

TORTURE ROADS

**THE SHRINKING
OF CIVIC SPACE
AND ITS IMPACT
ON PEOPLE
ON THE MOVE IN TUNISIA**

VOLUME 3
MAY – OCTOBER 2024





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LIST OF ACRONYMS

AVRR	Assisted voluntary Return and Reintegration
BILEF	Brigade des investigations et de la lutte contre l'évasion fiscale (Investigation and Tax Evasion Control Brigade)
CAT	Convention against Torture
CRT	Croissant-Rouge tunisien (Tunisian Red Crescent)
DCIM	Directorate for Combating Illegal Migration (in Libya)
HRD	Human Rights Defender
DGA	General Directorate for Associations (Office of the Prime Minister)
DGI	General Directorate of Taxes of the Ministry of Finance
DGFE	General Directorate for Borders and Foreigners of the French Ministry of the Interior
DPE	Child Protection Delegate
RSD	Refugee status determination
DGFE	General Directorate for Borders and Foreigners of the French Ministry of the Interior
FGD	Focus Group Discussion
UNHCR	United Nations High Commissioner for Refugees (UN Refugee Agency)
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNICEF	United Nations Children's Fund
ITS	Informal Settlements - Campements informels
KII	Key Informant Interview
MRCC	Maritime Rescue and Coordination Centre
IMO	International Maritime Organization
IOM	United Nations International Organization for Migration
OMCT	World Organization Against Torture
CSO	Civil Society Organization
SAR	Search and Rescue
SSA	Stability Support Apparatus

METHODOLOGY

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 organizations 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 review;
- Semi-structured interviews with over 39 representatives of 24 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;
- Documentation of individual cases of victims assisted by SANAD, the OMCT's holistic direct assistance program for victims of torture or by partner organizations;
- A dozen semi-structured interviews with officials from international organizations to understand and compare quantitative trends of violations and validate conclusions drawn from field work.

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



EXECUTIVE SUMMARY

Between January and October 2024, arrivals in Italy from Tunisia dropped by 81% compared to the same period in 2023, while Libya once again became the main departure point for people on the move arriving in Italy via the central Mediterranean route. While this decrease is presented as a success story of cooperation between the European Union, its member states and Tunisia, as a country of origin and transit, and as a model intended to be replicated with other Mediterranean countries, this report considers that border management solely focused on security and geopolitical interests has led the Tunisian authorities to violate many of their international human rights obligations, with devastating consequences for thousands of people on the move and for Tunisian society as a whole. Furthermore, the report demonstrates that the recent change in migration routes is temporary. It has significant repercussions on migratory flows in other destination countries (such as Spain), and does not constitute a sustainable, equitable and dignified solution to irregular migration.

A continuum of violations

Building on OMCT's previous research, this report provides an overview of the scale and nature of human rights violations committed between May and October 2024 against people on the move, their long-term consequences for these individuals, their families and their communities, as well as their effects on Tunisia's stability. Thousands of men, women and children who have left their countries of origin - marked by persistent poverty, insecurity, conflict-induced displacement and climate change - embark on a perilous journey of violence and death to reach Europe. OMCT's research confirms that the Tunisian authorities continue to forcibly and arbitrarily displace many of them to border areas - often desert or mountainous, deporting them to Libya or Algeria, or forcing them to survive in undignified living conditions in informal settlements, where they are deprived of their rights and access to basic services.

The fate of those intercepted or "searched and rescued" at sea by the Tunisian authorities remains a cause for concern: according to multiple sources consulted for this study, Tunisia continues to violate international human rights law by failing to provide any assistance to victims and survivors of operations at sea, arbitrarily detaining them and then systematically displacing and/or deporting them, in violation of the principle of non-refoulement. Violations in desert or mountainous border areas, where the Tunisian authorities and those of neighboring countries continue to carry out violent refoulement operations, are less documented, but still result in deaths and invisible suffering.

The organizations and specialists consulted for this study also confirm the persistence of violations identified in previous OMCT research: numerous cases of human trafficking, in the form of kidnapping and sexual exploitation, as well as an increase in gender-based violence, including sexual violence, allegedly perpetrated by criminal networks, have been documented.

As in previous OMCT studies, this report confirms:

- The direct responsibility of the Tunisian state for violations perpetrated by security forces, and for hate and xenophobic speech propagated by executive authorities;
- The indirect responsibility of the Tunisian state, due to its failure to protect people at risk and prevent human rights violations on its territory;
- The responsibility of non-state actors, whether organized crime groups or ordinary citizens, in cases of racist and xenophobic motivated violence.

Shrinking civic space

While February 2023 marked a turning point in the management of the presence of people on the move on Tunisian soil (through the legitimization by the Tunisian authorities of violence against people from sub-Saharan African countries via xenophobic rhetoric), May 2024 represents another key moment. This period saw the suspension of the registration of new asylum seekers, the massive dismantling of informal settlements in the capital, the arbitrary and forced displacement of hundreds of migrants, refugees and asylum seekers to border areas and/or their deportation. At the same time, the authorities arrested and detained representatives of key civil society organizations and human rights defenders working on the protection and promotion of the rights of people on the move in Tunisia. This series of executive and judicial decisions were accompanied by a wide range of restrictive administrative, legal and judicial measures against numerous civil society organizations and human rights defenders.

This report analyzes the nature and typology of these measures, as well as their impact on the activities (assistance, advocacy, coordination/partnership) of targeted civil society organizations in different sectors of intervention (right to legal identity and international protection, access to legal aid, protection, housing, health services, among others). Based on field observations and consultations, the report concludes that by systematically targeting civil society organizations that protect and assist people on the move, and by exerting increasing control on their financial resources, the Tunisian authorities are seriously compromising civil society's ability to operate and defend groups in situation of vulnerability. Adopting a people-centered approach, the report details the direct, immediate as well as medium and long-term consequences of these restrictive measures on the human rights situation of people on the move who, completely deprived of assistance and isolated, have no option but to ask to return to their country of origin or attempt a perilous crossing to Europe.

An alarming situation that remains largely invisible

OMCT's research over the past six months has identified several key concerns that Tunisian decision-makers and their partners should urgently address:

- **A public health crisis:** healthcare needs are surging, leading to spillover effects on Tunisian society in a context where restrictions on humanitarian organizations are considerably limiting the intervention capacities of the few actors still present on the ground. Numerous factors contribute to the severity of health issues affecting people on the move, including the rise in epidemic risks and sexual and reproductive health needs: denial of access to basic health services and humanitarian assistance, lack of access to potable water and hygiene services, absence of waste management, combined with overcrowding in informal settlements. These precarious living conditions, compounded by administrative and financial obstacles, discrimination by local communities and threats of arbitrary arrest, prevent people on the move from accessing healthcare.
- **Invisible flows of criminalized people:** Following the suspension of registration of asylum seekers and of refugee status determination, the inability to access international protection and asylum for all people on the move, particularly new arrivals and those intercepted/rescued at sea, has left many in a prolonged situation of irregularity and social uncertainty. Growing obstacles to the registration of births and deaths, along with the confiscation of identity documents from detained individuals by the authorities, hinder the enjoyment of the right to identity, which is a prerequisite for the exercise of a wide range of human rights. On the other hand, this situation prevents political decision-makers from having a global vision of their presence, profiles and needs within Tunisia, posing obvious security concerns for migrants, refugees and asylum-seekers in a context characterized by forced displacements and deportations, as well as for the host community, in terms of control and crime prevention. Tunisian authorities continue to criminalize people on the move, including children, who are often deprived of shelter solutions and left in precarious and dangerous situations.



ACKNOWLEDGEMENTS



The World Organization 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 members of marginalized groups at risk of being the most vulnerable, including women, children, indigenous peoples, migrants and other marginalized groups.

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

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 strives to promote and protect the principles of equal rights, equal opportunities and respect for human dignity, without 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, and associations helping people on the move, refugees and asylum seekers who shared their views on the human rights situation of people in mixed migration situations 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 direct victims of violations who shared their suffering and relived their experiences of violence; through this report, OMCT hopes that their voices can be heard. Victims of human rights violations are also agents of change, and OMCT commends their commitment.

All quotes have been anonymized to respect the identities of the individuals interviewed. The content of this report is the sole responsibility of OMCT. This report is intended to inform OMCT's future work and positioning on the subject and will be shared with interested partners and stakeholders.

RESEARCH SCOPE AND OBJECTIVES

The aim of this report is to shed light on the scale and nature of the alleged human rights violations committed between May and October 2024 against people on the move¹ and their long-term consequences on this group of individuals, their families and their communities. It also aims to analyze the shrinking of civic space through the control, harassment and criminalization of assistance and advocacy for the rights of people on the move.

As in previous OMCT reports on the subject,² particular emphasis is placed on violations falling within OMCT's mandate, such as institutional violence, torture, excessive use of force and ill-treatment perpetrated by security forces, denial of access to justice and procedural safeguards, forced displacements, arbitrary detention and any other form of deprivation of liberty, as well as the targeting of human rights defenders.³

The study examines the responsibility of the Tunisian state authorities and focuses on violations committed on Tunisian territory, including border areas under the effective control of the Tunisian state.⁴ In accordance with OMCT's mandate, the study investigates the direct responsibility - actions by the Tunisian authorities (primarily committed by security forces) - and indirect responsibility of the Tunisian state, also addressing the omissions or tolerance of state authorities towards violence perpetrated by non-state actors (traffickers, criminal gangs or smugglers) and/or individuals (Tunisian civilians) against migrants, refugees and asylum seekers⁵ as well as against defenders of the rights of people on the move.

1. In accordance with the OMCT report on the subject, this report alternately uses the terms «people on the move/mixed migration/movement flows», «migrants, refugees and asylum seekers» as a broad 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 flows have different legal statuses and exhibit diverse 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 extreme 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.

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, «Routes of Torture vol n°1: Mapping violations suffered by people on the move in Tunisia» (December 2023), «Routes of Torture vol n°2: Mapping violations suffered by people on the move in Tunisia between November 2023 and April 2024 (September 2024)».

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 them or a third person information or a confession, punishing them for an act they or a third person have committed or are suspected of having committed, to intimidate or coerce them 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 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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

5. By becoming parties to international treaties, states assume obligations and duties to respect, protect and fulfill human rights under international law. 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 fulfill means that states must take positive measures to facilitate the enjoyment of fundamental human rights.

THE CONCEPTUAL FRAMEWORK: TORTURE ROADS

OMCT research confirms that torture and other forms of ill-treatment are widespread at every stage of migration, in countries of origin (often acting as a trigger for migration), along migration routes, and in destination countries, at the hands of state actors, as well as through exposure to violence committed by 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, potable water and sanitation facilities (or delayed access to them). Other recognized forms of torture and ill-treatment include the use of 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 in situations of displacement.

OMCT considers the analysis of the human rights situation of people on the move residing in and/or transiting through Tunisia to be essential, among other things, to support the efforts of Tunisian authorities in fulfilling 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 migrant individuals, families and communities, and of those among them eligible for international protection, is important for designing an asylum and migration model tailored to Tunisia.

OMCT reports also aim to:

- Inform the development of migration and asylum policies of Tunisia's partners in Europe and Africa, advocating for the inclusion of human rights protection in current and future bilateral and multilateral cooperation agreements;
- Advocate with Tunisian authorities and their partners to end ongoing violations and investigate serious violations committed in the past;
- Raise awareness within Tunisian society about the respect for human rights for all, including migrants, refugees and asylum seekers, by promoting a narrative of inclusivity and equity.



1. CONTEXT

1.1 CHRONOLOGY OF THE REGIONAL COOPERATION

The timeline below outlines the key meetings and political statements regarding cooperation on border and migration management between Tunisia, the states with which it shares land and maritime borders, and its partners.

CHRONOLOGY OF OPERATIONS AT SEA

05/05/2024

Over 22 interception operations were carried out off the coast of Sfax by Tunisian authorities within 24 hours, with more than 600 people intercepted. Several testimonies confirm the seizure of boat engines and abandonment adrift at sea for several hours before being rescued.¹³⁹

16/05

Shipwreck of a boat carrying around 50 people, with dozens of Beninese victims.¹⁴⁰

18/05

▶ 23 Tunisian citizens missing after their boat capsized in the Mediterranean off Nabeul.¹⁴¹

14/06

Sentencing of five individuals to prison terms ranging from four to ten years for organizing a Mediterranean crossing that resulted in the deaths of 18 passengers from Zarzis in September 2022.¹⁴²

16/06

▶ 59 interception operations were carried out by the Tunisian coastguard within 48 hours, resulting in the interception of 1,806 people at sea.¹⁴³ Two bodies were found.

17/06

▶ The humanitarian vessel ResQship rescued 51 people between Sfax and Lampedusa and recovered ten bodies during a rescue operation.¹⁴⁴

19/06

Tunisia's search and rescue (SAR) zone is officially recognized by the International Maritime Organization (IMO).¹⁴⁵

28/06

▶ An Italian court convicts the Ministries of Defense and Transport, the Presidency of the Council, the captain of the Asso 29 and the shipping company Augusta Offshore for an illegal and dangerous return of people rescued at sea to Libya on July 2, 2018.¹⁴⁶ The court rules that Libya is not a safe place for disembarkation.

15/07

▶ A boat carrying 50 people capsized off the coast of Sfax, killing at least fifteen people.¹⁴⁷

17/07

38 people are arrested and detained after attempting to resist a violent interception at sea off the coast of Sfax.¹⁴⁸

11/08

▶ At least 552 people in distress are rescued by several humanitarian vessels operating in the central Mediterranean off the Tunisian and Libyan coasts.¹⁴⁹

15/08

▶ 57 people are rescued by the humanitarian vessel Géo Barents off the coast of Tunisia. Médecins Sans Frontières criticizes the assignment by Italian authorities of the port of Livorno as a safe disembarkation point, based on the Piantadosi decree¹⁵⁰ which causes delays and risks for the rescued individuals.¹⁵¹

25/08

More than 620 people arrive by sea in two days on the Italian island of Lampedusa from Tunisia and Libya, far exceeding the hotspot's reception capacity.¹⁵²

26/08

▶ The Tunisian Maritime Rescue Coordination Center (MRCC), to which the Italian MRCC directs the humanitarian vessel of the NGO Sea Watch, fails to respond to a distress call regarding a sinking boat in the waters of Tunisia's new search and rescue zone.¹⁵³ The boat, carrying 19 people including four children, is eventually rescued the following morning.¹⁵⁴

26/08

The humanitarian vessel **Geo Barents** is detained for sixty days by the Italian authorities following a rescue at sea without prior authorization from the Italian MRCC on August 23.¹⁵⁵

28/08

Tunisia receives three of the six patrol boats delivered by the Italian Guardia di Finanza under the cooperation agreement between the Ministries of the Interior of the two countries.¹⁵⁶

31/08

In August 2024, 2,898 people left Tunisia, representing an increase of 30% compared to July 2024 and a decrease of 88% compared to August 2023. Among those who departed in August 2024, 413 were disembarked in Tunisia, marking a 2% increase compared to July 2024 and a 91% decrease compared to August 2023.¹⁵⁷

08/09

82 people who departed from Zuwara, Libya, are rescued at sea by Tunisian coastguards during a search and rescue operation, before being deported back to Libya immediately afterward.¹⁵⁸

12/09

Six bodies, including that of a child under the age of 3, were found off the coast near Monastir.¹⁵⁹

14/09

Shipwreck of a boat that left the coast of Sfax with 64 Gambian nationals on board, including four women and two newborn babies.¹⁶⁰ Only four people survived.¹⁶¹

25/09

44 Gambian nationals who departed from kilometer 90 are intercepted at sea and detained at the port of Chebba for several hours before being released.¹⁶²

25/09

Matteo Piantedosi, Italian Minister of the Interior, announces that 61,515 people were intercepted by Tunisian authorities between January and the end of September 2024.¹⁶³

25/09

13 bodies of people of sub-Saharan origin are found washed up on the beaches of Salakta and Chebba.¹⁶⁴

30/09

A boat carrying at least sixty people capsized off the coast of Djerba. At least 16 people died, all Tunisian nationals, including three young children. Three days later, 12 individuals are arrested in connection with organizing the deadly crossing.¹⁶⁵

01/10

Maritime Guard units rescue 22 Tunisian citizens in distress at sea after departing from Sfax, including seven women and seven children, 25 nautical miles off the coast of Kerkennah.¹⁶⁶

6. Libya, Tunisia, Algeria, and Italy's interior ministers discuss solutions for illegal immigration - The Libya Observer - May 2, 2024
7. Irregular migration: Interior ministers from Tunisia, Italy, Algeria and Libya meet in Rome - La Presse - May 2, 2024
8. Tunisia to sign accords with African nations for repatriation of migrants - InfoMigrants - May 24, 2024
9. Kais Saïed invited to the G7 summit in Italy - Business News - June 13, 2024
10. Human rights in Tunisia on the European agenda - Jeune Afrique - June 20, 2024
11. Tunisian-Italian cooperation: A new era of partnership for security and migration - Tunibus - June 21, 2024
12. Meeting in Tunis on migration cooperation - Kapitalis - June 25, 2024
13. Trans-Mediterranean Migration Forum in Tripoli: Too much talk but little action - Middle East Monitor - July 17, 2024
14. Migrants: Repatriations are carried out from Libya and Tunisia, I don't fear new waves - Agenzia Nova - July 21, 2024
15. Tripoli wants to formalize its interceptions of migrants in Tunisian waters - Africa Intelligence - July 25, 2024
16. Illegal migration: Tunisian-Italian security meeting in Tunis - Kapitalis - July 28, 2024
17. Kais Saïed discusses irregular migration with the President of the Algerian Parliament - Business News - July 29, 2024

18. Algeria-Tunisia: The Ministries of the Interior of the two countries maintain their joint action in the face of various challenges - APS - July 30, 2024
19. Tunisia and Ivory Coast discuss bilateral cooperation - Mosaïque FM - August 9, 2024
20. Kais Saïed: «We will not allow the presence of outlaws in Tunisia» - Mosaïque FM - August 9, 2024
21. US approves \$110 million deal for patrol boats for Tunisia - Breaking Defense - August 21, 2024
22. Ras Jedir border crossing closed due to Libyan protests - Gnet News - August 22, 2024
23. Tunisia takes part in G7 ministerial meeting on migration - Business News - September 16, 2024
24. De l'argent européen détourné par les trafiquants et groupes criminels liés à l'immigration irrégulière - Le Monde - September 26, 2024
25. Migration: Meeting of interior ministers in Italy, statement by Mohamed Ben Ayed (MAE) - Kapitalis - October 4, 2024
26. Immigration: Brussels wants to propose a new text to facilitate migrant returns - InfoMigrants - October 15, 2024
27. Abdelmadjid Tebboune welcomes Mohamed Ali Nafti - Business News - October 20, 2024
28. Tunisia: EU Ombudsman demands release of human rights risk assessments - European Ombudsman - October 21, 2024
29. Tunisia: Saïed and Meloni discuss migration and cooperation - Webdo - October 22, 2024
30. Tunisia: Why the European Union risks closing the floodgates on funding for the country - Maghreb Intelligence - October 29, 2024

1.2 THE PRESENCE AND GEOGRAPHICAL DISTRIBUTION OF PEOPLE ON THE MOVE

This section looks at the geographical presence, arrivals, departures and flows of people on the move in Tunisia and aims to show that despite security-oriented border management policies, Tunisia continues to be an important transit country on the Central Mediterranean route.

1.2.1 Arrivals

Tunisia has the following official border points:³¹

- Seven international airports (Tabarka-Aïn Drahem, Tunis-Carthage, Enfidha-Hammamet, Monastir, Sfax-Thyna, Tozeur-Nefta and Djerba-Zarzis);
- Nine maritime border points (distributed among the ports of Rades, La Goulette, Sousse, Sfax, Gabes, Bizerte, Zarzis);
- Eleven land border points (with Algeria: Malloula, Babouche, Ghardimaou, Sakiet Sidi Youssef, Kalaat Senan, Haïdra, Bouchebka, Temaghza, Hazoua - with Libya: Dehiba, Ras Jedir).

Regular arrivals

People on the move continue to enter Tunisia legally through official border points with tourist, business, student, medical and other visas. However, given the security context and associated risks, regular arrivals of people on the move from sub-Saharan African countries are reportedly declining during the period under analysis.³² According to an organization specializing in access to education, a very significant drop in the number of students from sub-Saharan African countries enrolled in Tunisian universities was observed at the start of the September 2024 academic term.³³

Irregular arrivals

The number of people on the move entering the country by land remains high, with an estimated 2,000 arrivals per month,³⁴ either at official border crossing points, or by crossing the borders with Libya and Algeria in desert and/or mountainous border areas. The vast majority of people on the move residing in Tunisia enter the country by land:

- Via Algeria for the vast majority (96% of arrivals in Tunisia),³⁵ through Haïdra, Kasserine and Feriana.³⁶ Since May 2024, entry points have increasingly shifted northward, including Ghardimaou, Kef, Jendouba and Beja, while Tebessa (Algeria) remains the main transit hub to Tunisia according to the experts consulted for this study.
- Via Libya: the Ras Jedir border crossing reopened in September, but this route remains infrequently used. Entries from Libya occur more commonly further south, near the Wazin (Libya) - Dehiba (Tunisia) route.

31. «Coordinates of customs offices», Direction Générale des Douanes de Tunisie, consulted in December 2024.

32. Humanitarian source. Throughout this report, this term is used to designate national and international civil society organizations which, for reasons of confidentiality, do not wish to be quoted directly.

33. Humanitarian source.

34. Humanitarian source.

35. Humanitarian source.

36. «Tunisia: Irregular migration reaches unprecedented levels», Global Initiative Against Transnational Organized Crime, August 2024.

According to experts consulted by OMCT, entries from Libya remain a minority compared to those from Algeria. At the same time, people on the move departing from Libyan coasts continue to enter Tunisian territory by sea following disembarkation after search and rescue (SAR) operations carried out by the Tunisian authorities. Between January and November 2024, approximately 445 people who had departed from Libya and were rescued at sea were disembarked in Tunisia, according to a humanitarian organization.³⁷

1.2.2 Departures

Regular departures

Requests for assistance with voluntary return and reintegration (AVRR) through the IOM continued to increase significantly during the period from May 2024 to October 2024. By the end of November 2024, IOM facilitated the voluntary return of over 6,600 people in vulnerable situations to their country of origin,³⁸ representing an increase of over 100% compared to 2023.

In 2024, the resettlement quota available in a third country for refugees in Tunisia increased by 56% compared to 2023, but remains marginal (225 places in 2024, compared to less than 75 in 2023).³⁹

Irregular departures to Italy

Out of a total of 145,159 arrivals by sea in Europe between January and the end of October 2024, 54,931 people arrived on Italy's shores.⁴⁰ During the same period, between January and October 2023, 141,819 people had arrived by sea in Italy, representing a 62% drop in arrivals by sea.⁴¹ Between January and October 2023, 91,875 people left Tunisia and reached Italy by sea,⁴² representing a decrease of 81% in arrivals in Italy from Tunisia between January - October 2023 and January - October 2024.

While Tunisia had supplanted Libya as the main point of departure to Italy in 2023, Libya has once again become the main point of departure for people reaching Italy by sea. A total of 17,310 people departed from Tunisia (31.5% of arrivals by sea in Italy), compared with 33,667 people from Libya between January and October 2024 (61.3% of arrivals by sea in Italy).⁴³ The decline in departures to Italy from Tunisia between 2023 and 2024 is evident in the breakdown by nationality of origin of people arriving in Italy. Whereas in 2023, the main nationalities of new arrivals in Italy (Libya and Tunisia combined) were Guinea and Côte d'Ivoire, in 2024 Bangladesh (21%) and Syria (19%) are the two most frequent nationalities of new arrivals,⁴⁴ highlighting the shift towards Libya as the main point of departure to Italy.

37. This figure is undoubtedly underestimated, given that UNHCR and IOM no longer receive systematic notification from the authorities and are not always notified in the event of disembarkation following a SAR operation.

38. Humanitarian source

39. Humanitarian source

40. **UNHCR Italy weekly snapshot** - October 2024.

41. Ibid.

42. **UNHCR Italy weekly snapshot** October 2023

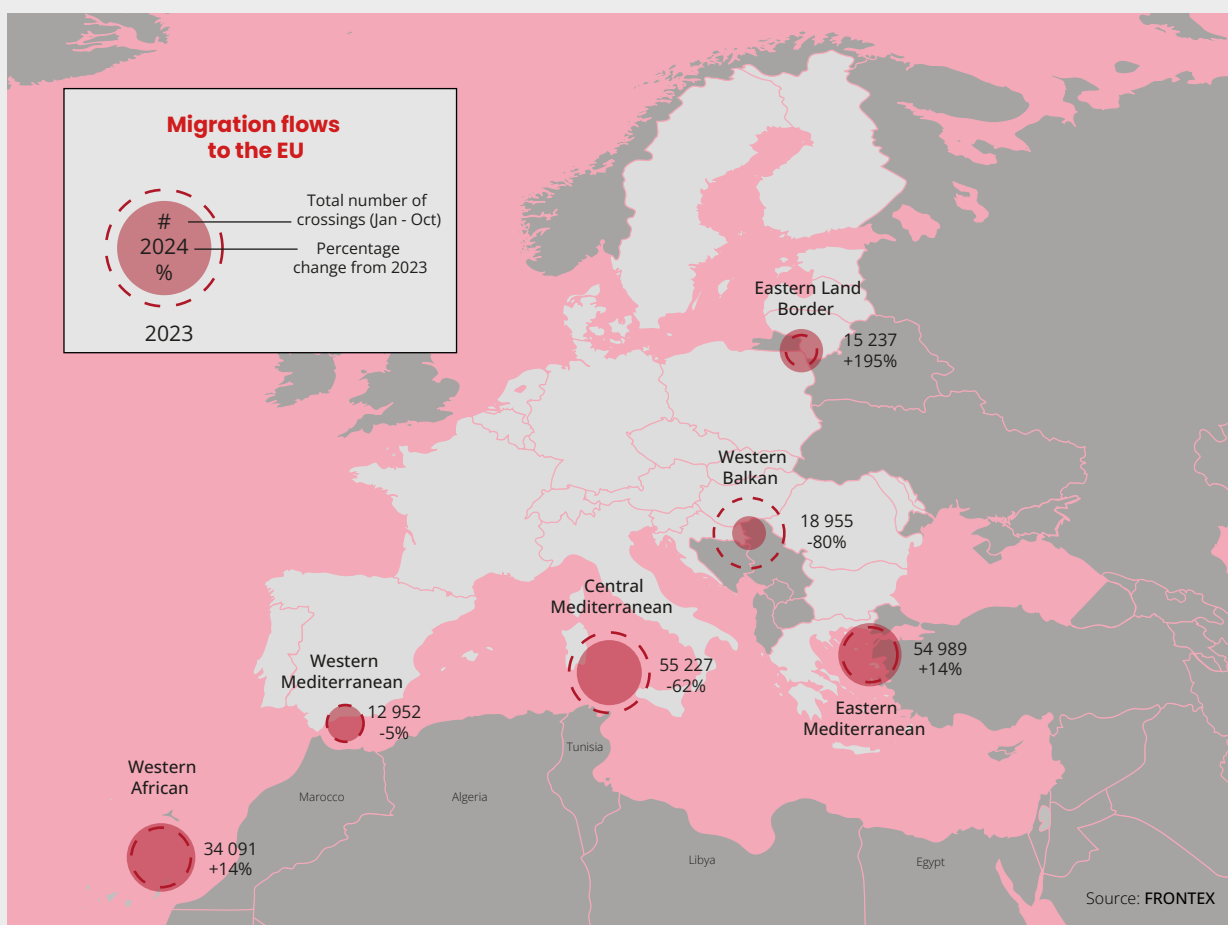
43. Ibid.

44. Ibid. Historically, Tunisia has had few if any Syrians and Bangladeshis on its soil. These figures include arrivals from Libya, Tunisia, Algeria, Turkey and all other countries of departure by sea to Italy.

Concerning individuals who departed from Tunisian coasts and arrived in Italy in 2024, the main nationalities are Tunisia (more than half of people arriving in Italy from Tunisia - but 13% of overall arrivals in Italy from North Africa), Guinea, Mali and Gambia.⁴⁵ This significant decline in arrivals in Italy from Tunisia can be attributed to:

- The increase in interceptions at sea. Various figures have been reported, oscillating between 60,000⁴⁶ and 80,000 departures⁴⁷ prevented between January and the end of October 2024.⁴⁸
- The increase in land controls to fight irregular migration along coastline of the Sfax region.⁴⁹
- A redirection of migration flows towards Libya on the central Mediterranean route, Morocco, Senegal, Mauritania on the western Mediterranean route and other transit countries towards the European continent.⁵⁰

Maps of migration flows to the EU⁵¹



45. UNHCR weekly snapshot - October 28, 2024

46. According to Italian Interior Minister Matteo Piantedosi, from January 1 to mid-September 2024, 61,000 people were prevented from reaching Italy from Tunisia. **61,000 migrants prevented from reaching Europe from Tunisia**, Mosaique FM, September 2024

47. According to Khaled Nouri, Tunisia's new Minister of the Interior, from January 1, 2024 to July 14, 2024, more than 74,464 people were arrested trying to cross Tunisia's maritime borders to Europe. **«Houssemeddine Jebabli: La Garde nationale a déjoué 3 224 tentatives d'accès illégal au territoire tunisien en 2024»**, Business News, September 2024. Between January and mid-May 2024 alone, according to the Tunisian Ministry of the Interior, 52,972 people had attempted to cross the maritime borders, 92% of them non-Tunisians. **«Minister of the Interior: Around 53,000 migrants intercepted since the start of 2024»**, TuniBusiness, May 2024

48. OMCT talks about departures, not individuals, bearing in mind that people usually attempt to cross the Mediterranean several times over a period of several months.

49. Several organizations consulted for this study reported a change in departure points to Italy, with an increase in departures around the ports of Mahdia and Chebba, which are no longer exclusively departure points for people of Tunisian nationality, but also for people of sub-Saharan origin. Departures from the north of Tunisia (Monastir, Bizerte) and the far south (Zarzis, Ben Guerdane) remain overwhelmingly from Tunisian nationals.

50. According to figures from the Spanish Ministry of the Interior, between the beginning of the year and mid-August 2024, the Spanish archipelago of the Canaries welcomed 22,304 people arriving by sea, compared with 9,864 on the same dates last year, an increase of 126%. For Spain as a whole, the Ministry of the Interior reported a 66.2% increase in the total number of arrivals by sea or land between January 1 and August 15 (from 18,745 in 2023 to 31,155 in 2024).

51. Data on irregular maritime arrivals between January and October 2024 differ somewhat between UNHCR, the Italian Ministry of the Interior, the Spanish Ministry of the Interior and the European agency FRONTEX.

Deportations and forced returns to Libya and Algeria

Since late September 2023, Tunisian security forces have been deporting people on the move to Libya and Algeria on an ongoing basis. Despite challenges in documentation given the cross-border nature of the deportations and illegal push-backs, the modus operandi and destinations (desert border areas - detention centers in Libya), it is estimated that over 16,503 people were deported by the Tunisian authorities between January and November 2024.⁵² The majority, over 9,000 people, were deported to Algeria.⁵³ According to testimony from victims and interviews with officials from humanitarian and human rights organizations in Tunisia, Libya and Algeria, these deportations involve dozens or even hundreds of people per week, in violation of Tunisia's obligations.⁵⁴

Between June 2023 and the end of October 2024, a total of 11,790 migrants and people in need of international protection were intercepted at the border with Tunisia by the Libyan authorities - 4,800 of whom were deported in 2024.⁵⁵

Safe country of origin⁵⁶

The concept of "safe country of origin" is used in refugee status determination (RSD) procedures. It allows asylum applications to be processed under an accelerated procedure, based on the assumption that an applicant from such a country is presumed not to be in need of international protection. However, international refugee law imposes legal and procedural safeguards to ensure a fair assessment of asylum claims and to guarantee international protection to those who meet the refugee eligibility criteria.⁵⁷ In addition to the principle of non-refoulement,⁵⁸ international refugee law requires that:

- Each asylum application be examined individually, with respect to procedural safeguards;
- Each applicant has an effective opportunity to rebut the presumption of their country of origin's safety in light of their personal circumstances;
- The burden of proof on the applicant is not unduly increased;
- Applicants have access to effective remedies in the event of a negative decision.

If the safe country of origin concept is used, it must be based on clear, objective criteria for assessing a country's overall safety, and mechanisms for regularly reviewing these assessments. The process must be sufficiently flexible to take account of contextual changes, whether gradual or sudden, in a given country.

52. Humanitarian source.

53. Ibid.

54. Under Article 3 of the Convention against Torture, ratified by Tunisia on September 23, 1988, the absolute prohibition on refoulement is stronger than that laid down in refugee law, meaning that people cannot be returned even if they do not qualify for refugee or asylum status under the 1951 Refugee Convention or national law. Consequently, non-refoulement under the Convention against Torture must be assessed independently of the determination of refugee or asylum status. See AL TUN 6/2024

55. Humanitarian source.

56. The term is not defined in international law, so this document adopts a broad, factual approach and strives to use simple, practical terminology.

57. UNHCR 2019 **Guidance on travel arrangements**

58. «Legal debates on the «safe third country» concept have focused on «effective protection» and the conditions to be met for a third country to be considered safe but have not questioned the legality of the basis on which the «safe third country» concept is founded. Indeed, the «safe third country» concept is rooted in the idea that states' obligations towards people who have not been granted the right to enter and/or stay in the country where they are seeking asylum do not go beyond the principle of non-refoulement, i.e. the prohibition on being returned to a territory where they risk being subjected to torture and ill-treatment. States are obligated to allow individuals to apply for asylum - in order to respect the principle of non-refoulement - but granting asylum is considered a discretionary act of the state (in accordance with their national legislation) rather than an individual's right to receive it (in accordance with international law).» See : **The Safe Third Country Concept in International Agreements on Refugee Protection: Assessing State Practice**, UNHCR

Several states have adopted a list of “safe countries of origin” in order to manage and control their borders and define the right of individuals to enter and stay on their territory. The designation (often by the country of destination) of a state as a “safe country of origin” has legal consequences for the legal status of nationals of these states and stateless persons residing there, who apply for international protection in the country of destination. The inclusion of a country in this list implies a relative presumption of safety (which can be rebutted by specific evidence) for the majority of that country's citizens, assuming that they can obtain sufficient protection in their country of origin. Consequently, applications for international protection lodged in the destination country are likely to be considered “manifestly unfounded”. In some destination countries, if a person's country of origin (not the transit country) is considered safe, then:

- The burden is on the applicant to demonstrate “serious reasons” to believe that this country is dangerous due to their personal situation;
- The application for international protection may be given priority over those of individuals originating from countries not considered safe (with a potential rejection of the application and rapid return of the applicant to their country of origin);
- Applications for international protection may be processed under an “accelerated procedure” (with a very short timeframe for reviewing the application, involving restrictions on administrative and judicial safeguards in case of rejection) or an “accelerated border procedure” (where the application is examined at the border, in a transit zone, or in a third country under a so-called externalized procedure);⁵⁹
- An appeal against the rejection of an application for international protection does not suspend enforcement of the return order.⁶⁰

First country of asylum

The concept of a “first country of asylum” applies in cases where a person has already benefited from international protection in a transit country, including the principle of non-refoulement, and where such protection remains accessible and effective for the individual concerned.⁶¹ The application of this concept requires an individual assessment to determine whether the person can be readmitted to the first country of asylum, be granted a legal right of residence again and once more benefit from international protection in accordance with international human rights and refugee law. The term “first country of asylum” is sometimes used descriptively to designate the first country in which an asylum seeker or refugee finds protection.

59. See UNHCR Note on the «Externalization» of International Protection | Refworld

60. All of the above legal effects impact on the ability of a person on the move to benefit from his or her right to asylum. Some states adopt laws or decrees that provide for specific «personal» or «territorial» exceptions; these exceptions stipulate that certain categories of people (categories who are subject to specific acts of persecution because they belong to a particular social group) or only people in specific areas (e.g. characterized by internal armed conflict) of countries identified as safe are at risk of persecution or serious harm, and are therefore excluded from the general «safe country of origin» rule.

61. According to article 26 of Directive 2005/85/EC of December 1, 2005 on European asylum procedures, «a country may be considered as the first country of asylum for a particular asylum seeker, if the applicant has been recognized as a refugee in that country and can still avail himself of this protection, or otherwise enjoys sufficient protection in that country, including the benefit of the principle of non-refoulement; provided that he is readmitted to that country.»

Safe third country of asylum

The primary responsibility for providing international protection lies with the state in which an asylum seeker arrives and seeks such protection. Applications for international protection should in principle be processed by the state where the asylum seeker is located, or which has jurisdiction over them.⁶² However, in certain cases, another state may assume responsibility for determining the need for or providing international protection. The concept of “safe third country” refers to a country where a person has the possibility of seeking international protection.⁶³ This concept is applied in cases where a person could have applied for international protection in a previous state but failed to do so, or where protection was requested but the status was not determined. The UNHCR defines the standards that must be met for a third country to be considered safe:⁶⁴

- The State must agree to admit the person to its territory;
- Protection against persecution, as well as against threats to physical safety and liberty, must be guaranteed in that State;
- The possibility of recovering the protection previously offered in that State, if applicable, must exist;
- If the person has not previously been recognized as being in need of international protection, they must have access to a fair and effective asylum procedure;
- A legal right of residence for the duration of the asylum procedure, as well as a legal right of residence if international protection is recognized, must be guaranteed;
- Treatment standards must comply with the 1951 Convention and international human rights standards, including but not limited to protection against refoulement.
- If the person is recognized as being entitled to protection, they must be granted a legal right of residence and a durable solution within a reasonable timeframe.

1.2.3 Presence

Profile, presence and geographical distribution

The number of people on the move (migrants, refugees, asylum seekers, stateless people and others eligible for international protection) residing in or transiting through Tunisia is difficult to estimate.

According to the UNHCR, 15,659 people were under international protection in Tunisia on October 31, 2024, including 3,491 refugees (21%) and 13,117 asylum seekers (79%), of whom 17.8% were minors.⁶⁵ 83% of refugees and asylum seekers registered in Tunisia come from countries covered by the UNHCR's no-return policy, suggesting a strong presumption of eligibility for refugee status.⁶⁶ Sudanese nationals still make up the largest group (47.8% of the total, 97.5% of them asylum seekers), followed by Syria (16%, refugees only), Somalia (7.6%), Côte d'Ivoire, South Sudan, Cameroon, Nigeria and others. 83.4% are men. However, the majority of people on the move residing in or transiting through Tunisia are “irregular migrants” without international protection, and it is difficult to estimate their numbers and geographical distribution.

62. UNHCR 2019 **Guidance on dealing with displacement**. Secondary displacement refers to the movement of refugees and asylum-seekers from a country where they enjoyed international protection or could have applied for and received such international protection, to another country where they can apply for it. Such movements can be motivated by many different factors and often involve tertiary or multiple stages. This term is not defined in international law.

63. The first countries of asylum, i.e. the places where they were able to benefit from international protection.

64. Para. 18 of UNHCR's **Guidelines on action to be taken in cases of displacement** (2019). The same document (paragraph 19) specifies what constitutes a fair and efficient asylum procedure.

65. «**Tunisia - UNHCR Data**», UNHCR, October 2024.

66. Notably Sudan, South Sudan, Somalia, Eritrea and Syria. See «**Tunisia monthly operational update - UNHCR**, October 2024.

People on the move, whether under international protection or not, are predominantly located around the following areas in Tunisia:

- Tunis;
- Sfax and its suburbs (El Amra and the entire coastline as far as Chebba);
- Zarzis and Médenine.

In October 2024, 50.2% of people under international protection lived in the Médenine Governorate, 29.5% in Greater Tunis (Tunis and Ariana Governorates) and 8.7% in Sfax. Compared with May 2024,⁶⁷ there has been an increase in the number of people under international protection residing in the Médenine Governorate, while the number residing in Greater Tunis has decreased.

Between January and November 2024, 15,792 migrants without international protection were newly registered by IOM, 47% in Tunis, 46% in Sfax and 7% in Zarzis.

Deaths and disappearances

According to IOM, the number of people on the move who went missing or lost their lives on the Central Mediterranean route rose from 1,553 in 2021 to 1,417 in 2022, reaching 2,500 in 2023.⁶⁸ At least 554 people are estimated to have died or gone missing off the Tunisian coast between January 2024 and October 2024, out of a total of 1,582 people who died or went missing between January 2024 and October 2024 on the Central Mediterranean route.⁶⁹

Similarly, the OMCT documented several cases of deaths linked to living conditions (infectious and respiratory diseases, malnutrition, dehydration) and to the risks to which people on the move are exposed (deaths during deportations and land or sea interceptions, suspicious deaths during inter- and intra-community tensions), without being able to estimate an exact number of deaths. For example, at least ten people on the move are thought to have died in road accidents between January and October 2024;⁷⁰ an organization specializing in access to healthcare has counted at least eight people who died of dehydration in olive groves in Sfax while six asylum seekers reportedly died of tuberculosis in Tunis and Médenine in 2024.

Forced displacements to desert border areas and deportations to Algeria and Libya, carried out continuously since June 2023, coupled with the denial of access to documentation and protection following the suspension of UNHCR registration procedures (see “Identity and Access to International Protection” section) have resulted in a lack of visibility on the number of disappearances and family separations, making it impossible to count potential deaths among missing persons.

67. On April 30, 2024, 39.6% of people under international protection lived in Greater Tunis, 40.8% in the Médenine Governorate and 9.4% in the Sfax Governorate. See <https://data.unhcr.org/fr/documents/details/108530>

68. *OM Missing Migrants Project, Mediterranean Region - Missing Migrants Project*, International Organization for Migration (IOM), accessed October 2024

69. *Ibid.* This estimate is certainly lower than the reality, as a number of shipwrecks and disappearances at sea are not recorded.

70. *Ibid.*

2. PRESENCE AND ENTRY MANAGEMENT: A CONTINUUM OF HUMAN RIGHTS VIOLATIONS

2.1 CHRONOLOGY OF HUMAN RIGHTS VIOLATIONS

As shown by the timeline of events below, the scale and intensity of violations against people on the move residing in or transiting through Tunisia are increasingly intensifying. Thanks to the tireless and often risky work of numerous organizations and human rights defenders, the OMCT has documented a succession of moments of violence. The timeline below traces the evolution of the situation of people on the move, who are often unaware of their rights and whose voices go unheard.

CHRONOLOGY

MAY 3, 2024

Dismantling of two informal settlements of people on the move set up in front of the IOM and UNHCR offices at Lac 1 Tunis.⁷¹

80 detention warrants are issued for public order offences. More than 500 people are forcibly displaced, including refugees and asylum seekers, some of whom were then forcibly and arbitrarily moved to the border with Algeria and/or deported to Algeria.



MAY 4

In Sfax, several hundred people demand the "departure" and "rapid evacuation" of the thousands of people on the move from sub-Saharan Africa settled in this region.⁷²

The group of people on the move residing in the Maison des Jeunes de la Marsa since 2017 following the closure of the Choucha camp is expelled from the facility and some of them are placed in detention.⁷³

MAY 17

The Office of the United Nations High Commissioner for Human Rights expresses its concern at the increase in xenophobic rhetoric and violence committed against people on the move in Tunisia.⁷⁸



MAY 15

Several people get injured in clashes between communities of people on the move in Sfax - Al Hamaizia.⁷⁷

MAY 7

Arrests and detentions of several association leaders working to defend the rights of people on the move in Tunisia.⁷⁵ The spokesman for the Tunis Court announces the opening of several investigations.⁷⁶



MAY 6

President Kaïs Saïed announces at a meeting of the National Security Council that Tunisian authorities had pushed back nearly 400 people on the move to "the eastern border" after they attempted to enter Tunisia from Libya.⁷⁴

An arrest warrant is issued against two former members of the Sousse Municipal Council as part of an investigation into partnerships established with organizations defending the rights of people on the move.⁷⁹

JUNE 19

VIOLENT CLASHES BETWEEN DIFFERENT COMMUNITIES OF PEOPLE ON THE MOVE TAKE PLACE IN DOWNTOWN ZARZIS.⁸⁰



JUNE 27

Foreign Minister Nabil Ammar declares that "Tunisia is not the guardian of Europe's maritime borders nor those of any other party".⁸¹

JULY 9

A mass grave is discovered at the Tunisian-Libyan border, according to the UN.⁸² An investigation is launched by the OHCHR.⁸³ Meanwhile, 38 bodies, including those of 12 Syrian citizens and 21 people from sub-Saharan African countries, are found in the Algerian desert.⁸⁴



JULY 13

During an official visit to El Amra, President Kais Saïed, declares that "contrary to what is claimed by those who caused this inhumane situation, we [Tunisia] treat them with humanity, but we will not accept terrorizing citizens. Nor will we accept Tunisians being victimized by those who have come or been brought here by parties whose unspoken goal is colonization".⁸⁵

71. Tunisia: Authorities evacuate several migrant camps - RFI - May 5, 2024

72. https://www.youtube.com/watch?v=n6RkbcCaXqo&ab_channel=AFP

73. La Marsa: Security units evacuate migrants squatting in youth complex - Business News - May 6, 2024

74. Tunisia: Haro on sub-Saharan migrants and their supporters - Orient XXI - May 8, 2024

75. In Tunisia, repression intensifies against sub-Saharan migrants and the associations that support them - Le Monde - May 8, 2024

76. Tunisia: Association president and deputy jailed for sheltering migrants - Mosaique FM - May 9, 2024

77. <https://x.com/TounsDawla/status/1790863297492775313>

78. UNHCR calls for protection of migrants' and refugees' rights in Tunisia - ONU News - May 5, 2024

79. Case of sub-Saharan migrants. Mandat de dépôt à l'encontre de l'ancien maire de Sousse - Réalités - June 19, 2024

80. Tunisia: A violent brawl between migrants leaves several seriously injured in Zarzis - RFI - June 21, 2024

81. Nabil Ammar: «Tunisia is not the guardian of Europe's maritime borders» - Business News - June 15, 2024

82. Thirty-eight bodies of migrants found in the Algerian desert - InfoMigrants - July 15, 2024

83. https://x.com/InfoMigrants_fr/status/1811717641012158520

84. <https://www.infomigrants.net/fr/post/58309/trentehuit-corps-de-migrants-retrouves-ces-derniers-jours-dans-le-desert-algerien>

85. President Kais Saïed reiterates Tunisia's commitment to sovereignty and security - TAP (Tunis Afrique Presse) - July 13, 2024

JULY 17

DURING A VIOLENT INTERVENTION BY THE NATIONAL GUARD AT KILOMETER 34 IN EL AMRA, AS PART OF OPERATIONS TO DISMANTLE INFORMAL SETTLEMENTS TWO PREGNANT WOMEN FROM GUINEA AND CAMEROON ARE INJURED.⁸⁶



JULY 22

463 people are forcibly expelled from Libya to Niger at Dirkou.⁸⁷

JULY 28

A MEDIA PERSONALITY SPARKS CONTROVERSY AFTER MAKING XENOPHOBIC REMARKS DURING A PERFORMANCE AT THE TABARKA FESTIVAL, DECLARING THAT "THEY WANT TO SETTLE THEM IN TUNISIA, THEY THOUGHT TUNISIA WAS GOING TO BE THEIR COUNTRY. TUNISIA BELONGS TO TUNISIANS".⁸⁸

JULY 31

At the 39th session of the annual conference of heads of diplomatic and consular missions, the Tunisian minister of Foreign Affairs declares that "Tunisia is pursuing its efforts to secure its land and maritime borders in compliance with the rules of international law. It also reaffirms its initial commitment to refusing to be a transit platform or a place of temporary or permanent residence for irregular migrants".⁸⁹

AUGUST 19 AFTER TORRENTIAL RAIN IN SFAX, SEVERAL INFORMAL SETTLEMENTS IN EL AMRA GET FLOODED, WHILE POLICE OPERATIONS ACCOMPANIED BY BULLDOZERS CONTINUED AT KILOMETER 30.

AUGUST 14

Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, sends a formal communication to Tunisia concerning the accusation and detention of two association leaders who were detained and charged for their work assisting people on the move.⁹³



AUGUST 25

AROUND FORTY PEOPLE, INCLUDING ASYLUM SEEKERS, ARE FORCIBLY AND ARBITRARILY DISPLACED TO THE BORDER WITH ALGERIA, INTO A HARSH DESERT AREA, INCLUDING THREE PREGNANT WOMEN AND FOUR MINORS, WITHOUT ACCESS TO HUMANITARIAN ASSISTANCE.⁹⁴

SEPTEMBER 5

According to National Guard spokesman Houssemeddine Jebabli, the National Guard reportedly thwarted 3,224 attempts of illegal land entry into Tunisia (involving 29,880 individuals) in 2024, compared with 1,432 illegal entry attempts (involving 11,551 individuals) in 2023.⁹⁵

SEPTEMBER 17

The President Kaïs Saïed presented the Governor of the Central Bank of Tunisia with a list of foreign funding received by several CSO for verification by the Tunisian Financial Analysis Commission (CTAF).⁹⁶

AUGUST 11

TWO TUNISIAN CITIZENS VIOLENTLY ATTACKED A PREGNANT GUINEAN WOMAN ON A MOTORCYCLE BETWEEN SFAX AND EL AMRA, STABBING HER DURING AN ATTEMPTED ROBBERY. THE BABY DIED.⁹²

AUGUST 5

DURING LOCAL DEMONSTRATIONS IN EL AMRA AND JENIANA, RESIDENTS BLOCK ROADS BY BURNING TIRES⁹⁰ AND SET UP ROADBLOCKS TO PROTEST THE PRESENCE OF PEOPLE ON THE MOVE IN THE OLIVE GROVES. SEVERAL XENOPHOBIC ATTACKS WERE REPORTEDLY CARRIED OUT NEAR INFORMAL SETTLEMENTS DURING THE WEEK IN THE VICINITY OF INFORMAL SETTLEMENTS.⁹¹



SEPTEMBER 24

THE EUROPEAN UNION calls for an investigation by the Tunisian authorities following the publication of an article in the Guardian.⁹⁹ The British newspaper reports testimonies accusing Tunisian police of sexual violence, including rape, against women on the move.¹⁰⁰

THE TUNIS COURT OF FIRST INSTANCE announces that it is issuing arrest warrants against more than thirty people from sub-Saharan Africa, for illegal entry.⁹⁸



SEPTEMBER 24

An complaint is lodged to the International Criminal Court (ICC) by lawyers representing family members of detained Tunisian opponents, requesting an investigation into "the upsurge in attacks on black African migrants in Tunisia, which have led to numerous deaths and serious ill-treatment, and the massive repression of the democratic opposition movement in Kaïs Saïed".⁹⁷

86. Humanitarian source

87. AlarmPhone on X

88. Tunisia for Tunisians: When Latifa Arfoui creates controversy on stage - Webdo - July 21, 2024

89. Nabil Ammar insists: Tunisia refuses to be a place of residence for irregular migrants - Réalités - July 31, 2024

90. Wahid Dahech on X

91. Humanitarian source

92. Source - community relays

93. AL TUN 5/2024

94. See box «The forced and arbitrary internal displacement of 42 people at the end of August 2024» in section 2.2.2 on arbitrary forced internal displacement.

95. Houssemeddine Jebabli: National Guard foiled 3,224 attempts to illegally enter Tunisia in 2024 - Business News

96. Kaïs Saïed takes CTAF to task - Business News - September 17, 2024

97. Tunisia: Cases of human rights violations brought before the International Criminal Court, the EU clears itself - Euractiv - September 24, 2024

98. Arrest warrants for more than thirty sub-Saharan migrants - Mosaique FM - September 24, 2024

99. Tunisia: EU calls for investigation into police rape of migrant women - InfoMigrants - September 24

100. Italy migrant reduction investigation: rape, killing, Tunisia EU money - The Guardian - September 19, 2024



OCTOBER 1

MARY LAWLOR, UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS, STATES "THE ARREST OF MIGRANT RIGHTS DEFENDERS AND THE GENERAL CLIMATE OF HATE SPEECH AND DEFAMATION CAMPAIGNS AGAINST THEM IN TUNISIA IS A FURTHER INDICATION THAT THE COUNTRY IS MOVING BACKWARDS IN ITS COMMITMENT TO PROTECT HUMAN RIGHTS".¹⁰¹

OCTOBER 1

Several representatives of the UN Special Procedures send an allegation letter to Tunisia regarding violations of international obligations, including the principle of non-refoulement and the human rights of refugees, asylum seekers and migrants, as well as the obligation to assist and protect victims of trafficking among people on the move.¹⁰²

OCTOBER 17

A MEMBER OF THE TUNISIAN PARLIAMENT STATES HER INTENTION TO REQUEST THE NEWLY RE-ELECTED PRESIDENT "TO EXPEL THE SUB-SAHARANS WHO HAVE SOWN CHAOS IN OUR OLIVE GROVES, OUR LIVES, OUR HONOR, AND OUR SECURITY."¹⁰⁵

OCTOBER 15

THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS, VOLKER TÜRK, calls on Tunisia to respect the rule of law and democratic freedoms, and calls for the release of those arbitrarily detained.¹⁰⁴

OCTOBER 14

Several representatives of the UN Special Procedures express their concerns over reports of human rights violations against migrants, refugees and victims of trafficking during search and rescue operations and transfers to border areas.¹⁰³

OCTOBER 21

A SUDANESE REFUGEE IS SHOT DEAD BY A TUNISIAN CITIZEN AT KM 34 IN EL AMRA. HE HAD ENTERED TUNISIA IN JULY 2023 AFTER SPENDING THREE YEARS IN LIBYA, INCLUDING SEVERAL MONTHS IN THE AIN ZARA DETENTION CENTER, AND HAD BEEN INTERCEPTED SEVERAL TIMES AT SEA OFF THE TUNISIAN COAST.¹⁰⁶



OCTOBER 23

A MEMBER OF THE TUNISIAN PARLIAMENT DECLARES ON FACEBOOK THAT "THE DISASTER IN SFAX IS NOT THE HEAVY RAINFALL, BUT THE HEAVY PRESENCE OF SUB-SAHARANS".¹⁰⁷

OCTOBER 24

A LAWYER AND COMMENTATOR IS SENTENCED TO TWO YEARS' IMPRISONMENT UNDER DECREE NO. 54 AT FIRST INSTANCE FOR HER STATEMENTS DENOUNCING RACISM AGAINST PEOPLE FROM SUB-SAHARAN AFRICA.¹⁰⁸



OCTOBER 28

Tense demonstration in front of the Jbeniana delegation headquarters in the governorate of Sfax to protest against the presence of sub-Saharan people on the move in the region.¹⁰⁹

OCTOBER 30

A member of the Tunisian parliament states that "[people on the move living in El Amra] have set up dispensaries, creating the impression of a 'state within a state' and taking possession of land".¹¹⁰

101. Tunisia: UN calls for greater protection of migrants' and refugees' rights - ONU - October 3, 2024

102. AL TUN 6/2024

103. Tunisia: UN experts concerned about safety of migrants, refugees and victims - ONU - October 14, 2024

104. Tunisia: High Commissioner calls for maintenance of rule of law and democratic freedoms - ONU - October 15

105. Mseddi: After being sworn in, the president will be asked to expel migrants from Sfax - Business News - October 17, 2024

106. <https://www.facebook.com/100076415626020/posts/569732678917248/?mibextid=r540aB7S9Ucbxw6v>

107. Mseddi: The real catastrophe in Sfax is the strong presence of Sub-Saharan! - Business News - October 21, 2024

108. Sonia Dahmani sentenced to two years in prison for her statements on sub-Saharan migrants - Gnet News - October 23, 2024

109. Demonstrations and high tensions in Jebeniana - Business News - October 28, 2024

110. Tarak Mahdi: Clashes between Sub-Saharan and Jebeniana residents are a cause for concern - Business News - October 29, 2024

2.2 A CONTINUUM OF HUMAN RIGHTS VIOLATIONS

This section provides an analysis of the typology of human rights violations. Over the period from May to October 2024, OMCT confirms that the following violations persist with the same intensity and prevalence as those reported in previous research:¹¹¹

- Arrests and detentions;
- Forced and arbitrary displacement and deportations;
- Violence, excessive use of force, torture and ill-treatment;
- Violence and human rights violations during maritime interception and search and rescue operations;
- Gender-based and sexual violence;
- Enforced disappearance and family separation.

2.2.1 Criminalization of people on the move

In line with previous months, the arrests of migrants, refugees and asylum seekers continued between May and October 2024. The arrests followed:

- Identity checks in public places (notably railway stations and rental stations), during inter-governorate or municipal travel;
- Dismantling of informal settlements in Tunis and Sfax;
- Arrests in private accommodation rented informally by people on the move in Tunis, Sfax and Médenine;
- Complaints from Tunisian citizens for “threats to security” and/or “entering private property”.¹¹² According to an OMCT partner organization providing legal assistance to people on the move, the May-October 2024 period saw an increase in cases of people arrested following such complaints in El Amra, Sfax and Jbeniana. However, these people would only be tried on charges relating to their entry and stay in Tunisia (see below).

According to organizations providing legal assistance to people on the move, the most frequent charges are the same as in the previous period, namely:

- Irregular entry - punishable by sentences ranging from 1 to 3 months,
- Irregular stay - punishable by sentences ranging from 3 to 6 months.¹¹³

According to organizations consulted for this study, the use of preventive detention of people on the move continues almost systematically. Several leaders of organizations defending human rights have also confirmed the presence of several hundred people on the move detained in Tunisian prisons.¹¹⁴

111. Cartographie de réponses apportées aux violations de droits de l'Homme : les cas des personnes en mouvements migratoires mixtes en Tunisie, OMCT Tunisia» (June 2023), «Les routes de la torture vol n°1 : Cartographie des violations subies par les personnes en déplacement en Tunisie» (December 2023), «Les routes de la torture vol n°2 : Cartographie des violations subies par les personnes en déplacement en Tunisie» (September 2024) .

112. See chapter II, section 1 on violations of property and domicile of the Tunisian penal code.

113. Law no. 68-7 of March 8, 1968, on the status of foreigners in Tunisia, in particular articles 23, 24 and 26.

114. See also **En Tunisie, les prisons sont remplies de migrants subsahariens condamnés pour séjour irrégulier**, InfoMigrants, December 2024. See also article 41 of law no. 75-40 of May 14, 1975, on passports and travel documents (added by law no. 2004-6 of February 3, 2006).

The same procedural flaws and violations of procedural safeguards were observed over the period May - October 2024 as those documented in OMCT's previous research. These include:

- The reasons for and duration of their arrest were not specified;
- Individuals were reportedly not informed of their right to be assisted by a lawyer and did not have effective access to legal aid;
- Individuals were unable to access consular assistance; non-Arabic speakers did not benefit from translation services during their deprivation of liberty.

According to the victims who testified for this study, as well as to several organizations and lawyers supporting them, people on the move who have been arrested almost invariably have their identity documents confiscated by security forces. The frequent lack of reports of seizure records by the officers subsequently becomes a major obstacle to recovering these identity documents, whether before trial or after release once the sentence has been served.

The reality: Osman's story

In September 2024, Osman entered Tunisia with a valid passport and a three-month visa. Arrested by police officers during an identity check, his passport was confiscated, and he was taken into preventive detention. An organization providing legal assistance to Osman since his arrest attempted to retrieve the passport from the police to provide evidence of the legality of his entry and stay in Tunisia. However, the lawyer discovered that no seizure report had been filed, making it impossible to recover Osman's documents.

During his court appearance on charges of irregular entry and stay, Osman and his lawyer were unable to produce the passport in court, resulting in Osman being sentenced to a term of imprisonment.

Since the spring of 2024, a very concerning rise in the number of minors on the move originating from sub-Saharan African countries has been reported to OMCT. The criminalization of separated or unaccompanied minors on the move, as well as the increasingly frequent use of detention based on irregular entry and stay, is presented in more detail in section 4.3.1 on children on the move.

The reality: The eviction of the group from the Maison des Jeunes in La Marsa

On May 4, 2024, fourteen people on the move, who had been present in Tunisia for over thirteen years and living in the Maison des Jeunes of la Marsa since 2017, were evicted from their home by police officers and arrested. Following a first-instance conviction to eight months' imprisonment for illegal border crossing, irregular stay, and appropriation of property of others with violence, their sentence was reduced to three months' imprisonment on appeal on July 1, 2024, by the Tunis First Instance Court.

This group had entered Tunisia with hundreds of thousands of people fleeing the war in Libya in 2011 and had found refuge in the Choucha camp in south-eastern Tunisia. Following the decision to close this camp, hundreds of people expressed their desire to remain in Tunisia until their asylum claims were reconsidered. After the camp's definitive closure in 2017, the group was housed by the Tunisian authorities in the Maison des Jeunes in La Marsa, until their arrest and incarceration. At the end of August 2024, the group members were transferred to the El Ouardia detention center after serving their sentences, before being released.

2.2.2 Arbitrary internal forced displacement and deportation

The reality: The forced displacement of May 3, 2024

During the night of May 3 to 4, 2024, Tunisian security forces dismantled the informal settlements opposite the UNHCR and IOM headquarters in Tunis and forcibly displaced around 500 migrants, refugees and asylum seekers.¹¹⁵

Among this group, 92 people were arrested and sentenced to fourteen months' detention for acts of rebellion and unauthorized demonstration, a sentence eventually reduced to eight months. Other groups of people on the move expelled during the night were deprived of their liberty and forcibly transferred to border areas, as confirmed by the President of the Republic.¹¹⁶ This mode of operation mirrors other similar episodes documented in this report. Among the same forcibly displaced group, 33 refugees from Sudan were forcibly and arbitrarily moved to the Algerian borders. Human rights associations appealed to the United Nations protection bodies, and despite the multiple protection measures granted by the UN Human Rights Committee, some of these individuals were arrested and detained, while others were expelled to Algeria, separated from their wives and children.¹¹⁷

At the time of this report's finalization (December 2024), several dozens of them remain stranded in Niger after being expelled by Algerian authorities, while others are currently housed in UNHCR shelters in Tunisia, under difficult conditions and with no prospects.

115. 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.

116. Nova News, «Tunisia: Saïed confirms deportation of 400 sub-Saharan migrants to Libya», May 2024.

117. «In Tunisia, Sudanese migrants file a complaint with the United Nations for mistreatment», Migrant Info, May 2024.

Forced and arbitrary internal displacement have continued uninterrupted since May 2024. These displacements always follow:

- Interceptions at sea;
- Disembarkations following search and rescue operations;
- Arrests at land borders;
- Arrests during inter-governorate or inter-municipality travel;
- Security operations dismantling informal settlements (such as those in front of the UNHCR and IOM offices in Tunis).

These forced and arbitrary internal displacements lead to:

- Abandonments in desert border areas with Algeria and Libya;
- Deportations to Libya followed by detention in Libyan places of deprivation of liberty. Between January and October 2024, almost 4,800 migrants and people in need of international protection were intercepted at the border with Tunisia by the Libyan Ministry of the Interior, the Ministry of Defense, Libyan border guards and customs and DCIM officials.¹¹⁸ The most frequently used detention center is Al Assa (see Violence, torture and ill-treatment in the Libyan detention center of Al Assa in section 2.2.3). People deported from Tunisia to Libya also reported being deprived of their liberty in unofficial detention centers run by non-state criminal groups, with no ties to the Libyan state;¹¹⁹
- Deportations to Algeria (over 9,000 people between January and November 2024),¹²⁰ followed by detention in Algerian places of deprivation of liberty and/or deportation by the Algerian authorities to Niger at Assamanka¹²¹ or to Libya at Ghadamès.

According to the testimonies collected, the modus operandi remains the same as that documented in OMCT's previous research. Since May 2024, all representatives of the organizations interviewed confirmed that that an increasing number of people are being forcibly and arbitrarily displaced, mainly towards the Algerian borders.

These forced displacements always affect a variety of different profiles and legal statuses:

- Men, women (including pregnant women), young children and unaccompanied minors;
- Asylum seekers registered with UNHCR;
- Refugees in possession of UNHCR refugee cards;
- People with valid visas and passports.

118. Humanitarian source.

119. On June 30, 2024, for example, Libyan authorities announced the release of a thousand people on the move held in a hangar in the Ash Shwayrif region, south of Tripoli. Held in deplorable conditions, they had been systematically tortured for ransom. See «Libya: a thousand migrants freed from a clandestine prison», InfoMigrants, September 2024

120. Humanitarian source.

121. Over 19,000 people were reportedly expelled to Niger in 2024 by Algerian authorities. On May 20, 11 people died at Point 0 in Assamanka (Niger) after being expelled to the desert by Algerian authorities, including a three-year-old girl. In the first two weeks of August alone, 2,075 people were expelled from Algeria to Niger. See «Expulsions in Algeria: 11 migrants die of thirst in the desert, according to Alarme Phone Sahara», InfoMigrants, August 2024.

Reality: The forced and arbitrary internal displacement of 42 people at the end of August 2024

At the end of August 2024, around forty people on the move were arrested in various parts Governorates of by Tunisian security forces, arbitrarily detained and then subjected to arbitrary and forced internal displacement to desert areas on the border with Algeria.¹²² Their phones, money and other personal belongings were confiscated, along with several asylum seeker cards. The group, which included several pregnant women and several minors, some under the age of 10, was stranded by the National Guard, without food or water in an inhospitable desert area, where the temperature fluctuated between 35 and 39 degrees during the day.

After several days of walking, some of them reached the vicinity of a Tunisian locality. Some managed to contact a Tunisian citizen offering transport to Sfax, but he asked for 600 Tunisian dinars (around 180 euros) per person. The next day, security forces, having noticed their presence, violently intervened near their informal camp; several displaced individuals reported gunfire. This intervention caused the group to scatter and disperse westward. Police roadblocks were set up in the area to prevent people from reaching nearby localities and to make it impossible for activists and humanitarian organizations to provide assistance. For more than five days, the displaced individuals were unable to access basic healthcare or sufficient food and water, leading to severe dehydration for many, while one pregnant woman required emergency hospitalization, having passed the term of her pregnancy.

Under pressure from international organizations, and thanks to the mobilization of volunteers from civil society organizations, civil protection, in cooperation with the National Guard, transferred some of the individuals to a nearby police station. After more than ten hours in the police station, they were finally transferred to shelters run by international organizations. As of the finalization of this report (December 2024), some members of this group requested “voluntary” return to their countries of origin as well as assistance¹²³ and reintegration support by the IOM, due to a lack of alternative solutions.

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

Between May and October 2024, OMCT and its partners documented recurring acts of violence against migrants, refugees and asylum seekers residing or transiting in Tunisia, which may constitute acts of torture or ill-treatment¹²⁴ committed by Tunisian security forces. The various contexts in which these acts occur are described in greater detail in OMCT’s latest research on the subject.¹²⁵ Ill-treatment, acts of violence, excessive use of force and even torture, whether committed by security forces or non-state criminal groups, are more prevalent in border areas. These acts usually occur during operations targeting irregular land entries into Tunisian territory from Algeria and Libya, often resulting in violent pushbacks; during arbitrary forced displacements and deportations; as well as during maritime operations (interceptions and search and rescue at sea) and land-based coastal control operations aimed at preventing departures.

122. **If you come back, we'll break your legs': a migrant expelled in the desert by Tunisia describes his ordeal**, InfoMigrants, August 2024.

123. See section 4.1.2 on the evolution of return procedures: a worrying acceleration.

124. 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 them or a third person information or a confession, punishing them for an act he or a third person has committed or is suspected of having committed, to intimidate or coerce them 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 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

125. See the section «Violence and excessive use of force - torture and ill-treatment» on page 53 in «**Routes to Torture Vol. 2**» OMCT, September 2024. Forced displacements and deportations to Libya and Algeria since May 2024 continue to place Tunisia in breach of its obligations to prohibit torture. The prohibition of deportation where there is a risk of torture is a fundamental principle enshrined in Article 3 of the United Nations Convention against Torture, to which Tunisia is a signatory. This article prohibits States Parties from returning, expelling or extraditing a person to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

“ I was physically assaulted by the Tunisian police during an intervention aimed at destroying the camp where I slept in Sfax “.

says 15-year-old Youssef from Guinea, during a consultation with a doctor in Italy in November 2024. He has extensive scarring in the parietal and frontal region of his head.¹²⁶

A series of interviews with organizations involved in disembarkation and the assessment of asylum claims in Italy confirmed that people on the move who have transited through Tunisia continue to suffer from the same typology of violations documented in previous OMCT reports on the subject: hundreds of women, children and men are fleeing violence and unbearable living conditions. Among them, people from sub-Saharan Africa arrive in Lampedusa with serious injuries (broken legs and arms, severe open wounds, etc.) and psychological after-effects, claiming to have been mistreated by state authorities and Tunisian citizens.¹²⁷ By mid-September 2024, more than 3,800 people under international protection in Tunisia had reported being victims of torture during their migratory journey and/or in Tunisia.¹²⁸

Violence, torture and ill-treatment in Libya’s Al Assa detention center¹²⁹

The Al Assa detention center,¹³⁰ near Nalut, is run by the Libyan Border Guard (LBG), close to the border with Tunisia. Many ex-detainees met by OMCT partners reported being arrested in Tunisia by members of the Tunisian National Guard, most often after being intercepted at sea, before being detained in Sfax, Kerkennah or in National Guard buildings elsewhere on the coast. Many recounted being beaten and stripped of their belongings upon disembarkation. Others were arrested on land, some shortly after leaving Libya to enter Tunisia. All reported being forcibly transferred to the border and abandoned in border areas before being arrested by Libyan forces or directly deported and handed over by Tunisian forces to Libyan authorities.

“ If I go back there, I’ll die. I’d rather die in the sea. “
says one ex-detainee.

All former detainees reported detention conditions that amounted to ill-treatment and even acts of torture. The Al Assa detention center is made up of several overcrowded sheds, with the number of detainees per shed fluctuating between five hundred and two thousand, with less than one mattress for every ten detainees. Other nearby detention facilities are also under the jurisdiction of the center. One former detainee recounted being confined in an underground cell accessible only by ladder, along with over sixty other people. All the ex-detainees described being locked up without knowing when or if they would be released. Some inmates spent the entire duration of their incarceration, up to six months, without seeing daylight. Deprivation of food and water, sometimes used as a punitive measure against escape attempts, was reportedly common. Access to hygiene was said to be virtually impossible, and medical assistance very rare.

Ex-detainees told OMCT and its partners about shocking levels of violence. According to the testimonies collected, it takes the following forms:

- Frequent beatings by guards, some of whom were reportedly under the influence of alcohol or drugs;

126. Humanitarian source.

127. Humanitarian source.

128. Humanitarian source.

129. This information is based on the testimonies of people on the move detained between September 2023 and May 2024, collected by OMCT and partner humanitarian organizations operating in Libya.

130. OMCT considers it “unofficial”, since the Libyan border guards have repeatedly denied detaining people in the center over the past year, the Al Assa center is not on the list of official centers managed by DCIM, and access for UN agencies is variable.

- Punishment for escape attempts: detainees who attempted to escape were buried in the sand up to their chests under the sun for hours and beaten;
- Gunshot injuries: a former detainee witnessed another man being shot in the leg by a guard;
- Extrajudicial executions: a former detainee stated they witnessed three detainees who had attempted to escape and were recaptured being executed. Two others recalled the deaths of two Sudanese and Somali detainees who were killed after a guard fired shots in the air in a cell;
- Immolation by fire: two former detainees mentioned people, including minors, being burned alive as punishment for attempting to escape.

Detainees are also said to be victims of human trafficking in the form of forced labor in farms and building adjacent to the detention center.

“ It’s hard to get out of this prison. Either you escape, or you pay, or you die on the spot, and they throw your body into the desert ”.

confides a former detainee.

The quickest and most common way to secure release is by paying a ransom, either directly by a third party abroad (ranging from 2,000 and 10,000 Libyan dinars, depending on nationality), or by being “bought back” by a third party in Libya, often a person on the move, who becomes the creditor of a debt often settled by other forms of exploitation (labor, sexual).

Torture and ill-treatment during abandonment in desert border areas

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

The deprivation of food and water, medical assistance and shelter, combined with extreme temperature fluctuations,¹³¹ have caused severe pain and suffering, both physical and mental, to those forcibly placed in these mountainous desert areas. All the constituent elements of the crime of torture are present. These sufferings were inflicted by agents of the security forces on people over whom they exercised effective control at the time of their arbitrary forced displacement and expulsion. Additionally, this suffering continued afterward due to the persistent presence of security forces in the area, preventing returns to Tunisia. Some individuals were turned back by Tunisian security forces more than five times in the space of a few days, unable to return to Algerian territory. They were also subjected to physical violence by Tunisian security forces when attempting to re-enter Tunisia.

This suffering has been deliberately inflicted by Tunisian security forces on people on the move in these desert border areas 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. Throughout the period in question, non-governmental and international organizations,¹³² the media and victims¹³³ raised alarms about the risks faced by people on the move, without any reaction from the authorities.

131. «If you come back, we'll break your legs: a migrant expelled in the desert by Tunisia testifies to his ordeal», InfoMigrants, September 2024

132. «Tunisia: UN experts concerned over safety of migrants, refugees and victims of trafficking», Office of the United Nations High Commissioner for Human Rights (OHCHR), October 2024

133. Refugees in Libya on X

2.2.4 Crossing maritime borders: dehumanizing practices

This section focuses on violations committed against people on the move who decided to cross the sea *irregularly* from Tunisia and were intercepted in Tunisian territorial waters,¹³⁴ as well as against those committed against those in distress who are rescued at sea by Tunisian authorities.¹³⁵

Every sovereign state has the right to protect its borders and control those attempting 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,¹³⁶ must be carried out in accordance with the obligations established by international law (principally international human rights law, refugee law and transnational criminal law).
- States have a duty to protect the rights of all persons at sea (for example, the right to life, non-discrimination, non-refoulement, the right to seek asylum and access to international protection, non-criminalization of migration, freedom from torture and other cruel, inhuman or degrading treatment or punishment).
- The duty to assist persons in distress at sea applies «regardless of the nationality or status of such persons or the circumstances in which they are found».¹³⁷
- A state has non-refoulement obligations towards people on the move on its territory and/or under its *de facto or de jure* jurisdiction.¹³⁸
- States are not allowed to criminalize refugees fleeing persecution for their illegal entry or presence in certain circumstances, nor to prosecute people on the move for irregular entry.
- 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 constitutes a violation of international law.

Chronology of operations at sea

The timeline below provides a selection of incidents and events considered important for understanding the nature and impact of the maritime operations carried out to control irregular departures from the Tunisian coast.

134. Interception refers to any measure «employed by States to : prevent the embarkation of persons on an international journey; prevent the continuation of an international journey by persons who have commenced their journey; 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.

135. Rescue at sea is an operation aimed at retrieving people in distress, addressing their initial medical or other needs and bringing them to safety, in accordance with the Convention on Search and Rescue at Sea (SAR).

136. States are required to establish Search and Rescue Regions (SRRs), or Search and Rescue Zones (SAR zones), which are designated areas of international waters in which a state has accepted primary responsibility for coordinating search and rescue. However, a state does not exercise sovereignty over its SRR (beyond its territorial waters). In its SAR zone, Tunisia is therefore responsible for coordinating rescue operations and has primary responsibility for ensuring coordination and cooperation between the states concerned, so that survivors are disembarked and brought to a safe place.

137. See in particular SOLAS, supra note 18, Annex, Chapter V, Regulation 33(1); SAR Convention, supra note 18, Annex, para. 2.1.10.

138. Although search and rescue operations and interceptions at sea are distinct, non-refoulement obligations apply in the same way in both cases. Persons rescued or intercepted at sea cannot be summarily refouled or returned to the country of departure, in particular where this would deprive them of an effective opportunity to seek asylum. Return to a country where they risk suffering serious human rights violations is prohibited, for example, by article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment («CAT»), December 10 1984 (entry into force June 26 1987) ; and by articles 6 and 7 of the International Covenant on Civil and Political Rights («ICCPR»), December 16, 1966 (entered into force March 23, 1976) - see, for example, UN Human Rights Committee, General Comment no. 31 [80]: The nature of the general legal obligation imposed on States parties to the Covenant, May 26, 2004, [CCPR/C/21/Rev.1/Add.13](#), at paragraph 12. See also UNHCR's «General considerations» General legal considerations: search and rescue operations for refugees and migrants at sea.

CHRONOLOGY

OF THE REGIONAL COOPERATION

02/05/2024

Meeting of the Ministries of the Interior of Tunisia, Libya, Algeria and Italy in Rome on the fight against "illegal immigration"⁶ and the adoption of a common approach through the creation of "joint task forces".⁷

24/05

Tunisia's Secretary of State for Foreign Affairs announces the forthcoming signing of agreements with African countries of origin on the return of people on the move.⁸

13/06

The President of the Republic, Kaïs Saïed, is invited to the G7 summit by the President of the Italian Council, Giorgia Meloni.⁹

20/06

Joseph Borrell, EU High Representative for Foreign Affairs, puts Tunisia's human rights violations on the agenda of the EU Foreign Affairs Council discussions.¹⁰

21/06

Following the recognition of the Tunisian search and rescue (SAR) zone on June 19, 2024, the Italian and Tunisian interior ministers, Matteo Piantedosi and Khaled Nouri discussed migration cooperation, particularly efforts to assist in the voluntary return of irregular migrants from Tunisia to their countries of origin.¹¹

25/06

ICMPD announces the upcoming opening of a training academy for Tunisian coastguard in Sousse by 2026. The project is funded with €13.5 million by Germany.¹²

17/07

Tunisian Prime Minister Ahmed Hachani takes part in the Trans-Mediterranean Migration Forum (TMMF) in Tripoli, Libya, alongside Italian Prime Minister Giorgia Meloni and 14 other countries.¹³

21/07

Italy's Interior Minister welcomes the increase in "repatriations" carried out by the IOM from Libya and Tunisia with Italy's support to combat "irregular" immigration.¹⁴

25/07

Libya seeks recognition from Tunisian authorities for its search and rescue zone, unilaterally established in 2017, to enable SAR operations in Tunisian waters.¹⁵

28/07

Official meeting between the Commander General of the Italian Guardia di Finanza and the Directors of the Tunisian Customs and National Guard, respectively Zouhair Mejri and Hassine Gharbi in Tunis.¹⁶

29/07

Official visit to Tunisia by the President of the Algerian Parliament, Ibrahim Boughali. He was received by President Kaïs Saïed, with whom he discussed the fight against "irregular" migration.¹⁷

30/07

The Tunisian Minister of the Interior is received by his Algerian counterpart Brahim Merad in Algiers. They discussed mobility between Algeria and Tunisia, further development of the border regions between the two countries, and border security management.¹⁸

09/08

Ivorian Foreign Minister Léon Kacou Adom meets Tunisian Foreign Minister Nabil Ammar,¹⁹ then President Kaïs Saïed, with whom the issue of cross-border migration flows and the presence of illegal immigrants on Tunisian soil was discussed.²⁰

21/08

The United States approve a \$110 million agreement for the purchase of patrol boats by Tunisia.²¹

22/08

The Ras Jedir border crossing between Tunisia and Libya closes again, just one month after its reopening, following a resurgence of internal tensions in Libya.²²

26/08

The humanitarian vessel Geo Barents is detained for sixty days by the Italian authorities following a rescue at sea without prior authorization from the Italian MRCC on August 23.¹⁵⁵

28/08

Tunisia receives three of the six patrol boats delivered by the Italian Guardia di Finanza under the cooperation agreement between the Ministries of the Interior of the two countries.¹⁵⁶

31/08

In August 2024, 2,898 people left Tunisia, representing an increase of 30% compared to July 2024 and a decrease of 88% compared to August 2023. Among those who departed in August 2024, 413 were disembarked in Tunisia, marking a 2% increase compared to July 2024 and a 91% decrease compared to August 2023.¹⁵⁷

08/09

82 people who departed from Zuwara, Libya, are rescued at sea by Tunisian coastguards during a search and rescue operation, before being deported back to Libya immediately afterward.¹⁵⁸

12/09

Six bodies, including that of a child under the age of 3, were found off the coast near Monastir.¹⁵⁹

14/09

Shipwreck of a boat that left the coast of Sfax with 64 Gambian nationals on board, including four women and two newborn babies.¹⁶⁰ Only four people survived.¹⁶¹

25/09

44 Gambian nationals who departed from kilometer 90 are intercepted at sea and detained at the port of Chebba for several hours before being released.¹⁶²

25/09

Matteo Piantedosi, Italian Minister of the Interior, announces that 61,515 people were intercepted by Tunisian authorities between January and the end of September 2024.¹⁶³

25/09

13 bodies of people of sub-Saharan origin are found washed up on the beaches of Salakta and Chebba.¹⁶⁴

30/09

A boat carrying at least sixty people capsized off the coast of Djerba. At least 16 people died, all Tunisian nationals, including three young children. Three days later, 12 individuals are arrested in connection with organizing the deadly crossing.¹⁶⁵

01/10

Maritime Guard units rescue 22 Tunisian citizens in distress at sea after departing from Sfax, including seven women and seven children, 25 nautical miles off the coast of Kerkennah.¹⁶⁶

04/10

62 humanitarian and human rights organizations jointly declare that Tunisia should not be considered a safe place for disembarkation for people rescued at sea, in the context of the formalization of the Tunisian search and rescue zone in June 2024.¹⁶⁷

06/10

A Tunisian citizen was found dead on the ferry Le Splendid, which operates the route between La Goulette, Tunis, and Palermo, Sicily. The man, hidden under a truck parked on board to avoid detection by the authorities, was crushed by the truck during disembarkation.¹⁶⁸

11/10

In response to an appeal filed by the humanitarian organization SOS Méditerranée against the administrative detention decision concerning the Ocean Viking vessel in February 2024, the judge of the Tribunal of Brindisi, Italy, decided to refer the decree-law 1/2023, also known as the "Piantedosi decree," to the Italian Constitutional Court. The Court will examine the constitutionality of this decree, which since its promulgation in 2023 has resulted in 25 administrative detentions of humanitarian vessels operating in the Mediterranean.¹⁶⁹

14/10

A violent interception off the coast of Mahdia involved the use of tear gas after the engine of a boat attempting to reach Italy was seized.¹⁷⁰

18/10

A boat departing from Sfax around 10 p.m. with 30 passengers capsized, leaving only 10 survivors.¹⁷¹

19/10

52 individuals of Senegalese, Gambian, and Malian nationality are stranded on the island of Roumadiya, north of Kerkennah, following an engine failure.¹⁷²

27/10

19 bodies were found on the beaches of Chebba, Salakta and Rejiche between October 25 and 27, 2024. No information has been provided regarding the age, gender, or nationalities of the deceased people, as the bodies were in an advanced state of decomposition.¹⁷³



139. Situation of Migrants in Tunisia - X (formerly Twitter)
 140. Migration: 173 Beninese migrants repatriated from Tunisia (IOM) - Anadolu Agency
 141. Twenty-three Tunisians missing when their boat sinks in the Mediterranean - InfoMigrants
 142. Tunisia: Five Tunisian smugglers sentenced to prison terms after shipwreck - InfoMigrants
 143. 59 irregular migrants intercepted by Tunisia - TAP (Tunis Afrique Presse) -
 144. German rescue group: 10 migrants found dead in Mediterranean - DW News
 145. By becoming a SAR zone, Tunisia takes another step towards controlling migratory flows - Jeune Afrique
 146. Libya is not a safe place to bring migrants : judgment - ASGI (Associazione per gli Studi Giuridici sull'Immigrazione)
 147. Source: community relays
 148. Tunisia: 38 migrants arrested after clashes with coastguards - Euractiv
 149. Source: community relays
 150. In 2023, humanitarian boats lost more than a year's worth of rescue time in the Mediterranean - InfoMigrants
 151. Italy: One year after the decree on sea rescues, NGOs between frustration and powerlessness - InfoMigrants
 152. Lampedusa: Several hundred migrants have arrived in recent days, the island's hotspot under strain - InfoMigrants (See also: ANSAMED article)
 153. SeaWatch International: Update on Migration and Sea Rescue - X (formerly Twitter)
 154. New Tunisian SAR zone: «They don't answer our calls», says an NGO at sea - InfoMigrants
 155. Rescues in the Mediterranean: The humanitarian vessel Geo Barents has been detained for an unprecedented 60 days by Rome - InfoMigrants
 156. Migrants: First three Guardia di Finanza patrol boats delivered to Tunisia - Agenzia Nova

157. Humanitarian source
 158. Humanitarian source
 159. Six bodies found off Tunisia, including that of a two-year-old child - InfoMigrant
 160. Humanitarian source
 161. Humanitarian source
 162. <https://x.com/briimijhed/status/1838937346676343058>
 163. Tunisia: 13 bodies found at sea by coastguards - InfoMigrants
 164. Twelve Tunisian migrants drown in shipwreck off Djerba - Le Monde
 165. Tunisia: 12 people arrested after Djerba shipwreck kills 15 - InfoMigrants
 166. 22 Tunisian migrants rescued off Kerkennah - Mosaïque FM
 167. Tunisia is not a place of safety - Sea-Watch
 168. Tunisian migrant dies on ferry from Tunis to Sicily - InfoMigrants
 169. The controversial Piantedosi decree before the Italian Constitutional Court - SOS Méditerranée
 170. Illegal migration operation foiled in Mahdia - Business New
 171. Tweet - Refugees in Libya update - X (formerly Twitter)
 172. Tweet - Alarm Phone update - X (formerly Twitter)
 173. Mahdia: Fifteen corpses found on various beaches - Business News

Modus operandi of violent interceptions

The practices of National Guard maritime units during interceptions documented in OMCT's previous research¹⁷⁴ are still relevant today. Several OMCT partner organizations have reported an increase of cases of boats left adrift at sea for several hours, without assistance, by the Tunisian coastguard after the engine were seized. The way in which the National Guard's maritime units stop the boats, coupled with delays or outright denial of assistance to people intercepted at sea, have directly caused deaths at sea among those attempting to reach Italy.

The United Nations has also expressed its concern over human rights violations against migrants, refugees and victims of trafficking during search and rescue operations and transfers to border areas.¹⁷⁵ Violence is not limited to interception but continues after disembarkation. People on the move disembarked at Tunisian ports are generally deprived of their freedom and placed in restricted areas for several hours, pending forced and arbitrary displacement to border areas (see section 2.2.2 on this violation), deportation or detention. They have no access to humanitarian assistance, even when suffering from advanced dehydration and malnutrition after spending several hours on the water.

The reality: The interception at sea of September 22, 2024

Departing during the night of September 21, 2024, from the coast of the Sfax region to reach Italy, a makeshift boat was intercepted by units of the Tunisian National Guard on September 22 at 10 a.m.¹⁷⁶ The coastguards seized the boat's engine and left it adrift, without assisting the 47 people, including two pregnant women aged three and seven months, and four babies. In the evening, fishing boats rescued the people in distress and disembarked them on a deserted part of the Kerkennah islands, northeast of the archipelago. Several people were in urgent need of medical assistance, while the group had no access to water or food.

A few hours later, Tunisian security forces intervened and arrested the members of the group. Brought back to Sfax, they were then deprived of their liberty, forcibly and arbitrarily relocated in the following days to Algeria and then expelled at the Tebessa border (Algeria). Their personal belongings, including phones, were reportedly confiscated by National Guard officers.

174. See *Les routes de la torture vol n°2 OMCT p61*

175. See the letter of allegation sent on October 1, 2024 to Tunisia by various mandates of the United Nations special procedures, **AL TUN 6/2024**, as well as «**Tunisia: UN experts concerned over safety of migrants, refugees, and victims of trafficking**», Office of the United Nations High Commissioner for Human Rights (OHCHR), October 2024.

176. **AlarmPhone on X**

Search and rescue operations: Tunisia is not a safe place to disembark

Coordination of search and rescue operations at sea

Coordinated rescue and response systems at sea reduce the loss of human life. The primary objective of search and rescue (SAR) is to protect life,¹⁷⁷ stemming from the fundamental obligation to assist persons in distress regardless of their nationality, status or circumstances in which they find themselves. This long-standing maritime tradition is now an obligation enshrined in international law. International maritime law¹⁷⁸ has established an international alert and response system to ensure that SAR operations are coordinated and that people in distress at sea can be rescued. Necessary provisions have been adopted to require states to provide search and rescue services (chapter 2). States parties are invited to coordinate their SAR operations and encouraged to conclude cooperation agreements (3.1.1 and 3.1.8 SAR Convention).

The primary responsibility for the coordination and cooperation lies with the state responsible for the designated search and rescue region. However, while this State does not have an absolute obligation to provide a place of safety, it does have an obligation to respect international maritime law, which stipulates that a search and rescue operation is complete once the rescued persons have disembarked at a safe location where their fundamental rights are respected and their essential needs met. The competent State must therefore avoid exposing rescued persons to additional risks to their life and freedom during disembarkation and afterwards, for example by transferring them to a place where they could be victims of human rights violations or refouled.

Place of safety for disembarkation

In international law, a place is considered safe for disembarkation if “the safety of the survivors’ lives is no longer threatened, and their basic human needs can be met”.

A safe place to disembark is therefore:

- A location where rescue operations are deemed to have been completed.¹⁷⁹
- A place where the lives of survivors are no longer threatened and where their basic human needs (such as food, shelter and medical care) can be met.¹⁸⁰
- A location from which arrangements can be made to transport survivors to their next or final destination.
- A place that complies with international human rights standards for reception and adequate assistance.

177. UNCLOS goes further, requiring each coastal State Party to «promote the establishment, operation and maintenance of an adequate and effective search and rescue service in relation to safety at and above the sea and, when circumstances so require, to cooperate to this end with neighboring States through mutual regional arrangements». Article 98, paragraph 2

178. International Convention on Maritime Search and Rescue (SAR Convention), 1979, including its 2004 amendments.

179. The expression «next port of call» / «safe harbor» is often used as a synonym for «safe haven», particularly in the media. The term does not exist in international law. The «next port of call» refers to the first port where disembarkation can reasonably be organized, guaranteeing a minimum detour of the rescue vessel. The next port of call is not always an appropriate place of safety.

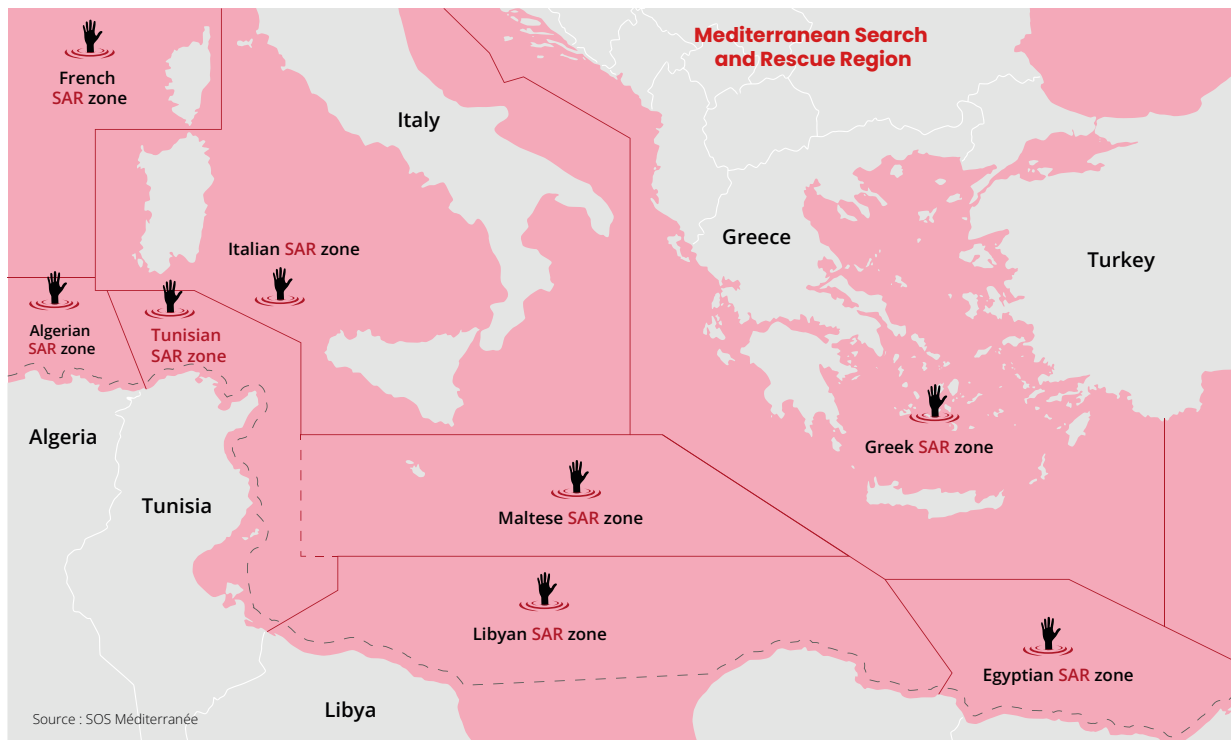
180. See appendix to the 1979 SAR Convention, 1.3.2. Other relevant provisions include: 1974 International Convention for the Safety of Life at Sea (SOLAS), 1982 United Nations Convention on the Law of the Sea (UNCLOS) and 1989 International Convention on Salvage.

Once disembarked and provided with assistance to meet their immediate needs, survivors must have effective access to appropriate migration and asylum procedures. In line with the principle of non-refoulement, states must avoid “disembarkation in territories where the lives and freedoms of persons with a well-founded fear of persecution would be threatened, which is a consideration in the case of asylum seekers and refugees recovered at sea”.¹⁸¹ People in particularly vulnerable situations (refugees and people in need of international protection, victims of human trafficking, unaccompanied or separated minors, pregnant women, survivors of torture and violence, etc.) must be supported with tailored support, including first aid and psychological assistance.

Tunisia officially established its search and rescue zone on June 19, 2024,¹⁸² formalized as part of an enhanced cooperation between Italy and Tunisia to combat irregular migration since the summer of 2023. Behind the humanitarian reasons, this new SAR zone is clearly another example of the security approach to border and migration management in the central Mediterranean. It notably covers the corridor of international waters between the Tunisian islands of Kerkennah and the Italian island of Lampedusa, where Italian authorities had previously intervened before the formalization of the Tunisian SAR zone.¹⁸³

*“The aim is to formalize the existence of a maritime space, which provides for the intervention of Tunisian vessels to carry out rescue operations and bring migrants to the nearest safe port, namely Tunisia”.*¹⁸⁴

Giorgia Meloni, Italian Prime Minister



181. See *IMO guidelines on the treatment of persons rescued at sea*, paragraph 6.12. In May 2022, a group of UN agencies issued a joint statement calling on states to consider developing the obligation to hand over persons recovered at sea to a place of safety, and to create the necessary conditions for respecting the human rights of persons rescued at sea on their territory. The concept of «place of safety» should be interpreted in the light of international law, so that when migrants and refugees are rescued at sea, international human rights and refugee law standards, as well as transnational criminal law standards, must be taken into account when identifying and deciding where they should be disembarked. See the *Joint Statement on Place of Safety* | UNHCR

182. Decree no. 2024-181 of April 5, 2024, on the organization of maritime search and rescue. On June 19, this SAR zone was officially declared to the International Maritime Organization (IMO), which subsequently recognized it. See «Creation of a Tunisian SAR zone», *Business News*, June 2024

183. «At Sea, On Land, in the Political Context: It Is Time for New Challenges», *Civil MRCC*, July 2024

184. «By becoming a SAR zone, Tunisia takes another step towards controlling migratory flows», *Jeune Afrique*, June 2024

As indicated in previous reports, the Tunisian authorities deal with those intercepted and with those rescued at sea in a similar way. The latter are often deprived of liberty immediately upon disembarkation at the port, and have no access to humanitarian aid, whatever the conditions of dehydration and malnutrition in which they find themselves, or the injuries caused by engines, fuel and/or prolonged exposure to the sun for many hours. They are also often denied contact with their relatives. The security forces' modus operandi has followed the same pattern since September 2023: no identification is carried out, and no independent assessment of international protection needs is undertaken. Consequently, OMCT reaffirms that Tunisia cannot today be considered a safe place for the disembarkation of people rescued at sea, and that such disembarkations should then be considered as illegal return in violation of the principle of non-refoulement.¹⁸⁵

“ Given the allegations of systematic violence and abuse against migrants, asylum seekers and refugees, including women and children including violations of the right to life, including in the context of interceptions at sea, we are concerned that Tunisian ports cannot be considered a safe place for people rescued at sea in terms of the obligations of the Maritime Safety Committee guidelines. ”

Letter of allegation sent on October 1, 2024, to Tunisia by various UN special procedures¹⁸⁶

The organizations consulted for this study also reported recurring inaction from the authorities in response to search and rescue requests for people at sea. The Tunisian MRCC ignored distress calls issued by several of these organizations. Besides the lack of cooperation and responsiveness, Tunisia has shown no transparency regarding the authorities in charge of maritime search and rescue, nor about its operational capacities and resources allocated to SAR operations outside its territorial waters. Consequently, at the time of finalizing this report (December 2024), OMCT considers that Tunisia is not capable of conducting SAR operations in compliance with international law.

“ Tunisia does not meet the conditions to carry out search and rescue operations and ensure the identification and protection of victims of trafficking and persons in need of international protection, upon disembarkation, in accordance with international obligations, and therefore does not meet the definition of a safe place. ”

Letter of allegation sent on October 1, 2024, to Tunisia by various UN special procedures¹⁸⁷

A threat to rescue at sea

As a result of the formalization of the Tunisian SAR zone, humanitarian vessels and search and rescue actors operating on the central Mediterranean route are now obliged to involve Tunisian authorities in rescue cases within the Tunisian SAR zone. Several humanitarian actors have reported that Italian maritime authorities are now deferring responsibility to Tunisian maritime authorities in cases of rescue within the Tunisian SAR zone. Under the implementation of Italian Decree-Law no. 1/2023,¹⁸⁸ commonly known as the Piantedosi Decree, a lack of coordination between humanitarian vessels and the maritime authorities recognized as competent for rescue at sea (in this context Tunisia) can be used to justify the detention of humanitarian vessels by the Italian judicial authorities, or even to prevent potential disembarkations in Italy of people rescued in the Tunisian SAR zone.¹⁸⁹

185. Tunisia: UN experts concerned about the safety of migrants, refugees and victims of human trafficking | OHCHR, October 2024

186. AL TUN 6/2024

187. Ibid.

188. D.L. 1/2023: Disposizioni urgenti per la gestione dei flussi migratori

189. The Council of Europe's Commissioner for Human Rights, Dunja Mijatović, had called on the Italian government to consider withdrawing or revising decree-law no. 1/2023 in view of the risks of hampering NGOs' search and rescue operations at sea. At the same time, it reiterated its call to «suspend its cooperation activities with the Libyan coastguard and to integrate human rights protection measures into future cooperation on migration» with any other state. See **Letter to Italy's Minister of the Interior**, Council of Europe, January 2023.

Identification and burial of bodies of those missing at sea

In Tunisia, the identification of deceased persons relies on the comparison of post-mortem and ante-mortem DNA databases, but such data is generally unavailable for individuals originating from sub-Saharan Africa. Despite their obligations, Tunisian authorities are not complying with the identification procedures of bodies found at sea, as evidenced by secret burials without records, preventing any future possibility of identification.¹⁹⁰ Body management is hampered by the termination of the International Committee of the Red Cross's (ICRC) operations in Tunisia, overcrowding in morgues and a lack of sufficient forensic medical resources.¹⁹¹ This situation further aggravates the anguish of families, deprives the deceased of dignified rituals and hinders justice in cases of suspicious deaths, making it impossible for families to access rights and justice through administrative and legal procedures. For more details, see section 4.1.2 Access to legal and civil documentation.

2.2.5 Sexual and gender-based violence

Humanitarian organizations providing health care and assisting women victims of violence have reported to the OMCT an increase in cases of women on the move declaring having suffered gender-based violence. From May to October 2024, these cases have included:

- Sexual assaults and rapes, in places where people on the move are concentrated (El Amra, Jderia, etc.) by Tunisian citizens or other men on the move.
- Sexual violence when crossing the border between Algeria and Tunisia, or during their migration journeys. One of OMCT's partner humanitarian organizations has confirmed receiving an increasing number of women seeking voluntary termination of unwanted pregnancies resulting from rape on their way to Tunisia.
- Sexual exploitation (see section on human trafficking below).
- Sexual violence during operations by security forces, particularly during forced displacements and deportations.

The trends and patterns of sexual and gender-based violence remain practically unchanged compared to the November 2023 - April 2024 period, as documented in OMCT's previous research on the subject.¹⁹² An organization providing medical assistance to women on the move reported to OMCT a 400% increase in beneficiaries who were victims of sexual violence during the studied period.¹⁹³ Interviews with organizations involved in disembarkation and the assessment of international protection needs in destination countries (notably Italy) reported that more and more women on the move are deciding to give their unwanted children to other families leaving Tunisia, in order to secure a future for the newborn.

190. Humanitarian source.

191. Humanitarian source.

192. See section 2.3.2 The emergence of new trends in human rights violations, page 68 in «Torture Routes Vol. 2» Torture Routes Vol. 2, OMCT.

193. From April to September 2024, 75% of this organization's beneficiaries were women, and 54% of health requests concerned pregnancy and family planning.

2.2.6 Trafficking in human beings

According to the organizations consulted for this study, human trafficking remains a frequent violation to which people on the move residing in or transiting through Tunisia are exposed. Over the period May-October 2024, it mainly took the form of:

- Kidnappings for ransom. Several organizations providing assistance to victims of trafficking reported an increase in the number of cases handled for kidnapping since May 2024, particularly in Sfax. As in the previous period, these kidnappings are accompanied by high-intensity violence, including acts of torture and sexual violence.
- Sexual exploitation, through abduction or forced prostitution.
- Exploitation through labor, especially domestic labor.

The modus operandi and the nature of the networks responsible for these acts are detailed in OMCT's previous research on the subject.¹⁹⁴

194. See section 2.3.2 The emergence of new trends in human rights violations, page 69 in «Torture Routes Vol. 2» Torture Routes Vol. 2, OMCT.

3. A SHRINKING CIVIC SPACE

Civil society actors - both national and international - play a crucial role in supporting state authorities to meet their international obligations to protect and promote the rights of all persons residing on Tunisian territory, ensuring no one is "left behind",¹⁹⁵ through a wide range of interventions.

Types of intervention for people on the move in Tunisia¹⁹⁶

- Access to the right to identity and international protection;
- Legal aid and assistance;
- Protection and management of vulnerable persons;
- Assistance - including humanitarian, medical, psycho-social and accommodation assistance;
- Social cohesion and integration;
- Research, documentation and advocacy;
- Coordination and partnerships.

This section focuses on the restrictions encountered by human rights defenders and civil society organizations assisting and defending the rights of people on the move in Tunisia between October 2022 and October 2024 and the impact of these restrictions on their activities and on people on the move, focusing specifically on the period May - October 2024. The analysis does not address the restrictions experienced by other civil society actors working in other sectors or by other segments of the population or other vulnerable communities - though it is essential to highlight that several civil society organizations assisting and promoting the rights of people on the move have mandates that go beyond migration.

Several inherent limitations in documenting this topic hinder exhaustive and complete reporting on restrictions on civic space in Tunisia. The lack of communication surrounding preliminary investigations and restrictive measures, such as administrative profiling, deprives of a clear picture of the number of individuals and organizations targeted. The pervasive climate of control drives some civil society organizations to avoid publicizing their situation or the targeting they experience, for fear of reprisals. In addition, there is under-documentation of criminalized defenders assisting people on the move, particularly in border regions, where human rights organizations are less present.

195. «Leave no one behind - The principle of leaving no one behind», United Nations Sustainable Development Group (UNSDG)

196. OMCT has carried out an initial mapping of the responses provided by civil society actors and UN agencies assisting people on the move residing/transiting Tunisia in June 2023, and has organized assistance across different sectors. The same logic has been used in this section. See: «Mapping responses to human rights violations - People in mixed migratory flows in Tunisia», June 2023.

What is a human rights defender?

International framework

International law defines human rights defenders (HRDs) as individuals or groups who act to “promote the protection and realization of human rights and fundamental freedoms”. While article 12 of the 1998 Declaration on Human Rights Defenders, adopted by the General Assembly in resolution 53/144, states that everyone has the right to “engage in peaceful activities against violations of human rights and fundamental freedoms”.¹⁹⁷ A peaceful action may be deemed illegal under national law while remaining lawful under international law.

Defenders are primarily defined by their activities to protect human rights and can encompass a variety of profiles. For example, the United Nations Special Rapporteur on Human Rights Defenders considers that defenders of the rights of people on the move can be people on the move themselves, members of non-governmental organizations, but also “lawyers, judges and academics, government officials, civil servants, members of the private sector or whistleblowers”.¹⁹⁸

Human rights defenders should be able to document human rights violations, express their concerns and advocate for the rights of people on the move and the obligation to fight impunity. The work of these defenders of the rights of people on the move should be respected, supported and protected by national authorities, and not criminalized.

What is civic space?

According to the Office of the United Nations High Commissioner for Human Rights, civic space is the environment that allows civil society to play a role in the political, economic and social life of our societies.¹⁹⁹ More specifically, civic space enables individuals and groups to contribute to the development of policies that affect their lives, notably by:

- Accessing information;
- Engaging in dialogue;
- Expressing dissent;
- Uniting to voice their opinion.

What does Tunisian law say?

Tunisia currently has a complex legislative and regulatory framework that does not establish a specific regime for associative work in humanitarian or human rights matters, nor does it guarantee the freedom of individuals to defend human rights outside an associative framework. Decree-law n°2011-88 is the fundamental text governing freedom of association, and more specifically the creation and organization of associations in Tunisia. This law guarantees freedom of association while laying down precise rules for their creation, registration, operation and dissolution. It has been criticized for its undue interpretation by the authorities, especially concerning registration procedures for associations or the excessive application of transparency obligations and administrative control.

197. General Assembly resolution **A/RES/53/144** adopting the Declaration on Human Rights Defenders.

198. **A/HRC/37/51**

199. According to the OECD, «a set of legal, political, institutional and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organize and participate in public life».

Associations in Tunisia are also subject to Organic Law No. 2015-26 of August 7, 2015, amended by Organic Law No. 2019-9 on combating terrorism and money laundering. Article 99 sets up prudential management rules, Article 100 imposes accounting and financial obligations, while Article 102 requires prior authorization for foreign funds intended for associations suspected of infractions under Article 99. Article 106 allows for external audits upon judicial request in case of suspected violations, and Article 107 obliges banks to apply enhanced due diligence measures to foreign funding. These measures aim to strengthen the prevention of illicit activities and impose strict financial controls on associations.

In terms of accounting obligations, associations are also governed by law no. 96-112 of December 30, 1996, relating to the corporate accounting system, based on the decree by the Minister of Finance dated February 13, 2018, which approves the accounting standards applicable to associations, political parties, and other non-profit organizations.²⁰⁰ Associations are thus required to adhere to demanding financial management standards despite their non-profit nature and specific legal status. Article 7 of Law n°2018-52 of October 29, 2018, on the national register of companies (RNE) stipulates that associations and networks of associations must be registered in the RNE.

The right to peaceful assembly is governed by law no. 69-4 of January 24, 1969, regulating public meetings, processions, parades, demonstrations and gatherings. Decree no. 78-50 of January 26, 1978, regulating the state of emergency and has been systematically renewed since 2014, imposes several restrictions on public freedoms, including the freedom of assembly and freedom of expression, allowing authorities to bypass certain procedural guarantees.

Legislative initiatives and reform projects could further restrict freedom of association by extending the administration's discretionary powers, setting unreasonable standards for controlling access to foreign funding and activities. A draft law to reform Decree-Law No. 2011-88 is currently under consideration by the Parliamentary Committee on Rights and Freedoms of the Assembly of People's Representatives (ARP). Additionally, a proposed law exclusively targeting foreign funding was submitted in October 2023.²⁰¹ It provides for prior administrative authorization for any foreign funding, without clarifying the required conditions or grounds for a possible refusal, while allowing the state authorities to revoke foreign organizations at any time through a simple administrative decision.²⁰²

200. Order of the Minister of Finance of February 13, 2018, approving the accounting standard for associations, political parties and other non-profit organizations.

201. En Tunisie, un projet de loi sur les associations pour réduire encore un peu plus la liberté d'expression», Le Monde, May 2024.

202. See Commentary on the proposed law reforming Decree 2011-88, OMCT, October 2023.

3.1 A SHRINKING CIVIC SPACE: CIVIL SOCIETY ORGANIZATIONS AND HUMAN RIGHTS DEFENDERS FACING EXISTENTIAL THREATS AND POLICE SURVEILLANCE

This section provides an overview of the typology and nature of restrictive measures documented by OMCT and its partners against human rights defenders and members of civil society organizations working to protect and promote the rights of people on the move. Out of thirty civil society organizations working for the protection of the rights of people on the move on which OMCT's data collection is based, from May to October 2024:

- At least sixteen were subjected to financial and administrative controls, including summons and requests for documents from the *Brigade des investigations et de la lutte contre l'évasion fiscale* (BILEF)²⁰³ at the Ministry of Finance and letters from the *Direction Générale des Associations* (DGA) at the Presidency of the Government.²⁰⁴
- Nine organizations have reported having suffered restrictions on access to their bank accounts, going as far as freezing the accounts for three of them, with or without grounds, through a court decision.²⁰⁵
- Fourteen organizations reported having suffered some form of police harassment, and eleven of these had been subjected to unannounced police visits involving checks on activities and/or team members.
- Eight organizations were under investigation with their members accused of offenses, while staff or former staff of eight other organizations have been summoned as witnesses.
- Nine organizations have had one or more of their members taken into police custody following a hearing and held in pretrial detention related to their activities. The most frequent charge is money laundering (eight organizations). Currently, eight members or former members of civil society organizations are still in pretrial detention.
- Fourteen organizations have partially suspended and/or reoriented their activities, while five have suspended their activities altogether.

203. «Le renforcement des capacités fiscales au service de la mobilisation des ressources intérieures en Tunisie», OECD

204. The checks carried out by the Directorate General for Associations have not been limited to organizations working or having worked on migration, but have also involved organizations working on free elections, the rights of sexual minorities, environmental protection, economic and social rights, and so on.

205. Four other civil society organizations not working to defend and protect the rights of people on the move reported having had their accounts and assets frozen.

3.1.1 Legal proceedings

At the time of finalizing this report, at least thirty members or ex-members of Tunisian civil society organizations were reportedly being prosecuted based on the following charges:

- Money laundering *under Law No. 2015-26 of August 7, 2015, relating to the fight against terrorism and money laundering*²⁰⁶ *as amended by Fundamental Law No. 2019-09 of January 23, 2019, Articles: 92, 93, 94, 95, 96, 97.*²⁰⁷
- Tax offenses *under law n°2000-82 of August 9, 2000, promulgating the Tax Code and related procedures.*
- Misconduct in public administration to obtain benefits for oneself or others *under the Penal Code, articles 96 and 98.*
- Dissemination of false information or commission of cybercrimes under Articles 85 and 86 of the *Telecommunications Code and Article 24 of Decree 54.*
- Facilitating the illegal entry of persons into Tunisia or their illegal exit from Tunisia and providing a place to shelter and hide them *under law no. 40 of 1975, dated May 14, 1975, relating to passports and travel documents. Articles: 38, 39, 40, 41, 42, 43.*
- Deliberately assisting a foreigner to enter or leave Tunisia illegally *under law no. 7 of 1968, dated March 8, 1968, relating to the status of foreigners in Tunisia, article 25.*
- Forming a coalition to commit crimes by exploiting one's position or authority to prepare, plan, or execute these crimes, *under the penal code, articles 131, 132.*
- Human trafficking *under the Organic Law No. 2016-61 of August 3, 2016, on preventing and combating human trafficking.*
- Conspiracy against the internal and external security of the State *under Chapters I and II respectively of Book II of the Criminal Code.*

Those accused were arrested, taken into police custody and remained in custody afterwards. In some cases, their property and bank accounts were frozen. Several people interviewed by OMCT testified that they had been unable to obtain precise information on the facts under investigation while in police custody.

Accused organizations were closed down, their assets and premises seized, and their accounts frozen as part of judicial investigations and/or during the investigation phase.

“ With these preliminary investigations, authorities are casting a wide net until they find the slightest error “ .

declares an official from a human rights organization.

206. Organic law no. 2015-26 on the fight against terrorism and the suppression of money laundering defines as a terrorist offense the fact of committing by any means whatsoever, «intentionally, inside or outside the Republic, the apology, in a public and express manner, of a terrorist offense, its perpetrators, an organization, an agreement, its members, its activities or its opinions and ideas related to these terrorist offenses» (article 31) (Republic of Tunisia, 2015). Penalties for these acts range from one to five years' imprisonment and fines of 5,000 to 20,000 TND.

207. While a number of cases have been referred back and forth between different brigades and judicial divisions, the Gorjani Judicial Police brigade, whose remit is set out in Organic Law no. 2016-77 of December 6, 2016, on the Economic and Financial Judicial Division, remains the main unit responsible for investigating associations and their members on this charge.

3.1.2 Tighter financial controls targeting civil society

Audit and financial control

According to the interviews conducted for this study, since the beginning of the year (2024), Tunisian authorities have launched rigorous audits of Tunisian associations and associations based in Tunisia. The approach is twofold:

- **Ministry of Finance, General Directorate of Taxes (DGI)**

The DGI has summoned several non-governmental organizations to the BILEF,²⁰⁸ a criminal police unit specialized in investigating tax evasion, asking them to provide a broad range of documents (including account registers, financial balance sheets, employment contracts, donor lists, donor information and others) covering periods of up to ten years back. At this stage, requests are limited to administrative and financial controls of the organizations targeted²⁰⁹ Such procedures may fall under preliminary investigations, which could later lead to legal prosecutions.

Several organization leaders have been summoned to appear before the police and the National Guard to present these documents. Failure to comply with the procedures laid down in the law poses a risk of violation of procedural guarantees. For example, several association members reported being summoned without being informed of the grounds for the summons or their legal status (accused, witness, etc.). For some organizations, the submission of documents was accompanied by interrogations lasting several hours, covering past and present activities, mandate and sources of funding.²¹⁰ For some organizations, the submission of documents was followed by a request for further documentation in October 2024. Several Tunisian civil society organizations reported having difficulties with this type of control due to extremely short deadlines (less than eight days in some cases) and the multitude of documents requested, while they often do not have sufficient capacity and human resources in accounting and financial management.

- **General Secretary to the Government, General Directorate for Associations (DGA)**

In parallel, several organizations received a letter of formal notice from the DGA, which is attached to the General Secretariat of the Presidency of the Government. In accordance with articles 40-44 of decree-law no. 2011-88 concerning associations, this formal notice follows an alleged finding of a violation of the above provisions and requests the organization to ensure compliance. This formal notice serves as a first step before a possible suspension of the association's activities or even its dissolution by a court.²¹¹

In November 2024, the Presidency of the Government issued a official statement with a list of 476 associations dissolved since 2014.²¹²

208. The BILEF is a unit in charge of investigating and combating tax evasion, with the task of investigating criminal tax offences and gathering evidence. Its remit is detailed in article 80 of the Code of Tax Rights and Procedures.

209. A priori on the basis of Organic Law no. 2019-9 of January 23, 2019, art. 99 and 100. Article 106 of Law no. 2015-26 of August 7, 2015 on the fight against terrorism and the prevention of money laundering could also be used. Art. 106 - The President of the territorially competent Court of First Instance may order to submit, the legal entity constituted in the form of an association or non-profit organization suspected of having links with persons or organizations or activities related to the offences provided for by this law, or which violates the rules of prudential management, as defined in Article 99 of this law or the rules governing their financing or the keeping of their accounts, to an external audit carried out by one or more of specialized experts appointed by order on request, at the request of the Minister in charge of finance.

210. According to several interviews with the organizations concerned, these interrogations took place informally when documents were submitted, without any official investigation or official summons, and without any record of the interrogation being produced.

211. Art. 45 - For any breach of the provisions of articles 3, 4, 8 secondly, 9, 10 secondly, 16, 17, 18, 19, 27, 33 secondly and fourthly, 35, 37 firstly, 38 firstly, 39 firstly, 40 fourthly, 41, 42, 43 and 44, the association shall incur sanctions in accordance with the following procedures. First: Formal notice: The Secretary General of the Government establishes the violations committed and gives formal notice to the association of the need to remedy it within a period not exceeding thirty (30) days from the date of notification of the formal notice. Secondly: Suspension of the association's activities: If the violation has not ceased within the period mentioned in the first paragraph of this article, the President of the Tunis Court of First Instance, by order upon request presented by the Secretary General of the Government, shall suspend the association's activities for a period not exceeding thirty (30) days. The association may lodge an appeal against the decision to suspend activities in accordance with the summary proceedings procedures. Thirdly: Dissolution: This is pronounced by a judgment of the Tunis Court of First Instance at the request of the Secretary General of the Government or any other interested party, in the event that the association has not ceased its infringement despite formal notice, suspension of its activities and exhaustion of the remedies available against the decision to suspend its activities. Legal proceedings relating to the dissolution of the association and the liquidation of its assets are governed by the provisions of the Code of Civil and Commercial Procedures.

212. «In order to guarantee the transparency of relations between associations and all parties, including their clients and public bodies, and to ensure that associations fulfil all their obligations, the General Directorate of Associations and Political Parties hereby publishes a list of automatically dissolved associations within the meaning of the provisions of Article 33 of Legislative Decree No. 2011-88, most of which have not completed the procedures relating to the organization of associations. Any interested party may object to the inclusion of an association on the said list no later than fifteen (15) days from the date of publication of this notice to the public, by means of a letter addressed to the Presidency of the Government. It should be noted that associations registered on the said list are not thereby released from the legal obligations incumbent upon them.»

Freezing of assets

“ Freezing funds immobilizes civil society without dissolving associations or arresting its members, so the political cost is low. ”

says an official of an international NGO present in Tunisia.

This freezing of accounts takes place alternately:

- As part of legal proceedings under the Anti-Money Laundering Act;²¹³
- As part of a dissolution procedure based on Legislative Decree no. 2011-88;
- As part of the registration procedure with the Régie Nationale des Entreprises (RNE), until the association is in compliance with the legislation. Registering with the RNE is a complex process for associations that do not manage their accounts in the same way as a private company. Failure to register means that access to bank accounts is blocked.

Controlling money transfers from abroad and closing foreign currency accounts

Following the adoption of circulars by the Tunisian Central Bank (BCT)²¹⁴ requiring authorized intermediaries (mainly banks) to regularly notify transfers from abroad to associations, several international non-governmental organizations have reported an increase in requests for documents from their banks. In addition, all associations were required to close their foreign currency accounts at the request of Tunisian banks.

Anti-terrorism and anti-money laundering legislation²¹⁵ provides for tighter controls by banks on financial movements to or from associations' bank accounts (transfers, withdrawals, money orders, funding received). Since the spring of 2024, bank controls have multiplied (whereas they were rare or did not create significant disruptions prior to 2024). According to OMCT's research, these controls have led to significant delays in the payment of salaries (up to three months) for some organizations. Other organizations reported delays of more than a month and a half in accessing funds from transfers received from the organizations' headquarters or from donors. In addition, bank requirements for checking project contracts and other supporting documents for disbursement of funds were also reportedly tightened.

213. The freezing of accounts on the basis of a judicial order and that the decision to freeze assets is pronounced by the public prosecutor of the court of appeal on the basis of article 133 of the law relating to the fight against money laundering «The public prosecutor at the Tunis court of appeal may, even in the absence of a report concerning a suspicious operation or transaction, request the president of the Tunis court of first instance to issue a decision to freeze assets».

214. Circulars 2024-7 and 2024-13 Circular from the Tunisian Central Bank (BCT) dated March 11, 2024, establishing that authorized intermediaries are now required to declare to the BCT all financial transfers from abroad to legal entities in the form of associations or non-profit organizations. The BCT published a new circular on October 29, repealing article 2 of circular no. 2024-07 of March 11, 2024. Authorized intermediaries are now required to report monthly to the Central Bank of Tunisia, via the Data Exchange System (SED), the list of transfers from abroad to non-profit associations or organizations, in accordance with the registration drawing appended to the new circular and the reporting guide downloadable from this system. Approved intermediaries must comply with the declaration procedure set out in article 2 (new) of the circular as from the declaration for December 2024.

215. Under Tunisian law, according to Article 7 of Law No. 2015-26 of August 7, 2015 relating to the fight against terrorism and the prevention of money laundering, «the persons named below, must, each within the limits of the field of his competence and the standards of his profession, take the necessary measures of diligence towards their customers: banks and financial institutions, [...]». See also Art. 108. The international legal framework for combating money laundering in the non-profit sector is based on standards such as those of the Financial Action Task Force (FATF), which require transparency and traceability of financial flows. Because of the risk of misappropriation, associations should be subject to mechanisms such as the declaration of foreign funds and audits, in accordance with the Palermo Convention against Transnational Organized Crime and UN resolutions on the financing of terrorism.

Restrictions on access to foreign funding

Since February 2023, foreign donor funding received by civil society organizations active in Tunisia has been used by high-profile politicians and other media personalities to discredit certain civil society actors through conspiracy rhetoric, labelling them as “traitors” and “foreign agents”.

In practice, this rhetoric goes hand in hand with a hostile environment for receiving foreign funding. Several local organizations in the south and west of Tunisia reported being subjected to compulsory consultation with authorities before applying for foreign project grants. While this type of upstream control is not yet widespread, it does represent a risk that more isolated local organizations will gradually be placed under informal oversight. On the other hand, the authorities are likely to intervene increasingly, even in management procedures, and to exercise tighter financial control over projects co-financed by public entities.

3.1.3 Police control and intimidation practices

Several organizations consulted for this study reported to OMCT daily police surveillance and intimidation practices.²¹⁶ These practices take the form of:

- Phone calls from police officers, National Guard, border control officials, or representatives from the governorate or Ministry of the Interior, for some association leaders on their personal phones, inquiring about their activities or asking for explanations for their presence in certain areas;
- Impromptu visits to associations’ premises, without a warrant;
- Interruptions of activities and workshops, coupled with participants’ identity checks and scrutiny of activity content by police officers;
- Bans on activities, such as targeting an association at the community level providing education to people on the move, or police officers reportedly calling organizers before workshops held at a university;
- An informal obligation imposed on various organizations to inform authorities in case of hosting foreign nationals on their premises.
- Identity checks when travelling in areas where people on the move are concentrated, followed by arrests by police or National Guard officers and interrogations at police stations.

216. Police surveillance and harassment of human rights organizations by state agents, including police officers, as well as the lack of protection and access to justice following acts of violence committed by Tunisian citizens against human rights defenders, also affect organizations working on issues other than migration. See Special Communication **AL TUN 3/2024** by the United Nations Special Rapporteur on human rights defenders on the harassment of organizations defending the LGBTQIA+ community. Nevertheless, the analysis contained in this study focuses only on police surveillance of organizations working to defend the rights of people on the move.

3.2 THE RIFT BETWEEN CIVIL SOCIETY AND PUBLIC OPINION

“ Every time there is a crisis, the threats on social networks start up again ”

says an executive of a human rights organization who has suffered several months of online harassment.

As documented by OMCT's previous research, the Government has repeatedly and publicly discredited Tunisian and international civil society organizations. Hate speech targeting these organizations began appearing on social networks in Tunisia at the end of 2022 and intensified following a systematic harassment campaign against associations identified as defending the rights of people on the move from Sub-Saharan African countries. This campaign was attributed to groups close to the Tunisian Nationalist Party (PNT) in 2023, following the President's speech on February 21, 2023.²¹⁷

For example, several representatives of civil society organizations assisting people on the move reported to OMCT that they have been the target of online harassment campaigns. Harassment campaigns, as documented by OMCT for this research, take the form of:

- Publication of personal photos of association members on social networks (Tiktok and Facebook) accompanied by conspiracy theories, hate messages and threats of physical assault or even death;
- Harassment and threats via private messages on social networks;
- Hate comment campaigns targeting associations' online public pages;
- Malicious phone calls and threats to organization headquarters and/or association members' personal phones;
- Media interventions by public personalities, politicians and journalists directly or implicitly citing and criticizing certain organizations;
- Petitions from neighbors demanding the closure of associations hosting beneficiaries on their premises.

A human rights organization targeted by an online harassment campaign since February 2023 testified to OMCT that it had filed several complaints for harassment in 2023 but was never summoned or informed of the opening of a judicial investigation.

At the time of finalizing this report, hate speech targeting civil society is more widespread, and continues to use the same rhetorical elements (“traitorss”, “agents of foreigners”, “foreign lobbies”) and the theory of a demographic “great replacements”, feeding the idea of a seditious threat embodied by people on the move and their defenders. This demonization of associations through official discourse, feeding online harassment campaigns against associations and their members, has created a clear divide between public opinion and civil society, further accentuating the shrinking of Tunisia's civic space.

217. In Tunisia, President Kais Saïed attacks sub-Saharan migrants, Le Monde, February 2023

3.3 SPECIFIC CHALLENGES AND IMPACTS BY SECTOR OF INTERVENTION

After analyzing the nature and typology of restrictive measures, this section provides an overview of the impact of these measures on the activities (assistance, advocacy, coordination and partnership) of targeted actors in the different sectors of intervention (right to legal identity and access to international protection, access to legal aid, protection, assistance, including accommodation and health services, among others).

3.3.1 Right to identity and access to international protection

Suspension of pre-registration, registration of asylum applications and refugee status determination

Identification and pre-registration play a fundamental role in the initial assessment of people on the move, their profiles and their needs in terms of international protection. Registration is a key step that formalizes the asylum claim and enables the issuance of temporary identity documents and is crucial for applicants' access to essential services and legal protection. Refugee status determination (RSD) is essential to allow applicants to formally access international protection and obtain a durable solution (refugee status and eventually resettlement, integration, or assistance to return and reintegration for rejected claimants). The impact of the suspension of these activities on people on the move is discussed in section 4.1 of this report.

The suspension of identification and pre-registration procedures in May 2024, followed by the suspension of registration and refugee status determination in June 2024, in violation of Tunisia's constitutional and international obligations, has direct consequences:

- **Issuance of international protection status:** See section 4.1.
- **Identification and profiling:** Relevant actors (state, international and national civil society) are no longer able to identify people on the move present on Tunisian territory, or to assess their needs in terms of international protection. This significantly impacts the ability of all actors to update profiles and trends of individuals on the move (monthly entries into Tunisia, age, nationality, gender, country of origin, human rights violations suffered), their protection needs as well as to plan and to implement a sound management of resource, and aid coordination.
- **Protection:** Relevant actors (state, international and national civil society) can no longer quickly identify high-risk individuals, such as unaccompanied minors, pregnant women, victims of violence or sick people, and carry out quality referrals of cases within a reasonable timeframe. Without pre-registration and registration, these people do not receive the necessary assistance in a timely manner, exacerbating their situation of vulnerability.
- **Security risks:** Without continuous identification and profiling of people on the move, including those eligible for international protection, carried out by agencies mandated to do so on Tunisian territory, authorities may face increased difficulties in managing borders and controlling organized crime networks. On the other hand, delays in processing cases and the dashed hopes of people in need of international protection waiting to apply for asylum fuel social tensions, forging a sense of despair and frustration among unregistered asylum seekers.

3.3.2 Legal aid and access to justice

In May 2024, the main non-governmental organization providing legal aid to people on the move, including access to legal documentation, legal representation in Tunisian courts, and shelter assistance to the most vulnerable, had to cease its activities permanently following the opening of legal proceedings against several of its leaders and/or former leaders. The organization was also one of the main partners of UN agencies for the legal representation of children on the move in both administrative and legal proceedings. As a result, the cessation of its activities and the termination of referrals to this organization last year created a significant void in legal aid for people on the move, particularly for those appearing before judges in administrative or criminal courts.

Access to people on the move held in pretrial detention remains a major challenge, as documented by the OMCT in its previous research. For example, several organizations providing legal aid to people on the move in custody reported the persistence of refusals from the police and penitentiary administration to provide information about their beneficiaries held in police custody or pretrial detention. Missing or misspelled names, or names poorly transcribed into Arabic in court and prison records, prevent lawyers from accessing these individuals.

A local organization offering holistic assistance to people on the move reported to OMCT on the closure of its operational space with the authorities, including in terms of emergency legal aid. As a result, since May 2024, any attempt to negotiate informally with police or National Guard officers to obtain the release of young people on the move assisted by this association has been impossible.

3.3.3 Protection and management of vulnerable persons

Beneficiaries followed by several civil society organizations have found themselves without assistance or follow-up since the definitive suspension of their activities in May 2024, despite their vulnerability and specific needs. The suspension of the activities of several partner organizations of the UN agencies affects direct assistance, in particular direct cash assistance for the most vulnerable. It also means that new caseloads of people in urgent need of protection are not dealt with, as the organizations that suspended their activities used to play a fundamental role in case management and referral to other CSO specializing in different types of legal and humanitarian assistance. A local association with no systems for identifying people in need of assistance reported to OMCT that the number of its beneficiaries had dropped, as referrals to its services have been virtually non-existent since May 2024.

The follow-up on missing or deported persons is compromised, making it more difficult to restore family ties in this context of uncertainty.

Also, the suspension of pre-registration of asylum seekers has a direct impact on the management and monitoring of protection cases, particularly for children on the move, including unaccompanied minors and victims of gender-based violence. This situation exposes the most vulnerable individuals to high risks. The suspension of refugee status determination (RSD) places a considerable burden on UNHCR, leading to a backlog of cases awaiting processing and preventing the identification of durable solutions. This generates increased pressure on case management and risks overburdening Tunisian authorities when they will restart the process, thus compromising the effectiveness of a future state-run asylum system.

3.3.4 Assistance

Access to beneficiaries

All the humanitarian organizations consulted confirmed a complete blockade of access to areas of concentration of people on the move, as well as to border areas where emergency humanitarian assistance is often needed. Meanwhile, the reception of people on the move is compromised in a context of criminalization of assistance.

Interventions in areas where people on the move are concentrated

Several humanitarian organizations reported to OMCT the impossibility of directly intervening on the ground in areas where people on the move are concentrated, such as the informal settlements of El Amra, despite exponential needs in terms of water, food and health (including sexual and reproductive health and epidemic prevention). As documented in OMCT's previous research, the Tunisian Red Crescent (TRC) remains the only interface for humanitarian organizations and continues to hold a de facto near-monopoly on emergency humanitarian assistance in areas of concentration of people on the move, such as around Sfax since its designation by the State in July 2023 as the actor in charge of coordinating crisis assistance. However, the Red Crescent has not fully assumed this responsibility, leaving a significant gap in the coordination of humanitarian services, contributing to an impasse for other humanitarian organizations.

At the time of finalizing this report (December 2024), the Tunisian authorities have either refused to authorize humanitarian field interventions by non-governmental organizations in El Amra since September 2023 or left requests unanswered. The denial of access to the field compromises even simple needs assessments to tailor an appropriate humanitarian response.

Therefore, several organizations and activists have reported that they limit themselves to ad hoc forms of assistance, informally and without notifying the authorities, for some of the most urgent cases. This kind of intervention entails high risks for those providing assistance.

By October 2024, only one large-scale humanitarian operation had taken place in El Amra since July 2023, in the form of a food caravan and hygiene kits distribution, organized by several UN agencies. On the other hand, the communities with which CSOs and international organizations previously collaborated have dispersed or ceased to exist, as a direct consequence of the security policy of forced displacement and destruction of informal settlements of people on the move since September 2024. This lack of community structure further complicates the implementation of humanitarian aid and support programs.

Operations in border areas

The very policy of forced displacements to the Algerian border in remote areas and/or subjected to access restrictions linked to a status of "military operation zones" and "closed military operation zones" under the anti-terrorism framework²¹⁸ impedes urgent humanitarian assistance by conditioning it on prior authorization from security forces. Other border areas with Libya are subject to the same type of access restrictions.²¹⁹ This limited access comes with extensive prerogatives for security forces, and the risk of arrest on criminal charges is high, thus discouraging assistance initiatives.

218. Presidential Decree No. 2015-120 of July 6, 2015, proclaiming areas of military operations and closed areas of military operations.

219. These zones were created in 2013, by Republican Decree no. 2013-230 of August 29, 2013, proclaiming a border buffer zone, extended by Decree no. 2024-481 of September 13, 2024. Access to these zones is very limited and subject to authorization by the Governor concerned, and they are placed under the control of the Tunisian armed forces.

Assistance actors are therefore currently unable to intervene in certain underserved and marginalized areas such as border zones because of forced internal and arbitrary displacement. With a limited presence of civil society organizations in these border regions, the first challenge for humanitarian and human rights organizations is to be informed and to succeed in locating groups of people on the move stranded in these remote and inhospitable areas, who have no access to basic needs and are often in urgent need of care. Organizations are then required to negotiate access to these areas with the authorities to locate people on the move and advocate for emergency humanitarian evacuation. These negotiations are very rare and generally unsuccessful.

Even in areas that are theoretically accessible, such as the southwest of Tunisia in the south of Tozeur, or in areas further from the borders but near Tunisian localities, the OMCT has documented the setting up of police roadblocks on local road networks during several episodes of forced displacement to prevent any emergency assistance to groups identified by activists.

Reception of beneficiaries on the premises

“ Our office is no longer a safe space for our beneficiaries ”
says a representative of a human rights organization in the Tunisian Sahel.

More than a third of the organizations consulted reported having had to temporarily suspend physical reception and/or reduce the number of beneficiaries hosted on their premises since May 2024 as a precautionary measure to protect teams and beneficiaries from further restrictions by the authorities, as well as to render the assistance provided to people on the move less visible. In Médenine, Sfax, Sousse, Zarzis and Tunis, most organizations, whether local, national or international, decided to cease group activities.

In Sfax since the summer of 2023, residents of the informal settlements of El Amra have increasingly difficult access to assistance (such as medical consultations) in the premises of associations. According to testimonies collected by OMCT, a policy of denying access to downtown Sfax for people on the move and originating from sub-Saharan African countries has been put in place by the authorities, with arbitrary arrests followed by forced return to the informal settlements of El Amra.

The suspension of the reception of people on the move has a major impact on needs assessments and the calibration of medical, food and social assistance, etc. A manager of a local organization in the Médenine governorate shared concerns with the OMCT that many vulnerable individuals requiring assistance, but unable to be received on-site, may «fall through the cracks» of the assistance system. Reliance on community networks becomes even more critical for urgent referrals, given the complexity of establishing trust and working relationships with community leaders for organizations assisting people on the move. In certain urgent cases, particularly medical assistance, support is provided at home, but logistical and security constraints severely limit any off-site interventions.

The inability to operate on the ground and the reduction or even suspension of the physical reception of beneficiaries has a severe impact on the quality and volume of humanitarian assistance provided and fueling an explosion in the need for humanitarian assistance.

3.3.5 Housing

The two main civil society organizations providing housing solutions for migrants, refugees and asylum seekers in Tunisia outside IOM and UNHCR had to suspend their activities in May 2024, rendering access to emergency shelters extremely limited.

The definitive closure of UNHCR's main implementing partner, the Tunisian Council for Refugees (TRC), to which the UN agency had assigned the management of some shelters and the activities linked to pre-registration of asylum seekers, has put additional pressure on UNHCR and its shelters, which were already operating with limited capacity and were insufficient to meet the growing needs of people under international protection. UNHCR had to take over the direct management of the shelters run by its partner, resulting in significant additional costs and logistical challenges.

At the same time, the definitive cessation of the activities of the Terre d'Asile Tunisie association (TAT) has created a gap in the housing solutions available for the most vulnerable among people on the move. With the closure of shelters and other housing solutions provided in the past, national and international civil society organizations find themselves unable to refer cases of vulnerable beneficiaries for emergency accommodation, while those accommodated before the suspension in May 2024 find themselves without a solution.

The consequences, namely the lack of housing solutions for vulnerable people and the resulting permanent insecurity of occupation, are discussed in section 4.2 of this report.

3.3.6 Social cohesion and integration

“ All the work accomplished over the years in terms of social cohesion, community initiatives and peacebuilding has been brutally interrupted ”
says the head of an international organization

All the organizations consulted for this study confirmed the suspension of integration and social cohesion activities with people on the move.

In the context of reduced operational space, the majority of organizations consulted for this study confirmed that they had to stop holding group activities, such as vocational training workshops (or had to limit them to Tunisian beneficiaries only), language courses and other types of socio-economic integration and social cohesion-building activities.

Meanwhile, several organizations reported ceasing job searches with employers in the informal sector as part of financial empowerment and integration projects for people on the move since May 2024, as well as visits to schools and youth centers to integrate minors on the move in the educational system, to avoid drawing the attention of authorities.

As a result, more and more Tunisian civil society organizations are limiting their mandates and excluding the defense of people on the move from their scope of action, instead refocusing their socio-economic integration activities exclusively on Tunisian nationals.

3.3.7 Research, documentation and advocacy

Documentation hampered by the inability to access people on the move

Several organizations interviewed for this study reported, since May 2024, experiencing significant difficulties in conducting effective monitoring and compiling comprehensive documentation on the human rights situation of people on the move.

Since May 2024, the organizations consulted confirmed that the inability to access areas where people on the move are concentrated has had an impact on their ability to conduct quality monitoring of living conditions and respect for the rights of people on the move. This has compromised the establishment of community networks aimed at building trust with people on the move and maintaining long-term contact, which is a critical issue in human rights research.

“ What was done before spring 2024 in terms of research has become impossible: now we are afraid because anything can happen to us ”

says a researcher from a human rights organization operating in Tunisia

In the meantime, since May 2024, the suspension of the physical reception of people on the move, including by local partner associations of human rights organizations, has prevented face-to-face individual interviews with victims of human rights violations, and the organization of focus groups discussion to uncover trends in violations and conduct needs assessments. Conducting online interviews is difficult with people on the move who do not necessarily have access to a secure telephone line or internet connection, and dialogue with people on the move has become more complex with the lack of facilitation by local associative intermediaries providing assistance to people on the move. As a result, several organizations had to suspend their monitoring processes between May and August 2024 and rethink their research methodologies in view of the impossibility of collecting data directly in the field.

Increasingly difficult advocacy

Alongside the difficulties of monitoring the human rights situation of people on the move and assisting them in the field, advocacy with the Tunisian authorities and Tunisian society also suffered due to the shrinking civic space.

- Institutional Advocacy

“ Our former contacts have now changed their language. The authorities treat a humanitarian issue from a security point of view ”

a Tunisian human rights organization official noted.

According to the organizations consulted for this research, dialogue with the Tunisian authorities, particularly with the Ministries of the Interior and Justice, has been substantially reduced since 2021, after years of close collaboration with several civil society organizations. The period February 2023 - October 2024 saw the emergence of further obstacles to dialogue and cooperation with local authorities such as municipalities and governorate departments, against the backdrop of the Ministry of Interior's takeover of all migration-related issues. Several heads of organizations active at local level in southern Tunisia reported about informal obligations imposed on civil servants and administrative directors to obtain the approval of their central administration for any exchange, even informal, with associative leaders. This is a clear shift in practices of the period preceding 2024.

Communication channels between central government and organizations promoting the rights of people on the move are therefore non-existent at the time this report was finalized, and dialogue at local and regional level is increasingly restricted.

- **Advocacy addressing Tunisian society**

Several representatives of organizations interviewed by OMCT reported having seen their advocacy capacities regarding the protection and respect for the dignity of people on the move residing in or transiting through Tunisia affected by conspiracy rhetoric and incendiary racist and xenophobic discourse targeting them. In the meantime, several CSO's executives reported that they had had to rethink their advocacy strategies and reduce their visibility on migration issues to limit the security risks for their members and preserve their operational space.

The vast majority of organizations surveyed have reduced their interventions in the Tunisian media or even ceased all public statements on the migration issue. They have also significantly reduced their public communication on migration-related activities, limiting their online visibility for security reasons to avoid harassment campaigns. For example, most reports and surveys about people on the move are now published confidentially or by branches or organizations located outside Tunisia, to avoid repercussions within the country. While several demonstrations calling for respect for the rights of people on the move took place after February 2023, public actions to mobilize civil society around the migration issue have been reduced. Several organizations reported to OMCT that they now favor a more discreet approach. One organization vocal in defending the rights of people on the move reported that some regular hotel service providers have distanced themselves and refused to host public meetings as they did in the past, due to the climate surrounding the associations.

Most human rights organizations surveyed now focus on institutional advocacy, restricted to closed-door exchanges, thus preserving a space for dialogue without public exposure.

3.3.8 Coordination and partnerships

Coordination among organizations

The impossibility for CSOs to use their premises to organize workshops and training sessions, so as not to attract the attention of the authorities, creates logistical and financial constraints on the organization of activities. Meanwhile, the risk of the police interrupting inter-associative activities taking place in hotels and/or leaking participants' personal information complicates or even discourages the organization of such events. To avoid having to apply to the Ministry of the Interior for authorization, some activities are organized in universities, to bypass this requirement by going through the Ministry of Education.

According to several interviews conducted with Tunisian and foreign CSOs leaders, attempts to discredit organizations working to assist and promote the rights of people on the move are also impacting inter-associative work at local level. Since February 2023, and particularly May 2024, several organizations reported that their partnerships with local Tunisian partner associations, with whom they sometimes work on issues other than migration (environmental rights, access to education), were put into question because of their activities with people on the move.

The majority of civil society organizations that previously coordinated their assistance with international organizations and other NGOs have suspended their activities aimed at people on the move. This withdrawal of local and national CSOs has led to a significant reduction in the scope for inter-associative coordination and prevents the "nationalization" of services provided by international NGOs to Tunisian associative partners, with a view to capacity-building and skills transfer for direct implementation by local and national associations.

As a result, local associations are increasingly reluctant to get involved in migration issues, given the risks involved, both in terms of operational space (to preserve projects underway on other topics) and security threats (to minimize risks for teams and volunteers). This self-censorship is fueled by smear campaigns targeting local and national associations and community initiatives providing assistance to people on the move. Several organizations reported being challenged by their Tunisian beneficiaries and/or other partners about the use of their funds for people on the move, rooted in a populist rhetoric accusing them of misappropriating funds that “should” be directed primarily toward Tunisian beneficiaries.

Finally, as documented by OMCT’s previous research and confirmed by several heads of humanitarian NGOs, there are still no functional humanitarian coordination mechanisms in Tunisia. Restricted access for people on the move and the obstruction of field assistance hinders any attempt to intervene in emergencies for vulnerable groups. The risks faced by people on the move have led to the adoption of increasingly restrictive measures, forcing the reorientation of communication and inter-associative coordination channels toward secure information sharing and efforts to strengthen security protocols.

Dialogue and partnerships with public authorities

In parallel with the various restrictions imposed on civil society organizations, dialogue and cooperation with the Tunisian public authorities are becoming increasingly difficult.

The change in the position of the Tunisian state is reflected in new difficulties in accessing public infrastructure for organizing associative activities, and through the questioning of partnerships that had been established for several years. Some associations that had entered into agreements with local communities, concerning joint projects or the use of premises owned by municipalities, saw these agreements suddenly altered or rendered void without justification. An association leader told OMCT that the regional commissioner for youth and sport had recently notified all youth establishments in his governorate that all partnership agreements with associations had to be renewed and validated by the Governorate. More generally, access to youth facilities for training activities for young people on the move has become impossible in Tunisia. When it comes to organizing workshops or events, several local organizations have reported the reluctance of local authorities to make communal halls available, despite their being dedicated to hosting associative events.

Several heads of organizations working with people on the move testified to this centralization of decision-making at the level of the Ministry of the Interior, despite the persistence of institutional partnerships with the Ministry of Health, the Ministry of Family, Women, Children and Seniors, and the Ministry of Social Affairs. Meetings between public officials and members of civil society, particularly foreign staff, are also subject to this new centralized authorization system.²²⁰

220. In 2021, the Ministry of Local Affairs, responsible for local government, was abolished and its responsibilities transferred to the Ministry of the Interior. In March 2023, municipal councils were abolished, and «special delegations» - Ministry of the Interior officials responsible for local administration of municipal councils - were appointed. These changes have enabled the central government, through the Ministry of the Interior, to intervene and control collaboration between local authorities and associations at a much earlier stage, including in migration matters. See **Le décret présidentiel de suppression du ministère des Affaires locales on JORT**, Réalités, November 2021 and Tunisia : **les autorités annoncent la dissolution des conseils municipaux**, RFI, March 2023.

3.3.9 Access to funding

Targeting civil society organizations operating in Tunisia has indirect financial consequences with tangible impact on their ability to carry out their activities.

Access to foreign funding

Financial restrictions lead to significant logistical and financial constraints. Bank transfers and access to accounts are becoming increasingly slow and complex due to the extra precautionary measures taken by banks. This creates significant difficulties for associations in funding their activities, paying salaries, and ensuring the proper functioning of their structures. Waiting long periods of time for funds poses a risk of paralysis for these associations. A feeling of abandonment by international public donors in the face of these difficulties was shared by several leaders of local organizations.

This hostile environment, reinforced by the series of investigations into financial matters opened since May 2024, is leading to self-censorship among civil society organizations consulted for this study. Some now refrain from responding to calls for projects issued by foreign donors due to the risk of criminalization and administrative hurdles. Part of the local civil society organizations lack sufficient human resources in accounting and therefore struggle to comply with the law in an environment of reinforced controls. Several organizations reported assessing each funding opportunity in terms of administrative and financial obstacles and risks of being targeted by authorities. This hesitation limits available resources and could ultimately lead to further suspension of certain activities.

Decline in private funding

Several local associations also reported a decline in private donations, perceived as a direct consequence of the hate speech portraying associations as “agents of foreign entities”. Some private donors told associations that they were suspending their donations for fear of judicial consequences or problems with authorities.

This overall reduction in access to funding also indirectly affects vulnerable Tunisian citizens. Many civil society organizations run mixed projects, including assistance for children and vulnerable people in Tunisia. For example, some workshops require expensive equipment, such as bakery training materials, or medical devices for children with disabilities. The reduction in funds disrupts these types of projects.

3.4 THE IMPACT OF SHRINKING CIVIC SPACE ON HUMAN RIGHTS DEFENDERS

The shrinking of civic space for human rights defenders and members of civil society organizations operating in Tunisia also has significant consequences on a personal level. Since May 2024, leaders of civil society organizations holding executive positions in local and national Tunisian organizations have faced a high risk of criminalization, through prosecution, police control and surveillance by state authorities, and acts of intimidation by citizens. Judicial inquiries and the investigation of cases are very lengthy procedures, with no clear prospect of progress in the short term (no case dismissals, nor reasonable trial timelines for now). They are sometimes coupled with pre-trial detention, in some cases without charge for several weeks; hearings for requests for release have been postponed several times without any explicit reason.²²¹ In some cases, prosecutions are also coupled by measures of judicial control, including profiling, travel bans, and, in some cases, the freezing of personal bank accounts and asset seizures.

These measures have a heavy impact on these individuals and their families. The freezing of personal assets and the seizure of some of their property jeopardize their financial stability. According to information gathered by OMCT, the detention conditions of certain association leaders are particularly harsh, with significant consequences for their physical and mental health. Faced with these risks, some leaders or former leaders have gone into exile, seeking international protection abroad, with no other choices than to abandon their lives, their work and their responsibilities in Tunisia.

Defenders of the rights of people on the move, particularly those working outside an associative framework, locally, in border areas or in areas where people on the move are concentrated, face high risks of stigmatization, exposing them to threats to their safety and that of their relatives. Some have been forced to suspend or continue their human rights activities underground.²²² Many have told OMCT that they fear the repercussions of their associative commitment and activism on their professional careers, particularly those working in the public sector or planning to do so.

“ The space for civil society has not only shrunk but is virtually closed to people on the move seeking to defend their rights ”

United Nations Special Rapporteur on Human Rights Defenders.²²³

Human rights defenders and leaders of civil society organizations from sub-Saharan Africa are particularly vulnerable, because their status as foreigners and their involvement in associations make them more vulnerable to administrative pressure and legal threats. The main threat is the non-renewal of their residence permit,²²⁴ placing them in a precarious legal status. Many have had no choice but to leave Tunisia and apply for international protection abroad, placing them in difficult socio-economic situations.²²⁵

221. See the special communication addressed to Tunisia by the Special Rapporteur on human rights defenders concerning two association leaders arrested in May 2024 and detained since. AL TUN 5/2024

222. See the report by the Special Rapporteur on the situation of human rights defenders, «**Refuser de renoncer: les défenseurs et défenseuses des droits humains travaillant sur les droits des réfugiés, des migrants et des demandeurs d'asile**», 2022.

223. Ibid.

224. See section 2.3.1 Continuing human rights violations on page 41 and the targeting of human rights defenders section on page 87 in «**The Routes of Torture Vol. 2**» OMCT, September 2024.

225. According to the Special Rapporteur on human rights defenders, «defenders in exile often accept low-skilled jobs in an attempt to rebuild their lives, which often forces them to abandon their human rights», in **Report of the Special Rapporteur on the situation of human rights defenders**, 2018

Several of the association leaders interviewed reported high levels of stress and anxiety, having adapted their movements in the public space, deleted their social networks and even changed their telephone numbers, and limited their public and media interventions as a direct consequence of the threats to their personal safety. Several told OMCT that they had begun psychological assistance in this context. The arrest and detention in May 2024 of several civil society organization leaders seem to have represented a real shock for many association and humanitarian workers in terms of perceiving a personal threat, which extends beyond the operational space of organizations.

Community focal points are now reluctant to collaborate for fear of reprisals. The implementation of article 25 of the Law on Foreigners, which criminalizes any form of direct or indirect assistance to people in an irregular situation, has reinforced this climate of fear, deterring citizens and people on the move from cooperating with civil society organizations.

The climate of fear and institutional obstacles creates discouragement and leads to a decline in the number of volunteers for CSOs, who greatly rely on voluntary work and part-time employment of young people and students. According to several local officials, local associations are facing a drop in new memberships and are struggling to recruit new volunteers and/or employees, as the legal risks incurred by members of civil society active in assisting and promoting the rights of people on the move compromise their recruitment. In parallel, delays in the payment of salaries and indemnities due to restricted access to funds hinder the functioning of these associations and affect some staff and/or volunteers.

The associations consulted reported that they had to adopt several precautionary measures to ensure the safety of their teams, including strengthening digital security, providing legal protection, and securing premises and personnel.

Franck Yotedje's story

Franck Yotedje is a Cameroonian human rights defender who has lived in Tunisia for over seven years. After holding various positions of responsibility in the field of migration and social cohesion, he became the Executive Director of an association in Sfax that assisted and people on the move and promoted their rights.

By the end of 2022, the association became the target of intimidation by local security forces. Following the President's speech in February 2023 and the wave of xenophobic violence in Sfax in July 2023, police surveillance intensified, especially as his association was helping hundreds of people on the move who became homeless due to the wave of evictions in Sfax. Police officers visited the association's premises more than a dozen times without any official procedure and the team was subjected to informal questioning about their activities. Meanwhile, the association and its director were targeted by an online harassment campaign. The association's car, which was used to distribute food, hygiene kits and blankets, was pelted with stones. In this highly tense climate, the association restricted its activities to emergency interventions in order to protect its team and beneficiaries.

In March 2024, the association lodged a complaint with the Sfax court regarding an alleged enforced disappearance of a beneficiary who had been convicted and imprisoned in Sfax, before being deported to Libya during his detention. After filing the complaint, the association was visited by several police officers, who took photos of Franck Yotedje's identity documents and searched the premises without a warrant.

Meanwhile, Franck Yotedje, who also is an entrepreneur, applied to renew his residence permit in November 2023. He was informally notified in April 2024 of the rejection of his application and of the transfer of his file from the Investment Promotion Agency (responsible for foreign investor applications) to the police department of research and circulation. He was also informed that an investigation against him had been opened, without being told the grounds. Fearing arrest and detention, like suffered a few weeks earlier by Christian Kwongang,²²⁶ another human rights defender, Franck Yotedje left Tunisia at the end of April 2024.

While his assets and accounts in Tunisia remain frozen, the activities of his association were definitively suspended following his departure, and several members of his team left Tunisia. With no option other than exile due to the risks to his safety stemming from his unwavering commitment to promoting and defending the rights of people on the move, Franck Yotedje is now trying to rebuild his life in Europe.

226. See box «The story of Christian Kwongang» in Routes of Torture Vol. 2 - **Mapping violations suffered by people on the move**, OMCT, September 2024, page 86.

Criminalization of assistance and defense of the rights of people on the move

Pending final judgments, it is crucial to guarantee independent justice and the right to a fair trial, where judges are free to analyze charges and make decisions with complete impartiality, while respecting procedural safeguards.

The various restrictions and control measures implemented by the Tunisian authorities since the fall of 2022, and more particularly since May 2024, essentially amount to a form of criminalization of assistance to people on the move, by directly targeting human rights defenders and civil society organizations. Judicial proceedings increased financial controls, and administrative obstacles, coupled with heightened police surveillance, create a climate of fear and intimidation, provoking self-censorship within civil society organizations. As a result, the authorities effectively paralyze assistance to people on the move, particularly vulnerable people, by restricting their access to essential resources and protection.

4. A GENERAL DETERIORATION IN LIVING CONDITIONS FOR PEOPLE ON THE MOVE

The Tunisian State has the primary responsibility to ensure the protection and respect of the rights of people residing and/or transiting on its territory, including people on the move, in particular their safety and access to basic services. However, the Tunisian state is failing to meet these obligations, in a context of prolonged social and economic crisis, compounded by the fragility of its administrative and social assistance system. In recent years, this gap has been filled by civil society organizations and UN agencies, which have played a crucial role in assisting vulnerable populations and defending and promoting their rights.

However, the scope of action of these non-state actors is now severely limited by the restrictive measures imposed by the Tunisian state. The shrinking of civic space, the systematic targeting of associations and the growing pressure on their financial resources severely undermine their ability to operate. These restrictions are depriving thousands of people in situations of growing impoverishment of essential aid for their survival, even as the needs continue to grow.

This chapter provides an overview of the impact of assistance restrictions on the rights of people on the move. The content of this section reflects field observations and trends suggested by those working with/for people on the move throughout Tunisia.

4.1 IDENTITY AND ACCESS TO INTERNATIONAL PROTECTION

4.1.1 Denial of access to international protection in Tunisia

The suspension of pre-registration, asylum registration and refugee status determination (RSD) has had a major impact on the ability of people on the move to obtain international protection and benefit from the assistance and rights that the status entails.

The inability to seek asylum in Tunisia

The inability to apply for asylum because of the above-mentioned suspension constitutes a violation of the international conventions to which Tunisia is a party (1951 Refugee Convention, 1969 African Union Convention) and of the Tunisian Constitution.²²⁷ The right to asylum is effectively suspended, depriving people of the fundamental right to seek international protection.

Denial of access to basic services and increased health risks

Without the issuance or renewal of asylum seeker cards following registration, or refugee cards following refugee status determination, people on the move under international protection are unable to access basic services. Asylum seekers requiring immediate medical care no longer have access to adequate health support, including pregnant women or women with newborns. This leads to complications for those suffering and potentially poses public health risks in cases of undetected and/or untreated contagious diseases (see section 4.4 on access to health).

Exposure to human rights violations

In the absence of legal and civil documentation, people on the move under international protection are also more exposed to the risks of socio-economic marginalization, discrimination, arbitrary arrest, disappearance, enforced disappearance and trafficking in human beings, particularly women on the move. This type of documentation is essential to prove their status (provisional asylum seeker, or refugee) and facilitate their access to basic rights and services.

Restricted access to solutions in third countries, including resettlement

Third-country resettlement is only available to those officially recognized as refugees. Asylum seekers who, without RSD, cannot have their applications accepted or rejected, remain stuck in a state of uncertainty. This situation particularly affects vulnerable segments of the population on the move, such as unaccompanied minors and victims of gender-based and sexual violence and has an impact on their access to other forms of protection (such as assistance with voluntary return and reintegration via the IOM in the event of rejection of the application, or obtaining humanitarian visas, etc.).

227. Article 32 of the Constitution of the Republic of Tunisia of July 25, 2022: «The right to political asylum is guaranteed under the conditions laid down by law; it is forbidden to extradite people who have been granted political asylum.»

4.1.2 Changes in return procedures: a worrying acceleration

According to the organizations consulted, the increase in requests for Assistance to Voluntary Return and Reintegration (AVRR) is a direct consequence of the continued deterioration of the situation of people on the move, difficulties in accessing assistance provided by civil society, the blockade of departures by sea to Italy and the lack of other durable and dignified solutions.

Tunisia does not have an official list of safe countries of origin that would allow for expedited returns. Moreover, according to OMCT's research, there are no bilateral agreements between Tunisia and countries of origin for the return of their citizens. The IOM runs a program of Assistance to Voluntary Return and Reintegration for people on the move wishing to return to their countries of origin. While it is vital to stress the importance of this type of program to ensure the realization of sustainable and dignified solutions (return, resettlement, integration), some concerns have nevertheless emerged from OMCT's research regarding the significant increase in requests for return:

- **Length of the return process:** before 2024, voluntary returns by IOM were lengthy processes, spanning six to twelve months, allowing for an in-depth review of the request. During this period, the person concerned would meet with IOM representatives on several occasions, to confirm their desire to return and jointly develop a reintegration plan in their country of origin, with financial support and counseling services. Currently, return procedures have accelerated, some being reduced to two weeks due to the increase in requests and the lack of alternatives. According to OMCT's research, this acceleration often results in a faster evaluation of security risks associated with return, as well as the lack or limited of adequate reintegration plans. As a result, these people may be exposed to new difficulties when returning to their country of origin, even though they have already suffered multiple abuses during their migratory journeys.
- **Verification of the voluntary nature of return:** when return becomes the only option, it is vital to ensure a rigorous process and verification of the level of vulnerability.²²⁸ This includes assessing the person's genuine willingness to return to their country of origin, as well as the possibility of sustainable and dignified reintegration. A series of interviews helps to ensure that return is not a threat to the individual's life and/or a constraint, but a solution tailored to his or her individual situation.
- **Increase in vulnerable profiles among AVRR registrants:** according to the experts consulted for this study, many people request voluntary return after being released from detention following conviction for illegal entry and residence, and/or when they have no access to any housing solutions. These profiles include women with children, individuals benefiting from international protection and individuals coming from countries covered by UNHCR's non-refoulement advisories,²²⁹ as well as victims of forced and arbitrary displacement and/or other human rights violations. The fact that these people are often victims of psychological distress and trauma must be considered when assessing their ability to make a truly free and informed decision.

As pointed out by the Special Rapporteur on the rights of migrants, policies aimed solely at returning people on the move to their countries of origin risk generating cycles of repeated migration in increasingly critical conditions.²³⁰

228. Although it is no longer necessary to wait for exemption from penalties, it is important to emphasize that the following conditions are still imposed by IOM: 1. The person presents him/herself free to be able to register for the AVRR program 2. The process of verifying the conditions for return is carried out in coordination with the persons concerned themselves and the missions in the countries of origin 3. It is possible for the person to decide to leave the program at any time, as evidenced by the rate of people leaving the program at any time, including in some cases by not showing up at the airport.

229. **UNHCR Position on Returns to Burkina Faso - Update I** | Refworld. Specific procedures are in place for the return of asylum seekers or refugees, coordinated between the IOM and the UNHCR.

230. Special Rapporteur on the human rights of migrants, «How to expand and diversify regularization mechanisms and programmes to enhance the protection of the human rights of migrants», Report A/HRC/53/26, Human Rights Council, April 2023.

4.1.3 Access to legal and civil documentation: the flow of invisible people

It is essential that people on the move access civil and legal documentation, including passports, as well as birth, marriage²³¹ and death registration documents, to guarantee their right to identity²³² and access to services. This also facilitates the implementation of inclusive and adapted policies, while reducing the risks of marginalization or exploitation. Greater visibility of the presence and geographical distribution of people on the move helps to prevent human rights violations and organized crime, ensure fair access to justice and promote harmonious cohabitation with local host communities. Ignoring these dynamics creates grey areas conducive to fundamental rights violations and social instability. The sections below detail the difficulties encountered by people on the move in Tunisia when it comes to registering births and deaths, thus raising questions about the capacity to track the existence and geographical presence of thousands of individuals on Tunisian territory.

Official birth registration and identity documents

After giving birth, procedures require the hospital to provide a birth declaration stating the child's gender, date and time of birth, as well as a vaccination record. The parents then have ten days to register the child with the civil registry of the municipality of birth. However, this deadline is increasingly missed, due to several factors:

- The increase in births among displaced populations outside hospital facilities, exacerbated by restrictions on freedom of movement;
- A lack of information on legal obligations and the necessary steps, while access to organizations that support families in these procedures remains limited;
- A general distrust of authorities by people on the move, within a context of human rights violations, discouraging families from presenting themselves to the civil registry.

Even when the ten-day deadline is met, birth registration can be hampered by other obstacles. Hospitals may refuse to issue essential birth certificates, or documents issued may be lost. In addition, lack of identity papers, language barriers and discriminatory practices often prevent parents from registering their newborns. Although some hospitals, such as those in Sfax, automatically register births with the civil registry, several civil society organizations reported to OMCT that women without identity documents are unable to retrieve birth certificates, leaving their children without official registration.

If the ten-day deadline is exceeded, families must go to court and the Children and Family Judge to register the birth, a complex process in a context of reduced legal assistance provided by civil society, while requests for assistance are increasing. These delays or refusals to register result in a growing number of «ghost» children, with no official legal existence. This situation exposes children to:

- A lasting risk of statelessness, depriving them of a recognized nationality, compromising their access to fundamental rights,²³³ affecting their freedom of movement and their ability to apply for asylum, regularization or access to consular services.
- The inability to access basic services, including health and education, a fundamental and inalienable human right. As a result, these children are vulnerable to health issues and lack opportunities for social integration. They are also more exposed to exploitation, including child labor and trafficking in human beings or organs.

231. Some legal frameworks require a valid marriage certificate for birth registration.

232. United Nations, «New York Declaration for Refugees and Migrants», Resolution adopted by the General Assembly, A/RES/71/1, October 3, 2016, paragraphs 70-71.

233. Article 5 of Tunisia's Child Protection Code stipulates that «Every child has the right to an identity from birth. This identity consists of the first name, family name, date of birth and nationality.

- Increased vulnerability to abuse, the lack of documentation preventing official recognition of family ties and exposing children to greater risks of family separation or enforced disappearance, also compromising family reunification in the event of separation.
- Invisibility in statistics, which prevents the assessment of numbers and needs of children on the move, making it nearly impossible to implement tailored policies for their protection and care.

Identifying the deceased and registering deaths

In Tunisia, identification of the deceased is carried out through DNA comparison (via autopsy in cases of advanced decomposition) of a post-mortem database with an ante-mortem database containing DNA samples from relatives searching for missing persons. However, ante-mortem data for identification is generally not available for people on the move from sub-Saharan African countries.²³⁴

Currently, the Tunisian authorities fail to meet their obligations to identify the bodies of people on the move including the one missing at sea, as documented in OMCT's previous research on the subject.

The ICRC left Tunisia at the beginning of 2023. Since then, no other national or international civil society organization has assisted the Tunisian state in managing bodies and searching for missing persons. Simultaneously, state infrastructure is unable to meet needs.²³⁵ Overcrowded morgues, limited access to forensic medicine in Tunisia, and the departure of the ICRC, combined with a lack of political will, result in widespread non-compliance with procedures, violating legal obligations.²³⁶ Bodies are reportedly buried in different cemeteries without assigned tombs, making future post-mortem identification impossible. According to activists, the cemetery of the Djerba islands being used for this purpose as of summer 2023.²³⁷

The lack of death registration has a considerable impact on people on the move and their families:

- An unregistered death can be perceived as a disappearance, fueling the anxiety of the relatives who have no answers about the fate of their loved ones.
- The lack of registration complicates the identification of the deceased and the repatriation of bodies to their countries of origin. This aggravates families' grief and prevents them from carrying out funeral rituals that respect the dignity of the deceased.
- Families are unable to obtain death certificates, making administrative procedures difficult (inheritance, insurance rights).
- Without a death certificate, the circumstances of the death are unknown, thus complicating access to justice in cases of suspicious death. People on the move who have died, particularly in cases of violations (border violence, shipwrecks, ill treatment in detention), cannot be represented in investigations or legal proceedings, depriving their relatives of justice.

234. For more details, see the section on the identification and burial of the bodies of those missing at sea on page 64 in «The Routes of Torture Vol. 2», OMCT, September 2024.

235. See «Tunisie : à Sfax, la morgue et le cimetière débordés de migrants noyés», AfricaNews, August 2024.

236. See «En Tunisie, l'inhumation en catimini des migrants naufragés», La Croix, May 2024.

237. Humanitarian source.

4.1.4 Ghost children: children on the move deprived of liberty, shelter and protection

Minors account for 17.8% of the people under international protection registered by UNHCR (2,763 children)²³⁸ as of October 2024.²³⁹ Of these, 1,117 are unaccompanied and/or separated from their families.²⁴⁰ More than 800 unaccompanied children registered as asylum seekers are not living in safe shelters at the time of finalizing this report (November 2024),²⁴¹ exposing them to an additional risk of being trafficked.

The suspension of UNHCR registration and pre-registration of asylum seekers by its main partner has had severe consequences for minors on the move: hundreds of children currently find themselves without international protection, exposed to violence, high risks of criminalization, exploitation, trafficking (in human beings and organs) and a lack of protection solutions. According to data collected by OMCT, the number of unaccompanied minors among the population on the move is on the rise, while in the meantime assistance opportunities have been decreasing due to the suspension or reduction in civil society organizations activities. Furthermore, with the rise in arrests and convictions of people on the move, more and more children are being separated from their families.

Two paths are then possible for these children.

- 1- The first is a criminal route, where unaccompanied or separated minors are arrested, convicted and detained. For more details, see the following section on the criminalization of minors on the move.
- 2- The second concerns children who are not detained or who have been released from detention, and who are referred to the Delegate for Child Protection (DPE) for a care solution (medical if necessary and/or accommodation). However, these solutions are increasingly not reachable, especially for children aged between 14 and 17, due to the suspension of activities by many organizations. Available options include shelters run by civil society organizations or private structures, social guidance and counseling centers, rehabilitation centers for children in conflict with the law run by the Ministry of Social Affairs, or the National Institute for Child Protection (INPE) for children aged 0 to 6. However, these structures face operational challenges, also affecting vulnerable Tunisian children, including overcrowding, limited human and financial resources, and virtually no possibility of adoption or placement in foster families for eligible children.

This lack of housing solution is leading to a growing number of homeless children without access to assistance, a worrying rise in child begging in Tunisian municipalities, and heightened exposure to human rights violations, including trafficking and sexual violence. Resorting to detention is becoming increasingly common, affecting younger children and with longer durations (see the next section). There is currently no institutionalized procedure to manage and protect these children, leaving their fates highly uncertain. The criminalization of minors on the move can occur at any time, with a child potentially moving between both pathways (detention – non-detention) and transitioning back and forth. The lack of suitable structures, particularly for older children, often keeps them in detention after their release, or leads to their referral to the IOM.

238. See Tunisia - UNHCR: Data on refugees and asylum seekers», UNHCR, October 2024

239. Not all minors are registered with the UNHCR, as some have been refused or have not applied for international protection. A significant proportion of them are therefore in an irregular situation without international protection.

240. Humanitarian source.

241. Humanitarian source.

Detention can be very traumatic for minors. In fact, more and more minors on the move are requesting assistance to return after being released from detention. If a return or resettlement is envisioned, this requires an assessment of the child's best interests (Best Interest Assessment), followed by a final decision (Best Interest Determination) by a panel of representatives from international organizations (IOM, UNHCR, UNICEF) and public authorities (Child Protection Delegate, General Delegate for Child Protection), and a decision from the children's and family court, which is the only authority empowered to authorize a minor's departure from the country. The procedure results in most cases in a return aimed at family reunification, but this can take up to four months and may pose a significant risk of mental health deterioration if the child returns to their country of origin. Additionally, family tracing is complex, and families do not always agree to the return. IOM cannot facilitate voluntary returns for minors, without an informed consent process and only assists with return in the context of family reunification. Meanwhile, the suspension of UNHCR asylum procedures blocks any possibility of resettlement in a third country for refugee children whose refugee status determination has not been processed.

Children on the move in detention

Detaining minors on the move is never in the best interest of the child and is a violation of their fundamental rights. All children, whatever their legal or migratory status or that of their families, have the right to be cared for and protected against violence, abuse and exploitation.

What does international law say ?

International law provides several instruments to protect unaccompanied minors, particularly detention matters. The Convention on the Rights of the Child (CRC), adopted in 1989 and signed by Tunisia in 1993, stipulates in Article 3 that the best interests of the child must always prevail. Article 37 stipulates that the detention of minors must be a measure of last resort and, when unavoidable, must be carried out in appropriate conditions and for the shortest possible duration. It also guarantees, under Article 2, that children, including unaccompanied minors, shall not be discriminated against based on their origin, migration status, or any other characteristic. Children must never be detained because of their migration status or that of their parents - the detention of children because of their migration status or that of their parents is contrary to the principle of the best interests of the child and constitutes a clear violation of the rights of the child.²⁴² It can also amount to cruel, inhuman or degrading treatment of migrant children.²⁴³ In principle, detention for migration control purposes should therefore be progressively abolished²⁴⁴ and States should prioritize non-custodial, community-based solutions that uphold the dignity and human rights of individuals while their migration status is being resolved.

242. CRC/C/GC/23, para. 5 Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on States' obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

243. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2025 (A/HRC/28/68, para. 80). In this report, the Special Rapporteur examines the international legal framework and standards that protect children deprived of their liberty from torture or other ill-treatment, and from conditions of confinement that hinder their development and torture them. He also examines the specific laws and standards that apply to prevent torture and ill-treatment of children deprived of their liberty, as well as gaps in the practical implementation of legal standards.

244. A/HRC/13/30/Add.1, para. 58

UNHCR recommends in its guidelines for determining the best interests of the child²⁴⁵ that unaccompanied minors should not be detained, and that preference should be given to alternatives such as foster care or adapted structures, stressing the importance of ensuring that minors have access to health, education and psychosocial support services.

What does Tunisian law say?

The Child Protection Code (Law no. 1995-92 of November 9, 1995) is the fundamental instrument governing child protection in Tunisia. It lays down essential principles in terms of children's rights, notably the best interests of the child (article 4), implying that the detention of minors must be an exceptional measure. While the Child Protection Code does not explicitly address the detention of minors on the move, it provides the possibility of placing a child in a protective institution (reception centers, foster families) when necessary, rather than resorting to penal detention. Article 68 of the Code also stipulates that "a child under thirteen years of age is presumed incapable of committing a criminal offense; this presumption becomes rebuttable for children aged 13 to 15."

The criminalization of minors on the move and subsequent detention continued between May and October 2024 in Tunisia. This involved unaccompanied minors on the move, as well as children whose parents had been arrested and detained in Ministry of the Interior detention centers. An organization specializing in child protection reported to OMCT the presence of minors under the age of 13, in violation of Tunisian law²⁴⁶, and sometimes detained for periods exceeding 3 to 4 months.

An organization providing legal assistance raised the issue of non-recognition of minority status by the Tunisian justice system. Recognizing the minority of an accused person allows the transfer of the case to the juvenile court, typically resulting in lighter sentences (fifteen days per charge, for example, instead of one to two months) and sentences served in rehabilitation centers for minors rather than detention centers. The frequent absence of identity papers complicates the recognition of minority status, often requiring a medical examination to establish minority and settle the court's jurisdiction. However, even if a minority is recognized, the vast majority of minors brought before the courts would still be convicted. Over the period covered in this report, none of the organizations interviewed succeeded in transferring cases from the juvenile judge, a criminal judge, to the family judge, whose approach is to protect children at risk.

Unaccompanied and/or separated minors are exposed to harsh detention conditions in unsuitable centers, marked by acts of violence and frequent racial discrimination, as documented by OMCT in its previous research on the matter.²⁴⁷ Deprivation of liberty without specific protective measures linked to their status is contrary to the principle of the best interest of the child as stipulated in the International Convention on the Rights of the Child and the Tunisian Child Protection Code, hinders their access to education, healthcare and psychological care, thereby exacerbating their precarious situation and marginalization, jeopardizing their development and future.²⁴⁸

245. UNHCR Guidelines on Determining the Best Interests of the Child, UNHCR, 2008

246. Article 43 of the Tunisian penal code «There is no crime, misdemeanor or contravention when the perpetrator was under thirteen years of age at the time of the act.» - see legal framework above.

247. See box «The detention of unaccompanied minors on the move», page 43 in «Routes to Torture Vol. 2», OMCT, September 2024.

248. See *Children and detention*, ICRC.

4.2 ACCESS TO HEALTHCARE FOR PEOPLE ON THE MOVE

Precarious living conditions in informal settlements give rise to serious health problems, such as malnutrition, dehydration and poor prevention of epidemic risk. This situation is leading to a general increase in health needs, in a context where restrictions imposed on humanitarian organizations are considerably limiting the operational capacities of the few actors still operating on the ground.

4.2.1 Soaring needs

Increased epidemic risk among people on the move: an alarming health threat

The risk of epidemics among people on the move in Tunisia is a growing concern among the national and international actors consulted for this study. The lack of adequate access to potable water, hygiene services, waste management and basic medical care, combined with overcrowding in informal settlements, has created a favorable environment for the spread of contagious diseases.

- **Dermatological pathologies:** Limited access to clean water and appropriate hygiene infrastructures in areas with high concentrations of people on the move and existing informal settlements, is contributing to an upsurge in dermatological pathologies, particularly the highly contagious scabies. Children, pregnant women and the elderly are particularly at risk, as their immune defenses are often weakened by malnutrition and unsanitary living conditions. An organization working in medical assistance reported that, over the period April - September 2024, 3.5% of its beneficiaries in Greater Tunis were affected by scabies.²⁴⁹
- **Tuberculosis:** Cases of tuberculosis are increasing in communities of people on the move. Overcrowding in informal settlements and detention centers facilitates transmission of the disease, while limited access to diagnostic tests (such as saliva tests and chest X-rays, which require payment) hinders early detection and effective treatment (tuberculosis treatment also involves paid biological and clinical follow-up).
- **Respiratory illnesses:** Respiratory illnesses, such as bronchitis and bronchiolitis, increase significantly as winter approaches. Frequent weather changes, combined with the lack of suitable shelters in El Amra, increase vulnerability to respiratory infections, especially for children.
- **Sexually transmitted diseases (STDs):** limited access to prevention, screening and treatment exposes the displaced populations to the rapid spread of STDs.
- **Gastroenteritis and similar conditions,** primarily linked to the lack of waste management, are also prevalent.

The lack of vaccination campaigns in areas with high concentrations of people on the move, as well as in detention and rehabilitation centers, is contributing to an increase in the risk of epidemics. Without intervention, these contagious diseases are likely to spread not only among people on the move, but also within nearby local communities, putting further pressure on Tunisia's already fragile health infrastructure.

249. The majority of the organization's beneficiaries come from sub-Saharan Africa, with the top five nationalities being Côte d'Ivoire, Cameroon, Guinea, Sierra Leone and Nigeria.

Sexual and reproductive health: a critical vulnerability for women on the move

The sexual and reproductive health needs of women on the move in Tunisia are increasing at an alarming rate.

The provision of specialized services to meet these needs remains limited, due to restrictions on humanitarian actors and limited resources. Denial of access to areas where people on the move are concentrated prevents early identification and monitoring of the most vulnerable individuals, including pregnant women, women who have just given birth, and victims of gender-based sexual violence or at risk of such violence.

Meanwhile, the fear of moving, fueled by the risk of arrest and/or violence, or even the inability to access public transport due to transportation costs and discriminatory practices, prevent women on the move, particularly those contained in informal settlements such as El Amra, from leaving their living areas to access primary health services or the Office National de la Famille et de la Population (ONFP).

As a result, CSOs on the ground reported to OMCT:

- An increase in childbirth cases without medical assistance, endangering the lives of mothers and newborns.
- Difficulty accessing contraception and medical termination of pregnancy (abortion), leading to a higher risk of unwanted or dangerous pregnancies.
- Increased unmet needs for victims of sexual and gender-based violence, such as emergency gynecological care, prevention of sexually transmitted diseases, and management of unwanted pregnancies resulting from rape.

An organization consulted for this study noted a 1650% increase in requests for medical termination of pregnancy (MTP) in the 1st quarter of 2024 compared to the previous year, as well as a 400% increase in beneficiaries recognized as victims of sexual violence. The same organization noted that between April and September 2024, given that 75% of its beneficiaries are women, 54% of health requests concerned pregnancies and access to family planning services. The majority of beneficiaries in the reference period were aged between 20 and 49.

Mental health: an alarming situation for people on the move

The deterioration of living conditions and the ongoing human rights violations pose significant risks to the mental health of people on the move in Tunisia. They are suffering from an accumulation of traumas linked to their migration journey, compounded by ongoing violations of their fundamental rights in Tunisia. This context exacerbates their insecurity and forges a deep sense of abandonment.

The significant reduction in humanitarian assistance and protection services offered by civil society has a direct impact on the mental health of people on the move. Organizations working in this field have been forced to scale down their activities due to restrictions imposed by the Tunisian authorities, particularly the inability to conduct group activities since May 2024. This has prevented the conduct of support groups, which are crucial for providing a space for listening and sharing among people affected by episodes of violence. Added to this is the shortage of available psychologists and psychiatrists, limiting the capacity of civil society organizations to provide adequate follow-up.

Mental health needs therefore continue to grow. People on the move face constant insecurity and a lack of prospects, and these conditions aggravate their psychological vulnerability, resulting in:

- An increase in psychological disorders such as depression, anxiety and post-traumatic stress;
- Difficulties in adapting and building resilience to extremely difficult living conditions, undermining their ability to cope with daily challenges;
- A rise in violent behavior.

4.2.2 Barriers to accessing healthcare

Financial obstacles

Access to healthcare for people on the move is considerably hampered by financial barriers, particularly for non-emergency care. Although hospitals and health centers in Tunisia provide initial consultations on entry to the emergency department, patients are subsequently referred to payment counters to settle medical fees before receiving prescriptions or undergoing necessary procedures, such as X-rays, ultrasounds, or surgeries. As a result, people on the move often find themselves unable to pay the required healthcare fees and are denied access to essential care.

These obstacles particularly affect the treatment and follow-up of chronic diseases such as diabetes, cardiovascular disease and cancer, which require regular medical monitoring and specific, often costly treatments. Structural and administrative obstacles make such access difficult, if not impossible. National and international organizations providing medical assistance offer only limited support for managing chronic diseases, often focusing on the most urgent care due to limited resources. These gaps leave many patients on the move without care, worsening their health conditions.

The fact that tests are not free of charge affects the prevention and treatment of certain contagious diseases. While tuberculosis treatment is theoretically free at national level via public health centers, the tests needed for diagnosis and biological follow-up of treatment, such as saliva tests and chest X-rays, are not. This creates a major obstacle for an already economically vulnerable population, increasing the risk of the disease spreading to communities on the move.

Financial obstacles are compounded by abusive practices observed in some medical facilities. Several of the organizations consulted for this research reported the prescription of costly additional examinations (X-rays, MRIs, scans), sometimes without justification, or medical fees disproportionate to the actual services provided. These practices exacerbate inequalities in access to healthcare, and place populations on the move in situations of distress, depriving them of their fundamental right to health.

Inability to reach health facilities

Internal mobility within Tunisia for people on the move, particularly those identified as coming from sub-Saharan Africa, is fraught with many obstacles. Travels between governorates, municipalities or areas of concentration such as informal settlements to urban centers expose people on the move to security risks, notably arrest, creating a climate of constant fear. Added to this is persistent racial discrimination in accessing means of transport, notably taxis and louage, as documented by the OMCT in its previous research.²⁵⁰ These access restrictions exacerbate mobility difficulties, already amplified by the high cost of transport in a context of extreme impoverishment and restricted economic opportunities. People on the move face fragmented assistance and limited access to information about available services and their rights. The suspension of activities by many major assistance providers has put an end to referral mechanisms, forcing individuals to navigate between various organizations to obtain partial assistance. This situation leads to delays in access to assistance, increases people's vulnerability and limits their ability to meet their basic needs.

250. See section 2.2.3 Freedom of movement and vulnerability on page 35 of «Routes to torture vol n°2». OMCT, September 2024.

Denial of access due to lack of documentation

Non-urgent care and chronic disease treatments systematically require the presentation of official identity documents such as a birth certificate, national identity card, passport or UNHCR card. In the absence of these documents, patients are often denied treatment at health facilities. Despite these obstacles, civil society organizations still manage, to a certain extent, to refer sick people to certain Basic Health Centers (CSB), which agree to treat patients referred by these organizations. However, this case-by-case care remains insufficient to cover growing needs, especially as the human and financial resources of civil organizations are themselves limited in the current context. The lack of identity documents makes medical-surgical procedures, such as medical terminations of pregnancy (abortion), inaccessible.

4.2.3 The consequences of restricted access to healthcare

Forgoing care

Many people avoid visiting healthcare facilities, fearing that they won't be able to afford the costs and/or will be denied care. This leads to delays in obtaining treatment and worsens their health. With fewer health services available, many people on the move wait until they are in critical situations before seeking assistance, for fear of being arrested, stigmatized or refused care. As a result, by the time they finally reach support structures, their state of health is often already severely deteriorated. Financial barriers further marginalize already vulnerable people on the move, reducing their ability to integrate or lead a dignified and secure life.

Increased risk of medical complications

The lack of diagnosis and the interruption of treatment for non-urgent and chronic illnesses expose these populations to severe complications stemming from the worsening of conditions that require emergency interventions, which could have been prevented with regular care.

Self-organized care: an unsustainable survival strategy

The Tunisian state is unable to meet these needs, and the health sector is overwhelmed, particularly the *Office National de la Famille et de la Population* when it comes to sexual and reproductive health needs. However, the Tunisian health sector remains fully aware of the needs and urgency of intervening with vulnerable populations, particularly in the face of epidemic risks. The deterioration in the health conditions of people on the move, combined with the denial of access to healthcare, is becoming a widespread public health issue.

In this context, some communities on the move have had to self-organize to compensate for the lack of health services. Informal community initiatives are developing to share limited resources, such as medicines, and organize care, but these remain insufficient to meet complex medical needs.²⁵¹ This self-organization often exposes individuals to further health risks through non-qualified services and unsafe health products, potentially worsening risks to their health. The lives of women and newborns may be endangered during complicated deliveries or unsafe abortions. People on the move involved in these structures are particularly exposed to human rights violations by authorities because of their activism.

251. See Desperate and Terrified: **Mohammed Krubally's struggle in Tunisia amidst a growing epidemic**, Refugees in Libya, September 2024... By September, 567 patients had received treatment at this makeshift facility in the El Amra informal settlements.

4.3 ACCESS TO HOUSING

4.3.1 Lack of housing solutions for vulnerable people

Housing for people on the move in Tunisia is in a critical situation. Access to informal rental housing remains possible but is becoming increasingly difficult given the continuing impoverishment of the population on the move since the beginning of 2023, and private landlords' fears of being prosecuted for renting to a foreigner in an irregular situation. Shelters managed by the UNHCR and the IOM are constantly overcrowded, requiring very high prioritization in terms of vulnerability.

The suspension of the activities of civil society organizations providing housing solutions, apart from IOM and UNHCR, has impacted access to safe housing for vulnerable people on the move. The closure of shelters and the suspension of temporary emergency accommodation activities by Terre d'Asile Tunisie have left many people on the move without housing solutions, exacerbating their vulnerability and creating emergency situations, particularly for women, including those with young children, and other vulnerable people (victims of human rights violations, people suffering from chronic illnesses, etc.).

At present, only IOM and UNHCR shelters remain operational. However, these shelters, which are struggling to ensure the safety and well-being of those housed, are not sufficient to meet the growing demand.

4.3.2 Une insécurité d'occupation permanente

The lack of adequate housing options is leading to a significant increase in the number of homeless people, particularly in areas where people on the move are concentrated and in informal settlements, characterized by permanent insecurity, exposing them to precarious living conditions and the risk of violations, including exploitation and human trafficking.

Temporary shelters

At the end of October 2024, 906 people were accommodated in UNHCR shelters, 252 in Médenine, 209 in Tunis and 462 in Jderia.

- Jderia: The temporary emergency shelter in Jderia is managed by UNHCR. In October 2024, 462 people (98% of Sudanese origin) were present at Jderia²⁵² - and over forty are believed to be unaccompanied minors. A scabies outbreak since May 2024 caused many people to leave the camp, despite limited disinfection efforts (a team from the Ministry of Health was sent to the site, but no mattress replacements occurred, making it nearly impossible to isolate infected individuals effectively).
- The Tejra shelter remains under constant monitoring by Tunisian authorities. In September 2024, 300 people were residing in Tejra.

The number of residents depends largely on security operations in Sfax and the region, and on the flow of new arrivals.

252. Tunisia - UNHCR Monthly operational update, October 2024

Governorate of Sfax

More than a year after the evacuation of downtown Sfax, followed by the forced and arbitrary displacement to rural areas north of Sfax along the Mahdia Road, the living conditions of residents in the informal settlements of El Amra continue to deteriorate daily. The health situation remains critical, with no access to potable water or basic services. Since May 2024, security forces have carried out operations to dismantle informal settlements on a weekly basis. These operations have been marked by significant violence, including the destruction of personal belongings and makeshift shelters by fire and bulldozers, the use of rubber bullets and tear gas to disperse residents, and injuries among people on the move. These operations have never been followed up by proposals of alternative accommodation, even for the most vulnerable people.

Governorate of Médenine

In Zarzis and its outskirts, apart from the currently saturated IOM and UNHCR shelters, and the Tejra and Jderia shelters, the majority of people on the move are gathered in informal settlements in the Sangho district of Zarzis near the UNHCR premises, in the surrounding olive groves and in Médenine. By mid-May 2024, several hundred people were reported to have returned (despite the evacuation of the area in February 2024, which led to the opening of the Jderia center). Zarzis' Oglâ beaches have also been used as informal settlements given the favorable weather conditions in summer, but these locations are expected to be abandoned by early winter. Privately shared housing continues to be rented and inhabited by people on the move in Zarzis and Médenine, but according to an official from a humanitarian organization active in Zarzis, following several violent clashes between people on the move of different nationalities in June and July 2024, two waves of evictions were carried out by Tunisian landlords. Fears of legal consequences for housing individuals in an irregular situation reportedly drove landlords to expel tenants, contributing to the growing homeless population.

4.4 A GENERAL RISE IN INTRA- AND INTER-COMMUNITY TENSIONS

In this context of denial of access to justice, lack of protection by authorities and extreme impoverishment, characterized by denial of access to housing and other basic needs, inter-community tensions in areas of concentration of people on the move reportedly increased in the spring of 2024. Several violent incidents between different communities of people on the move reportedly broke out in May 2024 in localities near Sfax, resulting in several injuries.²⁵³ In June and July 2024,²⁵⁴ violent confrontations took place in Zarzis and Sfax²⁵⁵ between communities of people on the move of different nationalities. In both cases, the inter-community violence triggered reactions from authorities, including arrests and waves of forced evictions from housing, as seen in Zarzis in late July 2024.

OMCT's partner organizations reported an increase in the number of people treated in hospitals in Sfax and Jbeniana for orthopedic injuries (fractures, sprains, contusions) resulting from fights and assaults. Amid rising thefts and assaults by Tunisian citizens, as well as the risk of kidnappings and other violence by criminal groups formed by other people on the move, more and more residents of informal settlements like El Amra are reportedly arming themselves with bladed weapons (knives, machetes) in what they describe as self-defense.

The period May-October 2024 coincided with a resurgence in tensions between host and communities of people on the move in the Sfax region. Tensions between the inhabitants of El Amra and Jbeniana and communities of people on the move peaked during the summer of 2024, with a series of demonstrations in May,²⁵⁶ June and August 2024²⁵⁷ demanding the dismantling of the informal settlements and the departure of people on the move settled in the olive groves. Several trade unions coordinated a strike in Sfax in response to "the catastrophic situation at all levels, particularly in terms of security" linking this to the presence of people on the move.²⁵⁸

The attribution of crimes and other acts of violence to people on the move by trade union organizations, members of the Assembly of the Representatives of the People²⁵⁹, and the persistence of xenophobic and conspiratorial rhetoric spread by media personalities²⁶⁰ and high profile political officials²⁶¹—all amplified in high-audience media—have fueled local tensions.²⁶² On May 11, 2024, the Office of the United Nations High Commissioner for Human Rights expressed concern about the rise in xenophobic rhetoric and abuses committed against people on the move in recent months.²⁶³

In line with the OMCT's previous research, this report concludes that on the social front, the deteriorating conditions in which people on the move are forced to survive in Tunisia are contributing to the escalation of inter- and intra-community tensions and strengthening increasingly sophisticated and well-connected criminal networks. The widespread frustration of the Tunisian society continues to be fueled by populist and xenophobic rhetoric that makes people on the move and other vulnerable communities the scapegoats for Tunisia's socio-economic crisis.

253. [TounsDawla on X](#)

254. «Tunisia: a violent brawl between migrants leaves several seriously injured in Zarzis», RFI, June 2024

255. «Tunisia: Several injured in clashes between sub-Saharan migrants in Sfax», Maliweb, May

256. Tunisia: hundreds of demonstrators demand «the departure» of migrants, AFP on Youtube. See also «Tunisians demonstrate against migrants in transit to Europe», Kapitalis, May 2024

257. [Wahid Dahech on X](#)

258. Sfax faces irregular migrant crisis: UGTT prepares for general strike, Tunibusiness, May 2024.

259. «Tensions in El Amra: Un élu appelle l'armée à intervenir», African Manager, May 2024. See also «A state of panic and insecurity reigns over El Amra and Jbeniana», Business News

260. Tunisia to Tunisians: When Latifa Arfaoui creates controversy on stage, Webdo, July 2024

261. During an official visit to El Amra and Jbeniana, for example, the President of the Republic declared that «contrary to what those who have provoked this inhumane situation claim, we treat [migrants] with humanity, but we will not accept terrorizing citizens. Nor will we accept Tunisians falling victim to those who came or were brought by parties whose unavowed aim is colonization.» «President Kais Saïed on the political situation in Tunisia», TAP, July 2024

262. For more on the link between hate speech and xenophobic acts in the Tunisian context, see The representation of sub-Saharan African migrants in the Tunisian written media: a corpus-assisted critical discourse analysis, Asma Hedi Nairi, The Journal of North African Studies, September 2024.

263. Tunisia: UN concerned by rise in xenophobic rhetoric, May 2024.



EPILOGUE

War and conflict, persecution, poverty, lack of freedom and opportunities and persistent inequalities continue to drive the displacement of thousands of people through and to Tunisia.

In 2024, Tunisia continued to manage migration based on border security and policies to discourage irregular movements, supported by xenophobic rhetoric that frames migration as a threat rather than an opportunity. Since late 2022, Tunisia has chosen to criminalize irregular migration, detaining and massively deporting people on the move arrested on Tunisian soil, whether intercepted or rescued at sea. A series of controversial deals with third countries (including with both neighboring Algeria and Libya and with Europe) concluded in violation of the principle of non-refoulement, have legitimized and reinforced this approach, without addressing the structural causes of the lack of a strategy on migration and the socio-economic crisis in Tunisia, or the root drivers of mixed migration movements in the countries of origin.

Tunisia, “a real-time bridge between two continents”, could still adopt another model and inspire a positive long-term vision for global and regional mobility. It can uphold the fundamental rights of its citizens and of those who reside or transit through its territory, including marginalized communities, by preventing violence and facilitating legal mobility; by adopting an inclusive and humanistic approach, Tunisia can provide dignified solutions for people stranded in desert areas or informal settlements in olive fields while ensuring access to health and education for all. A governance model that respects human dignity would create a dynamic of strengthened social cohesion, benefiting both host communities and people on the move.

While calling for an end to the policy of forced displacement and of all human rights violations documented in this study, the OMCT proposes a series of concrete and feasible measures that would help addressing the two key areas of concern that emerge from the findings of the OMCT’s latest research aiming at paving a path of social inclusion and contributing to safety and security, in compliance with international human rights standards:

An invisible yet alarming public health crisis

- Eliminate all legal, bureaucratic, administrative, logistical, and financial obstacles hindering access to healthcare for people on the move throughout the country and implement emergency programs for sexual and reproductive health rights, child protection, and the prevention of sexually transmitted infections.
- Ensure access to drinking water, sanitation facilities, healthcare services, and waste management for all people on the move, regardless of legal status or discrimination, prioritizing those stranded in the El Amra area.
- Raise awareness about sexual and gender-based violence, inform women on the move of their rights and how to access adequate services, and provide emergency shelter for pregnant women and vulnerable groups. Language training for healthcare professionals could accelerate and improve service delivery.
- Enable national and international humanitarian actors to access and intervene in areas with high concentrations of displaced populations, in coordination with the Red Crescent and health authorities, to detect and treat infectious diseases and mitigate epidemic risks..

The criminalization of invisible flows of people on the move

- Adopt legal and policy reforms to end the criminalization and detention of individuals for immigration-related reasons and establish practical alternatives to detention.
- Prohibit the detention of children on the move and adopt measures for their protection, including temporary regularization programs and adapted protection systems. Implement family-based care and coordinated systems for case management to ensure significant child participation in processes leading to the resolution of their cases.
- Resume the registration of asylum applications and the determination of refugee status while ensuring effective access to asylum for all, including those intercepted or rescued at sea.
- Allow proper identification, profile evaluation, and assessment of vulnerabilities and needs for international protection.
- Ensure access to legal identity by removing obstacles faced by people on the move in registering vital events, particularly births and deaths.
- Design and implement programs, mechanisms, and regularization initiatives aimed at legalizing various forms of temporary stays in the country, providing sustainable and dignified solutions, including through legal migration pathways. This type of measures would help addressing the «limbo» situation that places many segments of people on the move in an indefinite and uncertain legal and social status.

The lack of adequate housing options forces people on the move to live on the margins of society, either on the streets or in isolated rural areas that have been turned into informal settlements characterized by undignified living conditions. When migration and asylum policies are restrictive, and no regularization options are available, people on the move are criminalized and dehumanized. This creates a false perception that they pose a threat to internal security, justifying the denial of their rights and their marginalization. The intersection of migration with other forms of discrimination (based on gender, origin, ethnicity, religion, and sexual orientation) and the erroneous link between irregularity and criminalization exacerbate the vulnerability of people on the move, exposing them to human rights violations and organized crime.

In this context, the current migration and asylum management, driven by security concerns and characterized by violations committed with impunity and often taking advantage of flows of invisible people, is generating increasingly violent episodes of social tensions in Tunisia, while the rule of law continues to deteriorate. In parallel, the continued and widespread practices of the Tunisian authorities to control civil society and human rights defenders reduce civic space, and contribute to destroying community ties, and undermining social cohesion. Tunisian decision-makers and their partners, based on the trends documented in this report, are encouraged to adopt a border management approach founded on human dignity and the respect for human rights as well as to address mobility and displacement with a long-term strategic vision by developing inclusive and innovative policies for social inclusion and legal migration pathways, in collaboration with civil society.

Through this documentation effort, conducted in cooperation with numerous actors in Tunisian and international civil society, the OMCT hopes to support Tunisia in revising its migration and asylum management policy. It also seeks to ensure that partnerships with European and African countries are conditioned on the respect for human dignity and the promotion and protection of the human rights of all, including people on the move.

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

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