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Esteemed Committee on Enforced Disappearances,

The International Team for the Study of Security Verona is a youth-led, apolitical, nonprofit cultural association dedicated to the study of international security. We submit the following dossier for consideration and action to the Committee on Enforced Disappearances for the development of the upcoming General Comment on enforced disappearances in the context of migration.

In line with the scope and objectives of the General Comment, this submission incorporates researchers specialized in human security, migration, and gendered dynamics of security. This multidisciplinary analysis considers how enforced disappearances embody intersecting realities of human insecurity, from varying national identities to transnational crime operations. Our submission recognizes how these patterns replicate across national contexts and challenge global human rights response paradigms in the field of migration as a base from which to build our policy recommendations.

Our response, entitled “*Enforced Disappearances in the context of migration: an evaluation of transnational crime and state non-compliance in compromising protection responses*”, highlights the need for states to be held to their highest standard of protection practices to avoid discrimination in the assistance and support provided to migrants. It calls for the establishment of an NGO consortium as an independent monitoring body with binding responsibilities to report state non-compliance in the processing of vulnerable migrants. It also advocates for the development of a model of legal recourse and redress for the families and victims affected by instances of enforced disappearances which can push for further investigations of unresolved cases.

The contents of this dossier respond to the objective of clarifying the practical realities of obligations enshrined within the International Convention for the Protection of all Persons from Enforced Disappearances, as related to the specific areas of inquiry of limiting illegal pushbacks, fostering social recourse to ensure State obligations to investigate potential cases of enforced disappearances, and the potential differential targeting of migrants as a threat to victims’ rights.

We hope this submission can provide relevant insights towards the development of your General Comment.

Best regards,

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# **Enforced Disappearances in the context of migration: an evaluation of transnational crime and state non-compliance in compromising protection responses**

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## **I. Introduction**

To address the issues highlighted in the General Comment, we present cases representative of the struggles of migrants moving towards the Mediterranean sub-region. We examine this geographical area and its related flows of movement due to the fact that it remains the world's [deadliest migration route](#) — having [only worsened](#) since the onset of the pandemic — and acts as one of the prime reception points for human trafficking and smuggling flows, [directly tied](#) to enforced disappearances during migration.

With this aim, we explore in-transit dynamics through the study of enforced disappearances and trafficking along the Sahelian migratory route, cover EU State non-compliance as related to illegal pushbacks by Greek authorities along the border with Turkey, and explore the broader implications of differential treatment and protection of migrants and asylum seekers by EU states as related to their impact on victim's rights. The cases presented serve to evidence current shortcomings in State protection mechanisms for migrants that exacerbate the risks and impunity associated with enforced disappearances. We leverage these insights to propose policy recommendations that better address the patent link between migration and enforced disappearances.

## **II. Empirical evidence: selected case studies**

### **Case 1: Enforced Disappearances in the Sahelian Migratory route**

Structural causes of insecurity like poverty, the climate crisis, food scarcity, armed conflicts and now the COVID-19 pandemic have pushed [2.7 million people](#) in the Central Sahel countries of Burkina Faso, Mali, and Niger to migrate. More than [1.5 million](#) internally displaced people (IDPs) and [365,000 refugees](#) have fled violence, with about [600,000](#) having been displaced in this year alone. The increasingly precarious movements of migrants in this region — who are forced to undertake long, perilous journeys, associated with often increasingly rigid migratory policies — have created a situation that exposes them to heightened risks of becoming victims of human rights violations, including enforced [disappearances](#). The intersection with transnational crime and the lack of continued investigation by state authorities creates uncertainty regarding the fate of those who disappeared, and restricts chances of access to justice for victims and their families.

Migration-related disappearances in the Sahel reveal practical shortcomings in current policy and legal frameworks with regards to ensuring dignity and justice to the families and victims of enforced disappearances. We relate these deaths to the illicit activities of organized criminal groups that operate in



boarding check-points and across Sahelian migration routes, to highlight the obligations of states to intervene both at the protection and redress stages to address the issue of enforced disappearances.

### ***Organized Criminal Groups and illegal human trafficking in the Sahel***

One of the most fertile grounds for illicit human trafficking is the migratory route that originates in West Africa, runs along the Sahel strip before culminating on the Libyan coast. [Smuggling and trafficking](#) create a fatal system for migrants as they fall victim to enforced disappearances, prostitution, sexual exploitation, trafficked for human organs, and forced detention. From [February to April 2020](#), 142 cases of enforced disappearances were recorded in Mali, Burkina Faso, and Niger — a number considered to represent only a small percentage of the real scale of the problem. Additionally, abuses take place both throughout the transport phase and within destination countries, thus creating a covert transnational security and human rights threat, as evidenced by reports covering the situation in Libya. The massive presence of organized criminal structures in the region defines a complex, dispersed, multi-level network whose generating nucleus is difficult to identify. This raises the possibility for hundreds of thousands of vulnerable migrants to be traded as commodities and increases the difficulty of tracking when and how a person disappeared. With communication being cut during the migratory journey and identity documents lost or taken away by traffickers, victims have little possibility of recognition, identification, and redress. As a result of these compounded sources of insecurity, the lived experiences of these displacements becomes a litany of human rights abuses with limited accountability.

### ***The human security dimension: Survivor's Testimony***

In exemplifying the abuses migrants face during this process, we utilize primary data from interviews carried out in 2019 as part of a project called *'Into the Unknown'*.<sup>1</sup> The moving conversation features a survivor who left the Gambia at the age of 15 and arrived on Italian shores in 2014. He attests to having lost his younger brother following a shipwreck off the Italian coast on [18 April 2015](#). The interviewee notes his brother probably lost his life, along with eight hundred other people, but little information or investigation has derived from the incident.

Testimony: *“My brother got on that boat too, but I think it was more people: we were three hundred (on the boat), and they were eight hundred. They're all dead. All except, maybe, twenty people”*.

Referring to his brother's boarding experience, the interviewee states that the last conversation they had was on 16 April 2015, the day he was supposed to board. Not having heard from him for several months, the witness decided to go to the Red Cross to ask for information. However, after checking the records and information provided by the sea rescue, the interviewee was told that only 20 people had survived that sea crossing. They also informed him that they had not managed to bring the bodies to Italy, but only

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<sup>1</sup>This research project is still ongoing and currently unpublished, having commenced in 2018. One of the authors of this submission is a principal investigator and has facilitated the information for the call for inputs. The project aims to investigate the reality of the Sahelian migration route through direct testimonies. Multiple people, mainly from West African countries, were interviewed to develop a more complex profile of human insecurity in the context of local migration and investigate both the main drivers of migration and the criminal groups involved in human trafficking in the Sahel. For further information about the research project please contact [r.pedemonte@studenti.unibg.it](mailto:r.pedemonte@studenti.unibg.it)



to Turkey. After asking him to suggest particular marks on his brother's body in order to possibly identify him, the Red Cross promised to pass on any news on the matter. Unfortunately, the witness did not receive any further updates about his brother's disappearance or his discovery. No further investigations from State authorities or inquiries into possible disappearances followed.

This testimony highlights a risk associated with the lack of information and investigation of irregular displacements in the region — the impossibility for the families of the victims to know exactly what happened to them. Those disappeared may have died during shipwrecks of smuggling boats, or instead fallen victim to human trafficking, or killed. In the current state of international inquiry into these migratory movements, states are unable to understand, quantify, or respond to the realities of enforced disappearances along migratory routes. In marginalizing the experiences and rights to redress of those affected, states also preclude the collection of necessary information regarding the evolution of smuggling and human trafficking routes, thus compromising broader anti-trafficking responses and limiting the ability of both governmental agencies and civil society to provide effective responses and aid to arriving migrants. Moreover, the fact that the relatives of the victims cannot have the possibility to receive the body of the deceased is a symptom of state removal from responsibility and a lack of effective interstate cooperation. This endangers the rights of the victims and their families, in violation of Article 24 of the International Convention for the Protection of all Persons from Enforced Disappearances.

## **Case 2: Pushbacks by Greek Authorities at the Turkey-Greece Border**

Recent years have seen increased migration flows — predominantly from Syria, Somalia, Palestine, and Afghanistan, where nationals fleeing conflict, severe economic crisis and human rights violations have made attempts to reach Europe. Particularly, those migrant and asylum seekers who have attempted to enter Europe via Greece have been subjected to human rights violations and pushbacks.

An interim report by the Greek Ombudsman in 2021 [reported](#) that the coastguards followed a “standard practice” for these pushbacks, where migrants were arbitrarily detained, denied food and water and eventually pushed back by force or violence through land or sea towards Turkey, without processing asylum claims or registering new migrants. Reportedly [nearly 42,000 asylum seekers](#) have been pushed back since 2020 without due process, forced into the Evros River to wade over to the Turkish side, often handcuffed and without life jackets. The migrants pushed back via sea often suffer the risk of being stranded, drowning and dying. Turkish authorities [have reported](#) 97% suffering theft, 5% sexual assault, whereas 49% were forced to undress and 16% drowned. Almost 68% of the children among them were either exposed to or witnessed violence and abuse.

These pushback practices go in contravention to both international and European Union laws under which states are obligated to process requests for asylum or release migrants in a documented manner, ensuring their physical safety and protection of their due rights. Although Greece ratified the convention in 2014 and since then has made efforts to improve relocation schemes, and accelerated asylum procedures, border security and reception has raised human rights violation concerns in the international community. Pushback makes migrants more susceptible to enforced disappearances and life threatening situations — including death, further abuses, or violations of the rights of migrants. Additionally, they generate aggravated risks of being pushed back to another country and excluded from protection and aid services.



These pushback scenarios are particularly alarming as Turkey, already hosting about [4 million refugees](#), finds itself in a difficult position to accept and ensure the legal rights of more incoming migrants. There have been documented reports that migrants pushed back from Greece are again pushed back by Turkish authorities — being once again subjected to violence, force, intimidation, and threats of dire consequences if they attempt to return. Furthermore, there have been incidents of “delayed rescue” by Turkish officials towards migrants making their way to their territory. This practice is a violation of the Convention and international human rights then starting a vicious cycle which [endangers migrants](#) and asylum seekers, as well as further heightening the risk of smuggling and trafficking.

Victims of pushbacks generally have ineffective or complicated routes for redress. For example, pushback victims in Turkey may find it difficult to access remedies for violations that occurred in Greece. Those who do re-enter Greece find their complaints pending or archived or do not launch complaints out of fear that it may negatively impact their status or asylum applications. Migration and criminal laws appear to be increasingly used to deny entry. Together with the absence of a solid framework to ensure border control and protection of human rights at the borders, many instances of such violations and pushbacks also often go unreported.

### **III. Broader implications of non-compliance of States and differential protection mechanisms for subsets of migrant populations**

As we have explored in the presented cases, Europe is facing some of its worst refugee crises since the end of World War II. EU institutions have provided swift action in response to these refugee flows, which exacerbated during the second decade of this century. However, there have been glaring discrepancies in the pattern of EU responses to the crisis.

Refugees from Africa, Asia, and the Middle East are not receiving the same generous treatment as those fleeing from Ukraine – indicating a [double-standard](#) in the EU’s response to mass displacement. The EU’s response to Ukrainian refugees represents a complete [U-turn](#) from the restrictive migration and asylum policies it developed in recent years. Since 2015, the EU has been providing incentives and support to countries such as Turkey, Libya, and Niger to prevent migrants from reaching Europe, leaving those migrants vulnerable to [human rights violations](#), including [enforced disappearances](#). In contrast, in the case of Ukraine the EU has swiftly activated the [Temporary Protection Directive](#) – an unprecedented mechanism that gives Ukrainian refugees access to social services, and enables them to live, work, and study in EU countries for up-to three years without having to apply for asylum.

The EU’s policy of “[deter, capture, and contain](#)” is complicit in the disappearance and death of migrants from [African, Asian, and Middle-Eastern](#) countries who try to enter Europe through the Mediterranean [sea](#). The most horrific example of this is the [Al-Mabani](#) detention center in Libya, where the EU has equipped and trained the Libyan Coast Guard, a quasi-military organization linked to Libyan militias, to patrol the Mediterranean, sabotaging humanitarian rescue operations, and capturing migrants. A study by the Guardian revealed that 2,000 refugee deaths are linked to the illegal EU [pushbacks](#).



This evidenced the hard disparities refugees experience. However, differences have not only been relegated to the treatment and welcoming of migrants, but also to the efforts to investigate suspected cases of enforced disappearances. While the EU was swift in devising a [policy framework](#) against migrant smuggling in 2015, it has not been enthusiastic in investigating the potential cases of enforced disappearances of migrants from African, Asian, and Middle Eastern countries. Whereas, soon after the Russian invasion of Ukraine, the EU and other international bodies urgently initiated the [investigation](#) of cases of enforced disappearances and other crimes affecting those fleeing from Ukraine.

As such, we situate EU member States as non-compliant in their international obligations, complicit in the practices of enforced disappearances, and subject to scrutiny in the differential parameters of discrimination and valuation they attribute to migrant lives, as per the [disparities](#) presented in their [baseline treatment](#) of migrants and efforts to investigate abuses, which have led to an increased number of [enforced disappearances](#).

#### **IV. Policy recommendations**

The following recommendations are derived from the cases presented in this dossier and call for a human security based approach to the protection of migrants against enforced disappearances and related abuses:

##### **Independent Monitoring Body Overseeing Migratory Routes and Borders**

There is a need to establish an effective and independent body, ideally a consortium of civil society organizations, to be responsible for monitoring human rights violations and instances of pushbacks at borders most susceptible to receiving vulnerable migrants and refugees, and migratory routes most susceptible to instances of human trafficking and smuggling. This is to ensure instances of pushbacks, enforced disappearances, smuggling and other human rights violations are reported and investigated. There is an imperative need for such monitoring to better account for and collect data on the modern patterns of migration flows as a means to both limit illicit actions and better design humane policy responses to worsening displacement crises.

The consortium would leverage NGO expertise in providing victim advocacy and protection to those displaced, as well as act as watchdogs for state non-compliance and guarantors for basic migrant protections. International human rights treaty bodies, the UN Special Rapporteur on the Human Rights of Migrants, the Committee on Enforced Disappearances (CED), and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) should continue to review state practice in order to ensure the real independence and ease of accessibility of this body to the victims without discrimination. Furthermore, the body should have binding legal power and access to the required protection tools to ensure the safety and security of victims throughout the process of reporting. Only under such circumstances can a mechanism reasonably expect victims to come forward and file complaints without fear of repercussions on their security, safety, or asylum applications.

##### **Legal and Humanitarian Assistance to Families of Migrants victim of Enforced Disappearances**

The families of migrants who go missing are often left without recourse or information on investigations regarding disappearances of migrants during transit. The uncertainty regarding the fate of their loved ones, who may have disappeared, been subjected to human rights violations and abuse, or may have died,



is anguish enough. Nevertheless, they must then face restrictive avenues for redress and legal support. In certain cases, such as the narrated testimony, the families are also often denied their right to mourn the bodies of their loved ones after they have passed. State parties, UN Special Procedures, International human rights treaty bodies must improve legislative and policy frameworks and CED and CMW Committees must monitor state compliance to ensure provision of legal recourse for the victims of enforced disappearances and their families. Together, these bodies must enhance existing mechanisms to make them more effective, secure and accessible particularly for those victims and their families who remain undocumented and thereby at a greater risk of being neglected by authorities.

**Hold states accountable to their highest level of compliance in refugee protections**

As we have explored throughout our cases, differential treatment is afforded to refugees and migrants according to socioeconomic and identity markers. This weakens both the parameters of the Convention and multiple precepts of international law. To address this, we affirm States signatories to the Convention should be accountable not only to its obligations but to the highest standard of practice they have implemented in the protection and assistance of displaced persons and migrants. This mechanism would ensure the highest bar of protection be elevated as the liable target for States. By establishing this threshold individuals and civil society organizations representing those subject to unfair treatment and enforced disappearances — be it in origin, transition, or destination states — would be able to address legal recourse as a means to call for equal treatment and better their protection conditions.