Needs assessment study for the development and implementation of legislation and strategies to counter migrant smuggling covering Côte d’Ivoire, the Gambia, Guinea and ECOWAS

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FINAL REPORT

Prepared by:
Vittoria Luda di Cortemiglia, Volker Hauck, Anna Knoll, Akanni Ibukun Akinyemi, Alpha Abdoulaye Diallo, Silvère Konan Yao Georgiana Ward-Booth, Marion Le Boulch

Quality assurance:
Davide Cirillo, Ph. D.
Axelle Devaux

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Glossary

Biometric data: Data relating to the physical, physiological or behavioural characteristics of an individual which allow their unique identification, such as facial images or dactyloscopic data.

Fraudulent travel or identity document: Any travel or identity document that (i) has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a State; or (ii) has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (iii) is being used by a person other than the rightful holder.

Irregular migrant: In the global context, a person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status in a transit or host country. In the EU context, a third-country national present on the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.

Migrant: In the global context, a person who is outside the territory of the State of which they are nationals or citizens and who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate. In the EU/EFTA context, a person who either: (i) establishes their usual residence in the territory of an EU/EFTA Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another EU/EFTA Member State or a third country; or (ii) having previously been usually resident in the territory of the EU/EFTA Member State, ceases to have their usual residence in the EU/EFTA Member State for a period that is, or is expected to be, of at least 12 months.

Refugee: In the global context, either a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned before, is unable or, owing to such fear, unwilling to return to it. In the EU context, either a third-country national who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Art.12 (Exclusion) of Directive 2011/95/EU (Recast Qualification Directive) does not apply.

Return: The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.

Smuggling of migrants (SoM): The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a (UN) Member State of which the person is not a national or a permanent resident.

Trafficking in persons (TIP): The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those 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.

1 The definitions are derived from the European Migration Network (EMN) Glossary, available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en

Needs assessment on the smuggling of migrants covering Côte d’Ivoire, The Gambia, Guinea and the ECOWAS
**ACRONYMS**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AFIC</td>
<td>African Frontex Intelligence Community</td>
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<tr>
<td>AHTU</td>
<td>Anti-Human Trafficking Unit</td>
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<td>AVRR</td>
<td>Assisted Voluntary Return and Reintegration Program</td>
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<td>CAIOAM</td>
<td>Immigrants Reception, Information and Orientation Center</td>
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<td>CAGI</td>
<td>Commission of General and Institutional Affairs</td>
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<td>CeVI</td>
<td>Center of International Volunteers</td>
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<td>CENTIF</td>
<td>National Cell for Managing Financial Information</td>
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<td>CNR</td>
<td>National Coordination for Intelligence Services</td>
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<tr>
<td>CSCI</td>
<td>Convention of the Civil Society of Côte d’Ivoire</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<tr>
<td>CNLTPPA</td>
<td>National Committee to Combat Trafficking in Persons and Similar Practices</td>
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<tr>
<td>DG Home</td>
<td>Directorate General Migration and Home Affairs</td>
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<td>DGAT</td>
<td>General Directorate for Territorial Administration</td>
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<td>DGIE</td>
<td>General Directorate of Ivoirians Abroad</td>
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<td>DNPAF</td>
<td>National Directorate of Air and Border Police</td>
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<td>DST</td>
<td>Directorate of Territorial Surveillance</td>
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<tr>
<td>EBCG</td>
<td>European Boarder and Coast Guard Agency</td>
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<tr>
<td>EC</td>
<td>European Commission</td>
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<td>ECOMIG</td>
<td>ECOWAS Mission in The Gambia</td>
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<tr>
<td>ECOVAS</td>
<td>Economic Community of West African States</td>
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<td>EEAS</td>
<td>European External Action Services</td>
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<td>EU</td>
<td>European Union</td>
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<td>EUTF</td>
<td>European Union Emergency Trust Fund</td>
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<td>EUD</td>
<td>Delegation of the European Union</td>
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<tr>
<td>FOSCAO</td>
<td>Forum des Organisations de la Société Civile d’Afrique de l’Ouest</td>
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<tr>
<td>ICMPD</td>
<td>International Centre for Migration Policy Development</td>
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<td>IGO</td>
<td>Inter-Governmental Organisation</td>
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<td>IMU</td>
<td>Irregular Migration Unit</td>
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<td>IOM</td>
<td>International Organisation for Migrations</td>
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<td>ITC</td>
<td>International Trade Center</td>
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<td>MIDWA</td>
<td>Migration Dialogue for West Africa</td>
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<td>NAATIP</td>
<td>National Agency against Trafficking in Persons</td>
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<td>NBIC</td>
<td>National Biometric Identity Card</td>
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<td>NCB</td>
<td>National Central Bureau</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>OCLCO</td>
<td>Central Office for the Fight against Organised Crime</td>
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<td>ONI</td>
<td>National Identification Office</td>
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<tr>
<td>OPROGEM</td>
<td>Office for the Protection of Women and Minors</td>
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<td>RAC</td>
<td>Risk Analysis Cell</td>
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<td>RG</td>
<td>General Intelligence services</td>
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<tr>
<td>RINLCAO</td>
<td>Network of National Anti-Corruption Institutions in West Africa</td>
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<td>RNPP</td>
<td>National Register of Physical Persons</td>
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<td>SENAHA</td>
<td>Service National d’Action Humanitaire</td>
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<td>SoM</td>
<td>Smuggling of Migrants</td>
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<td>TIP</td>
<td>Trafficking in Persons</td>
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<td>TWG</td>
<td>Thematic Working Groups</td>
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<td>UCT</td>
<td>Unit to fight against transnational organized crime</td>
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<tr>
<td>UN</td>
<td>United Nations Organization</td>
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<tr>
<td>UNCAC</td>
<td>United Nations Convention against Corruption</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<tr>
<td>UNTOC</td>
<td>United Nations Convention Against Transnational Organized Crime</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>USA</td>
<td>United States of America</td>
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<tr>
<td>WACI</td>
<td>West African Coast Initiative</td>
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<td>WAPIS</td>
<td>West African Police Information System project</td>
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CHAPTER 1. INTRODUCTION, BACKGROUND AND METHODOLOGY

1.1. Background of the study: the EU migration policy, the EU Action Plan against Migrant Smuggling and the Africa-EU partnership on migration and mobility

While most migrants use legal channels\(^2\), irregular migration facilitated by smugglers has been on the rise, particularly in the Mediterranean region towards Europe.\(^3\) Since 2014, the European Union has experienced a stark increase in facilitated irregular migration into its territory and, while since 2017 detected irregular crossings into the EU have decreased again, pressures on the external borders of the EU remain important.\(^4\)

Within Africa, the smuggling business has thrived over the past years. Each year it generates estimated profits of more than USD 1 billion.\(^5\) Individuals originating from countries of the ECOWAS region represent a significant share of overall irregular migration into the EU and, for the future, the European Boarder and Coast Guard Agency (EBCG) foresees a likely growth in the proportion of West African migrants crossing the border irregularly.\(^6\)

Migrant smuggling services are offered when individuals seek ways to overcome barriers and when demand for emigration or immigration does not correspond to available opportunities for legal migration.\(^7\) Migrant smugglers do however, not only respond to demand from potential migrants, but also play a large role in amplifying the scale of irregular movement and exposing vulnerable migrants to exploitation and life-threatening situations.\(^8\)

From the perspective of migrants and refugees, smugglers may be their only hope to escape conflict and hardships. Yet, particularly in the Sahel and in Northern Africa, migrant smuggling networks exploiting migrants in vulnerable situations, violate their human rights as well as endanger life. The increasing involvement of organised crime networks and the high number of related crimes necessary to facilitate smuggling\(^9\) exacerbates the vulnerability of smuggled migrants.

Preventing and addressing the smuggling of migrants and its links to other forms of organised crime has thus become one of the priorities of the EU, as set out in the 2015 EU Agenda on Migration.\(^10\) As part of the implementation of this Agenda, the EU adopted in May 2015 an EU Action Plan against migrant smuggling.\(^11\) The EU Action Plan as well as the Malta Declaration by EU Member States of 2017\(^12\) explicitly state their aim to counter the

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\(^2\) European Commission Joint Research Centre (2018): “Many more to come? Migration from and within Africa”.
\(^3\) OECD (2015). “Can we put an End to Human Smuggling?” Migration Policy Debates 09.
\(^9\) Smuggling of migrants (SoM) is a for profit market, in which smugglers operate either on their own, within small networks across a couple of countries or as part of a large and complex multinational network. In many cases smugglers cannot function without the complicity of public officials in countries of origin and transit but also at destination.
\(^11\) See EU Commission (2015b). “Action Plan against Migrant Smuggling (2015 - 2020)”. 27 May. In addition to strengthening cooperation with third countries, the priorities of the Plan are: enhancing police and judicial response, including by stepping up financial investigations, improving gathering and sharing of information and enhancing prevention of smuggling and assistance for vulnerable migrants.
\(^12\) European Council (2017). “Malta Declaration”.

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business model of migrant smugglers. Closer cooperation with third countries is a key priority towards this objective. This includes enhanced EU technical and financial support for partner countries’ capacities to address migrant smuggling and related crimes in compliance with the UN Protocol against the Smuggling of Migrants by Land, Sea and Air.\textsuperscript{13}

In order to support enhanced commitments from African countries towards preventing and addressing smuggling of migrants, the topic has been discussed and reiterated in the 2014 ACP-EU dialogue on migration and development, the EU-Africa Partnership on Migration and Mobility, in the 2015 Valletta Summit, as well as in the regional Rabat and the Khartoum processes, leading to the adoption of policy commitments by participating states.

Through these regional fora as well as in bilateral cooperation frameworks, the EU and its member states aim to focus on practical measures and on supporting the implementation of relevant legislation and strategies in partner countries. The Action Plan against smuggling notes that substantial funding will be made available to 'help strengthen third countries’ police and criminal justice responses to smuggling'\textsuperscript{14} both at national and regional levels; to work towards prevention; as well as to improve data collection and sharing on migrant smuggling.

The African Union has recently adopted a revised Migration Policy framework for Africa and a Plan of Action (2018-2027), which in relation to migrant smuggling recommends AU member states to i) strengthen legal frameworks following the UN Protocol against the Smuggling of Migrants, and develop further policies, ii) enhance the investigation and prosecution of migrant smugglers, iii) protect the rights of smuggled migrants, iv) prevent migrant smuggling, and v) engage in transnational cooperation to fight migrant smuggling.\textsuperscript{15}

Effective targeting of EU support to third countries requires an assessment of the current gaps and weaknesses in the existing legal and policy frameworks, as well as assessing what specific support could be beneficial for developing and implementing counter-migrant smuggling legislation and strategies. Given the salience of the West African region and the gap in knowledge in Europe about the smuggling practices and the systems in place to counter them, this report sets out to provide insights into the cases of Côte d’Ivoire, Guinea, The Gambia and the ECOWAS Commission.

1.2. Migration trends, irregular migration, and smuggling of migrants in the ECOWAS region and in Côte d’Ivoire, The Gambia and Guinea

Western Africa comprises 16 countries,\textsuperscript{16} which in 2018 have a population of over 375 million and a population growth rate of 2.6 per cent.\textsuperscript{17} After years of economic growth, rise in GDP stalled in 2016 and picked up again to a 2.5 per cent GDP growth rate in 2017.\textsuperscript{18} The region displays a strong urbanisation trend.\textsuperscript{19} Moreover, during the past decade, political volatility, conflict dynamics and the Ebola crisis in some countries have led to various displacement crises.

\textsuperscript{13} The full text is available online at: https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf.
\textsuperscript{16} Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo, Mauritania. With the exception of Mauritania, they are all part of the Economic Community of Western African States (ECOWAS).
\textsuperscript{17} http://worldpopulationreview.com/continents/western-africa-population/
\textsuperscript{19} Regional Mixed Migration Secretariat West Africa (2017). "Mixed Migration in West Africa - Data, Routes and Vulnerabilities of People on the move".
Migration within West Africa is a long-standing tradition and is greatly facilitated by the existence of ECOWAS free-movement protocols and the porosity of the borders.\textsuperscript{20} Migration from West African countries is largely directed to neighbouring countries for temporary or long-term work. The free movement protocol allows citizens from ECOWAS states to enter and reside in the territory of any member state in the ECOWAS region as long as they are in possession of a valid travel document and international health certificates.\textsuperscript{21} Movement outside the region is dominated by irregular migration as well as family reunification towards North Africa and the European Union.\textsuperscript{22} Often, a blend of different type of people (migrants to the "North", refugees, short-term labour migrants, etc.) move along the same few established routes.\textsuperscript{23}

Irregular migration towards Europe from Africa mainly occurs through the Western African, Western Mediterranean and Central Mediterranean routes. According to EBCG, in 2017 these three routes composed over 50 per cent of the nearly 205,000 total illegal border crossings detected at the EU’s external borders. Libya remains the most important transit and destination country for migrants coming from Africa. While irregular migrant numbers remain volatile, there was a decrease of around 30 per cent in the number of West Africans entering the EU irregularly from 2016 to 2017 through the Central Mediterranean route.\textsuperscript{24} Irregular arrivals detected through the Western Mediterranean route on the other hand more than doubled in the same period. In terms of nationalities, Nigeria, Côte d’Ivoire and Guinea were the three main African nationalities of origin of irregular crossings to Europe in 2017.\textsuperscript{25} Individuals from The Gambia also featured high among the irregular arrivals.

Migrant smuggling services are sought out, firstly, because restrictive regimes of trans-border mobility between West Africa and North Africa have increased barriers for mobility overall. Secondly, the Sahel region is characterised by a paucity of infrastructure (road networks, communication networks), a semi-arid environment and the presence of criminal groups, which require facilitators to help navigate these challenges.\textsuperscript{26}

Most West Africans who utilise smugglers to reach their destinations outside the ECOWAS region “start their journeys under the provisions for free movement and violate immigration regulations only upon leaving the ECOWAS area”\textsuperscript{27} Many West African migrants arrange their travels to smuggling hubs in Niger or Mali on their own, and only then call on the support of smugglers.\textsuperscript{28} Smuggling services thus flourish around border points to Libya,

\begin{itemize}
\item \textsuperscript{21}Supplementary ECOWAS protocols commit member states to provide valid travel documents to citizens and grant ECOWAS citizens the right of residence for seeking income-generating activities.
\item \textsuperscript{22}Regional Mixed Migration Secretariat West Africa (2017), cit.
\item \textsuperscript{23}Ibidem.
\item \textsuperscript{24}Frontex (2018), cit.
\item \textsuperscript{25}Ibidem.
\item \textsuperscript{26}Regional Mixed Migration Secretariat West Africa (2017), cit.
\item \textsuperscript{27}IOM (2018). “Trafficking in Human Beings and Smuggling of Migrants in ACP Countries: Key Challenges and Ways Forward – Informing discussions of the ACP-EU Dialogue on Migration and Development”. Brussels: IOM.
\item \textsuperscript{28}UNODC (2018), cit., p.38.
\end{itemize}
Algeria, Tunisia and Morocco\textsuperscript{29} as people need assistance to navigate border enforcement regimes. Some may not have the proper knowledge to navigate the travel routes and rely on ‘agency men’\textsuperscript{30} – as is the case in The Gambia. Most irregular migrants using smuggling services travel overland across the Sahel desert. Smuggling via air travel through the use of false documentation takes place to a lesser extent.\textsuperscript{31}

Political instability and the security risks, which are – together with the search for better economic opportunities – at the source of demand for smuggling services, both facilitate criminal operations and increase the vulnerability of migrants.\textsuperscript{32} Once they resort to organised smuggling networks and paying for services, migrants are at risk of losing the control over their journeys. Especially in Libya, the distinction between human trafficking and migrant smuggling cases has thus become increasingly difficult.\textsuperscript{33} West African countries represent the main source for human trafficking towards the EU. Channels for human trafficking at times blur with those of irregular migrants, who are exploited by their smugglers at different stages of the journey. Yet, in many cases, trafficking takes place separately and is organised by human trafficking rings.

In Guinea, Côte d’Ivoire and The Gambia, typically loose networks of smugglers are interconnected across transit points along migratory routes to facilitate the migrants’ journey. Scarce anecdotal information is available on the actual dynamics of such facilitated movement and on how the protagonists involved operate. Systematic corruption at most levels (from petty corruption at the border, to the immigration official at the airport, via obtaining false birth certificates or passports) is known to be one of the enablers of this trafficking.\textsuperscript{34}

In The Gambia, ‘agency men’, who work individually or in small groups, seem to be well connected both within the country as well as along the route to the North and can pass on contacts. Members of these networks may be responsible for different tasks such as drivers, recruiters, organisers, forgers of documents, providers of lodging etc. – at times operating in the grey zones of legality. No strong evidence has been found in the target countries of this study on the existence or development of larger organised and centralised transnational criminal networks organising the smuggling of migrants.

While in Guinea migrants often hire taxis to reach bigger hubs in Senegal or Mali, or cross the border on motorbikes, migrants from Côte d’Ivoire make use of the interstate transport coaches or board big trucks transporting goods and mostly leave in convoys. Similarly, in The Gambia transnational bus services are being used.

Social networks play an important role in all countries, both for recruiting potential irregular migrants as well as in identifying and contacting smugglers along the route. Many migrants seem to opt for organising their journey in shorter legs and move onward once they have available financial resources. This may also make them more vulnerable to trafficking and extortion, especially if they run out of money to pay for the journey.

Smuggling costs differ and depend on the final destination and mode of transport. However, UNODC reports that a West African migrant will typically pay around USD 2,000-3,000 to reach the North African coasts from West Africa.\textsuperscript{35}

\textsuperscript{29} Regional Mixed Migration Secretariat West Africa (2017), cit.
\textsuperscript{30} See Box 2, page 41.
\textsuperscript{31} UNODC (2018), cit.
\textsuperscript{33} ibidem.
\textsuperscript{34} UNODC (2018), cit., p. 51.
\textsuperscript{35} UNODC (2018), cit., p. 57.
Given the importance of West African countries in addressing migrant smuggling through legal instruments, policy strategies and their enforcement, the EU aims to support cooperating partner countries. This study aims to examine the current legal, policy and institutional framework with regards to addressing migrant smuggling in three West African countries (Côte d’Ivoire, The Gambia and Guinea), as well as at ECOWAS level.

1.3. Scope and methodology of the gaps and needs assessment

As requested by the Tender Specifications, this report builds on research designed to collect and analyse data on the existing resources and practices addressing smuggling of migrants at the legal, institutional and operational levels in Côte d’Ivoire, Guinea, The Gambia and, at the regional level, ECOWAS. The set of preliminary research questions used for this purpose is outlined in the following box.

- What is the dimension of migrant smuggling at national level? Which are the main routes, participants and dynamics and how is it organised in each target country and in the ECOWAS region?
- What resources, means and practices do the national and regional institutional, legal and policy frameworks currently envisage and implement for the prevention and fight against migrant smuggling?
- What are the deficiencies and gaps in such frameworks and what are they ascribable to? Are there any specific assets and capabilities valuable to overcome deficiencies and foster the effectiveness of existing anti-smuggling frameworks?
- Which are the operational gaps and needs to be addressed at national and regional level and how could this be done?
- What informal practices beyond formal legal and institutional frameworks exist with regards to migrant smuggling?
- What type of stakeholders and interests need to be taken into account when designing and implementing support activities against SoM and irregular migration?

The assessment relied on five types of qualitative research methods for the collection of both secondary and primary data. An extensive review of existing data and literature, which covered more than one hundred and fifty sources (see bibliographic references in Annex 1), underpinned the fieldwork to support the refining of the primary data collection tools and the analysis of the findings.

As regards the field level, over one hundred semi-structured face-to-face interviews were held with key local stakeholders involved in the prevention of and fight against migrant smuggling, ranging from representatives of national authorities and services, and civil society, to key experts from national and international organisations. Thirty-seven individuals were interviewed in Conakry (Guinea), forty-five in Abidjan (Côte d’Ivoire), thirty-five in Banjul (The Gambia), and twenty-two more in Abuja (Nigeria) to cover the regional perspective of the ECOWAS Commission.

The semi-structured questionnaires used to conduct the interviews were designed on the basis of the identified research questions, refined according to the findings that emerged from the literature review and modelled to the profile and expertise of each stakeholder interviewed. A first round of pilot interviews was also held with senior authorities, institutional stakeholders and other key informants at the strategic level to refine this data collection tool.

Seven in-depth face-to-face scoping interviews were also conducted with key informants from the European Commission (EC) and at the European External Action Services (EEAS) dealing with the EU external dimension of migration policies in order to collect information on
flows and data of West African irregular migrants reaching Europe, policy developments on
the subject matter, and ongoing and planned support initiatives and technical assistance
programmes.

Furthermore, to support the triangulation of information and data, three national focus group
discussions were carried out at country level in June 2018. These facilitated discussions
provided the opportunity to integrate and validate existing research findings and further
investigate the operational capacities and the general capabilities of the players on the
ground to prevent and fight migrants smuggling, with small groups of 9 to 15 key local
stakeholders having direct experience at operational level.

Finally, shortly after the focus group discussions, four senior-level consultative seminars
were organised and chaired by the EU Delegation in each of the countries and in Nigeria for
the ECOWAS Commission (in Abuja on 1 June; in Abidjan and Banjul on 7 June; and in
Conakry on 20 June). During these seminars, the preliminary outcomes of the gaps and
needs assessment were presented to a total of one hundred and two people (19 in Abuja for
the ECOWAS; 30 in Abidjan; 28 in Banjul; and 25 in Conakry). The analysis was, therefore,
进一步 validated and integrated with the insights of senior representatives from
national/regional institutions, experts from international organisations, NGOs, representatives
from Member State Embassies and other international cooperation agencies. The complete
list of relevant institutions and entities involved in the study is included in Annex 4.

On the basis of the main research questions presented above, the research team developed
five major conceptual research categories, which drove the further drafting of an in-depth set
of questions, and served as a framework to organise the analysis of the findings as well as
the information presented in each chapter of this report:36

1. Policy, legal and administrative frameworks for the detection, investigation and
   prosecution of migrant smuggling and related offences;
2. Institutional and Enforcement Mechanisms and Operational Capabilities, Capacities
   and Tools;
3. Prevention measures to support legal migration, protection of vulnerable groups, and
   return policy procedures;
4. Cooperation mechanisms and intelligence-sharing initiatives;
5. Existing capacity-building and technical assistance projects and initiatives.

The analysis of findings relating to the legal and institutional frameworks was conducted
against a theoretical backdrop of internationally recognised assessment tools such as the
UNODC “Assessment Guide to the Criminal Justice Response to the Smuggling of
Migrants”;37 the “International Framework for Action To Implement the Smuggling of Migrants
Protocol”,38 and the “Toolkit to Combat Smuggling of Migrants”.39

Moreover, a number of other tools, such as the “Basic training manual on investigating and
prosecuting the smuggling of migrants”, and “In-depth training manual on investigating and
prosecuting the smuggling of migrants” were consulted to assess the operational capacities
of players in the criminal justice sector.40

36 These were identified on the basis of the main issues related to migrant smuggling and conceptualised in light
of the content of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2003) and the EU
40 UNODC (2011). “In-depth training manual on investigating and prosecuting the smuggling of migrants”.

Needs assessment on the smuggling of migrants covering Côte d’Ivoire, The Gambia, Guinea and the ECOWAS
CHAPTER 2. PREVENTING AND FIGHTING MIGRANT SMUGGLING IN THE ECOWAS REGION

General context

This chapter presents the analysis of the findings collected during the research on relations between the Economic Community of West African States (ECOWAS) and its Member States (MS) regarding irregular migration and the Smuggling of Migrants (SoM).41

The ECOWAS Commission, as a sub-regional organisation, consists of: the Authority of Heads of State and Government; the Council of Ministers; the Community Court of Justice; the Executive Secretariat; the ECOWAS Parliament; and the Specialised Commissions. The ECOWAS Commission has no enforcement powers over its member states – enforcement only takes place once Member States decide to move forward on a decision taken at regional level. Therefore, the Commission’s tasks are mainly in the field of coordination, facilitation, assisting with harmonisation, advocacy and communication, and suggesting topics for political meetings, even in relation to irregular migration and SoM.

Box 1 – ECOWAS in a nutshell

ECOWAS is the oldest of the eight Regional Economic Communities (RECs) recognised by the African Union (AU). Over four decades it has developed multiple institutions, organs, systems and policies to foster regional integration. ECOWAS is a multi-purpose regional organisation with an ever-expanding agenda. Treaty revisions and the transformation from an ECOWAS Secretariat into a Commission, ostensibly with more authority, were introduced with the aim of closing the gap between the expanding agenda and implementation. – ECOWAS is the only REC in Africa so far with a well-functioning Community levy that assures a flow of own revenues to finance ECOWAS operational costs and programmes. Nevertheless, the regional organisation remains dependent on donors, and implementation of programmes and policies varies substantially. More recently, ECOWAS has come under pressures to streamline its organisation and to lay off staff due to budgetary constraints. – The ECOWAS region includes fifteen very different countries. Several are characterised as fragile states and are at risk from violent conflicts or upheavals. The geographical size, nature of the economies and economic endowments differ substantially from landlocked least developed countries such as Mali, Niger and Burkina Faso to Africa’s biggest economy and most populous nation, Nigeria. – The effectiveness and decisiveness of ECOWAS policy implementation varies by sector. Peace and security has the strongest track record while in other sectors there is demonstrably less political traction at member state level to engage in regional cooperation and implementation on the ground. Source: Jan van Heukelom. (2017). “ECOWAS: Political traction with Africa’s oldest regional organisation. Policy Brief”. ECDPM, Maastricht.

Furthermore, the ECOWAS Free Movement Protocol (1979) allows citizens from ECOWAS MS to enter and reside in the territory of any MS in the ECOWAS region as long as their papers are valid.42 Supplementary ECOWAS protocols commit MS to provide valid travel documents to citizens and grant them the right of residence for seeking income-generating activities. The ECOWAS Free Movement Protocol was planned to be implemented in three phases. The first phase, which granted the right to freely enter the territory of any ECOWAS

41 Due to the specificities of ECOWAS, the structure of the chapter reports minor differences compared to the other three detailing the national findings.
42 This means they must be in possession of valid travel documents as well as an international health certificate. It is possible for member states to refuse admission to people who are inadmissible under the ECOWAS member states’ own domestic law.
MS, has been implemented. The second phase, which advanced the right to stay in the territory of any ECOWAS MS, has also been implemented with the provision of a residence permit. The third phase, which includes the right to settle in another ECOWAS MS and seek income-generating activities, has not yet been fully implemented.43

Being the first African region with a free movement initiative, the implementation of the Protocol has its inherent challenges. For example, domestic laws in some ECOWAS MS still contravene the Protocol. Moreover, the porous and poorly managed border control of the area, coupled with difficulties related to the issuing of valid ECOWAS biometric ID cards and general institutional weaknesses, restricts a sound implementation of the Protocol. As a result, due to the limited access to ECOWAS travel documents, their costs, and the informal ‘taxes’ applied by border control officials at numerous border crossing points, migrants are often likely to cross borders irregularly simply by avoiding official border crossing points.44

As mentioned in the previous chapter, the ECOWAS region is a major source of irregular migration to the European Union. According to EBCG, in 2017 almost 143,000 migrants irregularly crossed borders via the Western Mediterranean Route and the Central Mediterranean Route to Europe, see map below.45 Libya remains the most important transit and destination country for migrants coming from the ECOWAS region.

44 UNODC (2018), cit., p. 83.
45 Frontex (2018), cit.
across the ECOWAS region. In 2013, the EU launched the FMM West Africa Project – a EUR 26 million project in support of the implementation of the ECOWAS Free Movement Protocol addressing a wide range of cross-cutting measures aimed at reducing irregular migration practices. The project devotes little attention to SoM as further explained later in the chapter. Nonetheless, it is worth noting that face-to-face interviews and consultative meetings during the research demonstrated that stakeholders from ECOWAS, as well as partnering organisations and the EU, are referring to this project as the main reference and point of departure to discuss how SoM could be addressed in the ECOWAS regional context.

2.1. Policy, legal, and administrative frameworks for the detection, investigation and prosecution of migrant smuggling and related offences

2.1.1. Legal, administrative and institutional frameworks in ECOWAS Member States

The UN SoM Protocol, while signed and/or ratified by the majority of ECOWAS countries in the early 2000s, does not seem to be fully implemented legally and institutionally in most countries. Out of fifteen ECOWAS countries, eleven signed and ratified the UN SoM Protocol in the early 2000s. These eleven countries are: Benin (signed in 2002, ratified in 2004); Burkina Faso (signed in 2000, ratified in 2002); Cabo Verde (signed in 2000, ratified in 2004); Guinea (accessed in 2005); Liberia (accessed in 2004); Mali (signed in 2000, ratified in 2002); Nigeria (signed in 2000, ratified in 2001); Senegal (signed in 2000, ratified in 2003); The Gambia (signed in 2000, ratified in 2003); Sierra Leone (signed in 2001, but ratified in 2014) and Togo (signed in 2000, but ratified in 2010). Niger and Ghana acceded to the Protocol in 2009 and 2012 respectively, while Côte d'Ivoire acceded in 2017. All MS have ratified the Protocol with the exception of Guinea Bissau which signed it in 2000, but has yet to ratify it.\(^\text{46}\)

In general, progress made in changing the legislation to prosecute SoM is reported to be minimal. Sierra Leone’s 2005 Anti-Human Trafficking Act is under a review process to include provisions on migrant smuggling. In Burkina Faso, the 2008 Law on the Fight Against TiP also covers migrant smuggling. In Guinea, the Criminal Code revised in December 2016 covers trafficking, smuggling and related crimes. In Guinea Bissau, a proposed law on migrant smuggling is awaiting approval by the National Assembly. Niger became the first ECOWAS MS to pass a dedicated law on migrant smuggling (Law no. 2015-36 of 26 May 2015).\(^\text{47}\) Nigeria has also overhauled its constitution to criminalise SoM. The table below provides an overview of the implementation status of the protocol in ten ECOWAS MS.

\[^{46}\text{For the status of signatures and ratification of the Protocol refer to:}\]
\[^{47}\text{ECOWAS (2017). “ECOWAS Annual Synthesis Report on Trafficking in Persons in West Africa” (Reference Year 2015; Version April).}\]
Table 1: How countries in the ECOWAS region address SoM

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*n/a: information not available

Based on a short survey of the FMM West Africa Project (Abuja) among its country offices in the region (June 2018). More information is available in Annex 2.

**Only three ECOWAS MS have created institutional mechanisms to deal with SoM.** The table shows that most countries in the ECOWAS region have not established SoM Focal Points or SoM Units. The exception is Niger, which, in 2015, combined its TiP unit with SoM-related work. In Ghana, an Anti-Human Trafficking Unit (AHTU) was established under the Ghana Immigration Service. In Nigeria, such a unit was established under the Nigeria Immigration Service.

**Contrary to the issue of SoM, ECOWAS MS paid considerable attention to the implementation of the UN Trafficking in Persons Protocol (TiP), formulated in parallel to the UN SoM Protocol.** As of 2015, the creation of legal, policy and institutional frameworks in all MS was facilitated by the ECOWAS Commission. According to ECOWAS sources, units and national focal points against TiP were established in all 15 ECOWAS MS. This enabled sound investigation and prosecution of TiP, the collection of trafficking data, and the implementation of anti-trafficking activities such as training and prevention initiatives.⁴⁸

**2.1.2. Policy framework**

**Existing ECOWAS policy documents do not focus on SoM, but a new migration policy is currently in the making.** In 2008, ECOWAS Member States ratified the “ECOWAS Common Approach on Migration”, a non-binding document that also focuses on the prevention of and fight against irregular migration. According to interviews with officials from the ECOWAS Commission, a new policy is now formulated and ECOWAS will approve this new migration policy later this year. From the information received, the new migration policy, contrary to the explicit reference made to TiP in the 2008 document, does not contain specific references to SoM nor does it present a distinction between TiP and SoM.

**Although an ECOWAS-wide policy to address SoM does not exist, the issue is being discussed at the political level.** There are several other policies and frameworks indirectly related to the UN Protocol against the Smuggling of Migrants. Examples include the ECOWAS Conflict Prevention Framework (2008), which pursues the objective of fighting cross-border crime, and the ECOWAS Draft Counter-Terrorism Strategy and Implementation Plan, which addresses TiP. Meanwhile, due to the aggravating situation of ECOWAS citizens

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in Libya, the issue has become an increasing concern to some ECOWAS MS.\textsuperscript{49} According to several interviewees questioned for this study, there is no definite position or declaration on SoM at ECOWAS high level meetings, but the issue of SoM was discussed at the last MIDWA meeting in September 2017.\textsuperscript{50}

### 2.2. Institutional and enforcement mechanisms and operational capabilities, capacities and tools

#### 2.2.1. Institutional and enforcement mechanisms

**ECOWAS has no enforcement mechanisms, but it has institutional structures in place that allows it to address irregular migration and to promote the prevention of and fight against SoM.** ECOWAS has no enforcement mechanisms vis-à-vis its member states, nor does it have any operational capability, capacity or particular tool in place that could be used to implement a policy on SoM. Nevertheless, there are institutional structures at its headquarters in Abuja, in its member states, and at the level of the African Union (AU) that allow the ECOWAS Commission to connect politically and institutionally with decision makers and other relevant stakeholders at different levels on irregular migration matters.

A focal point on SoM was appointed at ECOWAS following the Rabat Process, however, a specific SoM unit is absent at regional level. Other bodies are, however, dealing with issues related to irregular migration. At ECOWAS headquarters, under the Directorate of Free Movement and Tourism, according to interviews conducted with ECOWAS officials, there is a Free Movement and Migration Division that currently promotes the adoption of the new ECOWAS Migration Policy, as well as a Cross-Border and Cooperation Division. A TiP Unit was established under the Humanitarian and Social Affairs Directorate. Furthermore, at the MS level, contrary to TiP, ECOWAS reported no available information on the existence of SoM focal points or SoM units with the exception of Ghana, Nigeria and Niger.

**The Migration Dialogue for West Africa (MIDWA) is an important dialogue forum on migration in West Africa but its potential is not used.** MIDWA was created in 2001 as a platform to encourage ECOWAS MS to discuss in a regional context common migration matters with cross national border implications for which solutions at the national level might not be forthcoming. It has a formal association with ECOWAS. It is chaired on rotation by one of the ECOWAS MS. The MIDWA Steering Committee comprises representatives of nine ECOWAS MS and four Observers (European Union, the International Organization for Migration, the Swiss Government and ECOWAS). A Regional Secretariat was created within the ECOWAS Commission in January 2017 and is chaired by the ECOWAS Free Movement Directorate. IOM is the main provider of technical support.\textsuperscript{51} The MIDWA Steering Committee has met annually since 2014. In September 2017, the Committee discussed “SoM, TiP and contemporary forms of slavery”.\textsuperscript{52} However, no information is available on the extent of actions undertaken after this meeting.

MIDWA has seven Thematic Working Groups (TWG), each chaired by an ECOWAS MS. The TWGs are on (i) border management and cross-border crime; (ii) diaspora, West African communities and/or nationals; (iii) professional mobility and student exchange; (iv) climate

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\textsuperscript{49} The discussion gained momentum after the publication of a video on CNN about migrants being sold on slave markets in Libya. This was also confirmed during the Consultative Meeting held in the context of this study on 1 June 2018.


\textsuperscript{51} For more details see Migration Dialogue for West Africa (MIDWA), IOM, viewed 23 July 2018, https://www.iom.int/migration-dialogue-west-africa-midwa-0

\textsuperscript{52} The Steering Committee Final Report with recommendations on the topic has not yet been published.
change, land degradation, desertification, environment and migration; (v) migration statistics and data; (vi) return, readmission and reintegration; and (vii) cooperation and partnership.\textsuperscript{53} There is no TWG that specifically deals with SoM. Furthermore, not all seven TWGs are fully operational according to interviews conducted with stakeholders. Nonetheless, these TWGs are to be considered particularly relevant to translate and promote directives agreed upon at political and technical levels in ECOWAS MS. Several stakeholders involved in the research said that MIDWA is not used to its full potential to promote change in ECOWAS MS on migration matters.\textsuperscript{54}

2.2.2. Operational capabilities and capacities and tools

So far, ECOWAS has not included SoM in its work plan and priority actions. No information could be found with reference to actions taken by the ECOWAS Commission vis-à-vis ECOWAS MS to promote the prevention of and fight against SoM. Action plans or guidance documents on how to address this issue do not exist, although stakeholders have recognised their importance.\textsuperscript{55} Nevertheless, from interviews and the consultative workshop for this study, there appears to be a good understanding of TiP and SoM at the ECOWAS Commission’s headquarters. Yet, political initiatives to address SoM at ECOWAS level have been weak overall.

UNODC also states that for SoM specifically “... there are no action plans or regional instruments ... However, the regional instruments on police cooperation and criminal matters remain relevant in combating smuggling of migrants.”\textsuperscript{56} The FMM West Africa project (mentioned above and further discussed below), which also works in support of the ECOWAS Cross-Border and Cooperation Division, has so far not given much prominence to the fight against SoM, except for Niger. This might have contributed to the rather limited attention given to SoM by ECOWAS as it leans strongly on FMM support. However, the topic had been dealt with and discussed during FMM supported migration workshops and training.\textsuperscript{57} Combating TiP, however, is within the FMM project objectives and key areas of work.

Some progress has been made on ECOWAS travel documents, but the availability of a biometric ECOWAS ID card for all ECOWAS citizens is still on the distant horizon. In 2000, ECOWAS Heads of State and Government adopted a decision to introduce a uniform ECOWAS passport for full international travel, modelled on the EU passport concept. The ECOWAS-tagged national passport in its required form is machine-readable, but does not require the use of a chip to contain biometric and other data. Member States are, however, left with the possibility of increasing the required level of document security. By 2015, fourteen of the fifteen ECOWAS MS had issued the ECOWAS-tagged national passport.\textsuperscript{58} Moreover, an alternative harmonised document also exists, namely the ECOWAS Travel Certificate. The certificate is more accessible and affordable for most ECOWAS nationals and this is indeed the most used document for intra-regional travel. In 2013, ECOWAS set up a working group to discuss and advocate for the introduction of the ECOWAS National Biometric ID Card. So far, Ghana and Senegal have introduced it successfully, but progress in introducing it in the other ECOWAS MS has been slow.

\textsuperscript{53} IOM, cit.
\textsuperscript{54} Consultative Meeting held in the context of this study on 1 June 2018.
\textsuperscript{55} Consultative Meeting held in the context of this study on 1 June 2018.
\textsuperscript{58} ICMPD, IOM, ILO (2017b). “FMM West Africa Roadmap for the rollout of national biometric identity cards for intra-ECOWAS travel”.

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Needs assessment on the smuggling of migrants covering Côte d’Ivoire, The Gambia, Guinea and the ECOWAS
2.3. Prevention measures to support legal migration, protection of vulnerable groups, and return policy procedures

There are no SoM prevention programmes promoted or supported by the ECOWAS Commission. Nonetheless, prevention of TiP and irregular migration topics are strongly addressed. The study found no specific initiative promoted by ECOWAS for the prevention of SoM, yet several prevention and protection actions are taken in the context of countering TiP through, for example, curriculum development, policy advisory services, training and awareness-raising activities. These initiatives are primarily supported through the EU-funded FMM West Africa programme. A new ECOWAS Plan of Action against Trafficking in Persons (2016-2020) was developed with the support of the FMM project. Yet, the action plan contains no specific reference to SoM.

ECOWAS addresses the protection of vulnerable migrants in a broad framework that includes efforts to protect refugees. The joint IOM, UNHCR and ECOWAS Manual “Protecting Refugees and Other Persons on the Move in the ECOWAS Space” and the related trainers’ guide offer a good example of the approach implemented. Child protection as well as labour migration and social protection are other areas strongly addressed by ECOWAS. For example, a Guide for Policymakers on mainstreaming the protection of the rights of migrant workers was developed in 2016.59

Attention to women in protection and prevention measures appears to be low. From the information collected so far, attention is given to women and children in the context of measures against TiP but there are no activities undertaken to specifically address the needs of migrant women. Training manuals, for example the one developed by UNODC “Assistance for the Implementation of the ECOWAS Plan of Action against Trafficking in Persons” (2016), provide specific guidance on assistance to women and children for governments, IO and NGOs implementing initiatives in this field.

ECOWAS shows little involvement in return and reintegration programmes, whereas the majority of initiatives in this field are undertaken bilaterally with ECOWAS MS. In the recent past, pressures to deal with return and reintegration of trafficking victims, smuggled migrants and vulnerable irregular migrants has increased. While the ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003), the Plan of Action against Trafficking in Persons (2008 – 2011), and the 2009 Regional Policy on Protection and Assistance to Victims of Trafficking in Persons in West Africa flag the need for return and reintegration of victims of trafficking and vulnerable irregular migrants, there is little evidence of ECOWAS’s involvement in such programmes and actions. Information collected during the research provided no reference to guidance documents, studies or training material on this topic. Most activities on return and reintegration supported by international agencies are undertaken bilaterally. Half of the countries have concluded bilateral re-admission agreements with neighbouring countries (i.e. Benin, Nigeria, Senegal and Sierra Leone). Cape Verde signed a formal re-admission agreement with the European Union in 2013. Benin, Burkina Faso, Côte d’Ivoire, Ghana, Guinea, Mali, Niger and Senegal are all implementing the Assisted Voluntary Return Programmes in cooperation with IOM and the countries in which irregular migrants have arrived.60

59 ICMPD, IOM, ILO (2017a), cit.
2.4. Cooperation mechanisms and intelligence-sharing initiatives

Police cooperation and intelligence-sharing at regional level are getting more attention, but these initiatives are still in their quite early stages and could be further promoted. INTERPOL, in close collaboration with ECOWAS exercising the political lead on this initiative, launched the West Africa Police Information System (WAPIS). The aim of this collaboration is to reinforce the work of WAPIS with the ECOWAS Commission providing political support, advice on legal issues, facilitating exchange among ECOWAS MS and undertaking monitoring activities.61 Findings from the consultations with stakeholders describe the collaboration between ECOWAS and INTERPOL as satisfactory, but underlined that INTERPOL should increase efforts to strengthen WAPIS and improve its collaboration at country level to better control borders, create and maintain databases, analyse statistics and disseminate information to the appropriate institutions.62 Furthermore, according to some interviewees, the implementation of WAPIS takes place mainly at the national level where it faces a number of institutional and operational challenges.

Since 2010, the Africa-Frontex Intelligence Community (AFIC) has provided a framework for regular knowledge and intelligence-sharing on irregular migration flows, border security and cross-border crime including SoM, TIP and terrorism between EBCG and currently 25 African partners. Furthermore, in September 2017 EBCG launched an EU-funded project to strengthen AFIC and establish the so-called Risk Analysis Cells (RAC) as an institutional add-on in eight priority countries: The Gambia; Ghana; Guinea; Mali; Niger; Nigeria; Senegal and Kenya. RAC plans to engage some five specialised analysts into each country cell to enhance information sharing (interagency and interregional), to improve operational capabilities and to increase risk analysis capacities. The project is set out for thirty-six months to provide technical assistance through advisory activities, training and equipment.63 Nonetheless, RAC appears to be a rather short-term technical measure implemented in contexts where information sharing and analysis of sensitive data across different government security agencies is little practised. The limited presence on the ground to support the implementation of the project could also hinder the creation of the cells and prevent their effective functioning. Lessons learnt from the WAPIS project suggest that this issue should be closely monitored.

At ECOWAS, there are no specific training programmes, meetings or workshops to promote exchange and cooperation on SoM, yet findings of the study show that there would be opportunities to promote SoM more prominently. Stakeholders involved in the study reported that there are annual meetings for senior officials which all ECOWAS MS are invited to attend. These meetings, which are set up to bridge policy and implementation levels and enhance communication and exchange,64 could be used as an opportunity to include SoM on the agenda and produce multiple effects. Another example is the High-level Master class on Identity Management, held in 2015 for the region’s immigration and border officials, which was organised through the FMM West Africa project and which, if repeated, could include at least one solid session on SoM.

62 Consultative Meeting held in the context of this study on 1 June 2018.
64 For example the Meetings of Heads of Immigration and the Heads of Police, and the High-level Master class on Identity Management in 2015 for the region’s immigration and border officials, which was organised through the FMM West Africa project.
Furthermore, interviewees for this study indicated that stakeholders could be made aware of the issues related to SoM at the many regular technical meetings and training sessions that are organised at regional level. These events bring together national officers from different ECOWAS countries, including those who are dealing with the operational aspects of migration, investigation and customs, as well as those in charge of humanitarian issues, such as protection or assistance to vulnerable persons. However, information collected indicates that these initiatives are so far mainly conducted by professionals in their specific field of work. There is scope for improvement by bringing together practitioners from different professional backgrounds and organising multi-disciplinary meetings or training to stimulate exchange and learning. In this context, SoM-related modules could be successfully included and well received. Also noteworthy as an exemplary practice is the initiative of the Nigerian Government, presented by Nigerian officials of the NIS, to set up a regional training academy on border management which can enhance collaboration and cooperation across the region.

2.5. Existing capacity-building and technical assistance projects and initiatives

There are no capacity-building initiatives at ECOWAS and between ECOWAS and its MS directly tackling SoM, yet various externally funded support projects bear the potential to address this gap. ECOWAS and its member states collaborate internationally with a range of donors to counter irregular migration and related issues, such as illicit trafficking, drugs smuggling and other forms of crime. The main supporters are the EU, France, Germany, Spain, Switzerland, the UK, USA, the World Bank and the UN. The UN Office on Drugs and Crime (UNODC) is the body that more specifically focuses on SoM.

Many of these technical assistance activities are managed from Abuja and deal with Nigeria, as the most prominent country in ECOWAS, but also with the ECOWAS region as a whole. At regional level, there are projects that aim to improve border control practices, investigation capacities and other migration-related capabilities and tools, which can have an indirect effect on countering SoM, for example through advisory or training activities but also through technical projects such as the introduction of a biometric ECOWAS ID Card. Several of these projects bear the potential to introduce SoM as a complementary element in their work plans.

The EU, as a front-runner in providing support to the implementation of the Free Movement Protocol and to counter irregular migration, has not made use of its potential to address SoM more systematically. The most prominent of the EU-supported capacity-building initiatives to improve the management of migration is the above mentioned FMM West Africa project. Since 2013, and until February 2019, the project has been funded by the EU with a budget of over EUR 26 million. The implementing partners of the project are IOM, ICMPD and ILO. The FMM West Africa Project provides support at regional, national and local levels. Key areas at regional level are the building of ECOWAS capacities to collect data, increase border management, monitor labour migration and curb TiP. It also supports the abovementioned Migration Dialogue for West Africa (MIDWA) and the ECOWAS biometric ID card introduction explained below.

To facilitate collaboration between ECOWAS and ECOWAS MS, the project runs the so-called Demand-Driven Facility (DDF) through which member states can request technical assistance for specific migration-related matters. For example, it has recently assisted the government of Ghana to update its migration strategy and is currently supporting the

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65 Consultative Meeting held in the context of this study on 1 June 2018.
66 UNODC (2018), cit.
67 FMM West Africa, see: https://fmmwestafrica.org
government of The Gambia to formulate a national migration policy. As for the local level, the project supports awareness-raising initiatives and training on irregular migration open to civil society organisations.

Moreover, the project has also been used to support ECOWAS’ efforts in countering TiP. There are many lessons that can be learnt from closely studying and evaluating this component of the project. For example, several institutional mechanisms have been set up and networks have been created across the ECOWAS region to meet the objective of countering TiP. The same ones could potentially be used to address the prevention of and fight against SoM or lessons learnt from establishing units on TiP could be used for setting up dedicated SoM units. Findings of the study showed that this has not been done so far. However, stakeholders consulted suggested that the integration of SoM in this framework could fit with the logic and approach of the existing project.68

**ECOWAS has put in motion the launch of biometric ID cards, however, this appears to be a complex and – in some countries – rather challenging undertaking.** The FMM West Africa project also supports the introduction of the ECOWAS biometric ID card, a key initiative at regional level. In 2017, IOM published a ‘Roadmap for the rollout of national biometric identity cards for intra-ECOWAS travel’,69 The pilot implementation of a National Biometric Identity Card (NBIC) in Ghana showed some positive progress, whereas Senegal, the second country involved in the pilot, is experiencing some operational challenges.70 In general, implementation of the NBIC raises technical, policy/legal, managerial and financial challenges for ECOWAS member states. A major challenge is the gathering and registration of reliable data in civil registries. Such data are fundamental for a variety of reasons, including the introduction of ID cards, the monitoring of elections, the improvement of border control mechanisms, the production of statistical analysis and the definition of relevant strategic planning. ECOWAS is planning to use the above-mentioned IOM Roadmap for monitoring purposes and to advocate for the further implementation of the NBIC across the ECOWAS region. This monitoring will mainly rely on the function of the MIDWA’s political meetings as well as its technical working groups. A USD 5 million project financed by the World Bank with this purpose is in the pipeline.71

**The EU supports regional police cooperation and intelligence sharing, yet the support has not yet been linked with other ongoing EU-funded projects.** As mentioned above, the EU funds the third phase of the West Africa Police Information System Programme (WAPIS 3) under the political guidance of ECOWAS. The programme reports a budget of EUR 33 million, in addition to EUR 15 million for setting up an automated finger print system. And the EBCG has established the African Frontex Intelligence Community (AFIC) of 25 countries in North Africa, Sahel and Horn and East Africa. Both projects have so far been implemented without any formal collaboration with the FMM project. It appears clear that ensuring greater synergies between these initiatives – for example in the fields of border control, database creation and management, and investigation and prosecution – could optimise resources, trigger greater efficiency and effectiveness and, therefore, result in greater impact.

An example of another EU-funded initiative that could dovetail with the purpose of fostering the prevention and countering of SoM is the EUR 20 million project “Organised Crime: West African Response to trafficking”.72 The project is implemented by GIZ with the aim of

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68 Consultative Meeting held in the context of this study on 1 June 2018.
70 In Senegal, the biometric ID-card project is combined with the updating of the citizens’ election register.
71 The extent to which additional needs should be addressed, such as the conducting of biometric census at national levels and the role the ECOWAS Commission can play in this regard, was discussed during the consultation meeting.
72 Under the 11th EDF regional funding.
supporting all issues in relation to illicit trafficking and which, according to the Action Fiche, will indirectly focus on border control issues and TiP, but not include SoM. The co-funded EUR 1.3 million per year project in support of the ‘West Africa Network for the Protection and Reintegration of Children on the Move’ could also be an interesting initiative to look at to assess possible synergies. Finally, an assessment of the EU support that goes to the ECOWAS institutional structures dealing with peace, security and governance could provide further findings to inform future initiatives.73

A Nigerian initiative to set up a regional academy for immigration and border officials deserves a closer assessment and could be further supported. ECOWAS officials pointed out to the study team an initiative, which has so far not received much attention from the international community. The Nigerian Immigration Service is leading a process to set up a regional school/academy for officials dealing with border management and control. There is no international funding for this initiative so far. The focus is on building operational capacities addressing the various facets of migration and related problems in the region. The initiative has received support through the declaration of the ECOWAS Heads of Immigration. Interviewees pointed out that there is no institution in the region focusing on the training of immigration and border management staff comparable to the Kofi Annan International Peacekeeping Training Centre involved in the capacity building of military staff from the region. Stakeholders recommended taking a close and constructive look at this initiative, also considering that in the past many political and operational initiatives in the region promoted by Nigeria were gradually taken up and supported by other ECOWAS MS.74

2.6. Highlights of the assessment

The findings of this study indicate that SoM has been little addressed so far by ECOWAS as well as its Member States. Political leadership and incentives to address it in a systematic manner at technical and operational levels have so far been absent. Yet, the possibility of tackling the issue of SoM more systematically at regional level does exist. This could be done either by supporting activities directly aiming to prevent and combat SoM, or by building up and investing in activities that are set up within a broader framework to curb, and eventually eradicate irregular migration practices. In summary, the assessment conducted highlighted the following three areas of attention: (i) gaps directly related to SoM; (ii) gaps in a range of cross-cutting migration and border management related areas; (iii) gaps related to the international support provided to counter irregular migration, border control, intelligence and regional police cooperation. Initiatives designed and supported to address solely the former without being informed of the nature and extent of the other gaps would most likely display shortcomings in terms of vision and strategy.

73 There is no support provided to border management at regional level, a topic that – according to our interviewees – will be addressed through the EU Trust Funds at national levels across ECOWAS member states.
74 Consultative Meeting held in the context of this study on 1 June 2018.
### GAPS DIRECTLY RELATED TO SoM

- Most ECOWAS MS have not yet appointed SoM focal points or SoM units or other institutional arrangements in line with the outcomes of the 2016 Euro-African Dialogue on Migration and Development (Rabat Process).
- An ECOWAS Migration Strategy to replace the ECOWAS Common Approach on Migration (2008) has so far not been published and ratified. From the limited information available, the new document would include the proposal to establish an ECOWAS “Task Force on Irregular Migration”.
- There has been no ECOWAS-guided/assisted regional and regional-national dialogue on how the UN SoM Protocol could be effectively domesticated at national levels.
- ECOWAS has so far not systematically promoted SoM when formulating national migration strategies, migration policies and action plans or migration profiles.
- While MIDWA did discuss SoM at the level of the Steering Committee in late 2017, a follow-up to this dialogue and recommendations through the MIDWA Technical Working Groups and ECOWAS senior official meetings has so far not taken place.
- Comprehensive action plans on how to combat SoM in all its facets across different sectors and across thematic topics do not exist.
- Training activities of ECOWAS MS officials dealing with immigration, border management, intelligence, investigation and prosecution, control and enforcement, prevention and protection have not systematically addressed the countering of SoM.
- There is no specific ECOWAS guidance on how to address the problem of SoM within national prevention and awareness programmes about irregular migration, return and reintegration.
- Lessons learnt from the implementation of specific legal frameworks, institutional arrangements, and actions to prevent and fight SoM in Niger have so far not been documented and disseminated as best-practice examples.

### GAPS RELATED TO MIGRATION AND BORDER MANAGEMENT

- Lack of clear agreements on coordination and poor information sharing among officers.
- Lack of strong contact points in the ECOWAS Member States to coordinate and implement plans of actions, protocols and agreements.
- Challenges with migration data collection, storage, analysis and sharing.
- Poor human and infrastructural capacities to address migration issues institutionally and operationally (i.e. poor awareness of the protocols and lack of adequate advocacy).
- No ECOWAS biometric ID Card in most ECOWAS Member States.
- Civil registration and availability of vital statistics at country level is poor and not computerised/digitalised.
- Porous and poorly-managed borders.
- MIDWA contact points at national levels are not empowered to translate and follow up political and operational decisions taken at regional level within their respective governments.

### GAPS RELATED TO INTERNATIONAL SUPPORT

- In Abuja, there are EU coordination meetings on migration, but non-EU countries and multilateral organisations are not part of these coordination mechanisms.
- The ongoing FMM West Africa project will come to an end in February 2019. Questions are raised as to whether this project will be extended and whether there is scope to address SoM through this, possibly prolonged, project and/or other support activities.
- Linkages between EU-supported activities on the strengthening of regional police collaboration and intelligence sharing and the support provided through the FMM West Africa project are weak.
CHAPTER 3. PREVENTING AND FIGHTING MIGRANT SMUGGLING IN CÔTE D’IVOIRE

General context

Côte d’Ivoire has long been a destination country for migrants, due to the nation’s abundance of natural resources and its rank as world leader in cocoa bean production. Foreigners account for 24.2 per cent of the country’s population. Moreover, despite an average economic growth rate of 8 per cent per year since 2012, Côte d’Ivoire has become one of the main countries of origin of irregular migration to Europe over the last few years.

Official statistics are scarce when it comes to irregular migration and illegal activities in general. This is due to methodological difficulties in terms of data collection, definition of migrant status and identification of nationality. The lack of a systematic and centralised data collection mechanism on migration flows further limits the possibilities of studying irregular migration. The widespread falsification of identity and travel documents and the shortcomings in the nation’s civil register further impede the identification of irregular migrants.

According to Frontex data, some 12,900 migrants from Côte d’Ivoire illegally crossed European borders in 2017 (14,300 in 2016). There are currently no estimates of the number of people having resorted to smugglers. However, according to Europol, over 90 per cent of all migrants who illegally entered Europe in 2016 did so thanks to smugglers. Between November 2017 and April 2018, some 2,300 migrants from Côte d’Ivoire were voluntarily repatriated from Libya, with support from the International Organisation for Migration (IOM) and financing from the European Union.

The country suffered political instabilities and armed conflicts between 1999 and 2011. This caused a significant increase in the nation’s outbound migration. The overall percentage of the population who chose to migrate went from just under 1 per cent in 2000 to 5.4 per cent in 2010, before dropping to 4.5 per cent in 2013. These numbers include citizens who departed legally and those who opted for other methods and itineraries.

The migration routes out of Côte d’Ivoire are diverse. However, they invariably converge in North Africa. Migrants start out in small groups from cities in Côte d’Ivoire, aboard either heavy goods vehicles or inter-state bus services. Major road freight companies include: NOUR (Mali), RIMBO (Niger), SONEF (Niger), CTE (Côte d’Ivoire), STAF (Burkina Faso), SAMA Transport (Côte d’Ivoire), SITO (Côte d’Ivoire), DIARRA TRANSPORT (Mali), TSR (Burkina Faso), and TIELEMCI (Mali). The main migration routes involve Burkina Faso and Mali as transit countries. A number of irregular migrants transit through Algeria to Libya.

78 DST (2018). “Migration Ir régulière et Gestion des frontières” (Irregular Migration and Border Control), Address by the Director of the DST, Training workshop for State Agents in Migration Control, 22-23 March 2018, Villa des Hôtes, Yamoussoukro.
80 DST (2018), cit.
rather than going via Agadez in Niger, which used to be the main crossing point. This could be linked to the Law against the smuggling of migrants passed in Niger in 2016. However, migrants are also known to take direct flights to Tunisia and Morocco – both countries with which Côte d’Ivoire has established visa exemption agreements.\footnote{IOM (2018b). “Rapport de Profilage des Migrants Ivoiriens 2017” (Report on the Profile of Côte d’Ivoire Migrants), p. 12.}

Women generally travel directly to Morocco or Tunisia by air (70 per cent), whereas 69 per cent of men leave the country by land via Mali into Algeria or via Burkina Faso and Niger into Libya.\footnote{IOM (2018b), cit., p. 12.} According to a recent study by IOM, given the costs of air travel and the administrative procedures involved in obtaining a passport and an air ticket, specific networks that target women in Côte d’Ivoire and facilitate their migration are likely to exist.\footnote{Ibidem.}

As for the main hotpots for migration flows, the most well-known is the town of Daloa, but other migrant smuggling networks exist in Abobo (north of Abidjan), Anyama and Bouaké.\footnote{Information from face-to-face interviews with key stakeholders in Côte d’Ivoire.}

The profile of an average migrant is the following: usually young (between 18 and 30 years old) and single, from the Mandinka ethnic group and Muslim.\footnote{Field work and IOM (2018b), cited.} According to the IOM, 70 per cent of migrants repatriated from Libya can read and write, nearly 40 per cent of whom hold a secondary education diploma. 70 per cent had a job in retail or construction before leaving the country, with an average wage of 100,000 CFA francs (CFCA) per month. Most migrants leave for economic reasons,\footnote{IOM (2018b), cit., p. 17.} although usually migrants are not the worst-off in their country, as they need to pay for their travel. Travel across borders is facilitated by a network of agents, companies and players profiting from migrant smuggling and professionalised to varying degrees. Little, if no analysis of the dynamics of smuggling and modus operandi of the players involved is currently taking place in Côte d’Ivoire. Social media are known though to play a major role in the recruitment process for irregular migrants.\footnote{On this topic, see: UNODC (2018), “Global Study on Smuggling of Migrants”, cit., p. 44.}

Family and peer pressure often constitute a strong motivating factor for potential migrants.

3.1. Policy, legal and regulatory frameworks for the investigation and prosecution of migrant smuggling and related offences

3.1.1. Legal and administrative framework

Côte d’Ivoire has ratified a number of international conventions and treaties on SoM and related offences. On 25 October 2012, the country ratified the UN Convention against Transnational Organised Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. More recently, on 8 June 2017, the Protocol against the Smuggling of Migrants by Land, Sea and Air was also ratified. In October 2012, Côte d’Ivoire also ratified the UN Convention against Corruption (UNCAC), but has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Nonetheless, national legislation has not yet fully integrated the measures set out by the above-mentioned international legal tools, particularly the measures in the Protocol against the Smuggling of Migrants and certain measures included in the Convention against Transnational Organised Crime. For example, Côte d’Ivoire adopted Law No. 2016-1111 of 8 December 2016 on trafficking in persons (TiP). Article 4 in Chapter 3 on repressing trafficking in human beings\footnote{The mandatory sentence for trafficking in human beings is five to ten years in prison and a fine ranging from 5,000,000 FCFA to 10,000,000 FCFA (Article 4 Law No. 2016-1111).} also includes a definition of SoM.\footnote{88 IOM (2018b), cit., p. 12.}

However,
At present, Côte d’Ivoire’s criminal law features no specific provisions on smuggling of migrants as a whole. This legal vacuum is compensated by prosecuting smugglers for document fraud – whenever possible – in line with Articles 281 et seq. of the Penal Code. As a result, the penalties that can be imposed are relatively light. However, Article 14 of Law No. 90-437 sanctions the smuggling of migrants into Côte d’Ivoire: “Any individual having directly or indirectly facilitated or attempted to facilitate the illegal entrance, passage or residence of a foreign person will face a 2-month to 2-year prison sentence and a fine ranging from 200,000 francs to 500,000 francs”.

However, the legal framework against irregular migration is set to evolve in the near future. A draft bill against the smuggling of migrants was adopted by the government and the Parliamentary Commission for General and Institutional Affairs (CAGI) and has been approved by the National Assembly in a plenary sitting on 7 June 2018. It has now been transmitted to the Senate, which should approve it before the end of 2018. The bill passed by the National Assembly transposes the provisions of the Protocol against the Smuggling of Migrants.

The objectives of the draft law are to fight against the smuggling of migrants; protect the rights of migrants; and promote national and international cooperation in fighting against SoM. The law should also enable increased border management and control, regulate irregular migration flows and address the activities of the organised crime networks involved. Envisaged penal sanctions will range from one to five years in prison and a fine of FCFA 5 million to 10 million (approx. EUR 7,500-15,000). Under certain aggravating circumstances, the sentence can be increased from 10 to 20 years of imprisonment and a fine of FCFA 10 million to 20 million (approx. EUR 15,000 – 30,000).

89 Article 4 states that: “… illegal migrant trafficking extends to any person or group of persons organising transportation, accommodation or passage by any means for clandestine migrants, in order to draw a direct or indirect financial or material advantage or any other advantage, whether using national territory as a zone of origin, of passage or of destination. Clandestine migrants are individuals having taken the decision to pass from one country to the next in order to improve their material and social conditions, future prospects or those of their family by breaking the law in their country of origin, of passage or of destination, either by entering State territory illegally, by overstaying their entrance visa or by infringing a restraining order…”.
90 See UNODC (2005). Page 363 of the “Legal Guidelines for applying the UN Convention against Transnational Organised Crime and the protocols thereto” states: “The present acts were defined separately and require different regulatory instruments, essentially due to differences between trafficking victims - who are often victims of other offences as well - on one hand, and migrants having taken part in illegal smuggling on the other”.
91 This Law is part of a Plan of Action that also includes international legal instruments ratified by Parliament: the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 3 August 2011, the Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa signed between Côte d’Ivoire and nine other countries from the sub-region on 27 July 2005, etc. See Konar, Y.S. (2018). « Etude pour l’élaboration d’un document de politique migratoire prenant en compte la dimension genre » (Assessment towards the creation of a migration policy document that accounts for gender), Report prepared for the Ministry of African Integration and Ivorian Citizens Abroad, p. 27-28
93 See CICAN (2018), “Activités Parlementaires. Le projet de loi relatif à la lutte contre le trafic illicite de migrants adopté”.
94 In accordance with article 6 the UN SoM Protocol, envisaged aggravating circumstances are putting migrants’ lives and personal security in danger, or degrading or inhumane treatment, and exploitation. Serious injuries or death (including death by suicide) shall also be considered aggravating circumstances. See CICAN (2018), cited.
Several provisions addressing offences connected to irregular migration and migrant smuggling exist in the national legal and institutional frameworks. Section 4 of the Penal Code contains measures for passive corruption (punishable by six months to two years in prison and by a FCFA 200,000 fine - Article 231 (approx. EUR 300)) and active corruption (punishable by two to ten years in prison and a fine ranging from FCFA 200,000 to 2,000,000 - Article 232 (approx. EUR 300 – 3,000). The UN Convention against Corruption (UNCAC) was transposed into national legislation by Order No. 2013-660 of 20 September 2013 on preventing and fighting corruption and related offences. This Order created the High Authority for Good Governance, in charge of preventing corruption and of submitting cases to the public prosecutor. This authority is part of RINLCAO, the anti-corruption network in West Africa, created by the ECOWAS countries. The effectiveness of this institution’s actions is yet to be evaluated in depth.

After the terrorist attack in Grand-Bassam in February 2016, a Law on money laundering and financing terrorism (Law No. 2016-992 of 14 November 2016) was also adopted. It includes several categories of offences (Art.1, Paragraph 15), including TiP and SoM, participation in an organised criminal group and participation in racketeering, corruption and embezzlement. However, according to the experts interviewed during the study, current legislation does not contain all the elements necessary to efficiently fight transnational organised crime. For example, protection measures for undercover agents and the lack of extended criminal detention periods for cross-border criminals make it difficult to finalise related investigations.

In general, it is worth stressing that prosecuting migrant smugglers is made harder by the ECOWAS Protocol A/P1/5/79 of 29 May 1979 on the free movement of people, and by Order No. 2007-604 of 8 November 2007 on the abolition of residence permits for citizens of the Economic Community of West African States (ECOWAS). Two decrees were recently adopted to facilitate the identification of ECOWAS citizens and to fight document fraud: (i) Decree of 9 May 2018 that instates the National Register for Natural Persons (RNPP) and entrusts its management to the National Office for Identification (ONI); (ii) the introduction of a biometric residence permit for non-ECOWAS citizens, promulgated on 13 April 2017. However, both initiatives are still in their early stages.

3.1.2. Policy framework

Although Côte d’Ivoire is currently working on the legal framework related to migration issues, the country still needs to develop a migration policy. Several unsuccessful attempts have already been made. A comprehensive initiative towards establishing a National Strategy for a migration policy was implemented by the Ministry of the Interior and Security, with support from IOM, involving different Ministries concerned by migration issues. In 2014, a Preliminary Draft for the National Strategy for a migration policy in the Republic of Côte d’Ivoire was produced but it was strongly criticised by various Ministries for being overly focused on security and insufficiently addressing the protection of migrants. It must therefore be thoroughly revised before it can be validated. Furthermore, a competing initiative towards developing a National Migration and Development Strategy, dubbed “MIEUX”, was initiated by the Ministry for African Integration and Ivoirian Citizens Abroad, and compiled in a working document in April 2017.

The country has adopted a National Strategy for the fight against trafficking in persons. In application of Law No. 2010-272 of 30 September 2010, a National Plan of Action against child trafficking, exploitation and labour for 2012-2014 was adopted and implemented. Subsequently, in application of Law No. 2016-1111 of 8 December 2016, a National Committee on TiP was set up, along with the National Strategy for the fight against TiP and a National Action Plan (2016-2020). A revision of the National Strategy for the fight

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95 Migration EU eXpertise.
against TiP, so as to include measures against SoM once the SoM bill is finally passed, could be an option to put in place actions to prevent and fight smuggling of migrants.

Despite the creation of the High Authority on Good Governance, the authority’s strategy is not yet reflected in a guidance document for implementing anticorruption measures across the government structures.

The problem of making identification and travel documents secure certainly remains, although current initiatives for the implementation of the National Register for Natural Persons (RNPP) should bring future improvements. Air and border police forces have received instructions to disembark potential irregular migrants from flights to Morocco and Tunisia. However, if these instructions are not enshrined in the law, they run the risk of violating the right to free movement established by visa exemption agreements between Côte d’Ivoire and other countries.

3.2. Institutional and enforcement mechanisms, operational capabilities, capacities and tools

3.2.1. Institutional and Enforcement Mechanisms

Côte d’Ivoire has not yet designated a body specifically dedicated to migration issues, and several departments in different Ministries share jurisdiction in terms of migration. As regards irregular migration and smuggling of migrants, the Ministry of Interior and Security is the main body responsible for developing a political strategy on this matter and for carrying out police investigations. The Ministry of Justice and Human Rights is in charge of the ongoing revision of the legal framework (with proposal of the bill on SoM being discussed in Parliament) and of the prosecution offices and courts of prosecuting offences, whereas the Ministry of African Integration and Ivorian Citizens Abroad plays a key role in raising awareness on the risks posed by irregular migration via the design and implementation of awareness-raising campaigns. The Ministry of Women, Child Protection and Solidarity is responsible for all matters relating to assistance provided to TiP victims. However, this set of authorities could lead to overlaps and duplications in the departments’ efforts in the absence of a harmonised national strategy.

A similar situation is observable at operational level, where various departments in the Ministry of the Interior are each in charge of specific issues related to irregular migration. The Directorate of Territorial Surveillance (DST) is responsible for border management and for issuing travel documents, whereas the National Office for Identification (ONI) is in charge of ID documents. The ONI is also in charge of managing the RNPP. The DST is responsible for dismantling criminal and trafficking networks, with support from the Unit against Transnational Organised Crime (UCT) and from the General Intelligence services (RG).

3.2.2. Operational capabilities, capacities and tools

In general, from an operational perspective, the fight against irregular migration is impeded in the absence of electronic identification systems in the presence of highly vulnerable borders. Only two control points out of twenty-two are equipped with electronic ID scanners: Abidjan airport and Noé on the border with Ghana. Furthermore, freedom of movement in the ECOWAS area limits preventive efforts. Actions cannot be taken against suspected would-be irregular migrants in possession of valid documents to travel within the region, without evidence of other offences (e.g. document fraud or corruption). The following table provides insight into the law enforcement activities carried out by the Directorate of Territorial Surveillance and by the country’s intelligence services concerning activities linked to the smuggling of migrants and to trafficking in human beings (from December 2016 to December 2017).
### Table 2

<table>
<thead>
<tr>
<th>Type of offence</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delinquents arrested and indicted for the smuggling of migrants</td>
<td>25</td>
</tr>
<tr>
<td>Delinquents arrested and indicted for trafficking in human beings</td>
<td>35</td>
</tr>
<tr>
<td>Traffickers reported by their accomplices</td>
<td>11</td>
</tr>
<tr>
<td>Traffickers reported by migrants returning home</td>
<td>146</td>
</tr>
</tbody>
</table>

DST, 2018

**Law enforcement agencies, such as the Police and the Unit against Transnational Organised Crime (UCT), have inadequate resources at their disposal.** The UCT is an inter-service unit with nationwide jurisdiction and has been operational since 2017. The Unit seems to lack financial and logistic resources (e.g. qualified analysts, field agents, specialised investigators, equipment), which prevents it from being fully effective. During the interviews, participants expressed the need to provide the personnel with specific equipment and specialised knowledge to cope with smuggling of migrants, to improve methods for detecting document fraud, and to promote better cooperation with other law enforcement agencies. A reception centre for trafficked victims and smuggled migrants is also needed. This would help to elicit victim complaints in a secure and confidential way in order to obtain useful information for investigations.

**The UCT has so far achieved good results in curbing transnational criminal activities and could contribute to the fight against SoM.** Despite the lack of resources, the UCT has produced positive results in its first year, notably seizing two hundred tons of counterfeit medicine, arresting four hundred people during two hundred and twenty-eight field operations, dismantling drug trafficking networks as well as a three-person human trafficking network. Given the transnational nature of migrant smuggling and the fact that many migrants cross the borders illegally via smuggler networks, it is essential to reinforce the Unit against Transnational Organised Crime, as well as the other departments in the Ministry of the Interior and Security.

**The difference between TiP and SoM needs to be made fully understood at operational level.** The study further discovered that, although this distinction seems well understood at the higher levels of government, it is necessary to raise awareness and to train law enforcement agents and legal authorities nationwide to distinguish the two crimes and to detect the related differences in suspected cases in the early stages of investigation. This will be even more necessary once the draft law on SoM has been adopted.

### 3.3. Prevention measures to support legal migration, protection of vulnerable groups, and return policy procedures

**Preventive initiatives are implemented nationwide, but little or no coordination exists between the players developing them.** These initiatives mainly consist of information and awareness-raising campaigns on the risks linked to irregular migration. Several state and non-state institutions are involved, but there appears to be no centralised coordination between them for this purpose. Additionally, these campaigns are linked to separate projects and last for limited periods of time.
Needs assessment on the smuggling of migrants covering Côte d'Ivoire, The Gambia, Guinea and the ECOWAS

The General Directorate for Territorial Administration (DGAT) implemented awareness-raising campaigns directed at local populations, at the youth and at religious and community leaders. The Ministry of Women, Child Protection and Solidarity is responsible for preventing cases of woman and child trafficking, and has yet to design a campaign specifically aimed at preventing smuggling of migrants.

The Ministry of African Integration and Ivorian Citizens Abroad has taken the initiative of launching awareness-raising campaigns on the risks and dangers of irregular migration. The Ministry has created a centre to welcome, inform, council and support migrants and prospective migrants (CAIOAM-CI). CAIOAM-CI has completed several activities: i) raising awareness among the segment of the population with a strong potential to resort to irregular means to migrate, such as those residing in cities and villages known for their smuggling networks (e.g. Daloa, Bouaké, Anyama, Abobo); ii) reinforcing State employees’ skills in terms of migration management and data collection related to irregular migration; iii) setting up a database on the conditions required for legal migration and disseminating the information to the public; iv) counselling and advising returning migrants in terms of employment and investment.

IOM has also carried out awareness-raising campaigns in various parts of the country. Civil society organisations also play an important role and participate in the fight against irregular migration and against the smuggling of migrants with awareness-raising campaigns, training programmes (e.g. on the ECOWAS Protocol or on the Rights and Duties of Migrants) and studies. These organisations work directly within areas that are mostly affected by irregular migration dynamics. Several civil society organisations are active, including WACSO/FOSCAO, the Convention of the Civil Society of Côte d’Ivoire (CSCI) and Porte Flambeau d’Afrique. The Italian NGO International Volunteers Centre (CeVI) is also carrying out activities in Daloa.

Moreover, these initiatives lack a systematic design strategy and a monitoring and evaluation mechanism that could help in further refining and tailoring the messages and channels used. Discussions carried out during this assessment also shed light on the fact that awareness-raising campaigns are often designed and implemented without a coherent method for monitoring and evaluating their impact. To be effective, the campaigns would also need to include a thorough analysis of the false or incomplete narrative circulating on social media. This would help curb the young people’s attraction to Europe and the fallacious success stories published about irregular migrants.

Finally, in terms of protection and support, an inter-ministerial project for a plan to support and help reintegrate voluntarily returning migrants is currently underway. The IOM assists and welcomes returning migrants in the context of the joint initiative with the EU Trust Fund for the protection and reintegration of migrants.

3.4. Cooperation mechanisms and intelligence-sharing initiatives

Formal cooperation mechanisms and intelligence-sharing protocols between public organisations are limited. Given the existence of several departments and authorities partially responsible for issues regarding the smuggling of migrants, cooperation and intelligence sharing are essential. However, the study highlighted that cooperation mechanisms and intelligence-sharing protocols are seldom in place. To reinforce coordination between various Ministries and services in charge of migration policy, an inter-ministerial consultation platform has been set up. It has been entrusted to the Prime Minister, with the Ministry of Foreign Affairs providing its Permanent Secretariat. However, the platform is backed by neither laws nor regulations. Very little is known about its functioning, its cooperation mechanisms and intelligence-sharing protocols among its various bodies.
Within the National Coordination for Intelligence Services (CNR) attached to the Presidency of the Republic, information is shared regularly. This cooperation involves the DST, General Intelligence services (RG) and the National Cell for Managing Financial Information (CENTIF). Cooperation and intelligence sharing with the DST are limited outside this framework. Cooperation between Ivorian law enforcement agencies and INTERPOL’s National Central Bureau (NCB) is reported as often difficult and seldom diligent. The Directorate of External Services (DSE) within the Ministry of Presidential Affairs should also be involved in information exchanges and cooperation with other intelligence agencies.

Regional initiatives to cooperate and share intelligence do exist, yet their potential is greater than their current effectiveness. An intelligence system for West African police (WAPIS/SIPAO) managed by INTERPOL will, once fully operational, allow intelligence sharing between police forces in the region. However, experts interviewed in the context of this study highlighted that the system does not record administrative offences, which would also prove useful for investigations. WAPIS in Côte d’Ivoire has made not much progress so far. The project started in the country in September 2016, but, besides technical and operational challenges, the legal framework that is needed to implement WAPIS is still missing (for instance: decrees officially setting out the Steering committee, and creation of a dedicated datacentre hosting the servers, etc.).

The Conference of West African UCTs - a networking platform for police units fighting transnational organised crime, established in the context of the West African Coast Initiative (WACI) - is also a useful platform in terms of information transmission and sharing, although the process often remains at an informal level. The experts interviewed during the study suggested that setting up an official UCTs platform to boost cooperation and intelligence sharing could improve their regional reach.

There are no shared databases on identification documents in the ECOWAS region as of yet. The decision to instigate biometric identification in ECOWAS - launched in 2016 - could eventually allow Member States to create a citizens’ database and to share this information with each other. Biometric identification should also reinforce the integration process among ECOWAS countries by facilitating intra-regional mobility thanks to a secure travel document. Finally, it will support the fight against the smuggling of migrants. However, Côte d’Ivoire will need to develop a digitalised and fully functional civil register to make identification and travel documents secure.

Cooperation mechanisms on irregular migration at the operational level are also weak. The assessment discovered that regional police and judicial investigations on cross-border criminal activities throughout ECOWAS, and particularly on suspected cases of TiP and SoM, are limited. The situation is further complicated by the fact that knowledge and skills needed to detect and investigate trans-border crimes are rather low among the operational personnel.

96 The DSE is a department within the Ministry in charge of Presidential Affairs (See http://www.presidence.ci/organisation-et-fonctionnement/), established in 2015 (by Decree no. 2015-371 of 1 June 2015). It comprises three services: Monitoring and Analysis Service; Terrorism, counterterrorism and cross-cutting threats service; and External Liaisons service. However, the study did not collect specific information on this department and its work.
3.5. Existing capacity-building and technical assistance projects and initiatives

Different technical and financial partners have set up several technical assistance and capacity-building projects around migration issues: most of them concern trafficking in persons and migration in general. However, the different projects and initiatives remain of great interest, in that they cover important aspects linked to the practice of SoM and could be used as references once the new law on SoM is adopted.

Several programmes financed by the EU on migration in general, and TiP specifically, focus on the development of a national police intelligence system and how to support national intelligence services. The programmes are implemented by IOM, INTERPOL, Civipol, Save the Children, France Terre d'Asile and Expertise France. Local NGOs such as SOS Migration Clandestine, Porte Flambeau d'Afrique, the Convention of Civil Society and the West African Civil Society Organisations’ Forum (WASCAO) have also set up projects for information and awareness-raising campaigns on the risks and dangers of irregular migration. From 2013 to 2015, the UN Office on Drugs and Crime (UNODC) set up a project financed by the U.S. Department of State for the amount of USD 500,000. The project's results were: the integration of modules on TiP into national training programmes for law enforcement personnel and judges, and training of one hundred practitioners in the criminal law sector (prosecutors, judges and law enforcement) to detect, investigate and prosecute cases of trafficking in persons. Furthermore, UNODC also supported the government to promulgate the Law against TiP that was voted in 2016 and helped in the development of the above-mentioned National Strategy and Action Plan against TiP, in cooperation with the International Centre for Migration Policy Development (ICMPD).

Furthermore, since February 2018 UNODC has been engaged in a project to improve the response of the criminal justice system to TiP through integrated actions in Côte d'Ivoire. The project, which will last until 2021, is funded in the amount of USD 825,000 from the U.S. Department of State. The aim of this initiative is to contribute to the efforts deployed by the national government in the fight against trafficking in persons by improving the response of the criminal justice system to such offences. Its specific objectives are: (i) to reinforce the nation's coordination and its ability to set up legal and political frameworks against trafficking in persons; (ii) to increase the skills of criminal justice professionals for investigating and prosecuting cases linked to trafficked victims.

These efforts have been accompanied by the implementation of a relevant joint UNODC/UNHCR “PROMIS” project (Protection of Migrants: justice, human rights and the illegal smuggling of migrants). This regional project specifically aims to reinforce West African countries’ abilities to develop a human rights-based response to smuggling of migrants, and to develop an effective response to human rights violations linked to irregular migration. The project received EUR 2 million in funding from the Netherlands and covers five countries: Senegal, Mali, Niger, Côte d’Ivoire and The Gambia. Côte d’Ivoire and The Gambia were integrated into the second phase, which will last until 2020.

Despite the fact that most of the assistance projects are set up around TiP, some current projects, such as PROMIS, contain useful starting points. Once the new law on SoM is adopted, the creation of new projects dealing solely with the issue, or the widening of the scope of existing initiatives, would become easier.

3.6. Highlights of the assessment

Stakeholders have identified several gaps and needs in the prevention of and fight against the smuggling of migrants in Côte d’Ivoire. They are summarised as follows:
### Policy, legal, and institutional frameworks

- The legal framework for the countering of SoM still needs to be completed: Recent developments are to be noted in the legal framework for preventing and fighting against TIP and the SoM. The draft bill on smuggling of migrants was adopted by the government and voted by the National Assembly in June 2018. The approval by the Senate is expected by the end of the year. Once the law is adopted, it will be important to ensure that the necessary administrative and regulatory framework is in place for its due implementation across all government structures and services.

- Prosecution of migrant smugglers is complicated by the existence of the ECOWAS Protocol relating to the Free Movement of Persons, Residence and Establishment.

- Corruption practices facilitating activities related to the smuggling of migrants are not effectively addressed.

- Current national legislation does not allow for an efficient fight against organised crime.

### National, regional and international cooperation mechanisms and intelligence-sharing initiatives

- Côte d’Ivoire does not have a structured and centralised data collection system for migration flows. The last investigation into migration dates back to the Côte d’Ivoire Investigation on Migration and Urbanisation (EIMU) in 1992.

- There is no institution specifically dedicated to migration, and different entities are involved according to their respective mandates. This makes coordination within the inter-ministerial consultation platform on migration issues very difficult. In addition, this platform has no legal or regulatory basis detailing methods of functioning, roles and coordination.

- The intelligence-sharing system between police forces in the region needs to be improved and supported by standard protocols on intelligence sharing. The system should also take into account and record administrative offences.

- The shortcomings in the civil register and in the identification of persons create problems in detecting document fraud and identifying irregular migrants from Côte d’Ivoire in Europe.

- Social media play a major role in recruiting young prospective migrants and should therefore be carefully monitored.

- Cross-border travel is facilitated by a system of more-or-less professional smuggler networks, companies and individuals (including opportunistic individuals) who benefit from the smuggling industry. However, there is very little information and analysis on how these networks are organised and operate in the country.

- The project of establishing biometric ID cards across ECOWAS has started, but it currently faces numerous challenges from a technical as well as financial point of view.

### Enforcement mechanisms and operational capabilities

- Air and border police and operational units fighting the smuggling of migrants lack resources (human, technical equipment and financial means). Certain border control points exist only by name and only two control points have electronic ID scanners.

- Most technical assistance projects focus on the fight against trafficking in persons and on migration in general, but not specifically on the smuggling of migrants.

### Prevention measures against the smuggling of migrants, actions to protect vulnerable groups, and assistance with the return and reintegration of migrants

- Côte d’Ivoire does not currently have an inter-ministerial plan for assisting the voluntary return and reintegration of migrants (its finalisation is pending).

- Though awareness-raising efforts on the risks of illegal immigration should be commended, there is no coherent evaluation system for the impact of awareness-raising campaigns on irregular migration.
CHAPTER 4. PREVENTING AND FIGHTING MIGRANT SMUGGLING IN THE GAMBIA

General context

In mainland Africa, The Gambia is the smallest country in terms of size, with an estimated population of 2.1 million inhabitants in 2018. The country went through considerable turmoil after the presidential elections of December 2016. The former President, Yahya Jammeh, refused to leave his position, triggering a constitutional crisis and the military intervention of the Economic Community of West African States (ECOWAS). Yahya was exiled and the third President of the country, Adama Barrow, was appointed, inheriting a bankrupt state. The current Government follows the ECOWAS 2008 “Common Approach on Migration”, and has also adopted a pro-return and reintegration policy. The country suffers from substantial capacity problems, lack of funding and a weak legal system. Nonetheless, the current political environment is supportive of initiatives aimed at reforming the institutional machinery of the state, including steps to review the Constitution and subsequently other domestic laws.

The Gambia, despite its small population, is among the largest nationalities of migrants irregularly crossing the Mediterranean Sea. From January through to the end of August 2017, out of 99,127 migrants arriving illegally in Italy, 5,525 were Gambian nationals. Gambians were therefore rated as the 7th nationality group among the top 10 registered nationalities. The main route used by Gambians to migrate outside the ECOWAS region is via Niger to Libya. For a long time, this has been known as “taking the back way” (see Box 2). Spain was the first country of destination for Gambian migrants until the end of the Gaddafi regime in Libya. The latter also serves as a transit migration route for migrants from ECOWAS member states and other countries.

According to the “Migration Profile for The Gambia”, 90,000 Gambians – representing almost 5 per cent of the Gambian population – were living abroad in 2017. Most Gambians abroad are male and young (between 20 and 24 years old). Half of the Gambian diaspora resides in the United States, Spain or the United Kingdom, one quarter is spread across other countries in Europe and one quarter is spread across West Africa. This diaspora plays a role in inspiring irregular migration.

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98 This approach comprises the six following principles: 1) Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the integration policy of ECOWAS Member States; 2) Legal migration towards other regions of the world contributes to ECOWAS Member States’ development; 3) Combating human trafficking is a moral and humanitarian imperative; 4) Harmonizing policies; 5) Protection of the rights of migrants, asylum seeking and refugees; and 6) Recognizing the gender dimension of migration (IOM, 2017c). SoM is not, however, mentioned in this document.
99 Information received by EU Delegation, Banjul (May 2018).
100 E.g. cases from Pakistan were reported during the interviews.
However, one of the main root causes of migration is also food insecurity. The North Bank, Upper River and West Coast are most affected by food insecurity, impacted also by the reduction of economic activities in the agricultural sector due to climate change.\textsuperscript{102} The North Bank was mentioned by interviewees as the region most susceptible to migrants’ departures. The village of Saba is a case in point: located in the North Bank, the village has seen 15 per cent of its population (600 out of 4,000 residents) leave for Europe. The majority of these are male and in the 17 to early 30s age group, reasonably the most productive group in the agricultural and manufacturing sectors.\textsuperscript{103} As a result, smuggling of migrants has become a major social problem in this region and, more broadly, nationwide.

The main focus of the Government in tackling irregular migration has been on prevention. In order to address the root causes of migration, the objective of the national strategy is to reduce the 40 per cent unemployment rate among young people, which is considered the main factor behind The Gambia’s exodus.\textsuperscript{104} However, there is no evidence of any institutional structures and there are no programmes implemented to address skills and entrepreneurship development among young people in the most SoM volatile regions of the country.

### BOX 2 – TAKING THE “BACK WAY”

“Taking the back way” is the expression used in The Gambia to describe the migration of mainly young nationals towards the North. The most popular way to leave The Gambia is to use the services of a so-called “agency man”. According to collected storylines, these “agency men” assist the migrants in getting (possibly forged) papers to board a bus or a boat. They accompany migrants in their travel North and organise their shelter, food and crossing of borders. Migrants without an ID card or passport can cross the border with an ECOWAS laissez-passer that can be obtained at border posts.

Some informal sources report that “agency men” work individually or in small groups. Links with larger gangs or criminal networks are not known, although existing drugs smuggling networks would arguably have the knowledge, resources and networks to possibly engage in migrant smuggling on a bigger scale.\textsuperscript{105} What is understood is that these facilitators of irregular migration usually operate informally on the market: information about their names and contact details are passed on by word of mouth to individuals eager to migrate. Their business model is, therefore, basically built on trust. Nonetheless, the services provided suggest that these players must be well connected within The Gambia, but also outside the country along the route to the North.\textsuperscript{106} There is no legal ground in The Gambia for arresting these “agency men” as they provide services in the grey/informal market to those willing to travel.

Migrants travel by bus or collective taxis to Bamako and from there further North via Algeria, or Burkina Faso-Niger-Libya and then to the Mediterranean Sea.\textsuperscript{107} Bus and taxi travel is in demand from a multitude of groups, including small merchants purchasing goods in neighbouring countries. In line with the commercial nature of these companies, bus travel costs are advertised publicly on the market. However, it is suspected that some transnational transporters might, in reality, be the “agency men” who recruit and provide contacts to other agents.

Migrants who cannot afford the whole journey are usually reported to stop in Senegal and/or Mauritania for work and, from there, continue their travel via Mali. The route in The Gambia usually goes through the borders of Amdallai and Karang, Farafenni and Kerr-ayib and Basse at Sabi. There is also irregular migration reported from Banjul airport via direct flights to Spain. Informants also mentioned that there are many cases of stranded Gambians in Niger or Libya who, having found themselves without enough funds to travel further North, contact their family members or friends asking for additional money to pursue the journey.

\textsuperscript{102} The ocean level rise related to climate change is worsening the saltwater tide into the River Gambia affecting the whole ecosystem. For more information see UNDP “Climate Change Adaptation. The Gambia). http://www.adaptation-undp.org/explore/western-africa/gambia

\textsuperscript{103} Ibidem.


\textsuperscript{105} Mentioned by stakeholders during the consultative meeting for this study, 7 June 2018, Banjul.

\textsuperscript{106} Also confirmed by stakeholders during the focus group discussion for this study, 5 June 2018, Banjul.

\textsuperscript{107} See also, Schapendonk (2018), “Navigating the migration industry: migrants moving through an African-European web of facilitation/control”.

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Needs assessment on the smuggling of migrants covering Côte d’Ivoire, The Gambia, Guinea and the ECOWAS
Little information is available about the extent to which such “agency men” have direct contacts with smugglers within Libya, but anecdotal information reports that middlemen in Libya, also of Gambian origin, help migrants to establish contact back home and assist with the transfer of money. A leave package by plane, including forged documents and the ticket, can be purchased for around EUR 2,000 but authorities and airline staff have sharpened controls under the new Government.

4.1. Policy, legal and regulatory frameworks for the investigation and prosecution of migrant smuggling and related offences

4.1.1. Legal and administrative framework

The Gambia has signed and ratified the ‘UN Protocol against the Smuggling of Migrants by Land, Sea and Air’, but no specific legislation is used to domesticate its provisions. The UN SoM Protocol was ratified as early as May 2003; however, it has not yet been incorporated in the national Criminal Code or into the national Immigration Act. Whereas the UN Protocol on Trafficking on Persons has been integrated in national legislation and is treated as a criminal offence, SoM is considered as an administrative offence with a fine of Dalasi 3,000 to 5,000 corresponding to approximately EUR 52 to 90.108 This financial measure does not appear to be an effective deterrent.

Plans exist to review the entire legal framework of The Gambia, providing prospects for sound prevention of SoM. Following the political turmoil of the early months of 2017, the Government of The Gambia started reviewing its Constitution. Stakeholders interviewed during the study commented that the Immigration Act would need to be reviewed to reflect the provisions of the UN SoM Protocol. Other relevant pieces of the legal framework that need to be reviewed in relation to irregular migration are the Nationality of Citizen Act, the Aliens Registration Act and the Refugees Act.

The Gambia has signed, ratified and legally domesticated the UN TiP Protocol. The Government of The Gambia has signed (December 2000) and ratified (May 2003) the ‘UN Protocol to Prevent, Suppress and Punish Trafficking in Persons’ and, in 2017, adopted a Human Trafficking Act. The Gambia has also signed a Memorandum of Understanding with the National Committee against Trafficking in Persons of the Republic of Senegal to fight Cross-Border Trafficking Crimes between the two countries, as well as the African Union Convention on Preventing and Combating Corruption and Related Offences. However, the country has not yet ratified the UN Convention Against Corruption, even though it signed it in July 2015.

4.1.2. Policy framework

The Gambia is currently experiencing some positive progress on its migration policy. With the assistance of the FMM West Africa project, implemented by IOM, ICMPD and ILO (see also Chapter 2 on ECOWAS), a Migration Country Profile was published in 2017.109 This document does not address the issue of SoM, but the IOM office in Banjul is using the study as the backdrop to support the formulation of a National Policy on Migration. A draft version of the policy document was circulated and validated in November 2017. Findings of the study show that the document, which has not yet been officially adopted, contains a section on SoM and spells out a number of activities against SoM which the Government, if the policy is approved, will undertake.

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108 Information received from immigration officials during the visit to The Gambia in March 2018.
So far, there is no convergence on how to deal with SoM. The study discovered that one of the activities planned in the Draft National Policy on Migration is to domesticate Art. 6 of the UN SoM Protocol and to penalise smuggling as much as trafficking, while at the same time ensuring that vulnerable migrants who resort to smuggling are not automatically criminalised. Economic sanctions should be increased and more severe penalties for smugglers should be introduced. Stakeholders consulted on this topic were unanimous in rejecting the idea of criminalising SoM as, according to their experience, it could backfire for the Government's national strategy. Such a provision would indeed be negatively perceived by public opinion, as the Gambian population usually perceives migration as a necessity to support households. Nonetheless, stakeholders consulted during the study seem to agree that such a negative reaction would not occur if issues related to irregular migration and associated crimes, e.g. document forgery, impersonation, trafficking, and ‘taxation’ at immigration posts, were prosecuted and penalised.

4.2. Institutional and Enforcement Mechanisms, Operational Capabilities, Capacities and Tools

4.2.1. Institutional and Enforcement Mechanisms

An Inter-ministerial Committee on Migration in The Gambia was created in 2017 but its functioning is suboptimal. The Ministry of Interior is the focal point for migration in The Gambia and it takes the lead of this Committee, which comprises a wide range of government ministries and departments and representatives from civil society. Nonetheless, the study discovered that the body has only met a few times and quite some time has passed since the last time it met. Stakeholders consulted during the research also mentioned that the division of tasks among the different parties is not clear and coordination was suboptimal.

There is no institutional focal point on SoM but the topic falls under the Immigration Department. Gambian stakeholders from the Government said that SoM has institutionally not received any attention so far because the UN Protocol was legally not domesticated. But there is an understanding that the issue, in principle, is a task belonging to the Irregular Migration Unit (IMU) which is part of the Immigration Department that reports to the Ministry of Interior. The IMU was established in 2008 and is in charge of irregular migrants, including deportees, returnees and unaccompanied minors.

The domestication of the UN TiP Protocol in The Gambia was accompanied by proper institutional mechanisms. In fact, the 2007 Trafficking in Persons Act created The National Agency Against Trafficking in Persons (NAATIP). NAATIP is under the purview of the Attorney Generals Chambers and the Ministry of Justice and it is hosted in its premises. There are plans to revise the TiP Act 2007 to give NAATIP the powers to prosecute and arrest on cases within its mandate.

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110 Mentioned by stakeholders during the consultative meeting for this study, 7 June 2018, Banjul.
111 Members are: Gambia Immigration Department; Gambia Refugee Commission; Ministry of Finance and Economic Affairs; Women’s Bureau; Gambia Bureau of Statistics; Ministry of Agriculture; Ministry of Fisheries, Water Resources and National Assembly Matter; Ministry of Foreign Affairs; Ministry of Forestry and Environment; National Disaster Management Agency; Ministry of Health and Social Welfare; Department of Social Welfare; Ministry of Higher Education; Ministry of Information; Ministry of Justice; NAATIP; Ministry of Land and Regional Government; Ministry of Tourism and Culture; Ministry of Trade, Industry and Employment; Department of Labour; Ministry of Youth and Sports; National Youth Council; National Population Commission; TANGO.
112 FMM West Africa (2017), “Migration in The Gambia. A country profile 2017”, cit., mentions that this Interministerial Committee has met on several occasions and recommends that it meets on a regular basis.
113 Mentioned by stakeholders during the consultative meeting for this study, 7 June 2018, Banjul.
114 Interviews with government officials in Banjul, March, May and June 2018.
4.2.2. Operational Capabilities, Capacities and Tools

Problems associated with the departure of migrants are well understood but the concept of SoM is not fully understood by all Government officials. From the interviews, it appears that the difference between TiP and SoM is well understood by officials at national level – Central Government and its institutions; however the understanding among lower echelons of the government and at the operational level of border posts is low.\(^{116}\) Senior officials of the INTERPOL National Central Bureau, the Immigration Department, the State Intelligence Service and NAATIP are aware of what was earlier described as the business model of “agency men”, their networks, transport routes and how this can lead to human suffering of Gambians in Libya. Nonetheless, knowledge around this topic is mostly based on anecdotal information obtained from colleagues, friends and family.

SoM is not investigated and prosecuted and overall investigation and prosecution services are confronted with a range of problems. There are currently no investigations on smuggling of migrants due to a lack of capacity, the absence of a proper legal framework and the parallel existence of the ECOWAS Free Movement Protocol, which allows Gambians to travel across ECOWAS as long as their papers are valid. Investigating and prosecuting Gambians working as middle-men in Libya was mentioned as an impossible endeavour due to the absence of properly functioning state structures.\(^{117}\) In Gambia, intelligence, investigation and prosecution services are characterised by a wide range of gaps, including challenges with mobility of officials, data and radio communication equipment. Criminal investigations with neighbouring countries are carried out on the basis of bilateral agreements but there is no such cooperation on SoM. The Police screens returning migrants on arrival, but this work suffers from a lack of data about their whereabouts in other countries, in particular when returning from Libya. The findings of the study also showed that securing qualified prosecution officers in the National Police Force is an ongoing challenge, as many leave for the private sector where salaries are higher after being trained and having gained some work experience. Out of the thirty positions for qualified lawyers in the country, the Police have currently filled just eleven posts, and another six lawyers will be available within the next six months.

Data collection, storage, analysis and dissemination, despite the existence of a central database, remain a substantial challenge. National databases or statistics on irregular migration do not exist. Data are stored on very basic software programmes and criminal records are shared between the National Police Force and the Immigration Department, but a comprehensive Crime Management System, a database to assist in profiling or any other form of data exchange platform does not exist. Findings showed that these systems could be further improved.\(^{118}\)

Travel document security is low and outdated with the exception of national passports. As for border management, The Gambia’s main asset is the biometric system for passports (GAMBIS), introduced between 2012 and 2013. However, document security, in particular ID cards, is outdated and reports very low standards. Up until now, there has been no concrete initiative to promote the introduction of the ECOWAS biometric ID card. Border officials are also often not sufficiently trained to recognise falsified documents and the Immigration Department does not have appropriate tools to control and verify such documents.\(^{119}\)

\(^{116}\) Mentioned by stakeholders during the consultative meeting for this study, 7 June 2018, Banjul.
\(^{117}\) Interviews with government officials in Banjul, March and May 2018.
\(^{118}\) During different interviews, it was mentioned that digitalization throughout Government offices is very low and databases storing personal data are fragmented and spread across different departments.
\(^{119}\) Information received during the interviews conducted with officials during field missions to The Gambia in March and May 2018.
NAATIP is functioning, but its operations are limited due to scarce funding. NAATIP has a monthly budget of Dalasi 150,000 (approx. EUR 2,600) from which 10 staff are paid, leaving little for operational activities. Despite the financial constraints, in 2017, the Agency Against TIP managed to train sixty security personnel, including police and immigration officers, on the 2007 Trafficking Act and on how to report suspected trafficking cases. It also carried out awareness-raising campaigns, and training sessions for parliamentarians, judges, magistrates, schools and law enforcement academies. Public awareness campaigns on radio and television were implemented in cooperation with NAATIP, civil society organisations (CSOs), The Gambia Immigration Board, the Police and the Gambian Tourism Board – with specific emphasis on child trafficking for sexual exploitation purposes.\textsuperscript{120}

### 4.3. Prevention, protection and assistance measures

**Several activities undertaken in The Gambia aim to prevent irregular migration, but none specifically target SoM practices.** Several activities are undertaken to prevent Gambian nationals from migrating, to inform them about the situation of Gambian migrants trying to cross the Sahara and the Mediterranean Sea, and to assist them when returning to The Gambia. Returnees are provided with some psychological and social support. This study noted a few informal initiatives organised by faith-based and community-based organisations in skills acquisition and entrepreneurship with the aim of preventing irregular migration among youth. There is also the Child Protection Alliance, the National Youth Council and the Returnees Association dealing with prevention. However, government driven initiatives are far below the expected threshold to make a significant impact according interviews conducted.\textsuperscript{121}

**EU-funded projects in support of prevention and return and reintegration were launched in 2017.** There are two EU-funded projects focusing on migration-related matters. The first one, on return and reintegration, is implemented under the lead of the Ministry of Interior with a strong role played by the Ministry of Health and Social Welfare. The second capacity-building initiative is dedicated to training and employment and is implemented under the Ministry of Trade, Industry, Regional Integration and Employment. The objective of this latter project is to provide young Gambians with a prospect of work and thereby prevent them from migrating (see section 4.5 for more information).

The Government also entered into an agreement with IOM to return migrants stranded in North Africa, especially from Libya. This EUTF-funded programme started in May 2017 and its success will largely depend on the collaboration of different government departments at various administrative levels in the capital and in the provinces. The implementation of this programme has so far encountered some challenges, in particular with regard to the reintegration of returnees. The Ministries of Interior; Justice, Health and Social Welfare, Youth and Sports and the National Youth Council, Trade, Industry, Regional Integration and Employment are the principal government institutions dealing with return and reintegration. Nevertheless, there is no clearly defined policy on return and reintegration of migrants. Community and religious leaders have not been integrated so far into the planning and implementation of reintegration programs.\textsuperscript{122}

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\textsuperscript{120} Information received during the interviews conducted with officials during the field mission to The Gambia in March 2018.

\textsuperscript{121} Information received during focus group discussions, The Gambia, June 2018.

\textsuperscript{122} Information received during focus group discussions, The Gambia, June 2018.
4.4. Cooperation mechanisms and intelligence-sharing initiatives

Formal mechanisms to encourage cooperation between Government entities on migration-related matters are weak and none are dedicated to SoM in particular. As discussed above, the Inter-Ministerial Committee on Migration has been established, but it has not yet succeeded in showing continuity of work and exchange. Contacts between the Ministry of Justice, NAATIP and INTERPOL's National Bureau are close and regular. However, there are no systematic Government-led formal information exchange channels in place to discuss operational issues on migration. Most regular and relevant exchanges on migration seem to take place in the context of the above-described IOM-managed return and reintegration project through monthly meetings.

Border control and border control cooperation is set up but is faced with challenges. At the airport, the Government has set up a Joint Integrated Task Force comprising all relevant security services (Police; Immigration; Drugs Enforcement; Military and Intelligence). It collaborates with INTERPOL and collects data at the front-line, but officials participating in the study indicated that it is not clear how these data are further dealt with, and brought into a wider picture on border movements. To intercept small boats leaving for the Canary Islands, the Government has deployed some intelligence officers including naval officers along the coast. No statistics about the scale of these operations is available. At the land borders, the National Police Force hosts the Immigration Service on all border posts and is responsible for border patrol. Border control in The Gambia is a task shared by Immigration and the Police. A separate Border Police, comparable to other countries, does not exist. Border patrolling was mentioned as a problem due to logistical (transport-related) challenges. The study discovered that Italy, for example, has supported the Immigration Service with some 40 vehicles. The National Police Force, however, reports a shortage of vehicles.

The Gambia is only minimally linked to international cooperation and intelligence-sharing initiatives. National stakeholders engaged in the consultations of the study made no reference to the EU-funded INTERPOL West-African Police Information System (WAPIS) currently being established in three pilot countries (Niger, Mali, Benin); Côte d'Ivoire, Burkina Faso and Mauritania were included in the second round. This points to a general lack of involvement in and awareness of the country of this type of initiative. INTERPOL called for ‘officers in The Gambia to receive the crucial support and training they need in order to make best use of its regional and international databases’. Cooperation with EBCG in the framework of AFIC has existed for over 5 years and preparations have started with a view to the establishment of a Risk Analysis Cell (RAC) by way of a EBCG inception mission to The Gambia in the first quarter of 2018 (for more information on RAC, please see Chapter 2 of the study on the findings collected and analysed in reference to ECOWAS).

Box 3 – Law enforcement in West Africa

According to INTERPOL Secretary General: “Law enforcement in West Africa faces many challenges, from drug trafficking to human trafficking to environmental crimes. Effectively fighting these transnational crimes in Gambia requires greater collaboration throughout the region and globally, via the tools and services provided by INTERPOL ... [and] making greater use of INTERPOL’s criminal databases. ... Successfully dealing with current and emerging crime threats requires ... that frontline officers in Gambia receive the crucial support and training they need.”

123 The overall objective of the WAPIS programme is to strengthen information exchange and coordination among the region’s law enforcement agencies to combat the crimes currently affecting the region such as drug trafficking, human smuggling and terrorism.


125 Ibidem.
Formal collaboration between Government and international partners and among international partners is minimal. With the new Government in place, several European countries have reinforced their diplomatic ties with the country. Currently present in The Gambia are: the EU Delegation; the German Embassy; the British High Commission and some two dozen consulates from other European countries as well as the US Embassy. UNDP and various other UN entities have also established offices on the Gambian territory. There appears to be little structured collaboration between different national and international partners in relation to migration. For example, there are no government-partner working groups on migration, nor are there any structured exchanges among international partners on the topic. But the number of international players in the country is rather small which facilitates informal communication and exchange between them and the Government.

IOM organises regular coordination meetings in the context of the Migrant Protection and Reintegration project, but these are not strategic and do not involve all stakeholders dealing with migration in the country. The most concrete coordination among international partners and the Government are the meetings to accompany the implementation of the EU-funded Migrant Protection and Reintegration project further detailed below. According to stakeholders interviewed, these meetings are organised once or twice per month and bring together a diversity of stakeholders from Government, international partners and NGOs, but the meetings are project focused and do not constitute the right forum to discuss wider policy and strategic issues on migration.

4.5. Existing capacity-building and technical assistance projects and initiatives

Technical assistance to combat irregular migration practices is so far rather fragmented and uncoordinated. Following the political changes of 2017, support initiatives to The Gambia in general, but also specifically in the field of migration, are still in the process of being scaled up. Several donors have started supporting government services in different ways, i.e. through training, collaborative engagements, building infrastructure, etc. However, there is so far no structured coordination process in place through which the Government and international partners can jointly discuss and agree on how to deal with irregular migration across different domains.

The EU leads in the field of irregular migration and further scales up its support initiatives, but none of these, with the exception of this study, targets SoM specifically. Existing EU-funded projects in relation to law enforcement, migration, return and reintegration include:

- The “EUTF-IOM Initiative for Migrant Protection and Reintegration in The Gambia” (EUR 3.9 million), which aims to support 1,500 migrants returning to The Gambia, to reintegrate them into their communities of origin and to contribute to the strengthening of the Government’s capacity to provide sustainable reintegration support. As of April 2018, 1,852 migrants were assisted with their voluntary return to The Gambia under this programme.
- The EUTF-financed project “The Gambia Youth Empowerment Project” which is implemented by the UN International Trade Centre (ITC) (EUR 11 million) under the guidance of the Ministry of Trade, Industry, Regional Integration and Employment.
- The regional FMM West Africa project, implemented by IOM, ICMPD and ILO (see chapter on ECOWAS), which provided support to The Gambia in the compilation of the Migration Profile.
• The Gambia also benefits from the Africa-Frontex Intelligence Community (AFIC) regional project aimed at setting up a Risk Analysis Cell (RAC) (see above). The project has started in 2018 and has so far fielded an inception mission to The Gambia.
• The EU has recently deployed a security officer in the EU Delegation, whose main task will be to accompany, with other international partners, the reform of the Gambian security sector. The EU helps this sector by providing EUR 5 million support for the intervention of the ECOWAS stand-by force ECOMIG (ECOWAS Mission in The Gambia) for 2018/2019.126

Several international partners are active in the area of irregular migration,127 but efforts seem to be carried out with little or no coordination.
• The UK is funding a project with IOM for data collection and the monitoring of migration flows, as well as training courses on the detection of and fight against cross-border crime through enhanced crime scene management, investigation, profiling and interview techniques, and searches on vehicles and persons for the Police Force and the Immigration Department.
• UNODC has launched a new cross-border initiative between The Gambia, Guinea-Bissau and Senegal aiming at “Enhancing national capacities to detect and investigate cross-border organised crime in the three countries”. The official launch of the project was in December 2017 in Banjul, to support the strengthening of sub-regional cooperation between the three countries, and train elite law enforcement officers to investigate high-profile crimes and establish a solid criminal intelligence system. This activity is financed by Germany.
• For the last 12 years, Spain has been providing Guardia Civil expertise for training of immigration officers. Several projects have been implemented such as Sea Horse and Blue Sahel.
• The US funds police officers for the Botswana-based International Law Enforcement Academy. Some police training is also provided by the Government of Turkey, while Egypt provides specific anti-terrorism support. Italy, as mentioned above, funded some 40 vehicles for border controlling.

Attention to the involvement of civil society in fighting irregular migration has been rather modest but civil society itself has scarcely prioritised this issue so far. The IOM-implemented project on return and reintegration mentioned above appears to be the only migration-related support which works with NGOs at community level. Attention by the Government and international partners to civil society, however, has been rather fragmentary.128 Representatives of civil society involved in the study admitted that only few organisations in The Gambia had so far prioritised this issue and that their own coordination in this regard needs to improve.129

In general, sustainability of these initiatives will become a major issue of concern. Due to the capacity constraints of the country and the lack of financial resources, the sustainability of these projects and initiatives could be limited if external support is not provided. It is likely that the dependency on external resources will remain high for at least the short and medium term.

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127 Getting a full overview is difficult as not all partners have representations in The Gambia; the list gives some examples of relevant technical assistance initiatives.
128 The Interministerial Committee on Migration includes the civil society umbrella organisation TANGO but the Committee, as mentioned above, does not meet regularly.
129 Mentioned by stakeholders during the focus group discussion for this study, 5 June 2018, Banjul, and the consultative meeting for this study, 7 June 2018, Banjul.
4.6. Highlights of the assessment

The new Government of The Gambia has inherited a myriad of challenges, including pressing economic instability and political fragility. Many activities in relation to migration management had to be re-launched. To make the Government more effective on combating irregular migration and SoM in particular, a wide range of functions need to be built or reinforced. In summary, the main gaps identified are:\(^{130}\)

<table>
<thead>
<tr>
<th>Policy, legal, and institutional frameworks</th>
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<tbody>
<tr>
<td>• The national migration policy has not been finalised and there is no clarification on how the issue of SoM will be addressed.</td>
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<tr>
<td>• A legal framework for the countering of SoM is absent in The Gambia and there is no focal point on SoM or any institutional arrangement similar to TiP.</td>
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<tr>
<td>• Possible synergies of linking SoM-related activities and/or institutional arrangements with those of TiP have not yet been discussed.</td>
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<tr>
<th>National, regional and international cooperation mechanisms and intelligence-sharing initiatives</th>
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<tbody>
<tr>
<td>• Within Government, roles and responsibilities of the respective departments and services to coordinate and address irregular migration matters, including SoM, are not clear.</td>
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<tr>
<td>• There are calls for effective data gathering on irregular migration and its storage, analysis and sharing among relevant government departments, which presently does not exist.</td>
</tr>
<tr>
<td>• The Inter-ministerial Committee on Migration does not meet regularly and does not function as a platform to discuss irregular migration issues with all stakeholders involved.</td>
</tr>
<tr>
<td>• Migration focal points within the respective departments and agencies do not exist.</td>
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<tr>
<td>• Collaboration between law enforcement agencies of The Gambia and INTERPOL is not optimal; collaboration between The Gambia and the WAPIS project does not exist.</td>
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<tr>
<td>• Document security is low and civil registry and the availability of vital statistics is fragmented and not computised. A biometric ID card system is envisaged but concrete plans to build it are not known.</td>
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<tr>
<th>Enforcement mechanisms and operational capacities</th>
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<tr>
<td>• A Government-international partners working group on migration to help translate policy into concrete areas of operation does not exist, neither does any regular formal exchange among international partners on how to deal with irregular migration in the country.</td>
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<tr>
<td>• The country faces several challenges with border control and the registration and analysis of cross-border movements, lack of support infrastructure but also training of immigration officials and legal staff (Immigration Department/ National Police).</td>
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<tr>
<td>• Investigation and prosecution suffers from a lack of capacities, including human resources and logistical means. There is scope for better operational support and training for investigations and for legal staff involved in prosecution (Min. of Justice and The Gambia Police Force – prosecution is a task split between both departments).</td>
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<tr>
<td>• There is ample scope to improve collaboration between ministries and international partners dealing with return and reintegration.</td>
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<tr>
<th>Prevention measures against the smuggling of migrants, actions to protect vulnerable groups, and assistance with the return and reintegration of migrants</th>
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<tbody>
<tr>
<td>• Prevention and reintegration activities, such as vocational training of youth and (self-) employment creation programmes are insufficient.</td>
</tr>
<tr>
<td>• Civil society, including community and religious leaders, is not sufficiently involved in debates and activities relating to the prevention of SoM and the return and reintegration of migrants.</td>
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\(^{130}\) Mentioned by stakeholders during interviews conducted during three country visits (March, May and June 2018); the focus group discussion for this study, 5 June 2018, Banjul, and the consultative meeting for this study, 7 June 2018, Banjul.
CHAPTER 5. PREVENTING AND FIGHTING MIGRANT SMUGGLING IN GUINEA

General context

The Republic of Guinea currently features among the countries with the highest numbers of irregular migrants entering the European Union. In 2016 and 2017, Guineans were among the top three African nationalities reported to illegally cross the EU borders via the central Mediterranean route, accounting for 12 per cent of the overall clandestine entries at border control points.\(^{131}\)

Migration dynamics in Guinea are comparable to those of neighbouring countries. According to experts involved in the study, loose networks of smugglers are interconnected across the transit points along the migratory route to facilitate the journey of irregular migrants. Intermediaries provide false documents to allow migrants to cross the borders. In addition to falsified documents, very frequently the personal information provided in the documents is false and/or unverifiable as a fully operational and digitalised civil registry service is lacking. There have also been some cases of false warrants for arrest used by migrants who have arrived in Europe to motivate their request for asylum on grounds of persecution or discrimination.\(^{132}\) The lack of digitalisation of legal and administrative documents renders the identification of such false warrants a lengthy process. Overall in Guinea, information on the actual migration dynamics is poor and scattered, and is mostly based on anecdotal evidence or on the accounts of returnees or migrants’ friends and relatives.

The main irregular migration routes from Guinea to Europe are:

- from Senegal through Mauritania and Morocco to Europe;
- from Mali through Algeria and Libya to Europe;
- from Mali through Niger and Libya to Europe.

The relevance of this last route is also confirmed by data received from the Ministry of Foreign Affairs related to Guineans repatriated from Libya (2,355 persons) and from Niger (1,430 persons) in the period from January 2017 to March 2018. Smuggler networks are in fact reported to be active in Agadez, Niger.\(^{133}\) Hotspots on the country’s territory for prospective migrants are: Beyla, Zekulu and Kissidougou in Forest Guinea, near Liberia \(^{1}\); KanKan and Sigiri in Upper Guinea, near Mali \(^{2}\); Boké in Lower Guinea \(^{3}\); and Mamou, Pita and Labé in Middle Guinea, near Senegal \(^{4}\).\(^{134}\) However, very little information is available on the methods of operation of smugglers’ networks at departure points. There is also no data available in Guinea on the number of migrants using smuggler networks. According to Europol, over 90 per cent of migrants who reached Europe illegally in 2016 did so thanks to smugglers.\(^{135}\)

\(^{131}\) Frontex (2018), cit.

\(^{132}\) Information collected from the consultative meeting in the context of the study held in Conakry on 20 June 2018.

\(^{133}\) See among others UNODC (2018), cit., p. 54.


The profile of Guinean migrants is also similar to those of neighbouring countries. The great majority of migrants are young people aged 18-30 migrating for economic reasons. Irregular migration mostly involves young males, although women are also concerned and often end up as victims of trafficking. According to data of the International Organization for Migration (IOM) on returnees, migrants primarily seem to come from the region of Mamou. The Government of Guinea, with the support of IOM, will very soon publish a report outlining the migrant profiles.

Estimates of numbers of irregular migrants are not available, as centralised and systematised collection of data and information on migrations issues is lacking. Some data are nonetheless collected by different institutions at different levels, such as: the National Institute of Statistics, within the Ministry of Planning and International Cooperation; specific services of the Ministry of Security (in particular the National Directorate of Air and Border Police), the National Directorate of Guineans Abroad, and the IOM. However, existing data are often not comparable or are contradictory, being collected with different methods and scopes. Analysis of the limited available data is also generally weak.

5.1. Policy, legal and regulatory frameworks for the investigation and prosecution of migrant smuggling and related offences

5.1.1. Legal and administrative framework

The Guinean government has signed and ratified several conventions and international treaties relative to the smuggling of migrants and related offences, namely: 1) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; 2) the UN Convention against Transnational Crime; 3) the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and 4) the UN Protocol against the Smuggling of Migrants by Land, Sea and Air.

In general terms, the national legal framework is coherent with the measures set out by the UN Protocol against the Smuggling of Migrants. In order to incorporate these conventions into its national legal framework, the country amended its Children’s Code, its Labour Code and its Penal Code. In particular, the Guinean Penal Code and the Code of Criminal Procedure were revised in December 2016 to include, among other elements, the criminalisation of human trafficking and of the SoM, thereby filling a previous legal loophole. A series of specific provisions apply to SoM (Articles 334 to 340 in Section IV of the Penal Code), in line with the UN Smuggling Protocol.

Smuggling of migrants is punishable by 1 to 3 years in prison and/or a fine ranging from 5,000,000 to 10,000,000 Guinean francs (GNF) (approx. EUR 500 to 1,000). If the offence is committed by an organised criminal group, Article 335 of the Penal Code provides for a 3- to 5-year prison sentence and a fine ranging from GNF 10,000,000 to GNF 50,000,000 (approx. EUR 1,000 to 5,000).

Art. 336 of the Penal Code further criminalises the act of producing, procuring, providing or possessing fraudulent travel or identity documents when done with the purpose of enabling illegal entry into another country. Participating as an accomplice is punished with the same penalties as applied to the offender (art. 337 of the Penal Code). Specific aggravating circumstances are: endangering the life or safety of the migrant, inflicting inhuman or degrading treatment, and exploitation. Finally, attempt is criminalised (art. 338 of the Penal Code), and legal entities can also be held liable for the commission of the offences in Section IV of the code.

136 The measures included in the Penal Code can be considered coherent with the UN Protocol based on the “Legislative Guides for the Application of the UN Convention against Transnational Organised Crime and the protocols thereto” published by the UNODC in 2005.
Trafficking in persons is an offence covered by a different section of the Penal Code ("Section III: Trafficking in Human Beings", Articles 323-333). The crime is punishable by a 3- to 7-year prison sentence and/or a fine ranging from GNF 500,000 to 10,000,000 (approx. EUR 50 to 950).

The Penal Code also contains specific measures concerning other offences, often committed in preparation for or in connection with the smuggling of migrants (such as corruption, document fraud, or money laundering). Article 161 cites participation in organised crime as a specific aggravating circumstance. The legal framework surrounding organised crime should nonetheless be reinforced to reflect international standards, namely measures concerning special investigative techniques provided for in article 20 of the UN Convention on Transnational Organised Crime.

In terms of application, the provisions of the Penal Code, including those on the smuggling of migrants, need to be enforced more efficiently. Measures concerning SoM are of recent introduction, and the legal framework is scarcely and unevenly applied across the country. This is due both to the fact that the new Penal Code provisions have not been sufficiently popularised (the code is only available in French and not in the local languages), and to a dire lack of resources, infrastructure and equipment. Also, according to experts and practitioners interviewed, the sentences and fines actually applied are often minimal and insufficiently dissuasive.

5.1.2. Policy framework

Migration issues, and more specifically the fight against trafficking in persons and the smuggling of migrants, have only recently been raised among Guinea's national priorities. This was illustrated by the inclusion of these offences in the new Penal Code, and the creation of a specific entity to deal with these matters (see 5.2.1 below). Although TiP has received far more attention than the smuggling of migrants, a national migration policy is currently being created by the Ministry of Foreign Affairs and of Guineans Abroad with technical and financial support from the IOM, although it is not known when it will be finalised and adopted. The stakeholders interviewed during this assessment also discussed the need to adopt more comprehensive legislation on smuggling of migrants, complementing the provisions of the penal code, with measures aimed at the protection and reintegration of trafficking victims and returning migrants.

5.2. Institutional and enforcement mechanisms, operational capabilities, capacities and tools

5.2.1. Institutional and Enforcement Mechanisms

There are several institutions in charge of issues related to smuggling of migrants, which provides evidence of the attention paid to these issues by the government. However, coordination is a challenge due to a lack of information sharing and of inter/intra-departmental communication. In the current institutional context, there is a risk of overlapping and duplicating efforts, as well as fragmentation of existing initiatives. Insufficiency of human, technical and financial resources also prevents the authorities and various departments from completely fulfilling their roles.

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138 This topic was extensively discussed during the consultative meeting held in Conakry on 20 June 2018.
The Ministry of Foreign Affairs, through the Directorate for Guineans Abroad, plays a leading role on the issue and is also in charge of the country's migration policy. In February 2017, the government established the “National Committee for the Fight against Trafficking in Persons and Related Practices” (CNLTPPA). The Committee is composed of the Ministry of Territorial Administration and Decentralisation, the Ministry of Social Affairs, the Ministry of Foreign Affairs and of Guineans Abroad, the Ministry of Justice, the State Ministry for Security and Civil Protection, the Spanish embassy and representatives of civil society. CNLTPPA's main objective is to coordinate the efforts made by various stakeholders towards preventing and fighting against TiP, although the Committee is also responsible for smuggling of migrants. The Committee meets during biannual ordinary meetings. It has developed a Plan of Action against trafficking (“Plan of Action to Advocate the Fight against Trafficking in Persons for Forced Labour Abroad” (2018-2019)) that is currently being updated. The Committee unfortunately lacks the necessary resources to function correctly and to implement its Plan of Action, despite its budget being registered at the Ministry of Social Action, in line with Founding Decree No. 039 PRG/SGG of 17 February 2017.

Although several authorities are involved in preventing and fighting SoM, with CNLTTPA coordinating their respective efforts, their effectiveness is far from satisfactory: there are few observable investigations on smuggling of migrants and few smugglers are prosecuted and convicted compared to the sheer scale of irregular migration. These shortcomings seem related to coordination problems, as well as to a lack of information and communication.

National institutions and services in charge of migration issues do not have bodies/departments solely dedicated to fighting the smuggling of migrants. Within the State Ministry for Security and Civil Protection, various departments intervene, sometimes with little coordination:

- **The National Directorate of Air and Border Police (DNPAF):** responsible for border control and for issuing travel and identification documents for Guinean citizens abroad, in collaboration with the Ministry of Foreign Affairs;
- **INTERPOL's National Directorate (NCB):** responsible for carrying out investigations, enforcing national laws and reinforcing national security, with direct access to INTERPOL databases on wanted individuals, stolen vehicles and lost or stolen travel documents;
- **The Judicial Police (PJ):** responsible for reporting offences, identifying perpetrators and assembling pieces of evidence under the direction of a prosecutor;
- **The Office for the Protection of Gender and of Minor Children (OPROGEM):** a police agency specialised in fighting violence against women, children and vulnerable individuals. OPROGEM is also in charge of raising awareness and providing training on the issue of violence against women. The Office also has a data collection system for police investigations related to woman and child trafficking victims;
- **The Central Office against Organised Crime (OCLCO):** a special department placed under the orders of the Presidency of the Republic, operating nationwide to fight national and cross-border organised crime. The department is composed of elite police units, the gendarmerie and army forces trained in investigatory procedures.

In summary, several departments are in place, but their activity remains scattered, while a holistic approach would be necessary. The mandates guiding the authorities and departments involved should be revised, and a specific body should be put in charge of coordinating issues relative to trafficking in persons and smuggling of migrants.
5.2.2. Operational Capabilities, Capacities and Tools

In terms of the investigations on SoM-related cases, some positive developments must be noted since the new Penal Code was adopted, though progress still remains to be made. The General Secretariat to the Presidency in charge of special services and the fight against drug trafficking, organised crime and financial and economic offences, reports that between 2016 and 2017, twelve people (some of whom were Guinean nationals) were arrested by the police and faced trial for trafficking in persons and smuggling of migrants.

With regard to the prosecution of offenders, there are no national statistics on past legal procedures and court decisions to help evaluate the effectiveness of the country’s legal actions. According to the information obtained during the present assessment, 11 cases of trafficking in persons or migrant smuggling have been presented before the Court of Mafanco in Conakry (which counts among the nation’s courts with the most cases of migrant smuggling) since 2017. Three of these cases pertained to TiP and the perpetrators have already been sentenced; the other eight cases concern in flagrante delicto and the final verdict remains to be pronounced.

The difference between the smuggling of migrants and trafficking in persons seems to be generally well understood at the higher levels of government. However, nationwide training specifically focused on SoM is necessary for players across the law enforcement chain, namely border police, police departments and gendarmerie, and judicial police officials in charge of investigations and prosecution.

According to the people interviewed, corruption is a recurring element used to facilitate irregular migration as well as prevent investigations and prosecutions. No data on the scale of the phenomenon, on the people involved or on existing anti-corruption measures to prevent these practices is available.

The nation’s limited capabilities in terms of border management and control, infrastructure and equipment, along with low document security hinder the preventive efforts against SoM.

5.3. Prevention, protection and assistance measures

A number of measures for prevention, protection and support for vulnerable migrants exist, although only few are directly linked to SoM.

The National Plan of Action currently being updated by the CNLTPPA will cover aspects related to the prevention, protection and the fight against TiP, as well as the rehabilitation of trafficking victims. Though the Committee is also in charge of issues regarding the smuggling of migrants, it is not yet clear whether the National Plan of Action against trafficking will include specific elements on this crime.

Assistance to women and children who are victims of trafficking is mandated to OPROGEM, which also implements awareness-raising campaigns to provide information to vulnerable individuals in cooperation with its institutional partners.

The return of migrants is under the responsibility of the National Department for Humanitarian Action (SENAH) which operates in synergy with the IOM. Some projects for facilitating the socio-economic reintegration of returned migrants are carried out in Guinea by the IOM. It offers support for the creation of micro-credit projects providing wage subsidies to encourage employment, and vocational training to boost the returned migrants’ skills and employability. In collaboration with the Ministry of Technical and Professional Training and with the Ministry of Higher Education and Scientific Research, IOM also advocates and facilitates the return to school of young returning migrants having dropped out of education.
The IOM also provides training courses on the topic of TiP, but none on the SoM as of yet. To date, it has not yet created any campaigns to help prevent the phenomenon.

The impact of these measures seems limited for the moment, namely in terms of preventing smuggling of migrants. The latter remains a new topic, drawing little attention for the moment. Advocacy activities lack coordination at a central administration level. Awareness-raising campaigns are launched for distinct projects and last for limited periods of time.

5.4. Cooperation mechanisms and intelligence-sharing initiatives

The current deficiency of cooperation in terms of intelligence and information sharing between different services and authorities\(^{139}\) could hinder effective investigations and prosecutions, and not only for smuggling of migrant cases. In order to address cooperation issues, the participants’ different competences must be defined clearly. Legal action must also be coordinated and directed by the prosecutor, who oversees the direction and supervision of the Judicial Police during investigations and prosecutions.

As mentioned above, in terms of inter-ministerial cooperation and communication, the CNLTPPA is mandated to create synergies between various actions carried out by the different entities represented. However, funds are currently insufficient for it to function efficiently and the Committee primarily focuses on TiP. According to the information gathered concerning the EU Trust Fund, there are plans to set-up a national consultation framework covering all aspects of migration, placed under the supervision of the Prime Minister’s office.

At an operational level, OPROGEM and INTERPOL’s NCB frequently cooperate on different matters. Present exchanges of intelligence mainly focus on other forms of trafficking (such as trafficking in vehicles), although it also concerns TiP and SoM. This topic is also the subject of intelligence exchanges between INTERPOL Guinea, and the regional office in Abidjan, Côte d’Ivoire. When it comes to repatriating migrants and managing them on arrival at Conakry airport, close cooperation can be observed between the National Directorate for Guineans Abroad, the National Department for Humanitarian Action (SENAH), the National Directorate of Air and Border Police, and the IOM.

In conclusion, intra/inter-department cooperation and intelligence sharing, particularly concerning the smuggling of migrants, needs to be reinforced. A National Migration Policy is being created and could prove a highly effective tool for revising mandates and reinforcing the capabilities of all the relevant stakeholders.

The EU delegation also leads coordination on migration issues, including contact points from EU Member States and various Ministries, namely the Ministry of Foreign Affairs and the Directorate for Guineans Abroad. Coordination seems to be efficient in this context. This could provide a pertinent platform for addressing the specific topic of the smuggling of migrants in further detail. Certain EU Member States (France, Germany, Italy, Spain and the United Kingdom) also directly support the country via various initiatives linked to migration, though not specifically to the issue of preventing and fighting the smuggling of migrants.

At ECOWAS regional level, national institutions occasionally cooperate on cases of trafficking in persons and related practices, including the smuggling of migrants. This is done via a sub-regional sharing platform between Guinea, Senegal, Gambia, Guinea Bissau, Mali and Mauritania in the context of the Free Movement and Migration (FMM) project in West Africa. As regards intelligence sharing, experts interviewed during this assessment

\(^{139}\) The representatives of the authorities and departments involved acknowledge this fact, which was greatly debated during the consultation meeting in Conakry on 20 June 2018.
recommended extending INTERPOL’s “I-24/7” database to other departments (such as the gendarmerie) and to ensure access is possible from all police offices across the country to overcome delays in intelligence sharing and to accelerate investigations and prosecutions.

5.5. Existing capacity-building and technical assistance projects and initiatives at regional and national level

The assessment discovered a pressing need to reinforce the operational capabilities of all stakeholders in the criminal justice system and of civil society players. Furthermore, so far there has been no initiative to provide technical assistance or specific training on smuggling of migrants. Sub-regional seminars designed to reinforce capabilities are occasionally organised, mainly focusing on trafficking in persons. Very few actions can be observed at a national level; for example, there are no specific capacity-building initiatives against SoM.

Priority must also be given to technical assistance aimed at reinforcing border management and control, in order to properly cover all of the country’s borders. There are substantial shortcomings in the surveillance of clandestine border crossings. This calls for the swift introduction of specially equipped mobile brigades and forest rangers, tasked with checking documents and individuals, border surveillance, and guarding crossing points.

5.6. Highlights of the assessment

The information gathered so far on issues concerning the smuggling of migrants allows us to draw the following conclusions:

<table>
<thead>
<tr>
<th>Policy, legal, and institutional frameworks</th>
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<tr>
<td>• The country does not yet have a National Migration Policy.</td>
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<tr>
<td>• The legal framework addressing organised crime does not optimally incorporate all measures set out by the UN Convention against Transnational Organised Crime (namely measures on special investigative techniques).</td>
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<tr>
<td>• Corruption facilitates smuggling and impedes investigations. Very little information is available on the measures taken to prevent corruption or on the number of cases investigated.</td>
</tr>
<tr>
<td>• Guinea’s civil registry and administration are not computerised, which explains the lack of security around civil status and administrative documents (birth certificates, passports, court judgements, warrants, etc.)</td>
</tr>
<tr>
<td>• The legal and political frameworks (namely the new Penal Code) addressing smuggling of migrants have not been made accessible to all stakeholders in the legal system (detection, investigation, prosecution and conviction).</td>
</tr>
<tr>
<td>• Apart from the provisions contained in the penal code criminalising SoM, there is no specific instrument providing for measures on prevention, support and protection for vulnerable migrants.</td>
</tr>
<tr>
<td>• The lack of systematic data collection on migration means that there are no estimates of the number of irregular migrants (and thus, the percentage of them using smuggler networks). The existing data is often fragmented, incomplete or contradictory.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>National, regional and international cooperation mechanisms and intelligence-sharing initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>• SoM dynamics in Guinea resemble those found in other countries studied in this assessment, and so does the average profile of irregular migrants. Cross-border travel is facilitated by more-or-less professional smuggler networks, companies and individuals (including opportunistic individuals) who profit from the smuggling business. Information is, however, scarce.</td>
</tr>
<tr>
<td>• National, bilateral and multilateral cooperation around SoM is not optimal.</td>
</tr>
<tr>
<td>• Intra/inter-departmental cooperation and intelligence sharing, particularly concerning smuggling of migrants, is unstable due to a lack of standard protocols to facilitate intelligence sharing.</td>
</tr>
<tr>
<td>• Several institutions are in charge of issues linked to migrant smuggling by virtue of their respective mandates. However, there is a lack of coordination that fosters the risk of fragmented or duplicated efforts.</td>
</tr>
</tbody>
</table>
### Enforcement mechanisms and operational capabilities

- Stakeholders in the legal system, State authorities (namely the Ministry for Child Protection, national administrators and the Ministry of Foreign Affairs) and members of civil society in charge of fighting trafficking and smuggling of migrants all have limited power.

- The lack of technical and financial resources allocated to the National Committee for the Fight against Trafficking in Persons and Related Practices (CNLTPPA) prevents it from efficiently fighting against the smuggling of migrants.

- Border police officers, particularly those involved in the surveillance of clandestine travel (including mobile brigades and forest rangers) are not given enough technical equipment in order to physically check documents, and lack the competences to do so.

- Officers of the National Directorate of Air and Border Police (DNPAF) are not trained in matters of legal investigation. Specialised officers are needed.

- INTERPOL’s “I-24/7” database is not accessible to other departments (only to the police), whereas it could be used to rectify the lag in intelligence sharing and to accelerate investigations and prosecutions in the legal system.

### Prevention measures against the smuggling of migrants, actions to protect vulnerable groups, and assistance with the return and reintegration of migrants

- The population has not been targeted by enough awareness-raising campaigns that provide them with verified information on trafficking and on the smuggling of migrants. Such campaigns can be rolled out via social networks, radio, theatre, the online press, NGOs and civil society.

- There are very few programmes for the protection and reinsertion of trafficking victims or repatriated migrants.
CHAPTER 6. GENERAL CONCLUSIONS

The needs assessment study has addressed some aspects of the dynamics around the smuggling of migrants, as well as shedding light on the legal and policy frameworks and practices in Côte d'Ivoire, the Gambia, Guinea and the ECOWAS region more widely.

Smuggling of migrants takes place in complex contexts, characterized by porous borders; strong incentives for segments of the population to engage in irregular and facilitated migration; endemic corruption; as well as large profits generated from the smuggling business, which as such follows general rules of supply and demand. The ECOWAS Free Movement Protocol adds to this complexity, as it allows freedom of movement for citizens of ECOWAS member states provided that they have valid documents. This renders it difficult to investigate and prosecute migrant smugglers at the early legs of the journey.

Increased demand for irregular migration towards Europe in the three focus countries of the study and in the West African region has been partly driven by political instability and conflict, severe socio-economic conditions and a general lack of opportunities for youth, coupled with limited legal channels overseas that cannot satisfy the total demand for regular migration. The scope of the motives triggering migration is diverse – ranging from political oppression and poverty to ‘adventurism’ and the desire to escape from a life with feeble prospects often incompatible with young people’s aspirations. The resulting experiences, the varied routes, the flexibility of smugglers, as well as the underlying political economy of smuggling, therefore demands differentiated and comprehensive approaches to preventing and fighting SoM.

A nuanced, development-oriented set of actions is essential to address a number of aspects that have allowed the smuggling business to thrive. A response focusing on security or criminal aspects of SoM, as well as law and police enforcement, is unlikely, alone, to provide successful sustained progress in reducing migrant smuggling and may even exacerbate the vulnerability of those on the move.

Whilst irregular migration, and TIP specifically, have been generally more discussed and addressed, the prevention of and fight against the smuggling of migrants has, until recently, not been an area of attention in the three countries, nor at the ECOWAS level. Political leadership and incentives to systematically address this phenomenon have been absent, as governments have not considered the issue to be a priority. Yet, the country chapters also reveal some initiatives and/or administrative and legislative changes promising valuable steps in advancing legal, institutional and operational frameworks for preventing and fighting SoM.

All three countries do not have fully functioning civil registries and face challenges in acquiring reliable digitalised data on their citizens. The introduction of biometric passports and ID cards as foreseen by the ECOWAS Free Movement Protocol, which is at its preliminary steps in Côte d’Ivoire, is already raising technical, legal, managerial and financial challenges for the countries’ administrations. Systems are far from being fully digitalised – which would be an important first step towards better addressing document fraud. A sound capacity to detect forgery could indirectly help address migrant smuggling practices. Other services, such as law enforcement and the justice system, would also greatly benefit from such digitisation.

Legal, policy and administrative frameworks in relation to migrant smuggling
All countries in ECOWAS (except Guinea Bissau) have signed and ratified the UN Protocol against the Smuggling of Migrants, yet progress in introducing adequate domestic laws or operationalizing a response towards SoM has been slow. Out of the three countries, only Guinea has integrated specific provisions against SoM, criminalizing it in its penal code, but
with limited operational capacity to implement them. Offences in relation to smuggling are considered administrative rather than criminal, or are punished with low fines and penalties – thus not always providing effective deterrents. In all the countries, legislation on and actions against trafficking in persons have received much more attention than migrant smuggling. A number of countries within ECOWAS have formulated, or are in the process of formulating, migration strategies that include aspects on SoM – for example Ghana, Senegal and the Gambia. Experience from other countries shows that learning from anti-trafficking experience and expanding the legal, policy and administrative frameworks, so as to also cover smuggling of migrants, could be considered a possible entry point.

Current policy changes and developments offer opportunities to highlight smuggling of migrants more prominently in all three countries. Yet, introducing efforts to reduce SoM is a highly sensitive and not always a popular issue with the government and/or public opinion, which erroneously perceives them as an attempt to prevent migration altogether. Having ratified the UN Smuggling of Migrants Protocol, countries are requested to criminalise the conduct of smuggling of migrants. However, the consensus on how and the extent to which migrant smuggling should be criminalized varies greatly across countries.

Ultimately, while basic legal and administrative frameworks to build upon exist in all the three countries, they are currently not adequately equipped to address SoM. Even where law has been developed on related crimes connected to smuggling (e.g. trafficking in persons, organized crime and other serious crimes), the presence of legal loopholes prevents the effective implementation of criminal justice mechanisms. These loopholes and other legal grey areas, together with the existence of the ECOWAS Free Movement Protocol and the lack of borders with countries outside the ECOWAS, facilitate the practice of smuggling in all three countries. Moreover, a general lack of specialised structures and capacities to properly address smuggling of migrants along the law enforcement chain hinders effective implementation of existing laws and policies.

**Institutional frameworks, enforcement mechanisms and operational capabilities**

Institutionally, structures underpinning efforts against the smuggling of migrants in Côte d’Ivoire, the Gambia and Guinea are often not sufficiently empowered, and only few champions exist within government structures that focus on smuggling-related issues. Within the ECOWAS region, only a few countries have established dedicated focal points or units with a sole focus on migrant smuggling. In the past years, contrary to SoM, stronger structures and systems have been developed for trafficking in persons. Capabilities are low across the different functions that are necessary to address migrant smuggling – from investigation to prosecution. Aside from political interest, missing equipment, e.g. vehicles and radio communication, as well as gaps in human resources, data and intelligence, hinder an effective response.

Moreover, the effective prevention of smuggling of migrants requires cooperation and coordination within and between government departments, national institutions and non-state stakeholders at regional, national and local levels. The study found that some mechanisms for intra- and inter-government agency coordination at the national level exist, but these are not fully operationalised and, as a result, are not fulfilling their intended functions. Unclear division of tasks among the different stakeholders, fragmentation and overlapping of mandates, as well as a general lack of incentives for collaboration may be some of the underlying reasons for their mal-functioning. This ultimately leads to little cohesion and hinders the ability for efficient and timely responses. Information exchange and coordination efforts in some cases take place only in the context of EU/external partner-led, or IOM-managed projects, and through the organisation of occasional meetings bringing together different stakeholders. Yet, while such meetings facilitate contact, these are not suited to strategic discussions, nor are they the right forum for wider-ranging policy discussions on irregular migration and SoM.
While awareness of smuggling practices exists, lower echelons of government and law enforcement officials across the national territory in the three countries are not sufficiently sensitised to smuggling of migrants and trafficking in persons, and systematic data collection is scarce, if not non-existent. Regular information sharing and analysis of sensitive data across government and security agencies has received little practice in all three countries.

The collection and use of data and statistics on irregular migration and smuggling of migrants is a substantial challenge. Even the more in-depth analysis is lacking the data needed to design effective, evidence-based anti-smuggling programmes. Relevant data is scarcely collected and thus non-existent, patchy or unreliable. Where data exists, it is frequently not analysed and so not directly fed into policy processes or shared among relevant agencies. Information systems to collect, store, analyse and share data between agencies and departments are generally not in place. Insufficient channels exist to feed existing information into the wider decision-making structures.

**Prevention measures against irregular migration and return and reintegration**

Beyond the prevention mechanisms that should necessarily be embedded in the international, regional and national legal frameworks, several other methods need to support and reinforce the focus on prevention. Prevention should, in fact, be at the centre of any comprehensive approach to migrant smuggling. A thorough approach to prevention takes into consideration the political economy and the social ecology of territories and states, to then focus on multiple thematic policy areas that are key to addressing the smuggling of migrants. Prevention does not only include the sensitisation of prospective irregular migrants, but also implies providing alternatives to irregular migration in the form of economic livelihoods, vocational training, education, job prospects, as well as providing information on existing legal migration channels. It is also fundamental that prevention efforts be designed and implemented with deep engagement of local players at the grassroots level.

Over the past years, a number of efforts have focused on dissuading migrants to engage in facilitated irregular migration. The assessment found that, to date, the majority of initiatives are designed to inform about the dangers of a smuggled journey and to provide information about legal alternatives. However, these initiatives have been found to lack the scale or duration needed to produce a long-term sustainable impact, and to be ineffective in conveying convincing messages. As such, they have, so far, not been fully able to counter the strategies of those smuggling networks that, often through social media channels, evoke false hopes about life in Europe.

Therefore, the study suggests that any meaningful information campaign aimed at preventing SoM needs to: (a) fully understand the cultural and socio-economic realities triggering the desire to migrate and the willingness to resort to irregular and illegal means to do so, as well as the narrative used by smugglers to manipulate this demand; (b) be able to connect to the ideas discussed by youth culture; (c) convey legitimate messages and accurate pictures of the realities of irregular migration without being perceived as a dissuasion campaign; (d) select legitimate messengers and channels. The study further found that several projects exist with the aim of preventing irregular migration at large and thus indirectly reduce demand for SoM. Nonetheless, they are usually not coordinated and only have limited time spans. More evidence needs to be collected on the impact of these measures and more coordination needs to be promoted, in order to ensure widely accepted narratives.

Return and reintegration efforts exist, yet they are often not under the umbrella of overarching government strategies that could guide efforts on the development of communities affected by irregular migration and migrants return. While holistic efforts for return and reintegration and territorial development have generally been praised by the stakeholders interviewed during the research, the analysis also demonstrated that existing programmes in this field are too small-scale to offer alternative opportunities or act as game-changers at large.
Cooperation of donors and international players
Finally, there seems to be little structured collaboration between different national and international players in relation to SoM and related aspects. Due to the increase in irregular migration and SoM in recent years, European donors and international players have a strong interest in supporting countries willing to address migrant smuggling and irregular migration, and the number of cooperation projects has increased. In the three countries focused on in this study, a growing number of projects relating to prevention, awareness-raising, capacity building for law enforcement, data collection or broader migration management has been implemented with the support of a variety of donors and partners. Nonetheless, these activities are often carried out with little or no concerted strategy or operational coordination. This may well have resulted in missed opportunities to generate synergies, play a more transformative role and contribute to the sustainable prevention of and fight against migrant smuggling.

In conclusion, some overall recommendations can be drawn to address the identified gaps and needs:

Overall recommendations from the study:

**Policy, legal, and institutional frameworks**
- Through policy dialogue and technical assistance, the EU and its partners should promote the domestication of all the provisions of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2003), along with those of the UN Convention against Transnational Organised Crime (2000).
- The EU and its partners should support national governments and the regional level in mainstreaming the issue of irregular migration and SoM in particular, into national and regional policy frameworks.
- In line with the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2003), the EU should support its partners at the national and regional levels to set up focal points against the SoM and institutionally embed these into relevant institutional structures.

**Enforcement mechanisms and operational capacities**
- The EU should support national governments and the regional level in formulating action plans against the SoM and irregular migration and provide technical assistance for their implementation.
- At regional level, the EU should assist the ECOWAS Commission in promoting vis-à-vis its member states the implementation and monitoring of SoM action plans as well as plans to cut down and eradicate irregular migration.
- At national level, the EU should assist its partners to enhance operational capacities in the areas of: border management and control; improvement of document security (promote the implementation of the ECOWAS ID card); civil registration; data collection, storage, analysis and dissemination; and investigation and prosecution of irregular migration practices through requested technical assistance personnel, providing advice, conducting training, etc.
- At both national and regional levels, the EU should support national governments and ECOWAS in learning from the implementation of programmes targeting TIP in terms of its institutional functioning, prevention programmes implemented, legal investigations and prosecution, etc.

**Measures for preventing the smuggling of migrants, actions to protect vulnerable groups, and assistance for the return and reintegration of migrants**
- At national and regional levels, the EU should support programmes implemented by Governments and civil society to raise awareness about SoM, with a particular focus at community level.
- The underlying drivers of irregular migration, in particular youth unemployment, little opportunity for professional growth and the lack of (technical) skills and abilities among the young population should be addressed by the EU and its partners by supporting the implementation of more comprehensive response programmes addressing these issues.
- The EU and its national and regional partners should continue providing assistance to reintegration programmes at the level of local communities in particular so that migrant return and reintegration programmes become more effective. In the support provided for prevention, protection of vulnerable groups and return and integration, the EU and its national and regional partners should pay more attention to the involvement of civil society as its potential in fighting SoM and irregular migration has not been fully exploited so far.
### National, regional and international cooperation mechanisms and intelligence-sharing initiatives

- The EU should assist national governments to better cooperate with neighbouring countries and ECOWAS on joint collaboration and capacity-building programmes aimed at combating irregular migration and SoM, in particular.
- The EU should promote more coherent approaches for linking regional initiatives, such as WAPIS and AFIC/RAC, more strongly to national strategies and action plans against irregular migration and SoM, including the reform of police and intelligence services at national levels.
- Through policy dialogue and technical assistance, the EU should support national governments to better coordinate irregular migration-related issues within government but also between government and international partners through regular political coordination meetings as well as technical coordination working groups.

### Existing capacity-building and technical assistance projects and initiatives

- The EU and its national, regional and international partners should seek strategic, financial, programmatic and operational coordination of initiatives for the prevention of and fight against SoM and other capacity-building and technical assistance programmes implemented at national and regional levels.
ANNEX 1 – BIBLIOGRAPHIC REFERENCES


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Needs assessment on the smuggling of migrants covering Côte d'Ivoire, The Gambia, Guinea and the ECOWAS
ANNEX 2 – HOW COUNTRIES IN THE ECOWAS REGION ADDRESS SoM

1. Has your country’s government appointed a SoM focal point?
2. Has your country’s government created a SoM unit within one of its departments?
3. If the answer is yes to one of questions 1 & 2, in which institution has this been established?
4. If a SoM focal point and/or SoM unit exits, have they been merged with the TiP unit/department?
5. Does your country have a migration strategy (or is in the process of formulating one) and,
6. If yes, is SoM mentioned as an area of attention?
7. Has your country’s government made changes in its legal framework to address SoM?
8. If not, has this issue been discussed by the government and/or is the government in the process of preparing legal changes to address SoM?

Table 1: How countries in the ECOWAS region address SoM

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<thead>
<tr>
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<td>yes</td>
<td>yes (3)</td>
<td>yes (4)</td>
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<td>no</td>
<td>yes (6)</td>
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</tr>
<tr>
<td>Benin</td>
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<tr>
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<td>-</td>
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<td>Guinea C.</td>
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<td>n/a</td>
<td>yes (20)</td>
<td>-</td>
<td>yes (21)</td>
<td>no</td>
</tr>
</tbody>
</table>

*n/a: information not available

Based on a short survey of the FMM West Africa Project (Abuja) among its country offices in the region (June 2018).

(1) Situated in the Ghana Immigration Service (GIS), called the anti-human smuggling and trafficking in persons (AHSTIP) unit
(2) Yes in GIS. Though the Ghana Police Service (which is the TiP focal institution by law, Act 694 of 2005) has a designated unit, the Anti-Human Trafficking Unit.
(3) Ghana has a National Migration Policy (2016) which specifically mentions SoM (under chapter 4.2.2 inter alia). A National Action Plan was also developed under the ACCBP Counter Migrant Smuggling project.
(4) Yes. In 2012, the Migrant Smuggling Act, Act 848 was passed by parliament. This was an amendment to the Immigration Act of 2004 (Act 573).
(5) Yes, the fight against Smuggling of Migrants is mentioned in the National Migration Policy document but is still associated with the fight against Trafficking in Persons and focuses on the fact that “more efforts and more institutional functioning structures are needed to deal with this phenomenon.”
(6) The Law No. 2005-06 on combating Trafficking in Persons and Similar practices and Protection of victims was adopted in 2009 (see document attached). It also covers Migrant Smuggling (chapter 2). Last year, a decision was taken to review this Law and to separate it into two laws: one for TiP and another for SoM. The first one has been drafted and is currently in the process of being validated. For the second it seems that the work has not yet started even though a consultant has been hired.
(8) The new Penal Code (law 2015-010) introduced the criminal offense of smuggling of migrants (art. 327-332).
(9) But in Burkina Faso the issue of SoM is considered closely related to TiP: the TiP focal point deals with smuggling issues (although there is no formal agreement in this regard).
(10) But there is an ill-functioning institutional structure that deals with SoM as much as with TiP which is the Comité National de Vigilance et de Surveillance (CNVS) that has been formally set up to fight TiP.
(11) Implementation responsibility is with the Ministère de l’Economie, des Finances et du Développement (MINEFID)
(12) The new Penal Code envisages sanctions against TiP as well as SoM.
(13) Nigeria Immigration Service.
(14) The Directorate for Territorial Surveillance (DST) is the focal point for identification.
(15) ANLTP/TIM (National Agency for Counter trafficking and migrant smuggling) is in charge of prosecution.
(16) An interministerial committee developed a migration strategy in 2017, which is now being adapted into a migration policy (GiZ project), integrating an irregular migration action plan and strategy.
(17) Yes, an anti-smuggling law was adopted in 2015 (Loi 2015/36), based on the UN Protocol.
(18) Yes, article 4 of the law 2016-1111 on trafficking in persons includes the definition of smuggling of migrants, but to date the legal framework is not fully in line with the provisions of the UN Protocol. Nonetheless, a draft law on smuggling is currently being discussed in Parliament.
(19) On 3 May 2018 a draft law on smuggling of migrants proposed by the Government was approved by the Parliament Commission des Affaires Générales et Institutionnelles (CAGI) and will now be examined and voted by the Parliament in plenary.
(20) A national migration policy is in the process of being developed with the support of IOM by the Direction des Guinéens de l’Etranger of the Ministry of Foreign Affairs.
(21) Yes, the crime of smuggling of migrants was included in the new Guinean penal code of December 2016.
ANNEX 3 – INSTITUTIONS AND ENTITIES INVOLVED IN THE STUDY

This annex includes the list of institutions and entities involved in the study during the interviews, the focus group discussions, and the consultative meetings.

### ECOWAS

<table>
<thead>
<tr>
<th>Institution</th>
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<tbody>
<tr>
<td>Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)</td>
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<td>ECOWAS - Free Movement Directorate</td>
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<td>ECOWAS - Humanitarian and Social Affairs Directorate</td>
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<tr>
<td>ECOWAS - Peacekeeping and Regional Security Directorate</td>
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<tr>
<td>Embassy of Switzerland</td>
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<tr>
<td>European Union Delegation to Nigeria and ECOWAS</td>
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<tr>
<td>FMM West Africa Project</td>
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<tr>
<td>ICMPD West Africa Office</td>
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<tr>
<td>International Organization for Migration (IOM)</td>
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<tr>
<td>Nigeria Federal Ministry of Interior - Nigerian Immigration Service</td>
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### THE GAMBIA

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<td>Catholic Diocese of Banjul – Catholic Development Office (CaDO)</td>
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<tr>
<td>Drug Law Enforcement Agency (DLEAG)</td>
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<td>European Union Delegation to The Gambia</td>
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<td>German Liaison Office for The Gambia of the German Embassy in Dakar</td>
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<td>International Organization for Migration (IOM)</td>
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<td>Ministry of Foreign Affairs – Secretariat</td>
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<td>Ministry of Justice – Chief Prosecutor’s Office</td>
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<td>Ministry of Trade, Industry, Regional Integration and Employment – Directorate</td>
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<tr>
<td>National Agency Against Trafficking in Persons (NAATIP)</td>
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<tr>
<td>North Bank Division Governor</td>
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<tr>
<td>Operation No Back Way to Europe</td>
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<tr>
<td>The Association of Non-Governmental Organisations (TANGO)</td>
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<tr>
<td>The Gambia National Youth Council (NYC)</td>
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<td>The National Assembly of The Gambia</td>
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<tr>
<td>The office of the United Nations High Commissioner for Refugees (UNHCR)</td>
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<td>West Africa Network for Peacebuilding (WANEP)</td>
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### CÔTE D'IVOIRE

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<tr>
<th>Organization</th>
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<tr>
<td>Ambassade de France à Abidjan</td>
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<tr>
<td>Cellule Nationale de Traitement des Informations Financières de Côte d'Ivoire (CENTIF-CI)</td>
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<td>Centre Ivoirien de Recherche Economique Et Sociale (CIRES)</td>
</tr>
<tr>
<td>Centro di Volontariato Internazionale (CeVi)</td>
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<tr>
<td>Convention de la Société Civile de Côte d'Ivoire (CSCI)</td>
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<tr>
<td>Délégation de l'Union Européenne en Côte d'Ivoire</td>
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<tr>
<td>Ministère de l'Intégration Africaine et des Ivoiriens de l'Extérieur – Centre d’Accueil, d’Information et d’Orientation des Migrants (CAIOAM)</td>
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<td>Ministère des Affaires Etrangères – Affaires Juridiques et Consulaires</td>
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<td>Ministère de la Promotion de la Jeunesse, de l’Emploi Jeune et du Service Civique (MPJEJSC)</td>
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<td>Organisation Internationale pour les Migrations (IOM)</td>
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<td>Présidence de la République Ivoirienne, Coordination Nationale du Renseignement (CNR)</td>
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<td>SOS Migration Clandestine</td>
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<td>United Nations Office on Drugs and Crime (UNODC)</td>
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### GUINEA

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<td>Ministère de la Sécurité – Direction National de la Police de l’Air et des Frontières (DNPAF)</td>
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### EC and EEAS in Brussels

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