

**Law No. 82 for 2016 Issuing the Law
On Combating Illegal Migration & Smuggling of Migrants**

In the name of the People

The President of the Republic

The Parliament has approved the following law and we hereby promulgate it:

(Article One)

There shall apply the provisions of the attached law on combating illegal migration and the smuggling of migrants and any other contradicting provisions shall be revoked.

(Article Two)

The National Coordination Committee on Combating and Preventing Illegal Migration and Human Trafficking provided for in Article (28) of the attached law shall undertake the assigned tasks according to the provisions of such law.

This Committee shall replace the Coordination Committee on Combating Human Trafficking established according to Law No. 64 of 2010 on Combating Human Trafficking, and it shall undertake all its tasks and assume all its rights, assets and documents, and shall assume all responsibilities of the replaced committee. Any other contradictory provisions shall be revoked.

(Article Three)

The Executive Regulation of the attached law shall be issued by the Prime Minister within three months from the date of publishing this law.

(Article Four)

This law shall be published in the official gazette and shall enter into force on the day following its publication.

This Law shall be stamped by the State Seal and be implemented as one of its laws.

Promulgated on that date of 7 Safar 1438 Higri

7 November 2016

Abdelfatah El-Sisi

Law on Combating Illegal Migration & Smuggling of Migrants

Chapter One: Definitions & General Provisions

Article (1)

In application of the provisions of this Law, the following expressions and phrases shall have the meanings hereby assigned to them:

1- Transnational Crime:

Any crime committed in more than one country, or a crime committed in one country that was prepared, planned, directed, supervised or funded in another country or by another country, or a crime committed in one country by an organized criminal group that engages in criminal activity in more than one country, or a crime committed in one country and its effects are realized in another country.

2- Organized Criminal Group:

A group formed as a specific organization of at least three persons working continuously or for a specific period of time with the purpose of committing one or more specific crimes, including the crime of smuggling migrants itself or alongside other crimes, in order to directly or indirectly obtain material or moral gain or for any other purpose, without its members taking on certain roles or maintaining continuous membership therein.

3- Smuggling of Migrants:

Arranging for the transfer of one person or several persons in an illegal manner from one country to another, in order to directly or indirectly obtain material or moral gain or for any other purpose.

4- Smuggled Migrant:

Any person who becomes a target for the criminal behavior stipulated in Articles (5), (6), (7) and (8) of this Law.

5- Counterfeited Travel or Identity Documents:

Travel or identity document that has been entirely counterfeited, distorted, issued or obtained by fraud, corruption, coercion, deception, misrepresentation or other illicit means.

6- Unaccompanied Children:

Any person, who has not reached the age of 18 years old and is unaccompanied by a parent or a guardian.

7- Commercial Carrier:

Any natural or legal person whose profession is to transport passengers or goods by land, sea or air for commercial gain.

8- Vessel:

Any type of watercrafts or water-borne vessels which can be used as means to transport persons, including hovercrafts and seaplanes excluding warships, fleet support ships or other ships owned or operated by the government, which are used for non-commercial purposes.

9- The Committee:

The National Coordination Committee on Combating & Preventing Illegal Migration & Human Trafficking established in accordance with the provision of Article (28) of this Law.

10- Gain:

Any benefit, profit, advantage or revenue for the perpetrator of the crime of smuggling migrants, whether the benefit, profit or advantage was material or moral.

11- Territorial Sea:

A belt of coastal water alongside the coastal border of a state and outside its territory and national water, which extends 12 nautical miles at most from the baseline according to the provisions of the International Law of the Sea.

12- Contiguous Zone:

A band of water extending from the outer edge of the territorial sea extending up to 12 nautical miles from the end of the territorial sea according to the provisions of the International Law of the Sea.

Article (2)

The smuggled migrant shall not bear any criminal or civil liability for the crimes of smuggling of migrants provided for in this Law.

The consent of the smuggled migrants or the consent of the person responsible for them or their guardian shall not be considered in the crimes of smuggling of migrants provided for in this Law.

Article (3)

The National Council for Childhood & Motherhood shall be the legal representative of the families of unaccompanied children, whose families or legal representatives cannot be identified.

Chapter Two: Offences and Penalties

Article (4)

Without prejudice to any more severe penalty provided for in any other law, the offences provided for in the following articles shall be punished with the prescribed penalties.

Article (5)

The penalty of imprisonment shall befall each person establishing, organizing, or managing an organized criminal group for the purposes of smuggling migrants, or assuming any leading role in such groups, or being a member of such groups or associated thereto.

Article (6)

The penalty of imprisonment and a fine of no less than fifty thousand pounds and no more two hundred thousand pounds, or a fine equivalent to the achieved profits, whichever is greater, shall befall each person who commits, attempts or mediates in the crime of smuggling migrants.

The penalty of aggravated imprisonment and a fine between two hundred thousand pounds and five hundred thousand pounds or a fine equal to the value of the achieved profit, whichever is greater, shall apply in any of the following cases:

- 1- If the criminal established, organized, or managed an organized criminal group for the purposes of smuggling migrants, or assumed command therein, or was a member thereof or joined it.
- 2- If the offence had a transnational character.
- 3- If the offence was committed by several criminals or by a person carrying a weapon.
- 4- If the criminal was a public official or assigned to a public service and committed the offence by abusing his position or the public service.
- 5- If the offence might threaten the life of the smuggled migrants or compromise their well-being or is considered inhumane or degrading treatment.
- 6- If the smuggled migrant was a woman, a child, an incompetent person or a person with a disability.
- 7- If a forged travel or identity document was used to commit the offence, or if a travel or identity document was used by someone other than its legal holder.
- 8- If a vessel was used to commit the offence in violation of its proper purpose or its defined routes.
- 9- If the criminal repeated the offence provided for in the first paragraph of this Article.

Article (7)

The penalty of life imprisonment and a fine no less than two hundred thousand Pounds and no more than five hundred thousand Pounds or a fine equal to the value of the achieved profit, whichever is greater, shall be applicable if any of the offences provided for in the first clause of the previous Article were committed under any of the following circumstances:

- 1- If the offence was committed by an organized criminal group.
- 2- If the offence was committed for a terrorist purpose according to the applicable laws in this regard.
- 3- If the offence resulted in the death of the smuggled migrant, a permanent disability or an incurable illness to him/her.
- 4- If the criminal used or threatened to use drugs, medications, weapons, force, or coercion in committing the offence.
- 5- If the number of the smuggled migrants is more than 20 persons or less provided that it includes women, children, incompetent persons or persons with disabilities.
- 6- If the criminal seized or destroyed the travel or identity documents of the smuggled migrant.
- 7- If the criminal used force or weapons to resist authorities.
- 8- If the criminal used children to commit the offence.
- 9- If the criminal repeated the offence in the aggravated circumstances provided for in the second paragraph of Article (6).

Article (8)

Every person facilitating or managing purposefully a place to harbor, gather or transport smuggled migrants, or facilitating or providing them with any services purposefully shall be penalized by imprisonment.

Article (9)

The court shall oblige the criminal, in the offences provided for in Articles (6), (7) and (8) of this Law, to bear all expenses of livelihood for the migrant and his/her escorts until finalizing necessary judicial and administrative procedures, along with the expenses of returning the smuggled migrant and his/her escorts to their country or place of residence.

Article (10)

Each person who uses force or intimidation or offers or promises to offer a gift or an advantage of any kind to urge another person to commit perjury, withhold facts, make false statement or give any misrepresentations in any phase of collecting inferences, conducting investigations or trials in procedures related to committing any of the offences provided for in this Law, shall be penalized by imprisonment.

The same penalty shall be applicable for each person who reveals or discloses the identity of the smuggled migrants or the witnesses endangering or harming them, or who facilitates communication between them and other criminals or risks their physical and psychological integrity and sanity.

Article (11)

The penalty of detention shall befall those who make false statements or provide false information in any phase of collecting evidence, the investigation or the trial relating to committing any of the offences provided for in this Law.

The detention term shall be of no less than one year if the criminal was assigned by the judicial authority or prosecution to carry out a task of expertise or interpretation.

Each person who abetted this offence shall be subject to the same penalty, even if the abetment did not have an effect.

Article (12)

The penalty of imprisonment shall befall anyone who harbors any criminal, items or funds gained through any of the offences provided for in this Law, or who intentionally conceals or damages any evidence or tool used in the offence.

The court may exempt the perpetrator from punishment, if he/she was harboring a spouse, lineal consanguinity or lineal descendant.

Article (13)

The penalty of imprisonment shall befall each person abetting, by any means, to commit one of the offences provided for in the previous articles of this Law, except for Article (11), even if the abetment did not have an effect.

Article (14)

The same penalties prescribed for the committed offence shall befall the person in charge of the actual management of the legal person if any of the offences provided for in this Law was committed by one of the employees who work under the name of the legal person and for its benefit while having knowledge of the offence and the offence had occurred due to violating the duties of its position.

The legal person shall be jointly liable for paying the financial penalties and compensations, if an employee working under its name and for its benefit commits the offence. The court shall order, in the judgment of conviction, to publish the judgment in two widely distributed daily newspapers at the expense of the legal person. The court may cease the business activity of the legal person for a period of not more than one year.

The court may order the dissolution and liquidation of the legal person if the offence was repeated by one of its employees who work under its name and for its benefit.

Article (15)

The penalties of detention for no less than 6 months and a fine of no less than ten thousand Pounds and no more than twenty thousand Pounds, or either of the two penalties, shall befall each person becoming aware of the committed offences provided for in this Law or an attempt thereof while not reporting the same to competent authorities. If the perpetrator was a public official and the crime had occurred due to violating the duties of its position, the penalty shall be detention for a period of no less than one year and no more than five years.

The court may consider exemption if the offence was committed by the spouse, lineal consanguinity, lineal descendant, or the siblings of the perpetrator.

Article (16)

The commercial carrier shall ensure that the passenger has the necessary documents for their destination.

Failing to observe the above shall render the commercial carrier subject to a fine of no less than fifty thousand Pounds and no more than one hundred thousand Pounds. The fines shall multiply according to the number of passengers.

Article (17)

Without prejudice to the rights of third parties of goodwill, it is to be judged in all circumstances to confiscate the funds, luggage, transportations or tools obtained through any of the offences provided for in this Law or the ones used in committing the offence.

The confiscated tools and transportations shall be allocated to the confiscation authority, if decided by the concerned minister that they are directly necessary to its activity.

Article (18)

The provisions of articles 208 bis (a), 208 bis (b) and 208 bis (c) of the Criminal Procedure Code, shall apply to the offences provided for in this Law.

Article (19)

If one of the criminals reported any of the offences provided for in this Law or the perpetrators to any of the competent authorities before they became aware of them, the court shall exempt him/her from punishment if his/her report led to the seizing of the remaining criminals and funds obtained from this offence.

The court may decide an exemption from the original punishment, if the reported offences took place after the Authorities became aware of them provided that the reporting has led to identifying and seizing of the remaining criminals and confiscating the funds obtained from the offence.

The provisions of the previous two paragraphs shall not apply if the offence resulted in the death of the smuggled migrant, an incurable illness or a permanent disability.

Article (20)

Subject to the provisions of Article (4) of the Penal Code, the provisions of this Law shall apply to every non-Egyptian person, who committed any of the offences provided for in this Law outside the Arab Republic of Egypt, if the act was criminalized in the country in which it was committed, according to its internal law or an international convention to which it has acceded, in any of the following cases:

- 1.If the offence was committed using any of the means of transportation by land, sea or air registered in the Arab Republic of Egypt or flying its flag.
- 2.If one or all of the smuggled migrants were Egyptians.
- 3.If the offence was prepared, planed, directed, supervised or funded in the Arab Republic of Egypt.
- 4.If the offence was committed by an organized criminal group, which practices its criminal activities in more than one country including the Arab Republic of Egypt.
- 5.If the offence would jeopardize the well-being of any of the citizens or residents of the Arab Republic of Egypt, its security or any of its interests whether inside or outside the Arab Republic of Egypt.
- 6.If the perpetrator was found in the Arab Republic of Egypt after committing the crime and was not extradited.

Article (21)

In the cases provided for in Article (20) of this Law, the competence for carrying out the procedures of prosecution, investigation and trial shall extend to the competent Egyptian authorities.

If migrants were smuggled in a vessel, the Egyptian authorities shall take the necessary measures whether they were in a territorial sea or contiguous zone according to the provisions of the International Law of the Sea.

Chapter Three: International Judicial Cooperation

Article (22)

In combating activities and crimes of smuggling migrants, the concerned Egyptian judicial and security authorities – each within its competence and in coordination with each other – shall cooperate with their foreign counterparts through exchanging information, assistance and other forms of judicial or intelligence cooperation, all in accordance with the provisions of the bilateral or multilateral conventions ratified by the Arab Republic of Egypt, the provisions of bilateral agreements or arrangements, or in accordance with the principle of reciprocity.

Article (23)

Without prejudice to the rights of goodwill third parties, the competent Egyptian or foreign judicial bodies may request taking necessary legal actions to trace, confiscate, freeze or placing attachments on monies related to smuggling migrants or any revenues contained therein.

Article (24)

The competent Egyptian judicial bodies may order the performance of final criminal judgments issued by foreign courts of jurisdiction for the confiscation, freezing, sequestering or recovering revenues of smuggling migrants, and this shall be in accordance with the provisions of bilateral or multilateral international conventions ratified by the Arab Republic of Egypt or other binary arrangements or agreement, or in accordance with the principle of reciprocity.

Chapter Four: Protection & Assistance Arrangements

Article (25)

The State shall provide the appropriate arrangements to protect the rights of smuggled migrants including their right to a livelihood, humane treatment, healthcare, physical, moral and psychological safety, protection of personal privacy, and raising their awareness on their right in getting legal assistance; all while prioritizing women and children.

Article (26)

The relevant Egyptian authorities shall secure the right of the smuggled migrants to contact the diplomatic or consulate representative of his/her country and take responsibility for informing such migrants of his/her status in order to receive possible assistance in this regard.

Article (27)

The Ministry of Foreign Affairs, in coordination with relevant authorities of other countries, shall facilitate the safe return of smuggled migrants to their countries after confirming their nationalities or residency in such countries, or any other countries that admit them, provided that they have not been convicted of any criminal charges as per the Egyptian Law.

Chapter Five: The National Coordination Committee for Combating and Preventing Illegal Migration and Human Trafficking

Article (28)

There shall be established under the supervision of the Egyptian Cabinet, a committee named “The National Coordination Committee for Combating and Preventing Illegal Migration and Human Trafficking”. The Committee shall be affiliated to the Prime Minister.

The Committee shall be concerned with the national and international coordination between policies, plans and programs instituted for combating and preventing illegal migration and shall provide the due care and services to smuggled migrants, witness protection according to international commitments set as per bilateral or multilateral international conventions enforceable in the Arab Republic of Egypt.

The membership of the committee shall be comprised of representatives from the relevant ministries, authorities, bodies, councils, and research centers and two experts nominated by the head of the committee.

Other entities may be added to the membership of the committee as per its request by a resolution from the Prime Minister.

The committee may, as it sees fit, seek support from experts, specialists, or employees of the ministries, agencies, research centers and civil society organizations, and may request such entities to provide information, documentation and studies that would help the committee in its work.

The Executive Regulations of this Law shall specify the working mechanism, the employees of the committee and other areas of its role and function.

The composition of the Committee, its premises participating therein shall be decided by virtue of a Prime Ministerial decree.

Article (29)

The head of the Committee shall be appointed for three renewable years by virtue of a Prime Ministerial Decree.

Article (30)

The Committee shall have a technical secretariat to be headed by one of the Committee’s members or other person to be appointed by the head of the Committee, and it shall comprise the following units:

- Documentation & Information Unit
- Administrative & Financial Affairs Unit
- Training & Traineeships Unit

The Committee may establish other units for the technical secretariat if it is so required.

Article (31)

The Committee shall form the following subcommittees from its members:

- The Legal Committee
- Documentation & Information Committee
- Committee of Awareness & Mass Media
- Committee of International Cooperation

The Committee may form from among its members other committees to be assigned for other fields and subjects of interest to the Committee's work.

Chapter Six: Combating Illegal Migration & the Protection of Witnesses and Migrants Fund**Article (32)**

There shall be established a fund called "Combating Illegal Migration & Protection of Witnesses and Migrants Fund". The Fund shall have its public legal entity and shall have its own independent budget. The Fund shall be affiliated to the Prime Minister and shall have a financial year that starts and ends as per the State's financial year. Such Fund shall be referred to in this Law as "the Fund".

The Fund shall be concerned with providing financial assistance to victims who sustained damages as a result of all crimes listed in this Law.

The Fund shall have a board chaired by the head of the Committee. The by-laws of the Fund, composition of its board and its areas of competence shall be issued by a Prime Ministerial decree.

Article (33)

The resources of the Fund shall be comprised of the allocations determined by the State from its public budget, and it shall be comprised as well from loans and other donations granted by national and foreign bodies, accepted by the Fund being in line with the Fund's purposes.

Article (34)

The Fund shall have a special bank account at the Central Bank of Egypt where all resources of the Fund shall be deposited and from which all expenses of the Fund shall be withdrawn for the Fund's purposes.

The monies of the Fund shall be subject to the monitoring of the Central Auditing Organization.