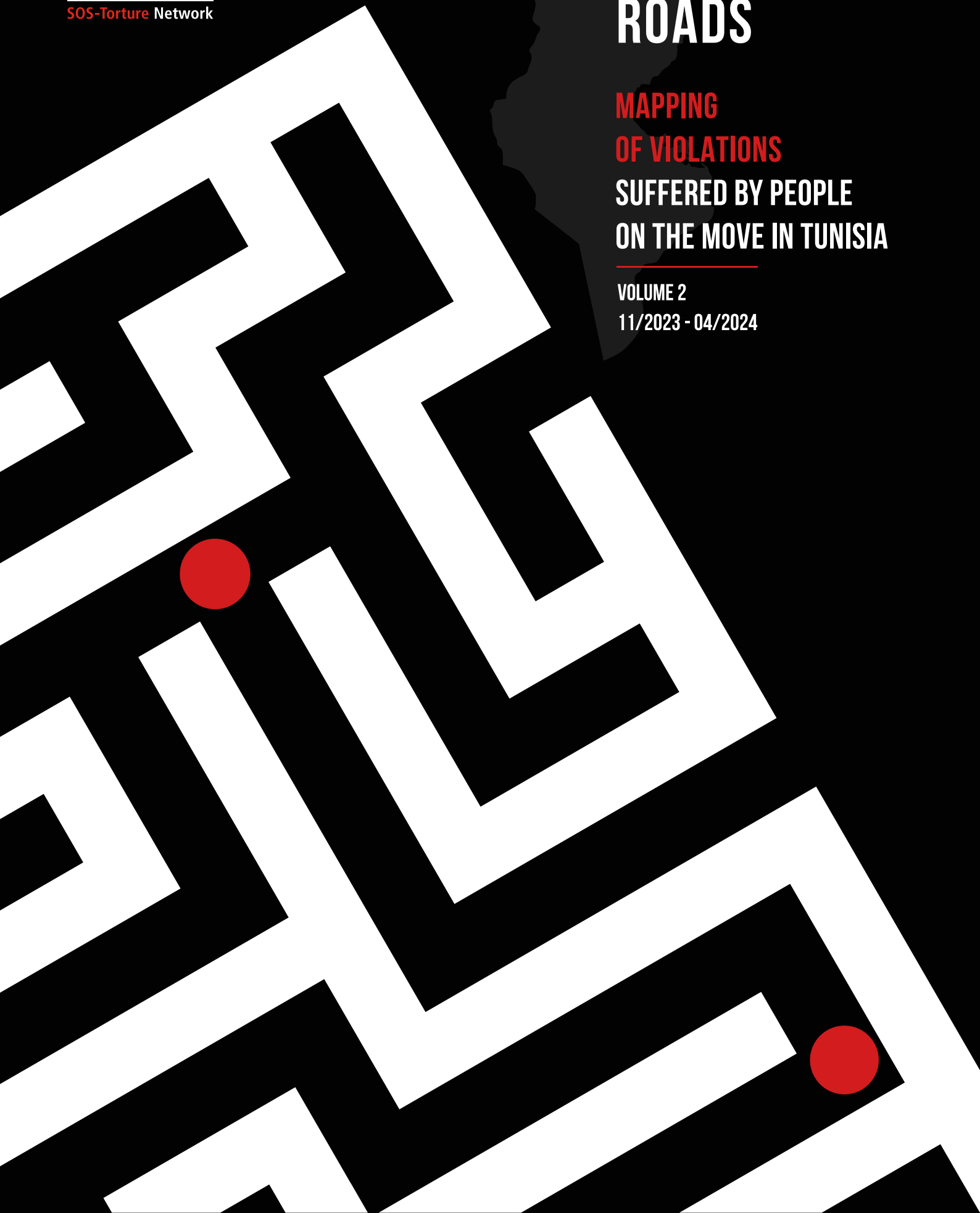


# TORTURE ROADS

**MAPPING  
OF VIOLATIONS  
SUFFERED BY PEOPLE  
ON THE MOVE IN TUNISIA**

VOLUME 2  
11/2023 - 04/2024





**OMCT**

SOS-Torture Network

**TORTURE ROADS**  
**MAPPING OF VIOLATIONS**  
**SUFFERED BY PEOPLE ON THE MOVE**  
**IN TUNISIA**

**VOLUME 2**

**11/2023 – 04/2024**



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# LIST OF ACRONYMS

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<b>AVRR</b>	Assisted voluntary return and reintegration assistance
<b>CAT</b>	Convention against Torture
<b>CRT</b>	Tunisian Red Crescent
<b>CSO</b>	Civil Society Organization
<b>DCIM</b>	Directorate for Combating Illegal Migration (in Libya)
<b>DGFE</b>	General Directorate of Borders and Foreigners of the Ministry of the Interior
<b>FGD</b>	Focus Group Discussion
<b>HRD</b>	Human Rights Defender
<b>IMO</b>	International Maritime Organization
<b>IOM</b>	International Organization for Migration
<b>ITS</b>	Informal Tented Settlement
<b>KII</b>	Key Informant Interview
<b>OMCT</b>	World Organisation Against Torture
<b>SAR</b>	Search and Rescue
<b>UN OHCHR</b>	United Nations Office of the High Commissioner for Human Rights
<b>UNHCR</b>	United Nations Refugee Agency



# METHODOLOGY

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OMCT's monitoring and research are based on:

- In-depth analysis of reports and communications produced by international organizations, non-governmental organizations and national and local associations working on the rights of people on the move;
- Extensive documentation of publicly available secondary data, including analysis of videos, images, GPS coordinates, satellite images and written testimonies, which allowed to identify episodes of violations during the period under analysis;
- Semi-structured interviews with over 40 representatives of international, national and local non-governmental organizations (based in Tunis, Sfax, Zarzis, Medenine, Ben Guerdane, Tozeur, Nefta and Djerba), human rights defenders, researchers and journalists;
- A fact-finding and observation mission to Zarzis and Médenine to meet several local actors involved in assisting people on the move and to carry out direct data collection with people on the move;
- Documentation of nine individual cases handled by SANAD, the OMCT's holistic direct assistance program for victims of torture;
- Documentation of ten individual cases of victims assisted by partner organizations;
- A dozen semi-structured interviews with officials from international organizations to validate the overall understanding of violations and complement with quantitative data trends.

Several limitations inherent to the documentation of human rights violations suffered by people on the move prevented access to quantitative data, such as, among others: the constant mobility of alleged victims, the juxtaposition of several different migratory flows over the same period and on the same routes, the cross-border nature of the violations suffered by people on the move, the difficulty of accessing the geographical areas where the alleged violations were committed. However, after studying in detail and verifying the typology, incidence and prevalence of violations on the Tunisian territory, the report presents conclusions relating to the qualitative aspect of these violations in terms of patterns and consequences on individuals, their families and communities.



# SUMMARY

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Tunisia continues to be a transit country for people from sub-Saharan Africa: thousands of men, women and children leave their countries of origin in the Sahel region - increasingly characterized by persistent poverty and insecurity, conflict-induced displacement and climate change, and embark on a perilous journey of violence and death with the sole aim of reaching Europe. Many of the people interviewed for this study have been repeatedly expelled by the Tunisian authorities to Libya or Algeria but decide to return to Tunisia and head to the coast, boarding makeshift boats and crossing the Mediterranean.

*“We have nothing to lose and no other options.”*

The intensification of violence and proliferation of xenophobic discourse against people on the move<sup>1</sup> committed and/or tolerated by the Tunisian authorities reflect the difficulties of the Tunisian state in managing the flows and presence of migrants, refugees and asylum seekers. As highlighted by the OMCT's previous research, since October 2022, the Tunisian authorities have resorted to incoherent policies, repressive measures and short-term tactics emanating from a security vision primarily focused on mass expulsions of people on the move to Tunisian remote rural or border regions, contributing to the deterioration of the living conditions of those still residing on or transiting Tunisian territory, with the aim of forcing them to leave.

This security-focused approach aims at compensating for a political context characterized by: (i) the authorities' inability and lack of political will to develop a national and regional migration strategy and policy; (ii) an internal social, political and economic crisis; (iii) continuous pressure from Europe to reduce irregular migration in the Mediterranean Sea; (iv) obsolete and inadequate legislation governing both the status of foreigners and migration issues. On the social front, Tunisia faces escalating challenges stemming from inter-community tensions, increasingly sophisticated and well-connected criminal networks, and widespread public frustration often fueled by populist and xenophobic rhetoric that consider migrants and other vulnerable communities as scapegoats.

Following on from previous research produced by the OMCT, this report presents an overview of the scale and nature of human rights violations committed between November 2023 and April 2024 against migrants, refugees and asylum seekers, their long-term consequences on this group of individuals, their families and their communities, as well as their effects on the stability of Tunisian society as a whole.

The OMCT's in-depth research - based on a multiplicity of interviews with specialists, human rights defenders and representatives of humanitarian and human rights organizations - confirms that

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1. In line with the OMCT's report «Torture Roads» (2021), and the OMCT Tunisia's recent reports «Mapping Responses to Human Rights Violations: The cases of people in mixed migratory movements in Tunisia, OMCT Tunisia» (June 2023), and «Torture Roads, Mapping violations suffered by people on the move in Tunisia» (December 2023), this report alternatively uses the term «people in mixed migration/movement flows», «migrants, refugees and asylum seekers» and «people on the move» as a global category including migrants, refugees and asylum seekers, unaccompanied and separated children, victims of trafficking, migrant workers and migrants (including those in an irregular situation). The term describes the cross-border movements of people whose protection profiles, reasons for moving and needs vary widely. Motivated by a multiplicity of factors, people involved in mixed migration flows have different legal statuses and present different vulnerabilities. While refugees and migrants belong to distinct legal categories, they are increasingly taking similar routes and means of transport by land and/or sea. At every stage of their journey, they face gross human rights risks and violations, including torture and other cruel, inhuman or degrading treatment or punishment («ill-treatment»), unlawful killings, sexual and gender-based violence, kidnapping, extortion, forced labor and human trafficking.

between November 2023 and April 2024, forced and arbitrary displacements to border areas persisted, against both individuals arrested during land operations and those intercepted at sea. A series of interviews with victims and survivors of violence - all from sub-Saharan or West African countries - allowed to identify and confirm the systematic use of expulsions and deportations. Through a series of maps, this study reconstructs the routes that hundreds or even thousands of migrants, refugees and asylum seekers are forced to follow when they are abandoned in desert or mountainous border areas, or when they are directly transferred to Libya and Algeria by security forces.

In addition to visual material provided by victims, the OMCT used open-source methods to analyze videos posted on social media, which confirmed the geolocation in the coastal area of a series of ground operations aimed at preventing departures to Europe, with the destruction of informal tented settlements and the denial of access to basic rights and services.

The organizations and specialists consulted for this research also confirmed the emergence of a series of alarming new practices, including numerous cases of human trafficking and kidnapping, as well as cases of gender-based violence, sexual exploitation and sexual abuse, committed by criminal networks, in many cases with the reported complicity of state authorities.

Direct and permanent contact with people on the move and their families has enabled the OMCT to reconstruct and present the inhuman conditions in which most of them are forced to live. The report identifies a series of situations, classifying them as triggering factors for the sequence of acts of violence: (i) irregular status and the absence of legal avenues of residence and mobility, (ii) pauperization and the consequent denial of access to housing and to livelihood opportunities, (iii) limited freedom of movement and the resulting vulnerability, and (iv) the general denial of fundamental rights and respect for human dignity.

These four paths of violence - presented in form of case studies in Chapter 2 - reconstruct in a factual manner a series of episodes of human rights violations that too many men, women and children continue to suffer in Tunisia. While each migrant's story is unique, the OMCT believes it is important to visualize the causal link between the dehumanization of people based on their origin, their skin color and/or the way they arrived in Tunisia, and their exposure to human rights violations. The study shows that the violations documented affect all people on the move residing in or transiting through Tunisia, although certain specific profiles require particular attention, notably women and children on the move, including unaccompanied minors. The report highlights the profile of the perpetrators detailing (i) the direct responsibility of the State, through acts of violence committed by the National Guard and other security forces, the dissemination of hate speech and xenophobia by the executive branch, as well as (ii) the indirect responsibility linked to the state authorities' failure to meet the obligation to protect people at risk and prevent human rights violations on its territory. At the same time, the responsibility of non-state actors, whether organized criminal groups in the case of trafficking or ordinary citizens in the case of racially motivated violence, is described in the study.

Finally, the study analyzes the consequences of human rights violations and of the denial of access to justice for people on the move, in a context where public authorities are reducing the operational space of civil society organizations and human rights defenders, both targeted by the executive and judiciary authorities. At a time when people on the move have no prospect of a safe and dignified life in Tunisia, the report warns about the continuation of a situation of lawlessness and impunity for the perpetrators of human rights violations, which represents a danger for Tunisian society as a whole.



# ACKNOWLEDGEMENTS



The World Organisation Against Torture (OMCT) works with 200 member organizations to put an end to torture and ill-treatment, help victims and protect human rights defenders at risk, wherever they may be. Together, we form the largest international group active in the fight against torture in over 90 countries. We strive to protect the most vulnerable members of our societies, including women, children, indigenous peoples, migrants and other marginalized groups.

In Tunisia, the OMCT's direct assistance program, SANAD, provides holistic, tailor-made support to victims of torture and ill-treatment. The OMCT combines field expertise with advocacy to inspire reform, to undertake strategic legal action and to support institution-building in partnership with Tunisian civil society and Tunisian administration.

The OMCT aims to promote information, documentation and the study of the human rights situation of all people, including migrants, refugees and asylum seekers, as well as stateless persons. The organization is committed to combating discrimination, racism and xenophobia, and aims to promote and protect the affirmation of the principles of equal rights, equal opportunities and respect for dignity, without any distinction of origin, nationality, language, religion, gender or political opinion.

We would like to extend our warmest thanks to the partner organizations, researchers, human rights defenders, journalists, migrants, refugees and asylum seekers who shared their views on the human rights situation of people in mixed migration flows in Tunisia. This report has been greatly enriched by their views and perspectives. Civil society organizations in Tunisia currently play a crucial role in promoting the rights of people on the move.

Special thanks go to the 51 direct victims of violations who shared their suffering and relived their experiences of violence. Through this report, the OMCT hopes that their voices can be heard. All quotations have been anonymized in order to respect the identity of the interviewees. The content of this report is the sole responsibility of the OMCT. The terminology used throughout the report should not be taken as indicative of any particular legal or policy position. This report is intended to inform the OMCT's future work and positioning on the subject and will be shared with interested partners and stakeholders.



# SCOPE AND OBJECTIVES OF THE RESEARCH

The aim of this report is to highlight the scale and nature of alleged human rights violations committed between November 2023 and April 2024 against migrants, refugees and asylum seekers, as well as their long-term consequences on this group of individuals, their families and their communities.<sup>2</sup> As in previous OMCT reports on the subject, particular emphasis is placed on violations falling within the OMCT's mandate, in particular institutional violence, torture, excessive use of force and ill-treatment<sup>3</sup> perpetrated by security forces, denial of access to justice and procedural guarantees, forced displacement, arbitrary detention and any other form of deprivation of liberty.

The study examines the responsibility of the Tunisian state authorities and focuses on violations committed on Tunisian territory, including at border areas under the effective control of the Tunisian state.<sup>4</sup> In line with the OMCT's mandate, the study investigates the direct responsibility - the actions of the Tunisian authorities (mainly committed by security forces) - and indirect responsibility of the Tunisian State, also referring to omissions or tolerance by state authorities towards violence committed by non-state actors (traffickers, criminal gangs or smugglers) and/or individuals (Tunisian civilians) against migrants, refugees and asylum seekers<sup>5</sup>.

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2. Previous reports covered violations committed between February and June 2023, «Mapping responses to human rights violations: the cases of people in mixed migratory movements in Tunisia, OMCT Tunisia» (June 2023), and between July and October 2023, «Torture Roads. Mapping violations suffered by people on the move in Tunisia» (December 2023).

3. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as «any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, to intimidate or coerce him or her or a third person, or for any other reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. This term does not extend to pain or suffering resulting solely from, inherent in or occasioned by legitimate sanctions.» Article 1.

4. Alleged violations committed by Algerian, Libyan and Italian authorities were also reported, but not analyzed in the report.

5. Under international law, by becoming parties to international treaties, States assume obligations and duties to respect, protect and fulfil human rights. The obligation to respect means that States must refrain from hindering or restricting the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights violations. The obligation to fulfil means that States must take positive measures to facilitate the enjoyment of fundamental human rights.

## THE CONCEPTUAL FRAMEWORK: TORTURE ROADS

OMCT's research confirms that torture and other forms of ill-treatment are widespread at every stage of migration, in countries of origin (often a trigger for migration), along the migration route, and in destination countries, at the hands of state actors, as well as non-state actors. Torture and other types of ill-treatment can take many forms, including kicking, punching, caning, humiliation, racial insults, threats, sexual violence, poor conditions of detention including extreme overcrowding, lack of medical care, food, drinking water and sanitation facilities (or delayed access to them). Other recognized forms of torture and ill-treatment include detention, incommunicado detention and/or prolonged solitary confinement; deportation, return or extradition to another state where there is a risk of torture/ill-treatment. Rape and other forms of sexual violence have also been recognized as equivalent to torture. Threats and being forced to witness the torture of others are psychological torture. These kinds of violations undermine the full and effective enjoyment of the rights of people on the move and in situation of (forced) displacement.

The OMCT believes that an analysis of the human rights situation of displaced persons residing in Tunisia is essential, among other things, to support the efforts of Tunisian authorities to comply with their obligations under international human rights law, and to promote the adoption and implementation of policies based on equity, justice and human rights for all. A better understanding of the needs, profiles, vulnerabilities, intentions and expectations of displaced individuals, families and communities, and of those among them eligible for international protection, is key to design a model framework for asylum and migration specific to Tunisia.

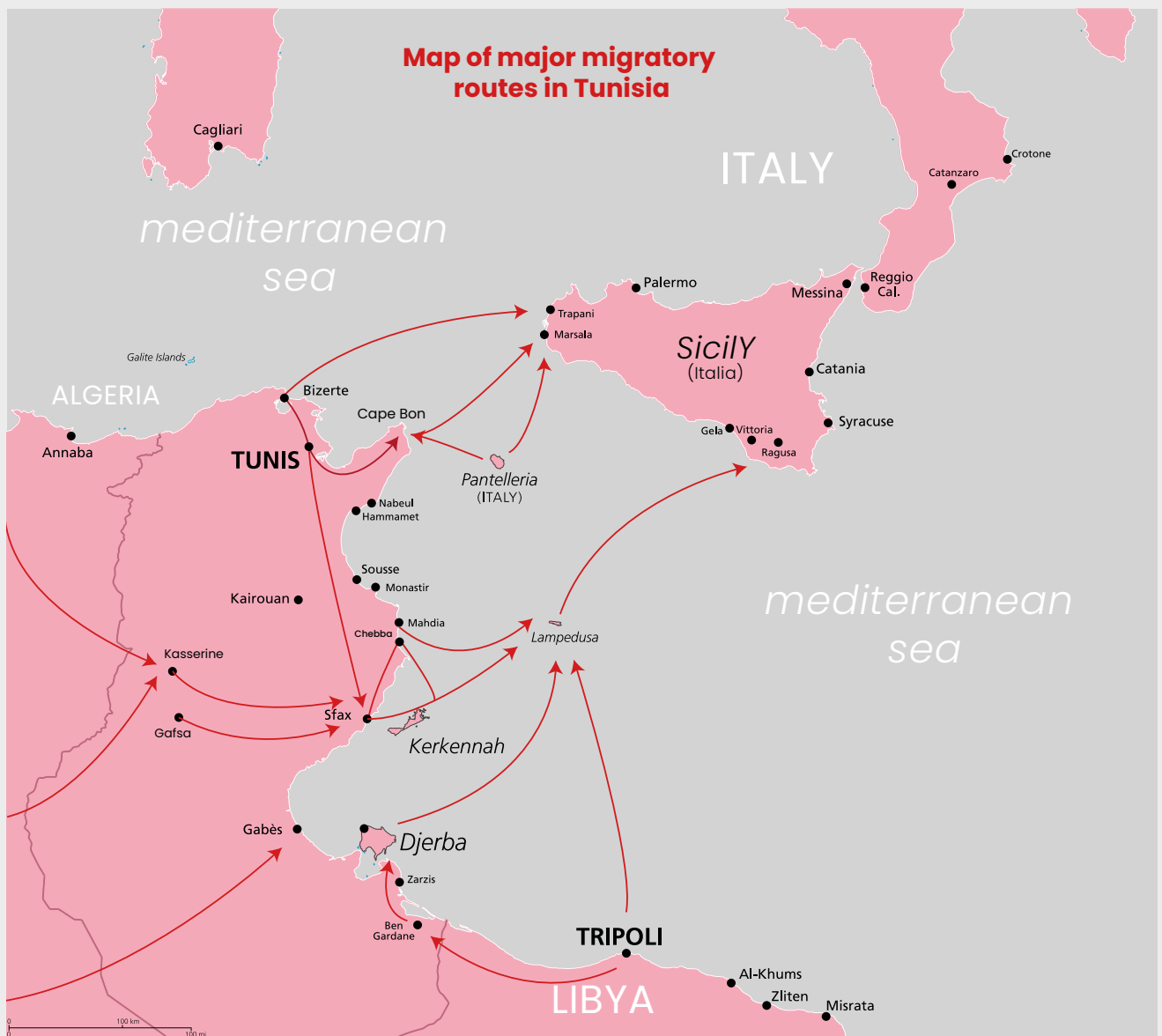
The OMCT reports also seeks to:

- inform the development of migration policies of Tunisia's partners in Europe and Africa, by advocating for the inclusion of human rights protection in current and future bilateral and multilateral cooperation agreements;
- advocate with the Tunisian authorities and its partners to stop ongoing violations and investigate serious violations committed in the past;
- sensitize Tunisian society to the respect for human rights of all, including migrants, refugees and asylum seekers, by promoting a discourse of inclusion and equity.

# 1. CONTEXT

The aim of this section is to present the situation regarding the presence/arrival/ departure/flow of migrants, and to show that despite restrictive policies, Tunisia continues to be a very important transit country on the central Mediterranean route.

## Migration flows



Source : Meddeb Hamza, Louati Fakhreddine, «Tunisia's Transformation into a Transit Hub: illegal migrations and policy dilemmas», Carnegie, 2024



## Arrivals

Tunisia has always been a country of arrival and transit for migrants, refugees and asylum seekers, especially for those coming from sub-Saharan Africa.

- **Legal arrivals**

Migrants continue to enter Tunisia legally on tourist visas or for medical treatment.

- **Irregular arrivals**

The vast majority of migrants residing in Tunisia enter the country by land

- By transiting through Algeria after passing through Libya - by entering Tunisia at the heights of Kasserine, Gafsa, Kef or Tozeur.
- By transiting Libya - entering Tunisia around Ben Guerdane.
- By arriving in Tunisia after being rescued at sea by the National Guard maritime units during crossings from the Libyan west coast to Europe.

Restrictive measures at the Libyan border are now systematically applied, resulting in a significant drop in arrivals from Libya compared to those from Algeria. Most people arriving in Tunisia head to the Sfax Governorate, which remains the main point of departure to Europe.

It is important to highlight the reported increase in arrivals – unlike previous years, the flow of entries has not decreased during the winter period. From September to December 2023 almost 3,000 arrivals were counted per month.<sup>7</sup>

## Departures

While in the past Tunisia was mainly a destination country for people from sub-Saharan Africa wishing to study or work, more recently it has become a transit country.

- **Legal departures - to countries of origin**

Requests to IOM for assisted voluntary return rose sharply in the period from November 2023 to April 2024. From Tataouine, nine charter flights were organized between January and mid-April 2024 to Gambia, Guinea and Burkina Faso, as well as almost 500 voluntary return «movements»<sup>2</sup> to Chad, Niger, Guinea and Mali, as well as to less frequent destinations such as Ghana, Benin and Guinea Bissau. This is to say that between November and April 2024, voluntary returns were facilitated for 3,004 people: to Burkina Faso (30%), Gambia (29%), Guinea (10%), Chad (6%), and other destinations such as Côte d'Ivoire and Senegal - an increase of over 200% compared with the same period in 2023.<sup>8</sup>

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7. This figure corresponds to the number recorded between September and December 2023 of people arriving and approaching to apply for international protection, KII with a humanitarian source.

8. Humanitarian source.

- **Irregular departures to Italy**

Out of a total of 157,652 persons arriving irregularly in Italy in 2023, 97,667 had left from Tunisia.<sup>9</sup> Arrivals from Tunisia, however, fell steadily from November 2023 to February 2024, and fewer than 1,200 people (including nearly 700 Tunisians) had departed from Tunisia out of the 4,715 who reached Italian shores between January and February 2024.

The months of March and April 2024, however, coincided with a significant increase in departures following improved weather conditions. Thus, a total of 9,001 had departed from Tunisia by the first quarter of 2024, the majority of them sub-Saharan Africans and 2,768 of Tunisian nationality, out of the 20,447 arriving in Italy through irregular means.<sup>10</sup>

- **Deportations to Libya and Algeria**

Since the end of September 2023, Tunisian security forces have regularly and continuously deported migrants to Libya and Algeria. Given the cross-border nature of the deportations, the modus operandi and the destinations (desert border areas - detention centers in Libya), it is impossible to precisely estimate the number of persons deported extra-judicially by the Tunisian authorities. However, according to testimonies collected from victims and interviews with humanitarian officials, these deportations involve dozens or even hundreds of people a week.

Between June 2023 and the end of April 2024, a total of 9,910 migrants and people in need of international protection were intercepted by Libyan authorities at the border with Tunisia.<sup>11</sup>

## **Deaths and disappearances**

According to the IOM, the number of migrants who went missing or lost their lives on the central Mediterranean route rose from 1,553 in 2021 and 1,417 in 2022, to 2,500 in 2023. It is estimated that at least 361 people died off the Tunisian coast between November 2023 and April 2024, including 345 between January and April 2024 alone.<sup>12</sup> Similarly, the OMCT has documented several cases of deaths linked to living conditions (infectious and respiratory diseases, malnutrition) as well as the risks people on the move are exposed to (deaths to escape kidnappings, deportations and land or sea interceptions), without being able to estimate a number of deaths.

As the report details, hundreds of persons on the move, forcibly displaced to the borders areas with Libya or Algeria and/or deported to those neighboring countries, continue to return to Tunisia, and are left without options. Despite the inhumane conditions to which thousands of displaced people from sub-Saharan African countries are subjected, they continue to transit through the country on their way to the Tunisian coast.

This clearly demonstrates that the current management of migratory flows does not alter the itineraries and has little impact on the presence of migrants on Tunisian territory.

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9. Italian Ministry of Foreign Affairs.

10. Italian Ministry of Foreign Affairs.

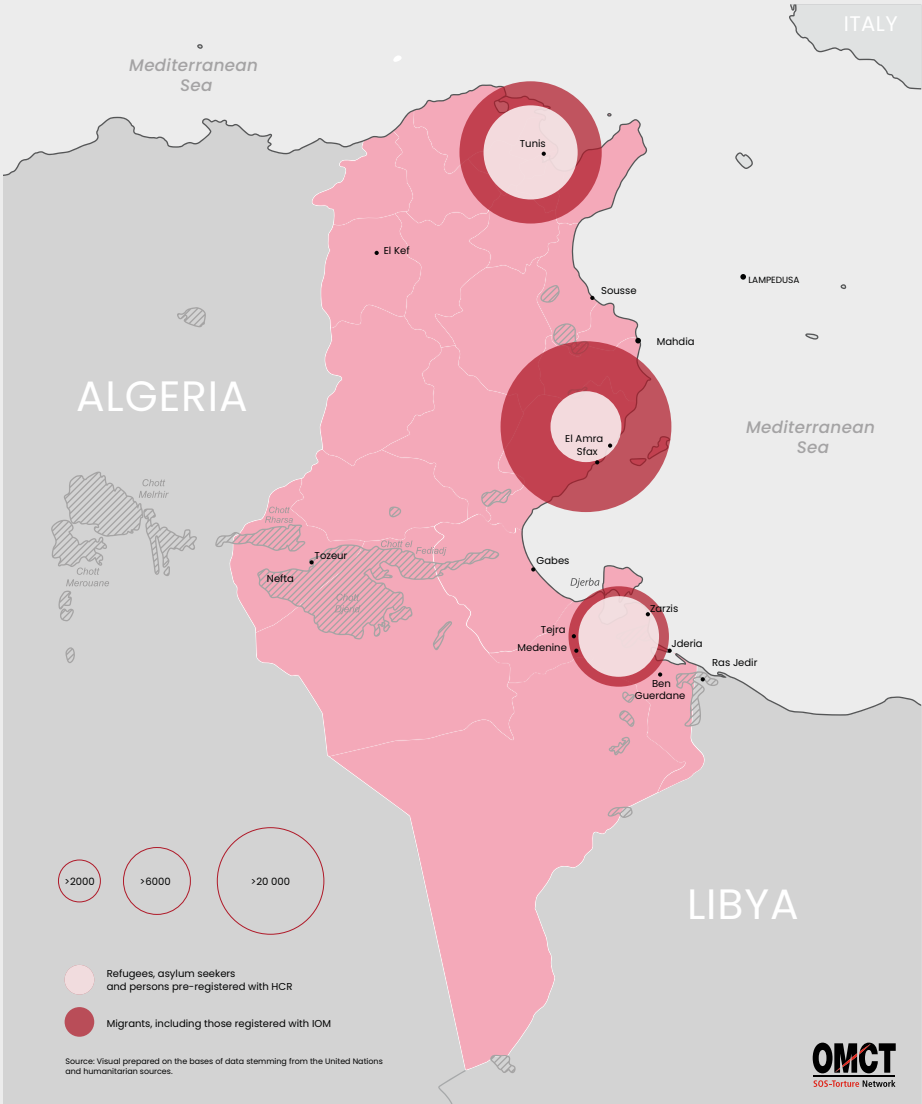
11. Humanitarian source: this figure includes people deported by the Tunisian authorities as well as those who tried to cross the border but were intercepted by Libyan forces.

12. OIM – Missing Migrants Project.

### Presence in Tunisia

The overall number of people on the move (migrants, refugees, asylum seekers, stateless people) residing in or transiting through Tunisia is difficult to estimate. As confirmed by stakeholders consulted for this study, the official figures are probably underestimated. The number of people on the move in Tunisia is estimated at between 50,000 and 100,000. Taking into account available and accessible quantitative data, the map below attempts to provide an overview of the presence of people on the move in Tunisia at the end of April 2024.

## Map of the geographical distribution of people on the move in Tunisia



13. According to the survey, 59,000 foreigners are living temporarily or permanently in Tunisia; the percentage of foreigners in relation to the total population has remained constant between 1995 and 2021 (between 0.3 and 0.5%) and there is an equal number of foreigners (around 21,000 each) from the Maghreb and sub-Saharan Africa. «A foreign immigrant or resident in Tunisia is anyone who has been living in the country for at least six months or intends to stay for more than six months, regardless of their legal or illegal residence status. This population includes all persons of foreign nationality, whether or not they hold a residence permit in Tunisia». See «Enquête Nationale sur les Migrations Internationales» carried out by the Institut National de la Statistique (INS) and the Observatoire National des Migrations (ONM), 2021. According to the specialists consulted for this study, even the official figures for 2021 were probably underestimated, given that migrants with an irregular status, who have entered irregularly and/or do not possess a valid residence permit, largely constitute a hidden population. Consequently, the exact number of migrants in Tunisia's foreign population today is unknown, and estimates range from 30,000 to 100,000.

14. According to the Ministry of the Interior, in April 2024, there were 23,000 «irregular migrants» and 9,000 «legal» migrants of sub-Saharan origin in Tunisia. 27 African nationalities have been recorded. 1,099 people from sub-Saharan African countries are said to be in prison.

The **refugee and asylum seeker** population has increased, mainly due to the ongoing conflict in Sudan, from 10,834 on September 30, 2023 to 17,177 on April 30, 2024 (of whom 22% are registered as refugees and 78% as asylum seekers). The red circles on the map represent the refugee and asylum seeker population and are taken from official data shared by UNHCR on a periodic basis.

The majority of **migrants** residing in or transiting through Tunisia are migrants with irregular status<sup>8</sup> without entitlement to international protection.<sup>9</sup> It is difficult to estimate the actual number of this group of individuals. The red circles are estimates based on the number of migrants registered with IOM. These figures do not accurately reflect reality, as:

- not everyone registers with IOM.
- many people continue to enter and leave the country, and their presence cannot be counted.
- not all deaths are registered.<sup>15</sup>
- not all new births are registered.<sup>16</sup>

At the beginning of 2024, according to estimates by all OMCT partners, the majority of migrants live around the following areas in Tunisia:

- Sfax and its outskirts (El Amra and all villages up to Chebba): more than 20,000 migrants live in the Governorate of Sfax, almost three times as many as in September 2023, including less than 1,700 refugees and asylum seekers.
- Tunis: over 6,800 refugees and asylum seekers – and around 10,000 migrants, of whom 2,622 people registered by IOM until April 2024
- Zarzis and Médenine: 7,000 refugees and asylum seekers - including over 3,000 Sudanese nationals and around 5,000 migrants.

Many people are also on the move in several other areas of Tunisia, following spontaneous<sup>17</sup> or forced displacement:

- between Tébessa (Algeria), Kasserine - Gafsa and Sfax;
- around the buffer zones with Libya;
- in Nefta and along the Algerian border at and south of Tozeur; as well as
- around Jendouba and Kef.

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15. See the section on body management.

16. See the section on children on the move.

17. Researchers have rightfully raised the question of whether a movement can be distinguished into voluntary or involuntary in practice, given the multiplicity of intersecting causes, both proximate and more distant, that determine the decision to leave one's home. Consequently, some suggest that voluntary and involuntary population movements represent only poles of a spectrum of mobility decision-making, rather than a distinct duality. «Conceptualising «Relocation» Across Displacement Contexts», David James Cantor, 2023.

## The camps

In 2024, according to interviews conducted within the framework of this research, two locations are being used as camps for migrants, refugees and asylum seekers following the dismantling of informal tented settlements by Tunisian security forces between February and March 2024.

### Jderia

- Jdaria is a temporary shelter managed by UNHCR in response to a request from the Medenine regional authorities in a quest to find a place for asylum seekers living in informal settlements in Zarzis. The group was first transferred to the Zeytoun shelter, then to Jdaria, where improvements were made (Jdaria used to be a farm). Authorization from the civil authorities was granted to accommodate 450 persons; due to the lack of shelters and the expulsion campaigns carried out in Djerba and surrounding areas, many asylum seekers moved «spontaneously» to Jdaria. The UNHCR regularly transfers unaccompanied minors and women to this center.
- Reception center without deprivation of liberty.
- Nearly 900 people are currently housed here - most of them pre-registered with the UNHCR or with asylum seekers status. The most common nationalities are Sudan, Chad, Niger, Eritrea and Somalia. UNHCR regularly transfers unaccompanied asylum seekers to its Ibn Khaldoun temporary safe shelter, and women to its Mednine safe shelter. Both have reached maximum capacity.
- Living conditions are described as «catastrophic» by people who have been able to gain access to the camp. Sanitary conditions are in a tremendously worrying state, particularly as regards contagious diseases. The need for food and medical care is significant. Only the Tunisian Red Crescent and UN agencies are reported to have access to the camp, unlike other civil society organizations.

*“To leave them there is to inflict slow but lasting violence.”*

Selon un responsable d'une organisation humanitaire locale.

### Tejra

- Tejra is a former warehouse, located 10 kilometers from Médenine in an abandoned industrial zone. The location was used as a prima facie detention center in July 2023.
- Currently a reception center, individuals residing in Tejra are not deprived of their freedom of movement and can leave the location.
- Nearly 1,000 people are lodged in this location, most of them displaced from Sfax by security forces during the dismantling of camps in El Amra since March 2024, as well as from informal tented settlements in Medenine on the Djerba road in February 2024. Tejra reopened its doors to welcome new asylum seekers who used to live in ITS outside the Ibn-Khaldoun accommodation center in Medenine. The transfer of the Ibn Khaldoun group to Tejra was decided by the regional authorities. The site also welcomes new arrivals to the country who don't know where to go to find shelter.
- Living conditions have changed little since the summer of 2023, with mattresses placed on the ground, no regular food distribution, no access for associations, and deplorable hygiene conditions due to the lack of sufficient showers and sanitary facilities, despite the installation of several showers and latrines at the end of 2023.<sup>18</sup>

18. KII reported that the initial group registered with UNHCR received exceptional financial assistance for four months.

## Profile of people on the move in Tunisia

As highlighted by the OMCT's previous research and documentation, and according to a broad range of stakeholders consulted for this study, the profile of people on the move residing in or transiting through Tunisia has changed radically over the past two years. Tunisia used to be a destination country for thousands of foreigners who, since 2011, were increasingly choosing to live in the country with their families for reasons of study or work. Since October 2022, more and more people have been coming to Tunisia to cross the Mediterranean. The number of minors [accompanied and unaccompanied] has risen sharply; the age of those arriving in Tunisia has significantly reduced. Yet, the majority of people on the move are men. The countries of origin of refugees and asylum-seekers in Tunisia has changed since 2023 with the most represented nationalities being Sudan, Syria, Ivory Coast, and Somalia. Among migrants registered with the IOM in 2023, the most represented nationalities are Côte d'Ivoire, Gambia, Guinea, and Burkina Faso.

### • Evolution of assistance

As with the profile of people on the move, the type of assistance provided to this population has changed significantly over the past two years. Prior to February 2023, assistance involved mainly support with administrative formalities to renew residence permits, access to study grants, legal assistance in commercial law to set up businesses, legal assistance in administrative and civil law (registration of births, marriages and deaths). Emergency accommodation for vulnerable individuals and families was sporadic.

From October 2022, and more specifically February 2023, support has shifted to:

- A. emergency humanitarian assistance, including emergency accommodation and food aid;
- B. emergency medical assistance, including psychological support and physical accompaniment to hospital;
- C. legal assistance, particularly in the event of prosecution;
- D. maintaining family ties following family separation;
- E. issuing humanitarian visas.

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19. Voir « Enquête Nationale sur les Migrations Internationales » réalisée par l'Institut National de la Statistique (INS) et l'Observatoire National des Migrations (ONM), 2021.

20. « Le nombre de mineurs [accompagnés ou non] a augmenté de 134 % avec 18 287 arrivées [en Italie] en 2023 contre 7 812 en 2022. » *Refugees international*, novembre 2023.

21. Indication de la tranche d'âge pour les réfugiés et les demandeurs d'asile.


22. UNHCR données 30 avril 2024 : <https://data.unhcr.org/en/country/tun>.

23. KII avec IOM Tunisie.

# 2. A CONTINUUM OF VIOLENCE AND HUMAN RIGHTS VIOLATIONS

## 2.1 TIMELINE

This report covers the period November 2023 - April 2024. The following chronology is not exhaustive but aims at organizing over time the main episodes of human rights violations against migrants, refugees and asylum-seekers in Tunisia, as well as significant moments illustrating the Tunisian State's policy on the subject, and different trends of violations.




## CHRONOLOGY OF EVENTS

### Evolution of the situation of people on the move

November 2023 - April 2024

## TIMELINE

### WEEK OF NOVEMBER 20, 2023



**160 PEOPLE** are stranded on the border between Tunisia and Libya, having been intercepted at sea by the Tunisian coastguard and forcibly moved to the border.<sup>24</sup>

17/11

The inter-agency border management training center is inaugurated in Nefta in cooperation with Austria, Denmark and the Netherlands.

21/11

**MORE THAN ONE HUNDRED PEOPLE WERE DEPORTED TO LIBYA** from the port of Sfax in two buses to the Dehiba border post, in cooperation with the Libyan authorities.<sup>25</sup>

**189 PEOPLE WERE STRANDED**

for over a week in a buffer zone between Tunisia and Libya, before being evacuated to Tunisia.<sup>26</sup>

**45 PEOPLE WERE DEPORTED TO ALGERIA**

after being intercepted and abandoned in a desert area.<sup>27</sup>

25/11

**THE USGN IS DEPLOYED IN EL AMRA.**<sup>29</sup>

Several waves of arrests took place in the morning, leading to dozens of people being deported to Libya and Algeria, with hundreds stranded in the buffer zones between Libya and Tunisia.

24/11

**A NATIONAL GUARD CAR**

is targeted by dozens of sub-Saharan migrants after a violent intervention by the security forces, with around twenty boats burned and rubber bullets and tear gas fired. Four members of the National Guard were reportedly injured.<sup>28</sup>



26/11 **ARRESTS CONTINUE IN AND AROUND SFAQ.**

Arrests continue in and around Sfax. Following a police intervention in Cité Ennour in Sfax, and another one along the Mahdia Road 24km from Sfax, at least six people are reported to have died since November 24 in Sfax, as a result of tear gas and gunshot wounds. The Tejra depot in Médenine (used as a detention center in July 2023) was reopened and began receiving displaced persons on November 27.

20/12

A 150 million Euro cooperation agreement is signed between the EU and Tunisia as part of the MoU.<sup>30</sup>

29/12

Interception of a boat off the coast of Sfax, followed by deportation to the Algerian border<sup>31</sup> at Tebessa.

25/01

**DISMANTLING OF THE INFORMAL CAMP OPPOSITE THE UNHCR OFFICES IN ZARZIS<sup>32</sup> AND FORCED DISPLACEMENT RELOCATION TO THE ZITOUNA HOSTEL NEXT TO THE JARDIN D'AFRIQUE CEMETERY IN ZARZIS.**

29/01

**KAIS SAIED ATTENDS THE ITALY-AFRICA SUMMIT IN ROME,**<sup>33</sup> declaring that "Tunisia will not accept the "implantation" of African migrants on its own territory".

10/03

The informal settlement on the outskirts of Zarzis around the Zeitoun hostel was dismantled and the people living there **were forcibly moved to a new location 24 km from Zarzis, on the Jderia peninsula.**<sup>36</sup>

07/02

Following the announcement of the arrest by the Stability Support Group Apparatus (SSA) in Libya of several hundred migrants near the Tunisian border,<sup>34</sup> several organizations denounced the continuous deportations carried out by the Tunisian authorities in cooperation with the Libyan authorities.<sup>35</sup>

24. Humanitarian source

25. Humanitarian source

26. Humanitarian source

27. Alarm Phone on X, 21/11/2023

28. See Nissim Gastelli, «En Tunisie, un affrontement entre migrants et forces de l'ordre fait craindre une nouvelle vague répressive», Le Monde, 27/11/2023

29. Inkyfada, «In El-Amra, a disaster foretold for migrant women», 18/12/2023

30. European Commission, «The European Union and Tunisia come to an agreement on a EUR 150 million programme», 20/12/2023. On the Pact see also: Amnesty International, «Union européenne. Agreement on European Migration Pact will cause increased suffering», 20/12/2023

31. Info Migrants, «The children had nothing for the cold: Migrants deported from Tunisia to the snow-covered Algerian mountains», 02/02/2024

32. Jihed Brimri on X, 26/01/2024

33. Kapitalis, «Kais- Sied : La Tunisie n'acceptera pas l'implantation des migrants africains sur son territoire», 30/01/2024

34. Stability Support Apparatus on Facebook, 03/02/2024

35. The Libyan Observer on X, «Tunisian authorities continue to transfer immigrants into Libyan territory», 08/02/2024

36. ICI reported that the center had been dismantled because the owner refused to sign an agreement as the number of residents exceeded the capacity. UNHCR undertook renovation work in Jdarja. Once the work was completed, the group was transferred to Jdarja. UNHCR, with the support of community organizations in Zarzis, provided food aid and basic services. The authorities put an ambulance on standby to ensure the transfer of medical cases to hospital if necessary.



## SEMAINE DU 20 MARS

INTENSIFIED DISMANTLING OF INFORMAL SETTLEMENTS IN EL AMRA BY SECURITY FORCES (POLICE, NATIONAL GUARD INCLUDING USGN), WITH OVER A THOUSAND MAKESHIFT SHELTERS DESTROYED IN JUST A FEW DAYS.



24/03

THE EU announces the payment of 164 million Euros<sup>37</sup> in aid over three years to the Tunisian security forces for migration management and border security.

05/04

ADOPTION OF A DECREE ON THE ORGANIZATION OF MARITIME SEARCH AND RESCUE IN TUNISIA (SAR ZONE).<sup>38</sup>



17/04 ITALIAN PRIME MINISTER GEORGIA MELONI'S VISIT TO TUNISIA. DURING THE VISIT SHE PLEDGED TO "INVOLVE INTERNATIONAL ORGANIZATIONS TO WORK ON THE RETURN TO THE COUNTRIES OF ORIGIN."<sup>41</sup>



12/04

THE EUROPEAN OMBUDSMAN DECIDES TO OPEN AN OWN-INITIATIVE INQUIRY INTO HOW THE EUROPEAN COMMISSION "INTENDS TO ENSURE THE RESPECT FOR HUMAN RIGHTS UNDER THE EU-TUNISIA MEMORANDUM OF UNDERSTANDING."<sup>40</sup>



10/04

ON APRIL 10, 2024, THE EUROPEAN PARLIAMENT VOTES IN FAVOR OF THE NEW RULES ON MIGRATION. THE ASYLUM AND IMMIGRATION PACT WILL BE FORMALLY ADOPTED BY THE EU COUNCIL ON MAY 14, 2024.<sup>39</sup>

22/04

TUNISIA - LIBYA - ALGERIA SUMMIT TO DISCUSS BORDER CONTROL AND MANAGEMENT OF MIGRATORY FLOWS FROM SUB-SAHARAN COUNTRIES.<sup>42</sup>

23/04

HOUSSEM JEBALI, SPOKESMAN FOR THE TUNISIAN NATIONAL GUARD, SAYS THAT "REMOVAL OPERATIONS" FOR "ILLEGAL MIGRANTS" HAVE BEEN CARRIED OUT SINCE MID-APRIL BY THE NATIONAL GUARD IN EL AMRA TO DISMANTLE ENCAMPMENTS IN OLIVE GROVES.<sup>43</sup>



37. Financial Times, «EU to provide €165mn for Tunisian security forces to curb migration»

38. JORT number 2024-047 - Decree no. 2024-181 of April 5, 2024, on the organization of maritime search and rescue, See also: Tap Info, «Safe Sea 24» maritime exercise launched (Defense Ministry), 05/27/2024

39. Pact on Migration and Asylum - European Commission (europa.eu)

40. How the European Commission intends to ensure respect for human rights under the EU-Tunisia Memorandum of Understanding | Case opened | European Ombudsman (europa.eu)

41. Info Migrants, «Tunisie : nouvelle visite de Giorgia Meloni sur fond de lutte contre l'immigration irrégulière», 17/04/2024

42. Kapitalis, «Tunisia-Algeria-Libya Summit: Tebboune and El-Menfi received by Saïed», 22/04/2024

43. Telza TV, 23/04/2024

As the chronology of events above shows, the scale and intensity of violations against people on the move residing in or transiting through Tunisia are becoming increasingly intense. Thanks to the hard and often risky work of numerous human rights organizations and activists, the OMCT has been able to characterize a succession of phases of violence. The table below shows the evolution of the situation of migrants, who are often unaware of their rights and whose voices are not heard.

## CHRONOLOGIE

### FEBRUARY - JUNE 2023

**Waves of arrests, increasing incidents of racial discrimination, including physical assaults, forced evictions from housing facilities and shelters, illegal dismissals and denial of access to health and education.**



### SEPTEMBER - OCTOBER 2023

**Organized deportations to Libya and Algeria, mainly of people intercepted at sea, in addition to arbitrary and forced displacement to the border areas, violence and excessive use of force during forced displacements and interceptions at sea.**



### JUILLET – SEPTEMBRE 2023

**ARBITRARY AND FORCED DISPLACEMENT TO BORDER AREAS,<sup>44</sup> violence and excessive use of force during forced displacement and interception at sea, torture and ill-treatment of people abandoned in desert buffer zones, enforced disappearances and family separations.**



### NOVEMBER 2023 - APRIL 2024

- Forced and arbitrary transfer to border areas of people arrested during land operations to halt departures, and of people intercepted at sea
- Deportations to Libya and Algeria of people intercepted at sea and those arbitrarily arrested arbitrairement ;
- Violence, torture and ill-treatment
- Destruction of informal tented settlements
- Growing presence of (Tunisian, Libyan and migrant) criminal networks involved in smuggling, human trafficking, kidnapping, gender-based violence, sexual exploitation and sexual violence



44. Pendant l'été 2023, 28 personnes auraient trouvé la mort dans la zone tampon entre la Libye et la Tunisie.

## 2.2 TRIGGERS FOR HUMAN RIGHTS VIOLATIONS

People on the move in Tunisia are victims of a cycle of abuse. Most of them come from countries characterized by crises (war, human rights violations, climate and desertification, extreme poverty and widespread violence); women, children and men have often suffered physical and psychological violence and abuse during the migration route to Tunisia, where they usually arrive irregularly and/or encounter difficulties in regularizing their legal status and residence. The criminalization of irregular migration places them in a situation of extreme vulnerability, without any access to any form of livelihood and a real struggle to find dignified housing solutions. Often afraid to turn to the authorities and cut off from all social ties, they live in the shadows, unable to move freely within Tunisian territory, unable to assert their rights and uncertain about their life options.

This section is structured around a series of situations that the OMCT considers to be triggers for a series of violations documented and illustrated via case studies in section 2.3.

The four main factors generating human rights violations, and the cycle of violence are:

- Irregular status and lack of legal channels for residence and mobility.
- Pauperization and denial of access to housing and work.
- Limited freedom of movement and vulnerability.
- Denial of fundamental rights and respect for human dignity.

### 2.2.1 Irregular status and lack of legal channels for residence and mobility

For people who have entered *Tunisia legally* (with a residence, tourist, medical or other visa), laws and procedures for issuing, extending and renewing residence permits/titles (for education, employment, family reunification or other reasons) exist.<sup>45</sup> However, experts consulted during this research and caseload analysis confirm that, in practice, non-citizens face numerous difficulties in regularizing their stay and very often find themselves in an irregular situation. Their legal and social status may remain undetermined for a long time, or even indefinitely.<sup>46</sup> Since the Tunisian state criminalizes irregular residence, as mentioned above, people on the move are at risk of being arrested and detained for their unresolved status (see section 2.3.1 on ongoing violations - arrest, police custody and arbitrary detention).

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45. Among others, see: Law n. 1968-7 of March 8, 1968 relating to the conditions of foreigners in Tunisia and Decree 1968-198 of June 22, 1968; Law n. 1975-40 of May 14, 1975 relating to passports; Law n. 2004-6 of February 3, 2004 relating to passports and travel documents; Government Decree no. 2017-1061 of September 26, 2017, setting the rates for chancery fees; Government Decree no. 2018-331 of April 6, 2018) exempting students (in training and trainees) from overstay penalties.

46. Obstacles reported in Tunisia include unclear or overly bureaucratic residence permit renewal procedures, racial discrimination on the part of the administration in charge, material obstacles such as high visa renewal fees, language barriers or lack of access to legal aid, overstaying the legal length of stay which entails excessive fees or legal consequences, among others.

For those who have no choice but to use irregular migration routes to cross borders, their legal situation is even more complex, as the Tunisian state criminalizes irregular entry<sup>47</sup> and regularization procedures are thus difficult or even impossible in some cases, in violation of state obligations under international law.<sup>48</sup>

Research confirms that irregular/illegal status in Tunisia is an obstacle to access to fundamental rights, social integration<sup>49</sup> and mobility opportunities. Criminalizing people on the move on the basis of their migration status can lead to a number of other human rights violations and further push people on the move to live and work in the shadows of society, making them more vulnerable to exploitation and abuse by state and non-state actors.

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### **The reality: William's story**

William is originally from Cameroon. Entering Tunisia for the first time in early 2019 via Libya, where he contracted a leg injury, he filed an asylum application with the UNHCR. He was not considered eligible for international protection. In an irregular situation since his arrival and unable to find work, he left Zarzis for Tataouine in December 2023 to look for a job. Arrested in Tataouine by the National Guard, he was moved by this patrol to another Tunisian municipality before being handed over to the National Guard there.

Along with other migrants, he was forced into a 4x4 and told by the National Guard that they were going to be placed in a reception center. During the journey, he claims to have been beaten several times, and he reported his phone has been confiscated. After several hours on the road, during the night he and the other members of the group were allegedly handed over to Libyan armed groups in the desert. He then reported to have spent four months in prison in Zawiya, Libya. During his detention, he was mistreated and subjected to daily physical violence, resulting in an injury to his back - as well as an attempted extortion for ransom. He had no access to medical assistance, and the situation of his back and leg injuries are still worsening.

In March 2024, he managed to escape from prison. With the help of Libyans that he met at the time, he managed to contact and pay Libyan smugglers who took him from Zuwara to the Tunisian desert, where he crossed the border on foot. It took him several days to reach Médenine. William is in an advanced state of exhaustion, with severe pain in his lower back, preventing him from sitting or lying down without pain, and in his left leg, forcing him to limp.

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47. The irregular entry and stay of migrants should not be treated as a criminal offence, as the mere fact of crossing a border or staying in a country irregularly does not in itself constitute a crime against persons, property or national security and should not be treated as such. See A/HRC/20/24, paragraph 13; GTAD, Deliberation No. 5. Under international human rights law, the criminalization of irregular migration goes beyond the legitimate interests of States to protect their territory and regulate migration (A/HRC/13/30, para. 58). In the New York Declaration, member states agreed to review policies that criminalize cross-border movements, and that children should not be criminalized because of their migration status (paragraphs 33 and 56). Irregular migrants should not be treated as criminals or as threats to national or public security (A/HRC/10/21, para. 68). See also article 31 of the 1951 Refugee Convention and the explicit reference to the Convention in article 34 of Organic Law 1975-40 as amended by Organic Law 2004-6 on the compulsory entry of all travelers through official border crossing points designated by the Ministry of the Interior and the Ministry of Finance. The article provides for exceptions for situations covered by the 1951 Convention, and should lead to the decriminalization of irregular entry for people seeking asylum in Tunisia.

48. Special Rapporteur on the human rights of migrants, «Report of the Special Rapporteur on the human rights of migrants», François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1, May 3, 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>. «How to expand and diversify regularization mechanisms and programs to strengthen the protection of migrants' human rights.» Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, A/HRC/53/26.

49. For example, it is not possible to enroll in a school without an identity document (except in exceptional cases and with the intervention of a care structure); enrollment in a vocational training center requires a residence permit for studies; medical coverage is inaccessible, and even access to healthcare structures requires the presentation of an identity document (except in emergencies).

## 2.2.2 Pauperization and denial of access to housing and work

People on the move living in Tunisia are unable to legally rent housing solutions without a valid residence permit.<sup>50</sup> As a result, impromptu rent increases and forced evictions<sup>51</sup> have been documented by civil society organizations. A number of displaced people reported having suffered intrusive and sometimes violent behavior on the part of landlords, characterized by unannounced visits, bans on receiving visitors or on renting temporary accommodation.

Access to housing is the main need of people on the move in Tunisia. According to OMCT research, migrants, refugees and asylum seekers are obliged to live in:

- In informal tented settlements - without a fixed abode and still moving, either spontaneously or forced by the Tunisian authorities;
- In individual dwellings that they rent out informally;
- In shelters run directly or indirectly by IOM or UNHCR in Zarzis, Médenine, Tunis, Tataouine and Jderia (25km from Zarzis).<sup>52</sup>;
- In the Tejra camps (10km from Médenine)

According to interviews conducted for this study, after the evacuation of the campsites from downtown Sfax on September 16, 2023, to the coastal villages north of Sfax, it is estimated that over 20,000 men, women and children were unable to pay rent or meet their needs, leading many of them to erect makeshift tents in olive groves and wait for the opportunity to move again. These informal settlements, around the localities of El Amra and Jbeniana, are spread over some thirty kilometers along the road to Mahdia. These shelters are regularly burnt and destroyed during operations organized by security forces and accompanied by bulldozers.

The steady decline in the means of subsistence, the recent changes of the prioritization criteria adopted by UNHCR for granting of monetary assistance to refugees and asylum seekers, the lack of capacity of the existing shelters facilities run by UN agencies, coupled with a relentless increase in inflows in the early months of 2024, were indicated as significant factors to explain the development of several informal tented settlements in throughout Tunisia. These informal tented settlements, all dismantled between January and May 2024 by the security forces, were located:

- in Zarzis, opposite the UNHCR offices in the Sangho district of Zarzis - dismantled on January 25, 2024,
- in Zarzis, opposite the Zitouna hostel opened on January 9, 2024, near the Jardin d’Afrique cemetery - dismantled on March 10, 2024
- in Médenine, on the road to Djerba - dismantled in January 2024,
- in Tunis, opposite the UNHCR offices - dismantled on May 3, 2024 (between 50 and 100 people),<sup>53</sup>
- in Tunis, in the Lac 1 park from November 2023 to the end of April 2024 and dismantled on May 3, 2024: around 600 people, mainly those likely to benefit from international protection (Sudanese, South Sudanese, Ethiopians, Eritreans), and
- in Tunis, opposite the IOM offices - dismantled on May 3, 2024 (between 150 and 350 people).

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50. Articles 21 and 22 of Law no. 68-7 of March 8, 1968, on the status of foreigners in Tunisia. On the other hand, Tunisia imposes fines on people who help or receive foreigners whose entry or residence is irregular. See article 25 of the 1968 law: «Any person who knowingly, directly or indirectly, assists or attempts to facilitate the entry, exit, movement or illegal residence of a foreigner in Tunisia is liable to imprisonment of 1 month to 1 year and a fine of 6 to 120 dinars.» See Badalič, V. (2019). «Tunisia's role in EU external migration policy: immigration law, illegal practices and their impact on human rights.» *Journal of International Migration and Integration*, 20: 85-100. doi.org/10.1007/s12134-018-0596-7.

51. Forced evictions can be broadly defined as the permanent or temporary eviction, against their will, of individuals, families and/or communities from the homes and/or land they occupy, without appropriate forms of legal or other protection being provided and accessible. See «Guidelines on the realization of the right to adequate housing. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context», A/HRC/43/43, March 2020.

52. In Tunisia, IOM and UNHCR run fewer than a dozen small temporary accommodation centers, each able to accommodate just a few hundred people. In southern Tunisia, the various shelters can accommodate a maximum of 100 people in Médenine, 110 in Zarzis and 330 in Tataouine. These are open facilities, from which the people housed can leave freely. For UNHCR, the total capacity of the five safe temporary shelters is around 500 people + 450 in Jdaria (although Jdaria is currently overcrowded).

53. The group organized in an informal camp in front of the HCR office was reported by the KILs as part of a demonstration.

All interlocutors consulted for this research confirmed that, since February 2023, it has been impossible for a person on the move with irregular status to have access to legal employment and therefore to adequate forms of social protection;<sup>54</sup> the only means of subsistence was irregular work in the construction and agriculture sectors. Since 2024, access to this type of income-generating activity has become increasingly difficult.

Most people on the move in the Sfax region work in the agricultural sector. However, demand is highly variable. The olive harvest and the start of the tourist season were mentioned as the main sources of income. As a result, incomes vary greatly from one period to the next, and do not provide financial stability. With a growing demand for departures, clandestine workshops for the manufacture of metal boats have developed.<sup>55</sup>

The majority of those consulted indicated that seeking and moving to work represents a security risk, including being arrested or even deported or forcibly moved to desert border areas. In line with the findings of the research carried out in 2023, migrants, refugees and asylum seekers working in the informal sector reported the following violations of their rights: unpaid wages, derisory wages<sup>56</sup>, lack of coverage for medical expenses, lack of compensation for loss of income for those who have suffered an accident in the workplace.

With no means of supporting their families, many men, women and children survive in inhuman conditions.

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54. It is important to note that the Tunisian authorities require foreign workers to have a valid identity document, a valid work contract and a valid residence permit (different types of residence authorization) to be legally employed in Tunisia. Refugees require a refugee card and a valid passport (without residence permit).

55. Workplaces and agricultural sheds have been retrofitted to modify moped engines and adapt them to boats. «Tunisia's Transformation into a Transit Hub: Illegal Migration and Policy Dilemmas», Hamza Meddeb and Fakhreddine Louati, Carnegie Middle East Center, March 2024.

56. For example, in catering, private households or hairdressing, at around 15 dinars a day, and 200 to 250 dinars a month for construction workers.

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### **The reality: Musa's story**

Musa left Gambia 4 years ago and spent several years in Libya. He still suffers from the physical and psychological effects of several acts of torture he reportedly was victim of during the period he spent in Libyan detention centers. He considered that he is not safe in Libya so decided to leave the country and to join his cousin in Sfax, Tunisia, in May 2022. During his first attempt to cross the border, Musa was arrested by Tunisian security forces on Tunisian soil. Transferred to a police station, he and his three traveling companions were beaten for several hours by several agents. Musa was beaten on his injured leg and face, causing his eardrum to burst. He was taken back to the border and deported to Libya after being subjected once again to torture and degrading treatment.

Musa managed to return to Tunisia a few days later and reached Sfax in June 2022, where he moved in with his cousin. In July 2023, Musa falls victim of a wave of arrests and forced displacements from Sfax to the desert buffer zone south of Ras Jedir, the border crossing with Libya. Abandoned along with over 1,200 other persons, he was stranded for over a month in the desert, with no access to food or water. He was turned back three times by Libyan and Tunisian security forces and was expelled once from Libya to Algeria before managing to rejoin the group in the buffer zone. He reported having suffered physical violence committed by Tunisian National Guard agents during these deportations. His cousin died of a gunshot wound in the buffer zone in July 2023; Musa and his companions were unable to bury or evacuate the body for almost a month.

At the beginning of August 2023, Musa was finally able to leave the border area and walk to Tataouine, before reaching Sfax in September 2023. He settled in the informal settlements near El Amra on the outskirts of Sfax, in the olive groves, in extremely difficult living conditions. In December, following an operation by the security forces in El Amra, he was forcibly moved to a border area with Algeria. Musa returned to Sfax after a week's march, resettling in the fields of El Amra. Musa is now unable to leave El Amra and to travel to Sfax in order to get the care he needs because of the high risk of arrest. He is still afraid and now wishes to return to Gambia.

*« I'm scared, I'm not well, I need a doctor. I want to go home to Gambia ».*

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### 2.2.3 Freedom of movement and vulnerability

Freedom of movement remains an issue for people on the move in Tunisia. Access to transport (cabs, buses, hire cars) varies from one governorate to another. While in the city centers and suburbs of Tunis, Zarzis and Médenine, migrants have testified to being able to find ways to move around freely, they are forced to walk for long periods in extreme conditions in the governorates of Kef, Jendouba, Kasserine, Sfax and Mahdia, often without access to water and food, hiding from the local population, and frequently being threatened by security forces.<sup>57</sup> Migrants thus find it extremely difficult to move around in the following situations:

- when traveling between municipalities in the same governorate (e.g. from Zarzis to Medenine),
- on inter-governorate journeys (e.g. from Zarzis and Médenine to Sfax and Tunis), and
- when moving from desert border areas to municipalities (especially in western Tunisia).

*« There is a clear and established desire to make Sfax a place free from people on the move by making their daily lives impossible, whether in terms of traveling, buying basic necessities, or accessing justice and security ».*<sup>58</sup>

Obstacles to access to transport take the form of:

- A continuous presence of security forces on the Mahdia Road, preventing people living in the informal settlements of El Amra to reach Sfax,
- The refusal of cabs and hire cars to pick up passengers, even if they have tickets, and the need for drivers to check passports and valid residence permits,
- A limit of two passengers from the migrant community per outgoing public transport,
- The refusal to sell rental and bus tickets at stations and ticket offices to reach another town outside the governorate (Sfax, Tunis), or making them conditional on presentation of a pass issued by the police station (which does not issue such documents),
- Separate queues for Tunisian citizens and for sub-Saharan Africans at the Sfax “louage” station,
- Presence of security checks on buses and hire cars and checkpoints. During these checks, people on the move are forced to return to their homes and prevented from continuing their journeys. Several cases of confiscation of identity papers and UNHCR refugee cards have been reported to OMCT.
- Threats to confiscate drivers’ licenses and registration if they pick up migrants with irregular status.

The implementation of these various obstacles is unpredictable, varying greatly from one week to the next depending on local and national developments. These blockages led to the development of clandestine transport networks between governorates, with exorbitant prices exceeding 300-400 dinars per passenger, as well as trafficking networks relying on these clandestine transports.<sup>59</sup>

Without the possibility of regular transport, people on the move walk very long distances, exposing them to various risks of violence and limiting their access to humanitarian assistance.

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57. Nawaat, « Reportage À La Frontière Algérienne : Ces Migrants Piégés En Tunisie », 23/05/2024

58. KII on 03/27/2024 with humanitarian source

59. All the KIIs confirmed this trend.



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### **The reality: Aissata's story**

Aissata left Guinea in 2020 for Egypt, fleeing physical and psychological domestic violence inflicted by her ex-husband. She left three minor children behind in Guinea. She first worked as a cleaner, before moving to Tunisia in August 2023 from where she wanted to cross the Mediterranean to join her partner in France (who she met during her journey). In early February 2024, she arrived in Sfax and reportedly paid 15 million Guinean francs for crossing the Mediterranean. She departed two days later on a zodiac with 49 other people on board; the boat was intercepted by the National Guard an hour after their departure and the agents allegedly threatened to puncture the inflatable parts if the people on board did not stop the engine. Upon arrival at the port, the whole group was handcuffed and their cell phones confiscated. Disembarked at Mahdia, she was detained with the other passengers at a National Guard station and then forced into a bus heading to the Algerian border. At around 1 AM on February 6, National Guard agents violently forced them to cross the border on foot into Algeria.

*« We are taken down, beaten, trampled on and pushed up against the barbed wire ».*

Attempting to return to Tunisia, the group walked for around ten hours before arriving in Nefta on February 7, taking refuge in a date palm field. The National Guard arrived on the morning of February 8 and arrested eight women, including Aissata, and three children accompanying them - while the rest of the group managed to escape. Aissata reported to have been repeatedly beaten by the agents, before being taken to a camp in Gafsa, where several other migrants were living. The group (fifteen or so), including Aissata, was forcibly displaced to Médenine at the end of the day in National Guard vans and from there to the Libyan border. At the border, in a desert area, several women in the group, including Aissata, were forced to undress before being beaten by hooded agents. Aissata and several other women in the group were then allegedly raped by National Guard agents.

*« He put his pistol right next to me and put a cloth into my mouth to stop me from screaming. He was wearing a black hood. I got dressed. Then they got me out of the car. (...) His colleagues said, «So, was it good? Did we make you feel good? ».*

Aissata and the group are then forced to cross the border into Libya. At nightfall, when the National Guard left, the group tried to return to Tunisia and walked two consecutive nights in the desert, resting during the day. They were transported to Sfax by smugglers in a car. Arriving in Sfax on February 10, Aissata found herself deprived of her freedom in an apartment under threat from a criminal group. Threatened with being raped and sold to another criminal group, she was forced to call her companion in France to demand a ransom. Aissata witnessed physical violence and suffered physical and psychological abuse. *“Over there, people were beaten with machetes and whips. They were filmed and the videos sent to their families to get money.”* Her companion paid nearly 1,100 euros in two instalments before she was released a few days later. Six women from her group were still in the building when she left.

Aissata is now in Tunis, living with an acquaintance, and has been hospitalized for heart problems.

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## 2.2.4 Denial of fundamental rights and of respect for human dignity

The humanitarian situation of the migrant population in Tunisia has deteriorated steadily since the end of 2023. Civil society organizations assisting people on the move have reported a significant increase in the need for food assistance. At the same time, medical needs - particularly in terms of sexual and reproductive health - remain very high, with the increase in the number of vulnerable people without access to housing connected to running water during the winter period, such as pregnant women or women with newborn babies, as well as victims of violence in Libya and Algeria. Several cases of tuberculosis and hepatitis resulting in death have been recorded, and a high rate of scabies was reported. It should be stressed that even for those who have managed to access treatment for tuberculosis, living in crowded, public spaces without access to sanitary facilities often hinders treatment and the ability to recover.

It was reported that the authorities in the governorate of Medenine issued specific instructions during the month of Ramadan to limit the provision of aid and assistance to Tunisian citizens only, which led to the fact that many migrants were excluded from food distribution or from sporadic livelihood opportunities provided to vulnerable groups during Ramadan.

In the various informal settlements in Tunisia, particularly those in El Amra, the winter period coincided with a deterioration of the health situation of those living there. Humanitarian organizations working in the field of access to healthcare have reported:

- an increase in contagious diseases such as scabies and leishmaniasis, directly linked to the lack of access to water, precarious sanitary conditions and promiscuity. The absence of showers and public toilets in most Tunisian municipalities further complicates access to hygiene for the most vulnerable populations;
- an increase in respiratory illnesses such as bronchitis and bronchiolitis, particularly in children, directly attributable to living outdoors and in cold conditions;
- worsening malnutrition among children and pregnant women;
- a rise in sexual and reproductive health needs, with an increase in the number of women who are pregnant or have given birth - particularly in requests for abortion (one request per month compared with six in December-January);
- an increase in mental health needs, with more and more people suffering from generalized anxiety disorders and post-traumatic stress. One humanitarian organization reported making referrals of people on the move to psychiatric services in 2024 for the first time.

Humanitarian organizations operating in and around Sfax reported facing logistical obstacles in distributing humanitarian aid, due to the scattered presence of the migrant population over several dozen kilometers from Sfax to Mahdia. According to interviews conducted for this study, only IOM and the Tunisian Red Crescent (CRT) have access to villages and olive groves; UNHCR is not present in the Sfax governorate. Similarly, access to the Jderia and Tejra camps is highly regulated, and only UN agencies and the CRT reportedly gained access to the camps and were able to distribute food and hygiene products in April 2024.

As a result, people on the move are living in undignified conditions in violation of their fundamental rights; with no prospect of integration, for many the only option is to leave Tunisia.

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60. KII have confirmed that UNHCR has access to Jderia and direct control over protection. Management is organized through an accommodation committee. KII have also confirmed that the regional health authorities in Medenine have been quite cooperative and have made regular follow-up visits to Jderia.

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### **The reality: Rose's story**

Rose, 33, left Nigeria in January 2023 for Libya, in search of a better future, after having been a victim of trafficking in persons and domestic servitude. While attempting to cross the Mediterranean from Libya to Italy, Rose was intercepted by the Libyan coastguard and deprived of her freedom for several months. During her detention in inhumane and degrading conditions in a Libyan detention center, she reported having been deprived of food and water, and repeatedly beaten by the guards. Released after payment of a ransom, she fell prey to traffickers and reported having been forced to work as a cleaner and as a prostitute. Rose managed to escape and attempted to enter Tunisia in July 2023. She found herself stranded with a group of around sixty people in the border buffer zone near the Ras Jedir border crossing, in extremely difficult conditions, for several weeks. Evacuated in early August 2023 by the Red Crescent, she settled in Sfax.

At the end of September 2023, she attempted to cross to Italy, but her boat was intercepted by the National Guard. Disembarked at the port of Sfax, she was then forcibly and arbitrarily displaced to the border with Algeria, that same evening. Rose and a group of migrants were arrested four times during attempts to return to Tunisia over a period of several days, each time being turned back towards desert border areas. After a month of living in extremely difficult conditions, on her fifth attempt she managed to reach El Amra. She resettled in the olive groves and worked on farms for 30 dinars a day.

*"I wouldn't have wanted to stay here [in El Amra]. It's not a nice place, but I had no other choice because black migrants can no longer find housing in Tunisia, for reasons I don't know. Even Africans who have managed to get an apartment can be arrested by the police at any time. Sometimes, on the street, the Tunisian National Guard will catch someone walking home from work and arrest them."*

The day after the violent incident that led to the destruction of a National Guard car on November 24, Rose escaped a roundup of migrants by the security forces in a nearby market. On November 27, her makeshift shelter was destroyed during an operation by the security forces. Feeling unsafe, she decided to move to Medenine at the end of 2023. In February 2024, Rose was violently assaulted by National Guard officers outside the El Amra police station. Her clothes were torn under the violence of the officers, who kicked her several times, even though she was on the ground. She suffered numerous bruises to her knee and spine. She intends to sue her attackers.

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## 2.3 TYPOLOGY OF HUMAN RIGHTS VIOLATIONS

This section provides an analysis of the typology of human rights violations over time, identifying a certain continuity with previous periods while simultaneously highlighting the emergence of alarming new trends.

Over the period from November 2023 to April 2024, OMCT has been able to confirm that the following violations continue with the same intensity and prevalence as those reported in previous research:

- Arrest, custody and detention
- Forced and arbitrary displacements and deportations
- Violence, excessive use of force, torture and ill-treatment
- Violence during maritime interception and search and rescue operations

On the other hand, the organizations consulted for this research confirmed the emergence of a series of alarming new practices:

- Gender-based and sexual violence
- Trafficking in persons for the purpose of kidnapping and sexual exploitation
- Enforced disappearance and family separation
- Smuggling of migrants

The section provides qualitative and quantitative data on violations, characterizing the profile of victims, the modus operandi used by the alleged perpetrators and the consequences of the violations identified. References to provisions of international and national law recall Tunisia's obligations to protect all individuals present on its territory, in compliance with relevant international treaties and conventions.

### 2.3.1 Ongoing human rights violations

#### Arrest, custody and detention

Continuing the trend of previous months, arrests of migrants, refugees and asylum seekers continued on a large scale during the period November 2023 - April 2024. Between November and December 2023, the number of migrants arrested peaked following the events in El Amra at the end of November 2023, of whom most ended in deportations to Libya and Algeria. Arrests then declined in January-February 2024, before picking up again with the start of the departure season to Lampedusa in mid-March 2024. According to the sources consulted by the OMCT, populations of Sfax, Manouba and Nabeul prisons have increased rapidly and exceeded their capacity reportedly due to the growing presence of people on the move, including women and children.

According to interviews with a number of legal aid organizations, arrests usually lead to one of the following situations:

- Arbitrary and forced displacement to the country's border areas, often followed by deportation;
- Deprivation of liberty in administrative detention centers accompanied by an obligation to leave the country;
- Referral to a judge with a request for pre-trial detention and/or judicial detention;
- Convicted displaced persons are reported to have been forcibly displaced and deported to Libya or Algeria upon release from prison.

According to legal aid organizations, the most frequent **charges** brought against migrants, refugees and asylum seekers are:

- Illegal entry,<sup>61</sup> with sentences ranging from 1 to 3 months.
- Illegal residence, with sentences ranging from 3 to 6 months.
- Illegal border crossing (to Italy). The reason is usually changed to illegal/irregular residence, as the evidence is difficult to provide for this type of crime.
- Disturbing public order, with sentences ranging from 1 to 3 months.
- Smuggling of migrants,<sup>62</sup> which also includes being accused to be intermediaries in charge of withdrawing money to support the journey of irregular migrants.
- Membership in an organized criminal group to commit the crime of human trafficking.<sup>63</sup>

According to the lawyers consulted on this subject, the **procedural guarantees** enshrined in Tunisian law, which should be enjoyed by all those arrested and deprived of their liberty, and those established for groups of people in vulnerable situations, including foreigners and people on the move,<sup>64</sup> are not respected. Analysis of several cases of people on the move who have been arrested, taken into police custody and detained has confirmed that:

- the reasons for and duration of their arrest were not specified to the detainees;
- detainees were not notified of their right to be assisted by a lawyer, and therefore would not have effective access to legal aid;
- detainees did not have access to consular assistance; and
- non-Arabic speakers were unable to benefit from translation during their deprivation of liberty

The **frequent use of preventive detention** for migrants, refugees and asylum seekers was confirmed by all OMCT partners offering legal support to people on the move. For persons placed in police custody and detention (preventive or judicial), organizations and lawyers reported that:

- detainees are often placed in police custody and held *incommunicado*<sup>65</sup> with no possibility of contact with the outside world. Several organizations providing legal aid to people on the move reported that the police and prison authorities often refuse to provide information on the presence of their beneficiaries in police custody or preventive detention.
- detainees' names are missing or misspelled as translated into Arabic in the registries of the court and of prisons, preventing lawyers from gaining access to their clients. This exposes detainees to the risk of enforced disappearance<sup>66</sup> and of family separation.
- collective sentences have reportedly been handed down in Tunis for groups of up to 100 people.<sup>67</sup>

***“We are now in a tacit state of affairs where migrants have no fundamental rights”.***

says an association leader in Sfax.

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61. Law no. 7 of 1968

62. Law no. 61 of 2016.

63. Based on the 2004 law. According to organizations working in the field of legal assistance, the mere fact of assisting or being in contact with a member of a migrant group leads to arrests for this reason.

64. Law number 5 of February 2016 amending and supplementing certain provisions of the Code of Criminal Procedure: persons in police custody benefit, from the outset of deprivation of liberty, from all fundamental legal guarantees against torture, in particular the right to be informed of the reasons for their arrest, the nature of the charges against them and their rights in a language they master, to be registered in places of detention, to have the services of a lawyer without delay, to inform a relative or any other person of their choice of their arrest, to be promptly subjected to a confidential medical examination, to be brought before a judge at the end of the first period of police custody.

65. Whereas secret detention means being held in a secret location, *incommunicado* detention means being deprived of all contact with the outside world, and therefore being unable to communicate with family, friends or any other person, including your lawyer.

66. International Convention for the Protection of All Persons from Enforced Disappearance, ratified by Tunisia on June 29, 2011, establishes that no one shall be subjected to enforced disappearance, which is considered to be «arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law».pour « rébellion par un groupe de 10 personnes sans armes ».

67. Humanitarian source. On December 15, 2023, 47 people in need of international protection, most of them registered with the UNHCR as asylum seekers, were arrested at Lac 1 (the municipal park). Despite their differentiated status, and regardless of the procedural flaws noted, notably the absence of an interpreter for some people, the entire group was sentenced to one month's imprisonment for illegal entry and residence. Among them were at least two unaccompanied minors. On May 03, 2024, 92 people, most of them in need of international protection, were arrested during the evacuation operation from Lac 1, and were all sentenced to one year and 2 months in prison for illegal entry and residence, as well as for «attacks against public authority committed by private individuals» and for «rebellion by a group of 10 unarmed people». of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law».pour « rébellion par un groupe de 10 personnes sans armes ».

An OMCT partner organization active in providing legal assistance to people on the move has reported the case of five migrant women from a sub-Saharan African country. While taking part in a collective prayer in a private home in early 2024, they were arrested for illegal assembly in an unregistered place of worship. They were brought before a judge in Tunis and accused of illegal entry and residence in Tunisia - even though they had been living and working in the country for seven years. Their passports were confiscated. They were sentenced to six months' imprisonment even though they expressed their willingness to voluntarily returning to their country of origin.

### **Residence permit renewal, a risk factor**

The OMCT and its partners have documented several cases of arrests and detention for illegal residence in the country, following unnotified and unjustified refusals - with no possibility of appeal - to renew the residence permits of people on the move and in particular of those from sub-Saharan African countries who have been legal residents in Tunisia for several years. Once a person's application has been rejected, the police issue an obligation to leave Tunisian territory (OQTT) unofficially, often verbally and in Arabic, outside of any procedure. People are then given a very short deadline to leave the country, with the explicit threat that they would be arrested if they fail to comply with the OQTT. If they remain in the country, they risk criminal prosecution, or even confinement at the El Ouardia «reception and orientation center» in Tunis, which operates as an unofficial administrative detention center, with those confined often being deprived of all contact with the outside world, and their release being conditional on the purchase of plane tickets to return to their countries of origin.

The risk of arrest when submitting an application to renew a residence permit fuels a fear of approaching the police station or the Ministry of the Interior's Foreigners Department; this leads to further delays in the issuance/renewal of residence permits and places people on the move in a situation of heightened vulnerability.

### **Arbitrary detention continues**

De facto detention in the prima facie detention centers set up between July 2023 and October 2023 has not been observed by the OMCT and its partners since November 2023. However, according to testimonies, people have been deprived of their liberty arbitrarily, without judicial information or conviction, outside any legal framework:

- in police stations in Sfax, Tunis and Zarzis;
- at National Guard facilities in Sfax, Mahdia, Ben Guerdane, Nefta and Gafsa;
- in a hotel in Tunis; and
- in a segment of the port of Sfax after interceptions at sea.

This arbitrary detention generally takes place prior to arbitrary and forced displacement to desert border areas, lasting from a few hours to less than a week. These forms of arbitrary detention also concerned people who have just entered Tunisia and are arbitrarily detained before being deported.

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68. OMCT, Note on arbitrary detention at the El Ouardia migrant detention center, 03/2023

## Confiscation of legal and civil documents during arrest, police custody and preventive detention

According to all the representatives of organizations active in providing legal assistance to migrants, refugees and asylum seekers, it is extremely difficult for them to recover legal and civil documents (passports, residence permits, UNHCR cards, birth certificates) following arrest, police custody, preventive detention or detention. The absence of a seizure report makes it impossible to request the recovery of missing/seized documents from the authorities. The lack of civil and legal documentation has very serious consequences for all people in mixed migration situations, including for those who are eligible for international protection and for those who wish to settle in a third country.<sup>69</sup>

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### The reality: Daniel's story

Daniel, originally from Ghana, arrived in Tunisia in March 2024 by plane with a tourist visa and a valid passport, for a ten-day trip to Tunisia. On arrival at the airport, Daniel was arrested and his passport confiscated by the authorities. A court hearing was scheduled for the following day. Since then, Daniel has been remanded in custody without access to his family.

*« We are going through a difficult time, not knowing what has become of our brother, if he is still alive. Please help us as my brother needs to hear from his mother as she doesn't have long to live. »*

Written by Daniel's sister in May 2024

The OMCT and its partners were able to locate Daniel and ensure that he had legal representation. Although every effort has been made to re-establish links between him and his family, no one has been able to meet Daniel, who remains incommunicado at the time of finalizing this study (June 2024). Daniel's mother, gravely ill, died before he could contact her.

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69. The presence of valid identity documents is not only a prerequisite for the exercise of rights such as freedom of movement, the right to health, education and political participation, but also a prerequisite for access to basic services. Identity documents are essential for accessing decent jobs, guaranteeing a more stable life and securing a livelihood. Without birth registration or access to civil status procedures, displaced people face considerable and lasting challenges, risking statelessness and threatening their ability to register births, marriages and deaths.

### **Detention of unaccompanied minors on the move**

More and more unaccompanied minors on the move have been detained since January 2024 in the five rehabilitation centers for minors (Mghira, Mjez el-Beb, Souk Jdid, Sidi Heni and Morouj), compared with 2023. The total number on the five centers would have risen to 70 foreign minors detained at the same time on the totality of the centers, and the number of foreign minors on the move detained during the first four months of the year 2024 is insignificantly lower than the total number of minors detained over the entire year 2023. The majority are reported to come from Cameroon, Senegal, Gambia and Sudan, and are serving sentences of one to three months, generally for illegal entry and residence. The vast majority have no legal and civil documentation to prove their age.

Detention conditions of foreign minors from sub-Saharan Africa are reported to be difficult. According to the people interviewed by the OMCT, they suffer institutionalized discrimination by prison officials. This takes the form of differentiated treatment in the distribution of daily tasks, with foreign minors forced to carry out more difficult jobs (clearing and weeding, household chores and laundry), with no access to other workshops such as hairdressing or manufacturing. This discrimination, as well as frequent racist incidents, creates major tensions between Tunisian minors on the one hand and foreign minors on the other. The OMCT has also received several reports of physical violence (kicks, slaps, beatings) committed by prison officers during interventions after fights and disciplinary incidents. Similarly, disciplinary procedures in the event of conflict are said to affect only foreign minors, and allegedly consist of forced labor (painting, garbage collection, laundry), in addition to compulsory workshops. Foreign minors are frequently hospitalized for fights and assaults. Neither IOM nor UNHCR have access to these rehabilitation centers.



## Forced and arbitrary displacement and deportation

This section aims at providing an overview of the itineraries of forced and arbitrary displacement within Tunisia, including to border areas, as well as the itineraries followed in cases of deportation. This section describes the profiles of the victims, the methods used during these forced displacements and the itineraries that OMCT has been able to reconstruct through the direct testimony of migrants, refugees and asylum seekers.

### Forced and arbitrary displacement within Tunisia

#### International legal framework

International human rights law guarantees the right to freedom of movement and residence.<sup>70</sup> The right not to be arbitrarily displaced implies: a) the prohibition of arbitrary displacement; b) the obligation of the authorities to prevent arbitrary displacement. As the Human Rights Committee explains in relation to the right to life,<sup>71</sup> «the notion of ‘arbitrary’ should not be confused with that of ‘contrary to law’, but should be interpreted more broadly, encompassing elements relating to the inappropriate, unjust and unforeseeable nature of the act in question and to the principle of legality, as well as considerations of reasonableness, necessity and proportionality». The legal nature of the displacement does not determine whether it is authorized or arbitrary under international law. This question must be decided on the basis of three main criteria: the reasons for the displacement, the principle of legality, the guarantees to be respected during the displacement and the duration of the displacement.<sup>72</sup>

#### National legal framework

Tunisian legislation makes no provision for the evacuation and forcible transfer of individuals or groups from one place to another within the Tunisian territory, either within the supervision of the Ministry of the Interior,<sup>73</sup> of regional administrations,<sup>74</sup> or laws and decrees regulating the security forces.<sup>75</sup> Neither the provisions of the state of emergency<sup>76</sup> nor the regulations governing meetings and other public gatherings<sup>77</sup> allow for forced evacuation by state authorities.

70. International Covenant on Civil and Political Rights, article 12. Under international human rights law, the prohibition of arbitrary displacement is implicit in provisions relating to the right to freedom of movement and residence, the right not to be subjected to arbitrary measures in one's own home, and the right to adequate housing.

71. Human Rights Committee, General Comment No. 36 (2018), para. 12. «the notion of ‘arbitrariness’ should not be confused with that of ‘contrary to law’, but should be interpreted more broadly, as encompassing elements relating to the inappropriateness, unfairness and unpredictability of the act targeted and the principle of legality as well as considerations of reasonableness, necessity and proportionality.»

72. UN A/76/169. For arbitrary and forced internal displacement, international human rights frameworks on internal displacement are an essential point of reference. Drawing on international human rights law (IHRL) and international humanitarian law (IHL), the Guiding Principles on Internal Displacement (1998) reaffirmed and clarified international legal obligations applicable to situations of internal displacement, explicitly stating a general prohibition on arbitrary displacement and providing a non-exhaustive list of situations in which displacement would be arbitrary. Principle 6: 1. Every human being has the right to be protected against arbitrary displacement from his or her home or place of habitual residence. 2. The prohibition of arbitrary displacement includes displacement: (a) when it is based on policies of apartheid, «ethnic cleansing» or similar practices aimed at or resulting in a modification of the ethnic, religious or racial composition of the affected population; (b) in situations of armed conflict, unless the security of the civilians concerned or imperative military reasons so demand; (c) in cases of mass population displacement, within or outside a country; (d) in the case of large-scale development projects, which are not justified by overriding and compelling public interests; (e) in the event of a disaster, unless the safety and health of those affected require their evacuation; and (e) when it is used as collective punishment. 3. Displacement must not last longer than circumstances require. See also «Making Arbitrary Displacement a Crime: Law and Practice», UNHCR and Global Protection Cluster (2022) for an overview of key treaties and international obligations and standards that deal with arbitrary displacement. For people registered as asylum seekers or recognized as refugees, the 1951 Convention, article 26, stipulates that a host country must grant refugees the «right to choose their place of residence and to move freely within its territory».

73. Decree no. 75-342 of May 30, 1975, establishing the responsibilities of the Ministry of the Interior

74. Law no. 75-52 of June 13, 1975, setting the remit of senior regional administrative staff

75. Law no. 82-70 of August 6, 1982, laying down the general status of the Internal Security Forces; Decree no. 2023-240 of March 16, 2023, approving the code of conduct for the Internal Security Forces under the authority of the Ministry of the Interior.

76. Decree no. 78-50 of January 26, 1978, regulating the state of emergency

77. Law no. 69-4 of January 24, 1969, regulating public meetings, processions, parades, demonstrations and gatherings

## Expulsions and deportations

### International legal framework

The expulsion or deportation of any individual, where there is a real risk of torture or other ill-treatment in the State to which he or she will be returned, is prohibited by several provisions of international human rights law. The prohibition of refoulement under customary international law shares the jus cogens and *erga omnes* character of the prohibition of torture.<sup>78</sup> Under article 3 of the Convention against Torture: «No State Party shall expel, return («refouler») or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture». In General Comment No. 4 (2017), the UN Committee against Torture stresses that the principle of non-refoulement referred to in the Convention against Torture must be applied without any form of discrimination, regardless of an individual's status under national law.<sup>79</sup>

### National legal framework

Tunisian law provides for the expulsion of foreigners whose presence on Tunisian territory constitutes a threat to public order, on the basis of administrative decisions taken by the Ministry of the Interior.<sup>80</sup> If a foreigner infringes the rules governing entry and residence in Tunisia, or has committed other related offences, he or she will be subject to criminal prosecution.<sup>81</sup> The penal code also provides for the possibility of a «residency ban» as an additional penalty for certain offences committed by foreigners.<sup>82</sup> The cases of expulsion and deportation documented by the OMCT in this research do not therefore fall into either of the two scenarios provided for by Tunisian law.<sup>83</sup>

78. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Interim Report submitted to the General Assembly, (2004) UN Doc. A/59/324, §28; see also Interim Report submitted to the General Assembly, (2005) UN Doc. A/60/316.

79. Committee against Torture, General Comment No. 4 (2017) on the application of article 3 of the Convention in the context of article 22, CAT/C/ GC/4, September 4, 2018, §10.

80. People must be notified in writing of the reasoned expulsion order in a language they understand and, under international law, must be able to challenge the legality of this administrative decision. In addition, the law on foreigners allows migrants subject to expulsion orders to be placed under house arrest pending expulsion, but house arrest does not mean detention.

81. Those accused of having committed a misdemeanor, felony or infraction will then be arrested in flagrante delicto or on the basis of a warrant, placed in police custody, brought before a prosecutor before being dismissed, or prosecuted generally with preventive detention.

82. See art. 18, article 23 et seq. of law no. 1968-7 of March 8, 1968, and art. 50 of law no. 2004-6 of February 3, 2004, amending law no. 75-40 of May 14, 1975, on passports and travel documents.

83. Migration to and from Tunisia is governed by the «Law regulating the entry and stay of foreigners» adopted in 1968 and its implementing decree, and the «Law on passports and travel documents» adopted in 1975 and amended in 2004. Another relevant piece of national legislation is decree no. 2017-1061, setting the rates for chancery fees, and the decree on exemptions for foreign students. Tunisia explicitly criminalizes irregular migration for both foreigners and Tunisian nationals. Penalties are imposed for the unauthorized departure of both nationals and non-nationals. There are also fines and prison sentences for non-citizens who enter or leave the country without authorization or documentation, as well as fines and prison sentences for non-citizens who use false documents or provide inaccurate information.

Forced and arbitrary displacement within Tunisian territory, including border areas, involves the transfer of groups of dozens or even hundreds of migrants from populated areas to mostly uninhabited agricultural regions, where basic services are virtually non-existent and livelihood opportunities are scarce. It is important to point out that most people deported are moved from the Sfax region to the country's border areas.

Forced and arbitrary internal displacements followed by deportation over the period November 2023 - April 2024 concerned:

- People intercepted at sea off the coasts of Sfax and Zarzis. They are disembarked in a reserved area of the port of Sfax, where they are rounded up and deprived of their freedom outdoors, until the arrival of buses from the Sfax transport company, which is sometimes notified even before disembarkation (for more details on interceptions at sea, see the sub-section on crossing maritime borders).
- People rescued at sea (with initial departures from Libya).
- People suspected to be about to embark on the journey to Europe from the Sfax coast - or arrested during campaigns to destroy clandestine steel boat-building workshops.
- People arrested during operations to dismantle informal tented settlements in El Amra.
- People arrested during identity checks at railway stations, rental stations, town centers and police checkpoints at the entrances and exits of Tunisian municipalities, in Sfax, Zarzis, Tunis, Kef, Tataouine, Sousse and Tunis. Those arrested are generally taken to police stations; those found to be in possession of a residency permit are reportedly released after verification. The others would be directly deported, regardless of whether they had international protection, without being placed in pre-trial detention or a judicial decision (for more details on arrests, see section 2.3.1 on ongoing violations).
- In El Amra, Zarzis, Sfax and Tunis, people were arrested in the course of questioning following incidents with the local population or violence within the migrant community. Cases of arrests in places where people on the move are concentrated have been reported, even in front of IOM shelters in Médenine.
- People convicted of illegal residence and detained in prisons in Sfax and Tunis. Several cases of people sentenced to prison terms ranging from one to eight months, and cases of people deported to Libya before their release or at the time of their release, were documented by OMCT partners during this period.
- People who had just entered Tunisia by land from Algeria or Libya and were arrested in towns close to the borders, such as Nefta, Gafsa, Kasserine, Kef or Ben Guerdane.

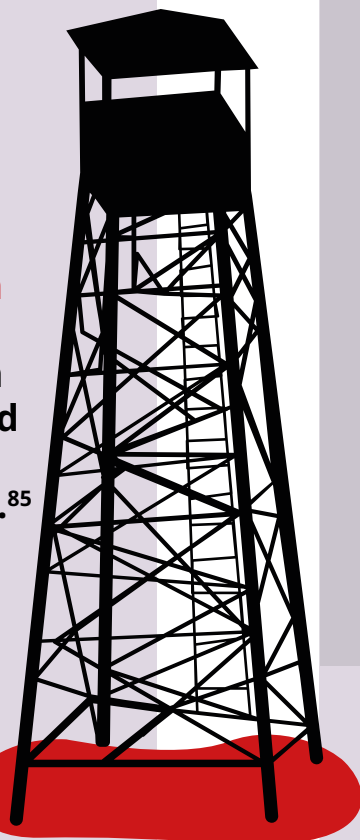
# CHRONOLOGY

## MONITORING

## REGIONAL COOPERATION

15/11

The Libyan Ministry of the Interior has announced the **reinforcement of border security with Algeria and Tunisia**, with the installation of watchtowers<sup>84</sup> and electronic surveillance devices.<sup>85</sup>



21/11

Tripartite meeting between the Tunisian, Libyan and Italian interior ministers in Rome.



29/01

Participation of the Tunisian Minister of the Interior in the bilateral committee for the **promotion and development of the Algerian-Tunisian border areas**,



22/04

**TRILATERAL SUMMIT** between the heads of state of Tunisia, Algeria and Libya in Tunis.

01/03

THE PRESIDENT OF THE REPUBLIC, KAÏS SAIED, IS RECEIVED BY THE ALGERIAN PRESIDENT, ABDELMADJID TEBBOUNE, IN ALGIERS, ACCOMPANIED BY THE MINISTER OF FOREIGN AFFAIRS, NABIL AMAR.<sup>87</sup>



in order to "secure [the] common border regions and protect them against new security threats, in particular illegal migration, **by intensifying consultation and coordination**".<sup>86</sup>

84. <https://fb.watch/ovlO92aDkK/?mibextid=HSR2mg> et <https://fb.watch/ovm4yJwQry/?mibextid=HSR2mg>

85. Migrant Rescue Watch on X, «Libyan Border Guard (Mol) announced activation of electronic surveillance observatories on the border with Tunisia in Al-Assah sector», 15/11/2023

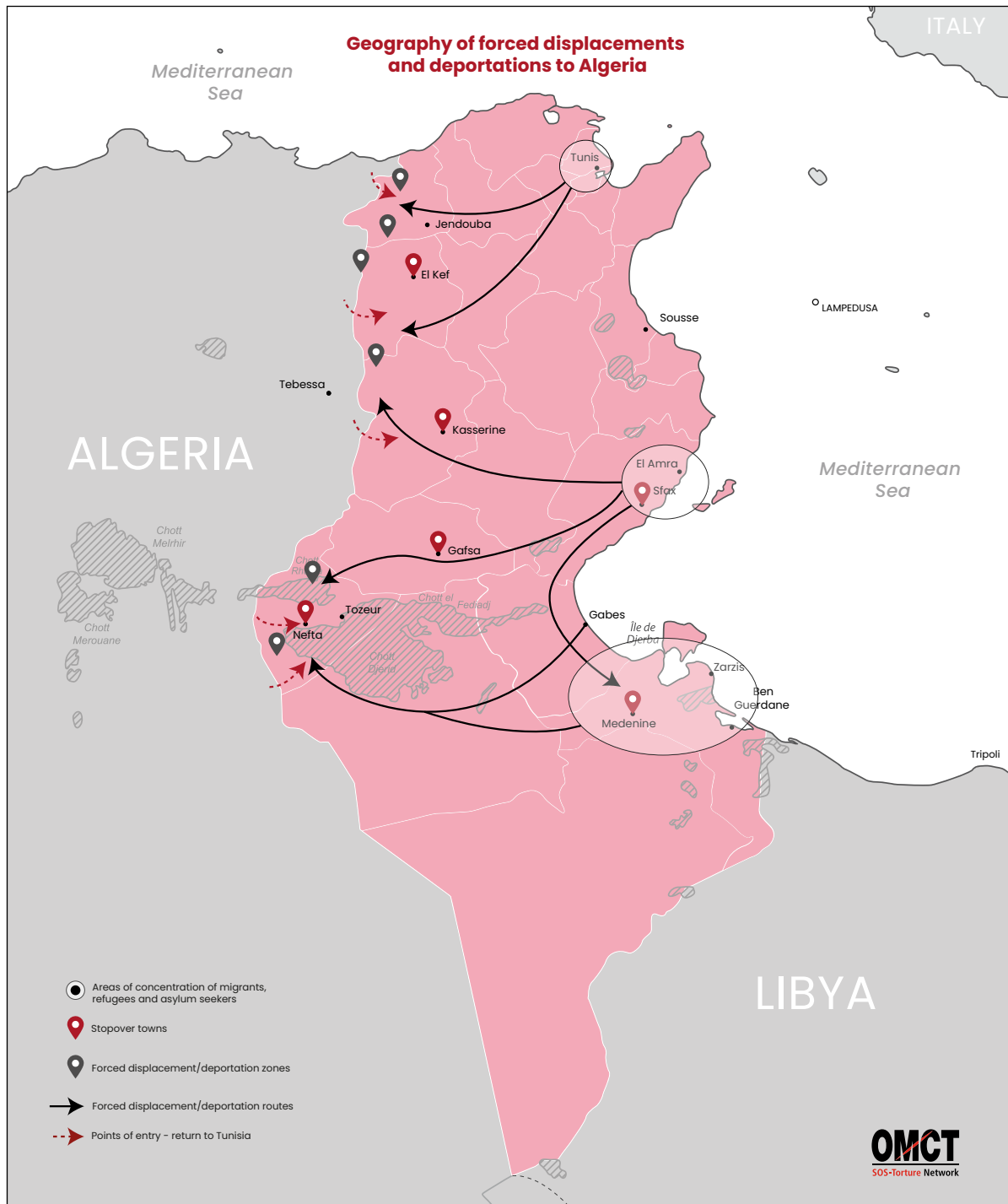
86. Interlignes, «Algérie-Tunisie : le développement des zones frontalières au menu de la réunion de la commission bilatérale», 29/01/2024

87. Kapitalis, «Tunisie - Algérie : main dans la main, d'un même pas», 02/03/2024

88. Kapitalis, «Sommet Tunisie-Algérie-Libye : Tebboune et El-Menfi reçus par Saïed», 22/04/2024

According to several analysts working in the region, the decision to move groups of detainees to Algeria or Libya does not seem to follow a logic of referral to the points of entry, but would be contextual, depending in particular on the reception capacity in Libya. Forced displacement and expulsion to Algeria would only take place in the event of saturation of detention facilities in Libya and would not be part of a clearly established cooperation with Algeria. All the people consulted for this study confirmed that migrants, refugees and asylum seekers, victims of forced displacement and deportation, have not been the subject of an individual needs assessment, nor of an analysis of their vulnerability or life intentions.

### Forced displacements and deportation to Algeria



The majority of forced displacements towards Algeria take place on the Sfax - Kasserine axis, but also in the direction of several towns that serve as stopovers before detainees are abandoned in desert areas close to the borders, including Gafsa, Tozeur, Nefta, Redeyef, Thala, le Kef and Jendouba, or deported.

According to the people consulted for this study, displaced persons on the border with Algeria are often abandoned in the desert or in rural areas and can find themselves in the following situations:

- They are intercepted by Algerian security forces, and are alternately irregularly returned to Tunisian territory, or arrested and expelled to the east towards Libya at Ghadamès, or to the south of Algeria at the border with Niger. The presence of people expelled from Tunisia at «point 0» in Assamanka, the buffer zone between Algeria and Niger, has been confirmed by humanitarian organizations working in the area.<sup>89</sup>
- They manage to return to Tunisia by their own means or with the help of smugglers (exposing them to a number of risks, including human trafficking), but are intercepted by Tunisian security forces and again deported to Algeria or to Libya.
- They manage to return to Tunisia by their own means or with the help of smugglers (exposing them to the risk of human trafficking) and return to the north or east coast of Tunisia.

Security forces have reportedly been following the same *modus operandi* since September 2023, transferring people by buses flanked by two or three National Guard cars departing from the places of arrest to the stopover towns. People are sometimes handcuffed, and their personal belongings (money, telephones) and legal and civil documentation are confiscated by the agents. Depending on the situation, they are deprived of their freedom for a few hours or even a few days in National Guard or army facilities in these stopover towns, before being forcibly displaced to the borders in small groups in more mobile vehicles - National Guard pickups or vans.

The OMCT can confirm that there has been no handover of people between Tunisian and Algerian security forces at the border. According to accounts collected by the OMCT and its partners, Tunisian security forces often abandon people in desert buffer zones, less than five kilometers from the border. Several people have reportedly been shot at and threatened with death by National Guard agents in order to make them move towards Algerian territory.

This way, people have been expelled up to 4-5 times from Tunisia to Algeria, or even abandoned in a desert border area with Algeria and deported to Libya in the space of a few days.

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89. <https://inkyfada.com/fr/2024/05/21/enquete-expulsions-migration-frontieres-tunisie/>

## Forced displacements and deportation to Libya



Since November 2023, deportations to Libya of displaced persons arrested on the Tunisian territory have never ceased;<sup>90</sup> the flow of deportees dropped in January and February 2024 before picking up again sharply from March 2024. Cooperation between Tunisia and Libya still seems to fall within the framework of the agreement signed in August 2023,<sup>21</sup> the application of which seems to have varied in recent months. This agreement reportedly stipulates that Libya accepts the expulsion from Tunisia of people who have transited through its territory.

According to direct testimonies of victims, as well as interviews with analysts and specialists working in the region, when people on the move are forcibly and arbitrarily moved from Sfax, Zarzis and Tunis to the border with Libya, Tunisian security forces use several towns as stopovers on the way to the Libyan border, including Médenine, Tataouine and Ben Guerdane.

Depending on the situation, individuals are deprived of their freedom for a few hours or even a few days in police stations, National Guard barracks, before being moved back to the borders in small groups in more mobile vehicles - National Guard pickups or vans. It was reported that the former Ben Guerdane shelter, placed next to the National Guard post, which became an unofficial prima facie deprivation of freedom center in September 2023, would still be operational in April 2024. OMCT partners have also reported the presence of buses from the Sfax public transport company stopping in Médenine, and people being transferred to National Guard vehicles.

According to the sources consulted for this research:

- Groups of migrants, refugees and asylum seekers are arrested on Tunisian territory by Tunisian security forces and transferred to Libyan territory into the command of Libyan security forces. The OMCT is unable to identify whether people on the move are transferred to Libyan state authorities or to non-state armed groups affiliated with the Libyan Government.
- In Libya, people are held at the Al Assah center near Nalut, run by the Stability Support Apparatus,<sup>92</sup> before being transferred to detention centers elsewhere in Libya. This seems to be the case for most people deported to Libya.
- Since February 2024, the majority of deportations have occurred along the Tataouine - Remada axis, in the direction of the Dehiba border post, and no longer via the Ben Guerdane - Ras Jedir axis, following the closure of the border post on March 18, 2024 after internal tensions between Amazigh militias and the Tripoli government since January 2024.<sup>93</sup>

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90. OMCT is able to confirm that between June 2023 and the end of April 2024, a total of 9,910 migrants and people in need of international protection were intercepted at the border with Tunisia by the Libyan authorities. This figure includes people deported by the Tunisian authorities as well as those who attempted to cross the border but were intercepted by Libyan forces.

91. **Le Monde**, «La Tunisie et la Libye trouvent un accord pour accueillir les migrants bloqués à la frontière», 10/08/2023

92. The Stability Support Apparatus (SSA) is a militia created in 2021 by the Libyan state, charged with various missions in support of the Libyan security forces. In particular, it manages the unofficial Al Mayah detention center. It is allegedly responsible for a number of human rights violations, including torture and other ill-treatment of migrants. See OMCT, «Libya: Protect migrants, refugees, asylum seekers from torture and ill-treatment», 30/02/2022

93. **Business News**, «Ras Jedir border crossing closed», 19/03/2024



Another practice confirmed by the OMCT data collection and analysis is the **abandonment** of people on the move in the desert areas on the border with Libya, as well as on the border with Algeria. Sources have confirmed that dozens of people a day are abandoned in these areas, exposed to further violence allegedly committed by National Guard agents in order to push them towards Libyan or Algerian territory. Alone in the desert area, without access to food or water, and without any form of subsistence, these people are exposed to a high risk of falling victim to any form of violation, including human trafficking by criminal groups active in the region. Unlike July-August 2023, when several hundred people were stranded in a buffer zone around the Ras Jedir border crossing, these abandonments would be carried out much further south, in very remote desert areas.

The modus operandi seems to have changed compared to the deportations documented between September and November 2023: according to the testimonies collected by the OMCT and its partners, victims of deportations are currently organized in small groups, with frequent changes of vehicles and itineraries that are very often longer than necessary and therefore more difficult to trace for the people concerned. Several sources consulted for this study confirmed that the aim of this practice is to confuse victims about the itineraries followed before abandonment or deportation to Libya. Some victims of deportations testified to have spent more than three days in several different pick-ups before being handed over to Libyan groups or abandoned at the border. Based on the analysis of open-source information and testimonies from victims, the OMCT is able to confirm the use by security forces of various branded Nissan 4x4 vehicles, Toyota pick-up trucks proving the involvement of the National Guard as the main law enforcement agency in charge of forced displacements and deportations (for more details, see section 2.3 on the profile of perpetrators), as well as buses from transport companies in Sfax, Kef and Médenine. Forced displacements and deportations are characterized by very violent episodes, whether at the time of arrest, during transportation, or upon arrival at one of the stopover towns or at the borders. The OMCT has collected numerous testimonies of incidents of physical violence, including gender-based violence, and verbal abuse during border transfers, confiscation of documents, including asylum seeker cards, and telephones (see the following section on violence, excessive use of force, torture and ill-treatment).

According to the representatives of the organizations providing assistance to people on the move consulted for this study, the vast majority of forcibly and arbitrarily displaced people and those deported to Libya and Algeria try to go back to Tunisia as soon as they can, in order to head to the coastal areas and attempt to cross the Mediterranean.

*« Whatever happens, I'll come back to Tunisia and cross the sea. I have no other option ».*

Declares a victim of several episodes of deportation.

## Violence and excessive use of force - torture and ill-treatment

Between November 2023 and April 2024 - albeit to a lesser extent than during the period July - September 2023 - the OMCT and its partners documented recurring acts of violence against migrants, refugees and asylum seekers residing or transiting in Tunisia, which may constitute torture or ill-treatment. These episodes are reported to occur:

- during arrests and detention in police stations, with testimonies of physical and verbal violence, as well as acts of mistreatment affecting the dignity of the person, discriminatory remarks, by both police officers and judicial authorities;
- during interceptions at sea (see next section on crossing maritime borders);
- in the street, with acts of violence by municipal police officers against migrant women, particularly when they are begging or prostituting themselves;
- during deprivation of liberty in unofficial places managed by security forces prior to arbitrary displacement, through various forms of deprivation of liberty under undignified living conditions which may constitute acts of ill-treatment (denial of access to humanitarian assistance, no distribution of water or food);
- during forced and arbitrary displacements followed by expulsions to Libya or Algeria, through physical violence (blows and injuries) and psychological violence (humiliating practices, forced nudity, violence towards a third party, death or rape threats).

Desert border areas are places characterized by great violence, particularly at the hands of security forces. This violence takes many forms:

- When turning back people trying to enter or return (after deportation) to Tunisia, National Guard agents are said to use violence (physical violence, gunfire and threats), in desert border areas but also in places where people are deprived of their freedom (such as Ben Guerdane), towards people arrested on the outskirts of municipalities close to the borders.
- Since the beginning of 2024, incidents of sexual violence have been documented in border areas with Algeria and Libya, including violence committed by or with the complicity of Tunisian security personnel. According to officials from humanitarian organizations involved in reception in Italy, numerous testimonies from migrants arriving in Lampedusa have also described stories of “violence, and in particular gender-based violence, including systematic gang rapes of women in the south [of Tunisia], including girls aged 10 and 14 years old” (see section 2.2.3 on the emergence of new trends in human rights violations).

It is clear that racial discrimination against people from sub-Saharan African countries is a key factor of institutional violence. According to testimonies of direct victims collected during the research and interviews conducted with representatives of human rights organizations, torture and ill-treatment are often accompanied by racist and xenophobic insults. More than the administrative status of a person on the move, skin color is the determining factor for increasing violence: it has been reported that black foreign nationals with a valid residence permit have been victims of physical violence at the hands of state agents. In addition, black migrants are more likely than Tunisian citizens to be subjected to violence during interceptions at sea (see the section on crossing maritime borders for details of how violent interceptions are carried out).

In addition to institutional violence, all human rights organizations and defenders consulted for this study confirmed that several cases of physical and psychological violence were committed by non-state actors and citizens (for more details, see section on profiles of alleged perpetrator).

This violence, whether perpetrated by state agents or citizens, is reflected in the medical needs of the beneficiaries of humanitarian organizations active in Tunisia. According to documentation compiled by international organizations working in the health sector, 22% of migrants, refugees and asylum seekers assisted between November 2023 and March 2024 reported having suffered violence, and 81% of them indicated that they had been subjected to physical, sexual and psychological violence.

### **Torture and ill-treatment during abandonment in desert border areas**

The abandonment of several hundred people, including pregnant women and young children, between November 2023 and April 2024 in desert areas on the border with Algeria, may constitute torture under the United Nations Convention against Torture.

The deprivation of food and water, medical assistance and shelter, combined with extreme temperature variations, caused severe pain and suffering, both physical and mental, to those forcibly displaced in these desert and mountainous areas. All the constituent elements of the crime of torture are present. This suffering was inflicted by agents of the security forces on people over whom they exercised effective control at the time of their arbitrary forced displacement and deportation, but also afterwards, by maintaining a continuous presence in the area to prevent their return to Tunisia. In this way, people were turned back more than five times in the space of a few days by Tunisian security forces, while warning shots were fired by Algerian security personnel. Some of the people displaced in these areas were thus unable to return to the interior of Tunisia or to enter Algerian territory. They were subjected to physical violence by Tunisian security forces when attempting to return to Tunisia.

This suffering has been deliberately inflicted by Tunisian security forces on migrants in the desert border areas, in order to force them to leave the country. The intentionality of the authorities in inflicting suffering is beyond doubt, as they act with full knowledge of the consequences of these arbitrary and forced displacements and deportations. Throughout the period under analysis, non-governmental organizations, the media and victims have all warned about the risks faced by displaced persons.

94. Le Monde, «Comment l'argent de l'UE permet aux pays du Maghreb d'expulser des migrants en plein désert», 21/05/2024

95. Nawaat, «Reportage À La Frontière Algérienne : Ces Migrants Piégés En Tunisie», 23/05/2024

96. Le Monde, «En Tunisie, des migrants camerounais interceptés en mer et abandonnés à la frontière algérienne», 21/05/2024

97. See OMCT's previous report, «Les routes de la Torture : cartographie des violations subies par les personnes en déplacement en Tunisie», December 2023.

98. Info Migrants, « «The children had nothing to face the cold»: migrants deported from Tunisia to the snowy mountains of Algeria», 26/01/2024.

## Crossing maritime borders: dehumanizing practices

This section focuses on violations committed against people on the move who decided to cross the sea illegally from Tunisia and were intercepted in Tunisian territorial waters, as well as those violations committed against those departing from Libya and intercepted or rescued at sea by the Tunisian authorities.<sup>100</sup>

Every sovereign state has the right to protect its borders and control those who wish to leave them irregularly. However, it is important to emphasize that:

- All operations related to border and migration management by States, including search and rescue (SAR) operations, must be carried out in accordance with the obligations established by international law;<sup>101</sup>
- Preventing the departure of persons who have a well-founded fear of persecution or where there are substantial grounds for believing that they would be in danger of death, torture, cruel, inhuman or degrading treatment or punishment is in itself a violation of international law.

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99. Interception refers to any measure «employed by States to : prevent the embarkation of persons on an international voyage; prevent the continuation of an international voyage by persons who have commenced their voyage; or take control of vessels where there are reasonable grounds to believe that the vessel is transporting persons in violation of international or national maritime law; where, in connection with the foregoing, the person or persons do not have the required documents or a valid entry permit; and that such measures also serve to protect the life and safety of travelers as well as persons being trafficked or transported in an irregular manner.» ExCom, Conclusion 97 (LIV), 2003. This definition is also reflected in the IOM Migration Glossary.

100. Rescue at sea is an operation to recover people in distress, meet their initial medical or other needs and bring them to safety, according to the Convention on Search and Rescue at Sea (SAR).

101. Interception measures must not have the effect of depriving asylum seekers and refugees of access to international protection. Interception measures must respect the principle of non-refoulement for all, without discrimination. Interceptions must be carried out for humanitarian purposes, in order to recover people in potentially dangerous circumstances at sea and bring them to safety before a situation of distress arises.

# CHRONOLOGY

## OF MARITIME BORDER MANAGEMENT OPERATIONS

**11/11/2023**

Three SAR operations were carried out in Tunisian waters (two in Sfax /120 people, one in Djerba/62 people). Most of those rescued at sea were deported to Libya and Algeria.<sup>102</sup>

**15/11**

More than 1,400 people from Tunisia land in Lampedusa in one week.<sup>103</sup>

**24/11**

3,502 people were intercepted at sea by National Guard maritime units between November 11 and November 24, 2023.<sup>104</sup>

**05/12**

The Aurora rescue ship was fined 10,000 euros for refusing to disembark people rescued at sea in Tunisia.<sup>105</sup>

**08/12**

Since the end of October, the number of boats reaching Lampedusa from Tunisia has decreased, with just a few dozen in two months.<sup>106</sup>

**01/01/2024**

2,839 people arrived in Lampedusa between December 24 and January 1<sup>107</sup> from Tunisia and Libya.

**11/01**

Sinking of a boat with 37 people on board off the coast of Sfax (most of them Tunisians from El Hancha, including several minors).<sup>108</sup> The victims' families organize a demonstration on January 17 in Sfax.<sup>109</sup>

**22/01**

The bodies of two minors aged 16 or under are discovered in the hold of a boat bound for Europe from Tunisia.<sup>110</sup>

**05/02**

Shipwreck and disappearance of 17 people of Tunisian nationality after leaving Bizerte for Italy, including a 5-year-old child.<sup>111</sup>

**06/02**

The families of the 37 young Tunisians who disappeared in the Mediterranean in early January demonstrate in Tunis.<sup>112</sup>

**07/02**

Sinking of a boat off Jbeniana with 42 people on board. 13 bodies were recovered and 27 people were reported missing. All the passengers were of Sudanese nationality and registered with the UNHCR as asylum seekers.<sup>113</sup>

**08/02**

A sea rescue operation was carried out in Djerba, saving 110 people (one Ethiopian, one Gambian and others from Syria, Pakistan and Egypt). All were deported back to Libya on the same day.<sup>114</sup>

**13/02**

Publication of 2023 figures: 1,313 people died in 2023 trying to cross the Mediterranean to Europe from Tunisia.<sup>115</sup>

**15/02**

Rescue off the coast of Zarzis of a boat from Libya in distress with more than fifty people of Egyptian, Syrian, Pakistani and Bangladeshi nationality. 45 people were rescued, and nine dead bodies found.<sup>116</sup>

**18/02**

The Italian Court of Cassation upheld the conviction of the captain of the commercial vessel Asso 28, who had illegally disembarked 101 people in Libya who had been rescued at sea while trying to reach Italy.<sup>117</sup>

**21/02**

12 people suspected of being responsible for a human trafficking network between Tunisia and Sicily are arrested by the Italian police, including six Tunisian nationals and a former police officer.<sup>118</sup>

**25/02**

A boat with 69 people was reported missing off the Tunisian coast.<sup>119</sup> 63 people are rescued at sea off Kerkennah on February 27, and one body recovered.<sup>120</sup>

**09/03**

A boat sinks off the coast of Zarzis, 24 people are rescued and 5 bodies are found.

14/03

Shipwreck off Zarzis of a boat from Libya with 70 people on board. 34 people were rescued, two bodies were found and 36 people were reported missing.<sup>121</sup>



15/03

Between January 1 and March 15, 2024, 1,658 people disembarked in Italy from the Tunisian coast, compared with 11,998 in the same period in 2023, according to the Italian authorities.<sup>122</sup>



25/03

149 boats were intercepted between March 15 and March 25, 22 bodies recovered by the National Guard, and more than 4,800 people intercepted.<sup>123</sup>

05/04

The Tunisian National Guard causes a shipwreck during a violent interception of a boat with 42 people on board, including 14 women and 7 children, resulting in the death of at least 16 people.<sup>124</sup>



08/04

While more than 1,800 people were intercepted in 48 hours, 13 bodies were recovered off the coast of Sfax.<sup>125</sup>



15/04

According to National Guard spokesman Housseem Jebabli, since January 1er 2024, 21,545 people have been "intercepted or rescued" in 751 operations, including 19,547 intercepted in Sfax. This represents an increase of 22.5% compared with the same period in 2023. 291 bodies were recovered over the period.<sup>126</sup>

15/04

14 bodies were found washed up on the coast of Djerba, 7 bodies off the coast of Gabès, and 22 bodies on the coast of Sfax in four days.<sup>128</sup>



18/04

According to the IOM, 345 people were dead or missing off the Tunisian coast between November 2023 and April 2024.



102. Humanitarian source  
 103. Alarm Phone, «2023: A long Summer of Migration in the Central Mediterranean Sea», 18/02/2024  
 104. Jihed Brimri on X, 23/11/2023  
 105. Alarm Phone, «2023: A long Summer of Migration in the Central Mediterranean Sea», 18/02/2024  
 106. Maldusa, «An impressive Zuwara Fleet», 08/12/2023  
 107. Sergio Scandura on X, 02/01/2024  
 108. Al Jazeera, «Protests erupt in Tunisian town as search continues for 37 missing migrants», 17/01/2024  
 109. Info Migrants, «Tunisian families await news of 40 migrants missing at sea», 17/01/2024  
 110. Info Migrants, «Two Tunisian teenagers die in a refrigerated container, bound for Italy», 23/01/2024  
 111. Info Migrants, «At least 17 Tunisian migrants reported missing in the Mediterranean», 02/13/2024  
 112. Marine et Océans, «Tunisie: Manifestation de proches de 40 jeunes migrants disparus en mer», 06/02/2024  
 113. BBC, «Europe migrant crisis: Boat sinks off Tunisia with more than 40 Sudanese on board», 08/02/2024. Also confirmed by KII with humanitarian sources: 2 asylum seekers of Sudanese origin were rescued .

114. Humanitarian source  
 115. Info Migrants, «Méditerranée : en 2023, près de la moitié des morts en mer sont partis de Tunisie», 14/02/2024  
 116. Info Migrants, «Méditerranée : neuf migrants décèdent «par asphyxie» dans un canot à la dérive au large de la Tunisie», 08/02/2024  
 117. Info Migrants, «Sending migrants back to Libya is illegal, says Italian Court of Cassation», 02/19/2024.  
 118. Arab News, «Italy arrests 12 people over speed boat migrant trips from Tunisia», 21/02/2024  
 119. Alarm Phone on X, 25/02/2024  
 120. Sergio Scandura on X, 27/02/2024  
 121. Tv5 Monde, «Tunisie : naufrage d'une embarcation qui transportait 70 migrants», 16/03/2024  
 122. Business News, «Giorgia Meloni: the EU-Tunisia agreement has borne fruit», 21/03/2024  
 123. Source: aggregated data from the National Guard on Facebook  
 124. Memoria Mediterranea, «Le autorità tunisine hanno ucciso i miei figli perché erano neri - Strage di El Ambra», 07/05/2024  
 125. Info Migrants, «Tunisia: 13 bodies discovered, nearly 2,000 migrants intercepted», 08/04/2024  
 126. Euractiv, «Tunisia: rise in interceptions of migrants attempting to cross the Mediterranean», 13/05/2024  
 127. Info Migrants, «Tunisia: 14 new bodies found off the island of Djerba», 04/25/2024  
 128. Info Migrants, «Tunisie : les corps d'une vingtaine de migrants rejetés sur les plages de Sfax», 24/04/2024

## Interceptions at sea since November 2023: figures and trends

As with arrests, forced and arbitrary displacements and deportations, violent interceptions are among the types of violations migrants, refugees and asylum seekers continue to suffer. In terms of quantity, the data in this sub-section is mainly based on the official website of the National Guard.

Between November 2023 and February 2024, most boats arriving at Lampedusa were from Libya - with few metal boats, specific to the Sfax region, reaching the Italian coast. The drop in arrivals from Tunisia over this period can be explained by tighter land controls, an increase in interceptions from September and October 2023 onwards, and worsening weather conditions linked to the winter period. As weather conditions improved from the beginning of March 2024, departures from the Tunisian coast rose sharply, as did the number of people intercepted and the incidents of violence committed by National Guard maritime units.

In 2023, 79,635 people were «prevented» from crossing Tunisia's borders into Europe, according to the then Minister of the Interior, Kamel Fekih.<sup>129</sup> According to official data from the Tunisian National Guard, 21,545 people were disembarked between January and the end of April 2024 by the National Guard's maritime units, up 22% on 2023 over the same period. Of these, 19,457 were intercepted off the coast of Sfax.<sup>130</sup> While 291 bodies were recovered over the period by the Tunisian authorities, it is estimated that over 345 people died or went missing off the Tunisian coast between January and April 2024, out of a total of 566 deaths and disappearances on the central Mediterranean route.<sup>131</sup>

## Intensified land controls

The increase in sea interceptions by the National Guard since autumn 2023 is directly linked to a change in security policy, with the intensification of land control operations along the coast in Sfax, Jbeniana and El Amra, the main departure points to the Italian island of Lampedusa. Several sources have reported to the OMCT that security forces along the Sfax coast have carried out a meticulous study using reconnaissance aircrafts, helicopters and drones, in order to thwart departure attempts. Since November 2023, the National Guard has also been intervening directly in olive groves to identify and then destroy clandestine steel boat-building workshops, and to arrest smuggling networks. These operations are reportedly accompanied by continuous violence, in the form of firing rubber and lead bullets, throwing tear gas grenades, and burning personal belongings, to prevent people from leaving for the beaches or dispersing people during operations against clandestine workshops.

*« The National Guard was on the beach and attacked us. They threw tear gas at us and chased us, but we ran away and hid. We were going to the beach to cross, and there were lots of National Guardsmen guarding the beaches so that no one could leave »*

Direct testimony from a victim of violence

This new land control policy is accompanied by numerous arrests of people on the move accused of human trafficking. Also, the people consulted for this study confirmed that money withdrawals by people on the move from sub-Saharan Africa are blocked in banks in localities along the Sfax coast, and that Tunisian or foreign legal intermediaries are used to make money withdrawals. Since the end of 2023, several cases of intermediaries arrested for human trafficking have been reported to the OMCT.

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129. Yassine Mami on Facebook, 20/05/2024

130. This figure includes people intercepted at sea, and therefore prevented from leaving, as well as those rescued during search and rescue operations, though these represent a small minority. Euractiv, «Tunisie : hausse des interceptions de migrants tentant de traverser la Méditerranée», 13/05/2024

131. IOM, Missing Migrants Project



## Violent interception modus operandi

Interceptions at sea are usually moments of intense violence.<sup>132</sup> The dangerous operations carried out by National Guard maritime units have been documented for years by various media and civil society organizations,<sup>134</sup> who have repeatedly stressed that these practices are contrary to international law, including international maritime law.

Various techniques have been identified through the analysis of shipwreck videos and reported by victims of violent interceptions to the OMCT and its partners:<sup>135</sup>

- Encircling the boat by circling around it to slow it down, scaring passengers and bringing water into the boat. The vast majority of boats are made of steel, which means they are heavier, and water cannot flow through the hull, increasing the risk of the boat sinking.
- Provoking waves by rapidly overtaking it with a zodiac, in order to capsize it.
- Piercing the inflatable of a zodiac boat with a blade to prevent it from continuing.
- Seizing of the boat's engine by an agent using a rope. The OMCT and its partners have received several reports of boats left without engines adrift for up to ten hours, before being rescued by a National Guard boat or fishermen. The seizure of engines allegedly also feeds a black market in the resale of engines to smuggling networks by National Guard agents.
- Using poles, steel rods and sticks to violently injure the captain and passengers.
- Attaching the boat with a rope to a National Guard boat, which then tows it to the harbor or lifeboat. The boats are often overloaded with dozens of people, most of whom have only inner tubes as life jackets.

*« For the Tunisian coastguard, if the boat stops, so much the better; if it sinks, so much the better; if it resists, then the interceptions are violent »*

says an activist involved in sea rescue.

During interceptions, National Guard maritime units are deployed on fast, maneuverable zodiacs and boats to monitor the coastline and intercept people, while larger vessels are deployed to coordinate the response and take intercepted people on board before disembarking them at the port. The OMCT and its partners have documented several cases of drowning during transfer to larger vessels. There have also been reports of physical violence on the ships once the intercepted boats have been transferred to the National Guard boats.

Violence is not limited to interception but continues after disembarkation. People disembarked at the port of Sfax are generally deprived of their freedom at the port, awaiting to be forcibly displaced to border areas, or detained. They have no access to humanitarian assistance, despite being in a state of dehydration and malnutrition after spending several hours on the water. The sun, salt water and fuel cause burns and breathing difficulties. Departure, violent interception and shipwrecks are situations of intense stress, with immediate psychological consequences, including states of shock.

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132. Interception measures must not have the effect of depriving asylum seekers and refugees of access to international protection. Interception measures must respect the principle of non-refoulement for all, without discrimination. Interceptions must be carried out for humanitarian purposes, in order to recover people in potentially dangerous circumstances at sea and bring them to safety before a situation of distress arises.

133. Info Migrants, «The «dangerous» interceptions by the Tunisian coast guard denounced by Alarm Phone», 20/01/2023

134. Alarm Phone, Sea interrupted, 20/06/2024

135. Memoria Mediterranea, «Le autorità tunisine hanno ucciso i miei figli perché erano neri – Strage di El Ambra», 07/05/2024



The practices documented above illustrate the almost systematic violence during interception operations at sea, which also concern Tunisian nationals attempting to reach Italy. However, according to interviews conducted by the OMCT with representatives of humanitarian organizations and activists involved in rescue and search operations at sea, there is a difference in treatment between boats identified by the National Guard as being predominantly composed by Tunisian citizens and those boarded by non-Tunisians. During simultaneous departures of several dozen boats (so that the National Guard is outstripped in terms of interception capacity), interceptions are reported to mainly concern boats with a majority of sub-Saharan African nationals on board. Also, the type of violations suffered is different, with less physical violence and deliberate shipwrecks provoked by the authorities.

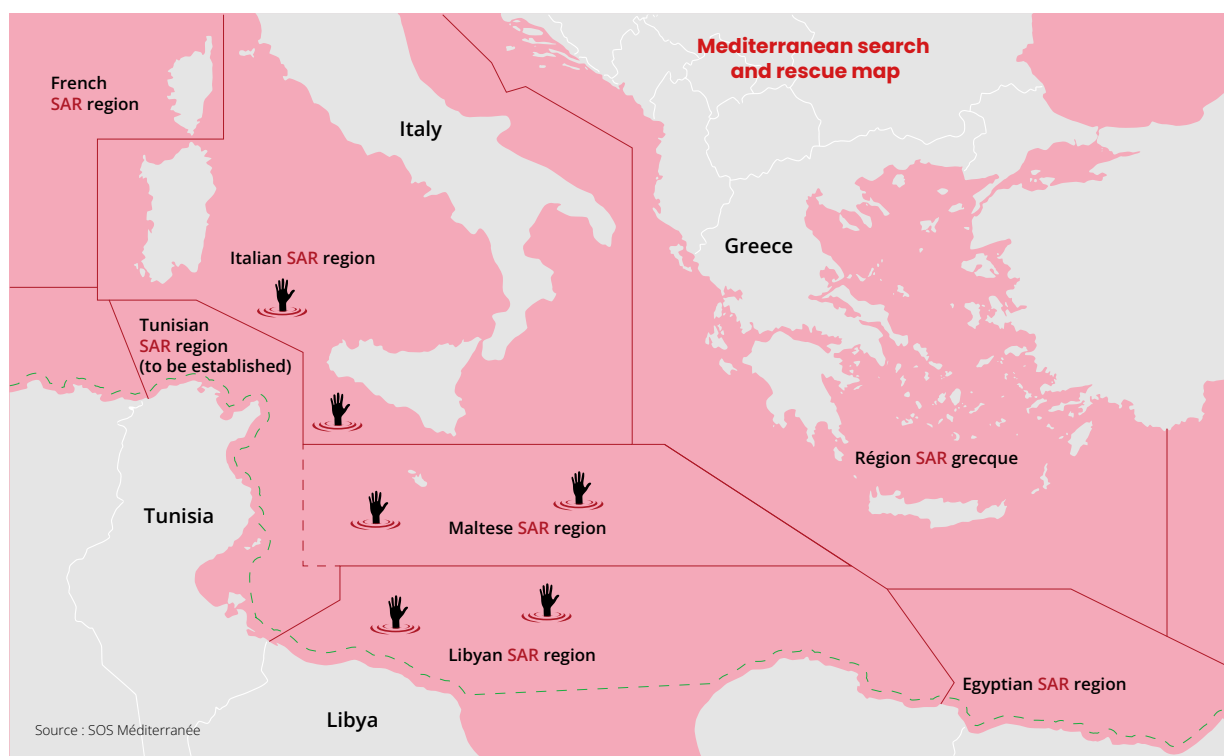
### **The deadly shipwreck of April 5, 2024**

On April 5, 2024, a group of 42 people, including 14 women (2 pregnant) and 7 children, mostly from Sierra Leone, Guinea and Gambia, prepared to leave Tunisia for Italy by sea. Before boarding the boat, National Guard officers tried to disperse the group by firing tear gas, but to no success. Half an hour after having left the coast of El Amra, less than one mile from the coast, a patrol boat from the National Guard's maritime unit approached the makeshift boat and performed encircling maneuvers to cut off the boat's path. The National Guard's boat allegedly came close five times with an officer trying to damage the engine with an iron bar. At the same time, a second National Guard zodiac provoked some waves which led to large amounts of water entering into the boat. The boat was struck from behind and the hull broke. As the boat sank, the passengers found themselves in the water with no floating object to hold on to. Several people drowned, while others managed to swim to the National Guard boats. Two additional National Guard boats arrived and began rescuing people and recovering bodies, before transferring them to a larger vessel. Disembarked in a reserved part of the port of Sfax around midnight, the survivors were given no food, water or dry clothes throughout the night; survivors reported that they were not allowed to identify the bodies of their loved ones - at least 20 of whom were reported dead, including nine women and six children (13 bodies were reportedly recovered by the authorities). That same night, more than 300 people were intercepted off the coast of Sfax. The following morning, several dozen people, including survivors of the shipwreck, were forcibly moved to a desert border area near Libya; among them were pregnant women.

Several victims reported being handcuffed, having their phones confiscated and having suffered beatings and injuries inflicted by National Guard agents, as well as having been subdued to sexual harassment during forced displacement. Abandoned in the desert, some people were reportedly abducted by a Libyan armed group and placed in a detention center, where a ransom of up to 1,000 EUR was set for their release. At least one deported pregnant woman has been reported to have died in the desert after being abandoned without food or water.

## Rescue and search operations at sea

In April 2024, Tunisia enshrined in its national law the modalities for search and rescue at sea, enabling recognition of a Tunisian rescue and search zone (SAR-zone),<sup>136</sup> in which the Tunisian authorities will be responsible for leading and coordinating rescue at sea, in the area contiguous to its territorial waters,<sup>137</sup> and in coordination with neighboring rescue and coordination centers (MRCCs). At the time of writing (June 2024), it remains unclear whether this area falls under the jurisdiction of the Ministry of the Interior or the Ministry of Defense.<sup>138</sup> International recognition of the Tunisian search and rescue zone by the International Maritime Organization (IMO) is a crucial issue for the compliance with the obligation to disembark a person rescued at sea in a safe country.<sup>139</sup> Tunisia cannot today be considered a safe country for the disembarkation of people rescued at sea, due to the risk of forced displacement, deportation and other violations of the human rights of people on the move. Any search and rescue operation in international waters leading to the disembarkation of people on Tunisian soil would then have to be considered as an illegal return in violation of the principle of non-refoulement.<sup>140</sup> This international recognition of the Tunisian SAR-zone would enable Tunisia to legally intercept boats in international waters and land them on Tunisian territory. At present, once in international waters, the majority of boats are under Maltese or Italian responsibility and are landed on European soil in the event of a rescue operation.



136. Decree no. 2024-181 of April 5, 2024, on the organization of maritime search and rescue. This is the culmination of long-standing cooperation with European states on this issue. See for example Euractiv, «L'UE aide la Tunisie à renforcer ses capacités d'interception des migrants en mer», 25/01/2024

137. Territorial waters cover a distance of 12 nautical miles from an established baseline, and contiguous zones 24 nautical miles. A contiguous zone is «an area where the coastal State can prevent and repress infringements of its customs, fiscal, sanitary or immigration laws and regulations committed on its land territory or in its territorial sea». Alliance Europa, Les obligations des Etats en matière de secours en mer, 2020

138. According to the experts consulted for this research, the intervention of National Guard maritime units is limited to Tunisian territorial waters, i.e. 12 nautical miles from the Tunisian coast. Beyond that, in international waters, only the Ministry of Defense and the French Navy can exercise jurisdiction. However, according to information gathered by OMCT, air law is the rule for an unofficial SAR zone extending up to 22 nautical miles from the Tunisian coast, in which National Guard maritime units can intervene, pending official recognition of the Tunisian SAR zone by the International Maritime Organization (IMO).

139. Under international law, a place is considered safe if «the security of life of survivors is no longer threatened and their basic human needs (such as food, shelter and medical needs) can be met. (...)» «Annex to the 1979 SAR Convention, 1.3.2.

140. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 RTNU 85 («Convention against Torture»), December 10, 1984, art. 3. On illegal return and exposure to the risk of torture, see for example: Info Migrants, «Renvoyer des migrants en Libye est illégal, selon la Cour de cassation italienne», 29/02/2024.

At the time of writing (June 2024), the majority of search and rescue operations at sea take place in front of Zarzis in Tunisian territorial waters. Boats departing from western Libya generally sail along the Tunisian coast to increase their chances of being rescued in the event of engine trouble. It is also a way of limiting the risk of interception by the Libyan coastguards.<sup>141</sup> According to the information gathered by the OMCT between 400 to 500 people on the move are said to have been rescued at sea in front of Zarzis after leaving the Libyan coast. According to the established protocol, the IOM and UNHCR must be systematically notified by the Tunisian coastguard in the event a boat departing from Libya has been searched and rescued, so that they can provide assistance to the survivors as soon as they disembark and eventually proceed with the pre-registration of those eligible for international protection. However, according to the interviews conducted for this research, UN agencies no longer receive systematic notification from the authorities and are not even always warned.

Limited operational capacities and a focus on interception are also a source of danger in search and rescue operations. In several interviews with representatives of organizations active in sea search and rescue operations, it was reported that a large number of boats in distress had left Libya and had been found by Tunisian fishermen. After contacting the National Guard, the fishing boats are instructed to stay with the boat, sometimes for several hours. The passengers on the boats are generally in humanitarian distress, as the fishermen do not have the capacity to provide the necessary assistance. This has also socio-economic costs and implies potential risks for the fishermen involved.

### **Identifying and burying the bodies of those lost at sea**

Whether during interception operations or during search and rescue operations at sea, the issue of identification and burying of dead bodies is central.

According to forensic experts consulted for this research, when the body is in good condition, identification is facilitated by analysis of personal effects and a DNA sample. If the body is in an advanced state of decomposition, an autopsy is required to extract the DNA, which is then entered into a post-mortem database. A comparison is then made with an ante-mortem database containing DNA samples from relatives of missing persons searching for the bodies, in order to find matches. If no match is found between the two databases, burial of the body is authorized by the public prosecutor, and an assigned file number is written on the grave in the event of future searches by relatives. This mainly affects people from sub-Saharan African countries, as ante-mortem data for identification purposes is generally not available, unlike for Tunisian missing persons at sea. In Mahdia, for example, where the vast majority of bodies treated are those of people of sub-Saharan origin, 95% of bodies require a genetic extraction procedure by autopsy, and less than 10% of bodies are finally identified.

There are practical obstacles to proper body management. When bodies are recovered several days after a shipwreck, identification is made difficult by the condition of the body. Morgues have limited capacity and are obliged to keep places free in the event of accidents. The total capacity of the Mahdia morgue is 20 bodies, whereas around 20 bodies are received every day. Identification is a lengthy procedure, and bodies sometimes remain unidentified for over a month due to lack of capacity. A deadline of 40 days has therefore been set for identification and burial. The Zarzis morgue has a capacity of 12 bodies, of which at least three places must be free at all times, while the Sfax morgue has a capacity of 25 bodies. In the Médenine governorate, distances between morgues are sometimes more than 75 kilometers, making it impossible to transport bodies to morgues with greater capacity. Forensic medicine is also expensive and not widely available in southern Tunisia, making it even more difficult to identify bodies.<sup>142</sup>

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141. *Le Monde*, «Comment l'Europe a laissé Malte livrer en mer des migrants à une milice libyenne», 11/12/2023

142. Il n'y a que 54 médecins légistes dans le pays et 6 gouvernorats tunisiens n'ont pas de médecin légiste. Selon des personnes interrogées, les médecins légistes sont présents dans les gouvernorats suivants : Tunis, Nabeul, Bizerte, Sousse, Monastir, Mahdia, Sfax, Kairouan, Sidi Bouzid, Kasserine, Gafsa, Gabès, Jendouba, Béja, Médenine, Zaghouan, Ben Arous, Manouba.

Between January and mid-April 2024, the large number of bodies found at sea or on the coast and awaiting identification and burial caused saturation of several morgues in southern and eastern Tunisia. In addition, the International Committee of the Red Cross (ICRC) has stopped operations in Tunisia in 2023, resulting in a decreased capacity to identify bodies; the IOM is not involved in identification.

According to interviews with representatives of humanitarian organizations and activists in Zarzis, the Cemetery of the Unknowns in Ben Guerdane has reportedly been reopened by the authorities to bury the bodies of people who disappeared at sea without any attempt at identification, in violation of respect for human dignity. The cemetery, located near the Elketef port next to the National Guard post, had only been opened for a few months in 2015 to accommodate the remains of Syrian nationals who had died at sea off Tunisia. Since 2024, unofficial burials, without any identification procedure, have been reportedly carried out regularly by the authorities, without headstones or the assigned file numbers needed for future post-mortem identification, on ancient graves that are now buried.

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143. Info Migrants, «Tunisie : la morgue de Sfax débordée par les corps de migrants», 18/04/2024

## 2.3.2 The emergence of new trends in human rights violations

### Sexual and gender-based violence

The period November - April 2024 saw a worrying increase in cases of sexual violence suffered by people on the move during displacement from and to Tunisia. These cases of violence take place:

- In a transit country prior to arrival in Tunisia, Libya or Algeria

Civil society organizations specialized in health assistance for people on the move in Tunisia have confirmed that they are receiving an increasing number of female victims of rape and sexual violence on the migration routes, particularly in Algeria and Libya.

- In border areas when entering Tunisia

Since autumn 2023, most entries to Tunisia have been via Algeria, on Tunisia's western border. According to sources consulted, people transiting through these border areas, particularly between Tebessa in Algeria and Kasserine in Tunisia, are exposed to a high risk of sexual violence by criminal groups. OMCT's partner organizations have collected testimonies of rapes, forced homosexual relations and people forced to sexually abuse children, all filmed in order to demand ransoms against the threat of video broadcasting. These criminal groups, presumably also made up of Tunisian citizens, are reported to be operating near entry points to Tunisia, and around the freight railway dedicated to transporting phosphate near Kasserine and Gafsa.

The OMCT and its partners have also collected testimonies of sexual violence committed with the complicity of National Guard agents when crossing the Algerian and Libyan borders. Cases of sexual abuse by Tunisian citizens in exchange for water and food have also been reported in the south-west of Tunisia, in the Tozeur region.

In places where people on the move are concentrated, such as the informal settlements in olive groves at El Amra, and the camps at Tunis Lac 1, humanitarian organizations working in these areas have reported to the OMCT a growing number of cases of women being sexually exploited by other migrants, allegedly forced into prostitution to obtain food, water and other basic necessities, or to pay for crossing the Mediterranean from Sfax to El Amra. The OMCT has also received reports of rape by other migrant men.

- In Tunisian municipalities

According to several organizations working to help migrants in Sfax, an increasing number of women from sub-Saharan African countries are victims of sexist and sexual harassment in the public space. This type of assaults, which target women and children, take the form of verbal harassment and touching and occur on public transport, on cabs or on buses are the most common places. The perpetrators are generally young Tunisian citizens, sometimes minors, who are also responsible for snatch thefts and physical assaults.

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### **The reality: The story of Amina and Tiwa**

Amina and Tiwa entered Tunisia in January 2024 from Algeria, after passing through Libya. Upon their arrival in Sfax, they were approached by a male migrant who offered to take them to his brother's house, so that he could house them for a while and support them. The following day in Sfax, in a five-stories building, the two women found themselves captured by a criminal group of French-speaking migrants, along with five other women, in an unsanitary room with «a floor littered with used condoms». Several dozen men, armed with knives and sticks, were present in the building. Amina and Tiwa testified to have suffered physical violence, including beatings, slaps and cuts. With no family or relatives able to pay the ransom of several hundred euros requested for her release, Tiwa says she had to «settle her debt» by being forced into prostitution.

Amina and Tiwa have been released and have left Sfax for their own safety. They are now living in Médenine, but do not wish to remain in Tunisia because of the dangers they face, nor to return to Nigeria, where they have no perspective.  
où rien ne les attend.

*« I want to live in a safe place, where we're treated like human beings and not like animals.»*

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### **Security force operations, including forced displacements and deportations**

Finally, according to victims' testimonies collected by the OMCT, forced displacement to desert border areas is accompanied by sexual violence, including rape, and degrading treatment of a sexual nature, such as forced undressing and beatings on the genitals. These acts of violence were allegedly committed by National Guard officers, or with their complicity. Furthermore, the forced displacement and deportation entail risks of sexual violence for the most vulnerable displaced persons:

- If people are abandoned in desert border areas, they are exposed to the risk of trafficking, including sexual blackmail and forced prostitution, by criminal groups operating on the Libyan and Algerian borders.
- If people are deported to Libya, they are usually held in Libyan detention centers.<sup>144</sup> For several years, numerous human rights organizations have documented the sexual violence committed against migrants in these centers. Similarly, if people are deported to Algeria, they face the risk of being sexually abused by agents of the Algerian security forces, as documented by the OMCT.<sup>145</sup>

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144. OHCHR, Report of the Fact-finding mission on Libya, 27/03/2023, available at <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>

145. OMCT, Algeria: Sub-Saharan migrants are exposed to violence and expulsions, 26/03/2024

## Definitions of human trafficking and migrant smuggling

	Trafficking in persons (adults)	Trafficking in persons (children)	Smuggling of migrants
<b>Victim's age</b>	Over 18 years	Less than 18 years old	Irrelevant
<b>Moral component</b>	Intention	Intention	Intention
<b>Material component</b>	<ul style="list-style-type: none"> <li>• Act</li> <li>• Means</li> <li>• Purpose of exploitation</li> </ul>	<ul style="list-style-type: none"> <li>• Act</li> <li>• Purpose of exploitation</li> </ul>	<ul style="list-style-type: none"> <li>• Act: illegal entry</li> <li>• Purpose: for financial or other material gain</li> </ul>
<b>Consent of the person</b>	Not relevant if means are established	Not relevant. The means don't need to be established	The smuggled person consents to the act
<b>Transnational character</b>	Not required	Not required	Required
<b>Participation in an organized group</b>	Not required	Not required	Not required

## Smuggling of migrants

In Tunisia, a major transit country to Europe on the central Mediterranean route, numerous networks are involved in the smuggling of people on the move.<sup>146</sup> On the land borders with Algeria and Libya, «smugglers» are active in circumventing the controls of the security forces and facilitating the entry of people into Tunisia. According to interviews conducted with experts and representatives of human rights organizations consulted for this study, most of the smuggling across Tunisia's land borders since November 2023 has taken place on the border with Algeria, particularly between Tebessa in Algeria and Kasserine in Tunisia. On the maritime borders, the coastline between Sfax and Mahdia is the main area for irregular departures to Europe,<sup>147</sup> and networks specializing in smuggling, supplying boats and equipment to cross the sea, as well as providing accommodation for those about to depart, have a strong presence there.

146. In the 2000 United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, migrant smuggling is defined as «the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry into a State Party of a person who is not a national or a permanent resident of that State».

147. However, a number of crossings have been reported from northern Tunisia (particularly from Cap Bon and Bizerte), the vast majority of them involving Tunisian nationals. The latter are said to take to the sea in zodiac-type boats. Iron boat crossings are cheaper (and more dangerous) and often involve people from sub-Saharan Africa.

Several factors contribute to the development of these networks, including the blocking of legal entry routes<sup>148</sup> and the continuous flow of people wishing to return to Tunisia and reach Europe - including many who have been already deported or abandoned in desert border areas. The obstacles faced by people on the move to access public transport encourages the use of clandestine means of transport, generally pick-ups from areas close to the borders heading to Sfax or Tunis. The networks involved in smuggling take advantage of the variable state control over vast desert and mountainous border areas, as well as of the concentration of several thousand people hoping to leave for Europe around El Amra, on Tunisian coastal areas.<sup>149</sup>

Smuggling generates significant risks, including exposure to human trafficking. In Tunisia, several organizations consulted for this research warned of the reorientation of networks specializing in smuggling towards human trafficking since autumn 2023. Thus, migrant smuggling, human trafficking and corruption are closely linked criminal activities,<sup>150</sup> and several activists and representatives of human rights organizations confirmed the existence of cases of corruption of National Guard agents (for more details, see section 2.3 on the profile of perpetrators). Lastly, smuggling across land and sea borders exposes people to major human rights violations often committed following interception at sea or refoulement, when people on the move attempt to cross borders irregularly.

## Human trafficking: kidnapping and sexual exploitation

According to international law, trafficking in persons is «the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs».<sup>151</sup>

The three basic elements that must be present for a situation of trafficking in persons (adults) to exist are therefore: i) an act (recruitment); ii) a means (including the threat of); and iii) a purpose (exploitation). Trafficking affects women, men and children, and involves various forms of exploitation.<sup>152</sup>

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148. «By limiting opportunities for regular migration, restrictive policies have instead led to an increase in demand for the services of smugglers, who help migrants bypass migration controls and enable them to enter and remain irregularly in destination countries (see, for example, Taran, 2003). These measures have also led to a growing professionalization of smugglers». UNDOC, <https://sherloc.unodc.org/cld/fr/education/tertiary/tip-and-som/module-5/key-issues/Migration-and-migrant-smuggling.html>

149. See also Carnegie, March 2024.

150. UNODC, Issue Paper. The Role of Corruption in Trafficking in Persons, 2011, [https://www.unodc.org/documents/human-trafficking/2011/Issue\\_Paper\\_-\\_The\\_Role\\_of\\_Corruption\\_in\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/human-trafficking/2011/Issue_Paper_-_The_Role_of_Corruption_in_Trafficking_in_Persons.pdf)

151. **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.** See also: Recommended *Principles and Guidelines on Human Rights and Human Trafficking*

152. International law gives a different definition of trafficking in children (i.e. persons under the age of 18) in that no «means» are required in this case. It is sufficient to demonstrate: i) that there has been an «action» such as recruitment, purchase and sale; and ii) that this action had the specific end of exploitation. In other words, there is trafficking if the child is subjected to any act, such as recruitment or transportation, the end of which is the exploitation of that child. See <https://www.ohchr.org/fr/publications/fact-sheets/fact-sheet-no-36-human-rights-and-human-trafficking>



## International definition of human trafficking<sup>153</sup>

### **Trafficking affects women, men and children, and involves various forms of exploitation.**

Traditionally, trafficking has been associated with the subjection of women and girls to sexual exploitation. The above-mentioned international legal definition makes it clear that men and women, boys and girls can all be victims of trafficking - and that the type of exploitation can be very broad. The list of examples in the definition is not exhaustive, and new or additional forms of exploitation may be identified in the future.

**Trafficking does not involve crossing an international border.** The definition covers trafficking both within and across national borders. In other words, it is legally possible for trafficking to take place within the boundaries of a single country, including in the country of origin of the victim.

**Trafficking in persons and smuggling of migrants are two separate issues.** Smuggling of migrants involves assisting the illegal crossing of an international border for gain. Although it may involve deception and/or abusive treatment, its purpose is to make a profit from the crossing and not, as in the case of trafficking, from the exploitation that may ensue.

**Trafficking does not necessarily imply displacement.** In the definition of trafficking, displacement is only one of the forms that the «act» can take. The use of terms such as «reception» or «accommodation» means that trafficking is not just about the process by which someone is subjected to exploitation; it also encompasses the maintenance of that person in such a situation.

**It is not possible to «consent» to trafficking.** International law has always recognized that the inherent inalienability of individual freedom makes consent irrelevant in a situation where a person is deprived of that freedom. As the drafters of the Trafficking Protocol noted, «once it is established that deception, coercion, force or other prohibited means have been used, consent is irrelevant.»

## National legal framework

Law 2016-61 against human trafficking<sup>154</sup> created a favorable framework for the identification, assistance and protection of victims of human trafficking, and enabled the establishment of the Instance Nationale de Lutte contre la Traite des Personnes (INLTP).<sup>155</sup> The contribution of this law lies in the creation of a protection system, in line with the United Nations Protocol,<sup>156</sup> for all victims of human trafficking, whatever their nationality or legal residence status. The first national strategy to combat human trafficking in Tunisia was launched in July 2018 for the period 2018-2023.

153. See OHCHR, **Factsheet No. 36: Human rights and human trafficking**, 01/06/2014

154. Organic law no. 2016-61 of August 3, 2016, on preventing and combating human trafficking.

155. The missions of the National Authority to Combat Trafficking in Persons (INLTP) include developing a national strategy to prevent and combat trafficking, as well as setting up coordinated mechanisms to identify, care for and protect victims, reduce demand and prosecute perpetrators.

156. Decree no. 2002-2101 of September 23, 2002, ratifying the United Nations Convention against Transnational Organized Crime, JORT no. 80 of October 1, 2002 and Decree no. 2003-698 of March 25, 2003, ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, JORT no. 26 of April 1, 2003.

- Sale of persons following deportations

Anecdotal evidence from several KIIs confirmed by cases of OMCT partners suggest that as of January 2024 people on the move are handed over to Libyan armed groups in desert border areas, following forced and arbitrary displacement to south-eastern Tunisia. The reported amounts within the trafficking scheme depend on the nationality of the individual and would range from 250 to over 1,000 Tunisian dinars, depending on the presumed ability of the victim to pay a ransom. As a consequence, they are then deprived of their freedom and subjected to ransom practices, torture and other ill-treatment while in detention in Libya.

- Kidnapping and sexual exploitation

As discussed in the previous sections, people on the move residing or transiting through Tunisia live in poverty, and are exposed to violence and discrimination, which increase their vulnerability to human trafficking. In Tunisia, as emphasized by several representatives of the organizations consulted for this study, the victims of kidnapping and sexual exploitation are women, children and men in highly vulnerable situations who are:

- Identified by people who help them reach Sfax from desert border areas or municipalities such as Gafsa, Kasserine and Ben Guerdane.
- Identified by the smugglers who help them cross the border into Algeria from Tebessa.
- Identified in areas of high concentration of refugees, asylum seekers and migrants in Sfax, El Amra and Tunis.

Les groupes criminels responsables de ces enlèvements et d'exploitation sexuelle profitent:

- the increase in the flow of people entering Algeria,
- tighter controls to secure entry routes into Tunisia,
- the obstacles faced by people on the move in accessing any means of transport from Kasserine, Gafsa or Ben Guerdane to Sfax, the main destination for people entering Tunisia illegally, usually paying large sums of money (up to 300 dinars).

These clandestine inter-governorate transports have reportedly existed for several years. But recently, on arrival in Sfax, people on the move are reported to be handed over by the “irregular drivers” to criminal groups in exchange for money. These networks, known as the «cab mafia», are of a mixed nature, with collaboration between Tunisian citizens - in charge of transport - and kidnapers - generally non-Tunisian migrants from West African countries.

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\* **The Washington Post, With Europe's support, North African nations push migrants to the desert, 20 mai 2024**

157. Kidnapping is the illegal taking of a person against their will, usually for ransom.

158. According to the United Nations Glossary on Sexual Exploitation and Abuse, sexual exploitation is «taking advantage of, or attempting to take advantage of, a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically.» **See UN Glossary on SEA**

These clandestine inter-governorate transports have reportedly existed for several years. But recently, on arrival in Sfax, people on the move are reported to be handed over by the “irregular drivers” to criminal groups in exchange for money. These networks, known as the «cab mafia», are of a mixed nature, with collaboration between Tunisian citizens - in charge of transport - and kidnappers - generally non-Tunisian migrants from West African countries.

The criminal groups operating in Sfax are reportedly concentrated in buildings located in popular neighborhoods such as Cité Ennour. People are held in multi-store apartments in groups of four or five, known as «bunkers». Victims are forced to call their families and loved ones in their home countries to pay for their release, the latter receiving videos of physical abuse inflicted on their loved ones and/or death threats to induce them to pay. The ransoms, which can be as high as 1,000 euros in some cases documented by OMCT partners, have recently been between 200 and 500 euros. Representatives of organizations that have provided assistance to victims of kidnapping reported to the OMCT that the same person could be kidnapped several times, especially if the person deemed to be in a position to pay large sums of money for his/her release. According to victims’ testimonies collected by the OMCT and its partners in Sfax since November 2023,<sup>159</sup> victims of kidnapping are exposed to a high level of violence, have limited access to food and water during the period of deprivation of liberty, and are held in unsanitary conditions that are reportedly dangerous for their health.

The OMCT is able to confirm the following acts of violence that could constitute torture and ill-treatment during kidnapping:<sup>160</sup>

- Significant physical violence, in the form of kicking, punching, caning, whipping, scarification;
- Psychological violence, through the obligation to witness violence against others, death threats and violence;
- Gender-based violence, including rape (including gang rape) and episodes of sexual exploitation: several cases of forced prostitution have been reported, particularly for women whose relatives were unable to pay a ransom. The proliferation of advertisements for the sexual services of migrant women in Tunisia on social networks since the beginning of 2024 is a worrying sign of the development of prostitution networks, involving trafficking.

In the northern border areas straddling Tunisia and Algeria, between Tebessa and Kasserine in the Chambi mountain ranges, several cases of kidnapping have been reported. The Tunisian authorities have stepped up controls on the roads around the Bou Chebka border crossing, and have reportedly installed surveillance cameras on the railroad lines used by people on the move in the region to reach the east coast. People transiting on foot through these mountains are reported to fall victim to groups operating in the area, known as the «Kasserine mafia», who are reported to engage in similar kidnapping and ransom practices, accompanied by theft and sexual violence.

***« The authorities are fighting these crimes, but you can destroy 20 premises where kidnappings are carried out, tomorrow there will be 60. It’s not like smugglers, where there are all kinds of logistics behind it.»***

declares a representative of a humanitarian organization

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159. FGD 18/04/2024

160. Torture» means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, to intimidate or coerce him or a third person, or for any other reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Article 1, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

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## The reality: **L'histoire de Mariam**

Mariam left Guinea in 2023 with four of her six children and her grandson to try and find her husband, of whom she has had no news since he left for Italy by boat two years earlier.

Entering Tunisia via the desert from Algeria in January 2024 at the level of Gafsa, she tried to reach Sfax. While looking for transport to get closer to the city, she was approached by a Tunisian man on the outskirts of Sfax who offered to bring them closer to a place where she could stay. She entered the car with her 16-year-old son; they were dropped off in the city, while waiting for the man to go back and bring the rest of her family. Mariam reported that her three daughters, two of whom were minors, and her four-year-old grandson were instead taken to a building in Sfax and handed over to a criminal group who kidnapped them. The next day and for the five following days, Mariam received messages threatening her daughters and grandson with death and violence. Her children were barely fed during their captivity, and the older girls were physically abused. Mariam managed to contact her older sister in Guinea, who paid a ransom of 20,000 Tunisian dinars by bank transfer. Her family was then freed. Following this event, she left Sfax and went to Médenine, where she was provided a shelter.

Mariam does not want to return to Guinea and says she is desperate.

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## Missing persons and enforced disappearances

In continuity with previous research, the OMCT has documented several cases of missing persons<sup>161</sup> and enforced disappearances.<sup>162</sup>

Arbitrary arrests of migrants, refugees and asylum seekers, followed by indefinite periods of police custody and preventive detention during which people are unable to communicate with the outside world, while the authorities do not offer information about their presence in detention, increase the vulnerability to this type of crime.<sup>163</sup> The confiscation of legal aid and documents exacerbates the situation: most of the legal aid organizations consulted in the framework of this research confirmed that they often encounter difficulties in finding their beneficiaries in police stations or prisons.

Deportations to desert areas are usually accompanied by the confiscation of telephones, preventing communication with victims. The OMCT and its partner organizations have documented several cases of people deported to Algeria and Libya with whom it was impossible to re-establish communication.

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161. Missing persons refers to individuals «(...) unaccounted for as a result of armed conflict, whether international or internal. They may be military personnel or civilians; anyone whose family has no information about their fate or whereabouts». International Committee of Red Cross (ICRC), *Missing Persons: a hidden tragedy* (ICRC, 2007).

162. For more details on this crime, see also: *Fact Sheet / 6 Rev.4 Enforced Disappearances* (ohchr.org), revised version 2023.

163. Principle 9 of the «Guiding Principles on the Search for Missing Persons» establishes that the search for missing persons must take into account the particular vulnerability of migrants: «Taking into account the particular vulnerability of persons who cross international borders in a regular or irregular manner, in particular when they are unaccompanied children, the States concerned must take coordinated measures to prevent disappearances in such situations. States must be attentive to the risk of enforced disappearance, which is all the greater as a result of migration, particularly in the context of human trafficking, sexual slavery and forced labor». See «Guiding principles concerning the search for missing persons», Committee on Enforced Disappearances, CED/c/7, May 2019.

The OMCT has identified a typology of situations in which people can be considered missing:

- People who left Tunisia for Europe by sea and whose fate is unknown (also linked to the issue of preserving and identifying bodies - see the sub-section on body management of those missing at sea in the section on crossing maritime borders).
- People who are undocumented or in possession of falsified/fraudulent documents - it is difficult to know where they are.
- People detained in prisons (or placed in administrative detention in El Ouardia) without any form of legal and civil documentation and/or with declared identities other than their true identities (other people were not registered in the first place or their registration is under a name/first name misspelled by the police/prison authorities).
- People who have been detained and then released, but who have not been able to recover their legal and civil documents (confiscated along with their personal belongings during arrest/police custody).
- People in an irregular situation on the Tunisian territory (irregular entry and/or residence) who prefer to remain in the shadows / not to be found.
- Victims of human trafficking and/or kidnapping (including children) committed by organized criminal networks.
- People forcibly and arbitrarily displaced or deported to Libya or Algeria (including children).
- Victims of family separations in the desert where women and children have been abandoned - this type of «disappearance» also concerns new arrivals pushed back in Libya/Algeria.
- Victims of family separation during forced and arbitrary (internal) displacement to border areas by Tunisian security forces.

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### **The reality: Lamine's story**

Assan and Lamine, both from Senegal, were together when 16-year-old Lamine disappeared. Both left the Tunisian coast by boat for Italy from kilometer 19 near Mahdia on April 2, 2024. They remained at sea until the night of April 3. Stranded on the island of Kerkennah to replenish food and water supplies, Lamine was ill and weak when he got off the boat. When the police arrived, Assan and the other passengers fled, leaving Lamine alone on the shore. Caught up some time later, Assan tells the officers that one of his friends is still at the seaside. The officers tell him they will go and look for him, but Assan never hears from them again.

Assan found himself deprived of his freedom along with around fifty other people; he was interrogated, and his telephone was checked. Early in the morning, he was forced into a car with its windows blocked, taken to Sfax and handcuffed. He was given only a little bread and water that day. The same day, he was forcibly displaced to the Algerian border and deported to Algeria by Tunisian security forces. Assan walked for nine days to get back to Sfax. Lamine's mother calls him constantly to ask where her child is, but Assan has no news of him.

## 2.4 PROFILE OF PERPETRATORS OF HUMAN RIGHTS VIOLATIONS

### 2.4.1 The responsibility of security forces

On May 6, 2024, the President of the Tunisian Republic announced the displacement from Tunisia of 400 migrants at the eastern (“oriental”) border (i.e. in Libya).<sup>164</sup> This first public acknowledgement of the use of displacement and deportation as the main means for managing migration on Tunisian territory should not mask the continuity of this practice since the summer of 2023.

As developed in the previous sections of this report, the geographical incidence and prevalence of this practice and other human rights violations are the result of a state vision and policy implemented by the Tunisian security forces. In continuity with previous research produced by the OMCT, all sources consulted for this study confirm that the National Guard and the Police have been and remain the main perpetrators of violations against migrants, refugees and asylum seekers between November 2023 and April 2024. In the context of this study, the OMCT did not have the opportunity to examine the internal dynamics of the security forces contributing to the increase in human rights violations, but specialists have pointed out that these security forces remain characterized by poor internal management, a lack of clear directives from the executive branch, a haphazard recruitment and promotion process that fuels a lack of professionalism leading to an excessive use of force and episodes of corruption.<sup>165</sup> Many have confirmed that the emergence of an informal economy of irregular immigration and smuggling, and the consolidation of extensive and comprehensive criminal networks, highlight a power vacuum on the part of civil and administrative authorities.

Based on the analysis of open sources, the collection of victims’ testimonies and interviews with human rights defenders and representatives of human rights organizations, it shows that between November 2023 and April 2024:

- The National Guard’s maritime units have contributed to several shipwrecks through violent interceptions. The National Guard is also said to be in charge of the «hub» in a particular section of the port of Sfax, where people intercepted before deportation are deprived of their freedom.
- National Guard agents are said to have escorted buses heading to Algeria and Libya to carry out deportations.
- National Guard buildings (in Ben Guerdane, Nefta, Gafsa, Mahdia and Sfax) were used as stopover posts before deportations.
- The National Guard’s Special Unit (USGN) was deployed in El Amra during violent interventions in informal tented settlements.

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164. Nova News, «Tunisia: Saïed confirms deportation of 400 sub-Saharan migrants to Libya», 07/05/2024

165. Meddeb Hamza, Louati Fakhreddine, «Tunisia’s Transformation into a Transit Hub: illegal migrations and policy dilemmas», Carnegie, 2024

While,

- Police officers are allegedly responsible for physical violence against migrant beggars.
- Police officers are said to be responsible for arrests that ultimately lead to deportations by the National Guard.
- Police stations would be used to check the legality of people arrested, and illegal immigrants would be deported to Algeria or Libya from police stations.
- Refusal to register complaints by police officers is said to be common, accompanied by threats of arrest.
- Police officers reportedly confiscated monetary assistance paid by the UNHCR to refugees and asylum seekers.<sup>166</sup>

With regard to the two forces, the Police and the National Guard, the OMCT and its partners have collected testimonies of physical and psychological violence, including sexual violence, and of non-respect for fundamental rights and procedural guarantees during arrest, police custody and pre-trial detention. The requisitioning of buses from various regional public transport companies (notably from Sfax and Médenine), used for forced displacements and deportations to other governorates and supervised by agents from different sectors, highlights the collaboration of various public services in the commission of human rights violations.

Episodes of human rights violations have been reported throughout Tunisia, illustrating a clear vision and state policy.

Human rights organizations in Europe have also highlighted the complicity of European countries<sup>167</sup> in the commission of human rights violations through logistical and financial support<sup>168</sup> to the Tunisian executive and security forces (without any assurance of good conduct in compliance with Tunisia's international obligations), as part of the policy of outsourcing of border management by the European Union and by its member states. Several legal proceedings have been initiated in European countries to demonstrate the link between financial support for the Tunisian Ministry of the Interior.<sup>169</sup> Strategic litigation before administrative courts, such as in Italy, has been launched to suspend this support.

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166. Humanitarian source

167. Article 16 of the International Law Commission's draft law on State responsibility states that «a State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for having done so if: a) the said State so acts with knowledge of the circumstances of the internationally wrongful act; and b) the act would be internationally wrongful if committed by that State.» This principle was recognized as customary law after the *Bosnia vs. Serbia case* (2006).

168. Italy, for example, has donated several patrol boats currently used by National Guard maritime units off the coast of Sfax during violent interceptions, and covered the fuel costs to the tune of several million euros. Similarly, Nissan pickups donated by Italy and Germany have been used by the National Guard in forced displacements, as documented by Lighthouse Report. See *Le Monde*, «Comment l'argent de l'UE permet aux pays du Maghreb d'expulser des migrants en plein désert», 21/05/2024.

169. ASGI, «Patrouilleurs en Tunisie, le Conseil d'Etat accepte la demande conservatoire de la société civile», 20/06/2024

## 2.4.2 Criminal networks, smugglers and corruption

The period November 2023 - April 2024 coincided with the worrying development of criminal networks responsible for kidnapping migrants along the Algerian border and in Sfax and Tunis, generally accompanied by sexual exploitation and trafficking, as well as physical and psychological violence. These networks are of a mixed nature, with Tunisian citizens in charge of transporting people entering Tunisia from Algeria, generally at Kasserine, or Libya, to Sfax, and people from French-speaking sub-Saharan African countries, responsible for kidnapping and ransoming. According to interviews conducted by the OMCT with members of civil society organizations in Sfax, these networks were operating before September 2023 as smugglers, former «coxeurs» (in the terms used by migrants), but turned to kidnapping following the blocking of sea departures to Italy in autumn 2023. This criminal activity, which requires little equipment and fewer logistics than organizing crossings, is extremely lucrative at a time when the influx of migrants from the Algerian and Libyan borders is constant.

At the same time, departures by sea resumed from mid-March 2024, highlighting the persistence of networks of smugglers facilitating crossings of the Mediterranean to Lampedusa, through clandestine boat-building workshops, the supply of engines, etc.<sup>170</sup> At the same time, the flow of irregular entries of people on the move into Tunisia has remained constant over the period, and the involvement of networks of smugglers between Tunisia and Algeria or Libya is undeniable. Supporting irregular migration has become an integral part of the local economy and encourages corrupt practices. According to humanitarian and human rights organizations, occasional collaboration between Tunisian security forces and smuggling networks continued over the period under analysis.<sup>171</sup> This collaboration takes the form of bribing agents in border areas and in areas of high concentration of people on the move:

- A laissez-faire approach to avoid checks on smugglers' cars by means of distinctive signs (e.g. tape on the hood, the color of the driver's clothes),
- Sharing information on patrol times and locations to adapt border-crossing or sea departure routes on the Sfax coast,
- Black-market resale of engines confiscated during interceptions.

Moreover, according to information gathered by the OMCT, smugglers of Tunisian nationality have been used by the security forces to move people arrested by the police or National Guard on Tunisian soil to desert border areas, and even as far as Libya.

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170. La Croix, «Tunisie : à Sfax, toute une industrie au service du départ des migrants vers l'Europe», 05/11/2023

171. These collaborative practices have already been documented between August and October 2023 by several human rights organizations. See for example **Refugees International, Abuse, Corruption, and Accountability: Time to Reassess EU & U.S. Migration Cooperation with Tunisia**, 16/11/2023



### 2.4.3 The Tunisian authorities and organized crime in the context of migration

The authorities' response to the development of criminal networks over the period November 2023 - April 2024 was variable, as evidenced by the persistence of the corrupt practices analyzed in the previous section. The authorities' behavior even led to the commission of further human rights violations, sometimes failing to offer adequate protection to the victims of trafficking.

Since September 2023, Tunisian security forces have stepped up operations aimed at dismantling smuggling networks, both in coastal areas around El Amra, and in border areas at illegal entry points into Tunisia. In the Sfax region and around El Amra, the fight against clandestine boat workshops and smugglers took the form of joint violent interventions from Police and National Guard forces. These interventions led to the destruction of informal settlements, the daily arrests of migrants and the arrest of individuals accused of human trafficking. In Tunisia's border areas, under the guise of combating criminal smuggling networks, violent and illegal refoulements to Algeria and Libya are reportedly a daily occurrence. Between January and April 2024, 21,462 people were prevented from entering Tunisia from Algeria or Libya by the National Guard.<sup>172</sup> These refoulements are characterized by excessive use of force, and even ill-treatment and torture.

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#### The reality: The story of Ernest

Ernest, 26 and a boxing champion in Cameroon, had left his country for Tunisia with around 15 people at the end of February 2024 to cross the Mediterranean, in search of a better future.

In March 2024, Ernest and his traveling companions were intercepted by the National Guard off the coast of Sfax during an attempted irregular departure. Disembarked at the port of Sfax, Ernest was arbitrarily and forcibly displaced to a desert area near Algeria, near Feriana, south of Kasserine.

Abandoned in the desert, Ernest and his companions hire a Tunisian smuggler to take them back to Sfax. While hiding in the trunk of the pick-up, the car is chased by a National Guard unit trying to intercept them. During the chase, an officer opens fire, and Ernest is hit in the head. He dies in the car.

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172. This compares with 5,256 over the same period last year. It is possible that people were counted several times during different attempts to enter the country. Euractiv, «Tunisia: rise in interceptions of migrants attempting to cross the Mediterranean», 13/05/2024

As regards the fight against kidnapping and human trafficking networks in Sfax since autumn 2023, the authorities' response has been mixed. In 2020 and 2021, cases of kidnapping had already been reported to the authorities in Sfax by associations, leading to a very rapid reaction by the authorities to dismantle the criminal networks. In early 2024, the Sfax public prosecutor opened several investigations, and the security forces dismantled several networks. Several complaints have been lodged by victims who benefit from protection despite the irregularity of their administrative situation in Tunisia and have been heard by the Instance Nationale de Lutte contre la Traite. However, since November 2023, the security forces have repeatedly refused to intervene in places clearly identified as places of deprivation of liberty for kidnappings, despite reports from civil society organizations. On the other hand, these groups have enjoyed a degree of impunity since the end of 2023, taking advantage of the fear of people on the move in an irregular situation to turn to the authorities. Faced with the risk of arrest, victims are often unwilling to report this type of violation to the authorities, and therefore are perfect prey for kidnappers.

*« Today, I can't guarantee that a person won't be arrested if he or she goes to the police station to report the kidnapping of a relative, »*

says a manager of a community association supporting people on the move in Sfax.

#### **2.4.4 Violence committed by citizens and the responsibility of the State**

The period November 2023 - April 2024 witnessed an increase of tensions between host and migrant communities.

The Tunisian state has failed in its responsibility to protect people on the move on its territory from the increasing number of thefts, burglaries, physical and sexual assaults and other crimes committed by Tunisian citizens. The perpetrators enjoy growing impunity: organizations providing assistance to people on the move have documented several cases of police officers refusing to register a complaint in the absence of a valid residence permit. The fear of turning to the authorities perpetuates a situation of impunity for the perpetrators of violence and lawlessness for the victims, with limited access to justice.

*« If I see you here again [i.e. at the police station], I'm going to have to arrest you, »*

said a police officer in Sfax to a person coming to lodge a complaint of assault.

Incidents of violence committed by Tunisian citizens against migrants from sub-Saharan Africa have multiplied in El Amra, Sfax, Zarzis and in the western areas of Tunisia. The OMCT and its partners have documented a number of racist and xenophobic attacks, but the authorities have failed to react. In fact, an association leader who has been active in Sfax for the past ten years noted a rupture in police responsiveness compared with the pre-2023 period, when police forces would for instance launch immediate investigations into cases of street sexual assault.

This xenophobic violence continues to be legitimized by the official discourse of the Tunisian state, following the presidential speech of February 21, 2023.<sup>173</sup> Media personalities are fueling a conspiracy<sup>174</sup> and xenophobic discourse associating migrants with a «terrorist threat».<sup>175</sup>

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173. Inkyfada, «A new wave of arrests against migrants and their supporters», 05/17/2024

174. Orient XXI, «Tunisia. Haro sur les migrants subsahariens et leurs soutiens», 15/05/2024

175. Réalités, «Xenophobia: Fatma Mseddi associates sub-Saharan migrants with a terrorist threat!», 28/11/2023

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### **The reality: The story of Ahmed and Ibrahim**

Ahmed arrived in Tunisia in April 2023. He left Sudan because of threats to his safety following the partition of South Sudan. In Libya, he was exposed to violence and torture during two stays in detention centers and was exploitation in forced labor by traffickers.

Ibrahim fled the civil war in Sudan. He was tortured during his imprisonment at the Al Assah detention center. Ibrahim arrived in Tunisia in September 2023.

At the beginning of March 2024, in Zarzis, Ahmed and Ibrahim were violently attacked by a group of a dozen young Tunisians armed with knives and sticks. They were friends of a teenager injured a few days earlier in an altercation with a Sudanese man. Ibrahim was hit by a car as he fled from his assailants. Called by local residents, the police made no arrests, launched no investigations and carried out no further questioning. Both men were taken to hospital, Ibrahim being seriously injured and placed in intensive care. The police told the medical staff at the hospital that the injuries and collusion were caused by young children playing and throwing stones, and as Ibrahim crossed the road, he collided with the car. Despite the protests of the two men, the medical report does not mention the attack as an explanation and downplays the extent of their injuries. Ahmed wanted to lodge a complaint but gave up because of the police officers' behavior.

A few days later, on his way back to the hospital to visit his partner, Ahmed ran into his assailants outside the hospital. The police, who had been alerted, did not arrest anyone, and even expelled some Sudanese friends from the hospital who had come to see Ibrahim. Ibrahim was released by the hospital without any immediate appointment for medical control, even though his condition required hospitalization, as he was suffering from swelling and inflammation of his broken leg. The two men reported not to have the means to pay for a private hospital and indicated that they did not benefit from timely medical assistance by UNHCR.

*« Faced with this reality, the behavior of medical staff and police, and the absence of the necessary UNHCR protection, we have decided to leave Tunisia as soon as possible and by any means possible, even if it means death. »*

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## **2.5 VICTIM PROFILE**

Despite their different legal status, migrants, refugees and asylum seekers share the same needs and are exposed to the same risks. The situation of refugees and asylum seekers has deteriorated as a result of increased vulnerability to human rights violations, budget cuts in humanitarian assistance, and changes in the prioritization criteria for monetary assistance.

This section aims to show how all people on the move in Tunisia suffer from the same restricted access to services and are indiscriminately victims of violations, with nevertheless specific vulnerabilities for some particular groups.

## 2.5.1 All profiles are concerned

*«There are no criteria or profiles, just our skin color.»*

says a refugee in Zarzis in April 2024

Since September 2023, arrests, detentions, forced displacements, deportations and other human rights violations have involved:

- People residing or transiting illegally.<sup>176</sup>
- Refugees, asylum seekers and persons pre-registered with the UNHCR - regardless of their international protection status. The UNHCR card is not considered an identity document, and in practice provides no protection against arrest and conviction for illegal entry or residence.<sup>177</sup>
- IOM beneficiaries, including people registered with the Assisted Voluntary Return program - the intention of the individuals not being taken into account. OMCT partners have documented a number of arrests in front of IOM shelters in Médenine, as well as UNHCR offices in Zarzis and Tunis, mostly involving people in need of international protection or awaiting repatriation to their countries.<sup>178</sup>

According to interviews conducted for this study, foreigners from sub-Saharan African countries who are legally resident are also subject to arbitrary arrest on the basis of their skin color, but are released after an identity check at the police station. If they are not victims of forced displacement and other human rights violations by security forces, they are nevertheless reported to be victims of racial discrimination in access to services and housing, and to experience significant difficulties in accessing justice and renewing their residence permits.

Like with the legal status, the vulnerability criteria are not taken into account. For example, the following were arrested and sentenced, or deported/forcibly relocated to border areas:

- People requiring medical assistance, such as pregnant women nearing the end of their pregnancy, people suffering from chronic illnesses, people suffering from dehydration and malnutrition after an interception at sea.
- Unaccompanied minors and single women are particularly at risk from trafficking and sexual violence.
- Victims of violence with serious psychological and physical after-effects.

Human rights violations suffered by people on the move affect people of all nationalities from sub-Saharan African countries residing in or transiting through Tunisia. However, some migrant communities are more at risk than others. Being neither French nor Arabic-speaking, and unable to rely on pre-existing solidarity networks (unlike communities from Côte d'Ivoire, Mali or Cameroon who have been established in Tunisia for several years), people from English-speaking countries (Nigeria, Sierra Leone, Eritrea, for example) are more exposed to human trafficking and (work or sexual) exploitation, as well as to begging.

Similarly, according to interviews with members of various migrant communities, the Sudanese community is today perceived by the rest of the migrant community as privileged (given the international protection granted almost automatically) and «troublemaker», the source of incidents with the host community. This causes tensions within migrant communities in southern Tunisia and reinforces communitarian logics to the detriment of mutual aid and solidarity.

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176. Accused of residing in Tunisia without a valid residence permit and/or of having entered Tunisia illegally. Law n. 1968-7 of March 8, 1968 on conditions for foreigners in Tunisia and Decree 1968-198 of June 22, 1968.

177. Several humanitarian sources confirm this during the KII in April 2024.

178. See the epilogue for more details on the evacuation of 500 refugees, asylum seekers and migrants between May 3 and 4, 2024 in front of IOM and UNHCR headquarters in Tunis, followed by forced and arbitrary displacement and deportations.

In November 2023, a group of asylum seekers was arrested, and a «collective» conviction was issued for over 100 people for illegal entry and residence with a one-month prison sentence. Their documents were confiscated, and they were unable to recover their passports and other personal belongings.

Another group of asylum seekers was arrested near the train station in Tunis, at the Barcelona metro station. Police suspected they were on their way to Sfax in order to leave Tunisia for Europe illegally. Arrested and placed in detention, their status as beneficiaries of international protection was not taken into account by the authorities.

## 2.5.2 Children on the move

According to the OMCT research results, children on the move<sup>179</sup> find themselves in a highly vulnerable situation in Tunisia. Most of them are poorly vaccinated or not vaccinated at all, suffer from malnutrition and respiratory illnesses linked to poor housing conditions, and have no access to adequate health care. According to organizations specialized in providing assistance to children on the move, more and more children are on the streets<sup>180</sup> and forced to beg. While younger children are less likely to be arrested than adults, they are also exposed to the growing risk of street sexual abuse. The risk of ending up on the street is high for unaccompanied minors, the majority of whom are boys aged 15-17 years old, whose level of vulnerability is assessed as lower than that of other profiles (women and young children in particular) and who are therefore not given priority for the already limited number of shelters.<sup>181</sup>

Cases of child victims of forced displacement and deportation by security forces, kidnapping, human trafficking, and sexual and gender violence by criminal groups have been documented by the OMCT and its partners since November 2023.

According to child protection organizations consulted for this study, there has been an increased risk of family separation linked to daily arrests and deportations since the summer of 2023. OMCT partners have documented several cases of children whose parents have been arrested and went missing. Over 1,500 unaccompanied displaced children,<sup>182</sup> mostly from Sudan, Somalia, Syria and Eritrea, approached UNHCR last year.<sup>183</sup> All the organizations consulted for this study confirmed the significant increase in the number of children on the move separated from their parents or unaccompanied since the summer of 2023.<sup>184</sup> A large proportion of them are believed to have left alone from Sudan, Somalia and Eritrea, and are aged between 14 and 17 years old. Already in 2023, of the 18,012 children who left Tunisia and arrived in Italy, mainly from Tunisia, Gambia, Guinea and Ivory Coast, almost 3,000 were unaccompanied.<sup>185</sup> The OMCT is also concerned about the increase in prison sentences of foreign children in juvenile detention centers following convictions for irregular entry or residence.

With regard to the rights of children on the move, birth registration also represents a major challenge, since according to the organizations consulted, many women on the move face difficulties when registering newborns. Among the obstacles reported are a lack of information on obligations concerning the requirements and procedures for registering a newborn, fear of the authorities, stigmatization and

179. The term describes children who have been directly or indirectly affected by migration and displacement, whether internationally, across borders, or within the same country. When referring to children on the move, IDAC includes migrant children, children in need of international protection, such as refugees and asylum seekers, internally displaced children, children indirectly affected by migration and displacement, such as children who remain at home while their parents or carers migrate, stateless children and children who are victims of cross-border trafficking. International Data Alliance for Children on the Move (IDAC), 2023.

180. Comme dans le gouvernorat de Médenine où plus de 500 mineurs étaient sans domicile fixe en décembre 2023 selon une source humanitaire.

181. Voir aussi "Migrating and displaced children and youth in Tunisia: Profiles, Routes, Protection, and Needs", MMC, 2021.

182. Les enfants non accompagnés (également appelés mineurs non accompagnés) sont ceux qui sont séparés de leurs deux parents ou des personnes qui s'occupaient d'eux à titre principal ou légal et d'autres membres de leur famille. Ils sont généralement confiés à des adultes sans lien de parenté qui ne sont pas, par la loi ou la coutume, responsables de leur prise en charge, ou à aucun adulte. Ils peuvent être avec d'autres enfants qui peuvent ou non avoir un lien de parenté avec eux. Les enfants séparés sont ceux qui ne sont pas avec leurs parents ou avec les personnes qui s'occupaient d'eux à titre légal ou coutumier, mais avec des parents, des membres de la famille élargie ou d'autres personnes ayant une responsabilité coutumière (définie dans le contexte) ou dans le cadre d'un placement réglementé par le gouvernement. Source: Principes directeurs inter-agences relatifs aux enfants non accompagnés ou séparés de leur famille, Comité international de la Croix-Rouge (CICR) en collaboration avec HCR, UNICEF, Save the Children, IRC, WWI.

183. **The Guardian, «Detained, trafficked, exploited: the plight of lone child migrants stranded in Tunisia», 11/03/2023**

184. À titre d'exemple presque 40% des enfants en déplacement dans le gouvernorat de Médenine sont séparés ou non accompagnés, source humanitaire.

185. Source humanitaire. Sur ces 18 012 mineurs, 4998 étaient de nationalité tunisienne.

discrimination, the cost of the process, restriction of freedom of movement, lack of identity documents and difficulty in finding witnesses in possession of documents, refusal by hospitals to issue birth notification, essential for registration. The absence of birth registration in the context of migration and displacement can lead to a high risk of statelessness.

Concernant les droits des enfants en déplacement, l'enregistrement des naissances représente aussi un défi important, puisque d'après les organisations consultées, beaucoup de femmes en migration font face à des difficultés lors de l'enregistrement de nouveau-nés<sup>186</sup>. Parmi les obstacles signalés figurent : le manque d'informations sur les obligations concernant les exigences et les procédures d'enregistrement d'un nouveau-né, la peur des autorités, la stigmatisation et la discrimination, les coûts de la démarche, la restriction de la liberté de circulation, le manque de documents d'identité et la difficulté de trouver des témoins en possession de documents, le refus des hôpitaux de remettre des certificats de naissance essentiels pour procéder à l'enregistrement. L'absence d'enregistrement des naissances dans les contextes de migration et de déplacement peut entraîner un risque élevé d'apatridie<sup>187</sup>.

### **2.5.3 Increased vulnerability for women on the move in Tunisia**

*« Tunisia is no longer a refuge for migrant women fleeing violence »*

says a representative of an association providing aid to women on the move

A number of organizations have reported an increase in requests for assistance from women from Sudan, Somalia and Ethiopia, among other countries, especially women on their own or accompanied by young children, who have been victims of violence, particularly gender-based violence.<sup>188</sup> The rise in cases of gender-based violence and sex trafficking (see section 2.2 on the emergence of new trends in human rights violations) has led to an increase in sexual and reproductive health needs, according to humanitarian organizations operating in Tunisia. These organizations have seen a worrying increase in the number of cases treated in Tunisia for pregnancies resulting from rape. One organization providing medical assistance to people on the move reported that in the period from November 2023 to March 2024, 21% of its beneficiaries who had suffered violence reported having experienced sexual violence. The same trend has been reported by organizations working in Italy to assess the needs of women and girls newly arrived from Tunisia.<sup>189</sup>

The rise in prostitution, often the consequence of the vulnerability and socio-economic marginalization of migrant women, has also led to an increase in unwanted pregnancies, according to organizations specializing in assisting women victims of violence. These unwanted pregnancies are reported to lead to the abandonment and/or the alarming disappearance of newborn babies.

Similarly, sexual violence causes deep-seated psychological disorders, requiring long-term care in a context where people's safety and primary needs must be ensured alongside psychological support - which is not the case for the majority of people on the move, victims of violations in Tunisia today. Women and children are those most at risk from sexual violence. However, emergency accommodation solutions for single women with children are very limited, as the shelters run by humanitarian organizations have reached their maximum capacity with only two public establishments in Sfax and Sousse able to accommodate victims of human trafficking on referral from the INLCTP. People who are already victims of sexual violence, and others who are extremely vulnerable (single women, unaccompanied minors) to the risk of sex trafficking, thus find themselves without safe shelter. According to the organizations working with women victims and consulted for this study, the vast majority of women victims of sexual violence do not wish to access justice or denounce their perpetrators. The perpetrators of sexual violence enjoy total impunity.

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186. According to the procedures, after delivery, the hospital provides a birth declaration (indicating the child's gender, date and time of birth) and the vaccination record. The parents then have 10 days to register the child with the municipality, or must apply to the Children's and Family Judge to register the child if the deadline is exceeded.

187. United Nations High Commissioner for Refugees, Convention relating to the Status of Stateless Persons, 1954.

188. The same organization reported that 13% of pregnant women on the move in need of assistance said their pregnancy was unwanted (KII, April 2024).

189. Humanitarian organizations working in Lampedusa have reported cases of young migrant girls aged 13 and 14 claiming to have been sexually abused in Tunisia.

# **3. THE CYCLE OF IRREGULARITY, VULNERABILITY AND VIOLENCE AND ITS EFFECTS ON TUNISIAN CIVIL SOCIETY**



## An uncertain future: no sustainable alternatives or solutions

Migrants, refugees and asylum seekers living in or transiting through Tunisia are currently at an impasse when it comes to obtaining a residence permit, while their safety is no longer guaranteed.

As far as **refugees** are concerned, only a handful have benefited from resettlement in third countries in recent years, and during this period only a few hundred have received limited and temporary rent or cash assistance each year. People who obtained refugee cards in 2019 - 2020 are currently still waiting for resettlement opportunities; given the constant influx of people seeking asylum in Tunisia, it is likely that the length of procedures will become even longer.<sup>190</sup> Refugees and asylum seekers today do not benefit from real protection in Tunisia, nor from sufficient financial support, aggravating the near-zero chances of inclusion, [especially] if the person does not possess valid identity documents from the country of origin.

For **people on the move in Tunisia** who have not applied for or have been refused asylum, the various options are:

- Return to their countries of origin via IOM's assisted voluntary return procedures since living conditions have deteriorated and it has become impossible to cross the Mediterranean to Italy.
- Integration in the country of transit, i.e. Tunisia. This option is virtually impossible given the blocked access to housing and livelihood opportunities for people on the move,<sup>191</sup> and the social cohesion disrupted by government policy (even if migrants perceive the situation as better in Zarzis and Medenine than in Tunis and Sfax).
- Resettlement via family reunification procedures in destination countries (such as France, Italy and Germany).

For example, many people report feeling blocked because they:

- cannot integrate into Tunisian society and settle down safely and permanently;
- do not want to return to a country they left several years ago (and sometimes went into debt to finance the trip) because of a difficult socio-economic situation and/or security risks;
- risk a heavy penalty of 3,000 Tunisian dinars (\$ 1,000) imposed by the Tunisian state on people who overstay the three months authorized before leaving Tunisian territory;
- do not have access to legal migration routes to third countries, forcing them to remain in the country illegally;
- unable to set sail for Europe, or facing deportation to Libya or Algeria if intercepted.

## Consequences of denial of access to justice and persistent impunity

In addition to the obstacles to justice identified in OMCT's previous research, such as the absence of legal identity papers and other types of documents (including passports), a temporary or invalid residence permit, language barriers and lack of access to information prevent people on the move from being aware of their rights. The fear of taking legal action is explained by the obligation to turn to the same authorities partly responsible for the violations reported. For the people on the move consulted for this study, the denial of access to justice is also expressed through ignorance of their rights, refusal to register complaints (see section 2.3 on the profile of perpetrators for more details), lack of prosecution and inaction by public authorities towards the perpetrators of violations (whether members of the security forces, Tunisian citizens or even criminal groups).

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190. According to interviews conducted for this study, due to the wave of arrests and security measures taken in May 2024, UNHCR pre-registration activities are currently suspended throughout the country. This is also affecting the provision of other services, linked to health, housing, child protection and education. Registration activities are currently only continuing in the south, but UNHCR is gradually reopening the Tunis reception center. It appears that UNHCR will resume its refugee status determination and resettlement activities in June 2024; cash assistance programs are on hold.

191. Since October 2023, recognition of the asylum seeker card has been severely compromised. The numerous arrests and deportations of people registered as asylum seekers bear witness to this reduced recognition of asylum seeker status.



This denial of justice reinforces the impunity of the perpetrators of violations and contributes to a situation of lawlessness and disrespect for human dignity. As a result, people on the move are reluctant to lodge complaints or seek police protection, and the criminal sanctions provided do not act as a deterrent to the perpetrators of violations. The criminalization of migrants also undermines their trust in the judicial system.

Failure to report violations suffered by people on the move contributes to the erosion of the rule of law for all, as well as to the development of criminal networks promoting corrupt practices. The commission of human rights violations by the security forces continues to entrench illegal and violent practices at the heart of the Tunisian security apparatus, to the detriment of respect for the fundamental rights of individuals, whether citizens of Tunisia or of foreign nationality.

## **Reduced operational space to assist people on the move - targeting human rights defenders**

The operational space for organizations providing assistance to people on the move residing in or transiting through Tunisia has been steadily shrinking since February 2023. Assisting people on the move is inherently complex, as their needs are very diverse; moreover, it is difficult to respond to their basic rights, particularly in terms of dignified shelter. In addition, monitoring the situation of individuals is complicated due to their mobility. It is important to highlight that all the representatives of organizations active in assisting migrants consulted for this study confirmed the deterioration in civil society operational space throughout the country, including in the more protected towns (e.g. Sousse and Médenine).

The Tunisian Red Crescent (CRT) has had a de facto quasi-monopoly on emergency humanitarian assistance in areas where there are concentrations of people on the move, and especially around Sfax, since its designation as the principal coordinator for crisis assistance in July 2023. Other non-governmental humanitarian organizations are still prevented from offering emergency assistance - for example, in El Amra, where one organization has reported not to have obtained authorization to carry out mobile medical consultations despite the worrying development of contagious diseases and the general deterioration in sanitary conditions, or in Zarzis, where associations are unable to intervene in the Jderia camp despite the absence of sufficient humanitarian assistance. The CRT remains the interface for assistance to people on the move. However, several representatives of humanitarian and human rights organizations consulted for this research confided the difficulty of dialogue with the central body of the CRT to coordinate assistance.

In fact, as highlighted by OMCT's previous research, there is currently no coordination system in place to exchange knowledge and develop a national response strategy. All the actors consulted once again highlighted the absence of such coordination as a factor aggravating the current humanitarian situation in Tunisia.<sup>192</sup> Against this backdrop, the various players are more likely to launch ad hoc or even illegal interventions than to develop a comprehensive system to identify and respond to vulnerabilities at an early stage.

The President of the Tunisian Republic also criticized United Nations agencies with conspiracy and nationalist rhetorics. This demonization of associations through an official discourse fuels online harassment campaigns targeting civil society organizations and their members, involving threatening and racist anonymous calls, the publication of names and photos of association members accompanied by threats on the Internet, and the saturation of social network pages with insults and negative comments.

Finally, several civil society organizations have been targeted since April 2024 through:

- the indictment of association leaders for money laundering, and the use of restrictions on foreign funding;

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192. «This situation has been exploited by NGOs, who have a political agenda. They are putting pressure on us to accept illegal migrants», declared Foreign Minister Nabil Ammar to El País in November 2023. *El País*, «Tunisia's foreign minister: We are not the EU police», 30/11/2023.

- the non-renewal of residence permits for no clear reasons, and the prosecution of leaders of human rights organizations from sub-Saharan Africa who have been living in Tunisia for several years and were previously legal residents;
- increasing controls and intimidation of organizations working locally to assist and defend the rights of people on the move.

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### **The reality: The story of Christian Kwongang**

On March 19, 2024, Christian Kwongang, former president of the Association des Étudiants et Stagiaires Africains en Tunisie (AESAT), went to the police station for administrative formalities relating to the renewal of his residence permit. At the time, Christian was legally residing in Tunisia, with a temporary residence permit pending renewal.

Upon arrival at the police station, Christian was arrested and taken to the border control office. He was questioned for several hours about his activities as a human rights defender, his role as president of AESAT and his actions during the July-August 2023 crisis. He was then placed in administrative detention at the El Ouardia reception and transit center. His passport and telephone were confiscated. He was verbally notified of an obligation to leave the country and urged by the agents to buy a plane ticket to Cameroon. A hearing before the judge was scheduled for March 25, but the lawyers were unable to find Christian's name in the court registry, and the hearing did not take place. Throughout his deprivation of liberty in El Ouardia, Christian was unable to speak to his lawyers.

He was held incommunicado until he was transferred to a hotel in downtown Tunis on March 28, where he was able to resume contact with his family and friends, more than ten days after his arrest. He was unable to leave his hotel due to a confirmed police presence. Following the mobilization of civil society and the media on March 29, Christian recovers his passport, and finally leaves the hotel a few days later, fearing another arrest for illegal residence.

Following his arbitrary arrest and detention in unsanitary conditions in El Ouardia, Christian left Tunisia for Europe, fearing for his safety. He had to interrupt his studies in Tunisia, his involvement in Tunisian civil society and his professional career. To date, no official reason for his arrest has been provided.

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Representatives of associations offering multidisciplinary assistance to people on the move in southern Tunisia have reported that they have received an «informal notification obligation» from the police in the event of invitations from interlocutors of foreign nationality or organizations carrying out specific activities. Police officers have reportedly partially attended internal association meetings on the premises of associations, without any legal basis, and unannounced visits have occurred with a higher frequency since July 2023. Informal inquiries are reported to be carried out, with questions asked about the number and profile of beneficiaries, and the type of assistance provided. There have also been reports of withdrawals of salary allowances from association accounts being blocked for several weeks.

These pressures have led the associations concerned to modulate their interventions and online presence by taking precautionary measures, in order to preserve the safety of their members and the implementation of their activities.

***« From now on, this is the last and only protection left for associations, interpersonal relations with regional officials »***

confides a community association manager

## A dangerous strategy jeopardizing human security and social cohesion

From all interviews conducted by the OMCT with people on the move and civil society actors based in the south, it emerges that tensions between migrant communities and the host community increased since the beginning of 2024. While towns such as Médenine still offer a degree of tranquility to people on the move, as illustrated by the solidarity initiatives of local residents towards the migrant community during the month of Ramadan, cohabitation with residents of towns experiencing a large influx of migrants has deteriorated.

In concrete terms, these tensions manifest themselves in:

- Demonstrations by residents of Zarzis, El Amra and Jbeniana calling for the destruction of informal settlements and the expulsion of homeless migrants from their towns, like the demonstration by Sangho residents in front of the UNHCR offices in January 2024.
- A socio-economic conflict between olive grove owners and homeless people on the move who have taken refuge in the olive groves, leading to an increase in waste and a drop in harvests. The OMCT has received reports of olive grove owners blocking humanitarian convoys heading for the camps.
- An increase in incidents of racial discrimination suffered by black people in Tunisia. These take the form of racist insults in public transport or on the street, refusal of service in cafés and restaurants, refusal to accept passengers in public transport, and refusal to withdraw money from the post office.
- The decision to suspend all international money transfers to foreigners without a valid passport and visa.<sup>193</sup>
- The spread of rumors blaming migrant communities (especially those of Sudanese nationality) for fishing boat theft, rape, assault, burglary, and the spread of transmissible diseases such as HIV and tuberculosis.<sup>194</sup>
- An increase in physical assaults by Tunisian citizens on sub-Saharan Africans on the move. These take the form of robberies and street snatchings, in a context of total impunity, ambushes and/or chases in response to alleged acts of violence committed by migrants, and assaults on begging women. In El Amra and Sfax, there have been reports of mortar and pellet attacks on groups of people travelling at night.

Furthermore, according to several leaders of community associations active in Sfax, people on the move of sub-Saharan origin are subject to illegal and unofficial taxes in stores when buying basic necessities, as well as on public transport and cabs (for example, 50 dinars between Sfax and Hamra, 150 dinars between Sfax and Tunis, 100 dinars between Sousse and Tunis). In El Amra, a parallel economy has sprung up in cafés by charging 2 to 3 dinars for charging a phone and 5 dinars for charging a power bank).

Rising tensions with the host community have created a profound sense of insecurity among the majority of interviewed people on the move in Tunis, Sfax, Zarzis and Médenine. This is reflected in a feeling of being rejected and threatened on a daily basis, both in public spaces and at home. Many of them reported that they no longer go out alone or after dark, that they avoid certain neighborhoods, that they always tell family and friends before they travel in case of arrest, and that they only open their homes to people they trust.

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193. This measure, taken in May 2024 to combat human smuggling and trafficking, ended up depriving thousands of people of help from their home countries or family members abroad.

194. Business News, «The truth about the Sudan Dragon», 02/05/2024; Business New, «An elderly man assaulted by sub-Saharan migrants? Beware of this false information!», 04/30/2024

*« La Tunisie maintenant, c'est l'insécurité à l'intérieur, à l'extérieur, dans la mer, à la frontière »*

déclare François, réfugié rencontré à Zarzis en avril 2024

Informal work by people in an irregular situation is a further source of tension with the host community: for those involved in day-to-day activities (hairdressing, handling, construction), wages have been reported to be two or three times lower than for Tunisian citizens; those trying to set up their own small business do so by converting their home into commercial use, which has the effect of creating tensions with landlords and exposes people to the risk of eviction.<sup>195</sup> Another major source of tension with the host community is begging, which has increased exponentially since autumn 2023, particularly child begging. According to civil society organizations active in south-eastern Tunisia, this practice used to be reserved for Syrian refugees and asylum seekers. Now, many single women from sub-Saharan Africa, accompanied by small children, beg in the city centers of Zarzis, Médenine, Sfax and Tunis.

Demonization and xenophobic hate campaigns against people on the move from sub-Saharan Africa have become a threat to social peace and the security of all Tunisian citizens. The polarization of society over the migration issue is leading to a decline in social cohesion. Calls for the rejection of black foreigners in Tunisia are fueling the rise of racist ideas, resulting in increased discrimination, particularly against black Tunisians. The denial of the human rights of people on the move, and the impunity enjoyed by the perpetrators of violations, are driving up acts of violence - and the excessive use of force remains the security forces' main instrument for maintaining order. The climate of suspicion and fear within society jeopardizes respect for fundamental freedoms and human rights for all.

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195. In the construction industry, for example, the people consulted indicated 20 TND per day for a foreign mason, compared with 60 TND for a Tunisian.



# EPILOGUE

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This report covers violations suffered by people on the move between November 2023 and April 2024. Nevertheless, at the time of writing (June 2024), a number of significant events have marked a further deterioration in the human rights situation of this group and the civil society organizations assisting them. This epilogue provides an overview of these events, which will be detailed in the OMCT's next report on the subject.

At a trilateral summit between Tunisia, Algeria and Libya in April 2024, the three countries decided to form a joint working group to coordinate efforts to protect the borders against the risks and consequences of irregular migration.<sup>196</sup> A few days later, during the night of May 2 to 3, 2024, Tunisian security forces forcibly evacuated around 500 migrants, refugees and asylum seekers from informal tented settlements located opposite the UNHCR and IOM headquarters in Tunis, in the northern district of Lac 1 Tunis and near the Jardin Public in the same area.<sup>197</sup> Those expelled were deprived of their freedom and forcibly displaced to border areas, as confirmed by the President of the Republic,<sup>198</sup> using the same modus operandi as those documented in this report. Among them, 33 refugees from Sudan were subjected to forced and arbitrary internal displacement to the borders with Algeria, followed by deportation. Human rights organizations have appealed to the United Nations protection bodies. Despite the multiple protection measures granted by the UN Human Rights Committee, some of these individuals have been arrested and are currently detained, while others have been expelled to Algeria, separated from their wives and children.<sup>199</sup> These new incidents add up to those analyzed in this report. The unchanged speech of the President of the Republic confirms the limitation of the guarantee of the rights of people on the move transiting/residing in Tunisia.<sup>200</sup>

In parallel, between May 6 and May 10, 2024, several civil society organizations were targeted by the state through:

- The indictment of association leaders with very serious charges<sup>201</sup> and, in some cases, pre-trial detention.
- The non-renewal of residence permits for no clear reason and the prosecution of leaders of human rights organizations from sub-Saharan Africa who had been living in Tunisia for several years and had previously been legal residents.
- Increasing controls and intimidation of organizations working locally to defend the rights of people on the move.

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196. Kapitalis, «Rome, Tunis, Algiers and Tripoli unite in the fight against irregular migration», 03/05/2024

197. Video sources, mainly from the UNAE (Unité Nationale Anti-émeute) and the Ministry of the Interior, document the events. The group residing in the informal settlements (ITS) at Lac 1 included migrants, refugees registered with the UNHCR and in possession of refugee cards, asylum seekers and people pre-registered with the Tunisian Council for Refugees.

198. Nova News, «Tunisia: Saïed confirms deportation of 400 sub-Saharan migrants to Libya», 07/05/2024

199. Sudanese migrants in Tunisia file a complaint with the United Nations for mistreatment - Info Migrants

200. Business News, «Saïed: the majority of association leaders are traitors and mercenaries», 06/05/2024

201. Among others: (i) Facilitating the illegal entry of persons into Tunisia or their illegal exit from Tunisia and providing a place to shelter and hide them (Law no. 40 of 1975, dated May 14, 1975, relating to passports and travel documents. Articles: 38, 39, 40, 41, 42, 43); (ii) Deliberately helping a foreigner to enter and exit illegally (Law no. 7 of 1968, dated March 8, 1968, relating to the status of foreigners in Tunisia, articles 25); (iii) Money laundering (Law no. 2015-26 of August 7, 2015 relating to the fight against terrorism and the prevention of money laundering as amended by Fundamental Law no. 2019-09 of January 23, 2019, articles: 92, 93, 94, 95, 96, 97) (iv) Undermining public administration or civil servants to obtain advantages for oneself or for others (Penal Code, articles 96 and 98); (v) Forming a coalition to commit crimes by exploiting one's position and the authority conferred on one to prepare, plan or execute these crimes (Penal Code articles: 131, 132); (vi) Disseminating false information or committing cybercrimes (Telecommunications Code articles 85 and 86 and Decree 54 article 24).

According to OMCT's documentation, at the time of writing (June 2024), at least 24 non-governmental organizations have been targeted by arrests, police summonses and searches. The majority of the organizations concerned have suspended their activities - resulting in an increase in the needs of the persons they were assisting.

The President of the Republic also criticized the agencies of the United Nations and non-governmental organizations, which have led to online harassment campaigns against associations and their members, involving anonymous, racist and threatening calls, the publication of names and photos of association members accompanied by threats on the internet, and the saturation of social networking pages with insults and negative comments.

As the migrant population increases, the authorities are attempting to reduce demographic pressure by continuously deporting and displacing migrants. At community level, social tensions between people on the move and citizens are increasing, such as in the villages around Sfax that become sites for ongoing riots and violence, as part of a systematic, ongoing and random dismantling of informal settlements in olive groves.<sup>202</sup> United Nations agencies,<sup>203</sup> non-governmental organizations and intergovernmental organizations,<sup>204</sup> including the European Union,<sup>205</sup> have criticized this repressive approach and expressed concern about the deterioration of the rule of law.

As highlighted in this and previous reports, the government's strategy to reduce migratory flows by making Tunisia an inhospitable destination has so far failed. On the contrary, according to OMCT's analysis, migrants continue to return to Tunisia after expulsion, migration routes remain the same - Tunisia's geographic proximity to Europe will never change, and its attractiveness to migrants in comparison with Libya and Algeria persists.

Similarly, efforts by the European Union and its Member States to outsource border management appear counter-productive. The most notable impact of policies to secure migration is not a reduction in flows or the neutralization of smugglers, but an increase in deaths in the Mediterranean Sea,<sup>206</sup> an increase in human rights violations committed in transit countries, an increase in fees for the services of smugglers and human traffickers, and the persistence of danger for those who resort to them.

Through this meticulous documentation effort, carried out in cooperation with numerous actors from Tunisian and international civil society, the OMCT hopes to contribute to supporting the Tunisian state in the revision of its migration and asylum management policy, and hopes that the various forms of partnership with European and African countries will be conditional on the respect for human dignity and the promotion and protection of the human rights of all, including people on the move.

202. <https://kapitalis.com/tunisie/2024/05/19/des-tunisiens-manifestent-contre-les-migrants-en-transit-vers-leurope/>

203. On May 17, 2024, the United Nations, through the Office of the High Commissioner for Human Rights, urges Tunisia to respect its human rights obligations and expresses concern about the «increasing targeting in Tunisia of migrants, mainly from south of the Sahara, as well as of individuals and organizations working to assist them». See : [Tunisia - Concern at increased targeting of migrants | OHCHR](#) and [Tunisia: interference in the judicial system and harassment of lawyers must stop, say UN experts | OHCHR](#)

204. Amnesty International, «Tunisia. Refugees, migrants and civil society organizations targeted by repressive operations after months of escalating violence», 16/05/2024.

205. See EU press release: «Tunisia: Spokeswoman's statement on recent developments in the country», 14/05/2024

206. Al Jazeera, «At least 11 people dead after two shipwrecks in the Mediterranean Sea», 17/06/2024

This report is based on primary and secondary research and programmatic learning. The contents of this document are the sole responsibility of the OMCT.





