

Last Rights Statement on the draft General Comment Enforced Disappearances in the context of migration

The UN Committee on Enforced Disappearances has adopted the first draft of its General Comment No. 1 on “enforced disappearances in the context of migration”.

The General Comment highlights the use of increasingly dehumanising border governance tactics and draws attention to the thousands of migrants who are injured, die, or disappear in the course of migrant journeys.

It recognises the particular vulnerability of persons making migrant journeys and that this is an issue of high priority at an international level. As such, it requires the coordinated efforts of States to counter smuggling and trafficking in human beings and to take adequate steps to safeguard the right to life in the context of migrant journeys.

The General Comment further cements the need for States to take urgent measures to ensure compliance with international legal obligations. Border management must be conducted in full compliance with obligations under international human rights law, humanitarian law, refugee law, and the law of the sea.

This recent legal and political development is particularly pertinent in light of the recent shipwreck off Pylos, resulting in the deaths of at least 650 migrants. However, this tragic incident is not an anomaly. For instance, in 2014, a vessel sank in the Aegean Sea, near the island of Farmakonisi resulting in the death of eleven foreign nationals as a result of insufficient action by Greek authorities to safeguard the lives of those on board. There have been numbers of fatal shipwrecks elsewhere, most recently off the Italian island of Lampedusa on 9 August 2023, with at least 41 people feared dead.

The General Comment has potential to provide improved protection against the denial of post-mortem care and for the rights of the dead and their relatives. In this regard, Last Rights refers to the [2018 Mytilini Declaration](#) for the Dignified Treatment of all Missing and Deceased Persons and their Families as a Consequence of Migrant Journeys. The Mytilini Declaration recognises the inherent right to life and that no person should lose their identity after death. It further recognises the fundamental importance of the right to truth in ending impunity and promoting and protecting human rights. It serves as a practical tool to support actors to perform actions in ways that respect the substantive rights of the missing, dead, and their bereaved families in accordance with international law.

Like the Committee, Last Rights is deeply concerned by the growing trend of enforced disappearances in migration and the need for urgent and effective measures by States. It hopes that through this General Comment, the Committee will offer authoritative guidance to assist States to develop and implement policies to protect persons from enforced disappearances, ensure access to justice for victims, and encourage international cooperation in respect of the protection of persons and the use of investigations of disappearances, death, or injury.