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## Human Trafficking and Migrant Smuggling Section (HTMSS)

**Violence against migrants: trafficking in  
persons and migrant smuggling**

UNODC assists States in their efforts to implement the  
Trafficking in Persons and the Smuggling of Migrants Protocols

4 July 2017



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# Overview

1. United Nations Convention against Transnational Organized Crime (UNTOC)

2. Challenges and Trends

3. Case study including key definition issues: mix migration flows, trafficking in persons (TIP) and smuggling of migrants (SOM)

4. UNODC Global Report on TIP

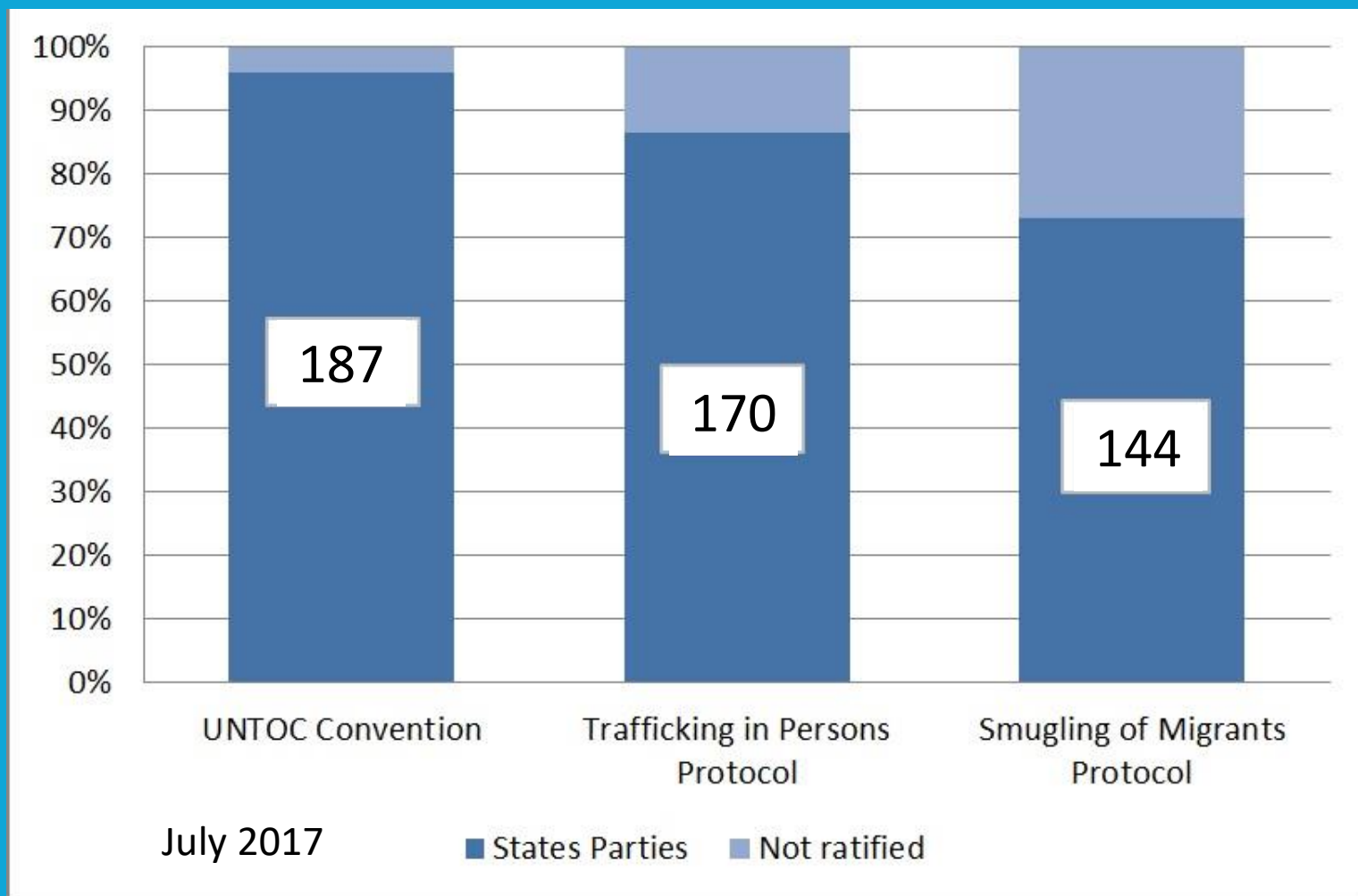
5. Tools



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## Status of Ratification of the UNTOC Convention and its Trafficking in Persons and Smuggling of Migrants Protocols





## What is the UNTOC?

- A legally-binding instrument
- The only international convention which deals with organized crime
- Signed in Palermo, Italy, in December 2000
- Adopted by the United Nations General Assembly in 2000 and entered into force in 2013
- Represents international commitment to combat transnational organized crime
- Provides States Parties with a platform for cooperation



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## Global Challenges

Poor international cooperation

Low criminalization in accordance with the SOM Protocol

Complex legal definition of TIP

Links with other crimes (i.e. corruption, terrorism, drug trafficking, forced criminality, money laundering, cyber-crime)

Inadequate data especially on SOM

Focus on irregular migration and migrants rather than criminal network, smugglers and traffickers

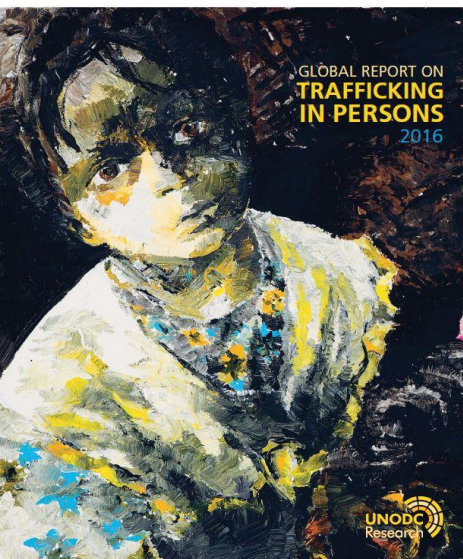
Lack of adequate protection and assistance to TIP victims



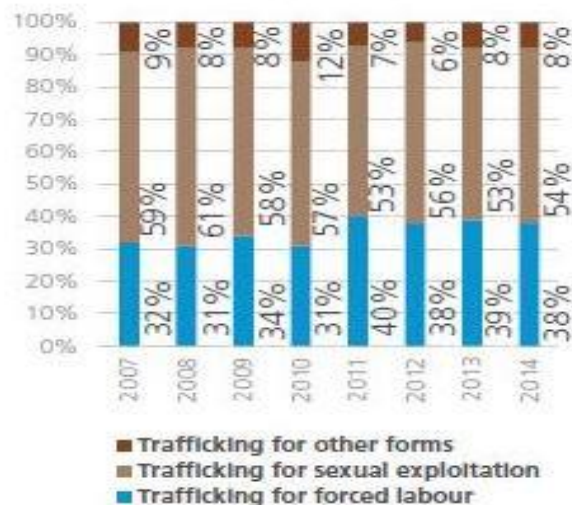


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Trends in the forms of exploitation among detected trafficking victims, 2007-2014



Source: UNODC elaboration of national data.

## Global Trends on TIP

No country is immune to trafficking in persons

Most detected victims are women and girls , but the share of men and boys is increasing.

Increased share of detected trafficking cases that are domestic (within a country's borders).

Victims and traffickers often come from similar social backgrounds.

People are trafficked for many exploitative purposes that vary regionally.

Cross-border trafficking flows often match migration flows.

Conflict can help drive trafficking in persons.

More than ¼ of detected victims are children.

Solid legislative progress, but still few convictions.



## Global Trends on SOM

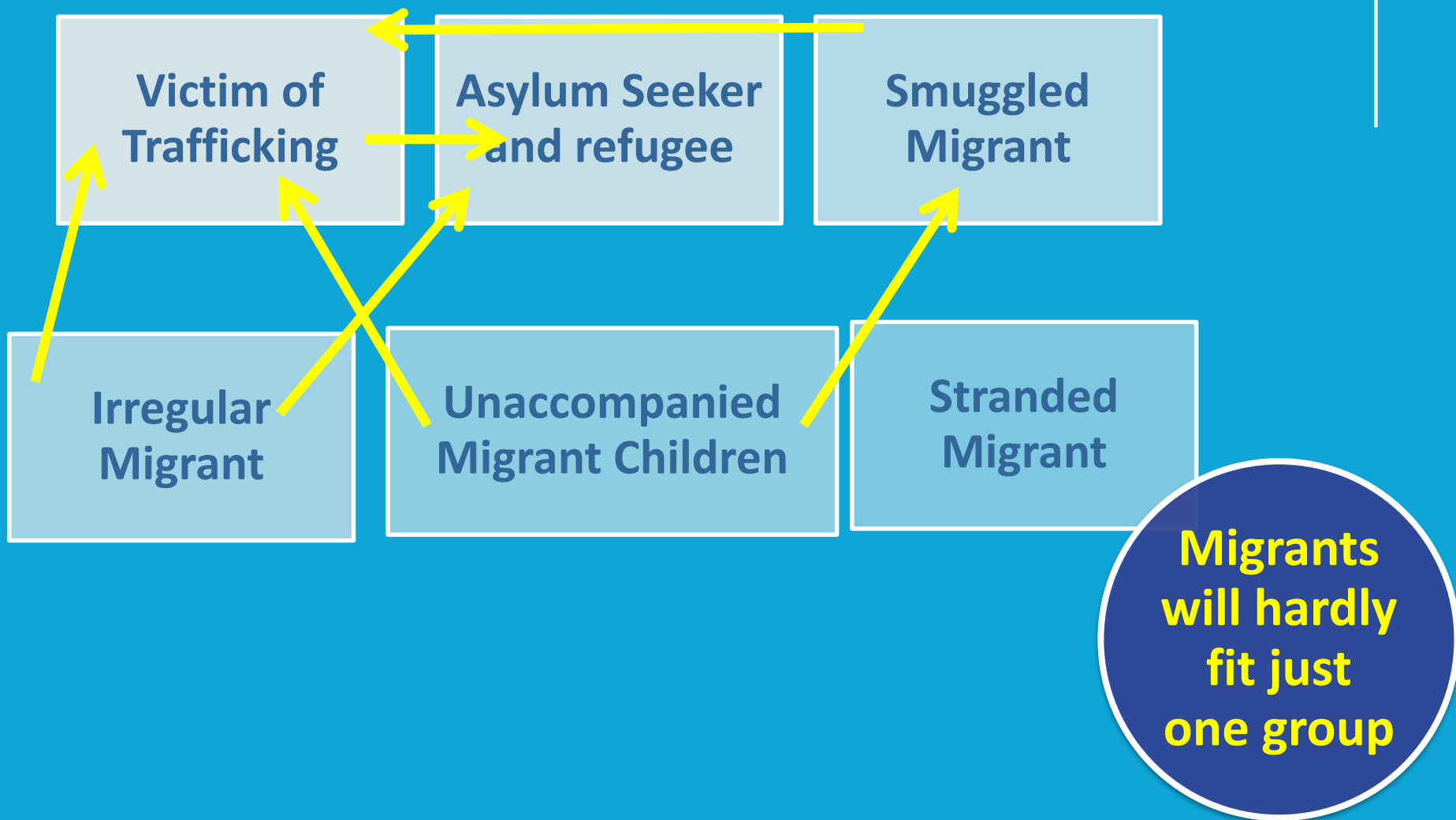
1. Would-be migrants seem to be more and more aware of the risks involved in migrant smuggling along certain migration routes. Nevertheless, they still decide to resort to the services of migrant smugglers and to embark on very dangerous journeys.
2. Internet and social media are crucial for facilitating contact between smugglers and migrants.
3. Hubs are central to migrant smuggling. SOM does not happen everywhere.
4. The introduction of long haul transnational flights is many times the precursor to a new smuggling route emerging along that path.
5. In many parts of the world, migrant smuggling seems to occur with the complicity of public officials.



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# Mix Migration Flows





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# Lampedusa Case Study

## an introduction to migrant smuggling and human trafficking





## Fact summary

- A 20-metre long vessel carrying approximately 518 Eritrean and Somali migrants departed Libya bound for Lampedusa, Italy
- Each migrant had paid USD 1600 to smugglers for passage on the vessel
- Close to shore, the vessel developed engine trouble
- A blanket on the ship was set alight to signal for help, but this fire began to engulf the ship, causing it to sink
- Passengers jumped or were thrown overboard as the vessel rolled



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## Fact summary

- Three hours after the vessel sank, a small fishing boat came across the scene and 30 minutes later, a larger fishing boat joined the rescue
- Four hours after the sinking of the vessel, the Italian coastguard arrived
- 155 migrants were rescued from the water
- 363 migrants died
- No child under the age of 12 survived
- Of the 80 women on board the vessel, only 5 survived



## Definition of Trafficking in Persons (Art. 3 TIP Protocol)

### ACT

- the recruitment, transportation, transfer, harbouring, or receipt of persons

### MEANS

- by means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim

### PURPOSE

- for the **purpose of exploitation**, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs.



## Definition of smuggling of migrants

- “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. (Art. 3)

**Procurement of illegal entry of another person**

**For financial or other material benefit**

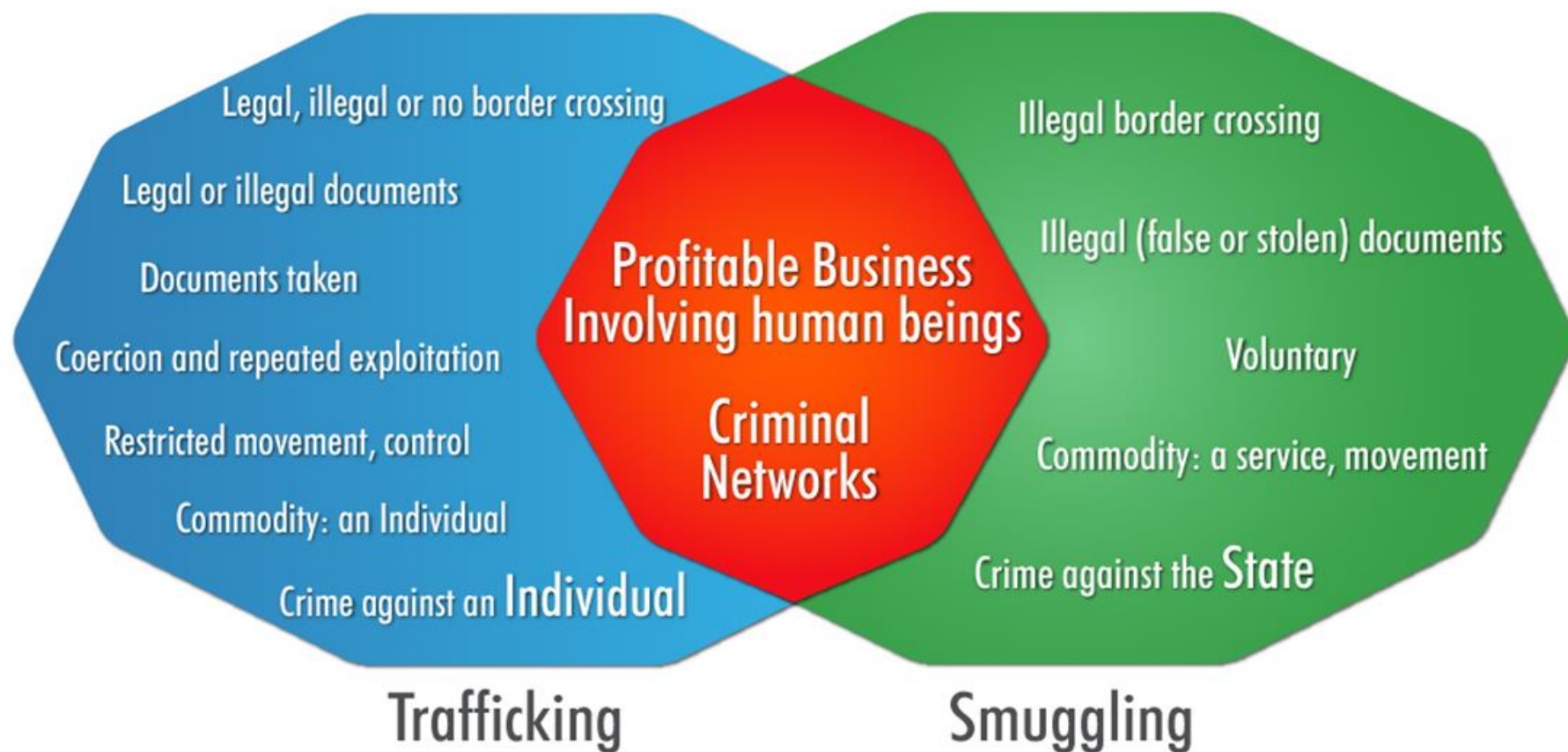
**the other person is neither a national nor permanent resident of the country entered**



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# Trafficking and Smuggling: Similarities and Differences





## Fact summary: smuggling or trafficking?

- During the journey to Libya through Africa, on numerous occasions individual migrants were separated from the rest of the group and confined against their will in locked rooms
- The smugglers demanded ransoms of between USD 1000 and 4000 to release each migrant and take them to the next transit point



## Fact summary: smuggling or trafficking?

- During the journey, migrants were subjected to degrading conditions on the overcrowded vessel
- A number of witnesses reported instances of torture (migrants doused in gasoline, electric shocks delivered to migrants forced to stand on wet floors)
- Migrants were also subjected to physical assaults, sexual assaults and extortion
- Some migrants were subjected to other utilitarian treatments under the scopes of the defendant (i.e. sell, give in for free or lend a person, subject a person to labour or sexual exploitation...)



## Sentenza art.544 e segg. c.p.p. - UNODC ITA014

- Mr M. was one of the smugglers on board the vessel
- Italian prosecutors charged him with:
  1. Facilitating migrant smuggling
  2. Human trafficking
  3. Organized crime
  4. Kidnapping for ransom
  5. Aggravated sexual abuse




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## Public Prosecutor v M.E.E.

- Mr M. was convicted of all charges and sentenced to 30 years' imprisonment, the maximum sentence the court could give

 [Home](#) > [Databases](#) > [Case Law Database](#)

### Case Law Database ▾


**Smuggling of migrants**

**Offences**

- Enabling illegal entry
- Financial or other material benefit (to smuggler)

**Aggravations**

- Endangering lives or safety of smuggled migrants
- Inhuman or degrading treatment

**Trafficking in persons**

**Offences**

- Trafficking in persons (adults)

**Acts Involved**

- Transportation
- Harboring

**Means Used**

- Threat
- Use of force
- Other forms of coercion
- Abduction


**Exploitative Purposes**

- Exploitation of the prostitution of others or other forms of sexual exploitation


**Keywords**


- Exploitation
- Transnational trafficking

Sentenza art.544 e segg. c.p.p.


 Italy

**Sentence Date:**  
2015-02-13

 Cross Cutting

 Defendants / Respondents in the first instance

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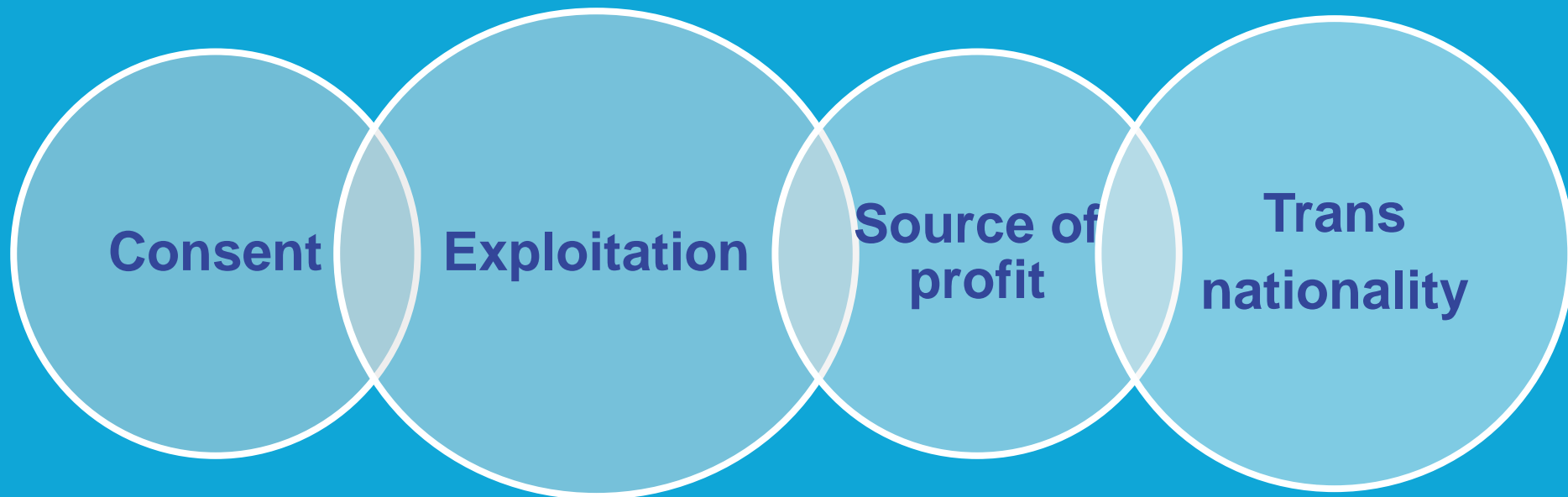
 **Defendant:** M.E.E.  
**Gender:** Male  
**Nationality:** Somali



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# Differences between trafficking and smuggling



Question: can these offences overlap?



## Overlap between smuggling and exploitation

- Situation A: migrants becoming victims of human trafficking during the process of smuggling
- Situation B: victims of human trafficking being smuggled across borders for exploitation in another country



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## HUMAN TRAFFICKING KNOWLEDGE PORTAL



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English ▾

☐ Human Trafficking Knowledge Portal > Databases > Case Law Database > Search

## Search ▾

- ▶ Country **1**
- ▶ Decision/Verdict Date **13**
- ▶ Sentenced Date **13**
- ▶ Victim's Gender / Child **3**
- ▶ Defendant's Gender **2**
- ▶ Verdict **2**
- ▶ Appellate Decision **2**
- ▶ Court **21**
- ▶ Legal System **1**
- ▶ Latest Court Ruling **3**
- ▶ Type of Court/Tribunal **1**
- ▶ Keyword **18**

Search Cases



Additional criteria:

Country: **Slovakia** x

Found 49 cases

[Clear all search criteria](#)

SVK004 **1 T 194/2011**



Slovakia

Verdict Date: 2011-10-17

### Recruitment/targeting of victim:

On December 3, 2008, accomplices of the Defendant enticed the Victim to a bar in Lehnice, where they sold her to the Defendant for EUR 497.91 and told her that they would not release her until she worked it off by means of prostitution.

> Show more ...

SVK044 **6 To 26/2009**



Slovakia

Verdict Date: 2010-12-16

### Recruitment/targeting of victim:

On June 26, 2005, the Defendant and her accomplice forced the Victim 1 and 2 into a car for the purpose of their transportation to the Czech Republic, where the Defendants intended to sell them for prostitution. After the Victim 2 claimed to have a small child she needed to feed and look after, they threw her out of the car and continued with the Victim 1. They kept the Victim 1 and took away



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## The offender: who is a “trafficker”?

Anyone who recruits, transports, transfers, harbours, receives or exploits a trafficked person

Anyone who attempts to commit a human trafficking act

Anyone who participates as an accomplice in a human trafficking act

Anyone who organizes or directs others to commit human trafficking acts.



## The victim: How are people victimised?

**Purpose of TIP is always exploitation of a person**

**Actual exploitation need not occur provided there is an intention to exploit the person or persons trafficked**

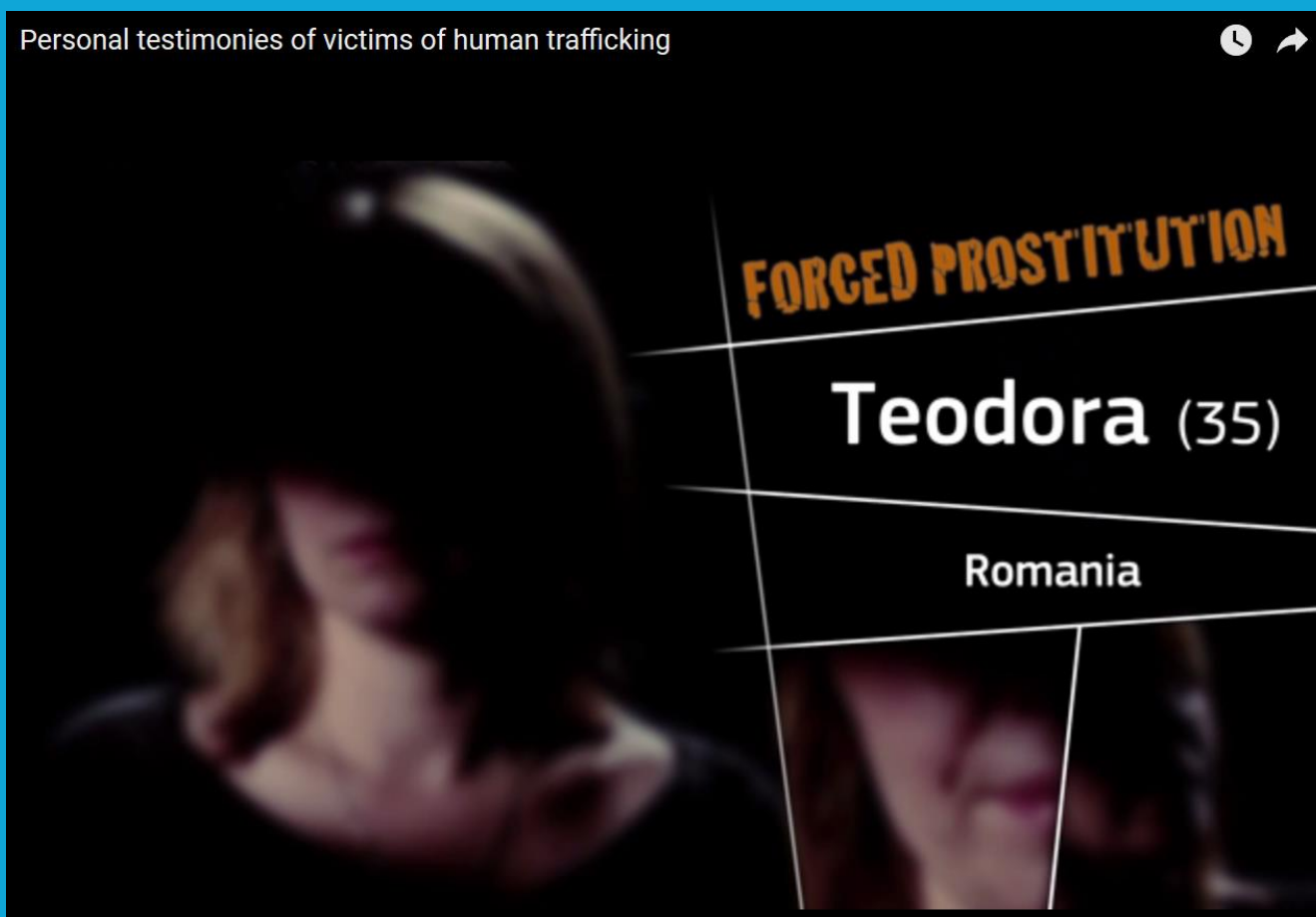
**Definition of exploitation is not exhaustive: “(...) *the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”.**



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## Personal testimonies of victims of human trafficking -EU



[http://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings\\_en](http://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings_en)



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## The concept of VICTIM

A **Victim** is a person who is **harmed or made to suffer** and who, therefore, needs help, assistance and protection

A **Victim of trafficking**, **clear needs to be protected**- UN Protocol on Trafficking Art. 6

A person who has used a smuggler's service **is not considered a victim!**

**However:** that person might suffer abuses and violence from the smuggler (esp. rape, beating, death, etc.)

Consider helping those **vulnerable migrants** too!

States have therefore the **obligation to duly identify (potential) victims of trafficking and protect their rights** (e.g. CASE OF RANTSEV v. CYPRUS AND RUSSIA)



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## Vulnerability as susceptibility to TIP

Pre-existing vulnerability factors (age, illness, gender, poverty, etc.)

The diagram consists of four light blue rectangular boxes arranged vertically, each containing text. To the left of these boxes is a vertical line with four white circular nodes. A grey line starts from the top left, passes through the first node, continues down the vertical line, and then branches out to the bottom left, passing through the fourth node. This visual structure suggests a flow or a list of factors.

Vulnerability factors created (isolation, irregular status, religious rituals, cultivation of romantic or emotional relationship)

Multitude of factors that requires situation-specific analysis

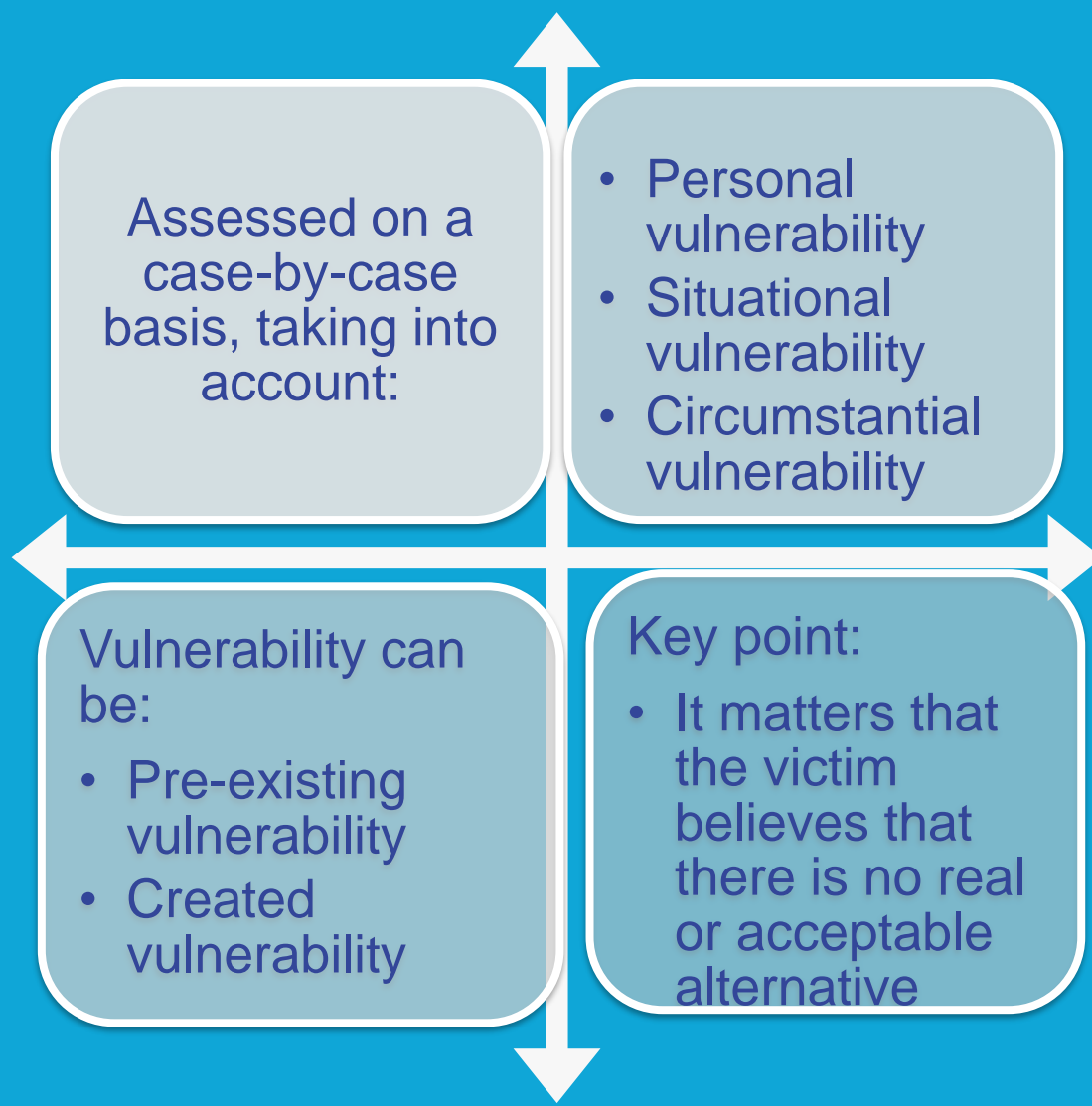
States Parties required by Article 9(4) of TIP Protocol and other instruments, to take steps to reduce social and economic conditions that increase vulnerability



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## Existence of vulnerability – abuse of vulnerability





## Control methods

Control methods are crucial for traffickers to ensure compliance of the victims.

The use of control methods vary during the trafficking process, adapting to the current situation and location.

Traffickers typically use a mix of several control methods, as victims tend to get “immune” to them.



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## Consequences for victims

Victim will not trust any body

Traumatisation

Fear of supporting police investigations

Reluctance to testify against their traffickers in court

Fear of stigmatisation

Vulnerable witness in court.



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## Rights – victims of trafficking

Directive 2011/36/EU, Preamble 18

Right to life

Right to liberty  
and security

Right not to be  
submitted to  
slavery,  
servitude, forced  
labour, or  
bonded labour

Right not to be  
sold, traded or  
promised in  
Marriage

Right not to be  
subjected to  
torture, cruel  
inhumane and  
degrading  
treatment or  
Punishment

Right to be free  
from gender-  
based violence

Right to freedom  
of movement

Right to access  
to courts

Right to be  
protected from  
discrimination

Right to be  
protected from  
refoulement

Right to seek  
asylum



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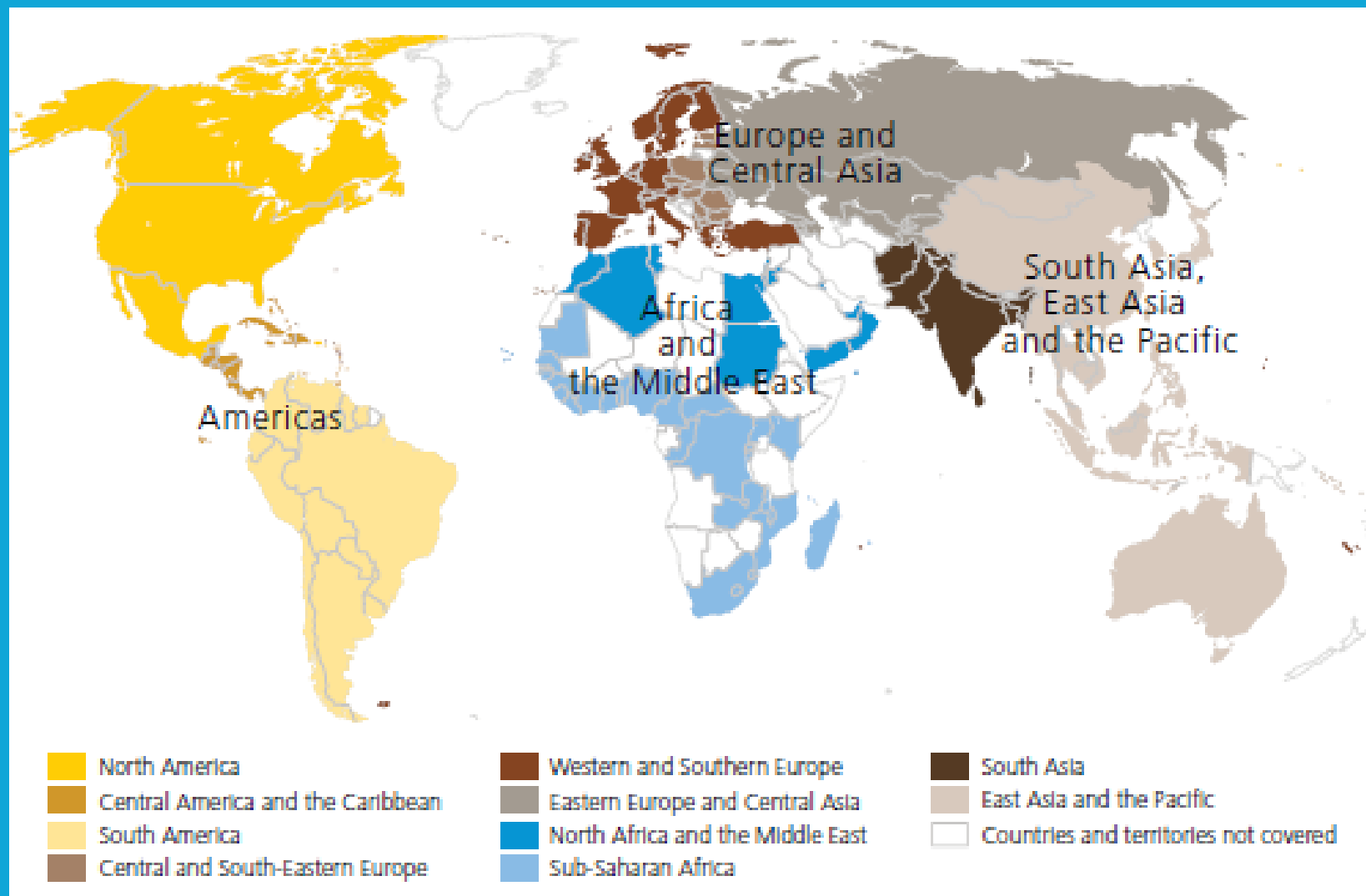




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## 136 Countries covered:



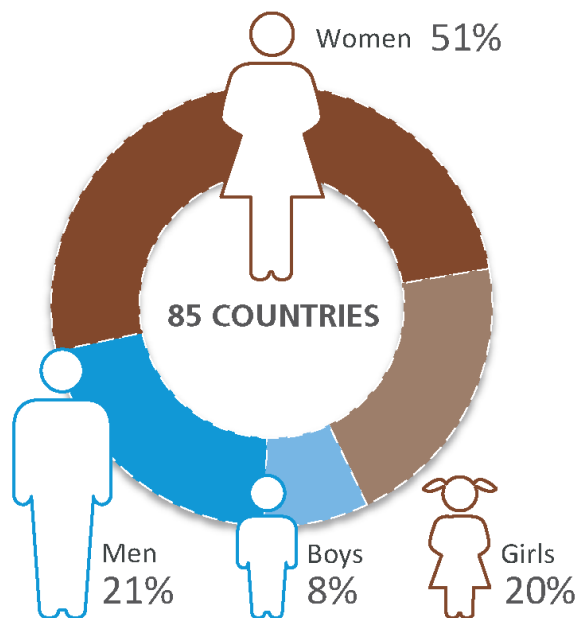


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## Most detected victims are women...

**FIG. 1** Detected victims of trafficking in persons, by age\* and sex, 2014 (or most recent)



\* 'Men' are males aged 18 or older; 'boys' are males 17 and below.  
'Women' are females aged 18 or older; 'girls' are females 17 and below.

Source: UNODC elaboration of national data.

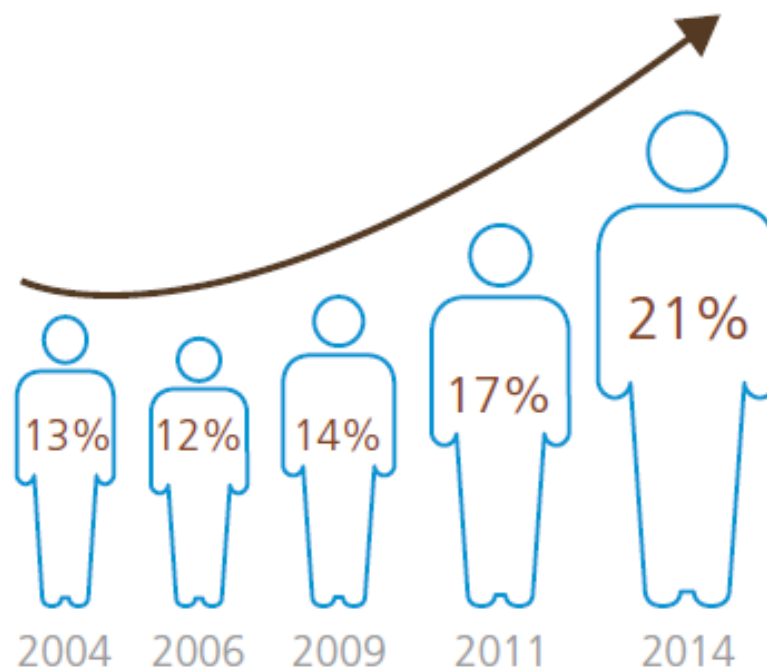


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## ...but the share of men is increasing

■ Trend in the share of men among the detected victims of trafficking in persons, selected years

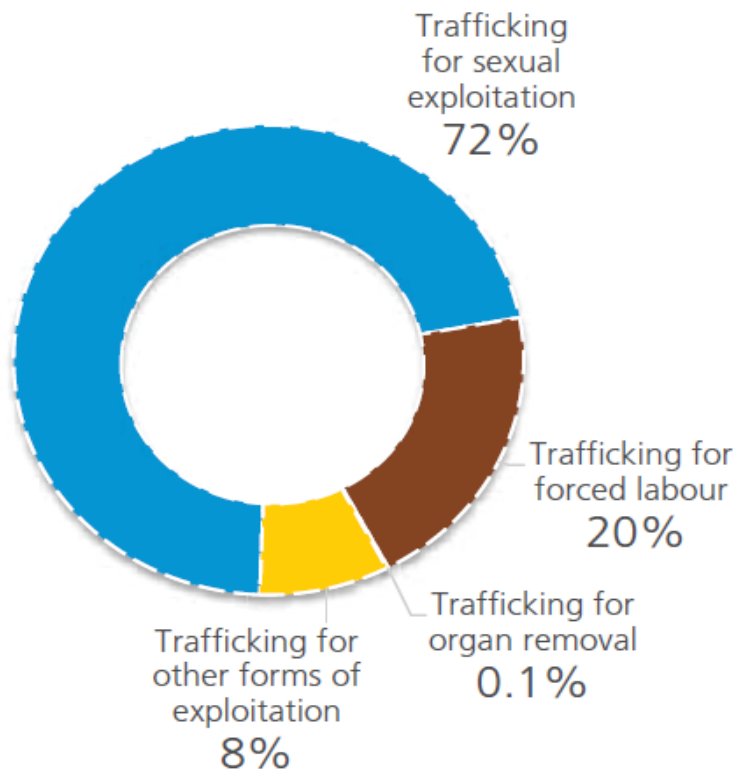


Source: UNODC elaboration of national data.



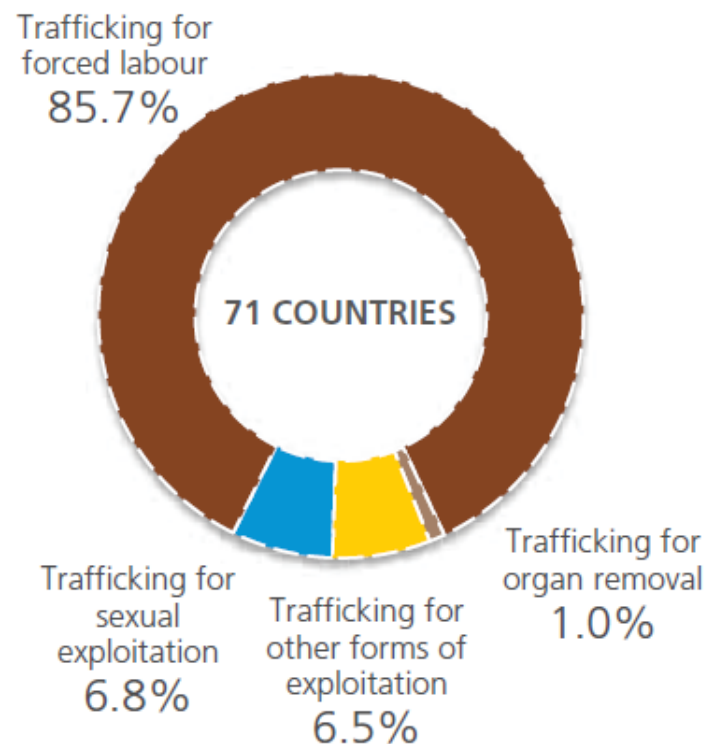
## Forms of exploitation by gender

**FIG. 11** Forms of exploitation among detected female trafficking victims, 2014 (or most recent)



Detected female victims

**FIG. 6** Forms of exploitation among detected male trafficking victims, 2014 (or most recent)



Detected male victims



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# Beyond sexual exploitation and forced labour



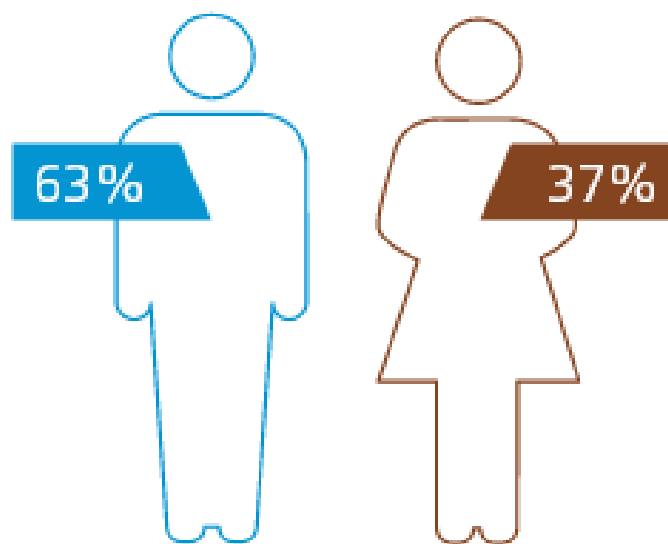


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## Most convicted traffickers are men...

**FIG. 16** Shares of persons convicted of trafficked in persons, by sex, 2014 (or most recent)

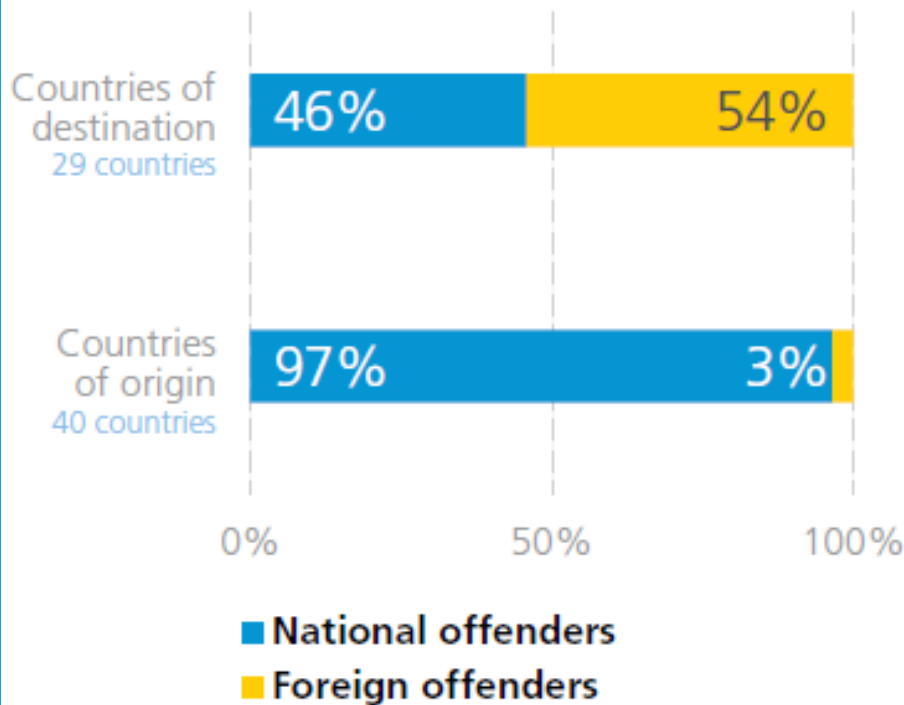


66 COUNTRIES



## Commonalities between traffickers and victims

**FIG. 22** Shares of national and foreign citizens (relative to the convicting country) among convicted traffickers, by countries of origin and destination, 2014 (or most recent)



- Citizenships of foreign offenders often match the citizenships of the victims they traffic – or:
  - Language
  - Ethnicity
  - Gender
  - Family/friendship ties

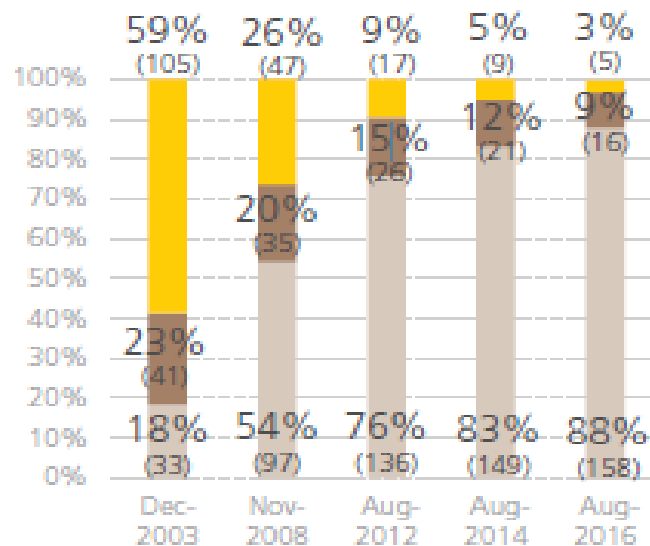


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## Most countries now have solid legislation

■ Criminalization of trafficking in persons with a specific offence covering all or some forms as defined in the UN Protocol, numbers and shares of countries, 2003-2016



179 COUNTRIES

■ No specific offence  
■ Partial  
■ Covers most/all forms

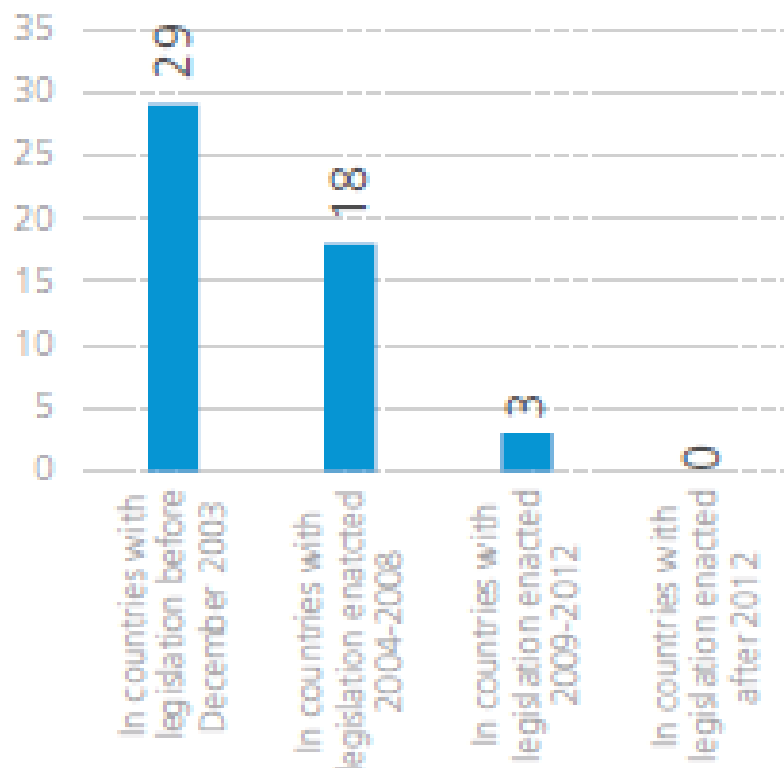


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# Countries with older legislation report more trafficking convictions

**Average number of trafficking convictions  
In 2014, by year of introduction of a  
specific trafficking in persons offence**





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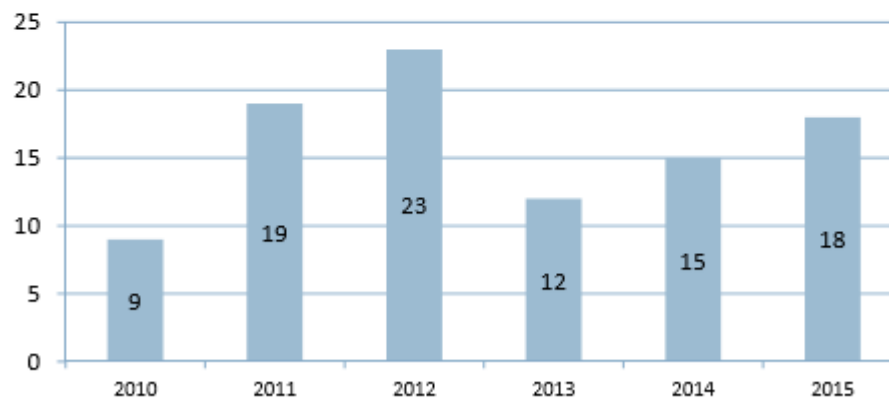
# GLOTIP Country Profile - Slovakia

## – Slovakia –

The current legislation on trafficking in persons in Slovakia covers all forms of trafficking indicated in the UN Trafficking in Persons Protocol.

### *Investigations and suspects*

**Cases of trafficking in persons recorded, 2010- 2015**



Source: Ministry of Interior.

[http://www.unodc.org/documents/data-and-analysis/glotip/Glotip16\\_Country\\_profile\\_WC\\_Europe.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Glotip16_Country_profile_WC_Europe.pdf)



## Human trafficking, migration and conflict

- Cross-border trafficking flows often resemble regular migration flows
  - Broad similarities between citizenships of detected trafficking victims and citizenships of recently arrived migrants
- Conflict creates vulnerabilities
  - Increasing numbers of detected trafficking victims from conflict areas e.g. Syria



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## Trafficking in persons and conflict



Refugees escaping wars are easily targeted by traffickers

The presence of large number of troops creates demand for labour and sexual services



Armed groups recruit and abduct children to use them as combatants

Armed groups recruit or abduct women and girls for forced marriage, domestic work and sexual slavery as well as men and boys for forced labour



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## UNODC Goodwill Ambassador for the Dignity of Survivors of Human Trafficking



WORLD NEWS

**Nadia Murad, Yazidi woman and survivor of  
ISIL atrocities, becomes UN Ambassador**

<http://www.euronews.com/2016/09/18/nadia-murad-yazidi-woman-and-survivor-of-isil-atrocities-becomes-un-ambassador>



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## Way Forward - Priorities

- 1. Continue to address the complexity of TIP and SOM definitions (conceptual clarity and implementation).**
- 2. Continue to look into cross-cutting issues with TIP/SOM such as corruption, terrorism, money-laundering, cybercrime, etc.**
- 3. Address the vulnerabilities of migrants and refugees to TIP and other forms of exploitation and abuse.**
- 4. Further develop thematic work on specific TIP issues such as TIP in the fishing industry, removal of organs, TIP for marriage etc.**
- 5. Reinforce capacity to follow the money and to address specific types of SoM such as SOM by sea, document fraud, etc.**



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## Tools facilitating the implementation of the Protocols

**2 Model Laws  
(against TIP and  
SOM)**

**2 Assessment  
Guides - Criminal  
Justice Response  
(TIP and SOM)**

**2 Frameworks for  
Action to  
Implement the TIP  
and SOM Protocols**

**3 Training Manuals  
for practitioners  
(TIP and SOM)**

**2 Training Films  
(TIP and SOM)**

**Issue papers on  
key concepts of  
the TIP Protocol:  
Exploitation, Consent;  
Abuse of a position of  
vulnerability**

**Issue papers on  
SOM: financial or  
material benefit;  
corruption and SOM;  
SOM by sea; SOM by  
Air**

**Assessment toolkit  
on TIP for the  
purpose of organ  
removal**

**Role of recruitment  
fees in TIP**

**UNODC Case Law  
Databases – TIP  
and SOM**

**Digest of Human  
Trafficking Cases**

**Upcoming: Issue  
Paper on  
“International Legal  
Definition of TIP”**



# HUMAN TRAFFICKING KNOWLEDGE PORTAL

The **Human Trafficking Knowledge Portal** is an initiative to facilitate the dissemination of information regarding the implementation of the **UN Convention against Transnational Organized Crime** and specifically the Protocol to *Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

The **Human Trafficking Knowledge Portal** hosts a **Case Law Database** on officially documented instances of trafficking in persons crime.

By creating this portal, UNODC is working to increase the visibility of successful prosecutions and, at the same time, promote awareness of the realities of this devastating crime. Such a portal enables users to read about human trafficking issues, consult court decisions and practices from different countries and broaden their knowledge of human trafficking crimes.



## Case Law Database

A comprehensive case law database provides immediate, public access to officially documented instances of trafficking in persons crime. The database contains details on victims and perpetrators nationalities, trafficking routes, verdicts and other information related to prosecuted cases from across the world. In doing so, it provides not only mere statistics on numbers of prosecutions and convictions, but also the real-life stories of trafficked persons as documented by the courts.



## Database of Legislation

An electronic repository of laws relevant to the requirements of the organized Crime Convention and the protocols thereto. Most of the legislation included in this database has been enacted specifically to counter the relevant crime type, including trafficking in persons. For more information click here for the Database of Legislation powered by UNODC Sherloc.



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## Newsletter

Want to get the latest SHERLOC updates in your inbox? Type in your email and we will keep you up to date. [All Editions](#).



## SMUGGLING OF MIGRANTS KNOWLEDGE PORTAL

powered by  
**SHERLOC**

The **Smuggling of Migrants Knowledge Portal** is an initiative to facilitate the dissemination of information regarding the implementation of the **UN Convention against Transnational Organized Crime** and specifically the Protocol against the Smuggling of Migrants by Land, Sea and Air. UNODC is working to increase the visibility of successful prosecutions and, at the same time, promote awareness of the realities of this crime, including the involvement and modus operandi of organised criminal groups.

This portal aims to promote the uniform interpretation and application of the international instruments designed to tackle transnational crimes, and to broaden the knowledge of migrant smuggling crimes, especially the realities faced by ordinary people victimized by those who put their life at risk and the tools available to contrast the criminals while protecting the migrants.



## Case Law Database

A comprehensive case law database that provides immediate, public access to officially documented instances of smuggling of migrants. The database includes landmark cases from several jurisdictions, helping to clarify, through the case analysis, the elements and characteristics of the specific organized crime of smuggling of migrants as well as common challenges, best practices, and the use of international cooperation instruments in the smuggling of migrants cases.



## Database of Legislation

An electronic repository of laws relevant to the requirements of the organised Crime Convention and the smuggling of migrants protocol.



## Bibliographic Database

An annotated bibliography providing a synopsis of key articles and publications on smuggling of migrants, that are search-able by countries, research methods and keywords.

## Newsletter

Want to get the latest SHERLOC updates in your inbox? Type in your email below and we will keep you up to date. [All Editions](#).

**The SOM Case Law  
Database includes  
652 from 30  
jurisdictions**

**The TIP Case Law  
Database includes  
1,429 cases from  
99 jurisdictions**



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## Thank you!

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