



ASSEMBLY — 42ND SESSION

EXECUTIVE COMMITTEE

Agenda Item 12: Facilitation Programmes

COLLABORATIVE APPROACH IN ADDRESSING THE USE OF AIR TRANSPORT FOR IRREGULAR MIGRATION

(Presented by Denmark on behalf of the European Union (EU) and its Member States¹, the other Member States of the European Civil Aviation Conference (ECAC)², and co-sponsored by Australia and Japan)

EXECUTIVE SUMMARY

The use of commercial means of air transport for irregular migration is a significant *modus operandi* of global migrant smuggling networks. Criminal networks take advantage of commercial flights under various schemes, such as visa-free policy regimes or apparent labour migration opportunities, to smuggle migrants.

Measures and cooperative mechanisms should be developed to help State authorities, air transport operators, airport authorities and other aviation industry stakeholders better identify and report potential cases of irregular migration and smuggling of migrants, and enhance mutual engagement. Air transport operators, airport authorities and other aviation industry stakeholders can play an important role in supporting State authorities—such as law enforcement and border management agencies—in addressing the use of air transport for irregular migration. Their ability to identify and report potential cases of irregular migration and smuggling of migrants is particularly valuable in these efforts.

Action: The Assembly is invited to:

- a) Acknowledge the need for measures and cooperative mechanisms to be developed for State authorities, air transport operators, airport authorities and other aviation industry stakeholders to improve their capability to identify and report potential cases of irregular migration and smuggling of migrants, and enhance their mutual engagement;
- b) Encourage States to recognize the links between trafficking in persons and irregular migration, and implement the measures contained in Doc 10171, *Manual on a Comprehensive Strategy for Combatting Trafficking in the Aviation Sector* and other human trafficking measures in place;

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

² Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine and United Kingdom.

<p>c) Recommend that the ICAO Facilitation Panel propose relevant amendments to Annex 9 — <i>Facilitation</i> and develop associated guidance on measures mentioned under a); and</p> <p>d) Amend Appendix B of section A41-17 in Doc 10184 as set out in Appendix A to underline the importance of States, air transport operators, airports authorities and other aviation industry stakeholders in taking action to address the use of air transport for irregular migration</p>	
<i>Strategic Goals:</i>	This working paper relates to the Strategic Goal — Aviation Delivers Seamless, Accessible and Reliable Mobility for All
<i>Financial implications:</i>	The activities referred to in this paper will be undertaken with the resources available in the Regular Programme Budget and/or from extra-budgetary contributions.
<i>References:</i>	Doc 10184, <i>Assembly Resolutions in Force (as of 7 October 2022)</i> Annex 9 – <i>Facilitation</i> , 17th Edition

1. INTRODUCTION

1.1 The use of commercial air transport for irregular migration is a significant *modus operandi* of global migrant smuggling networks. Criminal networks take advantage of commercial flights under various schemes, such as visa-free policy regimes or apparent labour migration opportunities, to bring migrants to a destination country or to its neighbouring countries with the intention to irregularly enter the final destination country.

1.2 The United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air³, supplementing the United Nations Convention against Transnational Organized Crime (Article 11(2)) requires States to adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers (including aircraft operators) from being used in the commission of offences established in accordance with Article 6. Within the United Nations legislative framework, the majority of the State parties to the Protocol have adopted national legislation criminalising the smuggling of migrants⁴. In addition, various regional and national initiatives further address the smuggling of migrants via air⁵.

1.3 The International Civil Aviation Organization (ICAO) has established Recommended Practices in Annex 9 and guidelines addressing trafficking in persons. While the smuggling of migrants is sometimes linked to trafficking in persons—since smuggled migrants may become trafficking victims through debt bondage, and trafficking victims are often transported across borders—it remains a distinct form of crime. Trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploitation⁶. In contrast, the smuggling of migrants is the

³ Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organised Crime

⁴ For example, in the European Union (EU): Directive - 2002/90 - EN - EUR-Lex and EUR-Lex - 32002F0946 - EN - EUR-Lex

⁵ For example, in the European Union, the *Toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU* (Toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU.pdf) was adopted by the European Commission in June 2023, integrating operational, diplomatic, and legal measures. It aims to engage transport operators in preventing the misuse of commercial transport for smuggling purposes, enhancing detection and prevention mechanisms where risks arise.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3(a)

procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry into a State Party of which the person is not a national or a permanent resident⁷. Some jurisdictions extend the smuggling of migrants not only to the entry, but also to other conduct, including the facilitation of unauthorized transit, or residence. While the international definition of migrant smuggling includes a financial or other material benefit, some jurisdictions may criminalize the conduct without financial or material gain, including if it causes serious harm to a person. Enabling conducts envisaged at the international level include the production, procurement, provision or possession of fraudulent documents. Some jurisdictions address also arrangement of marriages of convenience. Given the distinct nature of the smuggling of migrants via air, there is a need to develop different, more tailored measures to effectively address its specific challenges.

1.4 The smuggling of migrants is a global challenge. Since air transport is a commonly used method of transport including for irregular migration, States, air transport operators, and airport authorities are well-positioned to contribute to the prevention of and response to the use of air transport by criminal networks engaging in the smuggling of migrants. One approach is to strengthen the ability of aviation industry stakeholders to detect and report possible cases of smuggling of migrants through targeted training including for recognising fraudulent travel or identity documents and reporting procedures. Additionally, efforts should focus on identifying the routes and methods used, promoting information exchange across stakeholders and with law enforcement, in full compliance with applicable personal data protection regulatory frameworks.

2. DISCUSSION

2.1 Smugglers, commonly operating in criminal networks, actively offer their services to facilitate the irregular movement of a large number of migrants globally. Migrant smuggling networks are dynamic and adaptive, with a capacity to swiftly adjust their modus operandi and routes. While migrant smugglers continue to rely predominantly on land and sea transportation, the use of commercial air transport is a significant modus operandi within transnational irregular migration routes.

2.2 Document fraud plays a major role in the smuggling of migrants by air. Document fraud can involve manipulating or misusing genuine documents or falsifying documents—such as passports, identity cards, visas, or supporting documents for passport issuance, visa applications and travel authorisations—potentially enabling impostors to assume false identities or producing counterfeit documents. It also includes the misuse of lost or fraudulently obtained documents.

2.3 Migrant smugglers increasingly exploit transit visa regulations in major hubs as part of their operations. While irregular migrants are sent with legitimate documents to a transit hub, once there they destroy their papers and receive fraudulent documents from smugglers alongside their new travel tickets for their onward journey. This method begins with lawful travel but becomes irregular at the transit stage. This abuse of transit visa policies enables smugglers to bypass stricter immigration controls, leading to irregular migration through seemingly lawful means.

2.4 Air transport operators, airport authorities and other aviation industry stakeholders can play an important role to support States in addressing the smuggling of migrants, in particular thanks to their ability to identify and report cases of suspected smuggling. Since air transport operators are responsible for verifying travel documents and airport authorities are responsible to ensure the safety and security of all individuals passing through their facilities, both play an important role in preventing illegal activities such as the smuggling of migrants. While various measures are already in place at international, regional, and national levels, ensuring their coherence remains essential for effectively addressing irregular migration

⁷ Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organised Crime, Article 3(a)

and the smuggling of migrants via air. The following measures/actions have been identified as instrumental to effectively address irregular migration and the smuggling of migrants:

- **Immigration liaison officers** – Encourage State authorities from transit and/or destination countries to deploy Immigration Liaison Officers at major high-risk airports to provide support and strengthen operational cooperation.
- **Training of ground staff** – Identification of cases of smuggling of migrants can be enhanced through training on indicators of smuggling activities and specific detection procedures.
- **Detection mechanisms and Protocols** – Aviation stakeholders can enhance their cooperation to identify suspicious travels and develop related protocols for the timely reporting of suspected cases and routes of smuggling of migrants to competent authorities, including local border police, and/or liaison officers from concerned transit and/or destination countries. This can apply to airports of departure, transit and destination.
- **Engagement between air transport operators and airports, and law enforcement authorities** – States should encourage the establishment of a regular dialogue between law enforcement/border guard authorities and airline and airport representatives and staff on emerging trends so to help airline operators maintain vigilance and adapt procedures to detect suspected cases of irregular migration and the smuggling of migrants. It also provides information to States on the (misuse) of their visa requirements. In this perspective, National Facilitation Committee and Airport Facilitation Committees play an important coordinating role. Information sharing and coordinating actions are highly recommended to better address common commitment in combatting trafficking in persons and the smuggling of migrants.
- **Strengthening and broadening of information gathering and sharing** – Encourage State authorities to engage with aviation stakeholders with a view to sharing relevant information on trends and modus operandi of smuggling of migrants with airlines, airports and law enforcement authorities to increase State authorities and aviation stakeholders' capacity to stay ahead of adapting smuggling routes and methods. Information exchange can be strengthened between the authorities of countries of origin, transit and destination on ongoing trends with the aim to help facilitating the development of better procedures. Given the sensitivity of this information, measures to ensure robust information security must be ensured and reinforced.

2.5 In order to underline the importance of States, air transport operators, airport authorities and other aviation industry stakeholders taking action to address the use of air transport for irregular migration, it is recommended that Appendix B of section A41-17 in Doc 10184, *Assembly Resolutions in Force (as of 7 October 2022)* is amended (some suggested wording is set out in Appendix A).

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APPENDIX

Amend Appendix B of section A41-17 in Document 10184 on the Assembly Resolutions in Force, as follows:

Whereas air transport operators, airport authorities and other aviation industry stakeholders are critical partners in supporting the efforts of States to prevent and detect human trafficking and the use of air transport for irregular migration;

(...)

23. Urges Member States to establish among all involved stakeholders an efficient information-sharing and collaboration system ~~in the prevention of~~ *to address* human trafficking *and the use of air transport for irregular migration*; and

— END —