

International Efforts to Combat Irregular Migration in the Light of International Conventions

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Abstract

Irregular migration represents a global dilemma with multiple dimensions, torn between concerns over sovereignty and national security on the one hand, and human rights and humanitarian obligations on the other. To address this growing challenge, international efforts have been pooled through the formulation of a legal framework and agreements at various levels – whether bilateral, regional or international – with the active participation of governments and UN organisations. Nevertheless, these efforts are hampered by a lack of balance between the security-oriented approach aimed at controlling borders and the need to uphold the human dignity of migrants and protect them from smuggling and human trafficking networks. Consequently, it is clear that purely deterrent strategies remain inadequate unless they are accompanied by measures to tackle the root causes of the phenomenon—such as poverty and conflict—through genuine international partnerships centred on sustainable development in countries of origin.

Keywords

– Migrant smuggling – Illegal migration – Undocumented migration – Haraga – Border infiltration – Death boats.

Introduction

The phenomenon of illegal migration is considered one of the most difficult challenges facing the international community in the modern era. This phenomenon is no longer a purely domestic matter but has become a cross-border issue, posing a direct challenge to the social, economic and security stability of both host countries and transit countries alike. This creates a sharp conflict between international guarantees of human rights, such as the right to asylum and freedom of movement, and the right of states to protect their sovereignty and borders.

The academic and practical significance of this study stems from its examination of a phenomenon considered one of the most prominent challenges threatening international peace and security, given its links to the growth of cross-border organised crime, the exacerbation of health risks, and the social disruptions it may cause. The study also seeks to deepen understanding of the structural factors underlying migration flows, foremost among which are armed conflicts, deteriorating economic conditions, and the resulting pressures that drive individuals to seek livelihoods and security outside their home countries.

Despite the multitude of international and regional treaties and conventions that have sought to regulate the cross-border movement of people and to combat the activities of criminal networks involved in irregular migration, this phenomenon continues to grow significantly at the international level. This raises a legal and practical question: to what extent are the efforts and mechanisms established by international conventions effective in curbing irregular migration, and to what extent do they succeed in striking a balance between security requirements and the protection of national sovereignty on the one hand, and guaranteeing the rights of migrants and safeguarding their human dignity on the other?

Through this article, we aim to define irregular migration from the perspective of international law; to review and analyse the most significant international and regional conventions and treaties governing the fight against this phenomenon; and to identify the challenges and obstacles preventing the effective implementation of these conventions on the ground.

To achieve the objectives of this study and address its research question, we have adopted a descriptive-analytical approach to dissect the legal texts contained in international conventions and analyse their implications, whilst subjecting international efforts to scrutiny to assess their success in achieving deterrence.

To cover all aspects of this topic, this article has been divided into the following two sections:

Section One: The Conceptual and Legal Framework of Irregular Migration in International Law

Section Two: International and regional legal mechanisms to combat irregular migration

Section One: The Conceptual and Legal Framework of Irregular Migration in International Law

The phenomenon of irregular or illegal migration is one of the most complex challenges facing the contemporary international community, given its intertwined dimensions, in which humanitarian considerations intersect with the security and economic concerns of states. The quest to establish sustainable and fair governance of this issue inevitably requires a solid theoretical and legislative foundation, the parameters of which are defined by the governing rules of international law.

From this perspective, it is not possible to fully understand the international and regional efforts aimed at combating this phenomenon, or to assess their effectiveness, without a precise definition of the concepts and terminology associated with it, particularly given the conceptual overlap in jurisprudence and law between the terms ‘migrant’, ‘refugee’ and ‘smuggler’. Terminological precision is a foundational step that determines the legal status of the parties involved and defines the limits of international responsibility.

Based on the foregoing, and in order to provide a comprehensive overview of the theoretical and legislative background to this phenomenon within the international system, this study will be divided into two main sections; the first section will be devoted to the concept of irregular migration, whilst the second section will be dedicated to distinguishing irregular migration from similar concepts

Section One: The Concept of Irregular Migration

In order to identify the precise legal and conceptual dimensions of this phenomenon and to dispel the confusion surrounding its terminology, it is first necessary to establish the general concept of migration as a fundamental principle, before delving into its exceptions and unlawful manifestations. Accordingly, this section has been divided into two main subsections; the first subsection is devoted to addressing migration in its general sense, whilst the second subsection is

dedicated to defining the concept of irregular migration and clarifying its nature and distinguishing features.

Section One: Migration in its general sense

Migration, in its general sense, is defined as the movement of individuals or groups to take up residence in a new geographical environment other than their country of origin, in a manner characterised by continuity and relative permanence; Thus, this definition excludes forms of temporary human movement such as leisure, tourism, transit visits, or travel for medical treatment and similar purposes. In terms of terminology, migration is divided into two main categories: internal migration, which refers to population movements taking place within the political and geographical boundaries of a single state, and is characterised by its flexibility as it does not require visas or prior authorisation for relocation. External (international) migration, on the other hand, involves individuals or groups crossing the sovereign borders of a state into another, with the aim of settling there, whether temporarily or permanently (Nour & Al-Mubarak, 2008, p. 15).

Migration is a phenomenon with deep-rooted historical origins, historically driven by changes in living conditions and climate, which have compelled individuals to move continuously in response to crises such as poverty, famine, epidemics, and natural disasters such as earthquakes and floods, as well as armed conflicts and civil wars; with population flows often moving from less developed, less secure and less stable environments to more prosperous, thriving and stable regions (Nour & Al-Mubarak, 2008, p. 15).

Migration is mentioned in the Holy Qur'an in numerous passages, in various forms and contexts, which demonstrates its great significance and high status in Islamic law (Qur'an 3:195; 8:72–75; 4:97–100; 9:19–20; 16:41; 59:7–8).

Section Two: The Concept of Illegal Migration

The term 'illegal migration' necessarily implies the existence of a parallel concept, namely legal migration. This correlation raises a fundamental question regarding the nature of legal migration and the criteria governing it.

Legal (or regular) **migration** is defined as an organised movement that takes place in compliance with the laws and legislative regulations agreed between the two states: the country of origin and the host country. Under this model, the host country permits arrivals to enter its territory in accordance with its legal framework, administrative procedures and national requirements, issuing official entry visas to those who meet the admission criteria (Heshmaoui, 2020, p. 10).

Illegal immigration, on the other hand, occurs when a person who is not a national of a country, or who is not authorised to reside there, enters that country clandestinely via its land, sea or air borders; or enters a country through its legal ports of entry using forged documents or visas. Illegal immigration is often collective and rarely individual (**Eid, 2010, p. 50**)

As for the concept of irregular migration in international conventions, the International Labour Organisation (ILO) defines an irregular migrant as anyone who circumvents national legislative frameworks and international conventions; this includes crossing borders illegally away from official border crossings, or remaining in the host country after the expiry of their legal residence permit. The Organisation also includes in this category migrant workers who breach the terms of their employment contracts, whether by engaging in unauthorised professional activities or by exceeding the permitted period of employment. Generally speaking, an irregular migrant is defined as any foreign national who settles in a country without the consent of its authorities, or who uses forged

documents to obtain material or moral benefits, thereby adversely affecting the economic and security systems of the host country (Abdul-Wahhab, 2026, p. 294)

In accordance with the first paragraph of Article 2 (Art. 2) of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the term ‘migrant worker’ means any person who is engaged in, has commenced, or continues to be engaged in paid employment in a State of which he or she is not a national.

Article 5 of the same Convention sets out the legal status of migrant workers and their families as follows:

- a. Regular status (documented persons): A migrant worker and their family are classified as being in a regular and lawful status if they have obtained the necessary permits for entry, residence and paid employment, in accordance with the domestic legislation of the State of employment and the international conventions to which that State is a party.
- b. Irregular status (undocumented persons): Workers and their families are considered to be in an irregular status if they fail to comply with the regulations and conditions set out in the previous paragraph.

The Global Compact for Safe, Orderly and Regular Migration (2018) represents a paradigm shift in the international management of migration. Rather than the traditional distinction between ‘legal’ and ‘illegal’ migrants, the Compact focuses on distinguishing between ‘regular’ and ‘irregular’ migration. The text also enshrines the sovereign right of states to distinguish between the two situations, whilst obliging signatory states to work to reduce and prevent irregular migration.

Second point: Distinguishing ‘illegal’ migration from similar concepts

With the increasing pace of cross-border human movements, the concept of ‘irregular migration’ has become intertwined with a range of similar terms. Hence, it is of the utmost importance to distinguish irregular migration from closely related concepts such as migrant smuggling, asylum, human trafficking, illegal entry and displacement. This is to avoid any conceptual confusion that might lead to an incorrect classification of individuals’ legal status. Given the broad scope of these terms and to avoid digression, we shall limit ourselves to highlighting those concepts most closely related to irregular migration.

Section 1: Distinguishing irregular migration from the smuggling of migrants

‘Smuggling of migrants’ is defined in Article 3 of the Protocol (United Nations, 2000a, art. 3) on combating this phenomenon via land, sea and air transport, means the deliberate introduction, by unlawful means, of a person into the territory of a State Party of which that person is not a national or in which they do not have a right of permanent residence, provided that this act is accompanied by the intention to obtain financial or other material gain, whether directly or indirectly.

Illegal immigration is a legal status attributed to an individual (the migrant) when they enter or reside in a country without following that country’s legal procedures. Migrant smuggling, on the other hand, is an organised crime carried out by a third party (the smuggler) to facilitate such illegal entry in exchange for financial gain.

Migrant smuggling requires the involvement of two parties: the migrant and the smuggler; the smuggler or smuggling network is the primary driving force behind the operation, providing the necessary means. There is a strong link between irregular migration and human smuggling, as most migrants are forced to rely on smuggling networks and vessels as their primary means of facilitating and ensuring their arrival at their intended destinations. A migrant who uses a network to facilitate

their entry in return for payment has been subjected to the process of ‘migrant smuggling’, and upon arrival in the destination country, their status becomes that of an ‘irregular migrant’. It should be noted, however, that a person may travel alone and cross the border without anyone’s assistance.

According to the ‘Protocol against the Smuggling of Migrants by Land, Sea and Air’, smugglers are regarded as criminals who must be prosecuted and punished. Smuggled migrants, on the other hand, are regarded as victims.

Section Two: Distinguishing Irregular Migration from ‘Asylum’

Article 14 of the 1948 Universal Declaration of Human Rights stipulates that everyone has the right to seek asylum in another country to escape persecution, provided that such asylum is not sought to evade justice for non-political reasons or for acts contrary to the principles of the United Nations.

Based on the legal text set out in Article 1 of the 1951 Convention Relating to the Status of Refugees which is based on Article 14 of the aforementioned Universal Declaration of Human Rights, we can derive and precisely define the term ‘refugee’ by breaking down the text into four fundamental pillars (eligibility criteria, temporal and geographical scope, cases of cessation of refugee status, and grounds for exclusion):

Firstly: Conditions for acquiring ‘refugee’ status

- The person must be outside the country of their nationality or, if stateless, outside the country of their habitual residence
- The person must have a well-founded fear, based on objective and factual grounds, of being subjected to persecution.
- The persecution must be motivated by one or more of the following five grounds: race, religion, nationality, membership of a particular social group, or political opinion.
- The refugee must be unable to avail themselves of the protection of their country, or unwilling to do so because of their well-founded fear. In the case of multiple nationalities, they must be deprived of the protection of all the countries of which they are a national.
- Historical refugees: this status automatically applies to anyone recognised as a refugee under international arrangements and conventions predating 1951 (such as the 1926 and 1928 arrangements, the 1933 and 1938 conventions, and the Statute of the International Refugee Organisation).

Second: Temporal and geographical scope

According to the original 1951 text (prior to its amendment by the 1967 Protocol):

Asylum must result from events that occurred before 1 January 1951.

Upon accession, signatory states are granted the right to choose to limit the term ‘events’ to one of two scopes:

- a) Events occurring in Europe only.
- b) Events occurring in Europe or elsewhere, with the possibility of extending the obligation from (a) to (b) at a later date.

Third: Cases in which refugee status ceases

A person ceases to be a refugee under Article (c) in the following cases:

- If, of their own volition, they regain the protection of their country of nationality, or regain their lost nationality, or acquire a new nationality and are afforded its protection.
- If they return of their own accord to the country they left for fear of persecution.
- If the reasons and circumstances that led to him being recognised as a refugee have ceased to exist

Fourth: Cases of exclusion and denial of refugee status

A person shall be denied refugee status in the following cases:

- If they receive protection or assistance from UN agencies (such as UNRWA); their refugee status is restored if such assistance ceases without their situation having been resolved.
- If they are resident in a country and are treated there in the same way as nationals of that country in terms of rights and duties.
- If there are serious grounds to establish that they have committed:
 - war crimes, crimes against humanity, or crimes against peace;
 - A serious non-political crime committed outside the country of asylum and prior to being admitted to it.
 - Acts contrary to the purposes and principles of the United Nations.

Then came the 1967 Protocol to amend and supplement the 1951 Convention relating to the Status of Refugees, removing the geographical and temporal restrictions previously imposed by the Convention. This fundamental amendment transformed refugee law from a mere regional document specific to post-Second World War Europe into a comprehensive international charter applicable throughout the world.

Section Two: International, regional and bilateral legal mechanisms to combat irregular migration

The phenomenon of irregular migration constitutes a complex dilemma whose dimensions transcend the political boundaries of nation states, rendering unilateral security and legal approaches insufficient to contain its effects and curb its flows. Faced with this reality, the international community at various levels has stepped in to formulate joint legal and institutional strategies, aimed at striking a delicate balance between the concern for preserving state sovereignty and security, and the commitment to international human rights conventions and the protection of vulnerable groups of migrants. On this basis, this chapter seeks to shed light on the legal and regulatory framework governing this joint cooperation, which we shall deconstruct and analyse across successive levels: beginning with the general international environment, moving through regional ties, and culminating in direct bilateral agreements.

It is important to note at the outset, in line with methodological principles, that the mechanisms to be reviewed in this study are not presented as an exhaustive or comprehensive list; rather, they have been selected and adopted as the most prominent, influential, and most closely linked to the subject of the study, without this presentation encompassing the full range of treaties or coordination frameworks available on the international stage in this regard. To provide an overview of these legal and institutional frameworks, this section has been divided into two main parts: the first part is devoted to a review of international (global) legal mechanisms, whilst the second part examines regional and bilateral legal mechanisms.

Section One: International (Global) Legal Mechanisms to Combat Irregular Migration

The legal and regulatory framework established by the United Nations and its specialised agencies forms the cornerstone of the global strategy to tackle irregular migration; the cross-border nature of this phenomenon requires unified legal rules and flexible institutional mechanisms capable of reconciling the fight against crime with the protection of fundamental human rights. These international efforts take the form of two complementary approaches: the first is a human rights-based approach, which focuses on establishing minimum standards for the protection of migrants and

ensuring their dignity; the second is a criminal security approach, which aims to dismantle organised crime networks and human trafficking operations.

Accordingly, in this paper we seek to examine and analyse the most significant legal and institutional frameworks at the global level, by dividing the study into five interrelated sections; In the first section, we examine the ‘International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, 1990’ as a key human rights instrument; in the second section, we highlight the approaches put forward by the ‘Global Commission on International Migration’.

We devote the third and fourth sections to the punitive and criminal aspects by examining the ‘United Nations Convention against Transnational Organised Crime’ and its complementary ‘Protocol against the Smuggling of Migrants by Land, Sea and Air’. We conclude this discussion in the fifth section with a review of the ‘International Organisation for Migration’s Strategy’, given its status as the foremost executive and institutional actor in the global governance of migration.

Section One: The International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, 1990

The “International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families” is one of the most important international legal instruments aimed at curbing the exploitation of this group and protecting them from abuses. It was adopted by the United Nations General Assembly under Resolution 45/158, issued on 18 December 1990, and entered into force on 1 July 2003; by October 2021, the number of ratifying states had risen to 56. (United Nations, 1990)

The importance of this Convention lies in its comprehensiveness, as it covers all stages of the migration process, and its provisions apply to all migrant workers without discrimination. The Convention is fundamentally based on the close link between migration and human rights; it reaffirms the fundamental rights set out in the Universal Declaration of Human Rights and establishes binding international standards for States Parties on how to treat migrant workers, regardless of their legal status, whether regular or irregular. (Ahmed & Ladamia, 2015, p. 196)

The Convention opens with a preamble highlighting the harsh human and psychological consequences that exile imposes on migrants and their families, condemning unjust working conditions that lack the minimum standards of fairness, particularly for irregular migrants who fall victim to exploitation. Accordingly, the Convention obliges signatory states to safeguard their rights and to build bridges of mutual cooperation to facilitate their safe and dignified return home.

The 92 articles of the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families are organised into nine main parts, all of which aim to establish a comprehensive protection system based on key pillars, the most notable of which are (Muqaddam, 2026, pp. 228–229):

1. The principle of non-discrimination: Part II (Article 7) enshrines the principle of non-discrimination in all its forms, obliging States Parties to respect and ensure the rights of migrants and their families who are present in their territory or subject to their jurisdiction.
- 2- Fundamental rights of all migrants: Part III (Articles 8–35) guarantees fundamental rights to all migrants, regardless of their legal status.
3. Rights of regular migrants: Part IV (Articles 36–56) provides special protection and broader rights for migrant workers and their families who enjoy a stable legal and regular status in the host country.

4. Specific categories of workers: Part V (Articles 57–63) sets out the rights of specific categories of workers, including seasonal workers, itinerant workers, and workers engaged in temporary projects or jobs with a defined timeframe.

5. Promoting orderly migration: Part VI (Articles 64–71) of the Convention is devoted to regulating and facilitating international migration; it focuses on promoting safe, fair, humane and lawful conditions for workers and their families by combating irregular migration and curbing human trafficking, whilst activating mechanisms for coordination and cooperation between the States concerned.

Section II: Approaches of the Global Commission on International Migration.

This international committee was established by a decision of the United Nations Secretary-General in late 2003 and commenced its work in 2004; it comprised 19 international experts in the field of migration. The committee was tasked with several responsibilities, most notably fostering dialogue and cooperation on migration amongst governments, international organisations, civil society and the private sector. It was also tasked with examining gaps in global migration approaches and monitoring their interconnection with other international issues and policies. Furthermore, the Commission was tasked with making recommendations and putting forward proposals to the international community on ways to manage migration at national, regional and global levels, in order to maximise its benefits and minimise its negative impacts. (Khato, 2011, p. 76)

During its term, the Commission organised several regional meetings to discuss migration issues, carried out analyses and research programmes, and concluded its activities by submitting a report in October 2005 to the United Nations Secretary-General.

Based on the recommendations and findings of this comprehensive UN report, and in line with international efforts to address this issue, the Organisation tackled this phenomenon by focusing on several strategic areas, as follows (Haji, 2020, p. 97):

1. Viewing irregular migration as a complex phenomenon requiring international coordination to pursue human trafficking networks and disrupt their channels, whilst seeking to harness and channel migration in a positive manner.
2. To commit to respecting the fundamental rights of irregular migrants and to ensure they are treated humanely in detention and holding centres.
- 3- Enact robust legislation to combat the phenomenon and contribute to the drafting of rules and laws with an international dimension.
- 4- Governing and managing migration in a way that ensures the common interests of all stakeholders are met.
- 5- Developing well-considered strategies for the integration of migrants into host societies, so that they become a source of enrichment and development rather than a threat to security and stability.

Section Three: The United Nations Convention against Transnational Organised Crime

The phenomenon of irregular migration is closely linked to transnational organised crime networks; it provides a fertile environment for crimes such as human trafficking, the trade in arms and ammunition, and the circulation of counterfeit currency in destination countries. Furthermore, financial hardship may drive some irregular migrants to join local gangs specialising in theft and looting in order to secure a livelihood. However, the most prominent and serious threat to the security of host countries is the risk of terrorism, which exploits these vulnerabilities to undermine civil peace and destabilise the state.

The United Nations Convention against Transnational Organised Crime is recognised as the most prominent international legal instrument in this field, having been adopted by the United Nations General Assembly pursuant to Resolution No. 25 of its 55th session, dated 15 November 2000. It was opened for signature during a high-level political conference held in Palermo, Italy, from 12 to 15 December 2000, and officially entered into force on 29 September 2003.

To enhance its effectiveness, three supplementary protocols targeting specific forms of organised crime have been annexed to the Convention, namely: the Protocol to Prevent, Suppress and Punish Trafficking in Persons (especially women and children), the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition; it should be noted that States are legally required to be parties to the main Convention first in order to be able to accede to any of these protocols.

This Convention consists of 41 articles, supplemented by the three aforementioned Protocols. An analysis of its content reveals that the core Convention does not explicitly or directly address the phenomenon of irregular migration or the offence of migrant smuggling within its articles; nevertheless, such conduct falls, both objectively and implicitly, under the general concept of transnational organised crime, based on the nature of the acts prohibited under it. Consequently, the Convention's approach to tackling this criminal phenomenon is characterised by its comprehensiveness, as its strategy integrates both substantive (criminalisation) and procedural aspects (Harhour, 2024, p. 104).

Whilst the detailed, substantive articles concerning the criminalisation of and the fight against irregular migration are set out exclusively in the annexed 'Protocol against the Smuggling of Migrants by Land, Sea and Air', the articles of the parent Convention constitute the general legal and procedural framework, such as the common mechanisms for criminal prosecution, mutual legal assistance and the extradition of offenders, upon which the States Parties rely to dismantle the organised criminal networks that manage irregular migration flows.

In this context, the role of the parent Convention in combating the smuggling of migrants is evident in its establishment of the foundations for an integrated cross-border procedural system; this begins with the structural legal classification of this phenomenon as a serious, transnational crime managed by organised groups, thereby granting law enforcement agencies the international authority to pursue it. This effectiveness extends to targeting the smugglers' primary financial driver by criminalising money laundering and confiscating criminal proceeds and the means of transport used, whilst lifting bank secrecy to cripple these groups economically. The Convention also ensures that loopholes enabling perpetrators to escape are closed by extending jurisdictions and providing a common legal basis for the extradition of criminals, supported by binding mechanisms for the exchange of evidence and mutual legal assistance between countries of origin, transit and destination. Finally, the Convention activates the logistical and developmental support component by providing developing countries with technical, material and training support, and by utilising confiscated funds to enhance the effectiveness of efforts to combat these networks.

Observers note that this treaty was characterised by unprecedented international momentum; no other convention adopted by the United Nations has attracted such a large number of signatories, with representatives from one hundred and twenty-four (124) states signing it. The favourable global climate at the time helped to reinforce this trend, as international enthusiasm combined with a

collective sense of the need to formulate a unified and urgent legal framework to tackle this phenomenon. This consensus was clearly reflected in the drafting of the Convention's provisions and its completion in record time, as well as in the fact that it was discussed and ratified smoothly and easily, without encountering the obstacles and complexities typically associated with the process of concluding international treaties. (Ladania, 2010, p. 105)

Section IV: Protocol against the Smuggling of Migrants by Land, Sea and Air (United Nations, 2000a)

The 'Protocol against the Smuggling of Migrants by Land, Sea and Air' is one of the legal annexes to the 'United Nations Convention against Transnational Organised Crime'. It was adopted by the United Nations General Assembly in New York in November 2000, and was officially opened for signature in Palermo, Italy, in December of the same year, before entering into force in January 2004.

This Protocol comprises 25 articles and a preamble; the latter calls for effective measures to be taken to prevent and combat the smuggling of migrants, and to strengthen cooperation in combating migration.

Article 2 of this Protocol sets out its objectives, serving as a roadmap or the main goals for which the Protocol was established. This article is based on a three-pronged approach that strikes a balance between security and human rights:

With regard to the security dimension, the Protocol aims, first and foremost, to put an end to organised crime networks that profit from human smuggling, and to dry up the sources of this illicit trade through the enactment of laws and deterrent penalties. As the smuggling of migrants is a cross-border crime, no single state can tackle it alone. This article therefore obliges States Parties to exchange information, coordinate security and judicial efforts, and jointly control borders. As for the humanitarian dimension – which is a fundamental point – the Protocol clearly distinguishes between the smuggler (the criminal) and the migrant (the victim). The article emphasises the need to protect the fundamental rights of these migrants and not to treat them as criminals, but rather as persons deserving of protection and humanitarian care.

Under the heading 'Definitions', Article 3 of the Protocol clarifies what is meant by the term 'smuggling of migrants'. This article sets out precise legal definitions to prevent any ambiguity or divergence of interpretation among States when applying the law. For an offence to be legally classified as "smuggling of migrants" under this Protocol, three essential elements must be present simultaneously:

1. Facilitating or organising the entry of a person in an unlawful manner.
2. That person must be an alien in the destination State, i.e. neither a national nor a permanent resident with the right of automatic entry.
- 3- The smuggler's motive must be to obtain a direct or indirect financial or material benefit.

Among the terms used and defined in Article 3 of the Protocol is 'illegal entry'. This definition is based on the material element of the offence, namely 'the manner of crossing'. This refers to: crossing the borders of the receiving State without complying with the official laws and conditions of entry, such as: not holding an entry visa, failing to pass through official border crossings, or using forged travel documents to bypass checkpoints.

Article 6 (paragraph 1) obliges States Parties to make the acts of smuggling migrants and related acts criminal offences punishable by law, provided that two elements are present: intent, and the intention to obtain financial or material gain. The acts that the Article requires to be criminalised can be summarised briefly as follows:

- (a) The principal offence (smuggling): the criminalisation of the act of facilitating the entry of a migrant into another State by unlawful means.
- (b) Auxiliary offences (document forgery): Criminalisation of any act relating to forged travel or identity documents where the aim is to facilitate smuggling.
- (c) Facilitating unauthorised stay (residence): Criminalisation of assisting a person who is neither a national nor a resident to remain and live within the State unlawfully, whether through the use of forged documents or any other unlawful means. (Al-Shishani et al., 2010, pp. 147–148)

International law treats the ‘high seas’ with great sensitivity due to the principle of ‘flag state sovereignty’; therefore, Articles 7 and 8 were introduced to strike a delicate balance between combating organised crime and respecting state sovereignty and freedom of navigation.

According to Article 7, States Parties must cooperate to the fullest extent possible to combat the smuggling of migrants by sea, in accordance with international maritime law, specifically the United Nations Convention on the Law of the Sea. No State may, under the pretext of combating smuggling, violate the rules of international navigation in a manner contrary to international law.

Article 8, meanwhile, regulates the procedures for pursuing migrant-smuggling vessels in international waters in a manner that strikes a balance between combating crime and respecting state sovereignty; it stipulates that, in cases involving vessels flying a foreign flag, prior and express authorisation must be obtained from the ‘flag State’ before boarding, searching or detaining the vessel, with the exception of cases of imminent danger to life. Meanwhile, states are granted the authority to intervene directly and conduct searches without authorisation in respect of national vessels or those without nationality, whilst states are required to designate central, rapid-response authorities to coordinate such authorisations and requests (Muqaddam, 2026, p. 353).

Article 18, the penultimate article before the final provisions of the Protocol and entitled ‘Return of Smuggled Migrants’, the Protocol emphasises the need to return smuggled migrants within a strict legal and humanitarian framework for the deportation or return of migrants to their countries of origin, ensuring that such returns are safe and dignified and do not violate their fundamental rights (United Nations, 2000a, art. 18).

Section V: The International Organisation for Migration’s Strategy for Addressing the Phenomenon of Irregular Migration

The International Organisation for Migration was founded in 1951 under the name ‘Provisional Intergovernmental Committee for the Migration of Displaced Persons from Europe’, and its establishment came as a humanitarian response to the chaos and mass displacement that swept across Western Europe following the Second World War. At that time, European governments entrusted the organisation with the daunting task of seeking to resettle some 11 million displaced persons left in the wake of the war, and it did indeed succeed in organising the transport and safe migration of around one million people during the 1950s.

The International Organisation for Migration comprises 172 member states and eight other countries with observer status, and conducts its operations through field offices spread across more

than 100 countries. The organisation focuses its efforts on four key areas of migration management: migration and development; migration facilitation; migration management; and forced migration (Baraka, 2021, p. 250)

The Organisation manages hundreds of projects and programmes that vary and are constantly evolving, spread across its offices. It maintains one of the most comprehensive databases on voluntary return, and the 'Voluntary Return and Reintegration Assistance' programme is one of the oldest, most important and landmark programmes offered by the International Organisation for Migration since its inception. This programme falls specifically under the remit of the 'Migration Management' section.

The International Organisation for Migration offers a comprehensive voluntary return programme targeting specific categories of irregular migrants, with the aim of facilitating their safe and orderly return to their countries of origin. The services and assistance provided to migrants under this programme include the following:

- Travel arrangements: by assisting with the issuance of travel documents and securing the necessary tickets.
- Logistical and on-the-ground support: by accompanying and guiding migrants during their return journey and upon their reception in their country of origin, and by arranging transport until they reach their final destination within their country.
- In-kind and financial support: by providing basic personal items and a small cash allowance to help them cover their immediate needs.
- Healthcare and accommodation: Providing medical checks for travellers to ensure their safety, and arranging overnight accommodation where necessary.

The organisation classifies its voluntary return programmes into three main categories:

- General programmes: available to all categories of irregular migrants.
- Programmes for migrants in transit: These target irregular migrants in transit countries.
- Tailored programmes: designed specifically for certain countries or in response to particular humanitarian circumstances and situations (United Nations Office on Drugs and Crime, 2006, p. 131; Baraka, 2021, p. 253).

Section Two: Regional and Bilateral Legal Mechanisms to Combat Irregular Migration

Whilst general international rules have established a comprehensive philosophical and regulatory framework for tackling irregular migration, the true effectiveness of these rules remains dependent on their suitability and implementation within regional and bilateral frameworks. This approach is of paramount importance given the geographical and political specificities linking the two shores of the Mediterranean, where security and economic interests intersect with humanitarian considerations amongst countries of origin, transit and destination.

North African countries, including Algeria, are at the heart of this equation, given their status as a strategic hub in the North African region; this has led them to engage in a multi-level legal framework to tackle the phenomenon and safeguard their national security within the context of international obligations. Building on this specific context, this paper seeks to monitor and analyse the legal mechanisms most closely aligned with the reality on the ground, by dividing it into two main sections: the first section is devoted to reviewing regional legal mechanisms, whilst the second section examines and evaluates bilateral legal mechanisms

Section One: Regional Legal Mechanisms to Combat Irregular Migration

We dedicate this section to reviewing regional legal mechanisms, through which we examine frameworks for collective coordination; beginning with ‘Africa-Europe cooperation’, moving on to the ‘Euro-Mediterranean Partnership within the framework of the (5+5) mechanism’, and analysing ‘European Union efforts’ by examining the Schengen Agreement, the Euro-Med Migration Programme and the new Migration and Asylum Pact, concluding this section with the ‘EU–Algeria Partnership Agreement’ as a contractual framework governing bilateral relations.

First: African–European cooperation in combating irregular migration

Irregular migration from the African continent has remained a worrying and growing challenge since the mid-21st century, creating an urgent need to identify and address its root causes. Although some of these migration flows settle within the continent itself, the vast majority head towards Europe; in doing so, they endure flagrant human rights violations and grave, life-threatening dangers, not to mention the waste of economic talent that this phenomenon represents in both countries of origin and transit.

In this context, Africa stands out as one of the regions from which the most migration originates, with the most vulnerable groups being forced to undertake extremely dangerous desert and border crossings that lack even the most basic safety measures. The geopolitical roles of states are intertwined within this dynamic; North African countries such as Libya, Tunisia, Algeria, Morocco and Egypt constitute strategic and key transit points through which migration flows towards European destinations, alongside other routes extending towards alternative transit points such as Yemen (Faraj, 2017, p. 12; Abdul-Wahhab, 2026, p. 299).

Faced with these challenges, the international community and regional organisations have joined forces to formulate legislative frameworks and deterrent protective measures.

On 13 July 2006, some 60 African and European states called on the United Nations High Commissioner for Refugees (UNHCR) to intervene and assist in managing the flows of irregular migration from Africa to Europe. This phenomenon has raised serious concerns within the UNHCR due to the growing trend of ‘mixed migration’, whereby refugees seeking international protection are mixed with economic migrants on the same dangerous routes and journeys. In light of this situation, the ministerial conference held in the Moroccan capital, Rabat, culminated in the adoption of a final communiqué endorsed by 57 ministers (30 from Europe and 27 from Africa), which established the principle of shared responsibility and bilateral cooperation to manage this crisis through a comprehensive and balanced approach, committed to respecting the rights and human dignity of migrants and refugees. (Dakhala, 2014, p. 151; Al-Asaad et al., 2010, p. 50)

The Rabat Declaration recognised the need to provide international protection for refugees in line with the participating states’ international obligations, calling on international organisations – foremost among them the UNHCR – to contribute actively to the implementation of the agreed recommendations. In this context, Sweden announced its commitment to funding the ‘10-point action plan’ drawn up by the then High Commissioner, António Guterres. This strategic plan aims to reconcile the tackling of irregular and mixed migration with the strict safeguarding of the rights of migrant groups. It also called for the strengthening of judicial and security cooperation between police forces to combat organised crime networks and human trafficking operating along migration routes, with the signatories agreeing to meet again in four years’ time to assess progress made in its implementation (Al-Asaad et al., 2010, p. 52).

For his part, the European Commissioner for Justice and Home Affairs, Franco Frattini, emphasised the central importance of drawing up a joint action plan involving African countries of origin and transit, considering cooperation with them to be an indispensable pillar for the success of policies aimed at returning irregular migrants to their countries of origin. Frattini also stressed that the approach must not be limited to the purely security dimension, but must be complemented by developmental and economic alternatives that contribute to improving the living conditions of migrants in their home countries, through the implementation of economic empowerment programmes and the provision of microloans as a preventive mechanism to reduce the drivers of migration (Hishmaoui, 2020, p. 25; Farah & Farah, 2015, p. 184).

African–European cooperation in combating irregular migration was also highlighted through the **‘Ouagadougou’ Action Plan** in Burkina Faso to combat human trafficking, adopted in November 2006, during the Joint Ministerial Conference between the African Union and the European Union, and has since become a prominent regional framework reflecting the close cooperation between the two unions in tackling this phenomenon.

The primary objective of this plan is to serve as a specialised regional mechanism for implementing the provisions of the ‘2000 Palermo Protocol’ and adapting them to the structural specificities of the African continent, as a geographical area affected by all aspects of the crime (origin, transit and destination). By drawing on the Protocol’s four strategic pillars, the Plan has succeeded in formulating an integrated framework linking criminal and preventive measures with safeguards for the protection of victims.

From this perspective, the legal and jurisprudential value of the Plan lies in bridging the gap between the legal abstraction of international texts and the reality on the ground; this has transformed it into a guiding reference document from which various Arab and African legal systems have drawn inspiration for their independent national legislation in this field.

In the context of implementing this framework, the African Union Commission’s initiative has helped to raise awareness of the ‘Ouagadougou’ Plan and advance its implementation; this was subsequently reflected in the launch of the ‘Horn of Africa Initiative’ in 2014 as an institutional mechanism to support dialogue and address the challenges associated with human trafficking, migrant smuggling and irregular migration flows in that region.

These efforts are aligned with the continent’s strategic aspirations, as the first ten-year implementation plan for ‘Africa Agenda 2063’ called for the protection of children and young people and the empowerment of women, and for an end to the exploitation, recruitment and trafficking of children by the target period (2023–2024). In line with the principle of shared responsibility, cooperation between African and European states has taken shape through the creation of strategic twinning partnerships, clearly evident in the intensification of security coordination, support for development initiatives to improve the living standards of border communities, and joint action against cross-border criminal networks; The activation of mechanisms for the exchange of information and criminal intelligence between African states remains the cornerstone for combating this phenomenon. (Bouzina, 2001, p. 18)

As an extension of this African–European cooperation, the **‘Valletta Summit on Migration’** was held in the Maltese capital, Valletta, on 11 and 12 November 2015, marking a significant milestone in this context. The summit was convened as an urgent response to the escalating migrant and refugee crisis in the Mediterranean during 2015. It brought together more than 60 leaders and

heads of state and government from member states of the European Union and the African Union, as well as representatives of regional and international organisations (such as the United Nations High Commissioner for Refugees and the International Organisation for Migration) (European Council, 2015, pp. 1–2).

The proceedings of the “Valletta Summit on Migration” focused on two main tracks; the first involved the adoption of a political declaration and a comprehensive action plan comprising 16 priority initiatives centred on five key dimensions. Foremost among these dimensions was addressing the root causes of irregular migration by supporting sustainable development, combating poverty, and providing genuine employment opportunities for young people in countries of origin and transit. In parallel, the participants sought to promote regular migration and mobility by opening legal and safe channels for work, study and scientific research between the African and European continents.

The action plan also placed great emphasis on the protection of migrants and asylum seekers, aiming to strengthen the capacities of refugee-hosting countries and support humanitarian aid in conflict zones. The participants did not overlook the security aspect, with the fourth pillar focusing on combating irregular migration and human trafficking by intensifying security and intelligence cooperation to dismantle organised criminal networks that exploit migrants. These pillars were rounded off by improved cooperation on return and reintegration, and the facilitation of measures to return irregular migrants to their countries of origin, whilst prioritising voluntary return and supporting their social and economic integration (General Secretariat of the Council of the European Union, 2015, pp. 3–8).

The second track, and one of the summit’s most significant operational outcomes, was the European Union’s launch of the ‘European Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displacement in Africa’. An initial budget of over 1.8 billion euros was allocated to this fund, with these funds directed specifically towards supporting development and security projects in three key and vital African regions: the Sahel, the Lake Chad Basin, the Horn of Africa, and North Africa (European Commission, 2015, p. 4).

Secondly: The Euro-Mediterranean Partnership within the framework of the ‘5+5’ mechanism

The 5+5 dialogue was effectively established at the ministerial meeting held in the Italian capital, Rome, on 22 March 1990, attended by the foreign ministers of six countries: France, Italy, Tunisia, Algeria, Morocco and Libya. Although plans were made to hold a summit of heads of state in 1992 to set this process in motion, the international sanctions imposed by the Security Council against Libya led to this Mediterranean dialogue being put on hold for years. Meanwhile, the ‘Barcelona Process’ emerged in 1995 as an inclusive alternative; however, it faced fundamental challenges that limited its effectiveness. This was primarily due to conflicting interests between the two shores of the Mediterranean, a lack of financial and development support directed towards the southern countries, and the demand for intensive efforts to tackle the issues of terrorism and irregular migration. (Muqaddam, 2026, p. 220; Al-Shishani et al., 2010, p. 151)

Subsequently, the Portuguese capital, Lisbon, witnessed the resumption of dialogue with the second round of talks on 25 and 26 January 2001, through a ministerial meeting involving the ten countries, which paved the way for the historic ‘Tunis Summit’ on 5 December 2003. This summit brought together the leaders of five countries from the southern shore (Algeria, Tunisia, Morocco, Libya and Mauritania) and their counterparts from five northern countries (France, Italy, Spain, Portugal and Malta), thereby formally establishing the ‘5+5’ format. The issues of illegal migration

and terrorism dominated the summit's agenda, with discussions focusing on means of security coordination and data exchange; the Maghreb side emphasised that the effectiveness of its efforts to monitor migration flows was contingent upon receiving tangible European support (Western Mediterranean Dialogue, 2003).

The gap in perspectives between the two sides became apparent during the ministerial meeting held in Oran (Algeria) on 2 November 2004. Whilst the European approach promoted the idea of establishing temporary 'transit and deportation centres' within Maghreb territories to gather migrants deported from Europe or intercepted at sea, in preparation for their return to their countries of origin; this proposal was met with categorical Maghreb opposition, led by Algeria, which viewed the proposal as an abdication of responsibility and instead demanded logistical and technical support to strengthen its own capabilities in protecting its land and sea borders against migration flows from the interior of Africa (Western Mediterranean Dialogue, 2004).

Coordination efforts continued through subsequent meetings, most notably the Tripoli meeting on 13 December 2010, which focused on institutionalising the exchange of technical expertise and intelligence to combat irregular migration. A series of meetings followed, culminating in the signing of the 'Tunis Declaration' on 22 October 2020, which set out a joint strategy for managing migration flows in the Western Mediterranean basin. The dialogue was not limited to purely security-related aspects, but extended to include environmental and development dimensions, as exemplified by the forum held in May 2025, which discussed in depth the inverse relationship between drought and rising rates of irregular migration (Muqaddam, 2026, p. 221).

Third: The European Union's efforts to combat irregular migration.

The European area is one of the world's major destinations for irregular migration flows, which has prompted the European Union to build an integrated legal and security framework that has evolved over the decades. The EU's legal philosophy in this regard is based on a dual approach: the establishment of an internal area of freedom, security and justice that abolishes internal borders, coupled with strict control of external borders and the involvement of neighbouring states in this responsibility. To fully grasp the scope of this European policy, it is necessary to examine the gradual development of its mechanisms; starting with the Schengen Agreement as the cornerstone of border management, through the 'Euro-Med Migration' programme as a tool for regional and extra-territorial partnership, and ending with the new European Pact on Migration and Asylum, which represents the latest legislative response to the refugee crises and irregular migration flows, as we shall detail below:

A. The Schengen Agreement

The regulatory framework for the free movement of persons within the European area was established under the 'Schengen' Agreement, signed on 14 June 1985 in the Grand Duchy of Luxembourg by five founding states (Germany, France, Belgium, the Netherlands and Luxembourg) (European Communities, 1990), an agreement which focused on the gradual abolition of controls at the common borders between these states. As part of this ongoing regulatory and security framework, European institutions have continued their efforts to manage migration; in September 2005, the European Council adopted a package of measures and procedures aimed at combating irregular migration, organising the return and integration of migrants, as well as addressing the various humanitarian and security issues associated with migration flows.

The abolition of traditional internal border controls between the signatory states to the Schengen Agreement necessitated the development of security alternatives to fill this gap; this took

the form of an obligation on Member States to exchange personal data and sensitive security information via what is known as the ‘Schengen Information System’ (SIS). This technological coordination aims to ensure flexible and effective control of the European internal area, relying on direct and close coordination between police forces and the activation of cross-border search and pursuit mechanisms against wanted persons, thereby making inter-agency security cooperation a fundamental pillar and an essential guarantee of the Union’s internal stability (Zaza, 2017, p. 56; Qamini, 2016, p. 257).

Based on the above, internal coordination between European states has become an established reality, whilst the most prominent challenge remains securing the Union’s external borders and building genuine partnerships with neighbouring Mediterranean states (the Southern countries). Although the depth and level of the hoped-for security and development cooperation between the European Union and the Southern Mediterranean countries cannot match the levels of integration and inter-state cooperation existing within the unified European system — underpinned by a solid, supranational institutional framework — necessity dictates that the scope of European support and assistance directed towards Southern partners be expanded; particularly in vital areas relating to the modernisation of border control mechanisms and the dismantling of organised criminal networks involved in operating illegal migration routes and human trafficking (Hishmaoui, 2020, p. 25).

b. The ‘Euro-Med Migration’ Programme

The ‘Euro-Med Migration’ programme is one of the most prominent regional frameworks funded by the European Union and implemented under the supervision of the International Centre for Migration Policy Development, with the aim of establishing a coordinated and integrated approach to managing human flows across the Mediterranean. This programme goes beyond the narrow security dimension to address the issue of migration from multiple angles; These include supporting regular and safe migration pathways, recognising the role of diaspora communities in driving development, and strengthening political and institutional dialogue, as well as activating international protection mechanisms for refugees and vulnerable groups, whilst combating migrant smuggling and human trafficking networks in accordance with the provisions of international humanitarian law (International Centre for Migration Policy Development, n.d.).

The ‘Euro-Med’ programme was not a passing phenomenon, but has evolved through five successive phases since its launch in 2004 to the present day; the initial phases (Phases I and II) focused on building bridges of trust and training personnel in Southern countries to manage borders, whilst the subsequent phases (phases three and four) towards examining the interdependence between migration and development and addressing the escalating refugee crises. In its current fifth phase, the programme seeks to align its mechanisms with the requirements of the ‘New European Pact on Migration and Asylum’, with a focus on utilising digital solutions, developing statistical analysis, and modernising the migration governance systems of partner countries. (Muqaddam, 2026, p. 226)

Algeria’s participation in the ‘Euro-Med Migration’ programme is based on a strict diplomatic and security doctrine, centred on the absolute rejection of unilateral solutions that European parties are attempting to impose; foremost among which is the refusal to resettle migrants or to establish detention, assembly and screening centres on Algerian territory, as this is considered a red line that infringes upon national sovereignty. In this context, Algeria insists on rejecting a purely security-based approach centred on the militarisation and policing of borders, calling instead for the adoption of the principle of shared responsibility and the channelling of European financial and investment

support towards sustainable development programmes in countries of origin and the African Sahel, as the sole and historic means of addressing the root causes of irregular migration.

C. The New European Pact on Migration and Asylum

The New European Pact on Migration and Asylum is a comprehensive legislative package adopted by EU ministers following a series of in-depth deliberations; it was formally voted on 10 April 2024, with an agreement that it would enter into force on 12 June 2026. The roots of this Pact lie in the comprehensive proposal put forward by the European Commission in 2020 to radically reform migration and asylum policies, with the aim of tackling irregular migration in both its internal and external dimensions.

This legislative initiative came in response to mounting pressure from European governments, influenced by the rise of right-wing movements, particularly in the wake of the 2015 migrant and refugee crisis, especially involving Syrians. It should be noted that the Pact underwent a complex negotiation process and several stages of development, the outlines of which began to emerge in 2016, and which saw the drafting of successive proposals and amendments until it took its final form, which was adopted and ratified by the European Parliament in 2024 (Belkacem & Bouzid, 2024, p. 81).

A brief review of the key themes of the new European Pact on Migration and Asylum reveals the following (Ziadeh, 2026):

1. A shift from a focus on humanitarian protection and reception to tighter border controls and the acceleration of procedures for the removal of irregular migrants.
- 2- The acceleration of screening and triage procedures at the border through:
 - Classifying migrants at the border within 7 days (as potential asylum seekers or subject to immediate removal).
 - Deciding on applications from those arriving from 'safe countries' within 12 weeks, and deporting those who do not qualify.
3. Mandatory solidarity and burden-sharing through:
 - Requiring Member States not under pressure to assist frontline states (such as Italy and Greece).
 - The redistribution of at least 30,000 migrants annually, or the payment of an alternative financial contribution (of up to 20,000 euros for each migrant whose admission is refused).
4. Digitisation and tracking of biometric data through:
 - Updating and developing the central biometric database (Eurodac) to collect migrants' photographs and fingerprints in order to prevent their escape and track their movements.
 - Launching parallel digital systems for monitoring travellers
- 5- Globalisation of migration management through: laying the legal groundwork for the establishment of 'return centres' in third countries outside the European Union, to which rejected asylum seekers would be sent pending their deportation to their countries of origin.

Finally, it is worth noting that these initiatives face real obstacles relating to the poor technical readiness of states to connect to the 'Eurodac' system – the central biometric database – a lack of reception facilities at borders, and low actual deportation rates, as well as widespread human rights criticism regarding the erosion of humanitarian and legal safeguards when relying on third countries.

Fourth: The EU–Algeria Partnership Agreement

The EU-Algeria Partnership Agreement embodies a framework for balancing economic interests and human rights obligations; during the first session of the Partnership Council (April 2006), Algerian foreign policy rejected a purely repressive approach to managing the issue of

migration. Algerian legislators and diplomats have utilised the text of Article 84 of this agreement as a legal basis for addressing the economic and social root causes of irregular migration in the countries of the South, whilst calling for the concurrent implementation of Article 85, which concerns the facilitation of the movement of persons and the simplification of visa procedures, so that the humanitarian and human dimension is on a par with the free movement of goods and services (**Saich, 2007, p. 106**).

The regional scope of legal mechanisms to combat irregular migration is not limited to Europe and Africa; as an academic approach requires consideration of other legal and regulatory efforts and mechanisms formulated in various geographical regions experiencing large-scale migration flows, such as the Americas, the Asia-Pacific region and the Arab region.

In the Americas, the ‘Los Angeles Declaration on Migration and Protection’ (2022) stands out as a strategic regional framework bringing together the countries of North, Central and South America to formulate a unified response to irregular cross-border migration flows. This declaration is based on the principle of shared responsibility for border security management and the development of joint coordination mechanisms to pursue and dismantle migrant smuggling networks.

In contrast, the Asia-Pacific region features the ‘Bali Process’, an official regional forum with more than 45 member states, which is primarily concerned with legal, judicial and security coordination among member states to combat human smuggling, human trafficking, and related cross-border crimes, through the exchange of information and the building of operational capacity for law enforcement officers.

At the level of the League of Arab States, joint Arab efforts are evident through the ‘Arab Guiding Strategy to Combat Illegal Migration’, as well as joint security and judicial agreements, foremost among which is the ‘2010 Arab Convention on Combating Transnational Organised Crime’, which primarily seeks to harmonise the national criminal legislation of Arab states, tighten border controls, and activate security cooperation mechanisms to prevent the activities of smuggling networks.

Taken as a whole, these regional agreements and arrangements face an ongoing structural challenge, which lies in the difficulty of striking a balance between the sovereign security approach and the human rights-based approach, as embodied in the commitment to international human rights instruments, foremost among which is the 1951 Geneva Convention relating to the Status of Refugees, which prohibits the forced return of those whose lives or freedom are at risk.

Whilst these regional frameworks set out the general policies governing the phenomenon, their procedural effectiveness is more clearly evident in bilateral agreements, which leads us to examine the bilateral legal mechanisms concluded by Algeria (Section Two).

Section II: Bilateral Legal Mechanisms to Combat Irregular Migration

There are numerous bilateral legal frameworks governing the issue of irregular migration, however, in this study we shall focus on the bilateral agreements between certain North African states – specifically Algeria and certain European Union member states – driven by Algeria’s pivotal role as a geographical link and guardian of the African gateway to the Mediterranean basin. The legislative aim of these agreements has been to formulate common rules that strike a balance between the regulation of the movement of persons and readmission measures, whilst establishing sustainable coordination mechanisms at the security and judicial levels between the relevant institutions and agencies of both parties.

First: Agreement between Algeria and Italy

As part of their bilateral security cooperation, the Government of the People's Democratic Republic of Algeria and its Italian counterpart signed an agreement in Algiers on 22 November 1999 on cooperation in the fight against terrorism, organised crime, illicit trafficking in narcotic drugs and psychotropic substances, and illegal immigration; this agreement was ratified by Presidential Decree No. 07-374 dated 1 December 2007. Article 1(d) of this agreement, under the heading 'Combating illegal immigration', sets out mutual obligations centred on two main pillars: Firstly, the activation of a mechanism for the exchange of security and intelligence information relating to irregular migration flows, and the dismantling of the organised criminal networks that manage them, whilst monitoring their routes and operational methods; and secondly, the strengthening of mutual assistance and the development of joint operational cooperation mechanisms to combat this phenomenon (Presidential Decree No. 07-374, 2007; Qamini, 2016, p. 257).

To strengthen follow-up mechanisms, Article 5 of the Agreement stipulates a commitment to hold regular consultations between the two parties to combat various forms of organised crime, with a particular focus on coordinating measures aimed at combating irregular migration (Berkan, 2012, p. 99).

As part of efforts to regularise the status of irregular migrants, Algeria and Italy concluded a bilateral agreement on 24 February 2000 concerning the 'readmission of persons in an irregular situation'. Under this agreement, a significant number of irregular migrants of Algerian nationality were deported, following rigorous procedures to verify their identity and prove their nationality carried out by the Algerian consular authorities. In contrast to this deterrent approach, and in line with the principle of preferential treatment, the Italian government allocated a quota of 1,000 work visas to Algerian nationals in 2006, and a similar number in 2009, with the aim of encouraging regular migration channels and meeting the needs of the Italian labour market (Al-Shishani et al., 2010, p. 154; Kitab, 2019, p. 134; Qamini, 2016, p. 257).

Secondly: Agreement between Algeria and France

This bilateral agreement, concluded between the Algerian and French governments on 25 October 2003, centres on concentrating security efforts to combat illegal migration; Article 1 provides for the implementation of operational and technical cooperation and mutual assistance between the two countries, as a fundamental mechanism for combating illegal migration and tackling fraud and forgery of related documents. (Presidential Decree No. 05-412, 2005)

Third: Agreement between Algeria and the United Kingdom and Northern Ireland

The Agreement on the Movement of Persons and Readmission concluded between Algeria and the United Kingdom of Great Britain and Northern Ireland in London on 11 July 2006, and ratified by Presidential Decree No. 06-467 (2006), constitutes a bilateral legal framework for regulating the issue of irregular migration. Article 1 of the Agreement stipulates that each Party undertakes to readmit its nationals residing irregularly on the territory of the other Party, provided that it is reliably established or proven that such persons hold the nationality of the State from which readmission is sought, in accordance with the procedures set out in the Agreement (Qamini, 2016, p. 265).

Conclusion

In conclusion, it is clear that the phenomenon of irregular migration is no longer merely a transient population movement, but has become an extremely complex security, human rights and

political issue, presenting the international legal system with a genuine test of balancing the protection of state sovereignty with the guarantee of human dignity. Through a descriptive and analytical examination of international, regional and bilateral texts and conventions, we can draw a number of conclusions and recommendations as follows:

First: Findings

1. Purely deterrent strategies and laws militarising borders have demonstrated the inadequacy of a purely security-based approach and its inability to curb migration flows; indeed, in many cases, they have driven migrants into the arms of international smuggling networks and led them to take even more dangerous routes, such as ‘death boats’.
2. There remains a clear gap between the human rights enshrined in international conventions and the practices on the ground in host countries, where concerns about national security and sovereignty take precedence over the rights of migrants as victims of smuggling networks.
3. Bilateral and regional agreements have revealed that the key to the sustainable management of migration lies in two interlinked approaches: the first is to ensure the stability of transit countries and enhance their self-sufficiency; the second is to address the root causes in countries of origin, such as poverty, war and drought.
4. There is a close link between the phenomenon of irregular migration and the rise in cross-border organised crime; this necessitates directing security and judicial efforts towards the criminal prosecution of smuggling networks, rather than criminalising migrants who fall victim to these criminal organisations.

Second: Recommendations and Proposals

1. To urge the international community to move beyond theoretical frameworks and put into practice the principle of shared responsibility amongst countries of origin, transit and destination; the security and logistical burden should not be placed on transit countries alone without genuine and balanced support.
- 2- Channelling funds from development funds and international aid towards sustainable and genuine development projects in countries of origin, to create employment opportunities and tackle the root causes of migration.
- 3- Destination countries must expand and facilitate regular migration channels by streamlining visa procedures and opening up legal and safe avenues for work, scientific research and study, thereby reducing the demand for clandestine smuggling networks.
- 4- Signatory states must be required to align their national legislation with the principles of the ‘Global Compact for Safe, Orderly and Regular Migration’; this will ensure that migrants are no longer criminalised as individuals, and that efforts are directed towards utilising digital and biometric tracking to pursue and dismantle organised crime networks.

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