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Submission on the preliminary draft for general comment
No. 6 on the convergence between
the Convention and the Global Compact for Safe,
Orderly and Regular Migration

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PURPOSE

To provide guidance to the Committee in the preparation of its general comment No. 6:

[OHCHR | Call for papers on the concept note and preliminary draft for general comment No. 6 on the convergence between the Convention and the Global Compact for Safe, Orderly and Regular Migration \(ohchr.org\)](https://www.ohchr.org/en/press-releases/2022/07/call-papers-concept-note-preliminary-draft-general-comment-no-6-convergence-between-convention-global-compact)

INTRODUCTION

EuroMed Rights welcomes the opportunity to submit its comments to the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (the Committee) on the concept note and preliminary draft for general comment No. 6 on the convergence between the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Global Compact for Safe, Orderly and Regular Migration.

EuroMed Rights also welcomes the Committee's intention, in its general comment No. 6, "to focus on the legal and human rights-based approach of the 23 objectives of the Global Compact in relation to the Convention".

These observations focus on Axis 3 on the protection of migrants through rights-based border governance measures and, in particular, on Goal 8 of the Global Compact (Article 71 of the Convention). This submission will also present considerations and comments in relation to certain paragraphs of the draft outline.

CONTEXT

Every year, the number of migrants who have died or disappeared during their migratory journey on the Mediterranean coast continues to increase. [In 2020, 1448 deaths and missing](#) persons were recorded by the *Missing Migrant* project of the International Organization for Migration (IOM); [in 2021, 2048 missing migrants were recorded, 600 people more than the previous](#) year, and only in the first eight months of 2022, at least [1226 people died or disappeared](#). The actual numbers are likely to be much higher. Women, men but also children lose their lives, fleeing persecution or to find a better life. While we are witnessing an increase in means and resources to strengthen border closures and control, Mediterranean states are struggling to put in place measures or mechanisms to identify deceased migrants. Boundless pain and grief for families and loved ones who seek to offer them human dignity and recognize them as individuals with life stories, family and friends.

According to the organization *United for Intercultural Action*¹, more than [48,647 migrants](#) died on migration routes between 1993 and June 2022 and more than [24,000 migrants](#) have died since 2014 in the Mediterranean, according to IOM.

¹ The *United for Intercultural Action* is a pan-European network against [nationalism](#), [racism](#), [fascism](#) and for the support of [immigrants](#) and [Refugees](#). In the network are more than 560 organizations.

The causes are multiple: from the policy of externalizing the borders of the European Union to the strengthening of border controls by the border guards of the Maghreb States (Tunisia, Morocco, Algeria, Libya), migrants are taking increasingly dangerous paths which can lead them to their deaths or disappearances.

These deaths question both the societies of departure and the societies that receive them. For example, a multitude of actors intervene to try to identify migrants who have died or disappeared during their migratory journeys. It must be noted that the absence or lack of effectiveness of institutional arrangements in most Maghreb countries leads States to subcontract part of these identification procedures to international organizations and civil society.

COMMENTS

In this context, it is important that States commit to increase transnational cooperation between States and with civil society actors on mechanisms for search and rescue at sea, and the prevention of loss of life at land and sea borders, and increase their cooperation in the identification and management of bodies, including the dignified burial and repatriation of remains.

We suggest that the Committee, in its general comment No. 6, emphasize the importance of Goal 8 of the Global Compact ("Save lives and establish coordinated international action to find missing migrants") in relation to Article 71 of the Convention.

Through its project, *Protecting the rights of migrants and refugees in the Maghreb region and supporting the work of civil society organizations in this area*, EuroMed Rights and its members and partners in the region have been able to identify major problems and challenges regarding the procedures for identifying and managing the bodies of migrants who have died in the Maghreb region. They were able to collect suggestions and recommendations from civil society actors and international organizations, such as the International Committee of the Red Cross (ICRC),² working on this subject.

Among the major challenges and problems identified, for example, are the lack of cooperation between the actors concerned, the obstacles for families to have access to institutional actors and formal identification procedures, the lack of cross-border cooperation between the States of origin, departure and destination.

We recommend that the Committee highlights, in its general comment, the importance of increasing states' engagement with civil society actors, including migrant organizations and migrants themselves, and the collectives of the families of the disappeared. Given that the two texts "ensure international cooperation in order to better manage migration and to remain united in the face of common challenges and opportunities (Article 64 of the Convention and Goal 23 of the Global Compact)", emphasis should be placed on the need to increase such cooperation in terms of rescue at sea and search for missing persons.

² See for example the recommendations in the report *Counting the Dead*, elaborate by the International Committee of the Red Cross (ICRC) Delegation of Paris Dmedico-legal eviction, p. 27-32.

Among the recommendations of civil society on the subject, it is important to mention the following.

- The authorities should increase and facilitate coordination with civil society and ensure that civil society has access to procedures for identifying authorities.
- The States involved (EU countries, Maghreb, countries of origin/departure) should recognize their responsibilities and increase coordination and collaboration among them to facilitate the identification and repatriation of bodies.
- The embassies of the countries of origin of migrants who have died or disappeared in their migratory journey should work with the States where the persons have died or disappeared, to share the data of their nationals and facilitate identification.
- States and international organizations should set up effective and permanent mechanisms to support the families of missing persons that facilitate contact with the authorities and psychological support in their search for and bereavement.
- States should establish a coordinated, effective and transparent mechanism for search and rescue at sea and redirect funding deployed for border reinforcement and control to aid and rescue at sea.

WITH REGARD TO OTHER PASSAGES IN THE PRELIMINARY DRAFT OF GENERAL COMMENT NO. 6, WE PROPOSE THE FOLLOWING COMMENTS:

The first paragraph of point VI on page 5 refers to Goal 13 of the Global Compact on Alternatives to Detention. We strongly recommend that the authorities not resort to administrative detention of migrants and find alternatives to detention. Deprivation of liberty is a prejudicial measure for the person who is the subject of the deprivation of liberty. All available alternatives to detention must be sought.

The authorities should find alternatives to the detention and deprivation of migrants' freedoms while respecting their human rights. People should be able to benefit from all the institutional support to regularize their administrative situation. Mechanisms should be put in place to ensure access to information and access to protective measures for the person considered to be in an irregular situation by authorized officials. States should commit to reducing detention centers and find alternatives to facilitate access to rights for people in an irregular situation.

Paragraphs 1 and 6 of point V on pages 4-5 refer to the cooperation of States with regard to the conditions of migration, return and irregular migration, as well as the establishment of migration policies. The second paragraph of point VI on page 5 refers to Objectives 9 and 10 on irregular migration, the eradication of trafficking in persons in the context of migration and smuggling of migrants. We recommend affirming the importance of States cooperation to facilitate regular migration by facilitating the opening of legal and safe access to territories and freedom of movement, which is a human right guaranteed by international law. International cooperation and global partnerships should be based on effective, facilitated and sustainable mobility, not on externalized, security migration policies focused on returns and readmissions and visa reduction, which facilitate the increase in irregular migration. We fear that these objectives could be misinterpreted by States to deport, hot-refoul, strengthen arbitrary arrests at customs level, criminalize migrants and assistance to persons in an irregular situation, in order to achieve the objective of the further reduction of irregular migration.