



Counter-Smuggling Work Plan 2019-2025

Liaison Officer Network to Combat
Migrant Smuggling and Trafficking in Persons

Regional Conference on Migration



Conferencia Regional sobre Migración
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Approved in Panama City, Panama,
during the XXIII Vice-Ministerial Meeting
of the Regional Conference on Migration (RCM)
in November of 2018.

See paragraph 9 of the XXIII Vice-Ministerial Declaration.



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Sabana Business Center, 7th Floor, Boulevard Ernesto Rohrmoser,
San Jose, Costa Rica.

Email: crmst@iom.int

Phone: +506 2222-0590

Web site: <http://www.crmsv.org/en>

IOM Regional Office for Central America, North America and the Caribbean

Sabana Business Center, 7th Floor, Boulevard Ernesto Rohrmoser,
San Jose, Costa Rica.

Email: iomsanjose2@iom.int

Phone: +506 2212-5300

Web site: <http://rosanjose.iom.int/site/>

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PROLOGUE

The Member Countries of the Regional Conference on Migration (RCM) have worked together, with the support of IOM, in the preparation of the Counter-Smuggling Work Plan of the Liaison Officer Network to Combat Migrant Smuggling and Trafficking in Persons.

Through agreement 9, paragraph b, of the Vice-Ministerial Declaration of the XXIII Regional Conference on Migration, the Counter-Smuggling Work Plan of the Liaison Officer Network to Combat Migrant Smuggling and Trafficking in Persons of the Regional Conference on Migration was approved.

For 23 years, the RCM has developed important tools to support countries in the implementation of migration management, among which the following stand out recently:

- Regional guidelines for the preliminary identification of profiles and reference mechanisms of migrant populations in vulnerable condition (2013)
- Guiding Principles for the Elaboration of Migratory Policies on Integration, Return and Reintegration of the RCM (2014)
- Regional Guidelines for the Comprehensive Protection of Children and Adolescents in the Context of Migration (2016)
- A Guide to effective practices for RCM Member Countries: Protection for persons moving across borders in the context of disasters (2016)
- Consular staff and their role in protecting the rights of migrant workers (2018)

Particularly, this plan is a useful tool for combating the smuggling of migrants, through the coordinated actions of the Liaison Officers Network to Combat Migrant Smuggling and Trafficking in Persons, as a consolidated working group in the RCM. At the current juncture, where human mobility represents a series of challenges for institutional capacities in the region, the work plan on the smuggling of migrants highlights the importance of

coordinating actions in a responsible manner, both at the regional level and at the regional level.

We thank IOM and other observer agencies, such as UNHCR and UNODC, for their support in training activities in migrant smuggling and for the workshop held in March 2018 in Costa Rica.

This work plan reinforces the mandate of the conference, in line with the theme of the current Presidency Pro-Témpore of Guatemala: “The relaunch of the Regional Conference on Migration as a consultation process against the current migration dynamics”. Facing the effects of smuggling of migrants in the region, the Member Countries of the RCM have a new tool to challenge them.



Luis Alonso Serrano Echeverría
**Coordinador of the Technical Secretariat
Regional Conference on Migration**

INTRODUCTION

The smuggling of migrants is a transnational crime that infringes States sovereignty, and risks the security and welfare of migrants. Since the inception of the Regional Conference on Migration (RCM), the countries in the region have affirmed their commitment to work toward harmonizing legislations to typify migrant smuggling and other related offences as a crime and to combat these crimes.

At present, all countries within the region have ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime and, consequently, they have included the definition of this offence within their legislative framework. Therefore, while it is undisputable that each country in the region has made remarkable progress – for example, in terms of intelligence processes and promoting cooperation through the successful implementation of various regional efforts – common regional objectives and actions to be implemented in the medium-term need to be strengthened and framed within a regional strategy.

In 2016, the International Organization for Migration (IOM) developed and submitted to the RCM a set of Recommendations for Strengthening the Regional Strategy against the Smuggling of Migrants and Trafficking in Persons. Following-up this Recommendations document, in June 2017, the Liaison Officer Network to Combat Migrant Smuggling and Trafficking informed to the Regional Consultation Group on Migration (RCGM) the following:

“2) c) To thank IOM and accept its offer to provide technical accompaniment during the development, by the TS, of a draft the Counter-Smuggling Work Plan of the Liaison Officer Network to Combat Migrant Smuggling and Trafficking. To this end, the IOM will support the organization of a workshop for the development of the Plan”.

For their part, during the XXIII Regional Conference on Migration, held in November 2017 in El Salvador, the Vice-Ministers decided:

“15. To approve the completion of the following activities in 2018: i) Workshop for the development of the Counter-Smuggling Work Plan of the Liaison Officer Network to Combat Migrant Smuggling and Trafficking, supported by IOM.”

Under this framework, the Regional Workshop for the Development of the Counter-Smuggling Work Plan was held on March 13th and 14th, 2018, in San José, Costa Rica¹.

From this Workshop comes from this proposal of a Work Plan on Migrant Smuggling from the Regional Conference on Migration (RCM) Liaison Officer Network to Combat Migrant Smuggling and Trafficking, which will be a key instrument in strengthening States regional cooperation to prevent and combat migrant smuggling and other related offences. This Work Plan is the result of technical exchanges between experts from national institutions, international organizations and civil society organizations, organized in 4 working groups under the following areas of cooperation:

- 1. Investigation**
- 2. Cooperation on Judicial Responses**
- 3. Administrative Detention² and Alternatives; and**
- 4. Migration Solutions, Prevention and Assistance for Migrants Victims of Related Crimes.**

Therefore, it is a good example of a regional collective effort to articulate effective measures to combat and prosecute this offence, to seek migratory comprehensive solutions that addressed the causes of irregular migration, and finally to protect smuggled migrants, victims of related crimes.

The development of this Work Plan is framed under the 2018 Action Plan of the Pro-Tempore Presidency of the Regional Conference on Migration, hold by the Government of Panama: “Sustainable Development Goals: Towards Governance of Migration”. Within this line of action, it is included as a fundamental principle the Goal 10.7: “*Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies*”. From this perspective, there is a clear recognition that an orderly, safe and regular migration is a fundamental right of everyone and under no circumstances this right could be affected by the offence of migrant smuggling. This offence infringes States territorial sovereignty, and equally violates fundamental rights of some smuggled migrants when related with other crimes.

¹ The International Organization for Migration provided technical assistance to hold the event. IOM, UNODC, the Governments of Canada and the United States sponsored the workshop.

² This action refers to the following: custody, shelter, attention or detention, as applicable in each Member Country.

Through the development of this Work Plan, Member Countries are encouraged to implement the proposed actions in order to achieve practical and effective solutions to respond to the challenges posed by the smuggling of migrants, while strengthening the regional framework of migration governance.

The target audience of this Plan includes all government actors, as well as international organizations and civil society organizations, whose mission is directed to prevent and combat migrant smuggling and other related crimes, as well as the protection of smuggled migrants in vulnerable situations or victims of related crimes.

This Work Plan is to be implemented during the period 2019-2025, once ratified by RCM Member Countries. It can be renewed and extended on the basis of the reported outcomes and its impact.

This Work Plan is non-binding and its implementation will be always done with full respect of the RCM Members Countries sovereignty.

The Work Plan responds to a thematic structure that define specific actions by areas of cooperation. Those areas of cooperation refer to:



1. Investigation



2. Cooperation on Judicial Responses



3. Administrative Detention and Alternatives; and



4. Migration Solutions, Prevention and Assistance for Migrants Victims of Related Crimes.

Despite some specific actions have been defined in each of the thematic areas, it should be clarified that in many occasions, actions will require coordination and collaboration from a wide range of different institutions.

DEFINITIONS, APPROACHES AND GUIDING PRINCIPLES

The Work Plan has been developed using different fundamental approaches and definitions presented below:



MIGRANT SMUGGLING

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 resident³.

It is suggested to consider also the obtention of in-kind, sexual favors, jobs, travels among others.



COMPREHENSIVE APPROACH

This term refers to a complete and multidisciplinary approach in the matter. In this way the Work Plan does not only include prevention, investigation, and prosecution of migrant smuggling, but it will also entail actions related to the protection of smuggled migrants, victims of related crimes.



INTERAGENCY APPROACH

This approach refers to the needed coordination mechanisms within countries, between all governmental agencies engaged in preventing and combatting migrant smuggling, from the most political ones to the most operatives. Effective and articulated responses at national level should be coupled with regional actions. This interagency approach comes together with a regional approach, which entails spaces for collaboration and common work between homologous institutions from the different countries, international organizations and civil society organizations, as appropriate.

³ United Nations, *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime*.



HUMAN RIGHTS-BASED APPROACH

The main focus of this approach is to recognize every person as a holder of human rights, which are universal and inalienable; interdependent and indivisible; equal and non-discriminatory. The respect, protection and fulfillment of the human rights of migrants will guide the implementation of all actions proposed in the Work Plan⁴.



GENDER-BASED APPROACH

Under this approach, the social and cultural conditionings related to sex and gender identity are recognized and taken into account. This social and cultural conditioning has generated and perpetuated unequal power relations between men and women and gender-based discrimination and violence against women, which interferes with women's enjoyment of their rights⁵.



VULNERABLE SITUATIONS

Vulnerable situations refer to social, cultural, economic, political and personal situations placing a person at greater risk of suffering human rights violations. For the purposes of this Workplan, the following populations are considered to be particularly vulnerable (this list is not comprehensive):

- Unaccompanied and/or separated boys, girls, and adolescents;
- Boys, girls, and adolescents in other vulnerable situations (victims of sexual violence, pregnant adolescents, subject to exploitation);
- Victims of trafficking in persons;
- Refugees and refugee status applicants;
- Extra-continental migrants and refugees;
- Victims of violence and crimes along the migration route;
- Female victims of sexual or gender-based violence, pregnant women travelling alone, especially adolescents;⁶
- Elderly people above 65 years old;
- Indigenous people, afro descendants and LGBTQTTTI.

⁴ RCM, *Regional Guidelines for the Comprehensive Protection of Boys, Girls and Adolescents in the Context of Migration*, 2016.

⁵ Ibidem.

⁶ RCM, *Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrant Populations in Vulnerable Situations*, 2013.

WORK PLAN

GENERAL OBJECTIVE

The main objective of the Counter-Smuggling Work Plan of the Liaison Officer Network to Combat Migrant Smuggling and Trafficking in Persons from the Regional Conference on Migration is to guide and enhance regional cooperation to prevent and combat migrant smuggling, while protecting rights of smuggled migrants, in particular those victims of related crimes and in vulnerable situations.

AREAS OF COOPERATION, COMMITMENTS AND ACTIONS



AREA 1: Intelligence and Investigation on Migrant Smuggling⁷.



Objective:

To promote mechanisms of information, investigation and intelligence exchange between different countries in the region, while respecting and ensuring democratic governance, related to prevention and effective prosecution of Migrant Smuggling by Land, Sea and Air.



Commitment:

In this regard, we as representatives of our respective institutions and states, commit ourselves to disseminate and collaborate for the effective execution of the following actions.



Actions:

1. To define and establish the elements that ideally contain the agreements for the exchange of information on Migrant Smuggling in order to exploit the capacities of the WHIP system⁸, which is already in place in all RCM countries.
2. To harmonize actions between the institutions in charge of combating Migrant Smuggling by Land, Sea and Air, while enabling the exchange of appropriate information through:
 - a) The design of an interagency coordination and communication protocol at national level.
 - b) The design of an interagency coordination and communication protocol at regional level, according to the capacity and legislation of each country.
3. To use INTERPOL secure police communications network for the effective information exchange and case management.

⁷ It is suggested to include the competent parties in the field of financial intelligence and cybercrime to identify transactions and messages on social networks and the Internet.

⁸ Western Hemisphere Illicit Pathways Initiative.

4. To create a directory with the focal points who have the primary responsibility for information exchange. Each country will commit itself to maintain this Directory of counter smuggling focal point updated and shared by their respective Ministry of Foreign Affairs.
5. To establish a database inventory and make a diagnosis of its status in order to further improve the use and sharing of information, national and regional statistics on Migrant Smuggling.
6. To develop a follow-up workshop to analyse the actions proposed by this group, and to systematize the national inputs in order to make a regional assessment (it will include: a strategic mapping, profiles, modus operandi, smuggling routes) on Migrant Smuggling.
7. To request training and technical assistance for all agencies in charge of detection, investigation and prosecution of Migrant Smuggling⁹.
8. To create spaces within the Regional Conference on Migration that enable the investigation and the exchange of good practices on Migrant Smuggling and related crimes, as well as to strengthen ties of mutual trust between the countries.
9. To carry out a study on the typology and elements of the crime in each country and its impact on the combatting and justice enforcement.
10. To develop workshops in order to harmonize laws on Migrant Smuggling and related crimes in the region.
11. To strengthen joint activities at regional level that led to the dismantling of Migrant Smuggling networks.
12. To establish joint border teams, with full respect for the

⁹ For example, the SOMMEX Training Program “National Program on the Prevention and Combatting of Migrant Smuggling in Mexico (SOMMEX), implemented by the United Nations Office on Drugs and Crime, as well as other initiatives.

sovereignty of the states, in order to maintain a continuous monitoring and to generate strategic inputs.

13. To establish a regional agreement for sharing primary investigation information through focal points in order to extend research investigation activities to the countries of origin, transit and destination of Migrant Smuggling¹⁰.

14. To organize bilateral and/or multilateral regional meetings of Prosecutors for the exchange of good practices, investigations as well as information about the modus operandi used by some organized criminal groups involved in Migrant Smuggling activities.

15. To functionally conduct Migrant Smuggling investigations, in order to enhance pro-active practices that led to the dismantling of organized crime structures, including on economic matters, while using practices according to national law.

¹⁰ The development and implementation of the regional protocol should allow to be filled with information of primary sources.



AREA 2:

Cooperation on Judicial Responses



Objective:

To combat Migrant Smuggling in order to dismantle organized criminal networks.



Commitment:

To intensify the prosecution of Migrant Smuggling by strengthening regional cooperation for the information exchange that led to the dismantling of organized crime.



Actions:

1. To improve national coordination within each relevant Prosecution Institution, by establishing specialized liaison prosecutors who deal with cases involving migrant smuggling activities and inform and report to the specialized Prosecution Attorney Office.
2. To create a regional secure communication platform to share formal and informal information between specialized Prosecutors on Migrant Smuggling that allows to standardize the process of a possible international legal assistance request, which shall be subsequently formalized through the most appropriate mechanisms. The liaisons must be previously authorized by the Ministries of Foreign Affairs, after consultation with these institutions.
3. To promote the harmonization and homologation of criminal offence standards, aggravation circumstances, and the development of specialized laws on Migrant Smuggling.
4. To train and raise awareness of all officers leading prosecution and sanction processes of Migrant Smuggling activities.



AREA 3:

Administrative Detention and Alternatives



Objective:

To develop procedures for centers management (centers for irregular migrants, smuggled migrants, victims of related crimes), as well as to provide alternatives to detention and access to protection and assistance measures for those in vulnerable situations, according to the legislation and context of each country¹¹.



Commitment:

In accordance with applicable national immigration laws, and with the full respect for the States sovereignty, we commit to recognize police custody, arrest, shelter, attention and temporary detention, as applicable. We also recognize the mission of the different officers in charge of migration management process, at both administrative and operative level.



Actions:

1. To analyse the possibility of conducting technical exchanges between counterparts in each country¹².
2. To organize study tours between officers in charge to share and learn about detention, police custody, shelter, housing, arrest and attention practices between the different countries¹³.
3. To exchange on reception processes within the centres, when decision is made on the type of attention the person requires¹⁴.
4. To harmonize the process of reception and treatment of migrants' belongings¹⁵.

¹¹ Migrants under police custody, shelter, housing, attention or temporary detention are under State control, in accordance with immigration laws in force. From now on, the term "centre" as used in this text, refers to the following actions: custody, shelter, attention or detention, as applicable in each State.

¹² Exchange of experiences, procedures, and best practices, with full respect the sovereignty for each country. Due to the lack of resources, and accordingly to the current demand, centres could be insufficient currently.

¹³ Exchanges will be oriented towards learning of best practices (there are good practices in the region about how to face different situations), including the identification of special cases and vulnerabilities (for example: victims of trafficking in persons, health conditions, etc.)

¹⁴ To study scenario such as: "What should I do if the person has a knife?" "Who will do what, how, why?".

¹⁵ For example, migrants' money and goods:(an inventory of all possessions is done, in accordance with Basic Property Rights.

5. To revise identity registry from the admission to the release of the person, as well as to promote the information exchange between national authorities¹⁶.
6. To analyse the possibility of exchanging information on migrants between centres¹⁷.
 - a. Data on the identification, systematization and processing of information related to smugglers, smuggled migrants or those who are victims of related crimes during migratory procedures.
7. To harmonize or review the level of resources allocated to migrant centres¹⁸.
8. To share capacities and experiences about medical and psychosocial assistance measures within the migrant centres¹⁹.
9. To establish standards on interagency cooperation capacities for crisis management, as well as to increase the contingency measures in accordance with escalation plans²⁰.

¹⁶ Process revision: How could we assure that he or she is the same person? This release process could be more difficult in some countries.

¹⁷ Intelligence, Nationality and Gender.

¹⁸ To share the level of investment for centres, while respecting the available budgets.

¹⁹ There are several mental health and psychosocial care policies. Confidentiality of the cases and testimonies of officers in charge should be respected.

²⁰ It is recommended to determine crisis levels and interagency strategies. Consequently, binational communication and budget assignment are key elements to increase capacities in cases of contingency.



AREA 4:

Protection: Prevention, Information, Assistance and Migration Solutions.



Objective:

To guarantee prevention, assistance and protection of smuggled migrants, particularly those who are in vulnerable situations or victims of related crimes, through mechanisms that ensure migratory solutions and comprehensive protection.



Actions:

1. To develop a diagnosis that allows to know the current status of national and international legislation on migrant smuggling.
2. To develop an assessment of the situation in terms of national and international law on migrant smuggling, and protection measures established by countries for smuggled migrants, victims of related crimes, considering – as appropriate- the causes of irregular migration.
3. To collect tools, strategic and operative instruments and standards for the protection and assistance of smuggled migrants, victims of related crimes, at institutional, national, binational and regional levels.
4. To homologate, through a document, good practices, tools, strategic and operative instruments and standards for the protection and assistance of smuggled migrants, victims of related crimes²¹.
5. To hold a high-level meeting between regional stakeholders to create synergies between existing regional fora, for the coordination, compliance and follow-up of international agreements on protection and assistance of smuggled migrants, victims of related crimes.

²¹ It is recommended to further study: a) Smuggled migrants profiles; b) Causes of migrant smuggling during the different phases of the migration cycle; c) Modus operandi of migrant smuggling networks; d) Economy related to Migrant Smuggling; e) Country Assessment on Migrant Smuggling; f) The creation of options for the regularization and the protection of migrants. These measures should go beyond current formal mechanisms.

6. To create a regional communication strategy for the dissemination, training and awareness-raising on regional best practices against Migrant Smuggling, for all institutions in charge of prevention, assistance and prosecution of this crime²².

a. Implementation of a broadcast campaign; train Member Countries officials working in the detection and combat of smuggling or in the protection of victims of related crimes.

7. To develop workshops and a training handbook with a training team that constantly organizes updated trainings on Migrant Smuggling, for institutions (including consulates), covering the following matters: migrant smuggling, regularization, protection and assistance measures for smuggled migrants, victims of related crimes, as well as regional instruments.

8. To exchange experiences of campaigns on migratory regularization processes with a community-based approach.

9. To position Migrant Smuggling as a national and regional issue of interest, to generate specific and comprehensive actions under operative and strategic plans that include budget, human resources and technical contents.

²² National and regional workshops; Secure emails for the exchange of information; A web page to show different agreements, publications, events and activities taken from the national and regional venues; Directory of key contacts.

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