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**PRESENTATION
ASSESSMENT OF THE NATIONAL EFFORTS TO COMBAT
TRAFFICKING IN PERSONS AND MIGRANTS SMUGGLING IN THE NORTH OF CENTRAL AMERICA:
EL SALVADOR, GUATEMALA AND HONDURAS**



Department against Transnational Organized Crime

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General aspects the assessment

- The objective of the research was to identify the efforts of law enforcement institutions in the Republics of El Salvador, Guatemala and Honduras to investigate, prosecute and judge crimes of trafficking in persons and migrants smuggling.
- A compilation of public information of the above-mentioned institutions was carried out through written requests, and interviews were conducted to compile statistics, manuals and research tools and supporting documentation.
- During the on site visits made to the specialized units of investigation of trafficking in persons and migrants smuggling, as well as to the Public Prosecutors' Offices for organized crimes (including units of investigators and analysts) and those of the Police, we were able to identify a serious and professional commitment to investigate and combat these criminal offenses and organizations.

- The Public Prosecutors Training Units, the Police Academies and Judicial Schools, have commitment to adapt their specialized training programs for the justice system operators with their own resources and international cooperation.

Adoption of international instruments

- El Salvador, Guatemala and Honduras have ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, which complement the "United Nations Convention against Transnational Organized Crime" (or Palermo Convention), and are therefore obliged to comply with international law.
- Consequently, their domestic legislation is based on such international normative. Each country has adopted special laws and reforms to its Criminal Codes. They have also incorporated conventional and special techniques for the investigation of these crimes.

Protocol to Prevent, Suppress and Punish Trafficking in Persons

- “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of 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.”
- The definition of the offense of trafficking in persons establishes various means by which perpetrators and participants can commit such crime, by using force, fraud or coercion, but is not limited to them, as it includes deceiving, abuse of power or a situation of vulnerability.

The regulation of the crime of trafficking in persons

El Salvador has a Special Law against Trafficking in Persons. The "special" adjective is due to the creation of a normative body exclusive to regulate the typical conduct of trafficking in persons, which was adopted in 2014.

The crime of trafficking in persons in the Republic of Guatemala is regulated by article 202 TER of its Penal Code. The Congress of the Republic of Guatemala, through Decree No. 9-2009 entitled "Law against sexual violence, exploitation and trafficking in persons," introduced into the Penal Code the reform of article 202 TER.

In the Republic of Honduras, the crime of trafficking in persons is regulated in the Law against Trafficking in Persons, approved in 2012.

International obligations in transnational crime of migrants smuggling

- According to the "Protocol against the Smuggling of Migrants by Land, Sea and Air", "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."
- International Law does not criminalize the migrant, but the person or group of persons who, in order to obtain, directly or indirectly, economic or other material benefits, promote, capture, facilitate, induce, finance, collaborate, guide, transport or mobilizes, participates or helps illicit migration of national or foreign persons, from the territory of the State to other countries or vice versa, or facilitates their irregular stay in the country.

The regulation of the crime of migrants smuggling

The Salvadoran Criminal Code regulates the criminal conduct of "illegal trafficking of persons" in art. 367-A of the Penal Code. It describes typical actions for this crime: introduce, transport, host, guide, and carry out promotional acts evading immigration controls.

The Republic of Guatemala adopted in the Migration Law, Decree 95-98, a series of criminal types related to the migrants smuggling. Article 103 establishes that, regardless of the persons' nationality, he/she commits this crime by facilitating the illegal entry, stay or exit of Guatemalan territory to foreign persons. The art. 107 establishes the the crime for those who illegally transport Guatemalan nationals.

The Honduran Penal Code expresses in art. 195 that a person, irrespective of his/hers nationality, traffics or leads Hondurans or persons of any nationality, shall be responsible for such criminal conduct.

Human and institutional capacities

- El Salvador: the Specialized Prosecution Unit for trafficking in persons and migrants smuggling is part of the Directorate of Specialized Units of the Attorney General's Office.
- The specialized unit of the Attorney General's Office is supported by analysis of information from the Directorate of Management, Analysis and Access to Information (DATI) whose technological resources allow the crossing of data for the identification of suspects, movements or other actions, as well as victims.
- The Attorney General's Office has developed and implemented the Management System (SIGAP) by which all the information of the cases is incorporated into an electronic application, which develops databases, allows the creation of patterns and profiles, identifies evidence and manages an agenda of the activities of the prosecutors and the courts.
- The Telecommunications Intervention Center is located in the AG's Office.

- The main investigative branch of the Office of the Attorney General is the Special Unit against Trafficking in Persons and Related Crimes, of the Central Investigation Division of the PNC (National Police).
- This unit of the PNC, conducts investigations through conventional and special techniques, coordinates and supports with the other units of the Sub-Directorate of Investigations, such as the Central Unit for Analysis and Use of Information, and the INTERPOL Division . In the operational field, it is coordinated with the Technical and Scientific Police Division. If there is a suspicion of *pandilla* action, then the specialized police unit coordinates activities with the specialized anti-*pandillas*, police intelligence and organized crime units.

- Guatemala: The *Ministerio Publico* (Public Prosecutor's office) is subdivided into regional, district and municipal offices. As well as in specialized offices. Specialized Prosecutor's Offices are subdivided into prosecutors units or agencies. The Regional Metropolitan Prosecutor's Office, Region I, includes the Prosecutor's Office against Organized Crime, the Prosecutor Office against the Crime of Extortion, the Prosecutor's Office against the Femicide, the Prosecutor's Office against Kidnappings, and the Prosecutor's Office against Trafficking in Persons.
- The Directorate of Criminal Investigations (DICRI) and the Directorate of Criminal Analysis (DAC), as well as the Unit of Special Investigation Methods (UME) are available to prosecutors, especially Special Prosecutors Offices such as Organized Crime, Drug Trafficking, Special Prosecutors Office against Impunity (FECI), Prosecutor's Office against Transnational Crimes and Prosecutors Office for Common Crimes.

- The *Ministerio Publico* of Guatemala has developed a tool called "SICOM" which means System of Control of the Investigation System of the *Ministerio Publico*.
- This system records the files management, with cross-referenced data interfaces of the events, the place, the initial date, municipality, description, the area where it occurred, location, people linked to the file, aggrieved, the information that is available from each of the persons, telephone, marital status, nationality, language, people, religion, alias, known by, kinship, lawyers, legal status, crime that are being charged, identity card, passport, driver's license, bank accounts, objects, weapons, drugs, vehicle and other variables.

- The National Civil Police has a Special Unit against Trafficking in Persons for investigations, but the Police Division of Ports, Airports and Border Posts is responsible for border controls, airports, ports, and migration routes.
- The Specialized Division of Criminal Investigation (DEIC) of the General Sub-Directorate of Criminal Investigation of the National Civil Police has a Department of Investigation against Organized Crime. Within this Department, sections were created such as: Section on Crimes against Financial Entities and the Section Against Trafficking in Persons.

- Honduras: The Ministerio Publico of the Republic of Honduras has an organic structure based on its legal source whose highest authority is the Attorney General, from which derives the Prosecutors Directorate, the Anti-Narcotics Directorate, the Forensic Medicine Directorate and the Administration Department.
- The General Directorate of Prosecution is subdivided into Special Prosecutor's Offices, Regional Prosecutors' Offices, Local Prosecutors' Offices, Specialized Units, and Modules. Within the specialized units of the Office of the Prosecutor, there is a Unit against Trafficking in Persons, Commercial Sexual Exploitation and Migrants Smuggling.

- The Technical Agency of Criminal Investigation (ATIC) is the specialized unit of the Public Ministry, dedicated to the investigation and prosecution of serious crimes and crimes of social impact. It also carries out an investigation, collection, transportation, and custody of evidence, with the purpose of ensuring and be more efficient in the prosecution and judgment of suspects. The ATIC operates in accordance with the legal technical direction of the prosecutors.
- The staff of the ATIC supports the entire Ministerio Publico in the national territory and coordinates its actions with the investigative units, public security and tactical units of the Police.

Conclusions

- The three states have incorporated the crimes of trafficking in persons and migrants smuggling.
- They have the capacity to investigate these crimes through specialized units of the Public Prosecutor's Offices, their investigative bodies, and special investigative units of the Police.
- They have adopted conventional and unconventional mechanisms for the investigation of criminal organizations.
- There is coordination between special units.
- There is coordination of regional operations.
- They require more prosecutors, investigators or MP analysts, as well as specialized investigative police.