An important lesson to be drawn from the developments in the fight against smuggling of migrants in Agadez is precisely the fact that the economic issues surrounding migration along a migratory route should be better taken into account before implementing measures aimed at stopping the movements altogether. In Libya, for example, it has been shown that migrant smuggling also plays a stabilizing role in a country that is already economically drained and where there is no authority that can guarantee security and justice.²⁰⁰ Measures taken to combat the smuggling of migrants should therefore not only be aimed at stopping the movements, but should be accompanied by other types of initiatives to support communities that benefit in one way or another from this activity.

¹⁹⁹ Fransje Molenaar, Anca-Elena Ursu, Bachirou Ayouba Tinni, *Opportunités de gouvernance locale pour une gestion durable de la migration à Agadez*, p. 4 ; Anette Hoffmann, Jos Meester and Hamidou Manou Nabara, *Migration et marchés à Agadez : Alternatives économiques à l'industrie migratoire*, op. cit., p. 32.

²⁰⁰ USAID, *Human trafficking, smuggling and governance in Libya: implications for stability and programming*, May 2020, pp. 17-18.



Box 4 : Mohammad's Journey from Guinea to Algeria

Mohammad began his journey in 2011 with the help of a network in Madina, Guinea Conakry. The traffickers had told him they could organize the journey to France for 25 million Guinean francs (about USD 2500), but he only had 9 million francs (about USD 920) - just enough to get him to Algeria. Mohammad prefers to pay in several instalments to make sure he doesn't lose his money, so he agreed with the traffickers that he will pay CFA 4 million in advance (USD 410) and the rest once he arrives in Mali.

His interlocutors told him how to get to Bamako to make contact, once there, with another Guinean. The journey to Bamako was completed without any problems by private bus. However, Mohammad had to pay CFA 1,000 (USD 2) at the Malian border and then at each of the other roadblocks along the road. Once in Bamako, his contact picked him up at the bus station and took him to a "garage". Mohammad then paid the CFA 5 million planned to take him to Algeria. He was given a vaccination book and a false Malian identity card and then Mohammad left by minibus for Sévaré, in the company of other migrants. The vehicle passed several checkpoints on the road - Mohammad paid CFA 1,000 (USD 2) at the first checkpoint, then was able to pass the second without paying after pretending to be a Malian national. Once he arrived in Sévaré, he called his contact in Bamako - the same person who had picked him up at the bus station - to organize the rest of the trip. Another person actually came to pick him up to accompany him to a hostel in Sévaré, where he spent several nights before leaving for Timbuktu and then for Inafarah, on the Algerian border.

The group had to pass through other checkpoints held by different armed groups along the road through the desert. Those who could not pay the taxes - usually around CFA 5,000 (USD 10) - could make phone calls to their relatives to ask for payment to be made. Failing that, they were beaten and dispossessed of the few belongings they had been able to take with them. In some cases, the driver was able to negotiate with the armed groups and the vehicle could continue without problems. Mohammad says they stopped to spend the night in the desert and the driver left with the vehicle. They all thought they had been abandoned, but the driver came back a few hours later; they realized that their belongings had been searched. Arriving in Inafarah, Mohammad and his companions met a man who allegedly asked them 4,000 dinars each (about USD 30) to go to Bordj Badji Mokhtar in Algeria. Mohammad said he had already paid to go to Algeria and called the facilitator in Bamako who confirmed that everything was in order. Those among the migrants who ran out of money to pay the required amount had the option of calling relatives to request a money transfer, or spending a few days working in Inafarah.

A vehicle came to pick them up that evening; those who had paid were able to continue and the others stayed in Inafarah. After travelling some distance, the driver asked the migrants to get off and, while pointing at the city lights in the distance, told them to continue on foot for about 15 kilometres to enter Bordj Badji Mokhtar. As soon as they arrived, they were arrested by the Algerian military and taken to prison. However, Mohammad was able to call his contact in Bamako, who sent someone who was able to get him released against payment before taking him to a hostel. Mohammad then tried to contact the person in Bamako, who told him there was nothing more he could do for him as the arrangement was only to take him to Algeria. Mohammad stayed for some time in Bordj Badji Mokhtar, where he worked in construction sites. He met other migrants with whom he went to Reggane, then Adrar, where he stayed to work for a few days, then to Béchar and Oran. In Oran, Mohammad earned about 2,000 dinars

(about USD 15) per day. The salary was even better in Algiers, where he earned 3,500 dinars (about USD 27) per day. Although he often thought of going to Europe, Mohammad stayed several years in Algeria, because he did not have the right networks, but also because he led, in his words, "the good life". In 2017, Mohammad and another Guinean decide to go to Morocco. A contact they found asked for CFA 80,000 (USD 160) to drive them to Maghnia, on the border with Morocco. In Maghnia, they made contact with another intermediary who promised to help them cross the border for CFA 65,000 (USD 130). After they made the payment, a man dropped them off at night closer to the border and told them that someone else was coming to pick them up, but no one ever arrived and they both went back to work in Algiers.

In 2019, Mohammad escaped a raid by the Algerian authorities on a building site where he was working. However, he was arrested the following year during an identity check on a bus and taken back to Bordj Badji Mokhtar in the south of the country and taken back to Mali.

6. Main Risks for Smuggled Migrants

Another important aspect to be considered with regard to migrant smuggling is the safety and well-being of migrants. Migratory movements along the Central Mediterranean route are characterized in particular by a high level of danger, whether crossing the desert or the Mediterranean Sea. The risk of abuse and the level of violence against migrants by several actors, including the traffickers themselves, is extremely high, particularly in Libya. It is also clear that some of the measures taken by governments to combat the smuggling of migrants along the Central Mediterranean route have had the effect of amplifying migrants' vulnerabilities.

This section provides an overview of the main risks faced by migrants along the Central Mediterranean route. The risks can be divided into five categories: the risks of crossing the desert; the risks of crossing borders; the risks of crossing the Mediterranean Sea; the risks of being an irregular migrant in Algeria; the risks of being a migrant in Libya; and the risk of being trafficked.

6.1. Crossing the Desert

Crossing the desert is probably the most dangerous part of the Central Mediterranean route. To cross the desert without getting lost, to survive the thirst and the sun, even the cold winter nights, it is imperative that migrants use the services of people who know the roads and know how to survive in these extreme conditions. At this stage of the journey, migrants are at the mercy of traffickers. Migrant smuggling is a commercial transaction where migrants pay a person to take them - if possible under safe conditions - to another country. According to this logic, traffickers have every interest in respecting the terms of the agreement if they intend to maintain a good reputation among migrants and attract other clients. It is not uncommon, however, for traffickers to take advantage of their position of power to abuse migrants. According to a survey carried out by the Mixed Migration Centre, traffickers themselves are responsible for almost half of the incidents and abuses committed along the migration route in Niger – such as theft, violent acts or sexual abuse.²⁰¹

Abuses may also be committed by several other actors. The risks at checkpoints run by the authorities in Niger, or by various armed groups in Mali have already been mentioned. Migrants who are unable or refuse to pay the required sums are subjected to violence.²⁰² Another important risk relates to the presence of bandits in the desert. Cases have been reported of migrant vehicles being attacked and stolen in northern Niger, in Mali along the border with Algeria, or in Chad. According to different sources, confirmed by migrants who were interviewed for this report, migrants who do not have money or valuables on them are threatened, beaten, or even killed in the most extreme cases. According to the International Crisis Group, in the Kaouar region of north-eastern Niger the so-called “road cutters” (“coupeurs de route”), as they are known in the region, are believed to have intercepted some 300 vehicles between 2018 and 2019, killing several passengers.²⁰³ The drivers, in some cases, are accomplices of the bandits. It should be noted, however, that this type of crime does not specifically target migrants; all people moving around the region can be victims.

²⁰¹ MMC, *Players of many parts: The evolving role of smugglers in West Africa's migration economy*, op. cit., p. 29.

²⁰² Interviews with migrants in Niger and Mali (March 2020). See also MMC, *Players of many parts: The evolving role of smugglers in West Africa's migration economy*, op. cit., p. 29; MMC, *Navigating borderlands in the Sahel. Border security governance and mixed migration in Liptako-Gourma*, MMC Research Report, November 2019, p. 59.

²⁰³ International Crisis Group, *Garder le trafic sous contrôle dans le Nord du Niger*, Rapport Afrique 285, 6 January 2020, page. 18.

While this type of risk has always existed, several recent reports have established a link between the increase in the number of incidents and deaths in the desert, on the one hand, and the increase in controls along the migration route, on the other hand.²⁰⁴ Traffickers are more inclined to take more risks in order to escape controls. They drive faster and use more remote and less frequented tracks, which leaves little hope in case of an accident or breakdown. There is also a greater risk that they will be intercepted by armed bandits, who in some cases leave with the vehicles, leaving the migrants in the desert. In other cases, it is the drivers themselves who abandon their passengers in order to escape checkpoints. These situations are also a consequence of the policies put in place by States in the region to tackle migrant smuggling. They contribute to a large extent to explaining the increase that has been noted in the number of deaths in the desert.²⁰⁵ According to the IOM's Global Migration Data Analysis Centre, the number of migrants who died in the desert on the road between Agadez and Libya or Algeria rose from 71 and 95 in 2015 and 2016 to 427 in 2017.²⁰⁶ The exact number remains difficult to assess, however, but the IOM believes that the Sahara Desert could be deadlier than the Mediterranean Sea.²⁰⁷

6.2. Crossing Borders

Crossing borders is another step that generally presents significant risks for smuggled migrants. While some borders can be easily crossed, this is not always the case and crossing points between two countries may be limited. The risk of detection at borders is often high. In some cases, borders could also be reinforced (walls; security barriers; trenches) in order to make access to the territory more difficult for irregular migrants. These obstacles make resorting to traffickers all the more necessary. In cases of interception, migrants who do not have the required documents will be denied entry and ordered to return to where they came from. In the case of asylum-seekers and refugees, denial of admission at the border could represent a violation of the principle of non-refoulement. In some cases, however, the vulnerable situation in which migrants find themselves can be abused by the authorities.

Despite the principle of free movement within ECOWAS, border crossings within the sub-region are not without difficulty for all migrants. Several testimonies have reported discrimination according to country of origin, with nationals from English-speaking ECOWAS countries, such as Liberia or Sierra Leone, or from Central African countries, such as Cameroon, appearing to be subject to some form of discrimination or harassment when crossing borders in Mali, Burkina Faso and Niger in particular, including insults and threats of a ban on entry, even with valid documents.²⁰⁸ According to some testimonies, crossing the border for them would involve payment of a sum that is higher – around CFA 5,000 (USD 10) instead of CFA 1,000 or 2,000 (USD 2 to 4) - than for nationals of neighbouring countries. The only border along the Central Mediterranean route that does not seem to pose a problem is the border between northern Niger and southern Libya, due to the lack of a legitimate national authority exercising effective control over this part of the territory. Movements between the two countries are occurring without too much difficulty by bypassing the (officially closed) border post at Tumo. However, the border crossings between Mali and Algeria, in particular Bordj Badji Mokhtar, or between Niger and Algeria, in Guezzam, are relatively well guarded. Crossing the border into Algeria is another particularly perilous stage of the journey.

²⁰⁴ See for example Global Public Institute (GPII) and Regional Mixed Migration Secretariat (RMMS), *Protection Fallout. How Increasing Capacity for Border Management Affects Migrants' Vulnerabilities in Niger and Mali*, Research Paper, November 2017, p. 43.

²⁰⁵ Mark Micallef, Raouf Farrah, Alexandre Bish and Victor Tanner, *After the Storm. Organized crime across the Sahel-Sahara following upheaval in Libya and Mali*, *op. cit.*, p. 30.

²⁰⁶ IOM, *Rapport de mission sur l'évaluation des routes migratoires du 19-25 July 2017*, 2017.

²⁰⁷ See in particular IOM, *Assessing the risks of migration along the Central and Eastern Mediterranean Routes: Iraq and Nigeria as Case Study Countries*, *op. cit.*, p. 58. See also Tom Miles and Stephanie Nebehay, « Migrant death toll likely higher in Sahara than Mediterranean: UN », in Reuters, 12 October 2017, <https://www.reuters.com/article/us-europe-migrants-sahara/migrant-deaths-in-the-sahara-likely-twice-mediterranean-toll-u-n-idUSKBN1CH21Y>.

²⁰⁸ Interviews with migrants in Mali and Niger (February-March 2020).

Usually, migrants stop at certain transit points before crossing the Algerian border until conditions are sufficiently favourable for them to pass. The crossing to Algeria through Bordj Badj Mokhtar, for example, is done on foot at night and without the help of a guide - migrants are accompanied about fifteen kilometres from the city and then have to walk in the direction of the city. In some cases, the guide comes to pick up migrants on the other side of the border, but not systematically. Thus, it seems that traffickers avoid crossing the border with migrants because of the increased risk of interception - even if it means leaving the migrants on their own.

There are cases where migrants who are detected by the Algerian military are nevertheless allowed to continue their journey and enter Algeria; and other cases where they are detained by the Algerian authorities before being released. Most of the time, however, migrants who are intercepted at the borders have returned to the desert a few kilometres from the border. Those who have the strength can then try again, but many, according to testimonies, “stay” there and are unable to try again.²⁰⁹

6.3. The dangers of crossing the Mediterranean Sea

For those who have crossed West Africa and the Sahara Desert, found the means to continue through Algeria and/or Libya, escaped migration controls, survived abuse and exploitation, another particularly deadly border that separates North Africa from Europe remains to be crossed: the Mediterranean Sea.

The IOM estimates that at least 16,571 people have died or disappeared while crossing the Central Mediterranean between 2014 and June 2020²¹⁰ - a figure that is certainly lower than the reality as many boats may have disappeared without anyone noticing. The conditions for crossing the Mediterranean are particularly difficult; migrants are crammed into fragile boats, without life jackets, with other migrants summarily trained for this purpose in command of the boat. The journey from Libya to Lampedusa takes between two and three days in ideal conditions, but it can take several weeks depending on conditions and if the boats go adrift. There is a high risk of shipwreck due to the fragility of the boats and the lack of equipment necessary for navigation; the aim, in fact, is not so much to reach Italy as to manage to make a distress call in the hope of being rescued by NGOs operating in the Mediterranean Sea and then driven to Italy.

But the situation has changed since 2017 and as the Libyan Navy and the Libyan Coast Guard took on a greater role in the search and rescue operations at sea. Within the framework of projects financed by the European Union and mainly implemented by Italy, the Libyan coast guards have received substantial technical and material assistance, including boats, in order to be able to carry out this type of operation themselves.²¹¹ In December 2017, the Libyan authorities extended their search and rescue zone well beyond their territorial waters, to 90 nautical miles, and set up a maritime rescue coordination centre with the assistance of Italy. Distress calls at sea are now directly referred by Italy and Malta to the Libyan authorities.²¹²

²⁰⁹ Interviews with migrants in Mali (February 2020).

²¹⁰ See IOM, *Missing Migrants*, <https://missingmigrants.iom.int/region/mediterranean>.

²¹¹ See in particular the Trust Fund project «Support to integrated border and migration management in Libya - first phase» (T05-EUTF-NOA-LY-04) worth 46 million Euro adopted in 2017 and implemented by Italy (https://ec.europa.eu/trustfundforafrica/sites/euetfa/files/t05-eutf-noa-ly-04_fin.pdf). The second phase of the project, worth EUR 45 million, was adopted in December 2018.

²¹² Interview with a person in charge of safety at sea issues in Libya (June 2020).

For migrants embarking from the Libyan Coast, there is now a strong likelihood that they will be intercepted by the Libyan coast guard, even once they have left Libyan territorial waters, or that they will be rescued by them if they make a distress call. In 2018 and 2019, the Libyan coast guard is believed to have intercepted nearly 50% of the departures reported from the Libyan Coast, that is 8,529 people in 2018, for an estimated number of departures of 17,000, and 6,365 people in 2019 for an estimated number of departures of 13,800.²¹³ As of 26 June 2020, some 5,049 people had been intercepted by the Libyan coast guard and landed in the country, a significant increase compared to the same period the previous year.²¹⁴ As noted earlier in this report, there are proven links between migrant smugglers and the Libyan Coast Guard and it is possible that some people are hedging their bets working with both sides.

The involvement of the Libyan Coast Guard in search and rescue operations at sea, however, seems to go beyond search and rescue operations, which are conducted on the basis of a distress call, to proceed to interceptions of boats trying to leave Libya, which can lead to situations where migrants are “rescued” against their will. Many reports also highlight the lack of preparation and professionalism, and even the ill-treatment and violence inflicted by the Libyan Coast Guard during search and rescue operations in Libyan and international territorial waters, which in some cases further endanger the lives of people in distress at sea.²¹⁵ Finally, another problem is that the procedures put in place provide that persons rescued or intercepted at sea by the Libyan Coast Guard must be transferred to one of the “official” detention centres run by the Department for Combating Illegal Immigration. As a result, migrants who had finally managed to break out of a cycle of abuse and extortion in order to attempt the crossing to Europe risk finding themselves caught in the same cycle again, detained indefinitely and in inhumane conditions, with no possibility of a judicial review.²¹⁶

6.4. Lack of Legal Status as a Source of Vulnerability in Algeria

For migrants who manage to return to Algeria, other problems arise which essentially have to do with the lack of legal status in the country. Only nationals of Mali can enter and stay in Algeria without a visa; other migrants from West and Central Africa who do not have visas enter the country irregularly. Unless they have false Malian identity papers, which are relatively easy to obtain for just a few tens of thousands of CFA francs in Bamako, the irregular nature of their presence on Algerian Territory exposes them to various risks, ranging from detention to exploitation and extortion.

A large number of migrants who reach Algeria stay to work there; some want to earn the money they need to continue to Europe, others find the conditions in Algeria good enough and decide to stay longer. According to some sources, there are almost 100,000 irregular migrants in Algeria, and probably even more.²¹⁷ For migrants from sub-Saharan Africa, it is relatively easy to find informal work in the country - for example, you just have to wait at certain crossroads in the morning for people who need labour for the day to come and pick you up. Others find more stable jobs as domestic servants with Algerians. However, several migrants encountered in the course of this research indicated that they had encountered problems with their employers, who were not paying or paying only part of their wages. In some cases, Algerian employers have themselves reportedly called the authorities to denounce migrants instead of paying them their due. For illegal migrants, there is no protection against this type of abuse.

²¹³ Security Council, *Report of the Panel of Experts on Libya pursuant to Security Council resolution 1973 (2011)*, S/2019/914, *op. cit.*, para. 46-51.

²¹⁴ UNHCR, *UNHCR Update – Libya*, 26 June 2020.

²¹⁵ Security Council, *Report of the Secretary-General pursuant to Security Council resolution 2312 (2016)*, S/2017/761, *op. cit.*, para. 6; Security Council, *Implementation of resolution 2380 (2017)*, *Report of the Secretary-General*, S/2018/807, *op. cit.*, para. 6.

²¹⁶ Interviews with people working in the field of migrant and refugee protection in Libya (June 2020).

²¹⁷ Mark Micallef, Raouf Farrah, Alexandre Bish and Victor Tanner, *After the Storm. Organized crime across the Sahel-Sahara following upheaval in Libya and Mali*, *op. cit.*, p. 48. See also Tarek Hafid, « Paolo Giuseppe Caputo, Représentant-chef de mission de l'IOM à Alger : l'Algérie reçoit quotidiennement plus de migrants que toute l'Europe », in *Le Soir d'Algérie*, 18 November 2019, <https://lesoirdalgerie.com/entretien/lalgerie-recoit-quotidiennement-plus-de-migrants-que-toute-leurope-33790>

In addition to the risks of exploitation, migrants may be subject to checks and in the absence of documents they will simply be arrested and taken back to the border.²¹⁸ There are risks when migrants travel from one town to another because of the many checks along the way; but it also happens, particularly in northern towns such as Algiers or Oran, that the authorities carry out raids in certain workplaces where there are irregular migrants; on building sites, for example. In such circumstances, the authorities arrest all migrants, house them in centres and then take them back by bus to the south of the country. Some will then be taken to Mali (Bordj Badji Mokhtar) or to Niger (In Guezzam).

6.5. Detention and Exploitation in Libya

There are many reports of violence and serious abuses against migrants from the moment they enter Libya until the moment they leave the country - for those who do arrive. These abuses, facilitated by the impunity resulting from the lack of authority and control over these areas, are well documented. Migrants of sub-Saharan origin are particularly exposed due to racism against them.²¹⁹ Migrants lose control of their destiny as soon as they set foot in Libya. In the south of the country, migrants are at risk of being abducted, and then ransomed and sold to other criminal groups. The increase in banditry in the region, particularly in the desert areas after the Niger border crossing, around al Qatrún, Mourzouq and Um Al-Aranib in the Fezzan, but also further east in the Kufra, through which migrants from Chad or Sudan pass, is partly explained by the presence of several armed groups from Chad, Sudan or Niger who take advantage of the political vacuum in Libya to carry out criminal activities there.²²⁰

Even if they are not subject to abduction, migrants seeking to reach the Mediterranean coasts are likely to find themselves at some point in a migrant detention centre. There are two types of detention centres: those under the control of the Department for Combating Illegal Immigration, whose number is limited, and those under the control of various groups and militias. At the end of 2019, there were around twenty centres managed by the authorities, including around fifteen in the Tripoli region, housing some 8,000 migrants.²²¹ Informal detention centres, most of them run by traffickers or militias, abound along the migration routes through Libya. It is difficult to give figures on the number of centres and the number of people detained there. In the south of the country, the areas around Sabha and Brak al-Shati are known to host centres where migrants are victims of forced labour and extortion.²²²

Bani Walid, a hub for migrants, south-east of Tripoli, is also known to house many of these detention centres. While these places were mainly used as temporary shelters for migrants transported through the country a few years ago, there is every indication that they have also become centres for the exploitation and extortion of migrants. The abuses committed against migrants in these places are well documented and include physical violence, sexual and gender-based violence, including rape, torture and ill-treatment, extortion, exploitation and even death for those who do not submit.²²³

²¹⁸ It should be noted that the governments of Niger and Algeria concluded an agreement in December 2014 providing for the repatriation of undocumented Niger nationals present in Algeria.

²¹⁹ Interviews with people working in the field of human rights in Libya (June 2020).

²²⁰ Mark Micallef, Raouf Farrah, Alexandre Bish and Victor Tanner, *After the Storm. Organized crime across the Sahel-Sahara following upheaval in Libya and Mali*, op. cit., p. 56; Fransje Molennar, Jérôme Tubiana and Clotilde Warin, Caught in the middle. A human rights and peace-building approach to migration governance in the Sahel, CRU Report, December 2018, pp. 31-32.

²²¹ Security Council, *Final Report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011)*, S/2019/914, op. cit., para. 53.

²²² The Global Initiative Against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human-smuggling industry in Libya and the central Sahel*, op. cit., p. 23.

²²³ See in particular the report produced by the United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights in 2018: UNSMIL-OHCHR, *Desperate and dangerous: Report on the human rights situation of migrants and refugees in Libya*, December 2018, pp. 4-5.

Migrants have to pay a sum of money to be able to leave and continue their journey. If they are unable to pay, a common practice is to film them under torture and send the video to some of their relatives for them to send money. In other cases, migrants will have to work, in exploitative conditions, to pay the required amount. They will then most likely be sold to another group who will continue to try to get as much as possible from them before finally putting them in a boat for Europe. This change of model from an activity mainly focused on smuggling to the exploitation and extortion of migrants seems to be the consequence of the loss of income linked to the decrease in the number of migrants in Libya from the end of 2016.²²⁴

These abuses are committed by all types of actors, not only by the traffickers themselves or by militias, but also by the authorities, in particular the guards of the Department for Combating Illegal Immigration.²²⁵ As several people interviewed for this report pointed out, once they return to Libya migrants cannot trust anyone; almost anyone could be their torturer. It is also impossible to trust individuals in their own community who should be their main support. It is common for other migrants to take on certain responsibilities in detention centres, such as guarding the premises or even torturing detainees.

The detention centres run by the authorities mainly house migrants who have been arrested for violating immigration law as well as migrants intercepted at sea by the Libyan coast guard while attempting to cross the Mediterranean Sea. There have been several reports of abuse and ill-treatment by the authorities. In its report submitted to the Security Council in December 2019, the Panel of Experts on Libya noted that migrants who are in official detention centres run by the authorities “risk exposure to a range of human rights abuses, including but not limited to degrading living conditions, repeated extortion, sexual and other exploitation, and torture”.²²⁶ It would also appear that migrants who end up in detention centres managed (in theory) by the Department for Combating Illegal Immigration can be “rented” to other people and contractors outside the centre to work there.²²⁷ Nevertheless, conditions are far from being as bad as in informal detention centres; some detainees are even relatively free and able to leave the centre during the day to come and spend the night, while others, it seems, use their stay in detention to organize the rest of their journey. There are reportedly links between these detention centres and trafficking networks.²²⁸

Few humanitarian actors actually have access to detention centres in Libya. Only the UNHCR and the IOM can visit official detention centres administered by the Department for Combating Illegal Immigration, the UNHCR to identify, register and assist persons of concern and the IOM under its voluntary return programme. Its mandate, however, is limited to people from certain countries, mainly East African or Arab countries, and the organization does not have access to migrants from West Africa. The UNHCR also has a programme to evacuate refugees from Libya.

6.6. From Migrant Smuggling to Trafficking in Persons

A particularly important risk for migrants along the Central Mediterranean route, in Libya but not only, is to find themselves in a situation of exploitation, which in some cases can be characterized as trafficking in persons under international law. A survey conducted by the IOM in 2016 found that three quarters (76%) of respondents who had passed through the Central Mediterranean route indicated that they had been subjected to acts associated with some form of exploitation.²²⁹

²²⁴ Mark Micallef, Raouf Farrah, Alexandre Bish and Victor Tanner, *After the Storm. Organized crime across the Sahel-Sahara following upheaval in Libya and Mali*, op. cit., pp. 88-96; The Global Initiative Against Transnational Crime and Clingendael, *The Human Conveyor Belt Broken. Assessing the collapse of the human-smuggling industry in Libya and the central Sahel*, op. cit., pp. 9-29.

²²⁵ UNSMIL-OHCHR, *Desperate and dangerous: Report on the human rights situation of migrants and refugees in Libya*, op. cit.

²²⁶ Security Council, *Final report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011)*, S/2019/914, op.cit., summary.

²²⁷ Interviews with people working in the field of human rights protection in Libya (June 2020).

²²⁸ USAID, *Human trafficking, smuggling and governance in Libya: implications for stability and programming*, op. cit., p. 10.

²²⁹ IOM, *Analysis: Flow Monitoring Surveys. The Human Trafficking and other Exploitative Practices Prevalence Indication Survey. Reporting period May 2016-August 2016*, 2016.

Smuggling of migrants and trafficking in persons are two quite distinct phenomena that are the subject of two separate protocols. However, there are also close links between the two and what started out as a consensual transaction between a migrant and a trafficker can quickly turn into a situation where the migrant is exploited. This can happen in many ways, especially when migrants find themselves without resources, for example after having had to pay taxes to pass checkpoints along the route, and have to contract debt with a trafficker to be able to continue their journey.²³⁰ It can also happen when migrants are forced to accept abusive working conditions in order to earn the money they need to continue their journey; or when traffickers change their minds and decide to take advantage of the migrants' vulnerability to abuse them.²³¹ In the first case, we will speak of debt bondage: once they have arrived in a new place of transit or at their destination, migrants may have to work in exploitative conditions. Women, for their part, are at risk of being forced into prostitution.²³² In some cases migrants who find themselves in this type of situation may receive a wage for their work, with which they can pay the traffickers in return; others may not be paid and will have to work until the traffickers decide to let them go.

In other cases, migrants are victims of unscrupulous employers. In Libya or Algeria, for example, it is common for irregular migrants seeking work to earn the money they need to continue their journey to come across employers who take advantage of the vulnerable situation in which they find themselves, because of their irregular status and the fact that they cannot file a complaint, to give them work in extremely precarious conditions and with extremely low wages. Migrants interviewed as part of this research and who found themselves in this situation in Algeria in particular told how, once the time came to receive their wages, they were denounced by their employers to the authorities, then arrested and deported.

The risk of becoming a victim of trafficking is particularly high in Libya, where migrants seeking to reach Europe are likely to end up in informal detention centres before they have a chance to go to sea. If the traffickers are not necessarily the people who exploit and abuse migrants in these conditions, in some cases it is in fact the same people who are behind these centres, allowing them to take as much money as possible: the first time through the organization of the movements; the second time in the form of extortion or by "hiring" the services of migrants as labour. The Panel of Experts on Libya reported cases where migrants had been employed for demining operations without even the proper equipment.²³³ Afterwards, the only thing left to do is to "sell" migrants to other groups to increase margins further. In Libya, perhaps more than elsewhere, the line between migrant smuggling and human trafficking is so thin that it tends to blur.

²³⁰ It should be noted that such situations are often difficult to categorise under migrant smuggling or trafficking in persons. In the context of migrant smuggling, migrants may indeed have agreed to work for a fixed period of time to pay for the services of traffickers. It will then be necessary to see the conditions in which migrants have to work and whether there are elements of exploitation.

²³¹ IOM, *Migrants and their vulnerability to human trafficking, modern slavery and forced labour*, 2019, p. 30.

²³² IOM, *Assessing the risks of migration along the Central and Eastern Mediterranean Routes: Iraq and Nigeria as Case Study Countries*, *op. cit.*, pp. 63-64.

²³³ Security Council, *Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011)*, S/2017/466, *op. cit.*, para. 261.

7. Strengthening the Fight Against the Smuggling of Migrants on the Central Mediterranean Route

A wide range of measures have already been implemented to tackle migrant smuggling along the Central Mediterranean route. Several UN Security Council resolutions have even been adopted, calling on Member States to help Libya strengthen its capacity to secure its borders, prevent and investigate acts of smuggling and trafficking as well as prosecute the perpetrators of such acts.²³⁴ However, despite the decline in migration flows through the Central Mediterranean route in recent years, it is clear that movements continue, often in circumstances that are more dangerous for the migrants themselves. Based on the research carried out for this report, this section identifies ten elements of the fight against migrant smuggling that should be strengthened in order to tackle this phenomenon more effectively while respecting the human rights and dignity of migrants.

7.1. Ensuring National Leadership in the Fight Against Migrant Smuggling

While Niger, Mali, Algeria and Libya have acceded to the Palermo Protocols, the fight against migrant smuggling is not equally important for all of them. As smuggling of migrants is by definition a type of crime that involves several countries, the fight against this phenomenon cannot be carried out effectively until all the countries concerned have made it a priority. In this context, national authorities should be encouraged to engage in the fight against migrant smuggling.

Despite the efforts of the international community and the European Union in this regard, progress in prioritizing the fight against the smuggling of migrants in Libya has been limited due to the absence of a central authority and the presence of numerous militias and armed groups exercising control over various parts of Libyan Territory. It is also clear that many actors, including among the authorities, are involved in, or benefit from, migrant smuggling in one way or another and that it is not necessarily in their interest to stop it.²³⁵

When it comes to the fight against migrant smuggling, Niger is the country that stands out as a good example. Not only does Niger have a law on migrant smuggling, but there is also the National Coordination Commission to Combat Trafficking in Persons and Migrant Smuggling and the National Agency to Combat Trafficking in Persons and Migrant Smuggling. The European Union continues to support the development of migration policies in Niger through the EUCAP Sahel mission, whose mandate was extended in August 2015 to include a dimension of strategic support to the Niger authorities in the fight against the smuggling of migrants. While cooperation with Niger in the fight against migrant smuggling is considered good by the European Union,²³⁶ several commentators have however expressed doubts about the real motivation of the Niger authorities to limit irregular migration, as the country does not necessarily have an interest in it.²³⁷

²³⁴ See UN Security Council Resolutions 2240 (2015), 2312 (2016), 2380 (2017), 2437 (2018), and 2491 (2019).

²³⁵ Interviews with representatives of international and non-governmental organisations working on Libya (June 2020).

²³⁶ European Commission, *Fourth Progress Report on the Partnership Framework with third countries under the European Agenda on Migration*, COM(2017) 350 final, 13 June 2017.

²³⁷ Interviews with representatives of international and non-governmental organisations in Niger (March 2020).

In Mali, the fight against the smuggling of migrants does not yet appear to be a national priority. The fight against irregular migration is seen as the Europeans' agenda, whereas the real priority for the Malian authorities is all the resolution of the conflict in the north and centre of the country. Moreover, migration is seen by the Malian authorities as an opportunity rather than a threat. The country, which is at the heart of ECOWAS, has more than 1.2 million migrants living abroad, a large majority of whom - nearly one million people - reside in another West African country.²³⁸ In these circumstances, several of the interlocutors met during this study expressed doubts as to whether the Malian government really takes ownership of the issue of the fight against migrant smuggling. The government only started to show some interest in doing more in the fight against migrant smuggling following a high-level meeting at the end of 2019; the result is the creation at the end of 2019 of a migrant smuggling and human trafficking squad (BRTMTEH), the role of which is discussed below.

In Algeria, there is no law dealing specifically with the smuggling of migrants, but measures to combat smugglers and trafficking networks are taken within the more general framework of the national strategy to combat irregular immigration. Detailing some of the measures taken to combat this phenomenon, the Algerian Minister of the Interior announced in October 2020 that the Algerian public authorities had taken a series of measures with regard to irregular migration, including "the fight against human trafficking networks specializing in the transport of migrants" and "the application of severe sanctions against smugglers, particularly those of Algerian nationality".²³⁹

7.2. Criminalizing the Smuggling of Migrants

The Smuggling of Migrants Protocol requires each State Party to criminalize certain types of activities related to the smuggling of migrants, the manufacture of fraudulent travel documents or allowing a migrant to remain in a State without meeting the conditions necessary for legal residence in that State. The criminalization of the smuggling of migrants by States Parties, in accordance with their obligations under the Smuggling of Migrants Protocol, is a fundamental element of any national criminal justice response. Investigation and cooperation between States in the fight against transnational organized crime can be complicated by the fact that countries have different legislative frameworks and that not all countries criminalize the smuggling of migrants, or they criminalize it differently. In these circumstances, the adoption of national legislation on migrant smuggling must be a priority.

Some of the authorities interviewed for this study mentioned the difficulties they encountered in obtaining assistance from other countries in combating migrant smuggling, considering precisely the fact that what constitutes an offence in their jurisdiction is not necessarily regarded as such in other countries. This makes it difficult, in particular, to combat those responsible for and coordinators of migrant smuggling who are often in other countries - most of those who organize the smuggling of migrants from Niger, for example, went to Algeria and Libya following the implementation of Law 2015-36 in the country. While it may be possible in some circumstances to prosecute migrant smugglers on the basis of other provisions of national legislation, the introduction of specific provisions in legislation is important to prevent and suppress the smuggling of migrants and to facilitate collaboration between countries.

²³⁸ IOM, *Mobilités au Mali. Infographies des mobilités*, September 2019.

²³⁹ « L'Algérie 'fait face au phénomène de migration clandestine à partir de 44 États africains' (Beldjoud) », in *Algérie Eco*, 3 October 2020, <https://www.algerie-eco.com/2020/10/03/lalgerie-fait-face-au-phenomene-de-migration-clandestine-a-partir-de-44-etats-africains-beldjoud/>.

Therefore, States along the Central Mediterranean route should adopt the necessary legislative measures and other measures to establish the smuggling of migrants as a criminal offence, in accordance with their obligations, and ensure that the definitions they adopt are consistent with those contained in the Smuggling of Migrants Protocol. In addition, a clear distinction should be made between smuggling of migrants, on the one hand, and trafficking in persons, or even irregular migration in general, on the other hand. To date, however, among the four countries covered by this study, only Niger has adopted a law dealing specifically with the migrant smuggling. In Mali, a draft law on migrant smuggling has indeed been developed, but it is not yet clear when it will be officially adopted. In Algeria, two different texts exist which criminalize, firstly, facilitating and organizing the irregular entry of a foreigner on Algerian Territory (without using the term “smuggling” of migrants), and secondly, the smuggling of migrants from Algeria; the elaboration of a new text aiming at completing and harmonizing the provisions relating to the smuggling of migrants to and from Algeria could be considered in the continuity of the forthcoming promulgation of a law on the fight against trafficking in persons. In Libya, a project on the development of a law on the smuggling of migrants was abandoned a long time ago.²⁴⁰

7.3. Detection and Arrest of Traffickers

Another important aspect of efforts against the smuggling of migrants is the strengthening of investigations and prosecution of smuggling networks in order to dismantle criminal organizations. Several initiatives, supported by States and international organizations, have been put in place to strengthen the capacity of national authorities to conduct investigations to identify and apprehend persons engaged in the smuggling of migrants.

The UNODC noted in 2018 that in most Sahel and sub-Sahara countries, “efforts to counter illicit trafficking are limited to arresting offenders caught in the act and processing them through the criminal justice system as quickly as possible”.²⁴¹ However, in order to dismantle criminal groups in the long term, including tracing those responsible for smuggling migrants, specific investigation and prosecution techniques must be used to detect and investigate offences and suspects without alerting them. To this end, the United Nations Convention against Transnational Organized Crime provides for the use of special investigative techniques to facilitate the fight against transnational organized groups. This includes the use of electronic surveillance (such as wiretaps to intercept communications) and undercover operations where agents enter a criminal organization to gather evidence.²⁴² These techniques are not necessarily permitted in any other context, but are considered necessary in the fight against transnational organized crime and should be provided for in appropriate legislation. In Niger, for example, Law 2015-36 authorizes under certain conditions “incitement to commit an offence” covered by the law by an agent, as well as electronic surveillance.²⁴³ These provisions could greatly facilitate the work of the police in investigating trafficking networks; they give additional means to the authorities to try to trace those who are really responsible for migrant smuggling.

In particular, the European Union supports the deployment of teams comprising national officers supported by agents provided by European countries and specialized in investigating issues relating to migrant smuggling (and to a lesser extent the fight against trafficking in persons). In Niger, for example, a Joint Investigation Team (JIT) for the fight against criminal networks linked to irregular immigration, trafficking in human beings and smuggling of migrants was set up in March 2017, supported in particular by Spain and France and financed by the EU Trust Fund.²⁴⁴

²⁴⁰ Interviews with representatives of international and non-governmental organisations working on Libya (June 2020).

²⁴¹ UNODC, *Contribution to the United Nations Integrated Regional Strategy for the Sahel*, 2018.

²⁴² United Nations Convention against Transnational Organized Crime, Article 20.

²⁴³ Republic of Niger, *Loi No. 2015-36, 26 mai 2015 relative au trafic illicite de migrants*, Article 6 & 8.

²⁴⁴ See the action sheet of the Trust Fund project «Creation of a Joint Investigation Team (JIT) for the fight against criminal networks linked to irregular migration, trafficking in human beings and smuggling of migrants» (T05-EUTF-SAH-NE-05) worth EUR 6 million adopted in 2017: <https://ec.europa.eu/trustfundforafrica/sites/euetfa/files/t05-eutf-sah-ne-05.pdf>

The initiative aims in particular at strengthening the operational and judicial capacities of the Niger national police services involved in the fight against transnational organized crime, including smuggling of migrants, and improving investigations related to the fight against criminal networks linked to irregular immigration, trafficking in human beings and migrant smuggling. The JIT contributed to the dismantling of migrant smuggling networks from Niger.²⁴⁵

In Mali, the authorities created the Migrant smuggling and human trafficking squad (BRTMTEH) at the end of 2019. BRTMTEH is comprised of Malian police officers and police commissioners and is under the direction of the Judicial Police; it is financed by the European Union through a contribution from the Netherlands to the Trust Fund and receives operational support from France and Spain. The Squad was created specifically to combat transnational organized crime, including the smuggling of migrants. Essentially, the objective is to identify those responsible and to dismantle migrant smuggling and human trafficking networks. The Squad conducts investigations and collects evidence before referring cases to the Public Prosecutor's Office.

Technical assistance to States to help build their capacity to investigate migrant smuggling networks and identify those responsible is an important aspect of the fight against the smuggling of migrants. Otherwise, there is a risk that the authorities will limit themselves to arresting second fiddles, as in Niger following the application of Law 2015-36 and in Mali with the arrest of a handful of traffickers in February 2018.

7.4. Strengthening Border Control

Effective border control is a key aspect of the fight against the smuggling of migrants. The Smuggling of Migrants Protocol provides in this regard that States must “strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons”.²⁴⁶ Effective border management includes, inter alia, the establishment of a system to control the validity and authenticity of identity documents; the ability to monitor migration flows; and the existence of mechanisms to refer certain types of persons with special needs, including refugees and asylum-seekers, to appropriate agencies.

However, the borders of the countries along the Central Mediterranean route are particularly extensive. Apart from Algeria, which is investing heavily in protecting its borders (sending reinforcements and military equipment to border areas, creating outposts, stepping up surveillance, building new structures, and so forth) to combat terrorism and trafficking in arms or drugs, and which, favouring cooperation with border states, refuses any external intervention in this respect,²⁴⁷ the other countries need both financial and technical support in order to be able to better control their borders. In Mali, for example, officers at land borders are not part of the border police and generally have not received specific technical training on border and migration management.²⁴⁸

²⁴⁵ European Commission, *Fourth Progress Report on the Partnership Framework with third countries under the European Agenda on Migration*, op. cit. cit.

²⁴⁶ Protocol against the Smuggling of Migrants, Article 11.1.

²⁴⁷ See in particular Abdenour Benantar, « Sécurité aux frontières : Portée et limites de la stratégie algérienne », in *L'année du Maghreb*, No. 14, 2016, pp. 147-163.

²⁴⁸ It should be noted that a National Borders Policy (Politique nationale des frontières - PNF) is being developed in Mali. The preliminary draft of the PNF, developed in 2017, provides for the following strategic objectives: continuation of border delimitation/demarcation; promotion of cross-border cooperation; development of border areas; securing border and cross-border spaces; capacity-building of actors; mobilisation of resources and sustainable financing of the PNF; and strengthening of the institutional framework for implementing the PNF.

Thousands of kilometres of borders in Mali, Niger and Libya are not, or not sufficiently, controlled by state authorities. Difficulties in monitoring extensive and permeable borders in remote areas encourage the presence of criminal organizations and illegal trafficking. In these circumstances, several initiatives have been implemented to strengthen the capacity of the authorities to control their borders.

Strengthening border controls is done in several ways. In particular, the Smuggling of Migrants Protocol emphasizes the importance of identity documents such as passports, identity cards or visas. Therefore, each State parties to the Protocol should take measures to ensure that the travel or identity documents it issues cannot be easily falsified or altered, or to prevent their unlawful creation, issuance and use.²⁴⁹ Several initiatives led in particular by the IOM or by the European Union through the EUCAP civilian mission in countries such as Mali or Niger include a component aimed at strengthening the capacity of the authorities to verify the legitimacy and validity of travel documents. There are still many problems, however; in Mali, for example, the authorities have introduced biometric identity cards without having the capacity to cross-reference the registered data, with the result that several people can be registered in the country with the same fingerprints.²⁵⁰

The deployment of surveillance and intervention patrols is another way of strengthening border security and surveillance. In particular, the European Union has set up Rapid Action Groups - Monitoring and Interventions (GAR-SI) in the G5 countries (Chad, Mauritania, Niger, Mali and Burkina Faso) as well as in Senegal.²⁵¹ GAR-SI are flexible, mobile, multidisciplinary and self-sufficient police or gendarmerie units that are trained and equipped to deal with all types of threats, including the threat of terrorism, and to fight organized crime. These are national units but are supported by European agents, mainly Spanish and French, who are responsible for training and support. Their areas of intervention are precisely the remote areas, in particular the uncontrolled border areas, where all kinds of illegal trafficking flourish. In Niger, the GAR-SI mandate includes the fight against migrant smuggling. This is not the case in Mali, however, where the priority is the fight against terrorism in the centre of the country rather than deployment in border areas.

Strengthening Libya's capacity to control its land and sea borders is a priority for the European Union. In 2013, the EU established the European Union Border Assistance Mission in Libya, called EUBAM Libya. The tasks entrusted to EUBAM Libya include training and mentoring the Libyan authorities in strengthening the border control services as well as support in terms of defining a Libyan national integrated border management strategy.²⁵² EUBAM Libya's mandate was extended in January 2019 to support the Libyan authorities in their fight against transnational organized crime, including migrant smuggling and trafficking in persons.²⁵³

²⁴⁹ Protocol against the Smuggling of Migrants, Article 12.

²⁵⁰ Interview with representatives of international and non-governmental organisations in Mali (March 2020).

²⁵¹ See the action sheet of the Trust Fund project «GAR-SI SAHEL (Groupes d'Action Rapides – Surveillance et Intervention au Sahel)» (T05-EUTF-SAH-REG-04) for a cost of EUR 41.6 million: https://ec.europa.eu/trustfundforafrica/sites/euetfa/files/t05-eutf-sah-reg-04_gar-si_sahel_fiche_daction.pdf.

²⁵² European Union, Council Decision 2013/233/CFSP of 22 May 2013 on the European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya), Official Journal of 24 May 2013.

²⁵³ European External Action Service, EU Integrated Border Assistance Mission in Libya (EUBAM Libya), Factsheet, March 2019, https://eeas.europa.eu/sites/eeas/files/20190319_eubam_libya_factsheet_march_2019_en.pdf.



Strengthening border controls in southern Libya is also one of EUBAM Libya's priorities. Furthermore, since 2017, the European Union has invested heavily in strengthening the capacity of the Libyan coast guard, including through the provision of coastal patrol vessels, so that they can gradually take responsibility themselves for intercepting migrants seeking to travel to Europe and for search and rescue operations in Libyan territorial waters and beyond. The European Border and Coast Guard Agency (Frontex) also supports States in building capacity to control borders.

While strengthening the capacity of States to control their borders is a priority in the fight against migrant smuggling, all measures taken to combat migrant smuggling must be carried out in full compliance with international law, in particular international human rights and refugee law. In particular, States have an obligation to respect the principle of non-refoulement which prohibits the return of persons in need of international protection to a territory where their life or freedom would be at risk, which implies that authorities have the capacity to distinguish between asylum seekers and irregular migrants and to refer them to the relevant agencies. An important aspect of managing borders in a manner that ensures the security of States while respecting international law is the development of operating procedures that clarify the measures to be taken and the paths to be followed in specific situations. In addition, it should be recognized that migration between the sub-Saharan region and North Africa is also a resilience strategy for vulnerable communities, particularly at certain times of the year when those affected know that harvests will run out and leave to look for work elsewhere with the intention of returning. Strengthening border controls in a way that does not take this dimension into account would only contribute to making some communities even more vulnerable.

7.5. Strengthening Inter-Institutional Coordination

In addition to the development of an adequate legal framework and the deployment of specialized teams to combat transnational organized crime, another challenge in the fight against migrant smuggling is to ensure that States have adequate structures in place to respond effectively to the multiple dimensions of this phenomenon. Investigations into migrant smuggling should not only involve law enforcement; other agencies may need to be involved. Coordination, consultation of stakeholders and partnerships are essential for an effective fight against migrant smuggling. In this respect, the limitations of information sharing and the lack of mechanisms to ensure effective cooperation between the authorities in charge of the fight against migrant smuggling - law enforcement agencies, border control authorities and other relevant state actors - were identified by several border management experts interviewed for this study as important obstacles to the effective fight against transnational organized crime. In Niger, coordination between the police, including the Directorate of Territorial Surveillance (under the Ministry of the Interior) and the gendarmerie (under the Ministry of Defence) could be improved in order to enhance the effectiveness of the fight against migrant smuggling.

So far, the police played a key role in this area and received significant support from the international community in terms of equipment and training. However, the police mainly covers urban areas and it is up to the gendarmerie to intercept migrant traffickers now that the routes bypass urban centres. The fact that the gendarmerie is asked to hand over traffickers and migrants who have been intercepted to the police rather than handing them over directly to the justice system is a good example of operational limitations. While in theory the two bodies have different roles and missions, some gendarmerie officers consider that they do not benefit from the same support and recognition as the police and are therefore reluctant to invest more resources in the fight against migrant smuggling.²⁵⁴

²⁵⁴ Interviews with representatives of the Niger authorities in Niger (March 2020).

Greater coordination is also needed with the Joint Investigation Team (JIT), which deals with all matters relating to trafficking in persons, smuggling of migrants or falsification of documents. The JIT, which is a police force, covers the entire region affected by migratory movements and is also competent - like the gendarmerie - outside the commune of Agadez, hence the importance of good communication between the different bodies. In Mali, the difficulties in terms of inter-institutional coordination in the fight against irregular migration and transnational organized crime start at the highest level. Two ministries are involved in migration issues, namely the Ministry of Security and Civil Protection and the Ministry of Malians Abroad, which have divergent views on these issues. At the operational level, the “flagship” unit in the fight against transnational organized crime is the Specialized Investigation Brigade (BIS) under the Ministry of Justice. However, BIS has mainly focused on cases related to terrorism at the expense of the fight against trafficking in persons and smuggling of migrants. It is possible that the creation of BRTMTEH under the Ministry of Security could lead to conflicts between the two entities, which could find themselves working on the same cases.²⁵⁵

In Libya, there are two coastguards under two different directorates: the Libyan General Administration for Coastal Security, under the Ministry of the Interior, and the Libyan Coast Guard and Port Security, which is part of the Libyan Navy and is headed by the Ministry of Defence. Their mandates largely overlap: the Libyan General Administration for Coastal Security is competent to control the coastal strip, up to 30 kilometres inland, and Libyan territorial waters, up to 12 nautical miles, but the Libyan Coast Guard also covers territorial waters. Thus, both bodies can play a role in the fight against migrant smuggling. In practice, however, the Libyan Coast Guard has benefited from more resources and training from the European Union and is considered much more professional in terms of intervention at sea than the Libyan General Administration for Coastal Safety. Recommendations were made regarding the merging of the bodies, but this seems difficult given the issues at stake for the two ministries.²⁵⁶

These are, of course, only a few examples, but they underline the importance of better coordination between actors and the need to clearly define their role in the fight against the migrant smuggling. It is also essential that all agencies involved in the fight against migrant smuggling share information and communicate on a regular basis. In this regard, the creation of inter-institutional coordination frameworks at the national level to work on issues of irregular migration and/or smuggling of migrants could greatly facilitate consultations and partnerships. Niger, for example, has set up in 2016 a consultation framework on migration which brings together the authorities and all partners - including the EU, international organizations and NGOs - working in the field of migration. Coordination between different state entities is also essential in Algeria, where eight ministries are involved in issues relating to irregular migration, including the smuggling of migrants. In this context, the Algerian government has recently set up an “inter-ministerial commission” under the supervision of the Ministry of the Interior and responsible, inter alia, for monitoring and examining issues relating to irregular migration.²⁵⁷ In addition to sharing information between the departments concerned, this coordination leads to the organization of combined operations between security forces and army units, particularly in the southern border regions and in Algerian territorial waters.

²⁵⁵ Interviews with representatives of international and non-governmental organisations in Mali (February 2020).

²⁵⁶ Interviews with representatives of international and non-governmental organisations working on Libya (June 2020).

²⁵⁷ Amel Bliidi, « Le ministre de l'Intérieur annonce une intensification des contrôles et le démantèlement des réseaux d'accueil : Nouvelle opération de rapatriement des migrants subsahariens », in El Watan.com, 3 October 2020, https://www.elwatan.com/edition/actualite/nouvelle-operation-de-rapatriement-des-migrants-subsahariens-03-10-2020_.

7.6. Facilitating Cooperation Between Countries

Migrant smuggling is by its very nature a form of transnational crime. For this reason, effective criminal justice action relies primarily on increased international cooperation between States located on trafficking routes or otherwise affected by such activity. In order to dismantle transnational criminal networks, State agents must be able to rely on the cooperation of other States, otherwise it would be difficult to collect evidence against those responsible for smuggling migrants and to prosecute them. Promoting the cooperation of States Parties in preventing and combating the smuggling of migrants is thus one of the main objectives of the Smuggling of Migrants Protocol, particularly in the area of the movement of migrants by sea, where collaboration is absolutely necessary; but also in the area of information sharing, cooperation between the border control services of the States concerned, verification of travel or identity documents; in the area of criminal justice and training. The United Nations Convention against Transnational Organized Crime considers cooperation between States parties for the purposes of confiscation²⁵⁸; extradition;²⁵⁹ in the context of special investigative techniques;²⁶⁰ and mutual legal assistance²⁶¹ and law enforcement cooperation.²⁶² The Organized Crime Convention and the Smuggling of Migrants Protocol refer in this regard to the importance of concluding bilateral or multilateral agreements or arrangements on these matters.²⁶³

Such arrangements exist in West Africa and on the Central Mediterranean route, which provide a framework for cooperation between countries in the fight against migrant smuggling. At the bilateral level, for example, Algeria has set up bilateral border committees with Niger and Mali, as well as security commissions with Mauritania, Libya and Tunisia. The aim of these committees is to promote cooperation in border areas, particularly with regard to security cooperation, economic cooperation, socio-cultural cooperation and the mobility of people.

In this respect, the issue of irregular immigration seems to be becoming increasingly important: on the occasion of the 6th session of the Algeria-Niger bilateral border committee in 2018, the groups of experts from Algeria and Niger were committed to the implementation, within a concerted framework, of recommendations “with a view to curbing the phenomenon of illegal migration, in particular through information sharing, the dismantling of smuggling networks and raising awareness of its dangers”.²⁶⁵ At the level of the African Union, there is the African Union Convention on Cross-Border Cooperation (Niamey Convention) adopted in 2014.²⁶⁶

²⁵⁸ Convention against Transnational Organized Crime, Article. 13.1.

²⁵⁹ Convention against Transnational Organized Crime, Article. 13.1.

²⁶⁰ Convention against Transnational Organized Crime, Article 20.

²⁶¹ Convention against Transnational Organized Crime, Article. 18.

²⁶² Convention against Transnational Organized Crime Article 27.

²⁶³ It should be noted that in the absence of a specific agreement on extradition and mutual legal assistance matters, it is sufficient for States to refer to the procedures provided for in articles 16 and 18 of the Transnational Organized Crime Convention.

²⁶⁴ The bilateral border committee between Algeria and Niger includes the wilayas of Tamanrasset and Illizi in Algeria and the departments of Agadez and Tahoua in Niger. For Mali, the Algerian-Malian Bilateral Strategic Committee foresees the participation of the walis of Adrar and Tamanrasset on the Algerian side and the governors of Gao, Kidal and Timbuktu on the Malian side, also with the presence of police officers from both countries.

²⁶⁵ « Algérie-Niger. Des mesures opérationnelles pour la sécurisation des frontières communes », 19 July 2018, <https://www.emb-argelia.pt/algerie-niger-des-mesures-operationnelles-pour-la-securisation-des-frontieres-communes/>.

²⁶⁶ AU, *African Union Convention on Cross-Border Cooperation (Niamey Convention)*, 2014.

Security, including the fight against cross-border crime, terrorism, piracy and other forms of crime, are among the areas of cooperation under the Convention.²⁶⁷ States undertake in particular to remove any legal, administrative, security, cultural or technical obstacles that may hinder the strengthening and proper functioning of cross-border cooperation²⁶⁸ and to facilitate the sharing of information and intelligence.²⁶⁹

With regard more specifically to the southern borders of Libya, a Memorandum of Understanding on the strengthening of cooperation on security and surveillance of the common borders between the State of Libya, the Republic of Niger, the Republic of Sudan and the Republic of Chad was signed on 31 May 2018 in Ndjamen. ²⁷⁰ The States concerned undertake to “strengthen their cooperation in security matters, intelligence and information sharing [...], in particular by securing border areas and combating terrorism, trafficking of all kinds, illegal immigration, mercenary, smuggling and transnational organized crime”.²⁷¹ The Memorandum of Understanding mentions the possibility of conducting joint or parallel operations in border areas; the conclusion of a judicial cooperation agreement in the fight against terrorists, mercenaries and persons involved in trafficking of all kinds; and the development of information and intelligence sharing between the competent services. Discussions have taken place between States on the implementation of this agreement, but to date these commitments have not been operationalized.²⁷²

Other types of platforms have been set up at the regional level aimed more specifically at facilitating cooperation and information exchange between countries on issues relating to the fight against migrant smuggling and more broadly against irregular migration. At the regional level, for example, Frontex established in 2010 the Frontex-Africa Intelligence Community, which provides a framework for the exchange of information and expertise with 26 African States on irregular migration issues, including transnational organized crime. In September 2017, Frontex launched a new project aimed at strengthening the Frontex-Africa Intelligence Community through the establishment of “risk analysis cells” in various African countries. Cells to collect and analyse information on these issues have since been opened in several West African countries, including Niger,²⁷³ Ghana²⁷⁴ and Senegal.²⁷⁵ Other cells are expected to be opened in The Gambia, Nigeria, Guinea and Mali. Their role is to collect, analyse and share all types of information relating to cross-border crime in order to support States’ capacity to respond to these challenges.

It is necessary, on the one hand, to ensure that States implement their cooperation commitments and, on the other hand, to develop other types of cooperation mechanisms to facilitate the fight against migrant smuggling between States along the Central Mediterranean route.

²⁶⁷ Niamey Convention, art. 3.4.

²⁶⁸ Niamey Convention, art. 4.1.

²⁶⁹ Niamey Convention, art. 5.

²⁷⁰ See in this regard: « Sécurité : accord de coopération entre le Tchad, le Soudan, la Libye et le Niger », in RFI, 2 June 2018, available at <http://www.rfi.fr/fr/afrique/20180602-securite-accord-cooperation-entre-le-tchad-le-soudan-libye-le-niger>.

²⁷¹ Protocole d'accord sur le renforcement de la coopération en matière de sécurité et de surveillance des frontières communes entre l'État de Libye, la République du Niger, la République du Soudan et la République du Tchad, Article 1.

²⁷² Interviews with actors involved in border reinforcement in Libya (June 2020).

²⁷³ Frontex, *Frontex opens first risk analysis cell in Niger*, 27 November 2018: <https://frontex.europa.eu/media-centre/news-release/frontex-opens-first-risk-analysis-cell-in-niger-HQloKi>.

²⁷⁴ “Immigration Service opens risk analysis cell to bolster intel gathering”, dans GhanaWeb, 31 January 2019, <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Immigration-Service-opens-risk-analysis-cell-to-bolster-intel-gathering-719554>.

²⁷⁵ Frontex, *Frontex opens Risk Analysis Cell in Senegal*, 13 June 2019, <https://frontex.europa.eu/media-centre/news-release/frontex-opens-risk-analysis-cell-in-senegal-6nkN3B>.

Other examples of possible measures in this direction include the development of new mechanisms to enable the States concerned to exchange information; the development, at regional level, of investigation protocols and action plans to promote a common understanding of and common responses to migrant smuggling; the designation of liaison officers to coordinate requests for assistance and information; the creation of cross-border cooperation centres²⁷⁶ and exchange programmes between officers, officials or magistrates from different countries to facilitate experience sharing between practitioners.²⁷⁷ Sharing good practices in the fight against the smuggling of migrants is also encouraged by the Protocol against the Smuggling of Migrants.²⁷⁸

7.7. Training and Technical Co-operation

The Migrant Smuggling Protocol also places emphasis on the training of relevant officials in the field of combating migrant smuggling – such as immigration, military, police, coastguard or border guard officers.²⁷⁹ There are numerous training courses in the region, and they can be organized in partnership with relevant international organizations or non-governmental organizations, or even by other States on a bilateral basis.²⁸⁰

All actors organize training courses covering a wide range of topics, so it would be difficult to give an overview here. A large number of training courses provided by European Union bodies such as EUCAP or EUBAM Libya or within projects financed by the EU Trust Fund aim to strengthen the capacity of the authorities to repress migrant smuggling. This includes, in particular, training organized for police or judicial authorities in terms of the fight against transnational organized crime, the identification of organized criminal groups, investigative techniques, the detection of traffickers and trafficked persons, criminal procedure or the available methods of international cooperation. Other training courses on migration management are aimed more specifically at the authorities that are on the front line when it comes to responding to population movements, such as border guards or coastguards.

The topics covered range from good border management (IOM) to the fight against document fraud (IOM, UNODC, EUCAP) and law enforcement at sea, in particular to prevent smuggling and trafficking or to conduct search and rescue operations at sea (Operation Sofia, Frontex). A third fairly important aspect, favoured by several United Nations organizations, regards aspects relating to the protection of migrants (IOM, OHCHR, UNMIL), refugees (UNHCR), victims of trafficking (IOM, UNODC, ILO) or victims of gender-based violence (UNFPA). Trafficking or to conduct search and rescue operations at sea (Operation Sofia, Frontex). A third fairly important aspect, favoured by several United Nations organizations, regards aspects relating to the protection of migrants (IOM, OHCHR, UNMIL), refugees (UNHCR), victims of trafficking (IOM, UNODC, ILO) or victims of gender-based violence (UNFPA).

²⁷⁶ The IOM has, for example, set up a police, gendarmerie and customs cooperation centre (CCPGD) in three countries of the sub-region (Senegal, Mali, Mauritania). The main objective of the CCPGD is to facilitate the sharing of information and knowledge in the field of border management by bringing together officials from the three countries in the same building. In the longer term, the initiative could lead to better cooperation at the operational level.

²⁷⁷ For example, a project funded by the Migration Resource Allocation Committee (MIRAC) and implemented by the IOM in 2020 specifically aims to strengthen cross-border and regional collaboration mechanisms in partnership with national border management services along the Central Mediterranean route. The objective of this element is to increase the level of cooperation and information exchange between border management services in order to facilitate the coordination of operations to combat migrant smuggling. The project includes study visits for directors of border management services, for the police, customs or gendarmerie, to the countries concerned by the project, namely Mali, Niger, Libya and Algeria.

²⁷⁸ Protocol against the Smuggling of Migrants, Article 10.1.

²⁷⁹ Protocol against the Smuggling of Migrants, Article 14.

²⁸⁰ Several memorandums of understanding between Algeria and Niger have been signed in 2017 which provide for a strengthening of cooperation between the two countries in police matters, including through the organisation by the Algerian authorities of training courses for the Niger authorities (http://www.mae.gov.dz/news_article/4671.aspx).

Considering the growing interest in issues relating to transnational organized crime it is clear that there are still significant training needs in this regard, whether in differentiating between different types of transnational organized crime, in building the capacity of authorities in investigative techniques, or in raising awareness of issues relating to the protection of smuggled or trafficked migrants, among other topics. The fight against migrant smuggling and trafficking in persons should be more systematically integrated into the training curriculum for officers, including in initial training, for example at national police academies.

That being said, while training is necessary, many of the actors interviewed for this research deplored the lack of coordination between the actors organizing training; the fact that many training courses are not necessarily based on a real assessment of the needs of the participants, and thus not necessarily adapted to the needs of the agents; and the fact that the training courses are essentially provided by international actors.²⁸¹ In this regard, consideration could be given to the training of national experts in the fight against migrant smuggling and trafficking in persons who could provide long-term training and facilitate national ownership.

7.8. Collecting, Managing, Analysing and Sharing Information

The collection, management, analysis and sharing of information on migratory movements is an essential aspect of the fight against the smuggling of migrants. The lack of information on migration and the need for more reliable data on migration was noted by many actors.²⁸² However, the authorities of the countries along the Central Mediterranean route have neither the resources nor the technical and material capacity to collect and analyse data related to migratory movements and smuggling of migrants. Several initiatives have been taken to ensure the management and sharing of information at the regional and international level. The tools that enable information management are made available by different organizations.

In Mali and Niger, for example, EUCAP is supporting the creation of the Police Information System in West Africa (SIPAO), a regional police database that includes offences, criminal identities, criminal proceedings or stolen identity documents. The SIPAO system is deployed at several levels. At the national level, it facilitates the centralization, management, exchange and analysis of police information from all law enforcement agencies; at the regional level, it provides a platform for the electronic exchange of police information at the level of ECOWAS (and Mauritania); and at the international level, it connects to INTERPOL's global police data (I-24/7). Therefore, the system allows authorities to enter information and search for information made available at regional and international level.

Other initiatives led by UNODC or IOM aim to facilitate the collection and exchange of information on issues related to irregular migration and transnational organized crime. For example, the UNODC created a new Observatory on Migrant Smuggling to monitor trends and routes of migrant smuggling in West and North Africa.²⁸³ IOM has also deployed its Migration Information and Data Analysis System (MIDAS) in Mali and Niger. MIDAS has not been developed specifically to combat migrant smuggling, but the information collected contributes to the management of migratory flows and can help to identify cases of smuggling.

In order to combat migrant smuggling more effectively, the capacity of the authorities to collect, analyse and exchange information on such movements should be strengthened. However, the implementation of such initiatives is a long-term process that requires considerable resources, with the creation of a legal framework, the installation of terminals, the development of systems or the training of agents. Progress in this area is thus relatively limited.

²⁸¹ Interviews with representatives of international and non-governmental organisations in Niger and Mali (February–March 2020).

²⁸² See for instance IOM, *Migration data on the Central Mediterranean Route: What do we know?*, GMDAC Briefing Series: Towards safer migration in Africa : Migration and Data in Northern and Western Africa, 2015 ; IOM and AU, *Africa Migration Report. Challenging the Narrative*, 2020, pp. 27–33.

²⁸³ Security Council, *Implementation of Security Council resolution 2491 (2019). Report of the Secretary-General, S/2020/275*, 6 April 2020, para. 33.



7.9. Ensuring the Protection of Trafficked Persons

Another fundamental dimension of the fight against the smuggling of migrants, unfortunately too often neglected, relates to measures to protect smuggled migrants, who may also be victims of human rights violations and exploitation. The risks faced by migrants are known to a large extent; incidents take place in particular when crossing the desert, at border crossings, in detention centres in Libya and when crossing the Mediterranean Sea. One of the objectives of the Smuggling of Migrants Protocol, as set out in Article 2, is precisely to protect the rights of migrants and to prevent the worst forms of exploitation that are often linked to migrant smuggling. At the legislative level, States Parties to the Protocol are required, *inter alia*, to establish as aggravating circumstances for the offences of smuggling of migrants any conduct that put at risk or threatens to put at risk the life or safety of the migrants concerned, or leads to inhuman or degrading treatment of those migrants, including for the purpose of exploitation.²⁸⁴

States also have an obligation to take all appropriate measures to protect persons who are smuggled from death, torture or other cruel, inhuman or degrading treatment or punishment;²⁸⁵ to provide migrants with adequate protection against any violence that may be inflicted upon them by the perpetrators of trafficking;²⁸⁶ and to provide appropriate assistance to migrants whose lives or safety are endangered by the fact that they are smuggled.²⁸⁷ The obligation of States to protect migrants also exists under human rights law. Under the right to life, which is specifically referred to in the Smuggling of Migrants Protocol, States, for example, have to provide assistance to migrants in distress, if they are in a position to do so.²⁸⁸

The question of the measures taken to protect migrants arises in the context of the crossing of the desert, one of the deadliest steps on the Central Mediterranean route. One of the measures considered by the Smuggling of Migrants Protocol is the creation of information programmes to raise public awareness on the risks associated with migration and resorting to traffickers.²⁸⁹ However, other types of initiatives are also possible. In a context where the number of people abandoned by traffickers in northern Niger was increasing, in October 2016, IOM launched a new desert search and rescue initiative in collaboration with the Directorate General of Civil Protection. Search and rescue operations are carried out both proactively, through regularly organized trips in the desert, and reactively when the teams on the ground receive an alert.²⁹⁰

²⁸⁴ Protocol against the Smuggling of Migrants, Article 6.3. See also Republic of Niger Loi No. 2015-36, 26 May 2015 relative au trafic illicite de migrants, Article 16.

²⁸⁵ Protocol against the Smuggling of Migrants, Article 16.1.

²⁸⁶ Protocol against the Smuggling of Migrants, Article 16.2.

²⁸⁷ Protocol against the Smuggling of Migrants, Article 16.3.

²⁸⁸ Anne T. Gallagher and Fiona David, *The International Law of Migrant Smuggling*, Cambridge, Cambridge University Press, 2014, p. 566.

²⁸⁹ Protocol against the Smuggling of Migrants, Article 15.1.

²⁹⁰ More than 1,700 people were saved in the desert between 2016 and 2019.

According to the testimonies received, some of the abuses against migrants along the Central Mediterranean route are committed by state agents. Responsibility for these acts lies with the authorities, who must ensure that such acts are not committed, through the training of officers and by ensuring that those responsible are brought to justice. At the border level, this includes ensuring that the authorities respect the principle of non-refoulement. With respect to detention centres in Libya, the Department for Combating Illegal Immigration has issued instructions requiring that detainees be treated humanely, but problems continue. As indicated by several interlocutors met in the framework of this research, the priority in terms of protection should be to close the detention system in place in Libya, which is essentially a form of arbitrary detention as migrants do not have the possibility to appeal.²⁹¹

Another priority should be the systematic registration of persons intercepted or rescued at sea at the time of disembarkation and the implementation of mechanisms to identify and refer those concerned to the appropriate services. Rather than in detention, smuggled migrants should be transferred to a place where they will be safe from serious human rights violations.

Appropriate protection measures could enable smuggled migrants to play an active role in the investigation and prosecution of smuggling cases, particularly where aggravating circumstances exist. Migrants who agree to testify against traffickers represent for investigators the best source of information on this type of practice; however, there do not seem to be any particular measures to ensure the cooperation of migrants and they are either handed over to the IOM, in Mali and Niger, or sent back to detention centres in Libya as mentioned above.

7.10. Addressing the Root Causes of Irregular Migration

Despite the significant means that have been implemented and the resources invested for this purpose, the measures to combat migrant smuggling along the Central Mediterranean route have not resulted in curbing the phenomenon completely. It is widely recognized that migrant smuggling is demand driven - the fact that people want to migrate, in most cases for economic reasons, and cannot do so through regular channels; hence the use of trafficker channels. When attempts are made to tackle only the supply side of migrant smuggling without touching the demand side, or in other words, without addressing the root causes of irregular migration, smugglers will simply adapt their modus operandi. Movements along the Central Mediterranean route have been partly redirected towards the Eastern Mediterranean route, but it is likely that they will return towards Italy as soon as conditions permit.

To be sustainable and effective, a strategy to combat migrant smuggling must also address the causes of the problem and the factors that cause people to leave their homes. The Smuggling of Migrants Protocol thus requires States to promote or strengthen, as appropriate, “development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment”.²⁹² Addressing the root causes of the problems that drive so many people to undertake such a dangerous journey requires strengthening democracy, developing an inclusive economy, creating jobs, and ensuring access to basic services for all, among other things. The challenge is significant, of course, but too few projects in this direction have been put in place compared to the efforts undertaken to try to stop migration.

²⁹¹ Libyan law states that detention for illegal entry into the country should not exceed a period of three months. See Libya, *Law No. (6) of 1987 on organizing the entry, residence, and exit of foreigners in Libya*, Article (20). Arbitrary detention is said to occur if the detention is prolonged without justification and without the persons concerned being given the opportunity to bring their case before a court that actually has the power to end the detention.

²⁹² Protocol against the Smuggling of Migrants, Article 15.3.

In addition, measures to address the root causes of migration should be accompanied by an increase in regular migration channels to Europe. This includes measures to increase labour mobility, facilitate family reunification, expand academic mobility options, or increase the number of resettlement places available for refugees. Without such measures to reduce the demand for the services offered by migrant traffickers, migration flows will continue, but through other routes that are more dangerous for migrants and more expensive, ultimately benefiting the traffickers themselves.

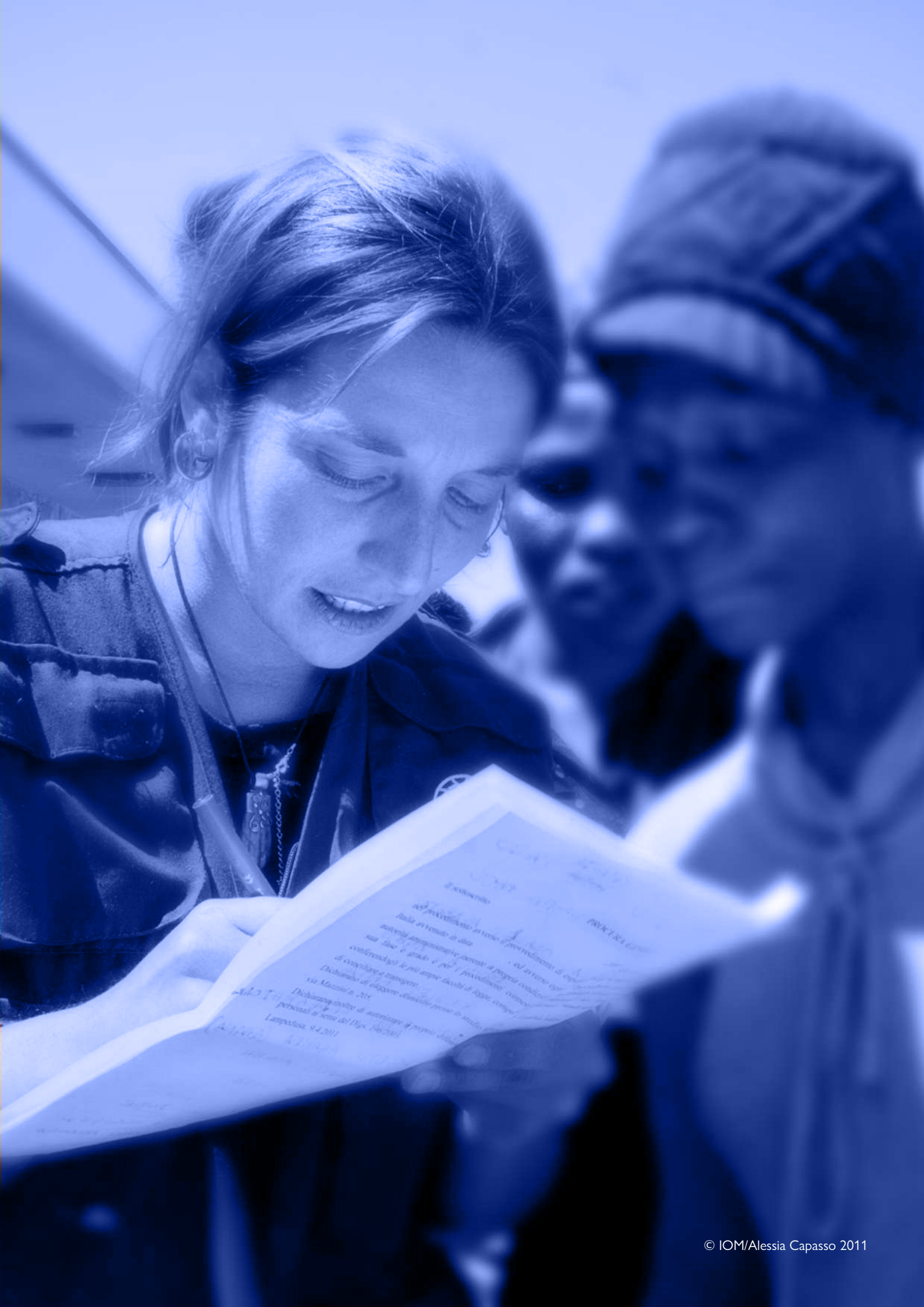
Conclusion

The smuggling of migrants is an extremely complex phenomenon, considered at the international level as a form of transnational organized crime. Not only do States have the right to know who is on their territory and to enact rules on entry, stay and exit from their territory, fully exercising their sovereignty; it is also clear that uncontrolled movements of people pose a risk to the security of States.

Aware of the consequences of inefficient border management, the governments concerned - in Algeria, Libya, Mali and Niger – are committed to combating the smuggling of migrants along the Central Mediterranean route. Measures taken since 2015 have led to a decrease in irregular migration flows from West Africa to Europe, in particular via Libya, but the impact on the networks responsible for smuggling migrants, as this report demonstrates, remains difficult to estimate.

States along the Central Mediterranean route have already gained significant experience in combating the smuggling of migrants, but more could be done in cooperation with all stakeholders, including international and non-governmental organizations. On the basis of an analysis of the situation in the region, several ideas in this direction have been outlined in this report, such as the development, in each country, of legislative and policy frameworks to combat migrant smuggling, which would provide the right balance between criminalizing traffickers and protecting migrants; harmonization of provisions criminalizing migrant smuggling; strengthening measures to detect those most responsible for the smuggling of migrants; and strengthening border controls in a way that facilitates the legitimate movement of persons while maintaining border security; the implementation, at the national level, of inter-institutional coordination frameworks between all authorities concerned with issues related to migrant smuggling; the strengthening of cooperation between countries; the development of the capacity of authorities to combat migrant smuggling and to respond to the needs of smuggled persons; a more systematic effort in terms of collection, analysis and sharing of information related to irregular migration and smuggling of migrants; and the implementation of measures to ensure the protection of smuggled persons.


It is clear, however, that measures to restrict irregular migration, including by combating migrant smuggling, are fuelling the demand for such services that enable migrants to avoid obstacles. This is a dangerous circle from which it is difficult to escape, unless a much more holistic approach is adopted, which would take into account all the dimensions relating to irregular migration and migrant smuggling. This includes, in particular, implementing measures to address the root causes of irregular migration, including increasing regular migration channels. If no investment is made in this direction, it is to be feared that the smuggling of migrants will continue to grow, posing an even greater threat to the security of States.





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