



## POLICY BRIEF

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### Towards a better understanding of human smuggling

Friedrich Heckman  
efms  
friedrich.heckmann@  
uni-bamberg.de

Unique data was collected to gain more insight into trends in smuggling

This brief is meant for policy makers dealing with fighting human smuggling

Human smuggling plays a central role in facilitating illegal migration

**Summary** International migration takes place as both legal and illegal or irregular migration. Illegal migration can be autonomously organized by international migrants, but most often human smuggling plays a central role in facilitating such migration. As a clandestine activity human smuggling does not easily lend itself to scientific inquiry. IMISCOE migration researchers have recently made new efforts to better understand the phenomenon of human smuggling. The present policy brief will report on some key results of this study which was conducted from 2001 onwards by five research institutes in the context of the European Science Foundation's Collaborative Research Project *Human Smuggling and Trafficking in Migrants. Types, Origins and Dynamics in a Comparative and Interdisciplinary Perspective*. Unique data was collected that enabled the researchers to gain more insight into trends in smuggling and smuggling processes. This policy brief will give insight into the results by focusing on the process of human smuggling and will present key factors that influence the combat of human smuggling and the dramatically increasing death toll among smuggled migrants. This brief is meant for policy makers and practitioners that have to deal with fighting human smuggling in their working fields.

**What is human smuggling?** International migration happens in the form of both legal and illegal migration. Illegal or irregular migration can be autonomously organised by international migrants, but most often, human smuggling plays a central role in facilitating irregular migration. As a clandestine activity, it does not easily lend itself to scientific inquiry. IMISCOE migration researchers have recently made new efforts to better understand the phenomenon.

Both in the legal-political and social scientific communities the following **definition of 'human smuggling'** finds wide acceptance:

smuggling of migrants is 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. (UN 2000a)

<b>Trafficking means the exploitation of migrants</b>	This is differentiated from <b>‘trafficking of humans’</b> , defined as: ‘the recruitment, transportation, transfer, harbouring or receipt of persons... for the purpose of exploitation’ (UN 2000b). ‘Trafficking’ means the exploitation of migrants in the receiving country, be it through prostitution or forms of exploitative work.
<b>Data sources to analyse smuggling processes:</b>	<p><b>How can we know about human smuggling?</b> The following data sources may be used to learn about human smuggling: interviews with smuggled people, expert interviews, reports of police investigations and court records. Interviews with smuggled people are difficult, though possible, to obtain. Smuggled people tend to cooperate in <b>interviews</b> under one or more of the following conditions:<sup>i</sup></p> <ul style="list-style-type: none"> <li>○ when anonymity is guaranteed</li> <li>○ when the interviewer is a person who comes from the same community as the smuggled person and, preferably, has also been smuggled though now has safe status</li> <li>○ when irregular migrants expect help or are lonely</li> <li>○ out of frustration with the smugglers</li> <li>○ after having achieved safe status</li> <li>○ for political reasons.</li> </ul>
○ <b>Interviews with smuggled people</b>	
○ <b>Expert interviews</b>	Police, asylum and border authorities, social workers and supporting health services are among the main <b>expert groups</b> who have detailed knowledge on irregular migration and human smuggling. Interviews with police investigators have proven to be very informative, as well as those with lawyers who defend illegal migrants.
○ <b>Court records</b>	<p><b>Court records</b> are the best source of information for reconstructing the smuggling process as a whole. They can be analysed for scientific purposes. The court proceedings ‘share a central cognitive aim with the researchers: to reconstruct the organization of the smuggling ring by focusing on the internal system of relationships and on the strategies used...’ (Pastore, Monzini &amp; Sciortino 2006: 99). In addition to court proceedings, records of the complete investigation process are documented in the court records and provide extremely rich material, often comprising several thousands of pages.<sup>ii</sup></p>
<b>Statistics to estimate societal trends in human smuggling</b>	Whereas the above data sources provide information on the analysis of smuggling processes, <b>societal trends in human smuggling</b> may be estimated on the basis of apprehension and other statistics. Measuring irregular migrations, in general, and human smuggling, in particular, is intrinsically problematic: it concerns (mainly) undocumented and unobservable events. Statements about the quantitative extent of such phenomena tend to draw on statistics of observed events that are usually collected for administrative purposes (e.g. by the police and border guards) and are necessarily incomplete. Existing estimates are based on the extrapolation of data coming from

**Lacking comparability of migration-related data**

other sources such as border apprehension figures, asylum applications and data on regularisations. This leads to another problem: the lacking comparability of migration-related data. States have different methods and ways of counting. Although they cannot give an accurate picture of irregular migration and human smuggling in quantitative terms, they are the only usable indicators for changing trends and developments (Heckmann 2004; Jandl 2007).

**There are three basic forms of illegal migration**

**Human smuggling as a migration phenomenon** Human smuggling is a central element in illegal or irregular migration. Illegal migration arises from the dramatic mismatch between global migration intentions and opportunities for legal immigration. Illegal immigration takes on many different forms that much depend on existing legal regulations, policing, border regimes, reactions of smugglers and migrants towards these conditions, existing transnational networks among migrants and physical characteristics of the border areas. There are, however, three basic forms of illegal migration that will have many subtypes and variations depending upon the aforementioned conditions: 1) illegal crossing of a border, 2) crossing of a border in a seemingly legal way, using falsified documents or documents one is not entitled to and 3) staying after expiration of legal status (i.e. overstaying). Human smuggling is essential both for the illegal crossing of a border and for the seemingly legal way of crossing a border.

**Human smuggling is essential for illegally crossing borders and for seemingly legally crossing borders**

**Dependency between smuggler and smuggled person and the destination of the migration process**

As to the **motives of smuggled persons**, they are generally not different from the motives of other migrants: to improve one's live, to join family members or to escape from persecution (Bilger, Hofmann & Jandl 2006; Van Liempt & Doomernik 2006). There is a dependency between smuggler and smuggled person, but there are different kinds and degrees of autonomy and/or dependency in such relationships. These differences are, among other factors, relevant for the **destination of the migration process**. According to Van Liempt and Doomernik (2006), there are three basic cases that determine the destination. In the first case, migrants choose the destination and the smuggler simply acts as facilitator. In the second case, it is the smuggler who is the decision-maker and the one determining the final destination. The implication is that **migrants get stranded** in countries where they had never planned to go, and find it difficult to return even to their home countries. In the third case, negotiations between smuggler and client determine the destination. Not much is known as of yet about which conditions encourage the different cases to occur.

It is often claimed that smugglers are not only involved in human smuggling, but also in the smuggling of drugs and weapons. No empirical evidence has been found in the European Science Foundation projects to support that assumption.

**Human smuggling as an illegal business activity**

**A complex market: differentiated smuggling services offered by a multitude of providers**

**Human smuggling as a business** Human smuggling can be conceptualised as an illegal business activity, even if there are some cases whereby illegal entry is helped by family and friends.

“Contrary to the portrayal of human smuggling as a distinct form of ‘organised crime’ in most media reports our research indicates that the **market for human smuggling services** is in most cases not dominated by overarching mafia-like criminal structures that have monopolised all smuggling activities from the source to the destination country. Rather, in many regions there exists a complex market for highly differentiated smuggling services offered by a multitude of providers that potential migrants can choose from”. (Bilger, Hofmann & Jandl 2006: 64)

It is, however, **a market with imperfect information**. It puts a high premium on the good reputation of smugglers. But this reputation comes at a risk for the smugglers, since in an illegal activity they have to hide their identity from the police. Thus, there is a need to contact possible clients via middlemen who are themselves only partly informed about the whole smuggling operation. Offering ‘guaranteed smuggling services’ is one way of dealing with the possible customer’s risk assessment, building a reputation and trust is another. Due to the illegal nature of the activity, building a reputation and trust is possible only through word-of-mouth propaganda among the migrants themselves (see *ibid.*).

**The social organising of human smuggling** The public perception of human smuggling conveys the notion that pyramid-like, hierarchical organisations of a mafia type are dominating the smuggling process.

... human trafficking and even smuggling are often visualised as global business involving well-organized, criminal mafia-type formations involving countries of origin, of transit and of destination worldwide... (Icduygu & Toktas 2002: 29)

**Three basic types of organising human smuggling:**

**No research evidence** in any of the European Science Foundation projects was found **to support this notion of a mafia organisation**. Neske (2007) instead found three basic types of the social organising of human smuggling in the analysis of 51 court cases:

- **Type 1: partial smuggling**
- **Type 2: visa smuggling**
- **Type 3: organised stage-to-stage smuggling.**

**1) Partial: smuggling services to overcome obstacle**

**Partial smuggling** is illegal migration that is largely self-organised, though using smuggling services for overcoming an obstacle, like a border. Short-time smuggling services are bought on a local smugglers’

<p>2) Visa: Simple network and different kinds of illegal practices</p>	<p>market, which creates for the migrants a high risk of being cheated. For <b>visa smuggling</b>, the necessary organisation consists of a coordinator in the country of origin—individual person, small group, small network or travel agency— and a similar structure in the country of destination. This is a rather <b>simple network</b>, as opposed to an organisation with fixed positions and rules, levels of organisation and a formal hierarchy. Through different kinds of illegal practices, the smugglers make available invitations for private visits, make up business invitations and, through fraud and deception, get hold of hotel reservations and other documents that will seemingly be used for touristic travel.</p>
<p>2) Organised stage to stage: Complex network</p>	<p><b>Organised stage-to-stage smuggling</b> is a complex network.</p> <p>A chain of stage coordinators organise step-by-step the migration process often by outsourcing certain smuggling actions like guiding across a green border or driving smuggled migrants to local smugglers... the stage coordinators are respectively only responsible for a designated part of the smuggling process, for a certain stage, a certain smuggling method, or a certain transit country. (Neske 2006: 155-156)</p>
<p>Central and local organizers connected through common ethnicity and trust</p>	<p><b>In this type of smuggling</b>, there is organising, but there is no organisation. This type of smuggling forms a network. A network consists of units and their relations. There is a unit of an initiating and organising individual or a small group of individuals who are the ‘entrepreneurial’ part of the network. The other units are locally and internationally spread out local stage organisers who engage certain ‘helpers’ to do the local smuggling job. Central and local organisers are often connected through a common ethnicity which eases communication and the development of trust. Trust is the cohesive force in a network.</p>
<p>Smuggling: a crime being organized in a network</p>	<p>Like Neske, Pastore et al. have studied court cases to <b>analyse forms of smuggling operations</b>. The study of the Italian court cases comes to the same conclusion, albeit using the term ‘organisation’:</p> <p>...smuggling organisations are often little more than loose networks linking largely independent clusters of practical competences. The coordination among such networks is often the result of a nexus of contracts and business promises rather than the result of a structured chain of command. (2006: 114)</p> <p>Chains of command are found in hierarchical organisations.</p> <p>The notion of smuggling as a crime being organised in the form of a network is not in contradiction to the definition of ‘organised criminal group’ as specified in the <b>United Nations Convention against Transnational Organized Crime (UN 2000)</b>, which says:</p>

‘Organised criminal group’ shall mean 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.

### Policies to combat human smuggling

**Fighting against human smuggling** The preceding analyses have some implications for policies against illegal migration and human smuggling, which will now be discussed.

### Migration control versus border crossing

**Human smuggling arises out of the existence of borders**, as well as because border-crossing is possible only under certain defined legal conditions, while the motivation for global migration by far exceeds the given legal possibilities. At the same time, the abilities of states to control immigration are limited and migration policies often fail to achieve their intended objectives (Castles 2004).

### Human smuggling is under constant pressure to adapt to law enforcement

Experts agree that the process of human smuggling is under constant pressure to adapt. The dynamism in the social organisation of human smuggling evolves from the relationship between law enforcement and smugglers networks. The basic pattern is an **interaction process**: the action of one actor provokes a reaction from another, which in turn leads to another action. The **state’s and law enforcement’s actions** and measures generally include an increase in financial means and personnel for border control; an increase in material and technological resources; changes in legislation and administrative rules; and cooperation with other states and training of their personnel.

### An arms race between smugglers and law enforcement

The **smugglers’ response** and arsenal of reactions include changes of routes; increase in technological sophistication; professionalisation and specialisation; increase in juridical sophistication, development of marketing and corruption strategies. The whole process takes on the form of a kind of arms race between smugglers and law enforcement. As the demand for smuggling services and the risks of illegal migration grow, the prices for smuggling increase. This will, on the one hand, make smugglers more wealthy and, on the other hand, curb the demand by some financially weaker groups for illegal migration services.

### Conclusions:

- **International cooperation can be very effective**

**International cooperation** and international police cooperation, in particular, can be very effective in tackling irregular migration and smuggling. It is more effective than the isolated stepping-up of border controls of a state. The changing geography of smuggling routes and migration by sea in the Mediterranean in the last decade is a convincing case for the support of this argument (Pastore, Monzini & Sciortino 2006). What is critical about this strategy is that it involves

the externalisation of costs of illegal migration onto another country. The burden of illegal migration and human smuggling are put on someone else's shoulders. Cooperation under such conditions can be expected only if the 'external' country will be compensated either by money or other means, for example, legal immigration quotas.

**Box: effective cooperation in Switzerland**

*The Swiss study (D'Amato, Gerber and Kamm 2005) confirms the importance of international **police cooperation** in order to combat efficiently human smuggling. Tactical agreements with Germany, Austria and Italy have had an immediate impact on declining illegal entries since the beginning of the 2000s, with a decline in detected illegal entries, indicating the effectiveness of these cooperations. On the other side, where tactical cooperations with foreign police corps were inefficient (as in the case at the French border), illegal entries of smuggled persons are increasing. Although its borders are not strictu sensu Schengen borders, the costs to enter these parts of Switzerland were becoming too high for smugglers and illegal migrants. So far, Switzerland has profited from the enlarged Schengen protection area comprising 'internal' EU borders, even if the insular perspective of some decision-makers would suggest that successes were due to their own efforts alone. In the future, the need for cooperation and approaching Schengen institutions will force the control bodies of the administration to break up their isolation and try to converge their operations in security and human rights issues towards EU standards.*

○ **Policies should be consistent with other factors that shape migration**

Another important conclusion has to be drawn from the findings of the research project: the **need for consistent policies**.<sup>iii</sup> Restrictive immigration laws, the tightening of asylum policies, as well as reinforced border control measures, have not resulted in a significant reduction of illegal migration into the EU. This can be partially explained by the lack of consistency of such policies with other factors that shape migration, such as regularisation campaigns of irregular migrants, the limited efforts to effectively clamp down on those who illegally employ irregular migrants and the lack of legal channels to meet the demand of cheap labour in the EU.

**Improved border control can lead to increased and risky illegal migration and...**

With regard to law enforcement, the findings show that **in response to improved border control measures, the share of irregular migrants who resort to services provided by profit-seeking smugglers has significantly increased**, which in turn has fostered the 'networkisation' and professionalisation of migrant smugglers while driving driven up prices and profits allowing for more sophisticated operations, such as visa smuggling, that completely bypasses border controls. Yet, the same developments have also contributed to establishing a low-cost segment of migrant smuggling where smugglers knowingly offer services that are more risky and often seriously endanger the health and lives of the smuggled migrants. As a result of this, the **death toll** has dramatically increased over the last years. Furthermore, the examples of effective reduction of smuggling from Albania towards Italy and from Morocco towards

...displacement of smuggling routes

Spain well illustrate that **geographically limited cooperation in reinforcing border controls simply lead to a displacement of migratory and smuggling routes.**

- Policies must be **comprehensive, consistent and anticipatory**

Against this backdrop, it becomes clear that **policies that aim to effectively reduce illegal migration** and the smuggling of migrants must be at least regional in scope. They **must be comprehensive, consistent and anticipatory**. That is – from an EU perspective – law enforcement policies have to be embedded in a wider common EU immigration policy that sends an unequivocal message to potential migrants and recognises and addresses the push and pull factors for migration. In addition to focusing on borders, law enforcement policies themselves must also address the demand for illegal labour in the countries of destination and aim at dismantling the networks that profit from people smuggling in the countries of transit and origin. When designing such policies, upholding human rights and protecting the safety and lives of migrants must be pivotal.

**Background of this policy brief**

**Background of this policy brief** This policy brief reports on some key results of a study that was done from 2001 onwards in the context of the European Science Foundation's collaborative research project *Human Smuggling and Trafficking in Migrants. Types, Origins and Dynamics in a Comparative and Interdisciplinary Perspective*. The partners in this collaborative research project are: the european forum for migrations studies (efms) at the University of Bamberg, the Institute for Migration and Ethnic Studies (IMES) at the University of Amsterdam, the International Centre for Migration Policy Development in Vienna, the Swiss Forum for Migration Studies (SFM) Neuchâtel and the Centro Studi di Politica Internazionale (CESPI) in Rome. The individual national projects were funded by their respective national research funding organisations. A concluding workshop was held at efms on 5 and 6 July 2007. The following took part in the workshop and/or provided input: Sebastian Baumeister, United Nations Office on Drugs and Crime (Vienna); Veronika Bilger ICMPD; Gianni D'Amato, SFM; Jeroen Doomernik, IMES; Friedrich Heckmann, efms; Michael Jandl, ICMPD; Mattias Neske, Bundesamt für Migration und Flüchtlinge (Nürnberg); Ferruccio Pastore, CESPI; Ilse van Liempt IMES; Gottfried Zürcher, ICMPD. The researchers continue to cooperate within the IMISCOE Network. Major publications of the project are listed in the references.

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<sup>i</sup> See Bilger, Hofmann and Jandl 2006 as well as Van Liempt and Doornik 2006.

<sup>ii</sup> For a detailed account, see Neske 2007.

<sup>iii</sup> The following analysis is a contribution by Sebastian Baumeister to the discussion at the Bamberg workshop.