

IMRF Dialogue Series

Webinar in preparation of Round Table Two: Preliminary Summary 26 January 2022 15.30 CET



A background note for each of the four round tables which form part of the International Migration Review Forum (IMRF) will be circulated at least six weeks prior to the IMRF. To facilitate preparation of these notes, the United Nations Network on Migration is convening a preparatory discussion¹ ahead of each round table, supported by a preliminary summary of progress and identified gaps with respect to the objectives under consideration, and posing questions to help guide discussions. These notes can also be used to guide Member States and stakeholders as they consider pledges towards the objectives under consideration round table

1. Introduction

The second of the round tables of the International Migration Review Forum (IMRF) will offer space for discussion of progress made in the implementation of objectives 4, 8, 9, 10, 11, 13 and 21 of the Global Compact for Safe, Orderly and Regular Migration (GCM). This will take into account that the GCM is based on a set of ten cross-cutting and interdependent guiding principles.

Round Table Two seeks to discuss rights-based practical and action-oriented approaches to: saving lives and establishing coordinated action on missing migrants, ensuring access to proof of legal identity for all migrants, promoting alternatives to migration detention, managing borders in an integrated manner, coordinating responses to forms of transnational crime and related violence, abuse and exploitation, and promoting safe and dignified return, readmission and sustainable reintegration of migrants.

COVID-19 has exacerbated migrants' precarious situation in many countries of transit and destination. Migrants working in the informal sector have experienced particularly increased risk of job losses and related vulnerability to trafficking in persons. In addition, drivers of migration already present before the pandemic have not only persisted but have, in some instances, increased, while borders have been closed and regular pathways for migration have been reduced, pushing many migrants to resort to the services of smugglers. Smugglers have been forced to use new, less explored and riskier routes as a result of border closures, often putting migrants' lives at greater risk.

2. Overview of progress per objective

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

Access to proof of legal identity, such as birth, marriage and death certificates, is key to preventing and reducing statelessness and is also fundamental to protecting migrants' rights before travel, in transit and upon arrival, including to guarantee access to services and participation in community

¹ For further information and to register please contact unmignet@iom.int

life. In order to facilitate access to such services, several states, including Albania and the United Kingdom, issue migrants with identification documents.² Most of the time, proof of legal identity is also a pre-requisite for people to be able to access the personal and travel documentation, such as passports and visas, needed to migrate regularly. Adequate documentation is therefore central to accessing regular pathways for admission and stay, as well as opportunities for safe and dignified return. The first step for ensuring migrants have access to proof of nationality and relevant documentation is accessible and non-discriminatory civil registration systems. However, many states still lack robust civil registration systems or the capacity to issue adequate identity and travel documents, linking these to national identity management systems and common databases, while safeguarding the right to privacy and protection of personal data. Further strengthening these capacities in countries of origin, and through consular representations abroad, as well as stronger cooperation between States on this, remain some of the most important challenges to the provision of adequate documentation to all migrants, regardless of status.

Objective 8: Save lives and establish coordinated international efforts on missing migrants

At least 45,000 people have died during their migration journey since 2014.³ However, the regional reviews of the GCM indicate limited progress towards Objective 8. For example, only 17 percent of Member States who submitted voluntary GCM reviews reported on Objective 8, and most of this input focused on efforts related to border management or missing nationals abroad. The GCM calls on states to prevent the loss of life, including by prioritizing better search and rescue operations at sea and in hostile environments on land. Given the limited progress, guidance has been developed to assist states and other stakeholders in the implementation of Objective 8, including regarding the creation of transnational search mechanisms.⁴

Objective 9: Strengthen the transnational response to smuggling of migrants

Limited availability of official data on smuggling, including on the *modi operandi* of smuggling networks, seriously hampers the implementation of this objective. Progress has been made through the establishment of migration and smuggling observatories supporting national and supra-national efforts to curb the incidence of migrant smuggling and respond to new and emerging trends. Ensuring access to pathways for regular migration remains a key step for advancing this objective. In addition, the increasingly reported cases of aggravated forms of migrant smuggling, involving endangerment of lives, violence, exploitation and abuse, is prompting enhanced cooperation along migration routes, with a notable case being represented by the Western Balkan region, where UNODC has organized in 2021 a regional workshop which further included representatives of judiciary, law enforcement and NGOs from Austria, France, Germany, Greece and Italy. This is further improving the capacity of states to timely identify and appropriately protect smuggled migrants with a particular attention to the needs of women and children. On the other hand, humanitarian assistance to migrants in distress is often criminalized as smuggling around the world. This misaligns with the international definition of migrant smuggling enshrined in the Smuggling of Migrants Protocol, requiring a clear financial or other material benefit as the purpose of the crime, and excluding the criminalization of support provided to migrants for humanitarian reasons or on the basis of close family ties.

The Protocol also provides that smuggled migrants shall not be liable to criminal prosecution for having been smuggled, and that those whose lives or safety are endangered through smuggling should be afforded appropriate assistance and protection. In addition, the prosecution of smugglers often tends to focus excessively on lower-level perpetrators as opposed to middle and high-level authors of this transnational crime.

² https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/unece_-_regional_review_of_the_gcm_-_summary_report_final_updated.pdf

³ IOMM, Missing Migrants Project: <https://missingmigrants.iom.int/>

⁴ <https://shop.icrc.org/guidelines-on-coordination-and-information-exchange-mechanisms-for-the-search-for-missing-migrants-pdf-en.html>

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

Data on trafficking in persons, both in terms of administrative records and prevalence estimates, is still limited and this challenges the effectiveness of anti-trafficking responses. Efforts are therefore still needed particularly to improve data granularity and coverage. The data collected for the 2020 UN Global Report on Trafficking in Persons shows that in 2018 about 50,000 human trafficking victims were detected and reported by 148 countries worldwide. The crime is still heavily underreported.

In reporting on the implementation of this objective, states highlighted as a priority the need to break the cycle of migrants' vulnerability to exploitation leading to trafficking in persons in countries of origin, transit and destination. Efforts are made worldwide to foster cross border collaboration in supporting effective investigation and prosecution of traffickers, with a notable example being the MoU signed between the Philippines and the UAE in 2019. The GCM calls on states to ensuring access to pathways for regular migration, including pathways based on access to justice and protection for victims of trafficking, to reduce migrants' vulnerability to trafficking in persons. The adoption of Standard Operating Procedures for the identification, referral, and support of trafficking victims, not conditional upon cooperation with the authorities, is a widely reported good practice. In addition, among others, Ethiopia is increasingly prioritizing interventions aimed at developing life skills for victims of trafficking who return or are returned to the country. As part of broader community-based sustainable reintegration, the UN Network on Migration recently called⁵ for these interventions to aim at securing and sustaining the political, economic, social and psychosocial conditions needed to maintain their life, livelihood and dignity. Among others, Germany and Kazakhstan are to those ends further enabling compensation for trafficking victims including through the establishment of dedicated funds, including to reduce the risk of their re-victimization.

Objective 11: Manage borders in an integrated, secure, and coordinated manner

Well-functioning border management helps facilitate the safe and regular cross-border movement of people and goods, while ensuring security. This requires integrated, streamlined and human rights-compliant procedures at borders, whether land, sea or air, as well as effective information sharing, to manage mobility, counter migrant smuggling, and combat transnational crime. In line with this, Armenia has for example reported efforts to modernize its border crossing points – simplifying procedures, upgrading infrastructure and equipment, and capacity building.⁶ Further enhancing due process and individual assessment at international borders, including through human rights-based, child-sensitive, gender-responsive and non-discriminatory approaches to border management is a key aspect of the work to fully implement Objective 11. This is central to ensure migrants in vulnerable situations receive adequate support and protection at the border. Developing inter-agency and intergovernmental cooperation mechanisms is key to setting up these coordinated approaches between all authorities involved at points of entry, including immigration, border, health and customs. In the context of COVID-19 in particular, further development of multi-sectoral approaches and harmonized processes at points of entry is crucial to ensure the resumption of safe, orderly and regular migration.

Objective 13: Use migration detention only as a measure of last resort and work towards alternatives

Alternatives to detention (ATDs) must be sought as a measure of first resort to uphold the human rights of migrants in the context of migration, principally their right to liberty. There have been some promising practices with respect to Objective 13, for example, releases from immigration detention and steps to end its use, including by implementing non-custodial ATDs in the context of COVID-19. Progress has also been made in some countries to end child immigration detention in line with international law. Other promising practices observed include mechanisms and procedures for

⁵ https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/position_paper_-_ensuring_safe_and_dignified_return_and_sustainable_reintegration.pdf

⁶ https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/unece_-_regional_review_of_the_gcm_-_summary_report_final_updated.pdf

regularization, policy changes that scale-up non-custodial alternatives and reduce or eliminate immigration detention, emphasizing protection of migrants in vulnerable situations. Additional positive practices have included the collection and sharing of data on ATDs, engagement with NHRIs and civil society partnerships, and case management-based ATD pilot projects. UN organizations, civil society and others have also developed tools and resources to support States in implementing ATDs.⁷ In particular, there have been concerted efforts in the form of global, regional and national peer learning exchanges to foster implementation of Objective 13.

However, immigration detention continues to be used beyond the very limited circumstances in which it is permitted under international law, and child immigration detention is still practiced in contravention of its prohibition by international law. Some challenges related to ATD implementation stem from weak regulatory frameworks and resourcing, and lack of political will. Moreover, in some States COVID-19 has resulted in prolonged detention of more migrants using public health concerns to justify detention without legal safeguards, such as lack of fair and timely case resolution, meaningful access to legal advice, support and information, among others.

Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

Return, readmission and reintegration have gained prominence within the migration governance and development strategies of many governments worldwide since the adoption of the GCM. In response to the challenges posed by the COVID-19 pandemic, some States adapted the provision of assistance (including reintegration) to migrants, others have temporarily suspended forced returns and provided visa and work permit extensions, temporary residence or other forms of regular status; as well as releasing people from immigration detention and finding safe, non-custodial alternative accommodations for them in the community rather than seeking their deportation.⁸ At the same time, however, return and reintegration processes continue to sometimes be de-linked and, reintegration support varies greatly from country to country, and is sometimes unavailable or insufficient to address the specific rights and needs of migrants and their communities. How returns take place, and how individually-adapted reintegration support is provided, will determine whether reintegration is sustainable - especially in the case of children. The lack of agreed minimum standards including how to measure sustainable reintegration only add to these challenges. Similarly, persistent gaps in international cooperation on readmission pose a risk for safe and dignified return, wherever lack of predictability, imperfect identity verification and issuance of travel documents or continuum of care during state-implemented returns can increase migrant vulnerability and further challenge the absorption capacities of home states. The IMRF is an opportunity to further discuss how best to strengthen cooperation between countries, ensuring returns are safe and dignified, reducing the vulnerabilities of returnees, helping to enhance protection through well-functioning readmission agreements, and promoting child-rights compliant and gender-responsive return, readmission and sustainable reintegration programmes.

3. Guiding Questions

- **Objective 4:** What key operational and technical capacities has your country sought to enhance, both nationally and for consular representatives abroad, to improve access to civil registry systems and the production of identity documents for all migrants, while ensuring safeguards for privacy?
- **Objective 8:** What steps can be taken to prevent migrant deaths and injuries, to advance the identification of those who have died or gone missing, and to facilitate communication with

⁷ <https://migrationnetwork.un.org/thematic-working-group-2-alternatives-detention>

⁸ See for instance:

https://www.iom.int/sites/g/files/tmzbd1486/files/our_work/DMM/MPA/migrant_protection_during_covid-19_dec_2020.pdf

affected families? What are the bottlenecks to the provision of life-saving humanitarian assistance to migrants? How can these bottlenecks be addressed?

- **Objective 9:** What are the promising practices your State has implemented to prevent and counter smuggling of migrants, including as regards the use of transnational, regional and bilateral mechanisms to share relevant information and intelligence on smuggling routes, *modi operandi* and financial transactions of smuggling networks? What progress has been made with respect to challenges related to ensuring the identification of smuggled migrants to protect and assist them, in particular those migrants subject to smuggling under aggravating circumstances? To what extent is it ensured that migrants are not liable to criminal prosecution for having been smuggled?
- **Objective 10:** What support would assist your State to cooperate with other States to monitor irregular migration routes which can be exploited by traffickers to recruit and victimize migrants? What actions have been taken to enhance the identification, protection and assistance of migrants who have become victims of trafficking and to strengthen prosecution of traffickers? What actions have been taken to ensure that victims of trafficking have access to safe reporting and to justice?
- **Objective 11:** How could your State further develop inter-agency and inter-governmental cooperation to strengthen rights-compliant border management procedures, and ensure stronger coordination amongst all authorities involved, including border, immigration, customs and health? What are the challenges at the national level?
- **Objective 13:** What steps, measures and mechanisms has your State developed to reduce the use of immigration detention and what non-custodial - community-based measures and mechanisms - have been developed in the context of migration? What steps has your State taken to end the detention of children, and families with children? What measures have been taken to ensure that detention of migrants is in accordance with the law, based on an assessment of the individual particular circumstances, necessary, proportionate and for the shortest possible period of time? What support could assist your State to overcome barriers to reducing the use of immigration detention and ending its use for children, and what pledges can States make towards achieving these aims?
- **Objective 21:** What challenges does your state face in conducting return, readmission and reintegration operations in cooperation with other States in ways that respect returnees' rights, and are gender-responsive and child-sensitive? What pledges can States make to promote Standard Operating Procedures on return, readmission and reintegration that respect returnees' rights, and ensure that procedures are gender-responsive and child-sensitive?

Annex

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

- https://www.un.org/sites/un2.un.org/files/sg_policy_brief_on_people_on_the_move.pdf

Objective 8: Save lives and establish coordinated international efforts on missing migrants

- https://missingmigrants.iom.int/sites/g/files/tmzbdl601/files/publication/file/policy%20brief_28.09.2021.pdf
- <https://shop.icrc.org/guidelines-on-coordination-and-information-exchange-mechanisms-for-the-search-for-missing-migrants-pdf-en.html>
- <https://www.icmp.int/wp-content/uploads/2020/12/Factsheet-Missing-Migrants-and-Refugees-Program.pdf>

Objective 9: Strengthen the transnational response to smuggling of migrants

- <https://www.iom.int/sites/g/files/tmzbdl486/files/documents/counter-migrant-smuggling.pdf>
- <https://publications.iom.int/books/migrant-smuggling-data-and-research-global-review-emerging-evidence-base-volume-2>
- https://icat.un.org/sites/default/files/publications/what_is_the_difference_between_trafficking_in_persons_and_smuggling_of_migrants.pdf
- <https://publications.iom.int/books/iom-handbook-migrants-vulnerable-violence-exploitation-and-abuse>
- https://www.unodc.org/documents/human-trafficking/SOM_and_COVID-19_Publication_final_EN_final.pdf
- https://www.unodc.org/documents/human-trafficking/2021/Women_in_Migrant_Smuggling.pdf
- https://www.unodc.org/documents/human-trafficking/2021/Aggravated_SOM_and_Gender.pdf

Objective 10: Prevent, combat, and eradicate trafficking in persons in the context of international migration

- https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf
- https://www.unodc.org/documents/human-trafficking/2021/The_effects_of_the_COVID-19_pandemic_on_trafficking_in_persons.pdf
- https://icat.un.org/sites/default/files/publications/icat_analytical_paper_2020.pdf - 20TH ANNIVERSARY OF THE TRAFFICKING IN PERSONS PROTOCOL: AN ANALYTICAL REVIEW
- https://icat.un.org/sites/default/files/publications/20-02107_icat_brief_9_ebook.pdf - TRAFFICKING IN PERSONS FOR THE PURPOSE OF FORCED LABOUR
- https://icat.un.org/sites/default/files/publications/19-10800_icat_issue_brief_8_ebook_final.pdf - NON-PUNISHMENT OF VICTIMS OF TRAFFICKING
- https://icat.un.org/sites/default/files/publications/16-10273_icat_toolkit.pdf - A Toolkit for guidance in designing and evaluating counter-trafficking programmes
- https://icat.un.org/sites/default/files/publications/providing_effective_remedies_for_victims_of_trafficking_in_persons_2016.pdf

- <https://publications.iom.int/books/ending-child-labour-forced-labour-and-human-trafficking-global-supply-chains>
- <https://www.iom.int/news/iom-microsoft-collaboration-enables-release-largest-public-dataset-bolster-fight-against-human-trafficking>
- <https://www.ctdatacollaborative.org/>
- <https://publications.iom.int/books/countertrafficking-emergencies-information-management-guide>
- <https://ctic.iom.int/en>

Objective 11: Manage borders in an integrated, secure, and coordinated manner

- OHCHR, [Recommended Principles and Guidelines on Human Rights at International Borders](#) (2014)
- https://www.iom.int/sites/g/files/tmzbd1486/files/documents/issue_brief_cross-border_human_mobility.pdf

Objective 13: Use migration detention only as a measure of last resort and work towards alternatives

- United Nations Network on Migration Working Group 2 on ATDs policy briefs and reports - Policy Brief: COVID-19 & Immigration Detention: What Can Governments and Other Stakeholders Do? (April 2020)- Annex to Policy brief (February 2021)
- - Reports of Global Peer Learning Exchanges on ATD – November 2020 and July 2021 <https://migrationnetwork.un.org/thematic-working-group-2-alternatives-detention>
- UN Working Group on Arbitrary Detention, Revised Deliberation No. 5
- CMW General Comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention
- IML Unit's Information Note on International Standards on Immigration Detention and Non-custodial Measures
- IOM Quick Guide on Alternatives to Detention (ATD)
- IOM Road Map on Alternatives to Migration Detention: Tools Series N°1
- Advocating for Alternatives to Migration Detention: Tools Series N°2
- IDC: There are alternatives: A Handbook for Preventing Unnecessary Immigration Detention; Room for Hope: An Overview of Promising ATD in the Era of COVID-19
- UNICEF working paper on alternatives to immigration detention of children

Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

- UNMN Common Position Paper on ensuring safe and dignified return and sustainable reintegration: https://migrationnetwork.un.org/sites/default/files/docs/position_paper_-_ensuring_safe_and_dignified_return_and_sustainable_reintegration.pdf
- UN Network on Migration, Mapping of gaps and positive practices for safe and dignified return and sustainable reintegration
- UN Network on Migration, Checklist tool for safe and dignified return and sustainable reintegration
- Suspension of forced returns during COVID-19: <https://www.iom.int/news/forced-returns-migrants-must-be-suspended-times-covid-19>
- IOM Policy on the Full Spectrum of Return, Readmission and Reintegration: <https://www.iom.int/sites/g/files/tmzbd1486/files/documents/ioms-policy-full-spectrum-of-return-readmission-and-reintegration.pdf>