



The UNODC Liaison Magistrate initiative to foster international cooperation in trafficking in persons and smuggling of migrants

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The United Nations Office on Drugs and Crime (UNODC) is the only UN entity focusing on the criminal justice response to TIP, with a specific mandate to assist Member States in enhancing their national responses as well as to foster international cooperation to counter TIP, in line with the international standards. As the custodian of the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol, UNODC's mandate is to promote the states' adherence to these instruments and to assist them in implementing their provisions.

UNODC enhances the capacities of Governments and civil society in order to effectively identify and combat human trafficking and smuggling of migrants by targeting the criminals and by protecting and assisting victims of trafficking and smuggled migrants. The cooperation with Governments and civil society aims to:

- Strengthen the legislative and policy frameworks;
- Enhance capacities in identification, investigation and prosecution and protection of the victims/smuggled migrants;
- Increase data on the nature and scale of human trafficking and smuggling of migrants;
- Increase awareness on the crimes;
- Enhance cooperation on national, regional and international levels.

UNODC has been operating in West and Central Africa for 20 years. The Regional Office for West and Central Africa (UNODC ROSEN) currently covers 22 states and is supported in its mission by 9 sub-offices. UNODC has recognized expertise in combating trafficking in persons and smuggling of migrants, as a result of its long experience in providing technical assistance to the states through the following actions: strengthening legal frameworks, public policies and national strategies; capacity building for criminal justice stakeholders; support for assistance to victims of trafficking and smuggled migrants in particular through civil society organizations; awareness and research; and strengthening national coordination and international cooperation frameworks.

To achieve this, UNODC has developed technical tools for criminal justice practitioners including training manuals on trafficking in persons and smuggling of migrants, model laws on both offenses, tools for awareness raising campaigns, etc. These tools have been designed in collaboration with renowned experts with extensive experience in combating these crimes. UNODC has also published several reports and studies on trafficking in persons and smuggling of migrants in the region. In addition, UNODC contributes to the activities of coordination platforms of various United Nations agencies involved in combating trafficking in persons and smuggling of migrants.

UNODC is currently providing legislative assistance in Mali and Niger to revise the specific law on TIP adopted in 2012 (in Mali) and to develop implementing regulations based on the law (in Niger). In both countries, UNODC has been supporting the national coordination mechanisms and provided training for several years. In Chad, UNODC has been supporting the government through legislative assistance that brought to the adoption of a Law on TIP in June 2018 and has received a request from Burkina Faso to support with the revision of the legal framework. In Nigeria, UNODC supported the adoption of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 as well as the development of coordination tools such as Standard Operating Procedures and Guidelines on National Referral Mechanism (NRM) for Protection and Assistance to Trafficked Persons in Nigeria. Furthermore, since 2015, UNODC has worked with the training institutes for police, gendarmerie and magistrates in Niger, Mali and Burkina Faso to integrate modules on TIP as part of the training curricula of the institutes

In 2013 UNODC established WACAP, a network of focal points of the 15 ECOWAS countries, plus Mauritania and Chad, to promote mutual legal assistance networks among prosecutors in different countries and develop a regional strategy to facilitate prosecution of persons involved in transnational organized crime.

OBJECTIVES OF WACAP:

To strengthen **capacity and operational cooperation** among **justice authorities** responsible for international cooperation in criminal matters, (central authorities, investigators, prosecutors, magistrates), in order to more effectively **investigate and prosecute transnational crime and impunity**, including terrorism; Promote mutual legal assistance networks among magistrates in different countries; Review the implementation of

relevant conventions on MLA and Extradition; Develop a regional strategy to facilitate prosecution of persons involved in organized crime.

The Liaison Magistrate: a pilot initiative to foster international cooperation against trafficking in persons and smuggling of migrants

The West and Central African region is facing a multi-dimensional security crisis. Terrorism, organized crime, maritime piracy, conflicts over resources and all forms of trafficking appear at an all-time high. Traditional tools have largely proven insufficient against more sophisticated organized crime groups and there is a pressing need for governments, international organizations and practitioners to come up with innovative approaches to effectively tackle the continuously growing threats to the stability of the region.

In this context international cooperation is an essential tool to combat complex organised crime and bring the perpetrators to justice. Indeed, increasing evidence shows the transnational scope of these crimes in the region. However, a lack of familiarity and sometimes outright distrust, the lack of understanding of each other's judicial systems, inefficient channels of communication are among the many obstacles to effective collaboration between law enforcement officers in Western and Central Africa and their European counterparts, when dealing with transnational organized crime.

Human trafficking and migrant smuggling are a clear illustration of the lack of cooperation. Indeed, the large number of victims of human trafficking and migrant smuggling originally from Africa and identified in Italy are staggering, nevertheless, the amount of successful prosecutions against the criminal networks involved in these cases in both continents remain low.

In this context and through the PROMIS project funded by The Netherlands and Italy, the UNODC launched in 2018 an innovative initiative to foster judicial cooperation through the deployment of two Nigerian prosecutors first in Italy and then in Spain. The continuous influx of migrants crossing the Sahel and the Mediterranean Sea, making their way from West Africa to Europe is worrying both West African and European governments. It puts their life at risk, making them vulnerable to human rights violations and trafficking in persons. Despite certain efforts, the number of trafficking and smuggling cases that are investigated, prosecuted and adjudicated in the West African region remains very low. Indeed, the transnationality of the criminal networks makes it complex to build and adjudicate cases.

In this context, judicial cooperation appears as a relevant response. UNODC thus supported the Project "Strengthening the Transnational Response to Smuggling of Migrants and Maritime Crime in West, North and East Africa", funded by Italy, and the project PROMIS ("Protection of Migrants") funded by the Netherlands. This initiative aims at building capacities to detect, investigate and prosecute smuggling of migrants cases. To do so, since February 2018, a Nigerian prosecutor from the Ministry of Justice has been appointed, with a verbal note issued by the Nigerian Ministry of Foreign Affairs, as liaison magistrate for the Nigerian Central Authority in Italy and embedded in the prosecution offices of Catania and Palermo. The focus is to enhance cooperation by offering legal and logistical support and expertise, within the framework of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol against Smuggling of Migrants by Land, Sea and Air, serving as a link on cases between Nigerian and Italian authorities. This deployment is taking place also in synergy with the West African Network of Central Authorities and Prosecutors (WACAP), seeking to facilitate the work of the European Union Member States' prosecution offices and other European law enforcement and investigative agencies.

The Liaison Magistrate initiative

Has its legal ground in **article 18, par. 13 of the UNTOC** Aims to strengthen international judicial cooperation to tackle TIP and SOM through the deployment of liaison magistrates, who act as an interface between the national central authorities of the deploying country and hosting country Contributes to the achievement of **the recommendation n. 10** of the **Niamey Declaration** Is in line with the engagements taken by Italy and the West African Network of Central Authorities and Prosecutors Against Organized Crime (WACAP) with the **Partnership Declaration** signed on 20 November 2018 in Cotonou (Benin) Is a component of the joint UNODC-OHCHR PROMIS project under objective 2 "Strengthen regional and international cooperation and exchange of operational information on smuggling of migrants"

CASE n. 1 dealt with by the Nigerian LM deployed in Italy

TYPE OF CRIME: Trafficking in Persons NUMBER AND NATIONALITY OF PERPETRATOR: 1 Nigerian NUMBER AND NATIONALITY OF VICTIM: 1 Nigerian REQUESTING AUTHORITY: Nigerian Central Authority RECEIVING AUTHORITY: Catania Prosecution Office REQUEST: Taking of statements from the victim ARTICLE UNTOC USED: art. 18 (MLA)

Results achieved

4 Liaison Magistrates (LMs) deployed;35 cases ongoing (including 29 on TIP and 6 on SOM);1 request for extradition and 25 MLA requests sent;Several investigations ongoing;Direct channels of communication created;Better understanding of respective legal, institutional and procedural frameworks;Trust built.

Extradition request from Spain to Nigeria for the return of the suspect charged with the accusation of trafficking. However, the request for extradition was not executed on the base of art. 16 UNTOC, because for Nigeria extraditions are not possible without a bilateral treaty. Currently, there is no bilateral treaty between Spain and Nigeria, though one is currently being worked on. However, the suspect voluntarily decided to return to Spain escorted by Interpol officers on the base of an international arrest warrant.

Impact of the initiative

On 5 and 6 September 2019, a multi-stakeholder meeting was organized in Siracusa, Italy, to take stock of the results, gaps and challenges encountered, and to reflect on possible ways forward.

Lesson learned and best practices:

Pre-deployment stakeholder meetings and communications in the deploying and hosting countries are likely to facilitate information sharing and the more effective use of the LMs right from the beginning of their deployment;Domestic cooperation and coordination are key to successful international cooperation and follow-up on ongoing cases, both on the side of the deploying and the hosting country.

Recommendations:

Adoption of a long-term perspective in the selection and assignment of Liaisons Magistrates;Development of short practitioner-oriented country-specific judicial cooperation briefs providing basic information on the legal system, available bilateral and multilateral treaties, information on the central authority, the focal points in any relevant international cooperation network etc.;Develop pre-deployment checklist for the LMs, including guidance on how to facilitate the effective and speedy flow of both informal information and formal requests to the concerned national authorities to ensure timely and reliable follow up;Develop a best practice brief on the transfer of proceeds, the establishment of joint investigations and mirror investigations with a view to dismantling trafficking networks in all affected countries.

Two Nigerian LMs deployed, in Rome at the DNA, and in Madrid, at the MoJ. Both deployments are envisaged to continue at least until June 2020. Discussions are ongoing with Niger, Sudan and Libya for the possible deployment of new LMs from those countries to Italy.

Thank you for your attention!