

PERMANENT PEOPLES' TRIBUNAL

**Human Rights Violations Against Migrants by Maghreb States, the
European Union and Several of its Member States.**

Palermo Session

23, 24 and 25 October 2025

INDICTMENT

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PREAMBLE

We, the signatory organisations of this indictment, solemnly refer to the Permanent Peoples' Tribunal (PPT) the serious, consistent and rigorously documented facts that we consider to be systemic, structural and persistent violations of international law. These violations concern, in particular, the provisions of the Universal Declaration of Human Rights (UDHR), the 1951 Geneva Convention (Article 33) and the International Covenant on Civil and Political Rights (ICCPR), as well as other mandatory norms of international humanitarian law and refugee rights. They are perpetrated by the Maghreb states, the European Union and several of its member states.

Our approach is based on a solid body of empirical data, expert reports, international institutional sources, and direct testimonies. It aims to establish a clear chain of responsibility, from South to North, from local enforcement to transnational planning, demonstrating the existence of a migration management system based on repression, dispossession, and dehumanisation.

Between 2014 and 2025, according to data from the International Organisation for Migration (IOM) Missing Migrants Project,¹ 75,912 migrant deaths and disappearances were recorded worldwide, including 32,230 in the Mediterranean – more than 42% of the global total (IOM, 2025). In 2024, at least 3,488 deaths or disappearances were recorded in the MENA region,² a figure that is significantly underestimated due to the lack of documentation mechanisms on certain routes, particularly in the Sahara Desert and the Atlantic.

These deaths are neither random nor accidental; they result instead from coordinated policies, acts and oversights attributable to public authorities, regional institutions and third parties acting within the bounds of acquiescence, delegation or support. Key factors include the gradual and unilateral closure of borders, collective non-refoulement, violence by security forces, arbitrary detention, torture and inhuman treatment, the criminalisation of migration, and active complicity with human trafficking and smuggling networks (UNHCR, International Crisis Group, 2023–2024).

The Maghreb region is both a transit area and a space for extended stays and detention for thousands of migrants,³ mainly from sub-Saharan Africa, as well as South Asia and Latin America (IOM, 2023). These migration routes are the result of the interdependence between repressive national policies and European border externalisation mechanisms, often concluded through obscure bilateral or multilateral agreements, in clear breach of the international obligations of states.

The prolonged presence of migrants in North Africa is rarely voluntary. It is the result of mechanisms of prevention, confinement and deterrence, implemented to block access to Europe. Many people thus find themselves trapped in highly precarious situations, exposed to institutional violence, with little to no guarantees of safety, dignity, or protection. To characterise their settlement as "voluntary" is to legitimise a policy of relegation based on closed borders and the denial of fundamental rights.

Migration routes, initially concentrated on the Sahelian passages, have diversified to include maritime routes across the central and western Mediterranean and the Atlantic coast. According

¹ <https://missingmigrants.iom.int/>

² https://mena.iom.int/sites/g/files/tmzbd1686/files/documents/2024-05/pub2023-047-l-world-migration-report-2024_1.pdf

³ <https://worldmigrationreport.iom.int/fr>

to the United Nations High Commissioner for Refugees (UNHCR), more than 50,000 people attempted this crossing to Europe in 2024, resulting in one of the highest mortality rates in the world (UNHCR, 2024).⁴

These migratory flows have also diversified in terms of the profiles of those involved, now including nationals from South Asia and Latin America (IOM, 2023).⁵ This transformation reflects the global realities of human mobility, where economic factors, wars, persecution, climate change and structural inequalities converge.

Before setting out in detail the main lines of our legal analysis, it is important to recall that the facts and mechanisms in question have already been the subject of multiple findings and condemnations by the Permanent Peoples' Tribunal during its previous sessions devoted to an in-depth examination of the migration policies of the European Union and its Member States in Europe and the Maghreb (Barcelona, July 2017; Palermo, December 2017; Paris, January 2018; Barcelona, June 2018; London, November 2018; PPT hearing at the European Parliament, April 2019; Berlin, October 2020.) These form a fundamental body of evidence on which the present indictment is based.

At the end of each session, the PPT issued convergent rulings and recommendations that now serve as a reference, both for the quality of the testimony gathered and the rigour of their legal analysis.

The PPT unanimously found the existence of an institutionalised system of serious, persistent and systematic violations against migrants' fundamental rights, attributable to the European Union, its Member States and their partners. These violations are particularly characterised by:

- The rising closure and militarisation of borders;
- The policy of mass non-refoulement and the deliberate externalisation of migration responsibilities;
- The increasing use of detention and the lack of legal protection for migrants;
- The policy of mass non-refoulement and the deliberate externalisation of migration responsibilities to unsafe states (Libya, Turkey, Morocco, Niger, Albania, etc.);
- Complicity, or even direct involvement, in acts of arbitrary detention, torture, enforced disappearances and deprivation of effective recourse;
- The systematic denial of the right to asylum, the deliberate obstruction of all legal and safe migration routes, and the increasing criminalisation of solidarity;
- Systematic repression and intimidation of NGOs, human rights advocates, lawyers, volunteers, journalists and ordinary citizens who assist or testify on behalf of migrants.

Throughout its deliberations, the Tribunal emphasised that these policies and practices are not the result of isolated incidents or simple negligence, but rather a structured political will to deter, exclude or expel migrants in defiance of international law, human dignity and the very history of Europe.

⁴ Haut-Commissariat des Nations unies pour les réfugiés (HCR), *Global Trends: Forced*

⁵ <https://worldmigrationreport.iom.int/fr>

The PPT thus qualified the consequences of these policies as "**systemic crimes**", i.e. structural, massive and repeated violations, the effects of which are tragically predictable: deaths and disappearances at sea and in the desert, detention and inhuman treatment, violence, extortion, institutionalised racism, and the destruction of the social fabric and the right to asylum. It has repeatedly called for the **immediate suspension** of European agreements with third-party states responsible for violations (notably the EU-Turkey, Italy-Libya and Spain-Morocco agreements), an end to the criminalisation of solidarity, guaranteed effective access to justice, compensation for damages suffered, and recognition of the right to memory for victims and their families.

The Tribunal also highlighted the **global and enduring** nature of the migration phenomenon, emphasising the absurdity and danger of policies of closure and rejection, which are incompatible with the founding values of European integration and international human rights law. It calls on the European Union and its Member States to adopt an approach based on hospitality, solidarity, equal dignity, prevention of the structural causes of migration and unconditional respect for fundamental rights.

These findings and decisions,⁶ which emerged from sessions in Barcelona (2017, 2018), Palermo (2017), Paris (2018), London (2018), the PPT hearing at the European Parliament (Brussels, 2019) and Berlin (2020), now form an essential ethical and political body of case law. They reinforce the legitimacy of any approach aimed at establishing the responsibility of the relevant states and institutions, putting an end to impunity, and guaranteeing justice, truth and reparation for migrants and those who support them.

This indictment is therefore consistent with those rulings and recommendations, and aims to reinforce their scope by demonstrating, on the basis of recent events, the exacerbation and persistence of the system of institutionalised repression against migrants at the transnational level.

In view of the political deadlock and the persistence of a system of widespread impunity, within a framework of a clear increase in violations of international law, we are today solemnly bringing the case before the Permanent Peoples' Tribunal with this indictment, which is documented and legally substantiated, based on verified and cross-checked facts from public, institutional and civil society sources, binding legal references from international human rights law, international criminal law and refugee law, as well as national legislation within its limits, and a precise qualification of individual and collective, local and transnational responsibilities.

Our aim is to establish a clear and uncompromising chain of responsibility, from South to North, from direct execution to strategic design, in order to denounce a transnational system of governance of migration based on repression, dehumanisation and state violence.

Rather than being accidental or dysfunctional, this system amounts to a deliberate political architecture, the deadly consequences of which demand a response commensurate with the crimes perpetrated.

⁶ <https://permanentpeoplestribunal.org/45-session-on-the-violation-of-human-rights-of-migrants-and-refugee-people-2017-2020/?lang=en>

SUBJECT OF THE INDICTMENT

This indictment aims to establish the legal, political and moral responsibility of the Maghreb states, the European Union and several of its member states for the serious, systematic and documented violations of international human rights law and migrant rights.

These violations undermine a body of mandatory norms, clearly stated in:

- The Universal Declaration of Human Rights (1948),
- The International Covenant on Civil and Political Rights (1966),
- The International Covenant on Economic, Social and Cultural Rights (1966),
- The Geneva Convention relating to the Status of Refugees (1951) and its 1967 Protocol,
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984),
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990),
- The Convention on the Rights of the Child (1989),
- The Convention on the Elimination of All Forms of Discrimination against Women (1979),
- The African Charter on Human and Peoples' Rights (1981),
- The European Convention on Human Rights,
- The Declaration on the Protection of the Human Rights of Migrants adopted by the United Nations Human Rights Council (Resolution A/HRC/RES/35/17, 2017),
- The Universal Declaration on the Rights of Peoples (Algiers, 1976),
- (...)
- As well as the respective constitutions and national laws of the relevant states.

For more than a decade, the migration policies adopted and coordinated between the European Union and the Maghreb countries — Morocco, Algeria, Tunisia, Libya, and Mauritania — have established a transnational system of institutionalised violence, operated under the guise of combating "irregular immigration".

This system is manifested particularly through:

- The increasing militarisation of borders and the systematic use of force, including lethal force;
- The staggering rise in human and material resources mobilised to repress migration;⁷
- The proliferation of detention centres, often outside any legal framework;
- The criminalisation of migrants, prosecuted for illegal entry or residence, and deprived of procedural safeguards;
- The criminalisation of solidarity, through legal persecution or administrative pressure targeting NGOs, lawyers, journalists or citizens who have provided assistance to migrants, particularly in cases of sea rescues, emergency accommodation or legal advice;
- The institutional dissemination of racist and xenophobic discourse, fuelling stigmatisation and repression.

The externalisation of European borders — the cornerstone of this repressive design — constitutes an illegal delegation of sovereign functions to third countries, notably resulting in:

- The violation of the principle of non-refoulement (Article 33 of the Geneva Convention),
- The violation of the absolute prohibition of torture (Article 3 of the Convention against Torture)
- Serious violations of the rights to life, liberty, security and non-discrimination (Articles 6, 7, 9 and 26 of the International Covenant on Civil and Political Rights),
- The circumvention or neutralisation of national law, used as a legal smokescreen for practices contrary to constitutional and international obligations.

This situation is not simply a ‘humanitarian failure’, but rather a structured political project that has been consciously undertaken and implemented in a coordinated manner. A project that orchestrates abandonment, suffering, humiliation and death in the service of geopolitical, economic and security interests – and which is supported, in the relevant states, by institutional propaganda aimed at legitimising this violence, portraying migrants as threats and priming public opinion to accept the unacceptable.

This indictment aims to:

- document the repressive mechanisms implemented within the framework of this regional and transnational cooperation,
- demonstrate the direct, indirect or complicit responsibility of the States concerned,
- establish the legal basis for both contentious and political action, aimed at:

⁷ FRONTEX budget has almost tripled between 2015 and 2023: https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/frontex_fr

- call for the immediate cessation of illegal and inhumane practices,
- recognition of the harm suffered by the victims,
- full reparation for the damage caused,
- the prosecution of the perpetrators, instigators and beneficiaries of this system of violence.

All of the facts and violations documented in this indictment implicate the direct, complicit or delegated responsibility of several state and institutional entities acting in a coordinated manner, with converging interests and shared responsibilities.

Are hereby summoned to appear:

THE ACCUSED

1. The Maghreb States

Morocco, Algeria, Tunisia, Libya, and Mauritania.

Morocco, Algeria, Tunisia, Libya and Mauritania are accused and held responsible for having established, organised and institutionalised policies of fierce repression against migrants, refugees and exiles, both within their territories and at their borders. Through deliberate political choices, these states have used violence, arbitrariness and dehumanisation as the pillars of their management of migration, acting in total disregard of their international commitments and the most basic standards of international humanitarian law and human rights.

They have committed systematic arbitrary arrests, collective deportations, forced displacement and deportations to desert areas or militarised borders, knowingly exposing thousands of people to hunger, thirst, torture, death or disappearance. They maintained or tolerated the existence of illegal, unsanitary and inhumane detention centres where abuse, sexual violence, deprivation of liberty without legal basis, and the absence of any judicial control.

Throughout the region, and particularly in Libya, they have maintained or allowed to flourish networks of trafficking, torture, extortion, forced labour and slavery, sometimes acting directly or delegating violence to militias, private troops or criminal networks.

These states have also actively cooperated with the European Union, its agencies, and its member states in exchange for economic, military or diplomatic agreements, accepting to serve as outsourced bulwarks of European migration policy and sacrificing the lives, dignity, and fundamental rights of migrants for the sake of power and profit.

In this respect, they bear overwhelming and ongoing responsibility for a system of massive, repeated and structural violations, which can only be described as crimes against humanity, torture, inhuman treatment and serious violations of international law.

2. Member States of the European Union

Italy, Spain, France, Greece, Germany, and Malta

These States are accused of:

- having designed, financed, promoted and coordinated a policy of externalising borders that not only contravenes their international commitments, but also structurally organises to circumvent the fundamental principles of asylum and human rights.

Through bilateral and multilateral agreements, direct or indirect funding of migration control mechanisms, the delegation of border surveillance and logistical, material or political support to third states — often in the form of military aid — the EU has contributed to the creation of a system of mass, repeated and structural violations that must be classified as crimes against humanity, torture, inhuman treatment and serious violations of international law.

Their active involvement has resulted, on the one hand, in the increasing militarisation of external borders, the establishment of detention centres in transit countries, the financing of deterrence campaigns and forced repatriation, and, on the other hand, in the normalisation of collective refoulement and the externalisation of asylum procedures. In pursuing this course of action, these states bear direct, complicit and concerted responsibility for the widespread systematic violations of the rights of migrants, refugees and those who come to their aid.

Italy

Italy is accused of having initiated and generalised the violent externalisation of borders, in particular through repeated agreements with Libya and the outsourcing of migration control to militias and authorities responsible for crimes against humanity. Through its policies of prohibiting sea rescues, criminalising humanitarian NGOs and actively cooperating with Frontex, Italy has turned the central Mediterranean into an open-air graveyard and institutionalised refoulement, arbitrary detention and the denial of the right to asylum.

Spain

Spain is accused of normalising collective refoulement (“hot expulsions”) in Ceuta, Melilla and the Canary Islands, systematically violating the principle of non-refoulement and the European Convention on Human Rights. Through its security agreements with Morocco, the financing of walls and barriers, and the militarisation of enclaves, Spain has organised institutional violence, denied access to asylum and been complicit in massive violations at Europe's southern borders.

France

France is accused of institutionalising ethnic profiling, discriminatory controls and the criminalisation of migrants throughout its territory, including at its internal borders. By closing transit routes, carrying out illegal deportations, actively collaborating with Maghreb states and repressing solidarity, France is violating its own constitutional principles and the international

conventions it has ratified, sacrificing human dignity to a rationale based on security and xenophobia.

Greece

Greece is accused of carrying out large-scale pushbacks in the Aegean Sea, prolonged detention and abandonment of migrants on islands and in unsanitary camps, in clear violation of international law and European court rulings. By cooperating with Frontex, Turkey and other partners, Greece has been complicit in violent refoulements, family separations and the deliberate abandonment of vulnerable populations, often with the European Union turning a blind eye.

Germany

Germany, the EU's leading political and financial power, is accused of having designed, validated and financed the architecture of externalisation, while promoting a policy of outsourcing migration control to third countries. Through its involvement in Team Europe initiatives, its influence within the Council of the EU and its massive funding of refoulement and detention mechanisms in North Africa and the Balkans, Germany bears a heavy responsibility for the systematic denial of protection and repression of migration on a continental scale.

Malta

Malta is accused of systematically closing its ports, abandoning migrant boats at sea, collaborating with the Libyan coastguard and actively participating in deterrence and refoulement operations coordinated by Frontex. Through its policies of non-assistance, arbitrary detention and obstruction of rescue efforts, Malta has played a pivotal role in exacerbating the human tragedies in the Mediterranean and in the persistent violation of maritime law and fundamental human rights.

Each of these states therefore bears its own direct responsibility for the construction and perpetuation of a European system of violence, repression and denial of the fundamental rights of migrants, which must be denounced and sanctioned by the Permanent Peoples' Tribunal.

3. The European Union as an institutional entity

The EU is accused of:

- methodically designing, planning and orchestrating a policy of externalising its borders, which systematically violates the founding treaties of the Union, the Charter of Fundamental Rights and all of its international obligations. The European Union has not only acted as an accomplice: it has set itself up as the orchestrator of a security and repressive system whose stated objective is to deter, exclude and deny the most basic rights of migrants and exiles.

Through the adoption of the European Pact on Migration and Asylum and the proliferation of bilateral or multilateral agreements with third countries, regulations, massive budgets and security cooperation programmes with notoriously repressive states, the EU has created a migration management system based on institutional violence, the outsourcing of repression and open contempt for the right to asylum. This deliberate choice has resulted in an increase in shipwrecks, disappearances, collective refoulements, arbitrary detentions, police violence and the spread of a climate of fear and impunity, which has been extensively documented by the highest international bodies.

By implementing border closures, repression and externalisation as doctrines, the European Union has knowingly trampled on the very principles⁸ on which it claims to be based: human dignity, equality, solidarity and effective respect for human rights.⁹ Through these actions – or complicit inaction – the EU has organised, financed and legitimised a structure of violations that amounts to an institutionalised system of massive infringements of fundamental rights, which are unworthy of any democratic legal system.

4. Entities involved in the externalisation

International Organisation for Migration (IOM).

European Border and Coast Guard Agency (Frontex).

Private bodies and organisations acting as partners in implementing projects funded by the EU and member states.

The entities allied with externalisation – in particular the International Organisation for Migration (IOM), the European Border and Coast Guard Agency (Frontex), as well as multiple private organisations and companies partnering with the European Union and its member states – must be held accountable as co-perpetrators of a global system of institutional violence and denial of fundamental rights. Far from being mere executors, these actors have been key architects in the implementation, financing, operational management and legitimisation of policies of detention, racial profiling, violent deterrence and mass deportation of migrants, often in total disregard of the binding norms of international law.

The IOM has lent its logistical, technical and political support to forced repatriations disguised as "voluntary returns", to the management of detention centres where arbitrariness, deprivation of liberty and mistreatment, and the forced relocation of populations in distress, by agreeing to be the instrument of policies dictated by Brussels or European capitals. Frontex, with its growing powers and unprecedented budget, has been directly involved in surveillance, interception, refoulement and the coordination of cross-border police operations, which have been documented as causing systematic violations of the principle of non-refoulement, protection from torture and access to asylum. Private organisations and companies, under contract with the EU or its member states, have managed camps, supplied surveillance

⁸ <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A12012M002>

⁹ <https://www.amnesty.org/fr/latest/news/2023/07/eu-tunisia-agreement-on-migration-makes-eu-complicit-in-abuses-against-asylum-seekers-refugees-and-migrants/>

equipment, built barriers and trained security forces in third countries, thus becoming essential links in a chain of exclusion and denial of justice.

Through their voluntary and coordinated action, these entities have served as logistical, financial and police transmission belts in an organised architecture of refoulement, abandonment and deprivation of protection, bearing a heavy moral, political and legal responsibility for perpetuating a system of massive violations of human rights and international law.

Clarification Statement– Libya’s Specific Case

Although Libya is geographically and historically linked to the Maghreb region, we have chosen to treat it separately in our indictment due to the particular nature of the Libyan regime and the extreme gravity of the violations committed on its territory.

Since the collapse of the Libyan state in 2011, Libya no longer has a functioning judicial system or a rule of law capable of guaranteeing minimum protection of human rights. As a result, migrants are exposed to systematic violence committed by armed militias, criminal groups and non-state actors, often in extrajudicial detention centres. This situation has led several United Nations bodies, including the Human Rights Council, to refer to crimes against humanity (OHCHR, *Libya: Crimes against humanity committed since 2016 – rights probe*, 27 March 2023). Furthermore, the responsibility of the European Union and several of its Member States is particularly evident in this regard, through the active outsourcing of migration controls, notably via the financing, training and equipping of the Libyan coastguard, as documented by several independent investigations and reports.

It is for these reasons – namely, the absence of a state, much less the rule of law, the extreme gravity of the violations, and structural European complicity – that Libya is treated separately in our indictment, even though it is an integral part of the Maghreb in the geographical sense.

STRUCTURAL AXES OF LEGAL ANALYSIS

The following analysis is structured around six major legal axes, intended to establish the different forms of accountability — direct, indirect or delegated — of the Maghreb states, the European Union, several of its member states, as well as their institutional and logistical partners.

Each axis highlights a specific category of violations, based on international, regional and, in some cases, national standards: non-refoulement, prohibition of torture, assaults on life and liberty, abuse of law, incitement to hatred, and externalisation of responsibilities. We will demonstrate that many national laws are in flagrant contradiction with ratified international conventions, thereby legitimising violations committed against migrants.

The states and institutions concerned — notably Tunisia, Morocco, Algeria, Libya, Mauritania, Italy, Spain, France, Greece, and Malta, as well as the bodies of the European Union (Council, Commission, European Parliament, Frontex,) and OIM—are herein accused of having organised, financed, implemented, or tolerated a set of policies in clear and serious violation of their legal commitments. These practices have a devastating impact on the fundamental rights

of migrants in highly vulnerable situations, exacerbating dehumanisation and exclusion on a large scale.

As a result, our analysis is structured around the following six axes, each corresponding to a core violation of law:

1. Systematic Violation of the Principle of Non-Refoulement

(Article 33 of the Geneva Convention, Article 3 of the ECHR, Article 12 of the African Charter on Human Rights)

→ Collective refoulements and illegal expulsions carried out by Tunisia, Libya, Algeria, Morocco, and Mauritania, in coordination with European states such as Italy, Spain or Greece.

2. Non-assistance and Deliberate Shipwrecks

(Article 6 of the ICCPR, Article 2 of the ECHR, Article 98 of the United Nations Convention on the Law of the Sea)

→ Refusal of, or delay in, responding to shipwrecks (central and eastern Mediterranean, Atlantic), deliberate abandonment of persons in distress, cooperation with naval forces that do not comply with humanitarian law.

3. Arbitrary Detention, Torture and Inhuman or Degrading Treatment

(Convention against Torture, ICCPR, Articles 5 UDHR and ECHR)

→ Extrajudicial detention, illegal centres, acts of torture or sexual violence, particularly in Libya, Tunisia, Algeria, Morocco, Italy, and in European hotspots.

4. Racial, Ethnic and Systematic Discrimination, and Racist Criminalisation of Migration

(Article 26 ICCPR, CEDAW, CRC, International Convention against All Forms of Racism)

→ Racial profiling, xenophobic public campaigns, lack of special protection for women, children and vulnerable groups.

5. Criminalisation of Solidarity with Migrants

(Articles 19, 21 and 22 of the ICCPR, Article 10 of the ECHR)

→ Legal proceedings, arrests, intimidation and harassment targeting human rights activists, lawyers, volunteers, journalists, associations and ordinary citizens who have helped, sheltered or supported migrants, in direct violation of international law.

→ Abuse of residency laws, anti-terrorism legislation or pretexts such as money laundering to prevent, intimidate or silence civil society, thereby undermining the effective protection of migrants' fundamental rights.

6. Externalisation of Borders and Illegal Delegation of Sovereign Functions

(Article 16 of the Draft Articles on State Responsibility, Article 3 of the ECHR, general principles of international law)

→ Systematic transfer of responsibilities for migration, asylum and border control to so-called "unsafe" third countries (Libya, Tunisia, Niger, Albania, etc.) by European Union Member States, European institutions (Commission, Council, Frontex) and their partners,

→ Signing of opaque contracts and memoranda of understanding with Frontex, the IOM, private agencies and non-democratic states, with the aim of organising the repression, detention, refoulement and abandonment of migrants outside European territory.

→ Financing, coordination and delegation of sovereign functions (border control, detention, identification, forced return, surveillance) to states or entities not bound by the same obligations to protect fundamental rights,

→ Clear violation of the principle of non-refoulement, procedural guarantees, the right to asylum and the principle of solidarity within the EU, as part of a structural policy of externalisation, externalisation and denial of rights.

In our capacity as plaintiff before the Permanent Peoples' Tribunal, we request:

- The recognition of the systematic, structural and continuous nature of the violations described;
- The classification of their severity in accordance with international law, regional law and the constitutional or legislative commitments of the relevant states;
- And the legal determination of the direct, indirect or complicit responsibility of the actors involved, with a view of putting an end to impunity and laying the foundations for reparation and justice.

Today, we bring before the Permanent Peoples' Tribunal the voice, memory and dignity of migrants, who are too often relegated to invisibility, loss and institutionalised violence. This trial is first and foremost theirs: it is intended to be a space for truth, recognition and justice, where state and international institutions have failed.

No policy, state strategy, or diplomatic arrangement can justify the denial of human dignity or the violation of universal principles. We solemnly request that the Tribunal assess the facts presented in all their severity, rigorously establish the chain of responsibility—direct, indirect, or complicit—and recognise the systemic nature of the documented violations.

In doing so, the Permanent Peoples' Tribunal will establish itself not only as the guardian of the memory and rights of migrants, but also as an ethical and political safeguard against indifference and impunity. The Tribunal's decision will send a powerful message that will echo far beyond the court: under no circumstances can human dignity be bargained away or sacrificed in the name of political, economic or security interests.

1. Systematic Violation of the Principle of Non-Refoulement

The principle of non-refoulement is one of the most fundamental principles of international human rights law and refugee law. It prohibits all states from sending a person back to a territory where they would be at risk of persecution, torture, inhuman or degrading treatment, or serious violations of their fundamental rights. This principle, enshrined in particular in Article 33 of the 1951 Geneva Convention, Article 3 of the European Convention on Human Rights, Article 7 of the International Covenant on Civil and Political Rights, and Article 12.5 of the African Charter on Human and Peoples' Rights, is a non-derogable norm of international law. It applies to all persons, regardless of their administrative or migration status.

The responsibility of the states and bodies involved in violations of this principle can be described as multiple. Some states have acted directly, carrying out collective deportations or pushbacks at sea on their own, without individual examination or access to asylum. Others have participated in these practices as accomplices, financing, equipping, training, or supporting the forces responsible for interception and removal. Others have outsourced their legal obligations to unsafe third countries, in a deliberate act of delegation, in full knowledge that these transfers exposed migrants to forms of treatment prohibited by international law. These forms of responsibility – direct, complicit or delegated – must be analysed as components of a transnational system of refoulement, based on security cooperation, the denial of rights and impunity for violations.

The international and regional standards violated in this context are both numerous and binding. In addition to Article 33 of the Geneva Convention, the refoulements practised by the Maghreb and European states contravene Article 3 of the Convention against Torture, Article 7 of the International Covenant on Civil and Political Rights, Article 3 of the ECHR, Article 19(2) of the Charter of Fundamental Rights of the European Union, Article 12.5 of the African Charter on Human and Peoples' Rights, as well as several national constitutional provisions guaranteeing dignity, protection against inhuman treatment, or the right to asylum (notably Tunisia, Morocco, Algeria, and Mauritania).

In this context, we accuse all of the following entities of having, between 2014 and 2025, organised or supported a system of structural violations of the principle of non-refoulement:

– **The Maghreb states, in particular Tunisia, Libya, Algeria, Morocco and Mauritania,** which carried out collective deportations, abandonments in desert areas, transfers to armed

groups or authorities in unsafe countries, without any procedural guarantees or respect for the right to protection;

– **The member states of the European Union, in particular Italy, Spain, Greece, France, Germany and Malta**, which have implemented or supported direct or indirect refoulement practices, notably through obscure bilateral agreements, the militarisation of borders, the outsourcing of interceptions at sea, and the criminalisation of migrants in order to circumvent their international obligations;

France and Germany, as member states of the European Union, are also responsible for the violations of the principle of non-refoulement documented in this chapter. These two states have actively supported, diplomatically, materially and financially, the migration control mechanisms deployed in Tunisia, Libya, Algeria and Mauritania, even though the risks of inhuman treatment, torture, arbitrary detention or enforced disappearance are systematically established by UN bodies, the UNHCR, Human Rights Watch, Amnesty International and the International Commission of Jurists (ICJ).

France and Germany, in particular, have backed migration cooperation with Tunisia through the Emergency Trust Fund for Africa (EUTF), to which they are among the main contributors. Launched in 2015, this fund has financed projects for "integrated border management" and the strengthening of the security capabilities of the Tunisian National Coast Guard, paving the way for interceptions at sea leading to refoulement to Libya or collective deportation by land. France's material participation in this context is confirmed by the report by the Transnational Institute and Stop Wapenhandel.¹⁰ As for Germany, it co-financed the Border Management in Libya programme implemented by the IOM, despite frequent warnings about the Libyan coast guard's involvement in maritime refoulements.

In addition, both countries have supported the implementation of programmes included in the Neighbourhood, Development and International Cooperation Instrument (NDICI) aimed at "managing irregular migration" in Mauritania and Algeria. Reports by the Delàs Centre and Statewatch detail how this funding has gone towards border patrols and joint projects.¹¹

According to an article in Le Monde on 21 May 2024, the European Union has allocated more than €400 million via the EUTF (European Union Emergency Trust Fund) to border management in North Africa (Tunisia, Morocco, and Mauritania), including the provision of vehicles and detention centres – often completely lacking legal safeguards – thus revealing the use of European funds for the purposes of collective deportations and abandonment in the desert.¹²

By continuing to designate certain countries as "safe third countries" despite irrefutable evidence of serious violations, France and Germany are implicitly granting diplomatic legitimacy to practices that contravene Article 33 of the Geneva Convention, Article 3 of the Convention against Torture, and Articles 7 and 13 of the ICCPR. This position, reinforced by the absence of mechanisms for conditionality or suspension of funding in the event of abuses, commits them to political, material, and legal responsibility in a system of proxy refoulement, denying the fundamental rights of migrants and contributing to their systematic endangerment.

¹⁰ <https://www.tni.org/en/publication/fanning-the-flames>

¹¹ Delàs d'Estudis per la Pau Center, Externalization of borders: Mauritania, 2023, https://www.cear.es/wp-content/uploads/2022/04/INFORME-MAURITANIA_EN_05-04_baja.pdf

¹² https://www.lemonde.fr/en/le-monde-africa/article/2024/05/21/how-eu-funds-enable-north-african-countries-to-push-back-europe-bound-migrants-into-the-desert_6672115_124.html

– **The European Union, as an institutional entity**, which has designed and coordinated a system of externalisation based on the delegation of responsibilities to unsafe regimes, the financing of maritime surveillance and interception operations, the negotiation of SAR zones in states that do not guarantee any rights, and the conditioning of development aid on the acceptance of return policies, in full knowledge of the violations that result from this;

– **The Frontex Agency**, which has participated in indirect refoulement operations through aerial surveillance, the transmission of information to third-country coast guards, and the refusal to launch rescue missions, thereby contributing to serious violations of the right to asylum and the right to life;

– **The International Organization for Migration (IOM)** is accused of facilitating, in multiple contexts, returns¹³ presented and described as “voluntary” under conditions incompatible with free and informed consent¹⁴ of the persons concerned. Within the framework of externalization policies supported by the European Union, the IOM has played a decisive role in the planning and implementation of **assisted voluntary/humanitarian return** programmes¹⁵ from Tunisia **and** Libya, largely financed through European instruments. Although presented as voluntary, these operations take place in contexts of structural coercion (violence, arbitrary detention, lack of effective access to asylum and rights), **which amounts to the absence of free and informed consent and renders these operations equivalent to forced returns** under applicable international standards.

In Tunisia, local and international NGOs have warned of pressure being exerted on migrants to accept return, in a context of mass arrests, violence and a lack of any prospect of protection. Testimonies collected by Arab News in 2024¹⁶ indicate that these returns were often presented as the only alternative to detention or being stranded in desert border areas, which constitutes a direct constraint on migrants' choices. In Libya, where the IOM regularly organises flights from centres such as Sebha, Migreurop¹⁷ denounced returns in May 2025 as taking place in a context of serious and persistent human rights violations in a country recognised as unsafe. Bangladeshi migrants intercepted in the Mediterranean also reported that IOM agents had pressured them to sign return forms under threat of arrest,¹⁸ in a climate of fear and lack of credible alternatives.

¹³ Page 9 : <https://mixedmigration.org/wp-content/uploads/2025/02/QMMU-2024-Q4-North-Africa.pdf>

¹⁴ non-free and non-informed consent” is meant consent vitiated by coercion, deception, or mistake (vices of consent), and therefore incompatible with the notion of “voluntariness” required by law

¹⁵ https://trust-fund-for-africa.europa.eu/our-programmes/facility-migrant-protection-and-reintegration-north-africa_en?

¹⁶ <https://www.arabnews.com/node/2538951/middle-east>

¹⁷ https://migreurop.org/article3425.html?lang_article

¹⁸ <https://www.theguardian.com/global-development/2019/aug/26/un-agency-accused-of-pressuring-refugees-to-return-to-bangladesh>

Academic publications¹⁹ converge in questioning the “voluntary” nature of returns organised by the IOM, including the Office of the High Commissioner for Human Rights,²⁰ and emphasise that the concept of voluntary return in contexts of detention, lack of status, or widespread abuse cannot be deemed compliant with international standards. These elements demonstrate the IOM's responsibility for logistical, administrative and operational practices which, in several cases, have led to the return of persons to countries where they were at risk of serious violations of their fundamental rights, in violation of the principle of non-refoulement.

These overlapping responsibilities are part of the same structured and deliberate migration management system based on deterrence, delegation and the denial of rights. The facts presented below establish the material nature and recurrence of this system.

We accuse the IOM, as an allied entity and co-responsible actor in externalization, of aiding and assisting serious violations of human rights and refugee law, in particular:

1. Aid/assistance to refoulement and collective expulsions
 - through the planning, coordination, and implementation of Assisted Voluntary Return / Voluntary Humanitarian Return (AVR/VHR) programmes from unsafe countries (notably Tunisia and Libya);
 - through the provision of logistical, administrative, and operational means (enrolment, transport, flights, documentation) in coercive contexts where free and informed consent is not guaranteed.
2. Causal contribution to systems of detention, sequestration, and violence
 - by operating returns from, or upon exit from, places of deprivation of liberty and militarized border zones, thereby de facto facilitating practices of sorting, arbitrary arrests, and ill-treatment.
3. Participation in the EU's externalization strategy (see Axis 6 of the Indictment)
 - by anchoring its AVR/VHR operations in European financial and policy instruments (reducing arrivals, border control, “returns”), enabling deterrence and removal effects outside any effective protection framework.
4. Knowledge of risk and failures to ensure safeguards
 - despite the well-known unsafe character of the countries concerned, the widespread nature of abuses (violence, detention, extortion), and the lack of effective access to asylum, the IOM persisted in carrying out returns without sufficient procedural safeguards (information, legal assistance, independent monitoring, human-rights impact assessment).

These conducts engage the IOM's international responsibility for aiding or assisting internationally wrongful acts—violations of the principle of non-refoulement and the prohibition of collective expulsions—with knowledge of the grave risk of violations (under the framework of the Draft Articles on the Responsibility of International Organizations – DARIO).

¹⁹ <https://www.migrationinstitute.org/publications/beyond-war-and-peace-the-iom-and-international-migration-control-in-libya>

²⁰ <https://www.ohchr.org/en/stories/2022/11/nowhere-back-migrants-libya-compelled-accept-voluntary-return>

Tunisia – Collective refoulement, abandonment at the Libyan and Algerian borders, and inhuman treatment: serious violations of the right to life, the right to asylum, and the prohibition of torture

Since 2019, the Tunisian authorities have been responsible for repeated practices of collective refoulement of migrants, in clear violation of the principle of non-refoulement (Article 33 of the Geneva Convention, Article 3 of the ECHR, Article 12.5 of the African Charter). These practices have intensified dramatically since 2023. In August 2019, shocking images, relayed by the Tunisian Forum for Economic and Social Rights (FTDES), showed an Ivorian woman holding a baby, begging for help at the Tunisian-Libyan border: "Have mercy on us, " among a group of 36 people, including infants and a pregnant woman, abandoned in the middle of the desert without food or water. These people had been arrested in Sfax before being transferred without due process to Ras Jedir,²¹ a military zone with no humanitarian access.

The memorandum of understanding signed on 16 July 2023 between the European Union, the Italian Republic and Tunisia, as part of the "EU-Tunisia Strategic Partnership", established an enhanced cooperation on migration control. In exchange for financial support of more than €100 million, the Tunisian authorities have escalated arbitrary arrests, interceptions at sea and collective refoulements of migrants, particularly to the Libyan and Algerian borders. These refoulements were carried out outside any legal framework, without individual examination or possibility of appeal, in clear violation of Article 33 of the Geneva Convention and the prohibition of collective deportations (Article 4 of Protocol 4 to the ECHR).

Instead of strengthening the protection of fundamental rights, this partnership has contributed to an upsurge in illegal refoulement practices, culminating in massive forced displacement operations orchestrated by the Tunisian authorities with the tacit approval of their European partners.

In July 2023, these violations escalated to unprecedented levels: according to Human Rights Watch and the World Organisation Against Torture (OMCT), more than 1,200 people — mainly from sub-Saharan Africa — were arrested in Sfax, transferred by bus or van to the desert borders with Libya or Algeria, and then abandoned without assistance, exposed to extreme temperatures. Musa, a survivor of these refoulements, reported being subjected to three successive removals by Tunisian and Libyan forces,²² physical violence, as well as the death of his cousin by gunshot without having the possibility of burying his body. These acts, which caused the deaths of at least 27 people,²³ including children, constitute inhuman and degrading treatment prohibited by Article 7 of the International Covenant on Civil and Political Rights and the Convention against Torture.

In response to these events, experts from the United Nations High Commissioner for Human Rights reiterated in a public statement on 18 July 2023 that 'collective deportations are prohibited under international law' and urged Tunisia to reinstate individual assessments of protection needs. Nevertheless, deportations continued. In January 2024, a confidential note

²¹ <https://ftdes.net/vives-inquietudes-des-organisations-nationales-et-internationales-face-a-la-situation-de-36-personnes-migrantes-a-la-frontiere-tuniso-libyenne/>

²² <https://omct-tunisie.org/wp-content/uploads/2024/09/Les-ROUTES-DE-LA-TORTURE-Juillet-2024-.pdf>

²³ <https://www.infomigrants.net/fr/post/50988/le-bilan-seleve-a-27-morts-dans-le-desert-tunisolibyen-selon-tripoli>

obtained by *Reuters*²⁴ revealed that several hundred people, including refugees registered with the UNHCR, had been arrested in Tunisia, collectively transferred to Libya and handed over to the Directorate for Combating Illegal Immigration, where they were subjected to forced labour, torture, extortion and in some cases death. These practices, carried out with the active complicity of the Tunisian authorities, not only constitute a violation of the right to asylum, but also serious violations of the right to life, physical integrity and human dignity.

Between September 2023 and April 2024, the Tunisian authorities organised numerous collective deportations of migrants intercepted at sea or arrested within the country. These mass deportations were carried out without individual proceedings, without examination of protection needs, and without access to humanitarian or legal assistance, in clear violation of the principle of non-refoulement (Article 33 of the 1951 Geneva Convention, Article 3 ECHR, Article 12.5 of the African Charter on Human and Peoples' Rights). [Letter of Allegation 6/2024, OHCHR, October 2024]²⁵

Hundreds of people were deported by the Tunisian authorities²⁶ to the Libyan border in desert areas, where they were abandoned without water or medical care.

Women and children figure among the victims of refoulement to the desert borders of Libya and Tunisia. In 2023 and 2024, several bodies of women, some of whom were pregnant, and young children were found dead in the Ras Jedir and Ben Guerdane areas after collective deportations from Sfax or Medenine, often in extreme heat, without water or food. These people had been intercepted or rounded up in Tunisian cities or on boats at sea, before being abandoned in uninhabitable areas. Their deaths are the direct result of a systematic refusal to provide assistance and a policy of transferring responsibility to state forces acting outside any framework of protection. This practice constitutes a clear violation of the active obligations arising from Articles 2 of the ECHR, 6 of the ICCPR and 4 of the African Charter, engaging the responsibility of the states that participated in these refoulements or delegated them in full knowledge of the mortal risks involved.

In July 2023, the lifeless bodies of a black woman and her young daughter were found in the desert on the Tunisian-Libyan border, having died of thirst after being abandoned. Both had been living in Tunisia for several years before being arrested during a raid carried out by the Tunisian authorities and then subject to a collective deportation towards an arid area without assistance or access to water. The unbearable image of this mother lying face down on the ground, her daughter beside her, was identified by Libyan journalist Ahmed Khalifa and shared by the social media account "Refugees in Libya".²⁷ It prompted a reaction in the Vatican daily newspaper, which devoted a page to it entitled "Vi chiediamo perdono" ("We ask your forgiveness").

*The little girl was six years old and her name was Marie. Her mother, Fati Dosso, was 30 years old. She was an orphan and had left Man, her village in central-western Côte d'Ivoire, for Libya several years earlier in search of a better life.*²⁸

²⁴ <https://www.reuters.com/world/africa/migrant-expulsions-tunisia-libya-fuel-extortion-abuse-un-briefing-2024-06-11>

²⁵ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29320>

²⁶ <https://www.youtube.com/shorts/IVjaLOuegGo>

²⁷ <https://www.mediapart.fr/journal/international/260723/entre-la-tunisie-et-la-libye-le-sort-insoutenable-des-migrants-subsahariens>

²⁸ <https://www.infomigrants.net/fr/post/50634/elles-sappelaient-fati-et-marie---les-corps-sans-vie-pris-en-photo-dans-le-desert-libyen-ont-ete-identifies>

This emblematic case illustrates the extreme violence and inhumanity of the refoulements carried out by the Tunisian state, and the deadly consequences for vulnerable people, especially women and children.

Ahmed Hamza, head of the Libyan Human Rights Committee, confirmed to AP that bodies had been found by Libyan border officers on Tuesday, 8 August 2023.

According to him, the death toll is even higher: at least 35 bodies have been recovered at the Tunisian-Libyan border since Tunisia began expelling and deporting migrants²⁹ in July, AP reports.

On 20 November 2023, 160 migrants intercepted at sea were expelled to the Libyan border. On 21 November, more than 100 people were transferred to Dehiba before being turned back. 189 migrants were blocked in the buffer zone and 45 others were deported to Algeria on the same day. On 29 December 2023, a boat intercepted off the coast of Sfax led to the collective deportation of refugees and asylum seekers directly to the Algerian border. On 2 February 2024, 110 people rescued off the coast of Djerba were immediately transferred to the Libyan border without assistance. These practices continued in 2024, affecting more than 32,000 people, including minors and asylum seekers.

On 5 April 2024, a makeshift metal boat carrying 42 people from Gambia, Guinea and Sierra Leone sank off the coast of Sfax. This type of boat, frequently used on the Tunisian coast, is usually assembled in garages by local mechanics before being sold on at low prices.

According to survivors' testimonies, the Tunisian National Guard directly contributed to the shipwreck through a series of aggressive manoeuvres aimed at deterring the boat from continuing its journey.³⁰ These actions allegedly included deliberately attacking the vessel, followed by blows to the boat and assaults against the people on board. At least 15 people lost their lives in this incident, which constitutes a serious violation of the obligation to provide assistance at sea and of the right to life.

In October 2024, Amnesty International³¹ and the International Commission of Jurists (ICJ) jointly concluded that Tunisia did not meet the criteria for a safe country of disembarkation, in particular due to the lack of effective access to asylum procedures and the high risk of inhuman treatment or return to areas of risk. Despite this, and in total contradiction with the principle of non-refoulement, the European Union and several of its member states – foremost among them Italy, France and Germany – have since 2020 strengthened their support for the Tunisian authorities, in particular the National Coast Guard. Through funding, equipment and training, these states have actively contributed to the growth of interception operations at sea, without any guarantees of protection or judicial oversight. In so doing, these European states and their agencies are complicit in proxy refoulement, exposing those intercepted and disembarked in

²⁹ <https://www.infomigrants.net/fr/post/50988/le-bilan-seleve-a-27-morts-dans-le-desert-tunisolibyen-selon-tripoli>
<https://apnews.com/article/libya-migrants-deaths-desert-tunisia-d1030c82521aa6c32095f9098c0f9f35>

³⁰ <https://irpimedia.irpi.eu/tunisia-garde-nationale-responsabilita-naufragi/>

³¹ <https://www.amnesty.org/en/latest/news/2024/10/joint-statement-tunisia-is-not-a-place-of-safety-for-people-rescued-at-sea/>

Tunisia to systematic violence, inhuman treatment and illegal deportations to third countries, notably Libya.

Furthermore, in the Maghreb countries, national laws³² provide for two main removal measures, with some variations: escorting individuals back to the border on the grounds of irregular residency, and deportation on the grounds of threatening the public order. These measures must be based on a written and substantiated ruling, which must be communicated to the concerned individual. However, in many documented cases, no notification or legal procedure has been followed. According to several reports (notably those by Cimade and GADEM), these operations have been carried out outside any legal framework, constituting arbitrary and collective deportations. The absence of any administrative or judicial decision prevents the risks involved in return from being examined, which seriously violates the principle of non-refoulement.

Libya – Structural refoulement policy and inhumane treatment: a criminal system supported by the EU and its member states

In Libya, systematic collective refoulement of migrants to third countries is carried out without individual assessment of protection needs, in direct violation of Article 33 of the Geneva Convention. Since 2017, more than 29,000 migrants intercepted at sea have been returned to Libya by the Libyan coastguard, which is equipped, trained and organised by the European Union and its member states, notably Italy. These indirect maritime refoulement operations result in the systematic transfer of people to both official and informal detention centres, where they are exposed to **inhuman and degrading treatment**, without access to asylum procedures, legal representation or any judicial guarantees. **The United Nations Special Rapporteur on Torture** has considered that these returns to Libya constitute a **gross violation of the principle of non-refoulement**, which is guaranteed by Article 33 of the Geneva Convention.³³

³² Tunisie : Loi n° 68-7 du 8 mars 1968, relative à la condition des étrangers en Tunisie (chapitre II (séjour) et chapitre III (expulsion)). <https://legislation-securite.tn/latest-laws/loi-n-68-7-du-8-mars-1968-relative-a-la-condition-des-etrangers-en-tunisie/>

Algérie : Loi No. 08-11 du 21 2008 relative aux conditions d'entrée, de séjour et de circulation des étrangers en Algérie (chapitre VII : Expulsion et reconduite aux frontières).

<https://www.refworld.org/legal/legislation/natlegbod/2008/fr/117024>

Maroc : Dahir n° 1-03-196 du 11 novembre 2003 portant promulgation de la loi n° 02-03 relative à l'entrée et au séjour des étrangers au Royaume du Maroc, à l'émigration et l'immigration irrégulières (chapitre III : De la Reconduite à la Frontière). <https://www.warnathgroup.com/wp-content/uploads/2022/03/Law-02-03.pdf>

Libye : Loi n°6 1987 organisant l'entrée et la résidence des étranger (article 16 : éloignement). <https://security-legislation.ly/ar/latest-laws/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B1%D9%82%D9%85-6-%D9%84%D8%B3%D9%86%D8%A9-1987-%D8%A8%D8%B4%D8%A3%D9%86-%D8%AA%D9%86%D8%B8%D9%8A%D9%85-%D8%AF%D8%AE%D9%88%D9%84-%D9%88%D8%A5%D9%82%D8%A7%D9%85/>

https://www.lacimade.org/wp-content/uploads/2018/10/20180927_GADEM_Couts_et_blessures.pdf

³³ <https://www.ohchr.org/en/documents/country-reports/desperate-and-dangerousunsmil-ohchr-report-human-rights-situation>

The Office of the High Commissioner for Human Rights (OHCHR) warned in November 2021 that migrants "are at constant risk of arbitrary or collective deportations,"³⁴ emphasising that these practices have become "routine".

In January 2020, the UN Support Mission in Libya and the OHCHR documented a bombing of the Tajoura³⁵ detention centre (2 July 2019) in Tripoli, leaving at least 53 dead and 130 wounded. The strike was described as a possible **war crime**, affecting dozens of detained migrants.

In 2020, thousands of migrants intercepted at sea were forced to return to Libya, where they were locked up indefinitely in centres controlled by either the state or militias, suffering torture, extortion and extrajudicial executions,³⁶ according to Amnesty International.

In January 2025, 613 Nigeriens were brutally deported from Libya to the desert around Dirkou (Niger) in road convoys deemed dangerous and traumatic.³⁷ Médecins du Monde (Doctors of the World) and Alarme Phone Sahara denounced a "**wave of mass deportations**" attributed to external migration policies promoted by the EU.

These practices demonstrate a structural logic: intercepting, detaining and returning migrants without legal protection or access to appeal. The deportations are carried out in collusion with EU-funded coast guards, perpetuating a system of **migration externalisation** based on institutional violence. As a result, European states and their agencies are also responsible, at least indirectly, for the collective rejections and deportations carried out by these partner countries, in a system of **proxy refoulement**, thus producing chain refoulements.

Algeria – Mass deportations, arbitrary detentions and abandonment in the desert: serious, systematic and persistent violations of the principle of non-refoulement

Since 2014, the Algerian authorities have carried out more than 30,000 deportations to Niger without individual proceedings or guarantees of effective recourse. These mass deportations have been documented by Amnesty International³⁸ and Alarm Phone Sahara³⁹, which warn that they are systematic, violent and outside any legal framework.

Human Rights Watch has also reported that thousands of migrants in Algeria – including asylum seekers and children – have been deported to Niger without any individual screening.⁴⁰ In the autumn of 2020, Algeria carried out a wave of collective deportations to Niger, deporting more than 3,400 people between early September and early October, including **430 children and 240**

³⁴ <https://www.ohchr.org/en/press-briefing-notes/2022/01/press-briefing-notes-libya>

³⁵ <https://www.bbc.com/news/world-africa-48854420>

³⁶ <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE1930842020ENGLISH.pdf>

³⁷ <https://www.theguardian.com/global-development/2025/jan/10/libya-expels-600-nigeriens-migrant-workers-eu>

³⁸ Amnesty International, « Retour forcé depuis l'Algérie vers le Niger », 2018 :

<https://www.amnesty.org/fr/wp-content/uploads/sites/8/2021/05/MDE2895122018FRENCH.pdf>

³⁹ <https://alarmephonesahara.info/en/blog/posts/2024-more-than-30-000-people-deported-from-algeria-to-niger>

⁴⁰ <https://www.hrw.org/news/2020/10/09/algeria-migrants-asylum-seekers-forced-out>

women of various nationalities (Sierra Leonean, Ivorian, Guinean, Syrian, Palestinian, etc.), without any individual examination of their legal situation or vulnerability, including asylum seekers registered⁴¹ with the UNHCR.

These deportations involved mass arrests in at least nine cities (Tlemcen, Oran, Algiers, Blida, Annaba, etc.), followed by transfers by bus or truck to the border, where the migrants were abandoned in the desert, some forced to walk several kilometres without food or medical care.

HRW condemned these practices as a flagrant violation of the principle of non-refoulement established in Article 33 of the Geneva Convention, emphasising that Algeria is required to verify the migration status of each individual, particularly minors and asylum seekers, and to guarantee their right to judicial appeal.

The annual total of deportations to Niger is estimated to exceed **16,000 people**, a pattern that applies to 2019 and 2021 as well, reflecting a systematic pattern of non-compliance with international law.

*"Algeria has the right to protect its borders, but not to arbitrarily detain and collectively deport migrants, including children and asylum seekers, without due process," said Lauren Seibert, refugee and migrant rights researcher at Human Rights Watch, commenting on recent developments. Algeria is violating its obligations as a party to the Migrant Workers Convention, which prohibits collective deportations and requires each case to be examined individually.*⁴²

Mass deportations continued after the waves documented in 2020. Between January and April 2023, approximately **23,000 people** were deported, according to an investigation by *Le Monde*, often arrested in Tamanrasset and then abandoned in desert areas without food or assistance, exposed to inhumane living conditions. The Nigerien government officially protested,⁴³ denouncing the violent methods and lack of respect for the physical integrity of migrants. According to the NGO Alarm Phone Sahara,⁴⁴ between January and August 2024, more than **31,400 people** were subjected to deportation in similar conditions. By early 2025,⁴⁵ nearly **5,800 additional deportations** were recorded, confirming the recurrent and systematic nature of these refoulement practices. The Nigerien authorities consider these figures to be lower than the actual number, referring to an "unprecedented wave of refoulement".

Between April and May 2025, **7,000 additional deportations**⁴⁶ were carried out in conditions described as "inhumane" by Médecins du Monde. At the same time, Migreurop⁴⁷ reported that between 1 and 21 April 2025, 4,975 migrants were returned from Algeria to Niger, including 308 minors and 196 women. Among them, 2,753 were Nigerien nationals officially deported by land, while 2,222 people of other nationalities (including asylum seekers) were abandoned

⁴¹ <https://theowp.org/asylum-seekers-in-algeria-unjustly-sent-to-niger>

⁴² <https://ecre.org/new-spike-in-mass-expulsion-from-algeria-to-niger>

⁴³ https://www.lemonde.fr/afrique/article/2024/04/05/entre-l-algerie-et-le-niger-les-migrants-de-la-discorde_6226181_3212.html

⁴⁴ <https://alarmephonesahara.info/fr/blog/posts/debut-2024-expulsions-de-migrantes-et-refoulements-collectifs-continuent-vers-assamaka-niger>

⁴⁵ <https://alarmephonesahara.info/fr/news/assamaka-niger-deportations-from-algeria-to-the-desert-between-1-january-and-june-2025-thousands-of-people-deported-several-killed-by-harsh-conditions>

⁴⁶ <https://medecinsdumonde.ca/article/plus-de-7000-personnes-migrantes-refoul%C3%A9es-dans-le-d%C3%A9sert-dassamaka-niger-en-avril-et-mai-2025-le-cri-dalarme-de-m%C3%A9decins-du-monde>

⁴⁷

without due process at "Point Zero", in the desert border area between the two countries. These practices are part of a policy of collective refoulement, carried out outside any legal framework, and denounced as such by human rights organisations, without access to a lawyer, an interpreter or a credible asylum procedure. They affect children, pregnant women, victims of trafficking and registered asylum seekers. They constitute serious violations of international law, in particular **Article 33 of the Geneva Convention (prohibition of refoulement)**, as well as **Articles 3 and 5 of the African Charter on Human Rights** and **Articles 7, 9 and 13 of the International Covenant on Civil and Political Rights**.

Algeria – The collective deportation of 1975: a historic violation of international law based on state reprisals.

The collective deportation of thousands of Moroccans by Algeria in 1975, ordered by President Houari Boumédiène⁴⁸ in the midst of a diplomatic crisis over Western Sahara, constitutes a serious historical violation of the principle of non-refoulement and the prohibition of collective deportations. In the absence of any examination of individual cases and without any judicial recourse or clear legal basis, this exceptional measure led to the arrest and forced deportation of entire families, who were often separated and deprived of their property. It violated the right to family life (Article 23 ICCPR), the right not to be collectively deported (Article 12.5 African Charter), and the right to dignified and non-discriminatory treatment (Article 7 UDHR, Article 26 ICCPR).

This political act, motivated by diplomatic reprisals, weaponised civilians in an inter-state conflict, in flagrant violation of international human rights law. To date, no reparations have been made by the Algerian state. The parliamentary debate held in Belgium in 2012, initiated by Senator Fatiha Saidi,⁴⁹ and the hearings of victims before the federal parliament led to a partial, but non-binding, recognition of the events.

Following this hearing, Federal MP Denis Ducarme, a specialist in European and international affairs, stated that his study confirmed the existence of real and concrete harm suffered by those who had been deported. This parliamentary recognition, albeit by a third country, gives institutional weight to a call for justice that continues to be ignored at the regional level.

These political steps also resonate in terms of international human rights law. Article 12, paragraph 5, of the African Charter on Human and Peoples' Rights, which Algeria has ratified, explicitly prohibits the collective deportation of foreigners. By targeting groups solely on the basis of their nationality, the 1975 deportation policy against Moroccans constitutes a clear violation of this provision. This is therefore not just a bilateral dispute between states, but a matter that challenges the fundamental principles of African regional law and calls for formal recognition and even reparation.

⁴⁸ https://en.wikipedia.org/wiki/Expulsion_of_Moroccans_from_Algeria?

⁴⁹ <https://www.senate.be/www/?COLL=S&LANG=fr&LEG=5&MIval=publications%2FviewPub.html&NR=1440&VOLGNR=1&utm>

Mauritania: Deadly externalisation in action: mass roundups, deportations and abandonment in the desert

At least since 2024, the Mauritanian authorities have implemented a migration management system based on mass arrests, arbitrary detentions and collective deportations of migrants to desert areas, in cooperation with neighbouring countries. These practices intensified dramatically in 2025 and have been denounced by several journalistic investigative reports, human rights organisations and West African governments.

Between January and April 2025, more than 30,000 migrants, mainly from Mali, Senegal, Guinea and Côte d'Ivoire, were arrested by the Mauritanian authorities, according to *El País* and the *Global Detention Project*.⁵⁰ These raids took place in residential areas, workplaces and transport routes, often without judicial oversight or formal procedures. The people arrested were detained in 'informal' centres, with no access to a lawyer, and then transferred by bus to the borders with Mali or Senegal, where they were abandoned in arid areas, without assistance, food or water.

Several accounts point to police violence, confiscation of personal belongings, and abandonment in the middle of the desert. One Guinean migrant reported being detained for three days in a police station without food or water before being deported and left stranded at the Senegalese border. Similar practices were documented in September 2024, when a bus travelling from Nouakchott to Gogui, on the Malian border, was filmed and geolocated, confirming forced transfers followed by abandonment in the desert.

⁵¹These deportations are part of a documented system of "desert dumps", described in an investigation by *Lighthouse Reports*⁵² published on 22 May 2024. The investigation reveals that migrants, often targeted because of their skin colour, are transported on buses financed and equipped by the European Union and then released in the Sahara. Some are then captured or sold to criminal networks, where they are exposed to torture, sexual assault and extortion.

According to *Migration-Control.info*,⁵³ since February 2025, there has been an increase in arrests of irregular migrants, without any administrative or judicial proceedings. These individuals are detained and then collectively deported, without notification or access to legal recourse, to the Senegalese or Malian borders.

On 16 May 2025, *Al Jazeera*⁵⁴ reported that several West African governments – including Mali, Senegal and Gambia – had publicly protested against Mauritania's forced returns. They describe these deportations as "xenophobic" and denounce the total absence of individual proceedings, as well as the use of racialised rhetoric against black nationals from sub-Saharan Africa.

These practices – mass arrests, arbitrary detentions, collective deportations without due process and abandonment in the desert – constitute flagrant violations of the principle of non-

⁵⁰ <https://www.globaldetentionproject.org/mauritania-mass-arrests-and-deportations-as-eu-continues-efforts-to-create-bulwark-against-irregular-migration>

⁵¹ https://www.lemonde.fr/en/le-monde-africa/article/2024/05/21/how-eu-funds-enable-north-african-countries-to-push-back-europe-bound-migrants-into-the-desert_6672115_124.html

⁵² <https://www.lighthousereports.com/investigation/desert-dumps/>

⁵³ <https://migration-control.info/en/blog/a-note-on-the-situation-of-migrants-in-mauritania/>

⁵⁴ <https://www.aljazeera.com/news/2025/5/16/xenophobic-neighbours-outraged-over-mauritanias-mass-migrant-pushback>

refoulement, as guaranteed by Article 33 of the 1951 Geneva Convention, Article 3 of the Convention against Torture, and Article 12.5 of the African Charter on Human and Peoples' Rights. They illustrate a deliberate policy of violent migration management, facilitated by logistical and financial assistance from the European Union, and operated outside any legal framework in accordance with international law.

Morocco–Spain–EU: A deadly alliance in the service of closing borders

Since 2014, Morocco and Spain have implemented a system of strict security cooperation at their shared land borders in Ceuta and Melilla, based on systematic practices of **summary refoulements** and **pushbacks**, in flagrant violation of international law. These practices, widely documented by human rights organisations, have escalated over the years, culminating in the tragedy of Melilla in June 2022.

As part of this cooperation, the two states have orchestrated illegal **collective return operations**, preventing access to asylum procedures, and have used **excessive force** against migrants, including asylum seekers, who are often in highly precarious situations. These practices are part of a **brutal deterrence** strategy, fuelled by political and financial support from the European Union, in disregard of the obligations stemming notably from Article 33 of the 1951 Geneva Convention, Article 3 of the ECHR, and Article 12 of the African Charter on Human and Peoples' Rights.

The following outlines the key events and related violations between 2014 and 2025:

At least since 2014, Spain has systematically carried out **hot returns** (“devoluciones en caliente”) at its land borders in Ceuta and Melilla, in cooperation with the Moroccan authorities. These summary returns are carried out **without individual assessment**, access to asylum procedures, legal assistance or interpreting services. This practice has been **condemned** by the European Court of Human Rights (ECHR) in several cases, notably in *ND and NT v. Spain*,⁵⁵ where the Court initially recognised the violation of Article 4 of Protocol 4 of the ECHR, before partially revoking this position in 2020. These expulsions violate Article 33 of the Geneva Convention, Article 3 of the ECHR, and Article 14 of the UDHR guaranteeing the right to seek asylum.

On 24 June 2022, nearly 2,000 migrants and refugees, mainly from sub-Saharan Africa, attempted to cross the fortified border between Nador (Morocco) and Melilla (occupied city). Moroccan security forces, in coordination with the Spanish Guardia Civil, responded with extreme brutality: tear gas, rubber bullets, batons, refusal of humanitarian assistance and mass deportations.⁵⁶ According to NGOs, this joint operation resulted in the deaths of at least 37 people (in contrast to the 23 officially recognised by Morocco), dozens of disappearances, and hundreds of injuries. Amnesty International, Human Rights Watch and Border Forensics have

⁵⁵ <https://strasbourgobservers.com/2020/03/26/n-d-and-n-t-v-spain-defining-strasbourgs-position-on-push-backs-at-land-borders/>

⁵⁶ https://www.amnesty.be/IMG/pdf/20221213_mellila_recommandations_synthe_se_fr.pdf

documented serious violations of international law,⁵⁷ including the illegal use of force, the failure to provide assistance to the injured, and the immediate collective refoulement of more than 470 people without individual assessment or access to asylum procedures, in flagrant violation of the principle of non-refoulement (Article 33 of the Geneva Convention, Article 3 ECHR). The Spanish authorities prohibited rescue operations in the enclave and refused to open an independent investigation, despite video and satellite evidence revealing deaths on Spanish territory. This denial of truth and justice, coupled with the subsequent criminalisation of survivors, reveals a coordinated strategy of violent border management. In 2024, Amnesty International and the United Nations Committee Against Torture (CAT)⁵⁸ reminded the states of their obligation to investigate transparently and guarantee reparations to the victims. Spain, by no means a passive observer, played a central role alongside Morocco in an operation that epitomises the militarisation of borders, the delegation of violence against migrants and impunity for violations.

Zacharias, a 22-year-old Chadian national, said he was arrested by Spanish police after climbing down from the fence.

"A policeman hit me on the head with a baton. My face was covered in blood. He tied my hands behind my back, lifted me up by my shirt and dragged me through the fencing where a Moroccan policeman was waiting for me.

"I saw the Moroccan police officers hitting people who were lying unconscious on the ground... I managed to escape and started running between the fences... I applied for asylum in several African countries, but none of them granted me protection. On the 24 [of June], I attempted to enter Spain for the first time. I am shocked by what I saw. I thought Europe was something else, something different."⁵⁹

The Spanish state was not a mere observer of the tragic events that took place in Melilla on 24 June 2022: it was a central player. Its security forces actively participated in the violent repression alongside the Moroccan authorities, using tear gas and rubber bullets against unarmed people. Access to humanitarian aid was denied, leaving the wounded without care for hours. Worse still, Spain carried out illegal collective deportations, without respecting asylum procedures or the fundamental rights of those concerned. Finally, it refused all attempts at independent investigation, seeking to cover up the truth rather than bring justice to the victims. This responsibility cannot be ignored: it binds the Spanish state as much as its Moroccan partner.⁶⁰

A reconstruction of events put together by *El País* based on 145 videos and testimonies from 40 survivors⁶¹ shows that rubber bullets and tear gas were fired from both sides of the border, and that at least one death occurred on Spanish territory.

Acting as the enforcement arm of European migration policy, Morocco – with the active complicity of Spain – is guilty of systematic, serious and coordinated violations of international

⁵⁷ <https://www.borderforensics.org/investigations/nadormelilla/>

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https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/ESP/CO/7&Lang=En

⁵⁹ <https://www.amnesty.org/en/latest/campaigns/2022/12/truth-justice-reparations-spain-and-morocco-must-provide-answers-to-victims-of-human-rights-violations-in-melilla/>

⁶⁰ <https://www.amnesty.org/en/latest/campaigns/2022/12/truth-justice-reparations-spain-and-morocco-must-provide-answers-to-victims-of-human-rights-violations-in-melilla/>

⁶¹ <https://english.elpais.com/international/2022-11-29/documentary-reconstructing-the-truth-about-the-deaths-on-the-border-of-melilla.html>

law. Collective deportations, pushbacks and forced returns carried out on both sides of the border repeatedly violate Article 33 of the Geneva Convention, Article 3 of the Convention against Torture, and the principles of the International Covenant on Civil and Political Rights (ICCPR). These practices of illegal refoulement, carried out without individual procedures or risk assessments, deliberately expose migrants to violence, arbitrary detention, torture or death.

The tragedy that occurred in Nador-Melilla on 24 June 2022, where dozens of migrants were killed or went missing following a joint Moroccan-Spanish operation, epitomises the brutality of this system. This incident is far from being an isolated tragedy; it is a state crime and symptomatic of a deliberate policy of dehumanisation and terror at the borders, aimed at deterring any attempt to seek asylum through force and terror. It exposes a structured system of impunity and violence, in which Europe outsources repression while pretending to ignore the deadly consequences of its choices.

The European Union's complicity is evident both in its cooperation with the Frontex agency and in its direct financial support, particularly through “border management” projects, which have accounted for 80% of EU funding allocated to Morocco as of 2015⁶² — including direct support to the Ministry of the Interior. These have contributed significantly to the militarisation of borders and the security-based approach to managing migration flows. Several investigations have shown that the increase in crossings has been accompanied by an increase in funding for border control, particularly through bilateral investments, especially from Spain, Italy and France.

The facts presented in this chapter on systematic violation of the principle of non-refoulement demonstrate, consistently over time and across geographical areas, the implementation of a structured, multilateral and deliberate system of violations of the principle of non-refoulement. These are not isolated incidents: collective refoulements, pushbacks, chain deportations without due process and abandonment in desert areas are part of a planned, large-scale policy orchestrated by alliances between Maghreb states, several European states and European Union institutions.

In all the countries examined – Tunisia, Libya, Algeria, Mauritania, and Morocco – violations are widespread, documented, and repeated. They are based on control, detention and removal mechanisms deliberately designed to exclude any guarantee of protection, circumvent legal obligations and expose migrants to serious risks: torture, trafficking, sexual violence, arbitrary detention and even death.

By financing, equipping and training the authorities responsible for these violations, by outsourcing border controls to authoritarian or unstable regimes, and by turning a blind eye to the deadly consequences of these policies, the European Union and its member states are directly complicit in systematic violations of international law. This complicity cannot be relativised: it engages their legal, political and moral responsibility.

This goes beyond a mere failure to protect. It is a brutal deterrence strategy, countering the search for refuge with a violent policy based on fear, humiliation and abandonment. The denial of the principle of non-refoulement is no longer an exception; it has become the norm.

2. Non-assistance and Intentional Shipwrecks

⁶² <https://www.eeas.europa.eu/sites/default/files/documents/2023/Fiche%20migration.pdf>

The right to life is a peremptory norm of international law, protected by Article 6 of the International Covenant on Civil and Political Rights (ICCPR), Article 2 of the European Convention on Human Rights (ECHR), and Article 4 of the African Charter on Human and Peoples' Rights. This right not only requires States to refrain from arbitrary interference with the right to life, but also imposes a positive obligation to ensure the protection of all persons within their jurisdiction, including in the context of migration. The European Court of Human Rights has repeatedly stated that inaction in the face of imminent danger incurs state responsibility, particularly when the authorities fail to assist persons in distress known to them (ECHR case law:⁶³*López Soto v. Spain*, *Budayeva v. Russia*, etc.), which demonstrate the joint or complicit responsibility of states in chains of non-assistance, delegation or lethal cooperation.

These obligations are further consolidated under international maritime law. Article 98 of the United Nations Convention on the Law of the Sea (UNCLOS) requires all ships to render assistance to any person in danger at sea, regardless of their nationality, legal status or the location of the incident. This rule is clarified and reinforced by the International Convention on Maritime Search and Rescue (SAR, 1979), the SOLAS Convention (1974) and the International Maritime Organisation (IMO) guidelines on disembarkation in a place of safety. Coastal states, when assuming responsibility for a Search and Rescue Region (SRR), are legally obliged to coordinate and ensure the effective rescue of any vessel reported in said region.

This right is also enshrined in the constitutions of most Maghreb states: Article 38 of the Algerian Constitution, Article 24 of the Tunisian Constitution of 2022, and Article 20 of the Moroccan Constitution explicitly enshrine the protection of human life. This constitutional recognition reinforces the seriousness of the breaches observed, given that these states have committed themselves, under domestic law, to guaranteeing this fundamental right. The only notable exception remains Libya, whose successive Constitutions do not contain any explicit provision protecting the right to life.

Finally, these obligations must be reconciled with the principle of non-refoulement, set out in Article 33 of the 1951 Geneva Convention, which prohibits the return of a person to a country where they would be at risk of persecution, torture or inhuman treatment. The *Hirsi Jamaa and Others v. Italy* case law (ECHR, 2012)⁶⁴ confirmed that this principle also applies on the high seas, when the authorities of a state exercise de facto control over persons, even outside their territory. Consequently, delegating or outsourcing rescue operations to notoriously violent actors, or deliberately delaying rescue, constitutes a violation of the right to life, maritime law and the principle of non-refoulement².

When States deliberately refuse to intervene, or organise mechanisms to transfer responsibility to third-party authorities (e.g. the Libyan or Tunisian coast guard), they are not only violating the right to rescue at sea: they are actively participating in policies that place people in structural danger. These policies, due to their systematic, discriminatory and deliberate nature, constitute inhuman treatment (Article 3 ECHR, Convention against Torture) and, under certain conditions, crimes against humanity, as suggested by the United Nations Human Rights Council Commission of Inquiry in March 2023.

⁶³ Refer to the ANNEXES provided with the indictment

⁶⁴ <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-109230%22%5D%7D>

We accuse **the European Union, its institutions and agencies – in particular Frontex – as well as several of its member states, namely Italy, Malta, Spain, Greece, France and Germany**, of knowingly failing to fulfil their obligations to rescue migrants in distress at sea. This failure, by no means accidental or marginal, is part of a concerted political strategy of deterrence, delegation of responsibility and failure to provide assistance, in flagrant violation of international humanitarian law, maritime law and fundamental rights.

We accuse them of direct responsibility when, informed of situations of distress in their own search and rescue (SAR) zone, and having the necessary means and being fully aware of the urgency, they refused to intervene, deliberately delayed rescue operations, or prevented their coordination. These decisions exposed hundreds of people to avoidable death and led to mass shipwrecks, disappearances at sea and systematic violations of the right to life.

We accuse them of complicity for having financed, trained, equipped and coordinated the coast guards of third countries – notably those of Libya, Tunisia, Morocco, Mauritania and Algeria – as part of measures designed to intercept migrants before they reach European soil. This cooperation has been carried out with full knowledge of the facts, even though the authorities concerned are known to be involved in acts of torture, arbitrary detention and inhuman treatment. European cooperation with these forces amounts to a mechanism of **refoulement by proxy**, in direct contradiction with the principle of non-refoulement.

We accuse them of responsibility by omission for having built a sophisticated surveillance system (aerial, maritime, satellite) without ever setting in motion the corresponding legal obligations: launching rescue operations, guaranteeing disembarkation in a safe place, and allowing access to a protection procedure. On the contrary, the data collected has often been passed on to the authorities of the aforementioned third countries, exacerbating the risks faced by migrants.

Finally, we accuse them of a **structural and political responsibility**: the tragedies documented in this chapter are not anomalies but the direct consequences of a system designed to deter, repel and externalise. Avoidable shipwrecks are not the result of fate, but rather of a methodically organised, financed and coordinated system, at the expense of thousands of human lives.

The European Union has added a new brick to this lethal architecture: the **European Pact on Migration and Asylum**, adopted in 2024. This text institutionalises a permanent state of emergency, in which the logic of non-assistance, outsourced refoulement and circumvention of legal guarantees is not only maintained but extended. At the instigation of the European Commission and the Council, this Pact authorises:

- Accelerated asylum and return procedures at the borders, without effective guarantees of appeal, in contravention of Article 13 of the ICCPR and Article 18 of the EU Charter of Fundamental Rights;
- Generalised derogations in times of crisis, allowing for the delay of the registration of applications or disguised refoulement, in violation of Article 33 of the Geneva Convention;
- Selective solidarity, which allows states to refuse to accept asylum seekers by financing border controls in another country, including through partnerships with regimes known to be abusive;

- The arbitrary designation of third countries as "safe", without guarantees or independent judicial review, legitimising returns to areas of violence, detention and persecution.

This European Pact embodies the legal formalisation of a policy of institutionalised non-assistance.⁶⁵ It fully engages the responsibility of the entire institution of the European Union, not only as a political supporter, but as the architect and guarantor of a system that systematically violates the right to life, the obligation to provide assistance, and the principle of non-refoulement.

We therefore accuse:

- **The European Union and its institutions** for having designed, coordinated and legitimised a deadly deterrence system that is outsourced and legally unaccountable;
- **Its member states – namely Italy, Malta, Spain, Greece, France and Germany** – for implementing, financing and prolonging this policy in full knowledge of its human cost;
- **The Frontex Agency** for providing the logistical coordination, aerial surveillance and operational data that enabled these pushbacks, without ever assuming its responsibility to alert and rescue;
- **The Maghreb partner states – Libya, Tunisia, Morocco, Mauritania, and Algeria** – for acting as **enforcers**, intercepting, abandoning, or returning migrants outside of any legal framework of protection.

Because they knew, because they had the means, and because they deliberately chose not to provide assistance, they are legally, morally, and politically responsible.

Maritime refoulements, abandonment at sea and preventable deaths: an organised strategy of deliberate endangerment by the European Union, its member states and their partners in the Maghreb, in clear violation of the right to life and the principle of non-refoulement

Spain/Morocco – Canary Islands route and maritime refoulements

⁶⁵ <https://www.amnesty.fr/refugies-et-migrants/actualites/decryptage-que-va-changer-le-nouveau-pacte-europeen-sur-la-migration-et-l-asile>

Since 2020, the sea route linking West Africa (Mauritania, Senegal, Morocco) to the Canary Islands has become one of the deadliest routes in the world: between January and May 2023, nearly 4,808 people died there. In 2023, Caminando Fronteras⁶⁶ recorded 6,618 deaths on all routes to Spain, with the Canary Islands route alone accounting for more than 6,000 deaths.⁶⁷ This tragedy is taking place against a backdrop of a **poor coordination** between Spanish maritime rescue centres (MRCC Las Palmas) and the Moroccan authorities, exacerbated by the externalisation of borders via Frontex and European agreements.

In **June 2023**, a boat carrying 60 people remains in distress for 12 hours between Morocco and the Canary Islands. Only 24 survivors were transferred by the Moroccan navy, following a fatal delay in response. Alarm Phone described this delay as torture. The Ombudsman of Spain launched an investigation.⁶⁸

NGOs and journalists explicitly accuse Spain and Morocco of prioritising migration control over the right to rescue and of refusing to fulfil their maritime assistance obligations.

July–August 2023: a boat that left Fass Boye (Senegal) with more than 130 asylum seekers on board sails without assistance for nearly a month. Alerted on 20 July, the Spanish, Moroccan, Mauritanian and Senegalese authorities did not intervene.⁶⁹ On 14 August, only 38 survivors and seven bodies were found⁷⁰ near Cape Verde. This tragedy reveals a chain of systemic non-intervention and inaction on the part of the states concerned. Spain and Morocco blame each other. (Caminando Fronteras, El País)

This ongoing humanitarian crisis is directly linked to surveillance and control operations such as **Operation HERA**, set up by **Frontex** in coordination with Spain and certain West African countries, notably Morocco, Mauritania and Senegal. Launched in 2006, HERA aims to prevent boats from leaving the African coast for the Canary Islands, just upstream of European territory, as part of a strategy known as "early detection and prevention".

However, this logic of extraterritorial prevention is detrimental to the right to rescue and the protection of migrants. Rather than providing assistance to boats in distress or ensuring disembarkation in a safe port, the measures implemented under HERA consist of locating boats before they enter European waters and then reporting or intercepting them in coordination with the authorities of third countries. This approach transforms Frontex patrols into vehicles for early refoulement, often without any guarantee of safety for passengers and in violation of the principle of non-refoulement.

In practice, these operations lead to certain boats being abandoned at sea, deliberate delays in activating rescue services, or the delegation of rescue responsibilities to states that have neither the means nor the will to comply with international standards on human rights and maritime law. Thus, Frontex and the European states involved in this type of operation bear shared and substantial responsibility for the shipwrecks and disappearances on this route.

⁶⁶ https://caminandofronteras.org/wp-content/uploads/2024/01/Maqueta_ES_vWEB.pdf

⁶⁷ <https://apnews.com/article/spain-migrants-africa-boat-deaths-atlantic-9614180b341c6d5b7f1ecc481ed7b1fc>

⁶⁸ <https://www.theguardian.com/world/2023/jun/23/spain-to-investigate-boat-rescue-delay-that-led-to-deaths>

⁶⁹ <https://www.voanews.com/a/more-than-30-feared-dead-as-boat-bound-for-spain-s-canary-islands-sinks-/7147772.html>

⁷⁰ <https://www.theguardian.com/world/2023/aug/17/cape-verde-migrant-boat-drifted-at-sea-for-a-month-after-alarm-raised-says-ngo>

In the absence of judicial oversight over these extraterritorial interceptions and effective recourse mechanisms for victims, Operation HERA embodies an **obscure and lethal model of externalisation** that circumvents international maritime law (notably Article 98 of the United Nations Convention on the Law of the Sea, violation of the duty to render assistance at sea) and the commitments of states in terms of fundamental rights (Article 6 of the ICCPR, Article 2 of the ECHR, Article 4 of the African Charter on Human Rights).

Libya – Maritime interceptions and systematic detention

Shipwrecks, pushbacks and disappearances in the Mediterranean cannot be dissociated from their root cause: they are rooted in the policies of terror practised upon entry into Libya.

By supporting or cooperating with the Libyan coastguard, financing detention centres or promoting security partnerships, the European authorities have contributed to maintaining a system of violence in which the sea becomes the last resort, however perilous it may be.

Maritime “refoulements” undertaken with the Libyan coastguard – which has intercepted around 29,000 people since 2017 – have been described by the UN Special Rapporteur on Torture as **violations of the principle of non-refoulement**.⁷¹ These practices have resulted in preventable deaths and forced reintegration into centres where survivors are once again subjected to the worst atrocities.

This context makes the passivity or complicity of European states at sea even more serious. The refusal to rescue people fleeing a system of detention and torture amounts to deliberate abandonment at sea, sometimes aggravated by active and illegal interceptions.

Violations against the right to life (Article 6 ICCPR), the prohibition of torture (Convention against Torture), the right to seek asylum (Article 14 UDHR), and the principle of non-refoulement (Geneva Convention, Article 33) are massive, systematic and concerted.

With Italy playing a central role, the European Union has been implementing a security cooperation system with the Libyan coastguard since 2017 as part of its policy of externalising migration control in the central Mediterranean. This system is largely based on the bilateral agreement signed between Italy and the Libyan Government of National Accord in February 2017, which has been tacitly renewed several times to date, despite repeated warnings from NGOs and UN bodies.

In view of the fact that judgment *Hirsi Jamaa and Others v. Italy* (2012)⁷² condemned Italy for carrying out direct refoulement to Libya in 2009, this 2017 agreement – along with the decision to support the creation of the Libyan SAR zone as declared in 2018 and the equipping of coastal authorities – specifically aims to circumvent this prohibition by establishing a system of proxy refoulement. The stated objective is to avoid any direct involvement of European states in return operations by transferring these responsibilities to third parties. In this context, the European Union and Italy have directly financed the establishment of the Libyan SAR zone,⁷³ as well as the mechanisms enabling its operation. One of the flagship projects is the 2017 **SIBMMIL**

⁷¹ <https://www.ohchr.org/en/press-releases/2018/12/migrants-and-refugees-crossing-libya-subjected-unimaginable-horrors-un>

⁷² <https://www.hrw.org/news/2019/11/13/italy-shares-responsibility-libya-abuses-against-migrants>

⁷³ https://trust-fund-for-africa.europa.eu/our-programmes/support-integrated-border-and-migration-management-libya-first-phase_en

Programme (Support to Integrated Border and Migration Management in Libya), with a budget of €49 million, financed by the Emergency Trust Fund for Africa and implemented by the Italian Ministry of the Interior.

This agreement provides for the financing, training, equipping and operational coordination of the Libyan coastguard by Italy, with logistical and political support from the European Union. Since its implementation, it has enabled the interception at sea of more than 130,000 migrants (IOM, 2023), who have been forcibly returned to ports in Libya – an unsafe country – where they are systematically locked up in official or informal detention centres. These places are regularly the scene of serious violations of international law: torture, sexual violence, extrajudicial executions, human trafficking, forced labour and arbitrary detention.

By maintaining this agreement despite overwhelming evidence, Italy bears direct responsibility – in accordance with the *Hirsi Jamaa* case law – as does the European Union, which supports its architecture, for serious and repeated violations of the principle of non-refoulement, the right to life, the absolute prohibition of torture, and the right to protection against arbitrary detention.

These interceptions are not part of a rescue operation, but rather a structured mechanism of indirect maritime refoulement, designed to prevent landings in Europe. Frontex together with the Italian and European authorities are directly involved in transmitting position data, coordinating surveillance by drones or aircraft, and financing, training and equipping the Libyan coastguard – despite overwhelming evidence of their actions. This cooperation violates the right to life (Article 6 ICCPR), the prohibition of torture (Article 3 ECHR and Convention against Torture), and the principle of non-refoulement (Article 33 of the Geneva Convention).

The Khoms shipwreck in 2021

One emblematic case illustrates the extent of danger of this system: in July 2021, a ship in distress, carrying around **120 people**, was located off the coast of Khoms (Libya) in distress. The Libyan coastguard was informed by Frontex, but did not intervene for more than 24 hours. In the meantime, the boat capsized. According to Doctors Without Borders, at least 50 people drowned. The deliberate inaction on the part of European partners, combined with the failings of the Libyan forces, directly resulted in this avoidable tragedy.

In July 2021, a vessel carrying approximately **120–130** people in the central Mediterranean was located in distress off the coast of Khoms, Libya. Alerted by Alarm Phone on July 21, Frontex authorities and the Libyan coastguard were informed of the situation, notably through Frontex-operated Osprey drones. However, the intervention did not take place until more than 24 hours after the alert. In the meantime, the ship capsized. When a ship from the NGO SOS Méditerranée (Ocean Viking) and merchant ships arrived on the scene, they found only dozens of bodies floating in the water – no survivors were taken on board.⁷⁴

Alarm Phone⁷⁵ and Amnesty International denounced this inaction as deliberate failure to provide assistance, aggravated by Frontex's active coordination with the Libyan coastguard: aerial surveillance operations directed the Libyan coastguard towards the boats, but no actual rescue operation was launched, resulting in the deaths of more than a hundred people.

⁷⁴ <https://www.theguardian.com/world/2021/apr/23/more-than-100-asylum-seekers-feared-dead-after-shipwreck-off-libya>

⁷⁵ <https://alarmphone.org/en/2021/08/28/interceptions-and-death-at-sea-europes-answer-to-migrant-struggles-for-freedom>

On site in Khoms, Doctors Without Borders⁷⁶ reported observing survivors and bodies aboard capsized boats rescued by the Libyan coastguard. Doctors Without Borders also emphasises that the Libyan coastguard, which receives financial and material support from the EU, is preventing NGOs from intervening effectively, thereby reinforcing the logic of diversion and systematic negligence with regard to maritime rescue operations.

These factors demonstrate that this shipwreck illustrates a systemic failure of the duty to rescue in the central Mediterranean, for which Frontex, European states and the Libyan coastguard are responsible.

Those intercepted at sea have no legal status and no access to asylum procedures or effective recourse. They are often detained without trial or legal time limits, in conditions featuring **"inhumane treatment"** as described by the United Nations. In **March 2023**, a **commission of inquiry mandated by the United Nations Human Rights Council** concluded that several of these practices could constitute **crimes against humanity**, committed "with the support of the Libyan state or groups acting with its explicit consent".⁷⁷ This criminal responsibility could be extended to external partners who were aware of the risks and continued to provide material support to the actors involved, in violation of international law.

Ocean Viking raked with gunfire by Libyan Coast Guard during a SAR operation (24 August 2025)

On 24 August 2025, while conducting a search-and-rescue operation, the Ocean Viking (SOS Méditerranée⁷⁸, with the IFRC⁷⁹) was raked with gunfire for nearly 20 minutes by a Libyan Coast Guard patrol vessel, in international waters about 40 nautical miles north of Libya.

⁸⁰The ship had 87 rescued people on board. No one was injured, but there was significant damage and a mayday was issued. SOS Méditerranée states that no operational assistance was provided by an Italian vessel that had been indicated as the nearest asset. The Libyan craft involved is described as equipped/supported through EU–Italy schemes raising the question of impediments to the duty to render assistance and of an externalization that generates life-threatening risks, and a serious violation of the obligations to coordinate and to promptly assign a “place of safety”. The facts are documented by videos and images shot from the vessel and made public. The incident was confirmed/condemned (SOS Méditerranée, IFRC); the Norwegian flag State said it “believes” the shots were indeed aimed at the Ocean Viking. This constitutes an armed attack on a civilian rescue ship, endangering rescued persons and crew, with failures of coordination and of prompt assignment of a place of safety → breaches of the obligations to render assistance (UNCLOS art. 98), to safeguard life at sea (SOLAS V/33), and to coordinate/ensure a “place of safety” (SAR Convention, MSC.167(78)).

Responsibilities and links to externalization (Axis 6 of the indictment):

- **Responsibility of the Libyan authorities:** use of lethal force against a civilian SAR vessel on the high seas/in an international zone, in violation of maritime safety obligations.
- **Shared European responsibilities:** the attack calls into question the direct effects of

⁷⁶ <https://www.msf.org/refugee-libya-shipwreck-survivors-condemned-drown-sea-or-face-arbitrary-detention>

⁷⁷ <https://www.hrw.org/news/2023/03/28/un-experts-find-war-crimes-crimes-against-humanity-libya>

⁷⁸ <https://www.sosmediterranee.org/sos-med-libyan-attack/>

⁷⁹ *International Federation of Red Cross and Red Crescent Societies*

⁸⁰ https://www.lemonde.fr/international/article/2025/08/26/1-ocean-viking-vise-par-des-tirs-de-gardes-cotes-libyennes-dans-les-eaux-internationales_6635581_3210.html?utm_source

externalization policies. EU Member States—first and foremost Italy—support, equip, and train the Libyan Coast Guard; the patrol vessel involved is among the units donated to Libya (an Italian transfer from June 2023 under the SIBMMIL programme—“Support to Integrated Border and Migration Management in Libya”). The 24 August incident is at least the third involving patrol boats donated to Libya, illustrating a pattern of obstruction of civilian SAR operations and endangerment of rescued persons.

Tunisia – Refusal to disembark and abandonment at sea

Between 2022 and 2025, several serious incidents illustrate Tunisia's repressive policy towards migrant boats:

The **Zarzis tragedy** in September 2022 starkly illustrates the severity of Tunisia's policy of abandonment at sea, which has been denounced by the Tunisian Forum for Economic and Social Rights (FTDES),⁸¹ among others. A boat that left the port of Zarzis carrying around **18 people** – mostly young people, including minors and an infant – disappeared. On **21 September 2022**, after two days without any news, the families alerted the Tunisian, Italian and Maltese authorities, but received no response. It was only when local fishermen took the initiative that they discovered the bodies buried on the coast of Djerba, several of which were buried without prior DNA testing – a deeply disrespectful act towards the victims. The bodies were buried by the state authorities without official identification or an investigation involving the relatives.

This tragedy sparked a wave of anger and public protests in Zarzis: local authorities were criticised for their inaction, and the staging of a clandestine burial for the victims was perceived as an attempt to literally and figuratively bury the case. Local groups and NGOs, including **La Cimade**,⁸² organised marches and demanded an independent investigation, especially to carry out DNA tests to identify the victims and provide legal guarantees for their families.

Since 2023, numerous testimonies collected by the **Migrations Asylum Observatory (2024)**, and confirmed by NGOs such as **Human Rights Watch**, denounce acts of "post-rescue pushbacks" by the Tunisian coastguard, who abandon people in the desert or in border areas, without access to asylum or a safe place, particularly towards Algeria and Libya.⁸³ In September 2023, for instance, more than 100 African migrants – including children – were intercepted at sea and left in deserts near the Algerian border, deprived of water, food and legal protection.

This policy is part of a **lethal externalisation** strategy endorsed by the European Union, which has expanded the Tunisian Search and Rescue Region (Tunisian SRR)⁸⁴ and materially supported the establishment of the search and rescue zone.

⁸¹ <https://ftdes.net/encore-une-tragedie-au-large-de-zarzis-a-la-recherche-de-la-verite-et-de-la-justice/>

⁸² <https://www.lacimade.org/encore-une-tragedie-au-large-de-zarzis-a-la-recherche-de-la-verite-et-de-la-justice>

⁸³ <https://www.aljazeera.com/news/2024/9/12/in-tunisia-refugees-and-migrants-are-expelled-to-the-desert-left-helpless>

⁸⁴ <https://www.sosmediterranee.org/humanitarian-concerns-over-tunisias-new-search-and-rescue-region>

In 2021, the EU funded the “EU Support to Border Management Institutions in Libya and Tunisia”⁸⁵, a land and maritime border management programme totalling €45 million to be implemented over seven years, including €10 million to support the creation of a maritime rescue coordination centre. In addition, it seeks to strengthen institutional capacity to carry out effective interception and search and rescue activities at sea and in the desert, with the ultimate goal of reducing the number of departures. Furthermore, the action sheet recommends "the establishment of a regional cooperation framework between Libya and Tunisia in the field of search and rescue" with the implementation of "standard operating procedures", training initiatives and operational plans and procedures. Paradoxically, this mechanism has reinforced dangerous practices by allowing the Tunisian authorities to evade their obligation to rescue or guarantee a safe place for rescued persons. According to Amnesty:

"It is clear that Tunisia is not a safe place for the disembarkation of people intercepted or rescued at sea ... the ongoing cooperation between the EU, EU member states, and Tunisia ... is contributing to human rights violations."⁸⁶

On 2 August 2023, an operation carried out by the Tunisian coastguard off the coast of Sfax resulted in the deaths of five young boys, including one aged 14, following a brutal interception of boats carrying around 120 migrants.

The testimony of X., a Nigerian national⁸⁷ who attempted to leave Tunisia by sea twice in August 2023, describes a scene of extreme violence inflicted by the Tunisian coastguard:

"During the night, the Tunisian coastguard arrived. They started beating us with a long iron rod [...] People fell into the water [...] Three boys died after being pulled back on board. [...] The mothers were screaming. Bodies were pulled back on board. [...] The coastguard retaliated by firing at us and one of the survivors was thrown overboard."

This testimony provides a detailed account of a violent interception, followed by the preventable deaths of people in distress and violent refoulements to Tunisia.

The lack of assistance, the use of force, the destruction of evidence (deletion of videos), and total indifference to the medical and psychological needs of survivors constitute a clear violation of international humanitarian law, maritime law, and the right to life.

The consequences are dramatic: Tunisia is becoming a place of systematic non-assistance, collective refoulement, violation of the right to rescue, and violation of the principle of non-refoulement as defined in the Geneva Convention (Article 33). This situation jeopardises the right to life and human dignity of migrants, while highlighting the shared responsibility of Tunisia and its international partners.

Malta – Systematic refusal to provide assistance – a policy of death

Repeated and deliberate violations of the obligation to assist persons in distress at sea, in flagrant contravention of international maritime law and fundamental human rights. For several

⁸⁵ <https://extranet.greens-efa.eu/public/media/file/1/8619>

⁸⁶ <https://www.amnesty.org/en/documents/mde30/8593/2024/en>

⁸⁷ <https://alarmphone.org/en/2023/08/05/when-lives-dont-count-a-survivors-testimony/>

years, Malta has adopted a deliberate strategy of non-intervention in its search and rescue (SAR) zone, even when informed of the presence of persons in danger.

Since 2009, the Republic of Malta has entered into an obscure and informal cooperation with the Libyan authorities,⁸⁸ based on a series of secret agreements, unpublished protocols and non-transparent bilateral arrangements. This cooperation is not intended to meet humanitarian or rescue needs, but rather has a single purpose: to delegate to the Libyan coastguard, notorious for its abuses, the task of intercepting migrants and returning them to Libyan detention centres, in violation of Malta's international obligations.

This strategy of concealment and cynical delegation allows Malta to evade its duties in terms of sea rescue, while avoiding direct responsibility for refoulement. By deliberately refraining from intervening in maritime distress situations occurring in its own SAR zone – and deliberately transferring the coordination of these interventions to the Libyan authorities – Malta is actively participating in a system of proxy pushbacks. This concerted and deliberate policy transforms the Libyan coastguard into subcontractors of illegal border control, designed to prevent migrants from reaching European territory.

These practices are far from being marginal; they have become institutionalised. They rely on direct communication channels, the sharing of strategic information (GPS positions, aerial images, etc.), and military and logistical cooperation with Libyan forces. By refusing to fulfil its rescue obligations and facilitating interceptions by an actor known to have committed crimes against humanity, Malta is repeatedly and systematically violating the principle of non-refoulement, the prohibition of torture, the right to life and the right to security of person.

These secret agreements with Libya,⁸⁹ which Malta refuses to make public, do not constitute a migration policy: they are part of a strategy of denial of protection, dehumanisation of migrants and externalisation of violence, the consequences of which are measured in broken lives, preventable deaths and suffering inflicted with impunity.

A particularly emblematic case took place in April 2020: a ship carrying **63 people** was left adrift for **six days** in the Maltese SAR zone, despite multiple alerts from **Alarm Phone** and other civil society actors.⁹⁰ During this period, Malta refused to intervene or authorise a rapid rescue, preferring to delegate the mission to third parties or wait for the ship to leave its area of responsibility.

The result: **12 people died** of hunger, thirst or drowning before the remaining people on board were forcibly returned to Libya by a private vessel operating on the instructions of the Maltese authorities.

This policy is not confined to an isolated case. Between **2020 and 2023**, more than **20 documented cases of deliberate non-assistance** were recorded by **Alarm Phone** and various independent observers. These cases show a pattern of intentional delays, refusal to coordinate

⁸⁸ <https://www.statewatch.org/media/documents/news/2020/jun/malta-libya-mou-immigration.pdf>

⁸⁹ <https://www.reuters.com/article/world/malta-has-deal-with-libya-coastguard-over-migrant-interceptions-report-idUSKBN1XK0B6/>

⁹⁰ <https://www.theguardian.com/global-development/2020/may/19/exclusive-12-die-as-malta-uses-private-ships-to-push-migrants-back-to-libya>

rescue efforts, and transfers of responsibility to the Libyan coastguard, in violation of the fundamental principle of rescue at sea.

Such practices reveal a deliberate strategy of externalising responsibilities, exposing migrants to mortal risks, and constitute a clear violation of:

- **the principle of rescue at sea** established by the United Nations Convention on the Law of the Sea (UNCLOS),
- the **International Convention on Maritime Search and Rescue (SAR, 1979)**,
- and the **SOLAS Convention (Safety of Life at Sea)**.

Malta's legal responsibility is all the more compelling given that the authorities have been regularly informed of the situation of boats in distress, notably through alerts from organisations such as **Alarm Phone**⁹¹ or reports from **humanitarian NGOs**⁹² active in the area.

Greece – The Pylos shipwreck: an avoidable tragedy, a state responsibility

On 14 June 2023, the trawler *Adriana*, carrying between **750 and 800 people**, sank off the coast of Pylos, in south-western Greece, in an area under the responsibility of the Greek search and rescue service (Greek SRR). According to testimonies gathered by Lighthouse Reports, Human Rights Watch, Amnesty International and Forensic Architecture,⁹³ the Greek coastguard refused to intervene in a proactive manner, despite several alerts from Alarm Phone, NGOs and European satellites. The boat was visible, stationary or adrift, for more than **12 hours** in calm seas.

Worse still, several survivors accuse the Greek navy of attempting to tow the boat in an inadequate manner, which may have contributed to its capsizing. More than **600 people, including women and children**, drowned. This is **one of the deadliest shipwrecks in the Mediterranean in recent history**.

This tragedy illustrates a serious violation of the **right to life (Article 2 ECHR, Article 6 ICCPR)** and **obligations regarding search and rescue at sea** (SAR Convention, SOLAS Convention). It also reveals the systematic use of non-assistance as a deterrent, in flagrant contradiction with the international commitments of Greece and the European Union.

The Greek National Human Rights Commission itself has stated that an independent investigation is essential, while the Greek government continues to deny any direct responsibility.

⁹¹ <https://alarmphone.org/en/2023/05/29/500-people-abducted-at-sea/>

⁹² <https://www.infomigrants.net/fr/post/49284/ngos-accuse-malta-of-leaving-migrants-at-sea--to-be-picked-up-by-libyan-militias>

⁹³ <https://forensic-architecture.org/investigation/the-pylos-shipwreck>

Italy/Libya – Deliberate non-assistance and delegation to abusive actors

Several recent cases illustrate a deliberate strategy of non-assistance in the central Mediterranean, in which European Union Member States – in particular **Italy** and **Malta** – have ignored distress alerts or knowingly delegated rescue operations to notoriously violent actors such as the **Libyan coastguard**, which has been regularly accused of serious human rights violations.

On **16 March 2023**, **Alarm Phone** and **Sea-Watch** reported a boat carrying **47 people** in distress north of Libya. Despite several alerts, the Italian authorities refused to intervene, and the Libyan coastguard only arrived 17 hours later. By the time they arrived, the boat had already sunk and **30 people** were missing. This case, documented by several NGOs, constitutes a **clear violation of the obligation to assist persons in distress at sea**, guaranteed by the **SAR Convention (1979)** and the **SOLAS Convention**, as well as the **right to life** (Article 6 ICCPR, Article 2 ECHR).

On **25 June 2023**, a Frontex aircraft spotted a ship carrying around **400 people** adrift in the central Mediterranean. Despite this alert, neither Italy nor Malta intervened for more than **48 hours**. The ship eventually capsized: at least **80 people drowned**. This prolonged inaction, documented by **Forensic Oceanography** and **Alarm Phone** and reported in several international investigations, illustrates the complicity of the EU and its member states in preventable shipwrecks. These facts demonstrate that inaction is not accidental but part of a deliberate political strategy, whereby the transfer of responsibility to Libya allows European states to evade their legal obligations.

Systemic scope of violations and legal responsibility of actors

The shipwrecks, disappearances and deaths at sea documented in this chapter are the result of a transnational system of non-assistance and endangerment, designed, financed and coordinated by the European Union, its member states – notably Italy, Malta, Greece, Spain, France and Germany – and its partners in the Maghreb, including Libya, Tunisia, Morocco and Mauritania, with the active support of Frontex.

This system has a clear objective: to prevent migrants from entering European territory, at the cost of massive violations of fundamental rights.

It seriously violates:

- **the right to life** (Article 6 ICCPR, Article 2 ECHR, Article 4 African Charter), which imposes a positive obligation on states to protect, including at sea;
- **the obligation to provide assistance at sea** (Article 98 UNCLOS, SAR and SOLAS conventions), which prohibits any failure to act in the event of distress at sea;
- **the principle of non-refoulement** (Article 33 of the Geneva Convention, Article 3 of the Convention against Torture), which prohibits any transfer to places of danger, even at high seas;

- **the right to asylum** (Article 14 UDHR, Directive 2013/32/EU, UNHCR principles), which has been rendered meaningless by practices of interception, refoulement and blocking.

There are multiple legally actionable forms of responsibility:

- **Direct responsibility**, in cases of deliberate refusal to intervene despite warnings, available resources and knowledge of the danger;
- **Complicit responsibility**, when an actor equips or coordinates third-party forces known to be responsible for violations (Libyan coastguard, Tunisian coastguard, etc.);
- **Responsibility by omission**, when surveillance capabilities are used to avoid intervention and delegate rescue operations;
- **Structural responsibility**, insofar as these practices are part of a planned political strategy (notably through the European Pact on Migration and Asylum).

These violations are not isolated incidents. They come as the logical and predictable consequence of an **organised system** in which the sea becomes a tool of deterrence, death an accepted variable, and the law a means of exclusion.

Because they knew, because they had the means, and because they deliberately chose not to provide assistance, these actors cannot escape their legal, political and moral responsibility. Instead of addressing these offences, the European Union has enshrined this system in its legal and budgetary mechanisms, in full knowledge of the consequences.

We demand that this choice be recognised for what it is: **a migration management system based on organised abandonment and avoidable death**, contrary to the fundamental principles of international law and the conscience of humanity.

3. Arbitrary detention, torture and inhuman treatment

Arbitrary detention, acts of torture, sexual violence and cruel, inhuman or degrading treatment committed against migrants constitute serious and systematic violations of international human rights law, humanitarian law and, in some cases, international criminal law.

The prohibition of torture is a matter of *jus cogens*, i.e. mandatory norms of international law from which no state can depart, even in times of war or for reasons of national security. This absolute prohibition applies in all circumstances and entails specific international responsibility in the event of violation.

When these practices are committed in a widespread or systematic manner against civilian populations, with full knowledge of the facts, they may also constitute **crimes against**

humanity within the meaning of Article 7 of the Rome Statute of the International Criminal Court, in particular with regard to torture, slavery, sexual violence, prolonged arbitrary detention, enforced disappearances and persecution based on racial or ethnic criteria.

These acts are not isolated incidents or individual excesses, but are part of a state or parastatal strategy of institutionalised violence aimed at deterring, punishing, destroying and dehumanising migrants. They reflect a political will to use pain, humiliation and confinement as instruments of control over human mobility, outside any legal, judicial or humanitarian framework.

We accuse the Maghreb states – namely **Libya, Algeria, Tunisia, Morocco and Mauritania** – of being directly responsible for arbitrary detention, torture, sexual violence, enforced disappearances and inhuman or degrading treatment committed against migrants, refugees and asylum seekers.

These states:

- **organise or tolerate** round-ups, collective arrests, deprivation of liberty without legal basis and collective expulsions;
- **run or finance** informal detention centres where acts of torture, extortion, rape and systematic violence are committed;
- **practice** or delegate cruel and degrading treatment, deliberately exposing vulnerable people (women, children, sick people) to serious risks, including death.

We accuse the member states of the European Union – namely **France, Italy, Spain, Germany, Malta and Greece** – as well as the **European Union**, through the **European Commission**, the **Council of the EU** and **Frontex**, of being complicit in these violations by:

- **financing** detention centres and security measures in third countries,
- **training and equipping** police and military forces known for their practices of torture and ill-treatment,
- **signing of bilateral agreements** (e.g. Italy–Libya, EU–Tunisia, Spain–Morocco) aimed at outsourcing repression and expulsions,
- **providing intelligence and logistical means** that enable or facilitate arbitrary arrests, refoulement and detention.

We accuse these actors of adopting, supporting or encouraging **a deliberate strategy of delegating violence**, entrusting authoritarian regimes or militias with the role of Europe's "guardians of Europe's borders", in full knowledge of the risks of torture and inhuman treatment faced by migrants.

Responsibility by omission also applies: by failing to prevent or punish these massive violations – despite repeated warnings from NGOs, UN special rapporteurs and international bodies – these states and institutions have legitimised and perpetuated a system of structural, racist and dehumanising violence.

The documented facts constitute serious and systematic violations of mandatory norms of international law, engaging the responsibility of the Maghreb states, the European Union and its member states. These violations undermine:

- **General norms of international law**

- The absolute prohibition of torture and cruel, inhuman or degrading treatment: a peremptory norm (*jus cogens*) of customary international law, applicable in all circumstances, without any possible derogation.
- The principle of non-refoulement (including indirect refoulement), recognised as a norm of customary law binding on all States.

- **Binding international texts**

a) International Covenant on Civil and Political Rights (ICCPR):

- **Article 7:** Prohibition of torture or cruel, inhuman or degrading treatment or punishment.
- **Article 9:** Prohibition of arbitrary detention.
- **Article 10:** Obligation to treat all persons deprived of their liberty humanely.
- **Article 13:** Right to individual proceedings in cases of deportation.
- **Article 14:** Right to a fair trial.

b) Convention against Torture (CAT, 1984):

- **Articles 1 and 16:** Definition and prohibition of torture, obligation to prevent, prosecute and compensate.

- **Article 3:** Prohibition of expulsion to a country where a person is at risk of torture.

c) Geneva Convention (1951) relating to the status of refugees:

- **Article 33:** Prohibition of refoulement.

d) Convention on the Rights of the Child (CRC, 1989):

- **Article 37:** Prohibition of arbitrary detention, right to protection from ill-treatment, access to a lawyer, humane conditions of detention.

● **Regional instruments**

a) European Convention on Human Rights (ECHR):

- **Article 3:** Absolute prohibition of torture and inhuman or degrading treatment.
- **Article 5:** Right to liberty and security.
- **Article 13:** Right to an effective remedy.
- **Protocol No. 4, Article 4:** Prohibition of collective expulsions.

b) African Charter on Human and Peoples' Rights:

- **Article 5:** Right to human dignity, prohibition of torture and degrading treatment.
- **Article 6:** Right to liberty of the person.
- **Article 7:** Right to an effective remedy.
- **Article 12(5):** Prohibition of collective expulsions.

● **International criminal law standards**

Rome Statute of the International Criminal Court:

- **Article 7:** Definition of crimes against humanity, including:

- **a)** Murder,
- **e)** Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law,
- **f)** Torture,
- **g)** Rape, sexual slavery and other forms of sexual violence,
- **h)** Persecution,
- **k)** Other inhumane acts intentionally causing great suffering.

- **National constitutions**

The documented violations also contravene national constitutions (Tunisia, Morocco, Algeria, etc.), which in principle guarantee:

- The right to human dignity,
- The inviolability of domiciles,
- The prohibition of torture,
- Equality before the law,
- The right to judicial remedy.

The migration policies pursued by several Maghreb states, by European Union member states and by the European Union itself, result in the widespread use of arbitrary detention, torture

and inhuman or degrading treatment against migrants, refugees, exiles and asylum seekers. These practices, by no means accidental or marginal, are part of a concerted strategy to control, deter and repress human mobility.

Those targeted – men, women, children, the elderly, LGBTQIA+ people, the sick, victims of trafficking – are locked up in unsanitary conditions, mistreated by state agents or militias acting with the tolerance or complicity of the authorities, all the while deprived of care, recourse, information and any effective legal protection.

In **Libya**, torture, rape, enforced disappearances and slavery are widely documented, particularly in detention centres controlled by parastatal entities within the Ministry of the Interior or Defence. In **Tunisia**, police raids and violence were documented in the summer of 2023 in Sfax, with appalling detention conditions, including for children and pregnant women. In **Mauritania**, arbitrary detentions precede collective expulsions to countries of origin, without access to a judge or a lawyer. In **France** and **Italy**, administrative detention centres and hotspots perpetuate systemic violations: deprivation of information, police violence, detention of minors, lack of effective remedies. In **Algeria** and **Morocco**, detentions are often informal, brutal, and sometimes followed by deportations to desert or border areas, exposing people to inhumane treatment and even death.

These acts engage the direct responsibility, complicity or delegation of the states concerned, which have not only failed to prevent, punish and redress these violations, but also have organised or financed the mechanisms that make many of them possible. This inhumane treatment is not only a violation of the law, it is symptomatic of an organised border management system that dehumanises, crushes and destroys lives in the name of migration control.

Between January and October 2019, approximately **540,000 migrants** were expelled from **Libya and Algeria**, in conditions that were systematically degrading and often inhumane. In 2018, the figure already stood at 267,000 deportations. These operations, carried out outside any transparent legal procedure, mainly affect nationals from sub-Saharan Africa, but also Syrians, Bangladeshis and Yemenis, who are victims of a racist and selective logic of exclusion.

Sandrine told Doctors Without Borders that she spent five days in prison in Algeria. When she was deported in July 2019 by the Algerian security forces, she had no clothes other than those she was wearing on the day of her deportation. *"They throw you out into the desert and you have to walk more than 20 kilometres. It's really not easy. Being seven months pregnant, it was hell for me. This country really isn't a real country because they don't like seeing black people,"* says the 32-year-old Cameroonian woman."

According to the **European Council on Refugees and Exiles (ECRE)**, around **500 people** were deported from Algeria to Niger⁹⁴ every week. Doctors Without Borders (**MSF**) estimates that 24,000 people were deported to Niger between January and October 2019,⁹⁵ often forcibly and without any form of protection. The UN confirms that **more than 11,000 people** were deported between January and November 2019.

⁹⁴ <https://www.dw.com/fr/augmentation-du-nombre-de-migrants-expuls%C3%A9s-vers-le-niger/a-52101718>

⁹⁵ <https://www.msf.fr/actualites/algerie-niger-des-migrants-violentes-et-expulses-en-plein-milieu-du-desert>

⁹⁶In 2021, between January and April, MSF reports that nearly 4,370 people were taken by Algerian security forces to "Point Zero" in the middle of the desert, near the Nigerien region of Agadez.⁹⁷ Many of these people told MSF teams about the violence they had suffered.

The conditions of these expulsions amount to inhumane treatment: mass transport without food or water, systematic stripping of personal belongings, and **outright abandonment in desert areas** without assistance or means of survival.

The testimony of **Boukari**, a 28-year-old Beninese man, is truly revealing: *"Without a mobile phone or money, how are we supposed to contact people? This is the desert, we don't even know where it ends. They bring us here, dump us in the desert and tell us to 'figure it out for yourselves'. They take our mobile phones, they take all our money, they take everything."*

Traoré Ya Madou, originally from Mali, worked for six years as a painter in Algeria before being arrested by the police. *"We lived on the construction site where we worked. That morning, the Algerian police arrived. Usually, we would give them money or stand our ground, and the officers would leave. But this time, there were a lot of them, about twenty, and they broke down the door and came in. Once inside, they handcuffed us and took us to the police station. I stayed there for 24 hours without eating."*

"There, we were thoroughly frisked. During the search, they even take off your underwear... We were treated inhumanely. I had €2,500 on me, and they took it all. They also beat me savagely, and I had to be taken to a hospital," he explains. For resisting the Algerian police, Traoré was punished. He was dropped off even further from Assamakka than the others and had to walk for nearly four hours to reach the small town.

In **Morocco**, a joint report by the **Council of Sub-Saharan Migrants in Morocco (CMSM)** and the **Anti-Racist Advocacy Group in Support of Foreigners and Migrants (GADEM)** (2012) highlighted the collective, arbitrary and extrajudicial nature of refoulements at the border with Spain. Migrants are intercepted by Moroccan auxiliary forces, who carry out expulsions without notification, without asylum procedures and without access to a judge.

In Morocco, as is the case in Algeria and Tunisia, arrests take place in the streets, in homes and even outside the premises of associations, all of which is completely illegal, with physical and psychological violence perpetrated by the police and auxiliary forces.

These practices flagrantly violate the fundamental guarantees enshrined in **the International Covenant on Civil and Political Rights (ICCPR)** (Articles 7, 9, 13, 17), the **Geneva Convention**, and the national constitutions themselves. In Morocco, for example, **Article 10 of the Constitution** guarantees the inviolability of the home, and **Article 62 of the Code of Criminal Procedure** strictly regulates searches, as do Articles 93 and 94 in Tunisia. These texts are flouted on a daily basis by the authorities. In Tunisia, the 2022 Constitution of the Tunisian Republic enshrines the principle of **the inviolability of the domicile** and privacy in **Article 24**.

All of these massive and violent expulsions, vaguely justified on grounds of public order, reflect **a clear political desire to dehumanise**. **Moroccan Law 02-03**, which mentions the concept of public order in some ten articles, never clearly defines it, leaving room for arbitrariness and impunity.

⁹⁶ <https://www.infomigrants.net/fr/post/22119/algerie--reprise-des-expulsions-de-migrants-vers-le-niger>

⁹⁷ <https://www.msf.fr/actualites/algerie-niger-des-migrants-violentes-et-expulses-en-plein-milieu-du-desert>

These states are in violation of their international commitments and the fundamental principles of customary international law, of which the absolute prohibition of torture is an integral part.

The concerned states (Algeria, Morocco, Libya, and Tunisia) bear direct responsibility for these violations, while certain **EU member states** and **the European Union** itself, its agencies (including Frontex), through their funding or diplomatic support, are political and logistical accomplices. Including **the IOM**, whose AVR/VHR schemes carried out from unsafe countries and without independent safeguards turn a façade of “voluntariness” into forced returns, engaging its co-responsibility under the principle of non-refoulement.

Documented facts and cases

Dozens of reports by NGOs and United Nations bodies unanimously note that migrants and refugees are subjected to "unimaginable horrors" upon their arrival in Libya, throughout their stay in the country, and during their attempts to cross the Mediterranean Sea.

Libya: a summary of institutionalised barbarism

A joint report by **the Office of the United Nations High Commissioner for Human Rights (OHCHR)** and **the United Nations Support Mission in Libya (UNSMIL)**,⁹⁸ spanning the period up to August 2018, describes an alarming situation of **systemic violence** against migrants and refugees. Based on more than **1,300 testimonies**, the report documents **killings, torture, arbitrary detention, gang rape, slavery, forced labour and extortion**, including in detention centres controlled by the state or by militias officially integrated into the Ministry of the Interior or the Ministry of Defence.

This report highlights the active complicity of Libyan state officials—including the Ministry of the Interior, the Ministry of Defence, and local authorities—in human trafficking. Several militias officially integrated into the state are also involved.

Women are particularly vulnerable: almost all of the women and girls interviewed reported being raped by smugglers or traffickers. Detained in the absence of female staff, they are subjected to strip searches, sexual assault and violence by male guards.

Detention centres controlled by the Department for Combating Illegal Migration (DCIM) — an official body affiliated with the Ministry of the Interior — have been denounced as places of confinement, where migrants are detained indefinitely, without due process, lawyers or consular assistance. UN officials who visited 11 of these centres found systematic cases of torture, forced labour, starvation, lack of medical care, rape and extortion.

At the same time, clandestine detention centres are run by armed groups or criminal gangs. People are sold from one network to another, subjected to successive ransom demands, sometimes culminating in death.

The bodies of migrants bearing signs of torture, bullet wounds or burns are regularly found in dry river beds, garbage dumps or desert areas. The report indicates that a large number of people have been beaten to death, starved to death, or died from injuries or lack of medical attention.

⁹⁸ <https://www.ohchr.org/sites/default/files/Documents/Countries/LY/LibyaMigrationReport.pdf>

These acts constitute serious violations of international law: crimes against humanity (Rome Statute, Article 7), acts of torture (Convention against Torture, Article 1), arbitrary detention (ICCPR, Article 9), slavery (1926 Convention), sexual violence (CEDAW, Articles 2, 5 and 6)

In light of these facts, people fleeing Libya are not doing so by choice: they are fleeing a system of institutionalised violence, where their lives are in constant danger.

Added to these damning findings are the voices of the survivors themselves, whose testimonies shed a stark and relentless light on the reality of life in the Libyan hell.

First-hand accounts collected by NGOs such as Amnesty International reveal the scale and brutality of the violence perpetrated against migrants in Libya. These accounts highlight not isolated abuses, but an organised system of detention, torture, extortion and sexual violence, perpetrated with the complicity or active tolerance of the authorities, in detention centres controlled by militias or parastatal entities.

"Whether they were abducted, held in secret detention for months, sexually abused by members of armed groups, or beaten, exploited or assaulted by smugglers, traffickers or criminal gangs, refugees and migrants have described in harrowing detail the horrors they have been forced to endure in Libya," says Magdalena Mughrabi, acting deputy director of Amnesty International's Middle East and North Africa programme.

Ramya, 22,⁹⁹ from Eritrea, said she was repeatedly raped by traffickers who held her captive in a camp near Ajdabya, in north-eastern Libya, after she arrived in the country in March 2015. *"The guards would drink and smoke hashish [cannabis], then come in, choose the women they wanted and take them outside. The women tried to refuse, but with a gun pointed at your temple, you don't really have a choice if you want to survive. I was raped twice by three men... I didn't want to lose my life,"* she said.

The story of Dawit,¹⁰⁰ a refugee who fled a forced conscription of indefinite duration in his country of origin, illustrates the systemic violence suffered by detainees. Captured in July 2020 by a militia affiliated with the Government of National Accord (GNA), he says:

"For 15 days, they beat us with iron bars, pipes, and anything else they could get their hands on. They demanded we pay 6,000 Libyan dinars each, adults and babies alike."

Another testimony, Ahmed's,¹⁰¹ a Somali refugee who fled the Al-Shabab armed group and lived in Libya between 2017 and 2019, sheds further light on the extreme violence suffered by migrants:

"One night, around 3 a.m., criminals broke into our house. They beat my wife. I tried to defend myself. They stabbed me in the leg and said, 'If you move, we'll kill her.' They kidnapped us and took us to a warehouse outside Tripoli. They demanded 20,000 dollars per person. There were 16 or 17 people in that warehouse — from Somalia, Eritrea, Ethiopia. We stayed there for

⁹⁹ <https://www.amnesty.org/en/latest/press-release/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya/>

¹⁰⁰ <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE1930842020ENGLISH.pdf>

¹⁰¹ <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE1930842020ENGLISH.pdf>

about 15 days... They beat people. When you arrive, they strip you naked, beat the men and rape the women. After two weeks, I took a chance and ran away."

This testimony recounts a series of serious crimes: kidnapping, false imprisonment, torture, rape and extortion, carried out in sheds or makeshift buildings, without judicial oversight, in a climate of almost total impunity. This violence, perpetrated by armed groups sometimes acting in coordination with local authorities, reflects a policy of terror and systematic deterrence against migrants, refugees and exiles.

The situation of migrants in Libya is one of the most extreme and intolerable examples of institutionalised violence carried out in the name of controlling human mobility. The damning testimonies—gang rape, torture, slavery, extortion, murder—are not isolated crimes, but part of a structured and organised system in which suffering is methodically administered as a means of blackmail, deterrence or profit.

This system cannot be reduced to a failure of the Libyan state. It is supported, financed and legitimised by security, political and economic partnerships with the **European Union and several of its member states**, which have made the conscious choice of outsourcing migration repression to a war-torn territory with no legal framework or effective control. With the tacit or explicit blessing of the EU, Libya has become a lawless space where human beings are nothing more than commodities to be ransomed, raped, exploited, or made disappear.

Turning a blind eye to these practices while continuing to sign agreements, and equipping coast guards and funding detention centres, the European Union and its member states are complicit in international crimes: torture, slavery, systematic sexual violence, and enforced disappearances. These acts constitute serious violations of international humanitarian law and international human rights law, and in some respects even crimes against humanity.

The Permanent Peoples' Tribunal is presented here with a paradigmatic case: one of extreme violence that is not the result of an anomaly, but the product of a deliberate political architecture. It is urgent to name this responsibility, to document it, and to denounce it publicly. History will judge. But today, we ask the Tribunal to recognise the full responsibility of the Libyan authorities, the European Union, and the states that have turned Libya into a lawless zone where torture, rape, and murder are carried out in the name of Europe.

Tunisia: State repression legitimised by the ruling power

Since 2019, violations of the fundamental rights of migrants in Tunisia¹⁰² have escalated, reaching a level of overt, systemic and brutal repression in 2023. As early as August 2019, Ivorian migrants, including pregnant women and infants, arrested in Sfax, were abandoned without assistance at the Libyan border, in a military zone inaccessible to rescue services.

This repressive policy was significantly reinforced as of 2023, in a context of increased security cooperation between Tunisia, the European Union and Italy.

By financing security measures without any conditions relating to human rights, the **EU-Tunisia-Italy memorandum of July 2023** directly contributed to the systematisation of arbitrary detentions and inhumane treatment of migrants in Tunisia. Following this agreement,

¹⁰² <https://ftdes.net/vives-inquietudes-des-organisations-nationales-et-internationales-face-a-la-situation-de-36-personnes-migrantes-a-la-frontiere-tuniso-libyenne/>

massive raids were carried out in Sfax, and thousands of people were detained in police stations or informal centres, without access to a lawyer, a doctor or any appeal procedure. Some were abandoned in the desert, others sold to Libyan armed groups, in a context of systematic violence and total impunity. European funding, without effective control mechanisms, makes the European Union and Italy jointly responsible for these serious and repeated violations of international law.

This shift towards security is part of a political climate marked by the institutional legitimisation of racism and xenophobia, embodied by a presidential speech (February 2023) that paved the way for targeted and widespread repression of migrants¹⁰³ by accusing them of being part of a "demographic replacement plot". This rhetoric served as justification for a policy of state repression:¹⁰⁴ mass arrests based on racial profiling, arbitrary detentions, denial of interpreters, lawyers and legal information, forced transfers,¹⁰⁵ and inhumane detention conditions. ASF recorded more than 900 arrests between February and July 2023¹⁰⁶ and Human Rights Watch recorded at least 850 people arbitrarily arrested.¹⁰⁷

ASF estimates that approximately 350 migrants were detained in the civil prison of Sfax following a wave of arrests during the crisis in July 2023. These individuals were prosecuted primarily for irregular entry and residence on Tunisian soil.

In Tunisia, the fundamental rights of migrants are systematically violated from the investigation stage onwards. They are frequently denied access to an interpreter, a lawyer, and the possibility of contacting their consular authorities – in violation of the right to a fair trial and consular assistance. Police custody is extended without judicial authorisation, in total disregard of legal safeguards.

Penalties for irregular stay or illegal entry are becoming increasingly severe, with prison sentences being handed down without consideration of asylum seeker or trafficking victim status, in violation of the principle of non-refoulement.

Vulnerable individuals – pregnant women, children, sick people – are arrested without legal basis, detained in inhumane conditions without care or assistance, and then arbitrarily deported to desert areas without water or food. These practices, documented by several NGOs, constitute serious violations: inhuman and degrading treatment, arbitrary detention, deprivation of effective recourse, and deliberate endangerment of life, leading to several deaths from dehydration.

One of the most emblematic locations for this policy of arbitrary detention is the "Reception and Orientation Centre" in El Ouardia, Tunis, which has been effectively transformed into a detention centre for migrants and operates outside any legal framework or judicial supervision, in flagrant violation of Tunisian laws and international conventions ratified by Tunisia. This situation was explicitly acknowledged in a 2020 Administrative Court ruling¹⁰⁸ ordering the

¹⁰³ https://www.lemonde.fr/en/le-monde-africa/article/2023/02/23/in-tunisia-president-kais-saied-claims-sub-saharan-migrants-threaten-country-s-identity_6016898_124.html

¹⁰⁴ <https://www.hrw.org/news/2023/07/19/tunisia-no-safe-haven-black-african-migrants-refugees>

¹⁰⁵ <https://www.hrw.org/news/2023/07/06/tunisia-crisis-black-africans-expelled-libya-border>

¹⁰⁶ <https://asf.be/tunisia-people-in-migration-threatened-by-discriminatory-rhetoric-and-policies>

¹⁰⁷ <https://www.hrw.org/fr/world-report/2024/country-chapters/tunisia>

¹⁰⁸ <https://ftdes.net/une-decision-sans-precedent-en-tunisie-le-tribunal-administratif-suspend-la-detention-de-22-migrants-detenus-arbitrairement-au-centre-daccueil-et-dorientation-el-ouardia>

suspension of the accommodation of several migrants in this centre. Reports from NGOs (including FTDES, OMCT,¹⁰⁹ ASF¹¹⁰ and Human Rights Watch) and journalists reveal that people are detained there for several weeks,¹¹¹ sometimes months, without notice of a court decision or the possibility of appeal. Audio and video recordings posted online show migrants denouncing beatings, lack of access to healthcare and appalling living conditions.

The court ruled that the deprivation of liberty of migrants did not comply with the essential conditions laid down by law, in particular the existence of a legal basis and the intervention of a judicial authority. It also emphasised that this detention was contrary to Tunisian law and to Tunisia's international commitments, in particular the International Covenant on Civil and Political Rights, the Convention against Torture and the reinforcement of the principle of non-discrimination and universal application of rights under Article 6 of the ICERD. Pursuant to this decision, the Tunisian authorities, in particular the Ministry of the Interior, were ordered to immediately release the 22 migrants pending the court's ruling on the appeals for the annulment of the detention measures. Reports from NGOs (including FTDES, OMCT, ASF and Human Rights Watch) and journalists reveal that people are detained there for several weeks, sometimes months, without notice of a court decision or the possibility of appeal. Audio and video recordings posted online show migrants denouncing beatings, lack of access to healthcare¹¹² and appalling living conditions.

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This decision was hailed as a significant step towards protecting migrants' rights in Tunisia. However, despite this decision, cases of arbitrary detention continued to be reported at the El Ouardia centre,¹¹⁴ prompting organisations to call on the Tunisian authorities to clarify the legal status of the centre in order to prevent it from being used as a place of deprivation of liberty. They also called on the Tunisian state to respect national and international law concerning people in mobility and to reject any European externalisation policy.

In July 2023, the city of Sfax was the epicentre of a campaign of raids and attacks targeting black people.¹¹⁵ Pregnant women, children, sick and injured people were detained in unsanitary

¹⁰⁹ <https://omct-tunisie.org/2023/03/21/note-sur-la-detention-arbitraire-au-centre-de-detention-de-migrants-del-ouardia/>

¹¹⁰ <https://asf.be/fr/detention-arbitraire-migrants-tunisie>

¹¹¹ <https://www.infomigrants.net/fr/post/25292/tunisie---des-dizaines-de-migrants-detenus-dans-un-centre-illega>

¹¹² <https://www.infomigrants.net/fr/post/47433/on-te-crache-dessus-on-tinsulte--dans-les-coulisses-du-centre-pour-migrants-del-ouardia-a-tunis>

¹¹³ <https://www.leconomistemaghrebin.com/2020/07/17/tunisie-tribunal-administratif-annule-detention-migrants>

¹¹⁴ <https://ftdes.net/rapport-avril-2022-des-mouvements-sociaux-suicides-violences-et-migrations/>

¹¹⁵ <https://inkyfada.com/en/2023/07/09/sub-saharan-africans-sfax-attacked-deported>

and overcrowded police stations before being deported to desert areas on the Libyan border,¹¹⁶ without a court order and without water or food. Several deaths from dehydration were reported. Between September 2023 and July 2024, more than 580 deaths or disappearances were recorded.

The letter of allegation¹¹⁷ Ref.: AL TUN 6/2024 dated 1 October 2024, sent by the UN Special Rapporteurs to the Tunisian authorities, including the Special Rapporteur on trafficking in persons, especially women and children, the following violations were allegedly committed against migrants, refugees and asylum seekers in Tunisia: collective expulsions without legal proceedings, physical and verbal abuse, arbitrary detention, abandonment in desert areas without access to water, food or healthcare, and excessive use of force by the Tunisian security forces, particularly during interceptions at sea.

The demolition of camps (Zarzis, El Amra), overcrowding in centres (Jderia, Tejra), denial of access to healthcare, water and employment,¹¹⁸ and the increasing criminalisation of NGOs¹¹⁹ are further exacerbating the already precarious situation. Without access to drinking water or sanitation services, living in cramped conditions and suffering from a rise in diseases (scabies, tuberculosis, respiratory infections, gastroenteritis), women and children are particularly vulnerable to trafficking, rape, torture and extreme forms of violence, sometimes orchestrated with the complicity of state agents.

A groundbreaking report entitled “**State Trafficking**”,¹²⁰ published in January 2025 by the *Researchers X* collective with the support of ASGI, Border Forensics and On Borders, unveils a yet another disturbing facet of the system of institutional violence against migrants in Tunisia. It highlights a human trafficking mechanism directly involving Tunisian state agents, accused of selling people deported to the Libyan border to Libyan militias and armed actors. This system, described as organised state crime, establishes a direct link between **Tunisian deportation structures and the Libyan economy of kidnapping, torture and ransom**.

Based on 30 testimonies from victims of these practices between June 2023 and November 2024, the report identifies a systematic five-step chain: arbitrary arrest in Tunisia, transfer to the Tunisian-Libyan border, detention in camps on the Tunisian side, delivery and sale to Libyan armed groups, and finally prolonged detention in Libyan prisons or torture centres. By tracing the places of detention and transfer routes, the report demonstrates the existence of a cross-border trafficking system based on violence, impunity and state complicity.

Since 2023, Tunisia has implemented a policy of systematic dehumanisation against migrants, in clear breach of its international commitments. This policy is part of a deliberate shift towards authoritarianism, marked by the criminalisation of exiles, the denial of their fundamental rights, and an increase in acts of institutionalised violence: arbitrary detentions, illegal deportations, abandonment in desert areas, and deprivation of healthcare, recourse and dignity.

These practices reflect a coherent state strategy of deterrence and brutalisation. President Kaïs Saïed's xenophobic speech in February 2023, accusing sub-Saharan Africans of participating in

¹¹⁶ <https://www.theguardian.com/world/2023/jul/16/libyan-border-guards-rescue-migrants-left-in-desert-near-tunisia>

¹¹⁷ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29320>

¹¹⁸ <https://omct-tunisie.org/wp-content/uploads/2025/01/Les-routes-de-la-torture-volume-3-Pages-2.pdf>

¹¹⁹ https://www.lemonde.fr/en/international/article/2025/07/10/in-tunisia-migrants-are-driven-out-and-their-defenders-prosecuted_6743247_4.html

¹²⁰ https://statetrafficking.net/StateTrafficking_EN_21012025_light.pdf

a "demographic replacement plot", served as a turning point, legitimising a racialised policy of exclusion and repression. It also created a climate of impunity in which the most extreme forms of violence are tolerated and even encouraged.

This drift has been accompanied by a collapse in legal protections. The new Tunisian Constitution adopted in 2022, drafted unilaterally by the executive branch, has stripped the fundamental guarantees provided for in the 2014 Constitution of their substance: the right to asylum has been abolished, the principle of non-discrimination has been removed, checks and balances have been weakened, and the judiciary branch has been completely subordinated. This institutional framework now allows for the legalisation of arbitrariness.

The massive violations committed in the summer of 2023 – racial profiling, inhumane detention, deportations to desert areas without water or assistance – were not the result of negligence, but of intent. They reflect a state policy of deliberate mistreatment, carried out with the complicit silence of an international community that continues to regard Tunisia as a partner in migration management. By externalising its southern border, the European Union is condoning this violence and indirectly supporting a regime that, quite far from respecting international human rights standards, openly tramples them. The Tunisian authorities – and the states and institutions that cooperate with them – therefore bear full legal, political and moral responsibility. This policy of persecution, organised at the state level and targeting an identified group, could meet the criteria for **crimes against humanity** under international law.

Algeria: racial repression, extrajudicial detentions and deportations towards death

In Algeria, migrants, mainly from sub-Saharan Africa, are regularly victims of mass arrests based on racial profiling, arbitrary detentions and collective deportations without respect for the guarantees provided by national and international law. Arrests are often carried out by security forces in working-class neighbourhoods of Algiers, Oran, or in the border areas of Tamanrasset, solely on the basis of skin colour, without judicial oversight or legal basis.

These practices directly breach Algerian Law No. 08-11 of 25 June 2008 on the conditions of entry, stay and movement of foreigners, which provides in Articles 38 and 39 for the requirement of written notification of removal measures, as well as access to a lawyer and the possibility of appeal. They also violate Articles 40, 47 and 56 of the Algerian Constitution (2020), which guarantee human dignity, the right to defence and the prohibition of arbitrary detention.

Those arrested are transferred to informal detention centres such as Tamanrasset, In Guezzam, or further north to Oran, Blida and Algiers. These places have no clear legal basis and do not allow access to a lawyer, or any procedure to challenge detention for that matter. NGOs such as Human Rights Watch and Amnesty International have documented cases of extreme overcrowding, deprivation of care, verbal and physical abuse, sexual violence, and theft committed by state agents in these centres. These centres are used to hold migrants in inhumane conditions: lack of medical care, sufficient food, outside contact, or legal proceedings. Described as extrajudicial detention centres, they operate outside any legal framework and have been denounced for overcrowding, abuse, and systematic deprivation of fundamental rights.¹²¹

¹²¹ <https://migreurop.org/article2849.html>

Deportations to Niger or desert areas are carried out on a massive scale,¹²² without judicial rulings, informing people of their rights, or offering any possibility of appeal. Entire groups of migrants, including women and children, are transported by bus to the Nigerien border and then forced to walk dozens of kilometres through the desert, abandoned without assistance. Between January 2023 and July 2024, Alarmphone Sahara documented more than **29,000 people** deported from Algeria to Niger,¹²³ including at least **13,000 in conditions described as illegal** (night-time deportations, lack of procedure, prior detention without notification).

Testimonies collected by Human Rights Watch¹²⁴ and Amnesty International¹²⁵ describe physical violence during arrests, unsanitary detention conditions, and cases of torture and degrading treatment.

Emanuele, 30, from Côte d'Ivoire, told Human Rights Watch that she was eight months pregnant and living with her two-year-old son in Oran, where she worked as a cleaner. On 24 April, the police arrived in her neighbourhood, called Coca, in Oran, at 4 a.m. and, according to her, arrested all dark-skinned people without allowing them to retrieve their money or any other belongings.

The police then took her and her son, along with 100 other people, including another pregnant woman and a woman carrying a newborn infant, by bus from Oran to a warehouse in Reggane, in the province of Adrar, she added, where they spent a day there. Then, at 5 a.m. on 26 April, the authorities forced them into trucks, drove them by bus to the border and ordered them to walk to Mali. She said she had only two small bottles of water for herself and her son.

"We walked for hours before reaching In Khalil. Can you imagine? Me, eight months pregnant, with a two-year-old boy, walking in the desert! It was so hot we could barely breathe."

Several migrants were detained for several weeks without being brought before a judge,¹²⁶ in flagrant violation of the International Covenant on Civil and Political Rights (Article 9) and the Convention against Torture.

These practices, far from being marginal, are part of a structural repressive policy based on deterrence, in a context of growing cooperation between Algeria and the European Union. The persistent impunity of the perpetrators of these violations and the absence of effective control mechanisms reflect a clear breach of the rule of law, engaging the responsibility of Algeria, but also that of its partners, namely the EU, which turns a blind eye to these abuses in exchange for outsourcing migration control.

Morocco: A system of normalised violence against migrants, in complete lawlessness

¹²² <https://alarmephonesahara.info/en/news/urgent-alert-stop-the-inhumane-mass-deportations-from-algeria-to-niger-stop-the-violation-of-the-human-rights-of-people-on-the-move-no-more-deaths>

¹²³ <https://alarmephonesahara.info/fr/news/2024-more-than-30-000-people-deported-from-algeria-to-niger>

¹²⁴ <https://www.hrw.org/news/2018/06/28/algeria-inhumane-treatment-migrants>

¹²⁵ <https://www.amnesty.org/en/location/middle-east-and-north-africa/north-africa/algeria/report-algeria/>

¹²⁶ <https://www.ecoi.net/en/document/2048625.html>

According to the **Global Detention Project**,¹²⁷ Morocco regularly uses police stations and other improvised locations for the purpose of migrant detention. These centres lack transparency, detentions are prolonged without adequate access to asylum, and there are no accessible official statistics or independent monitoring mechanisms.

Those arrested in Nador, Laâyoune or Tangier are frequently victims of police brutality, forced transfers without effective recourse, and extremely limited access to legal or medical assistance.

In Morocco, migrants, refugees and asylum seekers, mainly from sub-Saharan Africa, are systematically exposed to serious forms of physical violence, inhuman treatment and arbitrary detention. The ‘sweeping’ operations carried out by security forces in neighbourhoods where exiles reside, particularly in Nador, Laâyoune, Tangier and Casablanca, are accompanied by mass round-ups, arrests without legal basis and forced transfers to the south of the country or the desert areas bordering Algeria.¹²⁸

According to the AMDH in Nador, hundreds of people were arrested every month in 2022 and 2023,¹²⁹ often on the street or at their homes, and then detained without a court order, without access to a lawyer, an interpreter or an asylum procedure in accordance with international law. Several testimonies report physical violence, including beatings, humiliation and attacks on dignity during bus transfers to remote areas such as Tiznit, Guelmim or Errachidia.

The Melilla tragedy of June 2022, which occurred at the fence separating Nador and Melilla¹³⁰ (an occupied city), is an extreme illustration of the brutality of security practices. On that day, at least 23 people died (the actual figure is probably higher, according to NGOs), trampled or asphyxiated after a Moroccan police charge against a group of more than 2,000 exiles. Videos show seriously injured people left without care, piled on top of each other in extreme heat,¹³¹ in the presence of Moroccan and Spanish law enforcement officers.

Reports by **Migreurop** and **AMDH Nador** also document the existence of informal or undeclared detention centres where migrants are held without registration, sometimes for several days, in inhumane conditions:¹³² overcrowding, lack of food, physical violence, denial of access to healthcare or the right to asylum.

Several women have reported sexual assault and gender-based violence during arrests or informal detention, with no possibility of legal recourse. Unaccompanied minors have also been arbitrarily arrested and detained, in direct violation of the Convention on the Rights of the Child.

Morocco also continues to carry out **illegal refoulements to Algeria**. These practices, tolerated and supported by the European Union as part of its externalisation policies, clearly violate Article 9 of the International Covenant on Civil and Political Rights (prohibition of arbitrary detention), Article 7 of the same Covenant (prohibition of torture and cruel, inhuman or degrading treatment), the Convention against Torture, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ratified by Morocco.

¹²⁷ <https://www.globaldetentionproject.org/wp-content/uploads/2021/07/Immigration-Detention-in-Morocco-July-2021-Report-GDP.pdf>

¹²⁸ https://www.lemonde.fr/afrique/article/2024/05/21/comment-l-argent-de-l-union-europeenne-permet-aux-pays-du-maghreb-de-refouler-des-migrants-dans-le-desert_6234489_3212.html

¹²⁹ <https://www.borderforensics.org/fr/enquetes/nadormelilla/>

¹³⁰ <https://www.theguardian.com/world/article/2024/jun/18/moroccan-authorities-pushed-asylum-seekers-into-death-trap-ngo-claims>

¹³¹ <https://www.erudit.org/fr/revues/crimino/2024-v57-n2-crimino09696/1114785ar/>

¹³² <https://enass.ma/letat-des-migrations-a-nador-melilla/>

Mauritania: a history of ethnic-based state violence

The current practices of arbitrary arrests, abusive detention and inhuman treatment of migrants in Mauritania cannot be analysed separately from the Mauritanian state's historical humanitarian record. In 1989, authorities orchestrated the mass expulsion of tens of thousands of Black Mauritians to Senegal and Mali, in a climate of racialised repression. Estimates vary between 50,000 and 120,000 people deported. This policy was accompanied by the destruction of villages (at least 312 in the Senegal River valley), land expropriations for the benefit of Arab-Berber populations, and a large-scale programme of silent ethnic cleansing.

In addition to these deportations, there were extrajudicial executions, including those of more than 500 black Mauritanian soldiers, falsely accused of plotting against the regime. According to concurrent testimonies, Harratine militias were armed and supervised by 'white Moors' to carry out massacres and terrorise black African villages, often under the influence of drugs. These state crimes have never been sanctioned or redressed.

This historical legacy is a fundamental precedent for understanding the contemporary repression of sub-Saharan migrants,¹³³ particularly black Mauritians, who are regularly targeted by the security forces and subjected to racist violence, exploitation, rape and arbitrary detention.

In this respect, the violations committed since 2023 are not an isolated phenomenon, but part of a structural continuum of institutionalised racial violence tolerated – and even promoted – by the Mauritanian authorities, with the political and financial support of the European Union.

This history continues to have an impact today. Migrants – including those from Mauritania – are exposed to inhumane treatment: arbitrary arrests, abusive detention, police racketeering, sexual exploitation, forced labour and institutional violence. Sub-Saharan domestic workers are particularly targeted by sexual violence and blackmail. The Minister of the Interior has acknowledged a 14% increase in deportations in 2024, often carried out without due process or recourse, in conditions of deliberate endangerment (deportations to the desert or countries of origin, deprivation of fundamental rights).

In January 2024, Mauritania signed a new partnership with the European Union aimed at strengthening migration control, in particular by increasing the number of deportations of sub-Saharan nationals. According to the authorities, deportations increased by 14% compared to the previous year. These removals are carried out on a massive scale, without individual proceedings, often to desert areas or countries of origin, in violation of the principle of non-refoulement and the right to effective recourse¹³⁴ (ECHR, Art. 13; ICCPR, Art. 2-3). Migrants from Mauritania are not spared.

¹³³ <https://www.cnda.fr/Media/mediatheque-cnda/documents/rapport-geopolitique/rapport-de-mission-mauritanie-ofpra-cnda-2014-bassereso>

¹³⁴ Rapport de mission en République Islamique de Mauritanie, mars 2014 ; Abdoul Birane Wane ; Fatimata Mbaye ; Ibrahima Mactar Sarr : https://www.lemonde.fr/afrique/article/2025/03/26/tous-les-profils-sont-vises-pressee-par-l-union-europeenne-la-mauritanie-expulse-des-centaines-de-migrants_6586522_3212.html

A 2018 study by the International Organisation for Migration (IOM) of 1,341 people who arrived in Spain via the western Mediterranean revealed that nearly 48% had been victims of at least one form of exploitation, trafficking or abuse. Mauritanian nationals were among the most affected nationalities,¹³⁵ with a quarter of them reporting direct violence, including arbitrary detention, extortion, ill-treatment and forced labour, including when leaving Mauritania.

In 2024, Mauritania became the main point of departure for sea crossings to the Canary Islands, accounting for 54% of the 658 boats recorded. This geographical centrality is accompanied by increased cooperation with the European Union: a Joint Operational Partnership is signed with €4.55 million in funding, followed by a broader migration agreement totalling €210 million. These funds are intended to strengthen border controls and intensify deportations.

The consequences of this policy were felt immediately. In July 2024, a shipwreck off the coast of Nouakchott leaves at least 15 dead and more than 195 missing. At the same time, deportations are on the rise: 10,753 migrants were deported in 2024, corresponding to a 14% increase compared to 2023. In March 2025, hundreds of people were arrested and deported, while videos documented the use of tear gas against migrant women in Gogui, near the Malian border.

This repressive policy is accompanied by institutionalised corruption: in May 2025, 11 police officers are arrested for taking bribes to release migrants, revealing the security abuses fuelled by European funds. These practices include detention without legal basis, extortion, ill-treatment, violations of human dignity and state complicity, in a climate of total impunity.

These factors and practices are indicative of a climate of impunity and structural violence, in which state agents play an active or complicit role and are part of a racialised security control system, reinforced by the agreements signed with the European Union in 2024. European political and financial support lends legitimacy to repressive policies based on lawlessness, violence and humiliation. These policies reflect a strategy of deterrence through abuse, in direct contradiction with international human rights standards.

Detention, violence, deaths: the European grinding machine in France, Italy and Greece.

In **France, Italy and Greece**, Administrative Detention Centres (CRAs) and hotspots¹³⁶ are the scene of systematic violations of the fundamental rights of migrants,¹³⁷ particularly asylum seekers, minors and vulnerable persons.

In **France**, several reports by the **Controller-General for Places of Deprivation of Liberty (CGLPL)** and **specialised associations**¹³⁸ (La Cimade, Gisti, ANAFE) denounce:

- the withholding of information on the rights of detained persons,
- the detention of minors despite international recommendations,

¹³⁵ <https://publications.iom.int/books/migrant-vulnerability-human-trafficking-and-exploitation-evidence-central-and-eastern>

¹³⁶ https://www.borderline-europe.de/sites/default/files/projekte_files/SIZILIENBERICHT%20ENGLISCH.pdf

¹³⁷ Enfermer et expulser, la dérive sécuritaire de la politique migratoire en Italie : <https://ftdes.net/mar-giu/>

¹³⁸ <https://www.lacimade.org/wp-content/uploads/2024/05/Rapport-retention-annee-2023.pdf>

- repeated cases of police violence (including beatings and disproportionate of force),
- the lack of effective recourse against detention measures.

*"Foreign nationals placed in Administrative Detention Centres are too often unaware of the exact reasons for their detention and their rights."*¹³⁹ – CGLPL report, 2022

"The conditions in Lampedusa are inhumane. Children sleep on the floor, pregnant women have no access to healthcare, and people are treated as a flow to be managed, not as human beings." – Testimony from the NGO Mediterranea Saving Humans, August 2023.

"Foreign migrants awaiting deportation from Italy have been beaten with batons and given unprescribed psychotropic drugs¹⁴⁰ in some of the country's privately run migrant detention centres, European investigators have found. The Council of Europe on Friday urged Prime Minister Giorgia Meloni's government to take 'resolute measures' to remedy the 'serious and worrying' conditions observed during recent visits to four of the nine migrant detention centres operating in Italy, run by various private contractors."

Italy and France: inhumane conditions and deaths in detention

The case of **Wissem Ben Abdel Latif**, a 26-year-old Tunisian man,¹⁴¹ tragically embodies the brutality of European migration policies, where administrative detention leads to death. He died of a cardiac arrest on 28 November 2021 at San Camillo Hospital in Rome, having been transferred from the Ponte Galeria centre, where he was being held in administrative detention after transiting via Lampedusa and a quarantine ship. He is believed to have been restrained for more than **100 hours**; a nurse has been charged with manslaughter and falsification of documents. A hearing was held in an Italian court on 9 April 2025, at the end of which the verdict¹⁴² was postponed until 10 September 2025. A press release from the Truth and Justice for Wissem Committee¹⁴³ states the following:¹⁴⁴

"Wissem died with the State on top of him: the same State that has defined the necropolitics of immigration, which humiliates and too often leads to the death of those who land on our country's shores, the same State that perpetuates asylum practices such as restraint, transforming care into police custody. Wissem was reduced to a disposable body. His story, once again, highlights the urgent need to abolish CPRs and all borders, and to finally punish the unlawfulness of inhumane practices such as restraint."

¹³⁹ <https://www.cglpl.fr/publications/rapport-dactivite-2022>

¹⁴⁰ <https://www.ft.com/content/5e99498c-47e0-461e-8b4a-e0727c461ef6?>

¹⁴¹ <https://ftdes.net/justice-pour-wissem-ben-abdellatif-une-mort-suspecte-au-sein-des-systemes-daccueil-italiens/>

¹⁴² <https://www.mosaiquefm.net/fr/national-tunisie/1400383/italie-l-affaire-wissem-abdellatif-reportee>

¹⁴³ <https://ftdes.net/communique-justice-pour-wissem/>

¹⁴⁴ <https://asf.be/publication/justice-pour-wissem-ben-abdel-latif/>

In its December 2022 report,¹⁴⁵ the **European Committee for the Prevention of Torture (CPT)** describes alarming conditions in several centres (Milan, Potenza, Rome, etc.):¹⁴⁶ excessive use of psychotropic drugs without prescription, beatings, broken bones, lack of independent monitoring, forced over-medication, contamination in isolation, suicides and suicide attempts. In March 2024, 22-year-old **Ousmane Sylla** from Guinea committed suicide at the Ponte Galeria CPR.¹⁴⁷ Italian senators have denounced the degrading conditions at this centre, which they are demanding be closed.

"In recent days, six other migrants have attempted suicide in the same centre,"¹⁴⁸ said Marco Stufano, head of the Rome Prefect's Office, on 9 March 2024. One remained in hospital, two were returned to the centre and three were transferred to other facilities, as their conditions of detention were deemed 'incompatible' with detention at Ponte Galeria," he said.

The Italian "hotspots" in Lampedusa, Pozzallo, Taranto and Trapani, managed with the support of the European Union Agency for Asylum (formerly EASO), function as de facto detention centres, imposing automated screenings without any real individual procedure. This system hinders access to asylum, the right to an effective recourse or an assessment of protection needs.

These practices, documented by NGOs¹⁴⁹ and specialised lawyers, highlight the direct responsibility of the European Union and its agencies in implementing a European system of sorting, detention and exclusion, in clear contradiction with the principles of the right to asylum, fundamental procedural guarantees (Articles 3 and 13 of the ECHR; Articles 18 and 24 of the Charter of Fundamental Rights of the European Union), and the absolute prohibition of inhuman treatment (Article 7 ICCPR, Article 3 ECHR).

In France, Administrative Detention Centres (CRA), whether located in mainland France or overseas territories, are a central link in the immigration detention system. Every year, tens of thousands of people are detained there solely on the basis of their administrative status, without having committed any criminal offence. According to the **Global Detention Project**,¹⁵⁰ France detains tens of thousands of people annually in a network of administrative centres (CDA, CRA), some of which are overseas. In 2021, nearly 43,000 people were detained in these centres, with more than half held in overseas territories. The network has been described as 'inhumane' by the national body responsible for monitoring places of deprivation of liberty due to the poor quality of facilities, the lack of care and the extension of the maximum period of detention from 45 to 90 days in 2018.

In 2022, the country's independent detention monitoring agency described the French detention system as "inhumane", highlighting the decaying facilities, limited health protocols and prolonged periods of detention.

¹⁴⁵ <https://rm.coe.int/32nd-general-report-of-the-cpt-1-january-31-december-2022-/1680aabe2b>

¹⁴⁶ <https://apnews.com/article/italy-council-of-europe-migration-centers-albania-detainees-violence-0dba82e1f333c60b3bc49a0894970e9d>

¹⁴⁷ <https://cild.eu/blog/2024/02/05/lennesima-morte-in-un-cpr/>

¹⁴⁸ <https://apnews.com/article/migration-italy-repatriation-515de0feeea68cc981a24d589d8954a9?>

¹⁴⁹ <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>

¹⁵⁰ <https://www.globaldetentionproject.org/countries/europe/france>

Between 2020 and 2022, **107 people**¹⁵¹ died in France in police custody or during police operations, according to NGO compilations: deaths in a climate of secrecy, virtually non-existent investigations, and several victims who were migrants or vulnerable.

Gunshot wounds inflicted by police are the leading cause of death in police custody or during police operations. Data provided by some countries on the causes of these deaths show that, between 2020 and 2022, more than one in three deaths was linked to gunshot wounds. At least 98 people died from gunshots and 10 others died by suicide¹⁵². Of those 98 deaths, **41 occurred in France** and 27 in Germany.¹⁵³

The evidence presented in this section demonstrates, in a rigorous and irrefutable manner, the existence of a transnational system of arbitrary detention, torture, and cruel, inhuman, or degrading treatment, targeting mainly migrants in the Maghreb, France, Italy, and the European Union's externalised systems. These practices are far from being isolated incidents; they are part of a deliberate, planned policy adopted by the relevant states as part of migration deterrence strategies implemented under the guise of border management.

The systematic resort to detention, the lack of transparency surrounding detention centres, the denial of effective recourse, the lack of access to a lawyer, police violence, unpunished sexual assaults, deaths in detention, the detention of children and vulnerable women, and the active or passive complicity of European agencies (such as Frontex and the EUAA) constitute serious violations of international law.

These practices violate namely:

- Article 7 of the ICCPR (absolute prohibition of torture),
- Articles 3 and 5 of the European Convention on Human Rights (prohibition of inhuman treatment, right to liberty),
- the Convention against Torture (CAT),
- the International Convention on the Protection of the Rights of All Migrant Workers,
- and, for minors, the Convention on the Rights of the Child.

They also breach the right to asylum, the prohibition of arbitrary detention (Article 9 ICCPR), the principle of non-refoulement (Article 33 of the Geneva Convention), and the minimum procedural guarantees of international law.

¹⁵¹ <https://www.europeandatajournalism.eu/deaths-in-custody-and-police-operations-2024/>

¹⁵² https://voxeurop.eu/en/deaths-police-operations-europe/?utm_source

¹⁵³ ¹⁵³ <https://civio.es/justicia/2024/10/30/most-european-countries-do-not-meet-un-criteria-for-investigating-deaths-in-police-custody/>

We accuse the Maghreb states, France, Italy, as well as the European Union and its agencies, of having established, supported, financed or tolerated a system of deprivation of liberty and targeted mistreatment of migrants, as part of a systemic strategy of deterrence through suffering. This institutionalised and transnational system could amount to crimes under international law, including crimes against humanity within the scope of Article 7 of the Rome Statute, namely imprisonment or any other form of severe deprivation of physical liberty in violation of fundamental rules of international law, torture, persecution, or inhumane acts intentionally causing great suffering or serious harm to physical or mental health.

This system can no longer be tolerated. It must be dismantled. Those responsible, whether they are direct perpetrators, instigators or institutional accomplices, must be identified, tried and their actions classified according to the seriousness of the violations committed.

4. Racial, ethnic and systematic discrimination, and racist criminalisation of migration

Racial, ethnic or national origin discrimination constitutes a serious violation of fundamental rights guaranteed by international law. It refers to any differential, systemic or institutionalised treatment, without objective and reasonable justification, based on race, colour, descent, national or ethnic origin, resulting in restrictions on access to rights, freedoms and dignity. When systematic and institutionalised, such discrimination may constitute inhuman or degrading treatment within the meaning of international human rights law (Articles 3 ECHR, 7 ICCPR). In certain extreme cases, particularly when discriminatory acts are widespread, directed against a specific population and supported by a state or organisation's policy, they may constitute a crime against humanity (Article 7 Rome Statute), under the heading of persecution or apartheid.

We accuse several states – **Tunisia, Morocco, Algeria, Mauritania, Libya, France, Spain, Italy and Greece** – of having:

- adopted deliberate policies of racial discrimination against sub-Saharan migrants and black citizens;
- perpetrated acts of targeted violence, collective expulsions, arbitrary detentions and humanitarian abandonment;
- violated international standards of non-discrimination, prohibition of persecution (universal justice, jus cogens) and protection against inhuman treatment.

We also accuse the **European Union**, as an institution, and its specialised agencies – Frontex, the European Union Agency for Asylum (EUAA, formerly EASO), and the European Commission – of actively contributing to the perpetuation and institutionalisation of discriminatory policies against migrants of sub-Saharan origin¹⁵⁴ in the Euro-Mediterranean region.

- **Frontex** is accused of providing logistical, operational and technological support (aerial reconnaissance, equipment, surveillance data) to security forces – notably in

¹⁵⁴ https://www.lemonde.fr/international/article/2024/05/21/comment-des-milliers-de-migrants-ont-ete-abandonnes-en-plein-desert-avec-le-soutien-de-l-europe_6234482_3210.html

Libya, Tunisia, Morocco and Mauritania – whose discriminatory and violent practices towards black migrants are widely documented. Frontex has never suspended its missions or made its cooperation conditional on guarantees of respect for fundamental rights, despite numerous warnings from international organisations and United Nations experts. It thus participates in a system of racial screening upstream of European borders, in which black people are particularly targeted, arrested and refouled.

- **The EUAA (formerly EASO)**, responsible for managing asylum procedures in several Member States and partner countries, is accused of implementing or supporting discriminatory and accelerated screening procedures, particularly in hotspots in Italy and Greece, which draw implicit distinctions based on nationality or ethnic origin. Asylum seekers from sub-Saharan Africa are frequently excluded from protection channels, detained or returned without effective access to appeal.

- **The European Commission** is accused of initiating, signing or supporting, on behalf of the Union, several memoranda and bilateral agreements on migration cooperation (notably with Tunisia, Mauritania and Morocco), without requiring binding clauses on the respect of fundamental rights. By providing financial and political support to partners who openly practise racial policies, the Commission is making the EU liable as an institutional accomplice. It has also ignored repeated warnings from UN bodies and NGOs as well as victim-substantiated denunciations about the systematic racialisation of migration control practices.

Consequently, we accuse the European Union, via its agencies and institutions, of having established a system of outsourced migration governance based on a racialised logic of sorting, expulsion and non-assistance, in direct violation of the principle of non-discrimination, the right to equality, and the absolute prohibitions of persecution, arbitrariness and inhuman treatment.

The discriminatory policies and practices documented in the accused states, as well as the institutional complicity of the European Union, constitute serious violations of international, regional and national standards relating to the prohibition of racial discrimination, protection against inhuman treatment, and respect for the fundamental rights of all persons, regardless of their origin.

Under international law, these acts directly violate the provisions of the **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**, which has been ratified by all the states concerned. This convention compels every state to condemn all forms of discrimination based on race, colour, descent or ethnic origin, and to adopt effective policies to ensure its elimination. The systematic and institutionalised nature of the discrimination we document – notably through arrests based on racial profiling, stigmatising political rhetoric, collective racialised deportations and differential treatment in access to rights – constitutes a serious violation of these commitments.

These practices also contravene the **International Covenant on Civil and Political Rights (ICCPR)**, which enshrines the right to equality before the law and prohibits all forms of arbitrary or racially based discrimination. The use of arbitrary detention on racial grounds, the

lack of effective recourse, and the inhuman treatment inflicted on migrants because of their origin or skin colour contravene the fundamental articles of this Covenant, in particular Articles 7, 9 and 26.

At the regional level, the **European Convention on Human Rights (ECHR)** prohibits any inhuman or degrading treatment (Article 3), any arbitrary deprivation of liberty (Article 5), and any form of discrimination in the exercise of guaranteed rights (Article 14). **Protocol No. 12** further reinforces this prohibition by establishing a general principle of non-discrimination. When it is systemic, discriminatory treatment based on race or origin may also qualify as **persecution** within the terms of Article 7 of the **Rome Statute of the International Criminal Court**, provided that it targets a specific population as part of a state or institutional policy.

With regard to the European Union, the actions of its institutions and agencies clearly violate the **Charter of Fundamental Rights of the European Union**, which guarantees equality (Article 20), prohibits discrimination based on race or ethnic origin (Article 21), and requires respect for human dignity (Article 1). By supporting, financing or facilitating discriminatory migration policies in third countries or at its own borders, the EU and its agencies are participating in a system of racial segregation that is contrary to the founding principles of EU law.

On the African continent, the violations observed against black migrants in Tunisia, Morocco, Algeria, Mauritania and Libya are in direct opposition to the principles of the **African Charter on Human and Peoples' Rights**, which proclaims equality before the law (Articles 2 and 3) and human dignity (Article 5), without distinction based on racial or national origin.

Finally, several of the states concerned are in breach of their **national commitments**. In Tunisia, for example, **Organic Law No. 2018-50** explicitly prohibits racial discrimination and requires the authorities to protect victims and punish perpetrators. However, it is not enforced, while targeted arrests, collective expulsions of black people and widespread impunity demonstrate a clear violation of this legislation. In France, the Penal Code punishes racial discrimination, but widespread racial profiling and targeted police violence demonstrate a lack of real will to put an end to such discrimination. In other countries, such as Algeria and Mauritania, the very absence of appropriate anti-discrimination legislation constitutes a violation of positive international obligations of prevention and protection.

Thus, the facts presented in this section demonstrate a widespread and tolerated system of institutional racial discrimination against black or sub-Saharan migrants, based on an implicit hierarchy of lives, in flagrant contradiction with the principles of dignity, equality and justice that underpin the international legal order.

Tunisia: overt, institutionalised state racism directed against black migrants

In Tunisia, President Kaïs Saïed's remarks on 21 February 2023 calling for putting an end to the "hordes of illegal migrants"¹⁵⁵ marked a major xenophobic turning point.

In his speech, the president described sub-Saharan migrants as a source of "violence, crime and unacceptable acts" while alluding to theories of a so-called "great replacement"¹⁵⁶ (an

¹⁵⁵ <https://www.slate.fr/story/242093/racisme-anti-noirs-afrique-tunisie-kais-saied-renoue-negrophobie-violences-migrants-histoire>

¹⁵⁶ <https://www.washingtonpost.com/world/2023/06/30/tunisia-migration-great-replacement/>

adaptation of racist theories that claim that white European populations are being replaced by Muslim foreigners).

By accusing sub-Saharan migrants of participating in an alleged “demographic replacement plot”,¹⁵⁷ the Tunisian head of state gave institutional backing to far-right racist theories, triggering a wave of physical violence, evictions, unfair dismissals and street harassment exclusively aimed at black people. The Tunisian authorities not only failed to prevent these attacks, they actively contributed to them through a systematic repression targeting sub-Saharan people:¹⁵⁸ raids based on physical appearance, arbitrary arrests, collective expulsions to desert areas (“desert dumping”¹⁵⁹ operations, where the Tunisian state, with the tacit or explicit support of the EU, abandoned black migrants in arid areas without water, food or assistance), widespread racist violence and the almost total absence of legal proceedings against the perpetrators of violence.

In parallel, a campaign¹⁶⁰ orchestrated by a Tunisian nationalist party was launched with the aim of expelling sub-Saharan Africans from their homes and repealing Law No. 2018-50 on combating racial discrimination. This campaign left many sub-Saharan Africans homeless, as many of them were unable to find landlords willing to rent them accommodation due to social stigma.

These practices are part of a broader context of institutional inaction in the face of racism, despite the adoption of Organic Law No. 2018-50 against racial discrimination. Mechanisms for filing complaints are inadequate, victims are often criminalised, and the law remains largely unenforced, particularly with regard to migrants, refugees and undocumented persons. This systemic failure to provide protection reflects the state's tolerance of racism and constitutes differential treatment based on skin colour or origin, which is incompatible with the obligation to guarantee equality without discrimination.

Furthermore, systemic violations of the economic, social and cultural rights¹⁶¹ of sub-Saharan migrants¹⁶² are evidence of a system of systemic and institutionalised discrimination. Access to work is restricted by exclusionary legislation, pushing people into informal employment and

¹⁵⁷ <https://information.tv5monde.com/afrique/tunisie-propos-racistes-et-theorie-du-grand-remplacement-kais-saied-accable-les-migrants>

¹⁵⁸ Special Procedures, Letter of Allegation Ref: AL TUN 3/2023
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27935>

¹⁵⁹ <https://www.lighthousereports.com/investigation/desert-dumps/>

¹⁶⁰ <https://nawaat.org/2023/02/14/parti-nationaliste-tunisien-racisme-autorise-par-letat/>

¹⁶¹ <https://ftdes.net/resultats-preliminaires-dune-etude-de-terrain-sur-la-situation-des-migrants-en-tunisie/#:~:text=Une%20fois%20arriv%C3%A9es%20en%20Tunisie,personnes%20interrog%C3%A9es%20sont%20sans%20emploi.>

¹⁶² MIGRANTS SUBSAHARIENS EN TUNISIE : PROFILS, VECU ET DÉRIVES DES POLITIQUES MIGRATOIRES Enquête de terrain du FTDES – 2024 :
https://al-forum.org/fr/sub-saharan-migrants-in-tunisia-profiles-experiences-and-deviations-of-migration-policies-ask-chatgpt/?fbclid=IwQ0xDSwL4MXpleHRuA2FlbQlXMQABHrPgCTE_Ni6jNsDucxa2q7JC49UqcMVbRM5sQ5RSkBFF_baR6hq9BwG3o4MW_aem_VM_OJ4ISrnf0zSOl3DoNvg

exploitation.¹⁶³ This exposes them to risks of abuse, including human trafficking, criminalisation, forced internal displacement and deportation to border areas with Libya and Algeria. As a result, migrant workers, particularly those from sub-Saharan Africa, are often exposed to inhumane working conditions, with no adequate legal framework to protect them. Due to the lack of appropriate laws, these migrants are frequently exploited in sectors such as construction, agriculture and domestic services. Migrants are often at the mercy of their employers, finding themselves in abusive work situations without access to effective legal remedies.

Although Tunisia is a signatory to the Palermo Protocol and has adopted specific legislation – notably Organic Law No. 2016-61 on combating human trafficking (Law 2016-61 of 3 August 2016 on preventing and combating human trafficking) and Law No. 2021-37 on domestic work – the measures put in place remain largely insufficient in the face of the contemporary realities of exploitation and migration.

The 2016 law provides for an integrated approach to prevention, protection, prosecution and coordination, and has led to the creation of a national anti-trafficking body. The 2021 law prohibits, among other things, the exploitation of domestic workers and the withholding of their documents, and provides for inspection mechanisms.

However, the legal framework remains inadequate and obsolete, dating back to the 1960s, and is unable to respond to the current forms of exploitation suffered by migrants, particularly those in an irregular situation. This is compounded by limited public resources, poor implementation of existing laws, a lack of training for those working in the field, and largely ineffective reporting mechanisms. This context fosters impunity for perpetrators and fear among victims, who often refrain from reporting abuse for fear of being detained or deported.

Migrant women, who are particularly vulnerable, suffer sexual violence,¹⁶⁴ abandonment in desert areas and virtually no access to healthcare.

“Reports continue to raise concerns about excessive use of force during forced displacement and interceptions at sea, torture and ill-treatment of persons abandoned in desert buffer zones, enforced disappearances, and separation of families. In addition to the use of violence against migrants, refugees and asylum seekers, including the use of firearms, verbal abuse and acts intended to humiliate them have also been reported, including forced nudity and threats of rape. Since the beginning of 2024, sexual violence has also been documented in the border areas with Algeria and Libya, such as systematic gang rapes,¹⁶⁵ including of girls aged 10 to 14 years old.” (Letter of allegation 6/2024 sent on 1 October 2024 to the Tunisian authorities by various Special Procedures mandates, including the Special Rapporteur on trafficking in persons, especially women and children, on the situation of people on the move in Tunisia.)

¹⁶³ https://www.terre-asile-tunisie.org/images/Lacc%C3%A8s_au_travail_des_migrants_en_Tunisie_-_Terre_dAsile_Tunisie.pdf

¹⁶⁴ <https://www.infomigrants.net/fr/post/63280/en-tunisie-le-risque-dagression-sexuelle-est-omnipresent-pour-les-femmes-migrante>

¹⁶⁵ Lettre d'allégation 6/2024 : <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=29320>

An investigation by *The Guardian*¹⁶⁶ reveals that EU money is being used to fund police officers involved in shocking abuses, leaving people to die in the desert and collaborating with smugglers.

Access to healthcare is hampered by administrative, linguistic and economic barriers, as well as discriminatory practices, including towards people living with HIV. However, according to Article 1 of Law No. 92-71 of 27 July 1992 on communicable diseases, "no one may be subjected to discriminatory measures in the prevention or treatment of a communicable disease".

Despite the recognition of the right to health as a fundamental right in the Tunisian Constitution of 2022, its effectiveness remains unevenly guaranteed, particularly for migrants. While the principle of non-discrimination is enshrined in Law No. 92, there is no provision that explicitly guarantees universal and effective access to healthcare, regardless of administrative status.

Numerous reports from civil society organisations have documented the obstacles faced by migrants in accessing health and basic services:¹⁶⁷ financial obstacles (prohibitive cost of consultations or treatment, lack of insurance or social security coverage), administrative obstacles (documentation required for treatment), language barriers, transport difficulties, lack of awareness of available services and, in some cases, discriminatory behaviour on the part of healthcare staff. These structural barriers contribute to excluding a significant proportion of migrants, particularly those in an irregular situation, from any access to preventive or treatment-based healthcare.

At the same time, Article 10 of Law No. 32-2024 on medical liability requires the implementation of measures to ensure accessibility for persons with disabilities in healthcare institutions. However, the lack of official data on their effective inclusion, particularly in the areas of health, education and employment, reveals a persistent lack of monitoring and commitment on the part of the state. Legal protections remain general and ineffective due to a lack of concrete structural reforms and targeted enforcement mechanisms.

Education remains unevenly accessible to children from migrant families, with racist behaviour such as refusal to enrol or discrimination in schools. Several cases have been documented.¹⁶⁸ Mass evictions from housing, violence at sea, and deprivation of healthcare and food in border areas constitute inhumane and discriminatory treatment, tolerated or orchestrated by the Tunisian state. On several occasions over the past year and a half (2023-2024), UN bodies, including the CERD Committee, have responded to the situation in Tunisia, calling on the Tunisian authorities to take urgent action. This climate of repression and human rights violations prevents the effective implementation of economic, social and cultural rights, in violation of the principle of non-discrimination enshrined in Article 2.2 of the International Covenant on Economic, Social and Cultural Rights, particularly against minority groups and migrants.

¹⁶⁶ <https://www.theguardian.com/global-development/2024/sep/19/italy-migrant-reduction-investigation-rape-killing-tunisia-eu-money-keir-starmer-security-forces-smugglers>

¹⁶⁷

https://medecinsdumonde.be/system/files/publications/downloads/MdM%20rapport_enquete%20Migrant_FA_JUIN_2019_DEF_LOWRES_FR.pdf

¹⁶⁸ https://mixedmigration.org/wp-content/uploads/2021/07/MMC_Save-the-Children_Tunisia_FR.pdf

*"We have received shocking reports detailing dangerous manoeuvres during the interception of migrants, refugees and asylum seekers at sea; physical violence, including beatings and threats to use firearms; the removal of engines and fuel; and the capsizing of boats," the experts said.*¹⁶⁹

Although Tunisia is a signatory to the 1951 Geneva Convention and its 1967 Protocol, it has never adopted national legislation to regulate asylum. Article 26 of the 2022 Constitution recognises the right to asylum and the principle of non-refoulement, but in practice, refugee protection relies solely on the UNHCR, which has been active in the country since 1957. In the absence of an effective legal framework, the rights of registered persons remain precarious.

In June 2024, Tunisian authorities suspended the asylum procedures managed by the UNHCR and cracked down on partner NGOs¹⁷⁰ such as the CTR¹⁷¹ (Tunisian Refugee Council), resulting in the collapse of the protection system. Even prior to this, the existing mechanisms did not guarantee access to rights or protection against arrest or expulsion.

Since July 2023, the Tunisian authorities have systematically committed a series of serious violations against migrants, particularly those from sub-Saharan Africa, whether they are in transit or residents. These violations¹⁷² include: arbitrary arrests and detentions, forced internal displacement (deportations), collective expulsions to desert and militarised border areas,¹⁷³ physical and psychological violence, excessive use of force, acts of torture and inhuman treatment, as well as brutality during interceptions taking place at sea¹⁷⁴ and during so-called search and rescue operations.

In this regard, the Committee on the Elimination of Racial Discrimination, at its 115th session, adopted a letter addressed to Tunisia¹⁷⁵ in which it expressed its "serious concern" as part of its early warning and emergency intervention procedure concerning the situation of migrants, refugees and asylum seekers from sub-Saharan African countries in Tunisia. The Committee also recalled its previous concluding observations¹⁷⁶ on Tunisia (CERD/C/TUN/CO/19, paras. 14 and 15) and its general recommendation No. 30 (2005)¹⁷⁷ on discrimination against non-

¹⁶⁹ https://www.ohchr.org/en/press-releases/2024/10/tunisia-un-experts-concerned-over-safety-migrants-refugees-and-victims?fbclid=IwZXh0bgNhZW0CMTEAAR010h6r9STFay5ylx4Lo7E1KWRwqXNORwP2UUvHOSjiastl7C8KrNUZF0o_aem_uen7mraeCl5x-yq_CZrAtg

¹⁷⁰ <https://www.infomigrants.net/bn/post/60868/en-tunisie-les-procedures-de-demande-dasile-suspendues-jusqua-nouvel-ordre>

¹⁷¹ <https://www.amnesty.org/fr/documents/mde30/9312/2025/fr/>

¹⁷² <https://omct-tunisie.org/wp-content/uploads/2024/05/Migration-et-torture-Pages-FR-OMCT.pdf>

¹⁷³ OHCR Special Procedures, Letter of Allegation Ref: AL TUN 5/2023

¹⁷⁴ <https://irpimedia.irpi.eu/en-the-responsibilities-of-tunisias-garde-nationale-in-the-shipwreck-of-april-5th-2024/>

¹⁷⁵ <https://www.ohchr.org/sites/default/files/documents/hrbodies/cerd/earlywarning/letters/cerd-ewuap-letter-115-tunisia-fr.pdf>

¹⁷⁶ <https://docs.un.org/CERD/C/TUN/CO/19>

¹⁷⁷

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FGEC%2F7502&Lang=en

citizens. In addition, the Committee refers to its statement¹⁷⁸ 1 (2023) and its letters of 7 June¹⁷⁹ and 23 August¹⁸⁰ 2024.

All of these practices, tolerated or even organised by the Tunisian authorities, demonstrate a clear refusal to guarantee the fundamental right to protection, in violation of international refugee law, human rights and the principle of non-discrimination. This deliberate policy of legal abandonment and hostility towards migrants is part of a pattern of structural state racism, reinforced by the silent complicity of international partners.

Based on racialised and discriminatory management of migrants, this policy is deliberately supported, institutionalised and financed by the European Union through its Euro-Mediterranean cooperation instruments, making it a direct accomplice to the massive and systematic violations of fundamental rights committed in Tunisia.

Morocco: Racial discrimination and targeted criminalisation of sub-Saharan migrants

In Morocco, migration policies towards sub-Saharan migrants are part of a pattern of racial discrimination, institutional violence and systematic criminalisation, largely supported by the European Union's cooperation instruments. This strategy is based on the targeted repression of black migrants,¹⁸¹ who are considered a security threat, treated as a population to be monitored, contained or expelled, and regularly denied access to fundamental rights.

Firstly, mass arrests, discriminatory raids and forced displacement to the south of the country illustrate this racist criminalisation. Since 2018, the practice of forced displacement – which consists of apprehending migrants in large cities (Rabat, Casablanca, Tangier, Nador) and relocating them, often without legal basis, to remote areas (Tiznit, Errachidia, Ouarzazate) – has been denounced as a coercive measure of racist nature. These practices target almost exclusively sub-Saharan Africans, without any clear legal basis or respect for procedures.¹⁸²

In September 2024, the town of Fnideq, located on the border with the Spanish enclave of Ceuta, was the scene of a spontaneous mobilisation bringing together around 3,000 young people, mainly Moroccans, who responded to calls on TikTok and other social networks to cross the border collectively. This movement, described by several observers as a form of "call to hrig" — a vernacular term for illegal migration — is a desperate expression of socio-economic neglect, territorial exclusion and blocked prospects.

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https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSWA%2FTUN%2F9716&Lang=en

¹⁷⁹

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FALE%2FTUN%2F10000&Lang=en

¹⁸⁰

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FALE%2FTUN%2F10042&Lang=en

¹⁸¹ <https://www.infomigrants.net/en/post/46150/violence-during-morocco-migrant-camp-clearance>

¹⁸² International Convention on the Elimination of All Forms of Racial Discrimination
<https://docs.un.org/en/CERD/C/MAR/CO/19-21>

The response of the Moroccan authorities was blatantly brutal. Massive security measures were deployed:¹⁸³ drone surveillance, police roadblocks, special intervention units. Beaches were cordoned off, tear gas was used, young people were chased, beaten, arrested and, for the most part, dispersed. Minors were locked up in centres in Martil, while other migrants were sent back to their cities of origin by bus. Several activists report that some people were arrested¹⁸⁴ in neighbouring cities before they even reached Fnideq, without any legal basis or judicial procedure.

The crackdown did not only target the participants, but also sent a collective message: a message from an excluded youth claiming their right to leave. Far from being a response to maintain order, this state intervention aimed to deter, punish and break up any form of organisation or protest.

Amnesty International reveals that the Guardia Civil fought a violent battle:¹⁸⁵ firing tear gas, rubber bullets, smoke bombs and using sting grenades. These tactics not only discouraged migrants, but also contributed directly to deaths and serious injuries by pushing them back towards the fence, into dangerous areas where there was no medical assistance. The Spanish state denied the Red Crescent access to the injured and left many suffering people without care for hours,¹⁸⁶ even inside the enclave. This deliberate denial of care constitutes a serious violation of human rights obligations. The Spanish authorities carried out at least 470 immediate collective returns to Morocco, without allowing people access to asylum procedures,¹⁸⁷ a practice that is illegal under European and international law. Some of these deported migrants were then assaulted or abandoned far from the border, without assistance. Six months after the incident, neither Spain nor Morocco carried out independent investigations. In Spain, the public prosecutor closed the case at the end of 2022, exonerating the Guardia Civil of any responsibility. Amnesty explicitly notes a concerted cover-up,¹⁸⁸ at a time when images show dead and injured people on Spanish-controlled territory.

The Spanish state was not a mere observer of the tragic events that took place in Melilla on 24 June 2022: it was a central player. Spanish security forces actively participated in the violent repression alongside Moroccan authorities, using tear gas and rubber bullets against unarmed people. Access to humanitarian aid was denied, leaving the wounded without care for hours. Worse still, Spain carried out illegal collective expulsions, without respecting asylum procedures or the fundamental rights of those concerned. Lastly, it denied any independent investigation, seeking to cover up the truth rather than bring justice to the victims. This responsibility cannot be obfuscated: it binds the Spanish state in the same way as its Moroccan partner.

¹⁸³ <https://enass.ma/haragas-recit-dun-assaut-desespere/>

¹⁸⁴ <https://www.rfi.fr/fr/podcasts/reportage-afrique/20241013-maroc-%C3%A0-fnideq-la-jeunesse-marocaine-d%C3%A9sesp%C3%A9r%C3%A9-tente-de-rejoindre-ceuta-%C3%A0-la-nage>

¹⁸⁵ <https://www.theguardian.com/world/2022/dec/13/report-melilla-deaths-criticises-widespread-unlawful-force-morocco-spain>

¹⁸⁶ <https://www.amnesty.org/en/documents/mde29/6249/2022/en/>

¹⁸⁷ <https://www.infomigrants.net/fr/post/45389/amnesty-accuses-morocco-and-spain-of-using-unlawful-and-lethal-force-at-melilla-border>

¹⁸⁸ <https://www.amnesty.org/en/latest/news/2022/12/morocco-spain-stalled-and-inadequate-inquiries-smack-of-cover-up-six-months-after-37-deaths-at-melilla-border/>

The resulting prosecutions reveal a clear desire to criminalise such activities: 152 people were prosecuted for "inciting illegal immigration"¹⁸⁹ and "spreading false information". Another 60 people were arrested between 9 and 11 September simply for sharing migration-related content on social media. Summary trials were conducted in a non-transparent manner, without sufficient access to case files, without effective defence, and without respect of the principle of individualisation of sentences. Minors were tried without specific protection, in violation of Morocco's international commitments, namely the Convention on the Rights of the Child. Extrajudicial detentions took place in informal structures, outside of any judicial control.

In addition, teams from several NGOs, including Lawyers Without Borders (ASF), faced a series of structural obstacles: restricted access to detainees, lack of information, and direct pressure from local authorities to hinder their work and prevent any outside visibility of the ongoing violations.

Not only does this case demonstrate the criminalisation of migrants, but also of their aspirations, their speech, and their informal coordination¹⁹⁰ on social media. It reveals a state strategy based on fear, isolation, and territorial confinement of Moroccan and migrant youth. It also highlights the role of the European Union and Spain, Morocco's security partners in controlling the Ceuta border, who fuel this repressive logic through their externalisation policies.

By treating social networks as instruments of "migratory subversion" and their users as criminals, the Moroccan state is seriously violating: the right to freedom of expression, the right not to be arbitrarily detained, the right to a fair trial, specific procedural guarantees for minors, and, more broadly, the principles of non-discrimination, human dignity, and protection against inhuman or degrading treatment.

Furthermore, the Melilla tragedy of 24 June 2022¹⁹¹ marked the culmination of this racial and security policy. On that day, at least 37 people, mostly from Sudan and Chad, died near the fence separating Melilla from Morocco, in a context of extreme repression. Numerous eyewitness accounts,¹⁹² videos and NGO reports detailed the excessive use of force, the beating of people already on the ground, and the failure to assist the wounded. The Moroccan authorities carried out mass arrests and prosecuted the survivors, accusing them of "participating in a criminal gang", without any independent investigation into the police violence. This punitive treatment illustrates the systematic criminalisation of black migrants, who are perceived as potential criminals and are deprived of any effective recourse.

The European Union, the Commission and Frontex bear direct responsibility for consolidating this system. Morocco is one of the main beneficiaries of Euro-Mediterranean cooperation on migration, receiving substantial funds from the Emergency Trust Fund for Africa and other bilateral programmes. These funds, which are not conditional on respect for human rights, have made it possible to reinforce the repressive capacities of the Moroccan forces (training, equipment, surveillance), without democratic control or legal guarantees.

Although Frontex is not physically present on Moroccan soil, it cooperates closely with the Moroccan authorities in efforts to combat "irregular migration" by sharing data and surveillance

¹⁸⁹ https://www.lemonde.fr/afrique/article/2024/09/20/au-maroc-plus-de-150-personnes-poursuivies-pour-incitation-a-l-immigration-clandestine_6325466_3212.html

¹⁹⁰ <https://www.ritimo.org/A-Fnideq-les-jeunes-Marocains-se-fracassent-sur-la-frontiere-de-l-Europe>

¹⁹¹ <https://issafrica.org/iss-today/migrants-at-the-mercy-of-moroccos-iron-fist>

¹⁹² <https://enass.ma/hawwa-ou-la-violence-aux-frontieres-au-feminin/>
<https://enass.ma/les-cicatrices-du-drame-de-nador-melilla/>

technologies and coordinating certain deterrence operations. This cooperation, which is non-transparent and not governed by mechanisms to ensure respect for fundamental rights, contributes to the consolidation of a racialised system of migration control at Europe's southern borders.

The facts documented in Morocco reveal massive and systematic violations¹⁹³ of all national, regional and international human rights standards. At the national level, practices of racial discrimination, arbitrary detention, police violence, abusive prosecution and repression of expression violate several fundamental provisions of the 2011 Moroccan Constitution, in particular Articles 19, 20, 22, 24 and 29, which guarantee equality, dignity, physical integrity, freedom of expression and freedom of movement. These violations are compounded by the failure to respect the procedural guarantees provided for in the Penal Code and the Child Protection Act, particularly during the arrests of minors in Fnideq.

At the regional level, repressive actions against sub-Saharan migrants and Moroccan youth in precarious situations violate several provisions of the African Charter on Human and Peoples' Rights, in particular Article 2 (non-discrimination), Article 5 (prohibition of torture and inhuman treatment), Article 6 (protection against arbitrary detention), Article 7 (right to a fair trial) and Article 9 (freedom of expression).

In terms of international law, the violations observed are in direct conflict with Morocco's obligations under the International Covenant on Civil and Political Rights (ICCPR) — in particular Articles 7, 9, 14, 19 and 26 — as well as under the Convention on the Rights of the Child (Articles 37 and 40), which imposes strict safeguards in relation to juvenile justice. The criminalisation of social media discourse on migration constitutes a clear violation of freedom of expression and the right not to be prosecuted for one's opinions. Furthermore, the specific targeting of black or sub-Saharan individuals on the basis of their ethnic origin or migration status constitutes a flagrant violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Finally, these practices violate several fundamental principles of customary international law, particularly the principle of non-discrimination, the absolute prohibition of torture and inhuman or degrading treatment, and the fundamental right of every person to leave any country, including their own.

All of these violations are particularly egregious given that they are part of a structural partnership with the European Union, whose migration policies, security funding and technical cooperation with Moroccan forces directly contribute to the consolidation of a racialised control system, without any framework of accountability or requirement to respect human rights.

Ultimately, systemic discrimination and the racist criminalisation of sub-Saharan migrants in Morocco, actively supported by the European Union, constitute serious violations of fundamental rights. They reflect a deliberate political will to deter, racially select and manage migrants through security measures, at the expense of the dignity and rights of the individuals concerned.

Algeria: Racial discrimination, targeted violence and criminalisation of sub-Saharan migrants

¹⁹³ <https://www.asgi.it/wp-content/uploads/2025/04/ENGL-Medea-Solroutes-report.pdf>

In Algeria, migration policies towards sub-Saharan Africans are based on racialisation, repression and systemic exclusion. Black people are targeted solely on the basis of their appearance and are regularly deprived of any effective protection, in a climate of impunity fostered by the authorities. This policy, which is largely encouraged by European Union cooperation instruments, is part of a racialised border control system,¹⁹⁴ financed without any binding conditions in terms of respect for human rights.

¹⁹⁵Under the guise of anti-discrimination legislation, Algerian domestic law paradoxically serves to reinforce this policy of exclusion. Law No. 20-05 of 10 June 2020 on combating discrimination and hate speech has never been used to punish xenophobic remarks or violence against sub-Saharan migrants. Conversely, this law has been used for repressive purposes, especially to prosecute human rights activists who denounce structural racism. This selective application betrays a total lack of political will to curb xenophobia,¹⁹⁶ in flagrant contradiction with Algeria's international commitments, particularly under the International Convention on the Elimination of All Forms of Racial Discrimination.

In practice, the violations are widespread, systematic and well documented. Since 2023, the authorities have been conducting round-up campaigns in major cities in the north¹⁹⁷ (Algiers, Oran, Blida, Tlemcen), exclusively targeting black people, without legal basis or respect for procedural rights. Those arrested – including women, children and individuals with legal status – are detained or forcibly transferred to the south, before being collectively deported¹⁹⁸ to Niger or Mali.

A prime example is the expulsion convoys from Tamanrasset and Djanet to the Niger border, documented by MSF and Alarm Phone Sahara. In February 2024, more than 3,000 people, including children and pregnant women, were abandoned in the middle of the desert in Assamaka,¹⁹⁹ without being registered or a court decision. These practices clearly violate the principle of non-refoulement (Article 33 of the Geneva Convention), the prohibition of inhuman or degrading treatment (Article 7 ICCPR, Article 5 ECHR) and fundamental procedural guarantees (Article 13 ICCPR).

The ill-treatment is exacerbated by police violence. Human Rights Watch reported in October 2023 that migrants had been beaten, humiliated, arbitrarily detained and forced to sign documents in Arabic that they did not understand. These practices constitute torture and contravene the Convention against Torture (Articles 1 and 16).

¹⁹⁴ <https://www.amnesty.org/fr/location/middle-east-and-north-africa/algeria/report-algeria/>

¹⁹⁵

¹⁹⁶ <https://euromedrights.org/publication/algeria-migrants-face-raids-mass-expulsions-and-hate-speech/>

¹⁹⁷ <https://www.hrw.org/fr/news/2020/10/09/algerie-des-migrants-et-demandeurs-dasile-forces-quitter-le-pays>

¹⁹⁸ https://www.lemonde.fr/afrique/article/2024/06/10/au-niger-assamaka-porte-de-l-enfer-des-senegalais-chasses-d-algerie_6238507_3212.html

¹⁹⁹ <https://afrique.tv5monde.com/information/record-dexpulsions-de-migrants-de-lalgerie-vers-le-niger-en-2024-selon-une-ong>

In addition to this institutional violence, there is systemic social exclusion.²⁰⁰ Sub-Saharan migrants are regularly denied access to healthcare, housing and education, and suffer verbal and physical abuse with impunity. This discriminatory treatment is tolerated and even encouraged by the authorities, who perpetuate a narrative associating black people with health, economic and security risks.

Algeria is thus violating its own Constitution (Article 40 on equality before the law), the African Charter on Human and Peoples' Rights (Articles 2, 4, 5, 7), the International Covenant on Civil and Political Rights (Articles 9, 13, 14), the Geneva Convention (Article 33), and the Convention against Torture. By denying its international obligations, it is participating in a system of racial management of mobility.

The European Union also bears direct responsibility for consolidating this system. Through the EU-Algeria Association Agreement and European Neighbourhood Policy programmes, the EU finances security forces equipment, border surveillance and technical training without ever making this support conditional on respect for fundamental rights. There is no effective control mechanism governing this aid. This active and unconditional support makes the EU²⁰¹ a structural accomplice to the violations perpetrated by Algeria against sub-Saharan migrants.

Ultimately, the discriminatory, repressive and racist practices²⁰² implemented by the Algerian authorities, exacerbated by European silence and funding, reflect a deliberate policy of deterrence, racial profiling and punishment of black mobility. This joint strategy violates fundamental standards of international human rights law and constitutes a frontal attack on human dignity.

Mauritania: Racial discrimination, systemic exclusion and racist criminalisation of migration

In Mauritania, migration policy and the management of sub-Saharan populations are part of a context of deeply rooted racial and ethnic discrimination. Society remains structured around an ethno-racial hierarchy, with Haratines (descendants of black slaves) and black African groups (Pulaar, Soninké, Wolof) suffering persistent marginalisation in terms of access to citizenship, land and employment, as well as in the exercise of their civil rights. This marginalisation runs counter to the principle of equality and non-discrimination guaranteed by the Mauritanian Constitution and the African Charter on Human and Peoples' Rights, which affirms the equality of all persons before the law and their right to dignity.²⁰³

In this context, the racist criminalisation of migration takes on a particularly alarming dimension. Since 2023, Mauritania has been organising mass raids and arrests targeting sub-

²⁰⁰ <https://www.ldh-france.org/rafiles-expulsions-discours-de-haine-la-derive-anti-migrant%C2%B7e%C2%B7s-en-algerie/>

²⁰¹ https://www.lemonde.fr/afrique/article/2024/05/21/comment-l-argent-de-l-union-europeenne-permet-aux-pays-du-maghreb-de-refouler-des-migrants-dans-le-desert_6234489_3212.html

²⁰² <https://www.omct.org/fr/ressources/declarations/algeria-sub-saharan-migrants-are-exposed-to-violence-and-expulsions>

²⁰³ https://www.hrw.org/sites/default/files/report_pdf/mauritania0218_web_1.pdf

Saharan migrants,²⁰⁴ often identified solely on the basis of their skin colour or presumed origin. These individuals, including women and children, are arbitrarily detained and then deported or abandoned in desert border areas, without access to legal proceedings or the possibility of seeking international protection. Such practices violate the International Covenant on Civil and Political Rights, in particular the right to liberty and security of person, as well as the right to due process and protection against collective expulsions, as stipulated by the African Charter (Articles 9, 13 and 14 of the ICCPR, Article 12 of the Charter).

The reported conditions of detention and arrest are inhumane: acts of violence, separation of families, deprivation of care, physical or psychological abuse and abandonment in hostile environments. Such treatment amounts to cruel, inhuman or degrading treatment within the meaning of the Convention against Torture and is strictly prohibited by Articles 1 and 16 of said text, and by the African Charter, which enshrines the right to physical and moral integrity (Articles 4 and 5). Furthermore, the collective expulsion or refoulement of migrants to areas of risk, without individual examination of their situation, constitutes a clear violation of the principle of non-refoulement enshrined in the Geneva Convention relating to the Status of Refugees (Article 33), a principle also protected in African human rights law.

On top of the violations against migrants, Mauritania also cracks down on human rights advocates who speak out against structural racism and the stigmatisation of black and migrant communities. They are regularly prosecuted for "disturbing public order" or banned from associative activities, which violates the freedom of expression and freedom of association guaranteed by the Mauritanian Constitution, the ICCPR (Articles 19 and 22), and the African Charter (Article 10).

Finally, the responsibility of the European Union must also be highlighted. Through significant funding to Mauritania for border management, the EU is participating in the implementation of repressive policies that deliberately ignore human rights obligations, without any effective control mechanisms. This unconditional support²⁰⁵ exacerbates violations by enabling the perpetuation of a racialised migration control policy that contravenes international standards.

Ultimately, Mauritania is systematically and persistently violating its own constitutional commitments, as well as regional and international standards that oblige it to combat all forms of racial discrimination, protect human dignity, prohibit collective expulsions and inhuman treatment, and guarantee effective access to justice for all persons present on its territory.

France: Institutional discrimination and racialised criminalisation of migration

In France, ethnic profiling during identity checks is recognised as a systemic practice that mainly targets people perceived as black or North African. In an October 2023 ruling, the **French Conseil d'État** ²⁰⁶ confirmed the existence of discriminatory checks ("racial profiling") but refused to order corrective measures, despite the accumulated evidence.

²⁰⁴ <https://www.infomigrants.net/en/post/64585/mauritania-intercepts-30000-migrants-cracks-down-on-over-80-smuggling-rings-this-year>

²⁰⁵ https://www.lemonde.fr/afrique/article/2024/05/21/comment-l-argent-de-l-union-europeenne-permet-aux-pays-du-maghreb-de-refouler-des-migrants-dans-le-desert_6234489_3212.html?

²⁰⁶ <https://www.hrw.org/news/2023/10/12/france-council-state-admits-racial-profiling-orders-no-action>

In a December 2023 report,²⁰⁷ the Defender of Rights revealed that approximately 47 million identity checks were carried out in 2021, often with no objective grounds. It also highlights the disproportionate targeting of young men from visible minorities: up to 20-26% of them report having been subjected to one or more checks, with a rate up to 6-8 times higher than for white people, confirming a discrimination that runs contrary to the Constitution (equality before the law), Article 14 of the ECHR and the ICERD (Convention against Racial Discrimination).

Various reports by Amnesty International²⁰⁸ and Human Rights Watch²⁰⁹ describe abusive and humiliating checks, sometimes accompanied by intrusive searches, targeting mainly young black and Arab men, including minors, with no clear legal justification. These practices violate Articles 9, 19 and 26 of the ICCPR (rights to liberty, equality and freedom from discrimination) and the ECHR.

These abuses are often accompanied by police violence, which is regularly denounced by the National Consultative Commission on Human Rights (CNCDH). Between 2016 and 2020, convictions for "gross misconduct" were issued for violence during abusive checks and irregular arrests of minors, particularly in Paris. These violations contravene the obligations of the Convention against Torture, Article 3 of the ECHR and Articles 9 and 14 of the ICCPR.

In terms of migration, France carries out expulsions and denials of entry without effectively examining asylum applications,²¹⁰ particularly at the borders with Italy or in overseas territories, in violation of the principle of non-refoulement (Geneva Convention, Art. 33) and European law. When a member state of the European Union decides to temporarily reintroduce controls at its internal borders, it cannot systematically refuse entry to all foreign nationals in an irregular situation. This was reiterated by the Court of Justice of the European Union²¹¹ (CJEU) in a ruling dated 21 September 2023. The Court emphasises that these states are required to comply with the European "Return" Directive, which requires that non-European nationals be given the opportunity to leave the territory voluntarily before any forced removal measures are taken.

Political and media discourse contributes to the stigmatisation of people of foreign origin, reinforcing a climate of racism and xenophobia that fuels discrimination in access to housing, employment, health and education. This climate, tolerated and even fuelled by certain public officials, is in flagrant contradiction with France's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the European Social Charter and the Constitution (principle of fraternity and equality).

²⁰⁷ https://www.defenseurdesdroits.fr/sites/default/files/2024-03/FICHE8_ConrolesID_20240304.pdf

²⁰⁸ <https://www.amnesty.fr/discriminations/actualites/controles-au-facies-le-conseil-detat-reconnait-l'existence-du-probleme-mais-refuse-de-contraindre-letat-a-y-mettre-un-terme>

²⁰⁹ <https://www.hrw.org/news/2024/10/17/ethnic-profiling-french-police-urgent-action-needed>

²¹⁰ <https://www.defenseurdesdroits.fr/respect-des-droits-des-personnes-migrantes-la-frontiere-interieure-franco-italienne-le-defenseur>
https://www.lemonde.fr/societe/article/2024/04/25/a-la-frontiere-franco-italienne-des-refoulements-illegaux-de-migrants-denonce-la-defenseure-des-droits_6229763_3224.html

²¹¹ <https://www.infomigrants.net/fr/post/52045/la-justice-europeenne-rappelle-que-les-refoulements-systematiques-aux-frontieres-sont-interdits>

In sum, by pursuing a migration and security policy based on racial exclusion, France is violating its constitutional, European and international commitments to non-discrimination, access to rights, protection against inhuman treatment and respect for human dignity.

Spain: Racial discrimination, illegal refoulement and institutional violence at the borders

In Spain, migration management is part of a border control policy marked by racialisation, criminalisation and violent repression of African mobility, particularly in Ceuta, Melilla and the Canary Islands. Migrants of sub-Saharan and North African origin face systematic obstacles to accessing asylum, protection and decent reception conditions, in breach of Spain's constitutional and European obligations.

Collective refoulement (known as "hot expulsions") in Ceuta and Melilla, which consists of immediately pushing back people who cross the border barriers without individual examination, has been condemned by the European Court of Human Rights (judgment *N.D. and N.T. v. Spain*, 2020),²¹² which ruled that these practices violate Article 4 of Protocol 4 of the ECHR (prohibition of collective expulsions) and Article 13 (right to an effective remedy) (ECHR, 2020). Despite this, summary expulsions continue, particularly in 2022-2024 during major migration crises, sometimes involving the use of force, deaths and disappearances at sea.

Journalistic and associative investigations have revealed cases of police violence, humiliation, deprivation and degrading treatment inflicted on migrants, particularly those of sub-Saharan origin, in detention centres or during border interventions. Such treatment violates Article 3 of the ECHR (prohibition of torture and inhuman or degrading treatment), the Convention against Torture, and the Spanish Constitution (Articles 14 and 15 on equality and protection against torture).

Across the borders, racialised people face discrimination in access to employment, housing, social services and justice. Associations denounce the persistence of racial profiling, hate speech and discriminatory administrative practices, in violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Charter of Fundamental Rights of the European Union and Spain's obligations under its own Constitution.

Lastly, Spain benefits from European funding to strengthen border controls, without any binding mechanism to enforce effective respect for human rights, which makes the European Union an indirect actor in these violations, as is the case in other countries in the Maghreb and the Sahel.

The established facts clearly demonstrate that France and Spain, rather than embodying the values they proclaim, implement structurally discriminatory and openly repressive policies against migrants, particularly those of African origin. In France, racial profiling, institutional violence and the systematic violation of the right to asylum are evidence of a state policy based on racial stigmatisation and the criminalisation of migration. In Spain, the persistent use of collective expulsions, violence at the borders and the dehumanisation of migrants reveal a total disregard for human dignity and the most fundamental European and international obligations.

²¹² <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-201354%22%7D>
<https://www.uclouvain.be/fr/instituts-recherche/juri/cedie/news/cour-eur-d-h-13-fevrier-2020-n-d-et-n-t-c-espagne-req-nos-8675-15-et-8697-15>

These two member states are not acting in isolation: their policies are only possible and sustainable because they are supported, financed and legitimised by the European Union. By outsourcing border management and turning a blind eye to serious human rights violations, the EU is structurally complicit in this system of racial sorting, exclusion and punishment of black mobility. It encourages and protects a system of impunity, sacrificing the lives, freedom and dignity of thousands of people in the name of short-sighted political interests.

This system of violence, expulsion and discrimination does not represent an isolated aberration but rather a deliberate policy that is in complete contradiction with the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Geneva Convention, and the constitutional principles of the relevant states.

France, Spain and the European Union must be held accountable for these serious, massive and repeated violations, which constitute an outright affront to human dignity and universal rights.

Violation of the best interests of the child and discrimination against migrant minors

Article 3.1 of the **International Convention on the Rights of the Child (CRC, 1989)** requires that the best interests of the child be a primary consideration in all decisions affecting them, whether made by administrative, judicial, social or legislative authorities.

However, this principle is regularly flouted in the migration policies of the European Union, its member states (France,²¹³ Italy, Spain, Greece, and Malta) and the Maghreb States (Morocco, Algeria, Tunisia,²¹⁴ Libya, and Mauritania). Despite recognition of their "extreme vulnerability," migrant children²¹⁵ are often treated primarily as undocumented foreigners, suffering the consequences of deterrence, detention, and refoulement policies.

Examples of documented violations:

- **Refusal to take charge:** many minors left on the streets, without accommodation or access to their rights (France, Italy, Greece, Spain, Morocco, and Libya).
- **Confinement in waiting areas or detention centres,** sometimes with their parents,²¹⁶ in violation of international child protection standards.

²¹³ https://anafe.org/wp-content/uploads/2024/10/anafe_-_politique_de_protection_des_enfants_final_v2.pdf
https://www.lacimade.org/wp-content/uploads/2023/04/RA_CRA_2022_web.pdf

²¹⁴ https://mixedmigration.org/wp-content/uploads/2021/07/MMC_Save-the-Children_Tunisia_FR.pdf

²¹⁵ <https://www.amnesty.org/en/wp-content/uploads/2023/03/WEBPOL1056702023ENGLISH.pdf>

²¹⁶ Cour européenne des droits de l'homme, "Popov c. France", arrêt du 19 janvier 2012 : [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-108708%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-108708%22]})

- **Collective refoulements at borders**, particularly in Ceuta, Melilla (Spain), Mayotte (France), the Alps, and in hotspots in Greece and Italy.
- **The practice of deporting unaccompanied minors in Mayotte**, arbitrarily attaching them to adults in order to circumvent legal protection obligations.

These practices represent a specific form of discrimination against migrant children, exacerbating their vulnerability and exposing them to trafficking, exploitation, violence and fundamental deprivation (health, education, accommodation).

The states and institutions in question are thus failing to fulfil their obligations under the CRC, as well as under the European Convention on Human Rights (ECHR, Article 3), and the case law of the European Court of Human Rights, imposing only a limited consideration of the "extreme vulnerability" of minors detained for migration purposes.

5. Criminalisation of solidarity with migrants

The criminalisation of solidarity with migrants is not the result of a legal vacuum or a mere isolated abuse, but is rather part of a deliberate strategy to exploit national law. The Maghreb and Sahel states have gradually adopted or strengthened legislative measures which, under the guise of managing migration flows, combating trafficking, or maintaining public order, confer an appearance of legality on practices that have the effect – and often the aim – of repressing aid and the defence of migrants' rights.

Algeria has thus pursued this dynamic in two stages: Law No. 08-11 of 25 June 2008 on the conditions of entry, stay and movement of foreigners, which replaced a 1966 law, considerably tightened the conditions of stay and introduced heavy penalties for anyone accused of "helping or facilitating the stay of an illegal foreigner". Then, in 2009, the Penal Code was amended to introduce the offence of illegal departure from the territory, applicable to both nationals and resident foreigners, as well as the offences of migrant smuggling and human trafficking, in line with the Palermo Protocols ratified by Algeria. This framework thus does not only make irregular migration a criminal offence, but also applies it to solidarity with migrants,²¹⁷ punishing both migrants and those who help them.

In **Mauritania**, the legal framework has gradually become more complex, despite the fact that the constitution of 20 July 1991 formally recognises that foreigners who have entered the country legally have the same rights as Mauritians. In practice, entry and residence remain strictly conditioned by a set of measures inherited from decrees dating back to the 1960s, which have been constantly reinforced: repression of trafficking (2003), refugee status (2005), conditions of employment for foreigners (2008). This ongoing reform process, while appearing to modernise the law, is in fact aimed at restricting access to rights and criminalising any act of support, even humanitarian, for migrants.

In **Libya**, Law No. 6 of 1987, amended in 2004 and 2010, criminalises without distinction any irregular entry, stay or exit, regardless of whether the individuals concerned are migrants, refugees, asylum seekers or victims of trafficking. The penalties are severe, and any assistance to persons in an irregular situation – whether humanitarian, medical or even simply material –

is punishable by imprisonment. Law No. 19 of 2010²¹⁸ also enshrines the concept of migrant smuggling, further extending the scope of repression to all forms of solidarity²¹⁹ and legitimising institutional violence against human rights advocates.

In **Tunisia**, solidarity with migrants is criminalised through several articles of the Penal Code and legislation on the residence of foreigners,²²⁰ which allow for the prosecution of anyone who assists an irregular migrant, including for humanitarian acts. Despite the adoption of recent laws on combating human trafficking and racial discrimination, these measures stand alongside a repressive legal arsenal that continues to punish and intimidate human rights activists, lawyers and NGOs for simple acts of solidarity.

In **Morocco**, after two exceptional regularisation campaigns, the enactment of Law No. 27-14 in 2016 on human trafficking introduced the concept of protection, but it still stands at odds with laws and practices that make it easier to crack down on solidarity. Legal measures that appear positive (combating trafficking, recognising the right to asylum) are thus contradicted by the persistence of expulsions, forced displacement and prosecution of those who help migrants.²²¹ Indeed, Law No. 02-03 on the entry and stay of foreigners in the Kingdom of Morocco, and on illegal emigration and immigration, constitutes the main legal basis for the repression²²² of those who show solidarity with migrants.

Articles 52 to 54 introduce prison sentences and heavy fines for anyone who “assists or facilitates” the irregular entry, stay or transit of a foreigner on Moroccan territory, even when such assistance is strictly humanitarian and without any interest.

In 2022, members of the GADEM²²³ association and other NGOs were intimidated, arrested or prosecuted for “aiding clandestine immigration”, particularly in the regions of Nador and Tangier.

Far from demonstrating compliance with international standards, these laws essentially serve to restrict rights, justify the impunity of the authorities, maintain fear and deter any form of citizen or community support for migrants. The legal arsenal, rather than providing protection against discrimination and arbitrariness, functions as a tool for legitimising racist, xenophobic and repressive policies, enabling the mass criminalisation of solidarity and endangering the lives and dignity of both migrants and their supporters.

While the criminalisation of solidarity is common to all legislation in the Maghreb and Sahel regions, it is particularly visible, well-documented and violent in Tunisia today. The targeting of human rights campaigners and community activists has become systematic, turning Tunisia into a testing ground for anti-solidarity repression and a warning bell for the entire region. It is therefore essential to conduct an in-depth analysis of the Tunisian case, as its recent developments offer a concentrated overview of the abuses and dangers associated with the criminalisation of solidarity towards migrants. Through concrete facts and documented

²¹⁸ (*Combating Irregular Migration Law No. 19/2010*)

²¹⁹ <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/libya/>

²²⁰ <https://link.springer.com/article/10.1007/s10612-025-09826-3>

²²¹ <https://link.springer.com/article/10.1007/s10612-025-09826-3>

²²² <https://www.gadem-asso.org/wp-content/uploads/2023/12/GADEM-20-ans-de-la-loi-n%C2%B002-03-Long.pdf>

²²³ page 9 : https://mixedmigration.org/wp-content/uploads/2024/07/QMMU_Q2_2024_NA-1.pdf

examples, this focus will shed light on the repressive mechanisms and devastating impact of these policies on civil society, the rule of law and the effective protection of human rights.

Tunisia: A symbol of the extreme criminalisation of solidarity and contempt for human rights

The Tunisian government's policy is based on a deliberate strategy of criminalising solidarity and dismantling associative counterweight forces, in a context of marked decline in democratic freedoms.

The Tunisian authorities are misusing anti-terrorism laws, money laundering legislation and other repressive measures to systematically target and persecute NGOs and human rights activists working to protect migrants. This manipulation of the justice system aims to terrorise the civil society and deter any form of humanitarian assistance or advocacy for fundamental rights.

Recent events are damning and widely documented:^{224 225}

- Saadia Mosbah, president of the Mnemty association, anti-racism figure and activist, was arrested in May 2024 and falsely accused of "money laundering" in a case recognised as a racist repressive manoeuvre and a strong signal sent against the anti-racist struggle in Tunisia.
- Ikbel Khaled, mayor of Sousse, and Imen Ouardani, a municipal councillor, have been imprisoned since May 2024 for establishing a partnership with Tunisie Terre d'Asile to open an orientation centre for migrants. The charges relate to money laundering, fraud and abuse of office, openly criminalising humanitarian action.

²²⁴ <https://apnews.com/article/tunisia-dahmani-decree-54-misinformation-crackdown-dissent-5d1cd879bb081796439a469db744014e>
<https://www.ohchr.org/en/press-releases/2024/10/tunisia-un-expert-alarmed-arrests-and-smear-campaigns-against-migrant-rights>

lettre d'allégation conjointe JAL TUN 03/2025 qui a été envoyée par les Procédures Spéciales, sur la situation de Mme. Sherifa Riahi, Mme. Saadia Mosbah, Mme. Saloua Ghrissa et M. Abdallah Said, :
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29985>

²²⁵ <https://www.hrw.org/news/2024/05/17/tunisia-deepening-civil-society-crackdown>
<https://www.amnesty.org/en/wp-content/uploads/2025/05/MDE3093932025ENGLISH.pdf>
<https://www.reuters.com/world/africa/once-beacon-hope-tunisias-civil-society-struggles-survive-2025-07-21/>
<https://www.amnesty.org.uk/urgent-actions/human-rights-defenders-arbitrarily-detained>
<https://www.theguardian.com/world/2024/nov/18/migrant-rights-advocate-held-tunisia-anti-terrorist-investigation-abdallah-said>
<https://www.maldusa.org/l/tunisia-may-2024-deportation-of-black-people-arrestations-of-lawyers-activists-and-journos/>
<https://www.jurist.org/news/2025/06/tunisian-authorities-criticized-over-crackdown-on-peaceful-protesters-and-opposition-amid-deepening-crisis/>

- Sherifa Riahi, Iyadh Bousselmi and Mohamed Jouou²²⁶ (Tunisie Terre d'Asile) are being prosecuted for “money laundering” and “aiding illegal entry”, while the NGO is subject to a suspension of its activities and abuse of the anti-terrorism legal framework.
- Mustafa Djemali and Abderrazek Krimi (Tunisian Council for Refugees) are accused of aiding the illegal entry of migrants, even though the CTR acts in official partnership with the UNHCR, revealing the hypocrisy and arbitrariness of the prosecutions (UNHCR, 2024).
- Abdallah Saïd (Children of the Moon)²²⁷ was arrested for providing humanitarian aid to migrants on the pretext of receiving foreign funds.
- Saloua Ghrissa (ADD Association) was arrested in December 2024, falsely accused of receiving "suspicious" funding, even though these funds come from UN organisations or recognised international NGOs.
- Sonia Dahmani, a lawyer and columnist, was convicted for publicly criticising the crackdown on migrants, illustrating the repressive use of Decree-Law 54 adopted in 2022 to muzzle freedom of expression.

These repressive methods include media defamation orchestrated prior to arrests, the misuse of restrictive laws, the absence of a legal framework on asylum, arbitrary searches, and police violence during camp evictions. The Tunisian civil society is bearing the full brunt of these attacks: A climate of widespread fear is taking hold, NGOs are being forced to scale back their activities, and citizens are being arrested simply for providing accommodation or renting property to migrants. According to several NGOs, more than 70 people have been prosecuted, 40 of whom were in detention in May 2024. The already fragile civic space has been shrinking at an unprecedented rate²²⁸ since the 2011 Revolution.

This repressive Tunisian policy cannot be viewed in isolation: it is part of a regional cooperation initiative led by the European Union, through a memorandum of understanding signed in July 2023, with a budget of around €1 billion, including €105 million dedicated to migration

²²⁶ <https://migreurop.org/article3298.html>

²²⁷ <https://www.statewatch.org/news/2024/november/tunisia-no-to-the-criminalisation-of-solidarity-with-migrants/>

²²⁸ <https://www.amnestyusa.org/press-releases/tunisia-mass-convictions-in-conspiracy-case-2-deepen-rule-of-law-crisis/>

operations directly linked to repressive practices.²²⁹ NGOs, the EU Ombudsman²³⁰ and legal researchers assert that this funding is granted without any real conditions regarding respect for human rights,²³¹ thereby legitimising forced expulsions, the criminalisation of solidarity and violations against migrants at sea and in the country.²³² The EU is thus becoming structurally complicit in this authoritarian strategy, due to the lack of transparent mechanisms for evaluating and suspending aid in cases of documented abuse.

The systematic criminalisation of solidarity with migrants in the Maghreb and Sahel countries constitutes a flagrant violation of almost all of the international commitments made by these states. This policy is part of a planned strategy that uses national legislation as a weapon of repression against civil society, human rights activists and anyone who refuses to surrender migrants to precariousness or danger.

Several major legal standards are thus being violated:

- **The Universal Declaration of Human Rights** (UDHR, Articles 1, 2, 5, 9, 13, 14, 20), which enshrines the right to dignity, freedom of association, the right to asylum, and protection against discrimination and arbitrariness.
- **The International Covenant on Civil and Political Rights** (ICCPR, Articles 9, 13, 14, 19, 22), which prohibits arbitrary detention, guarantees freedom of expression and association, the right to a fair trial, and protection against collective expulsion or expulsion without individual examination.
- **The International Convention on the Elimination of All Forms of Racial Discrimination** (ICERD, arts. 2, 5), which requires equal treatment, protection against racial discrimination, and effective access to justice.
- **The Geneva Convention relating to the Status of Refugees** (Articles 31 to 33), in particular the fundamental principle of non-refoulement, which is systematically violated by collective expulsions, refoulement at borders, and the repression of those working on asylum and solidarity.
- **The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (Articles 1 and 16), violated by police repression, arbitrary detentions and institutional violence against migrants and those who support them.

²²⁹ <https://www.theguardian.com/global-development/2024/oct/11/eu-funding-migrant-deal-tunisia-human-rights-violations-asylum-icc>

²³⁰ www.lemonde.fr/international/article/2024/10/24/la-mediatrice-de-l-union-europeenne-epingle-la-commission-au-sujet-de-l-accord-migratoire-avec-la-tunisie_6359126_3210.html

²³¹ <https://brooklynworks.brooklaw.edu/bjil/vol50/iss2/5/>

²³² <https://www.amnesty.org/en/latest/news/2024/10/joint-statement-tunisia-is-not-a-place-of-safety-for-people-rescued-at-sea/>

- **The African Charter on Human and Peoples' Rights** (Articles 2, 4, 5, 7, 10), which enshrines protection against arbitrariness, human dignity, freedom of association and equality before the law.
- **The European Social Charter** (for signatory states), particularly on the right to social protection, assistance, dignity and freedom of association.

By criminalising solidarity, the states in question are not content with unfairly punishing citizens who show solidarity or NGOs: they are creating a climate of widespread fear, destroying the very possibility of recourse to rights, undermining human dignity and betraying their own international commitments. This strategy also flouts the principle of the primacy of international law over national legislation, which is enshrined in most constitutions and lies at the heart of the human rights protection system.

By financing, equipping and supporting these repressive policies through its partnership agreements without imposing any conditions, the European Union is becoming a structural accomplice to these violations. Instead of promoting respect for fundamental rights, European mechanisms are becoming tools for the externalisation of repression, turning a blind eye to the arbitrary treatment, discrimination and violence inflicted on migrants and their defenders, in contradiction with the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights.

The criminalisation of solidarity in the Maghreb and Sahel region must be denounced and punished for what it is: a systematic attack on law, justice and human dignity.

6. Externalisation of borders and illegal delegation of sovereign functions

This final section aims to demonstrate how the European Union and its member states, through agreements, funding and cooperation, have deliberately externalised the management of their borders, asylum procedures and the repression of human mobility to third states. This policy results in the illegal transfer of responsibilities and sovereign prerogatives to often undemocratic regimes, in violation of international law, the principle of non-refoulement and the fundamental rights of migrants.

One of the most significant and reprehensible features of the migration management system analysed in this indictment is the externalisation of borders and the deliberate transfer of responsibilities, orchestrated by the European Union and its member states, in clear violation of international law and to the detriment of the fundamental rights of migrants.

Particularly since 2015, the European Union (EU) and its member states have implemented a coherent arsenal of control, repression and exclusion, through interlocking strategies both within and outside their territory. This apparatus is neither accidental nor isolated: it stems from a deliberate political will to deter, prevent, repel and expel migrants and exiles, by delegating, circumventing or abandoning their international responsibilities.

The objectives pursued are as follows:

- **Preventing departures** from countries of origin or transit by all means (controls, conditional aid, deterrence campaigns);
- **Establishing a system of deterrence, racial sorting and return** to so-called transit countries;
- **Preventing people from reaching European borders** through maritime, land or air interceptions, often carried out by third countries;
- **Mass expulsion** of people already on European territory who are denied the right of residence, without effective risk assessment.

This policy is part of the European guidelines on so-called "migration management", which mask a logic of militarisation and delegation of violence, structured around several axes:

- **The ongoing reinforcement of borders;**
- **The fight against "smuggling" and "trafficking"** (concepts often used to criminalise migration itself);
- **The implementation of accelerated, forced or "voluntary" return policies** to countries of origin or transit;
- **The increasing conditionality of European funding** on compliance with "flow management" (rather than rights) in partner countries.

To achieve these objectives, the EU and its member states have institutionalised the externalisation of migration management:

- **increase in bilateral or multilateral agreements and partnerships** with unsafe states (Tunisia, Libya, Mauritania, Niger, Morocco, etc.);
- **increasing delegation of interception, detention, examination of asylum applications and returns to repressive regimes**, often outside any judicial control;

- **massive funding for control, detention and surveillance mechanisms and security equipment**, to the complete detriment of human rights guarantees.

International Organization for Migration (IOM) - Accusation and responsibilities in externalization, with documented facts (Tunisia & Libya)

The IOM has **planned, financed, coordinated, and promoted** schemes of Assisted Voluntary Return / Voluntary Humanitarian Return (AVR/VHR) in North Africa²³³—notably from Tunisia²³⁴ and Libya—within programmes and contracts backed by EU funding²³⁵. Volumes increased in 2024 in Tunisia, with the IOM acting as an implementing operator.²³⁶

These returns are organized from unsafe and/or highly coercive environments²³⁷ (internal expulsions to border areas, violence, institutional racism, detention and ill-treatment in Libya), without effective procedural safeguards. The supposed voluntariness²³⁸ is illusory, and these operations amount **to forced returns**.

Under the **DARIO** (UN International Law Commission), the IOM **engages international responsibility** when it **aids or assists** practices of **refoulement/collective expulsion with knowledge** of the risk of violations (arts. 14–16). Given the well-documented abuses in Libya (UN/NGO reports), the **knowledge element is established** [7 – DARIO 2011]²³⁹, [8 – DARIO Commentary 2011], [9 – UNSG Libya S/2024/642].²⁴⁰ AVR/VHR²⁴¹ in Tunisia/Libya are anchored in EU instruments and objectives (reducing arrivals, border control, “returns”)²⁴², with the IOM acting as an operational conduit.

We denounce the IOM’s **co-responsibility** for returns **presented as “voluntary”** but conducted **from unsafe countries** and under **coercive conditions**.
We demand:

- the **immediate suspension** of all AVR/VHR operations from such contexts;

²³³ https://externalizingasylum.info/spillovers-of-eu-externalization-policies-on-coerced-returns-from-transit-countries/?utm_source

²³⁴ https://www.arabnews.com/node/2538951/middle-east?utm_source

²³⁵ https://international-partnerships.ec.europa.eu/document/download/fdd5a3f3-1c83-4445-986a-e2c83f0f96f8_en?filename=AAP+2024-RIP+SSA-+MPRR+phase+2+%28top-up%29.PDF&utm_source

²³⁶ https://trust-fund-for-africa.europa.eu/our-programmes/eu-iom-joint-initiative-north-africa-top-voluntary-humanitarian-return-and-reintegration-assistance_en?utm_source

²³⁷ https://www.ohchr.org/sites/default/files/2022-12/Report-on-assisted-return-and-reintegration.pdf?utm_source

²³⁸ https://www.ohchr.org/en/stories/2022/11/nowhere-back-migrants-libya-compelled-accept-voluntary-return?utm_source

²³⁹ https://legal.un.org/ilc/texts/instruments/english/commentaries/9_11_2011.pdf?utm_source

²⁴⁰ https://docs.un.org/en/S/2024/642?utm_source

²⁴¹ Assisted Voluntary Return / Voluntary Humanitarian Return (*AVR / VHR*)

²⁴² Page 9 :

https://evaluation.iom.int/sites/g/files/tmzbd1151/files/docs/resources/Final%20evaluation%20report%20JI-NA.pdf?utm_source

- the **strict conditioning** of any future intervention on **effective access to asylum, free and informed consent** verified by an **independent mechanism**, and **regular external oversight**;
- **full transparency**: publication of **contracts, criteria**, and **human-rights impact assessments** ²⁴³(HRIA), as well as **explicit suspension/defunding criteria** in case of violations.

The EU-Albania agreement of November 2023 marked a new milestone: it allows Frontex to operate directly on Albanian soil, to intervene in border management, detention and the sorting of migrants, without guaranteeing effective access to the right to asylum or independent judicial review. This model, presented as a "pilot partnership", foreshadows the export of this architecture to other third countries in the region, legitimising the outsourcing of repression and the creation of lawless zones on the periphery of Europe (European Commission, 2023).

The EU Pact on Migration and Asylum cements and amplifies this logic by:

- tripling the budget dedicated to migration management, border control and internal security (€34 billion over the period 2028-2034);
- generalising the concept of "safe third countries", which allows the mass return of asylum seekers to countries where they risk torture, arbitrary detention or death;
- extending accelerated and border procedures and depriving migrants of real access to international protection and effective remedies;
- authorising the creation of "return hubs" outside the EU, lawless areas where deportations are organised without judicial control or access to asylum.

The "Team Europe" initiatives, whether in the Atlantic corridor (Mauritania, Senegal, Gambia, Ivory Coast, Ghana, Nigeria, etc.), the central Mediterranean route (Libya, Tunisia, Egypt, Niger, Albania), and the strengthened partnership with Morocco are evidence of transnational coordination aimed at outsourcing the detention, sorting, repression and forced return of migrants (Amnesty, 2023;²⁴⁴ EuroMed Rights, 2023²⁴⁵).

The so-called "conditionality" attached to European aid is not a requirement to respect human rights, but rather a priority given to migration control at the expense of the obligations arising from international conventions ratified by the EU and its members.

This legal and political architecture results directly in:

²⁴³ https://www.ombudsman.europa.eu/fr/decision/en/193851?utm_source

²⁴⁴ <https://www.amnesty.org/en/wp-content/uploads/2023/03/MDE2965012023ENGLISH.pdf>

²⁴⁵ https://euromedrights.org/wp-content/uploads/2023/07/Euromed_AI-Migration-Report_EN-1.pdf

- the denial of the right to asylum;
- the delegation of responsibilities for rescue at sea, leading to an increase in avoidable shipwrecks;
- the outsourcing of detention, torture and institutional violence;
- the increased criminalisation of migration and solidarity.

Today, the consequences are massive, documented and recurrent: deaths and disappearances in the Mediterranean, abandonment and deaths in the desert, collective refoulement, arbitrary detention, torture, extortion, human trafficking, denial of the right to effective recourse and protection. The EU and its member states stubbornly ignore the structural and predictable nature of these consequences: refusal to recognise that transnational migration is a lasting and irreducible phenomenon; refusal to recognise people in exile as holders of universal fundamental rights; refusal to assume the international responsibility arising from treaties, conventions and general principles of international and regional law.

This system of externalisation violates, both in principle and in practice, the mandatory standards of international law:

- Article 33 of the 1951 Geneva Convention (principle of non-refoulement);
- Article 3 of the Convention against Torture;
- Articles 7, 9 and 14 of the International Covenant on Civil and Political Rights;
- Articles 2 and 3 of the European Convention on Human Rights;
- Article 12.5 of the African Charter on Human and Peoples' Rights;
- The conventions on the Rights of the Child, on the Elimination of Racial Discrimination, and on the Rights of All Migrant Workers.

The EU, its agencies (Frontex, IOM) and its member states are directly, indirectly or delegatedly responsible for systematic violations of:

- the principle of non-refoulement;
- the right to life, dignity and protection from torture;
- the right to asylum and the right to an effective recourse.

These violations have now been confirmed by numerous reports from experts, lawyers and international organisations, and have been documented throughout this indictment.

We solemnly accuse the European Union, its member states and their Maghreb partners of having knowingly designed, financed, coordinated and implemented a system of externalisation and transfer of responsibilities that tramples on the most fundamental norms of international, regional and constitutional law. Under the pretext of “migration management”, this system has made suffering, abandonment, imprisonment and death accepted tools of deterrence. It has institutionalised the delegation of violence to non-democratic regimes, deprivation of liberty without judicial review, and the effective denial of the right to asylum and international protection.

This architecture constitutes a deliberate political project: it organises the repression, humiliation, disappearance and death of thousands of migrants, in flagrant violation of the commitments and principles to which these states claim to adhere. Through this policy, the EU and its allies bear moral, political and legal responsibility for a system of massive, persistent and structural violations, which must be classified as such before the Permanent Peoples' Tribunal. Human dignity is not only ignored, but methodically sacrificed on the altar of security and exclusion.

7. Conclusions and final demands

At the end of this indictment, we affirm that the facts presented are not the result of accident or negligence, but of a conscious, shared and systemic political will to render migrants targets of a transnational repression, in utter disregard of international law.

The Maghreb states, several member states of the European Union, as well as the European Union itself, have implemented – directly or by delegation – migration policies based on refoulement.

The Maghreb states, several European Union member states, and the European Union itself have implemented – directly or by delegation – migration policies based on refoulement, abandonment, arbitrary detention, discrimination, criminalisation and externalisation. These practices have led to serious, persistent and massive violations of mandatory standards, including the right to life, the principle of non-refoulement, the prohibition of torture, the right to an effective remedy, and equality before the law.

No justification, whether based on borders, treaties or security concerns, can take precedence over human dignity and fundamental rights.

We solemnly call upon the Permanent Peoples' Tribunal to recognise and condemn the seriousness of the systematic and persistent violations of fundamental rights resulting from the policies of externalisation and transfer of responsibility orchestrated by the European Union, its member states and their partners.

We demand an immediate end to this systemic apparatus of repression, dehumanisation and impunity, which tramples on the most basic principles of international law, organises the suffering and abandonment of migrants, and entrenches an institutionalised system of impunity.

There can be no justice unless these illegal practices cease and the recognition of rights, redress for harm and effective compliance with international obligations are guaranteed.

In view of all the documented violations, the legal analyses presented, the testimonies of victims and the founding principles of international human rights law, we solemnly request that the Permanent Peoples' Tribunal rule and order the following:

That Libya and the European Union be formally condemned for crimes against humanity, in accordance with the findings and recommendations of the Permanent Peoples' Tribunal meeting in Paris on 4 and 5 January 2018, and in view of the serious, systematic and persistent acts of violence, torture, arbitrary detention, enforced disappearances and denial of protection inflicted on migrants and refugees.

1. Condemnation of the Maghreb States

That the Maghreb States be convicted for serious and recurrent human rights violations, including: acts of torture, cruel, inhuman or degrading treatment, arbitrary deprivation of liberty, collective expulsions, violations of the home, violations of economic, social, cultural and environmental rights, as well as specific violations of children's rights, in contravention of their international commitments.

2. Call to Maghreb governments: immediate reforms and guarantees

We demand that Maghreb governments:

- Harmonise their national laws with ratified international conventions without delay, in accordance with the primacy recognised by their respective constitutions.
- End all obstruction, threats or persecution of human rights advocates and guarantee the freedom of action for solidarity organisations.

- Release all persons detained illegally for exercising their right to solidarity or for reasons related to migration, and open independent investigations into all allegations of cruel, inhuman or degrading treatment of migrants.
- Immediately suspend all collective expulsions carried out outside any legal framework or without individual examination.
- Guarantee respect for legal, individualised and dignified treatment in accordance with international commitments, including respect for fair trial guarantees, access to a lawyer and a doctor, and regular visits by independent organisations to detainees.
- Take effective measures to prevent and punish any racist acts or comments, whether by law enforcement agencies, civil servants, the media or the general public.
- Establish mechanisms for citizen and parliamentary oversight of all migration policies to ensure their compliance with fundamental rights.
- Establish a solid and independent legal framework capable of ending impunity and providing effective access to justice for all victims of violations.
- Strengthen the independence of the judiciary and guarantees of effective recourse.
- Open borders and remove all obstacles to the free movement of Maghrebians, in accordance with Article 2 of the 1989 founding treaty of the Arab Maghreb Union (AMU).
- Revise all agreements with the European Union, making them conditional on strict respect for, and effective protection of, human rights and the rights of migrants and refugees.
- Lift all reservations without delay and ratify all international conventions relating to human rights and the rights of migrants, in particular:
 - the Convention of 18 December 1990 on the Protection of the Rights of All Migrant Workers and Members of Their Families,
 - Convention No. 143 on migration in abusive conditions,

- Convention No. 189 on domestic workers,
- the International Covenant on Economic, Social and Cultural Rights (ICESCR),
- the International Covenant on Civil and Political Rights (ICCPR).

These requests aim to put an end to this institutionalised system of repression, exclusion and impunity, and to guarantee the effective restoration of rights, dignity and justice for all migrants, refugees and those who support them.

Appendices

Major European case law relating to non-assistance at sea, direct or indirect refoulement, delegation of responsibility to third countries, and the principle of non-refoulement.

1. ECHR, *M.S.S. v. Belgium and Greece*, 21 January 2011 – Responsibility for indirect refoulement and inhuman conditions

The *M.S.S. v. Belgium and Greece* judgment is a landmark case on **the responsibility of a state for exposing an asylum seeker to inhuman treatment by transferring them to a third country that is failing to fulfil its obligations**. The European Court of Human Rights affirmed that a State cannot absolve itself of its protection obligations, even in the context of European cooperation, knowing that it is exposing the person concerned to serious violations of their fundamental rights.

This logic is fully applicable to maritime externalisation practices, whereby responsibility for rescue operations is **transferred to third countries such as Libya or Tunisia, in full knowledge of the risks faced by migrants**. The judgment thus establishes **a prohibition in principle of indirect refoulement**.

"The transfer of the applicant to Greece [...] took place when the Belgian authorities knew or ought to have known that the applicant would not have sufficient guarantees there." (ECHR, § 358)

Source:

ECHR, *M.S.S. v. Belgium and Greece*, No. 30696/09, judgment of 21 January 2011, HUDOC, <https://hudoc.echr.coe.int/eng?i=001-103050>

2. ECHR, *Hirsi Jamaa and Others v. Italy*, 23 February 2012 – Absolute prohibition of refoulement at sea

In this case, the Court condemned Italy for intercepting a ship carrying migrants on the high seas and returning it to Libya without examining the individual situations of those on board. The ECHR strongly affirms that **operations carried out on the high seas do not exempt states from their legal responsibility**, since they exercise an effective control over the persons intercepted.

The judgment imposes **an absolute prohibition on collective refoulement at sea**, even if it is outsourced. It is fundamental in criticising the agreements between Italy and Libya, as well as in assessing the role of Frontex.

"The situation in which the applicants found themselves falls under the exclusive responsibility of the Italian authorities." (ECHR, § 81)

Source:

ECHR, *Hirsi Jamaa and Others v. Italy*, No. 27765/09, judgment of 23 February 2012, HUDOC, <https://hudoc.echr.coe.int/eng?i=001-109231>

3. CJEU, *Commission v. Hungary*, 17 December 2020 – Prohibition of refoulement in border areas

The Court of Justice of the European Union condemned Hungary for carrying out **illegal refoulements** at its border with Serbia, in violation of the Charter of Fundamental Rights of the European Union and the right to asylum.

The CJEU reiterated that **member states may not return a person without an individual examination**, even in cases of irregular entry. This principle applies even more strongly when there is a risk of inhuman treatment in the state of return.

Source:

CJEU, *Commission v. Hungary*, Case C-808/18, judgment of 17 December 2020, <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:62018CJ0808>

4. ECHR, *N.D. and N.T. v. Spain*, 13 February 2020 – Strict conditions for the legality of summary return

In this case, the Court accepted, under certain conditions, the immediate return of persons who had entered Spain via the Melilla fence, while **recalling that the absence of individual proceedings and effective remedies violated Article 4 of Protocol No. 4 (prohibition of collective expulsions)**.

This judgment has been interpreted controversially, but it does confirm that **any return must be preceded by an individual assessment, unless legal means of access to the territory actually exist – which is rarely the case for migrants at sea.**

Source:

ECHR, *N.D. and N.T. v. Spain*, nos. 8675/15 and 8697/15, judgment of 13 February 2020, <https://hudoc.echr.coe.int/eng?i=001-201366>

5. UN Human Rights Committee, *A.S. v. Italy*, 7 November 2016 – State responsibility for cooperation with third parties

The United Nations Human Rights Committee reiterates that **a state's cooperation with foreign authorities responsible for inhuman treatment engages its responsibility**, even when the state is not directly involved in the refoulement.

This opinion provides a useful addition to the case law of the European Court of Human Rights and **recognises international complicity in chains of refoulement or deliberate inaction at sea.**

Source:

United Nations Human Rights Committee, *A.S. v. Italy*, CCPR/C/116/D/3042/2017, 7 November 2016, <https://juris.ohchr.org>

Violation of the best interests of the child and discrimination against migrant minors

European Court of Human Rights, *Popov v. France*, judgment of 19 January 2012

"The European Court of Human Rights recalls that the extreme vulnerability of children is a key factor to be taken into account in any migration policy, and that the detention of minors, even when accompanied, can only be justified under strictly controlled conditions and for as short a period as possible. In this case, the Court condemned France, considering that the detention of the Popov children constituted inhuman or degrading treatment, in violation of Article 3 of the European Convention on Human Rights."

(*Popov v. France*, ECHR, 19 January 2012, §§ 91, 119, 122, 124):
<https://hudoc.echr.coe.int/fre#%7B%22fulltext%22:%5B%22Popov%22%5D,%22itemid%22:%5B%22002-47%22%5D%7D>

8- SIGNATORY ORGANIZATIONS

**Le secrétariat du Forum Social Maghreb
Forum Tunisien des Droits Économiques et Sociaux (FTDES)
Forum des Alternatives Maroc (FMAS)**

LISTE DES SIGNATAIRES PAR ORDRE ALPHABÉTIQUE

N°	Organisation	Pays
1	Action Jeunesse	Maroc
2	Association de Promotion des Cultures et du Voyage	France
3	Association Démocratique des Femmes du Maroc (ADFM)	Maroc
4	Association Démocratique des Tunisiens en France (ADTF)	France
5	Association des Haratine de Mauritanie en Europe	France
6	Association des Jeunes Avocats de Khémisset	Maroc
7	Association des Marocains en France AMF	France
8	Association des Travailleurs Maghrébins de France (ATMF)	France
9	Association féministes Tharwa n'fadhma n'soumeur	Algérie
10	Association femmes Plurielles	France
11	Association Femmes pour l'Egalité et la Démocratie	Maroc
12	Association les Deux-Rives	France
13	Association Mains Libres	Maroc
14	Association Marocaine d'aide aux migrants en situation vulnérable (AMSV)	Maroc
15	Association Marocaine des Droits Humains (AMDH)	Maroc
16	Association N'aoura	Belgique

17	Association Nationale des Avocats du Maroc	Maroc
18	Association Thesgnas pour la Culture et le Développement (ASTICUDE)	Maroc
19	Citoyens pour des Actions Plurielles en Méditerranée - (CAP MED)	France
20	Collectif Associatif pour l'Observation des Elections (CAOE)	Maroc
21	Collectif de Sauvegarde de la Ligue Algérienne pour la Défense des Droits de l'Homme. (CS-LADDH)	Algérie
22	Comité de Vigilance pour la Démocratie en Tunisie (CVST)	Belgique
23	Comité pour le Respect des Libertés et Droits de l'Homme en Tunisie (CRLDHT)	France
24	Confédération Démocratique du Travail (CDT)	Maroc
25	Confédération Générale des Travailleurs de Mauritanie (CGTM)	Mauritanie
26	Confédération Générale du Travail (CGT/Maroc)	Maroc
27	Coordination Maghrébine des Organisations des Droits de l'Homme (CMODH)	Maghreb
28	E-Joussour Portail du Maghreb	Maroc
29	EMCEMO	Pays Bas
30	Espace Associatif	Maroc
31	Fédération des syndicats démocratiques (F.S.D)	Maroc
32	Fédération des Tunisiens Citoyens des Deux Rives (FTCR)	France
33	Forum des Contributions Maroc	Maroc
34	Forum Marocain des Alternatives Sud (FMAS)	Maroc
35	Forum Marocain Vérité et Justice (FMVJ)	Maroc
36	Forum Tunisien des Droits Économiques et Sociaux (FTDES)	Tunisie
37	Initiatives de formation et d'accompagnement des acteurs de proximité (IFAAP)	Maroc
38	Instance marocaine des droits humains (IMDH)	Maroc
39	Jeunes Femmes pour la Démocratie	Maroc
40	Jeunesse Ouvrière Marocaine (JOM UMT)	Maroc
41	Ligue Algérienne des Droits de l'Homme (CS-LADDH)	Algérie
42	Ligue Tunisienne pour la défense des droits de l'homme (LTDH)	Tunisie
43	Observatoire marocain de la protection sociale (OMPS)	Maroc
44	Observatoire Marocain des Libertés Publiques (OMLP)	Maroc
45	Observatoire Marocain des Prisons (OMP)	Maroc
46	Observatory On Gender In Crisis	Libya
47	Organisation démocratique des travailleurs immigrés au Maroc (Odt-I)	Maroc
48	Organisation Marocaine des Droit Humains (OMDH)	Maroc
49	Réseau Syndical Marocain sur les Migrations	Maroc
50	Riposte Internationale	France
51	SOS Migrants -Belgique	Belgique
52	Specto Média	France
53	Union des Jeunes Avocats de Rabat	Maroc
54	Union des Travailleurs Immigrés Tunisiens (UTIT)	France