

Arab Republic of Egypt
The Presidency

The Official Gazette

Prime Ministerial Decree No. 983 of 2018

Promulgating the Executive Regulations of Law No. 82 of 2016 on Combating Illegal Migration and Smuggling of Migrants.

The Prime Minister

Having taken cognizance of the Constitution;

Penal Code;

Civil Code;

Criminal Procedure Code;

Law No. 394 of 1954 on Weapons and Ammunition;

Law No. 89 of 1960 on Entry and Residence of Foreigners in and Exit from Arab Republic of Egypt;

Law No. 111 of 1983 on Emigration and Sponsoring of Egyptians Abroad,

Law No. 232 of 1989 on Ships Safety;

Law No. 12 of 1996 Promulgating the Child Law;

Law No. 64 of 2010 on Combating Human Trafficking;

Law No. 8 of 2015 on the Regulation of Terrorist Entities and Terrorists Lists;

Law No. 94 of 2015 Promulgating the Anti-Terrorism Law;

Law No. 81 of 2016 on Civil Service;

Law No. 82 of 2016 on Combating Illegal Migration and Smuggling of Migrants;

Presidential Decree No. 145 of 1983 on the Adoption of UN Convention on the Law of the sea;

Presidential Decree No. 54 of 1988 on the Establishment of the National Council for Childhood and Motherhood;

Presidential Decree No. 294 of 2003 on the Adoption of UN Convention against Transnational Organization Crime;

Presidential Decree No. 295 of 2003 on the Adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime;

Presidential Decree No. 297 of 2004 on Adopting the Accession of Arab Republic of Egypt to the Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the UN Convention against Transnational Organized Crime;

Presidential Decree No. 277 of 2014 on Adopting the Accession of Arab Republic of Egypt to Arab convention against Transnational Organized crime;

Prime Ministerial Decree No. 192 of 2017 on the Composition of the National Coordinating Committee on Combating and Preventing Illegal Migration and Human Trafficking; and

As Considered by the State Council;

Resolved as follows:

(First Article)

The Provisions of the attached Executive Regulations of the Law on Combating Illegal Migration and Smuggling of Migration Shall come into force.

(Second Article)

This Decree shall be Published in the Official Gazette and shall come into force on the day following its publication.

Issued at the Office of the Prime Minister on 30 Shaaban 1439

(Corresponding to 16 May 2018)

Prime Minister

Eng. Sherif Ismail

Executive Regulations
Of
The Law on Combating Illegal Migration and Smuggling of Migrants

Article (1)

In Applying the Provisions of the present Executive Regulations and the Decrees issued in implementation of the said Law on Combating Illegal Migration and Smuggling of Migrants, the following Expressions and Phrases shall have the meanings assigned thereto:

Law:

Law No. 82 of 2016 on Combating Illegal Migration and Smuggling of Migrants.

Crime of Transnational Nature:

A Crime Committed in more than one state, a crime committed in one state and was prepared, planned, directed, supervised or funded in or by another state, a crime committed in one state by an organized criminal group engaged in criminal activities in more than one state, or a crime committed in one state and its effects are realized in another state.

Organized Criminal Group:

A group formed as a specific organization of at least 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 obtain, directly, a material or moral gain or for any other purpose, without its member taking on certain roles or maintaining continuous membership purpose.

Smuggled Migrants:

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

Smuggled Migrant:

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

Counterfeited Travel or Identity Documents:

Travel or identity document that has been entirely counterfeited, any of its data has been distorted, falsely made or stamped, amended in a way other than the illegal prescribed

Methods, or that has been improperly issued, obtained or included incorrect data by way of counterfeiting, corruption, duress, fraud, deceit, or any other illicit means.

Unaccompanied Children:

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

Commercial Carrier:

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

Vessel:

Any type of watercrafts or water-borne vessels that 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.

The Committee:

The National Coordinating Committee on Combating and Preventing Illegal Migration and Human Trafficking established in accordance with the provisions of Article (28) of the Law.

The Council:

The National Council for Childhood and Motherhood.

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.

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. It shall be subject to the sovereignty of the state extending to the air space over the territorial sea as well as to the seabed and its subsoil in accordance with the provisions of the International Law of the Sea.

Contagious Zone:

A band of water commencing immediately beyond the outer edge of the territorial sea and extending to a maximum of 24 nautical miles from the baseline, within which a state can exert necessary control for the purpose of preventing and punishing infringement of its customs, fiscal, sanitary, immigration and other regulations within its territory, national water or territorial sea in accordance with the provisions of the International Law of the Sea.

Article (2)

Combating illegal migration and smuggling of migrants by virtue of the Law and Executive Regulations shall be carried out through the achievement of the following goals and purposes:

1. Raising public awareness and information capacity regarding the issue of illegal migration;
2. Mobilizing the resources required to enhance effort of combating illegal migration;
3. Supporting the development process as the foundation for combating illegal migration;
4. Suggesting and providing positive alternatives for job opportunities and boosting legal migration routes;
5. Protecting the categories most vulnerable to illegal migration risks;
6. Investing in and enhancing international and regional cooperation in the field of combating illegal migration; and
7. Establishing and activating the legislative framework supporting the activities of combating illegal migration.

Article (3)

Taking into consideration the criminal and civil liability arising from violating the provisions of the aforementioned Law No. 89 of 1960 or any other law, the smuggled migrant shall not bear any criminal or civil liability for the smuggling of migrants crimes stated in the Law.

Article (4)

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

Article (5)

The Council, in coordination with the committee, shall establish necessary measures, controls and procedures to deal with unaccompanied children of smuggled migrants and work on identifying their families or legal representatives until their safe return, in view of the following:

1. Registering complaints and notifications received concerning unaccompanied children of smuggled migrants in a records maintained for that purpose and preparing a special file for each child including all procedures followed thereof;
2. Working on identifying these children families or legal representatives following all possible methods by the council's qualified specialists;
3. Carrying out investigations on families and legal representatives through competent prosecution service which assigns the concerned security bodies to do so;

4. Admitting unaccompanied children of smuggled migrants, with unidentified families to national care houses by virtue of a decision to be issued by the competent prosecution service; and
5. Issuing decision by the Council of Immediate safe return of child, notifying Ministries of Foreign Affairs and Interior, and following up with the actions taken.

Article (6)

The expenses provided for in Article (9) of the Law shall be that of necessary food, clothing, housing, treatment and return of migrant to his\her state or place of residence.

Article (7)

As per the provisions of Article (17) of the Law, the competent minister shall be the minister to whom the enforcement body administratively reports, or the senior head of such body in case of being unaffiliated to a ministry, provided that it shall be of ministerial rank.

Article (8)

The Ministry of Justice's International and Cultural Cooperation Administration, the Public Prosecutor Office of International Cooperation, Sentences Enforcement and providing Prisoners with Care, and the Ministry of Interior's Arab and International Criminal Police Department (INTERPOL Cairo), as per their relevant competencies, shall coordinate and cooperate with corresponding foreign bodies in order to combat and prosecute smuggling of migrants' activities and crimes.

Article (9)

In order to combat the crimes provided for herein, the bodies referred to in the preceding Article shall exchange information, carry out investigations on and prosecute perpetrators, provide assistance to each other, take actions of judicial aid and letters rogatory, extradite perpetrators, deliver objects, restore funds, transfer sentenced persons and seek any other form of judicial and police cooperation in the field of combating activities. Such cooperation shall take place through bilateral or multilateral agreements with other states or according to the principle of reciprocity as per the procedures applicable by the competent bodies.

Article (10)

Without prejudice to the rights of bona fide third parties, the competent courts and prosecution bodies that address the smuggling of migrants crimes in the Arab Republic of Egypt through the Ministry of Justice's International and Cultural Cooperation Administration and the public Prosecutor Office of International Cooperation, Sentences Enforcement and Providing Prisoners with Care shall take necessary legal actions in cooperation with foreign judicial bodies to track, seize, freeze or confiscate the funds or revenues of smuggling migrants crimes.

Article (11)

The Public Prosecution through the Public Prosecutor office of International Cooperation, Sentences Enforcement and Providing Prisoners with Care, shall enforce the criminal rulings issued by foreign judicial bodies concerned with seizing, freezing, confiscating or restoring funds and revenues of smuggling migrants crimes in accordance with the applicable laws and the procedures included in the bilateral or multilateral agreements applicable in the Arab Republic of Egypt or according to the principle of reciprocity applied among the judicial bodies in the Arab Republic of Egypt and its counterparts in foreign states.

Article (12)

The Competent governmental bodies shall monitor and combat the means and methods used by organized criminal groups to smuggle migrants, work on uncovering the connections between individuals and groups involved in smuggling migrants and take necessary measures to reveal this criminal activity.

Article (13)

When carrying out relevant tasks and competencies regarding of migrants, the governmental bodies concerned with criminal investigation, seizure and prosecution, shall take necessary action to identify smuggled migrants and their nationality, classify them by age and gender and ensure being kept away and protected from preparation.

Article (14)

In accordance with Applicable Laws, the competent governmental bodies shall verify the identity of people crossing the International Egyptian borders and ensure the authenticity of travel documents used.

Article (15)

The Competent ministries and national bodies shall take the appropriate measures to ensure the following rights of smuggled migrants:

1. The right to life and physical, moral and psychological integrity;
2. The right to protect integrity and identity;
3. The right to be informed with the relevant administrative, legal and judicial procedures. This shall take place in an understandable language, taking into consideration the smuggled migrant gender and paying special attention to women and children;
4. The right to be heard during criminal proceedings without prejudice to the defense rights; and
5. The right to contact the diplomatic or consular representative of their state and to inform if their status in order to receive the possible assistance in this regard.

The Committee may coordinate among competent ministries and governmental bodies to take such measures, if necessary.

Article (16)

The Ministry of Foreign Affairs, in coordination with the competent authorities in other states, shall facilitate safe and rapid return of smuggled migrants to their states, after ensuring that they hold the nationality thereof or residing therein, or to any other state once accepted, provided that not to be convicted of any criminal charges punishable by the provisions of the Egyptian law.

Article (17)

The Committee shall coordinate, nationally and internationally, the policies, plans and programs developed to combat and prevent human trafficking, illegal migration and smuggling of migrants. In doing so, the committee, in coordination with the concerned bodies, shall be entrusted with the following:

1. Act as an advisory for national authorities, bodies and organizations;
2. Provide aspects of care and services to smuggled migrants and human trafficking victims, protect witnesses through the bodies represented in the committee and suggest required actions to assist those persons within the bilateral or multilateral agreements valid in Egypt as per the applicable laws;
3. Establish a national strategy to combat and prevent illegal migration and smuggling of migrants and another one for human trafficking, develop and follow up with action plans required to implement such strategies by concerned bodies and provide suggestions and recommendations in that context for the prime Minister;
4. Draft a unified Egyptian vision, to be presented in the international and regional forums after prime Minister approval, reflects all relevant legal, security and political dimensions;
5. Follow up with the implementation of Egypt of its commitments under the provision of international agreements and protocols related to human trafficking, illegal migration and smuggling of migrants;
6. Suggest necessary legislative and executive measures and procedures and follow up with the actions taken for their implementation;
7. Coordinate with the concerned executive and judicial bodies represented in the committee to fill in the questionnaires received by Egypt regarding the legislative and executive measures and procedures taken by Egypt to implement its international commitments arising from its ratification on the international level;
8. Review the relevant national legislations to bring such legislation into line with international agreements ratified by Egypt and recommend to propose the legislative amendments required;
9. Develop the relevant policies and programs, as well as the plans for raising awareness and capacity building and prepare researches and media awareness campaigns;
10. Encourage efforts targeting the formation and promotion of national cadres in charge of implementing the provision of relevant international agreements,

ensure respect therefor and enhance capacities by overcoming obstacles facing their operationalization;

11. Prepare training and capacity supporting programs for those in charge of criminal justice administration, other law enforcement bodies and judicial officers concerned with combating human trafficking, illegal migration and smuggling of migrants, in the light of local national needs, bearing in mind that the training and development shall include all fields of raising awareness on the risks of such illegal activity and paying attention to human rights;
12. Coordinate the efforts of awareness raising and capacity building, whether among citizens or the most vulnerable categories, in cooperation with governmental and non-governmental organizations as well as civil society organizations as per the laws and regulations applicable in the respect;
13. Prepare a central database in coordination with national research centers and specialized national councils to collect and analyze information, data and expertise on human trafficking, illegal migration and smuggling of migrants according to the controls governing that matter;
14. Effectuate cooperation with the United Nations and its specialized agencies together with other related international government organizations to receive the available forms of support in order to assist the Egyptian government in combating crimes of human trafficking, illegal migration and smuggling of migrants, provide law enforcement officers with training and procure advisory services in accordance with applicable laws and regulations;
15. Cooperate with counterparts, regionally and internationally, in order to exchange experience and expertise as per the rules stipulated in the protocols of cooperation concluded therewith;
16. Enhance the international legal and judicial cooperation mechanisms concerning criminal issues on all levels through judicial bodies and other competent national bodies by encouraging the conclusion of bilateral and regional agreements and giving effect to the provisions of relevant international multilateral agreements in order to maximize the benefit from the international cooperation mechanisms stipulated in such agreements and facilitate the procedures of international cooperation specified therein;
17. Coordinate with the council for the establishment of necessary measures, controls and procedures in order to deal with unaccompanied children of smuggled migrants and work on identifying their families or legal representatives until their safe return; and
18. Prepare an annual report on national efforts exerted to combat and prevent crimes of human trafficking, illegal migration and smuggling of migrants and submit that report to the Prime Minister.

Article (18)

The Committee shall convene upon the invitation of chairman once every two months at least and whenever necessary. The meetings of the committee shall be valid in the presence of a majority of its members, provided that the chairman is amongst the attendees.

The Committee shall issue its decisions by the majority votes of members present. In case of equal votes, the chairman shall have the casting vote. The committee may invite to the meetings specialists, experts or staff of ministers, organizations, research centers and civil society, without having votes in the committee deliberations. It may also request such bodies to provide information, documents and studies that assist it in carrying out its works.

The Committee shall submit recommendations to the prime Minister for appropriate decisions.

Article (19)

The Committee shall from the following subsidiary committees out of its members:

Legal Committee

Documentation and Information Committee

Mass Media and Awareness Raising Committee

International Cooperation Committee

These Committees shall regularly meet once per month at least, carry out tasks assigned thereto by the committees and submit reports of its work results to the chairman.

The Committee may form other committees, out of its members, to be entrusted with some competencies of, or issues related to, the committee work.

Article (20)

The committee shall have a technical secretariat to be headed by one of the committee members or other persons to be appointed by the chairman. The Technical Secretariat shall comprise the following units:

Documentations and Information Unit that includes:

Documentation Division

Information Division

Administrative and Financial Affairs Unit that includes:

Financial Affairs Division

Administrative Affairs Division

Training and Traineeships Division

The Committee may establish other units or divisions for the Technical secretariat, if required. The committee shall issue a decision specifying the competencies of each unit or division.

Article (21)

The Committee's Technical Secretariat shall compose of a sufficient number of diplomats, jurists, technicians, administrative and financial officers and other experts and specialists specialized in the committee work, to be selected by the chairman of the committee through delegation, secondment or contracting in accordance with the laws and regulations applicable in this regard.

The Technical Secretariat shall be entrusted with:

- Preparing studies and researches required for the committee work. In doing so, it may seek the support of experts if it deems necessary;
- Preparing the committee's draft action plan and the subjects to be included thereon;
- Initiating the procedures required to implement and follow up with the committee recommendations;
- Supervising the financial and administrative issues related to the committee work; and
- Carrying out any other tasks assigned thereto by the chairman thereof.

Article (22)

The Chairman of the committee shall manage the committee affairs, suggest its general policy and represent it before national and international bodies. The chairman may take the decisions, it deems necessary, to achieve the goals for which the committee was established in accordance with the provisions of law and within the limits specified herein and in other relevant legislations.

The Chairman of the Committee shall issue technical, financial and administrative decisions related to the committee work. The chairman may assign some of its powers to one of the members and may assign a specified task to one of the Technical secretariat members.