ONLINE REPORT

ICRC

COUNTING THE DEAD

HOW REGISTERED DEATHS OF MIGRANTS IN THE SOUTHERN EUROPEAN SEA BORDER PROVIDE ONLY A GLIMPSE OF THE ISSUE

A report elaborated by the International Committee of the Red Cross (ICRC)
Paris Delegation Forensic Department

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EXECUTIVE SUMMARY

The International Committee of the Red Cross, an neutral, independent and impartial international humanitarian organisation undertook in 2019 research in order to quantify how many of the thousands of persons who perished in the dangerous route from Africa to Europe by sea were never recovered. The research on which this report is based indicates that Spain, Italy, and Greece recovered just 13% of the estimated number of migrants that disappeared or died while attempting to reach Europe via the Mediterranean and Atlantic routes between 2014 and 2019. The report present in-depth analyses and propose recommendations to the countries concerned aimed at adapting to the consequences of the migratory phenomenon, which has seen a serious increase in the number of dead and missing persons at different stages of the Mediterranean and Atlantic migratory routes to Europe.

Specific recommendations to each country address their medico-legal systems and the need to establish specific policies, regulation, and procedures in order to improve coordination and communication between and among entities at local and national level, and amongst States at regional level. Additionally, for some countries an increased forensic expertise and capacity as well as improved infrastructure is also needed. Equally important is the proposal of an experimental methodology aimed at developing an holistic analysis of the phenomenon of dead or missing persons in migration with parallel objectives: on the one hand, tools for research and identification, and on the other hand the development of a perspective that can provide support and answers to the families of missing persons.

Specific recommendations to non-governmental and civil society actors due to their privileged relationship with people in migration (material support, representation, defense of migrant's rights, etc.), are also provided. These actors are well-positioned to collect and share information, according to existing data protection rules, on dead and/or missing migrants.

National state institutions, responsible for identification processes, burial, and/or repatriation of mortal remains, are currently unable to fulfill the gap regarding contextual, testimonial, and other information that may be gathered by non-governmental actors. Due to issues of perception and trust, sometimes opposing actors (i.e. States, migrant communities, and non-governmental organizations) are unable to collaborate on data sharing leading to the identification of the deceased or inferring the fate of the missing.

INTRODUCTION

This report covers registered deaths of migrants at the southern European sea border for the period 2014-2019. It is written by the Forensic Department of the International Committee of the Red Cross in Paris with the contribution of external consultants and updates the border death database from the Vrij Universitat in Amsterdam for the period 1993-2013.

The introduction sets out the different activities and research (from different sectors: academic, civil society, international organisations) related to the dead and missing in migration in the Mediterranean (Spain, Italy, and Greece[1]). It highlights critical issues and presents the approach of the Forensic Department of the International Committee of the Red Cross (ICRC) in Paris and Athens to the research upon which this report is based.

The second part presents key aspects of the systems or mechanisms in place for the management of the dead and the medico-legal systems of each of the same three countries and provides recommendations for improvement.

The third part presents a series of general and country-specific recommendations aimed at harmonizing systems of post-recovery management of the dead[2] as well as strengthening research and identification activities by the global community of practitioners.

Regardless of whether families are willing to accept "evidence of death without a body", it is necessary to open a broad discussion on the topic, bringing psychosocial, legal, and cultural perspectives to address the issue.

1 Due to the small number of border deaths in Malta as compared to the other three countries, it was not included in this report, but it will in further updates of this report.

2 The term "post recovery management of the dead" refers to activities surrounding death certification, registration and data management surrounding the disposal of mortal remains.

THE ICRC'S ROLE AND EXPERTISE ON MISSING AND DECEASED MIGRANTS

The ICRC has decades of expertise concerning missing persons, management of the dead and their families[3]. This stems from its mandate under the Geneva Conventions of 1949 and their Additional Protocols as well as the Statutes of the International Red Cross and Red Crescent Movement.

The ICRC, together with National Red Cross and Red Crescent Societies[4], works with authorities, communities, migrants[5], and families in several ways: to prevent families from becoming separated along migratory routes, to help migrants and their families maintain or restore contact, and to facilitate communication between migrants' families and relevant authorities, or other bodies, to search for and identify migrants who have gone missing. Moreover, the ICRC supports Medico-Legal Systems and promotes regulations, procedures, and forensic best practices for the protection of the dead, while provides material assistance and support to improve relevant infrastructure This improves the prospects that the remains of deceased migrants will be handled in a proper and dignified manner, that the death will be documented, that as far as possible the bodies will be identified and repatriated or given a proper burial[6]. The ICRC also works with authorities to ensure that, where possible, they notify the families and issue an official death certificate as well as address the wide range of needs experienced by families because of their loss.

The ICRC has an operational delegation in Greece carrying out several activities for migrants including services and support to judicial and national forensic authorities. The ICRC is also currently assisting the Italian authorities to identify the remains of migrants who perished in a shipwreck that took place off the Libyan Coast in April 2015. The specific role of the ICRC is to collect information from the families of missing persons to facilitate the identification of dead migrants recovered from – but not limited to – this shipwreck. The ICRC is also supporting the Spanish authorities and the Spanish Red Cross in the search for missing persons and the identification of persons who died in the Canary and Mediterranean migration routes[7].

3 See also Humanity after life: respect for and protection of the dead at: https://www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead

4 More information on the Family Links Network available here: https://familylinks.icrc.org/

5 The ICRC, like the other components of the Red Cross and Crescent Movement, has adopted a broad definition of migrants, to encompass all people who leave or flee their home to seek safety or better prospects abroad, and who may be in distress and need of protection or humanitarian assistance. Refugees and asylum seekers, who are entitled to specific protection under international law, are included in this description. The ICRC does not encourage or discourage migration. Rather, our focus is on helping the most vulnerable migrants, regardless of their legal status.

6 More information on the humanitarian forensic action available here: https://www.icrc.org/en/what-we-do/forensic-action.

7 See also: Missing migrants and their families the ICRC's recommendations to policy-makers (2017) and Salado et. al. (2021) The search process: Integrating the investigation and identification of missing and unidentified persons. Forensic Science International: Synergy, Volume 3, 2021.

GENERAL INTRODUCTION

This report from the Forensic Departments of the International Committee of the Red Cross in Paris and Athens, maps migrant burials in Spain, Italy, and Greece between 2014 and 2019, updating the database produced by the Vrjie Universiteit in Amsterdam for the period 1993-2013[8]. This report (named here Amsterdam 1.1) formulates various recommendations to improve the efficiency of the collection and management of information, to identify deceased migrants, and provide answers to families.

Over the past years, a significant number of migrants have gone missing[9] trying to reach Europe. Migrants can go missing while trying to reach Europe in a variety of circumstances: along the migratory route or upon their arrival to the country of destination. Their remains may never be found or, they might be found but not properly documented. This situation has serious consequences for families. In addition to the emotional turmoil they experience - not knowing if their relative is dead or alive - families of missing persons usually face numerous practical challenges resulting from the disappearance, challenges that seriously impact their daily life. They often struggle to access social benefits, sell or manage property or inheritance, remarry, or exercise parental rights. This in turn impacts on any effort families make to resume their lives and find their place again in the community, all the while seeking answers about the fate of their missing relative. Ultimately, it also impacts their dignity adding yet another dimension to the already heavy humanitarian toll of migration.

In this context, the ICRC has considered it crucial to continue the work of the University of Amsterdam, with precise objectives: a) Show the magnitude of the humanitarian tragedy of migrants going missing and dying in the Mediterranean; b) Bring the attention of the authorities on this tragedy; c) Have a clear understanding of what is done at the national level and, in particular, of the gaps and challenges in the management and identification of deceased migrants; d) On this basis, elaborate policy and operational recommendations for national and EU authorities to fill the gaps.

Therefore, the analysis carried out in this study aims first: A) to highlight a series of issues related to the management of deceased migrants by national institutions in Spain, Italy, and Greece, suggesting possible solutions and making recommendations to optimize the functioning of the system at the local, national and regional level. This is, in turn, will lead to 1) identifying where post-mortem (PM) information helping to carry out retrospective identifications of bodies already buried, could be found, and 2) calling for a prompt and articulated response based on standardized and accepted practices through a more structured collaboration between the various actors involved[10].

The second aim is: B) given the important gap between the number of bodies (whether they are identified or not) recovered, and the total number of persons considered missing, to raise the need for a comprehensive humanitarian approach that also includes missing migrants and their families. The initial observation is that interventions to provide answers to families are primarily driven by the existence of bodies, while information on many missing persons is limited to collateral and non-"official" testimony in the absence of bodies.

8 "The Deaths at the Borders Database is the first collection of official, state-produced evidence on people who died while attempting to reach southern EU countries from the Balkans, the Middle East, and North & West Africa, and whose bodies were found in or brought to Europe" : http://www.borderdeaths.org/

9 A missing person is a person whose whereabouts are unknown to his/her relatives and/or who, on the basis of reliable information, has been reported missing in accordance with national legislation in connection with an international or non-international armed conflict, other situations of violence, disasters or any other situation that may require the intervention of a competent State authority. (based on ICRC Guiding Principles / Model Law on the Missing: https://www.icrc.org/en/document/guiding-principles-model-law-missing-model-law)

10 One aim of this "updating" of the management system is also to increase the number of cases identified in relation to the total number of bodies recovered, which varies according to the periods and countries examined.

However, from a broader humanitarian perspective, it is necessary, and by now imperative, to overcome this binary approach to missing persons by which it is assumed that if missing migrants are dead, a body will be recovered. It is important to emphasize once again that the general mapping of recovered and buried bodies of migrants is an indispensable tool to grasp the scale of the situation, to provide recommendations improving the policy and practice of management and identification of the dead, including all the steps from recovery to final disposition of the remains, and above all formulating a response, albeit partial, for the cases of migrants who went missing and whose bodies will never be found.

This project represents an initial but decisive step towards a comprehensive reformulation, both methodological and practical, of the approach to 1) the identification of persons who have died along the migratory routes and 2) the search for persons gone missing along these routes[11].

The issue of dead and missing migrants has progressively become more prominent to the European and international public debate from the moment that non-governmental organizations and/or journalists in the early 2000s began to collect and archive information on cases of accidents/disasters in border areas and consequently attempting to quantify the number of dead and missing.

These calculations are inevitably under-representations. In the Mediterranean and Atlantic regions, it is necessary to consider, for example, the cases of numerous "ghost shipwrecks", reported solely by indirect testimony or search by family members.

The NGO United[12], reporting cases from 1993 to 2021, provides information on 44,764 cases of death or missing; the journalist Gabriele del Grande, in his blog Fortress Europe[13], mentions 27,382 cases between 1988 and 2016. The Migrants files project[14], reviewed more than 30,000 cases between 2000 and 2016. The IOM, which inaugurated the Missing Migrants project after the 3 and 11 October 2013 shipwrecks in the central Mediterranean, speaks of more than 46,000 total fatalities between 2000 and 2017 (internationally), plus cases recorded from 2018 to 2021. According to Associated Press[15], 58,600 migrants have died worldwide since 2014. The cartographer Nicolas Lambert[16], crossing the different estimates, speaks of 50,873 cases between 1993 and 2020 at the EU borders. For the Mediterranean area and the Atlantic route, the IOM estimate from 2014 to 2019 is over 20,000 people dead or missing.

Faced with the objective difficulty of quantifying the number of victims (based on their status as missing or disappeared persons), the Vrije Universiteit Amsterdam carried out 2015 the ***Deaths at the Borders Database project***. Based on the documents produced by the civil status offices of the different countries, they collected information on migrant persons who died and were buried in Spain, Italy, Malta, and Greece between 1990 and 2013. This project made it possible for the first time to quantify the number of bodies recovered (identified or unidentified) and consequently to "estimate" the number of missing persons[17].

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11 For instance, in its 2017 Recommendations to Policy Makers on Missing Migrants and Their Families the ICRC recommended to "standardize the collection of information about missing migrants and dead bodies at national and transnational levels, and establish clear pathways so that data is collected, accessed and exchanged for the sole humanitarian purpose of clarifying the fate and whereabouts of missing migrants and informing their families, in accordance with internationally accepted data protection and forensic standards"

12 The list updated regularly can be found here.The NGO that manages the project is United from intercultural action : http://www.unitedagainstracism.org/

13 http://fortresseurope.blogspot.com/2006/02/immigrants-dead-at-frontiers-of-europe_16.html

14 https://www.themigrantsfiles.com/ : The Migrants' Files is a project by data journalism agencies Journalism++ SAS, Journalism++ Stockholm and Dataninja; media outlets Neue Zürcher Zeitung, El Confidencial, Sydsvenskan and Radiobubble as well as freelance journalists Alice Kohli, Jean-Marc Manach and Jacopo Ottaviani. The project is partially financed by Journalismfund.eu

15 https://www.nbcnews.com/news/world/least-58-600-migrants-have-died-last-4-years-ap-n929631

16 https://neocarto.hypotheses.org/9586

17 The two researches consider the cases of bodies (identified or unidentified) buried: bodies repatriated after identification are not considered. it is possible that both for the Amsterdam database and for this update some bodies were repatriated after the data collection presented. The case of repatriated bodies should be considered in case of a similar mapping in the Maghreb region for example.

Considering that mapping the burials of migrants is a key element in setting up larger-scale work, the ICRC, assisted by a team of researchers, has updated this database for the period 2014-2019 (referred herein as Amsterdam 1.1). The *Deaths at the Borders Database* project documented the existence of 3188 corpses between Spain, Italy, Malta, and Greece. The current study adds 1,809 corpses (608 in Greece, 237 in Spain, 964 in Italy) recovered between 2014-2019[18]. We would need to add approximately ~800 bodies from the shipwreck of 18/4/2015[19], subjected to a specific protocol[20] and excluded from the present study because it has not yet been possible to establish an objective correspondence between the set of remains recovered and the estimated number of bodies[21]. Due to the specificities of this shipwreck and the recovery of the vessel one year later, the estimate elaborated may not correspond to the number of human remains recovered by the Maltese and Italian authorities: for this reason, it has been decided to examine this dossier independently and not include it in the present report.

Ideally, a comprehensive continuum of the project using a similar methodology (not necessarily led by but with the technical support of the ICRC) should include mapping migrant burials 1) on the southern shore of the Mediterranean (Maghreb), 2) on the internal borders of the EU (Franco-Italian border, Calais, Balkan route) and 3) in the Sahel. Such an approach is the only one that helps to fully understand the real extent of the humanitarian tragedy of migrants going missing and dying along with the migratory route's mortality and the number of persons missing in the migration journey[22]. In addition, a suitable methodology such as the use of Complex Network Analysis (CNA) allow us to improve the search component and assist States in fulfilling the responsibility of identifying the mortal remains of deceased migrants whenever possible[23].

Updating the Amsterdam database for the period 2014-2019 as well as the analysis included in this report illustrate in all its complexity a problematic situation. Although this update is indispensable, its arrival is necessarily late in the day; and given the current situation, this timing limits the possibilities for swift intervention and action by the ICRC and other organizations involved in searching for missing migrants, as well as supporting State authorities in their identification of those found dead. This will be a limitation for any future updates as well.

The central part of this report focuses on the analysis of the current situation and the conclusions illustrate some perspectives of development based on innovative approaches resulting from the analysis of networks in migration processes. This could allow a partial resolution of the issue of dead and missing persons in the migration journey.

18 Malta was not included in the report because 1) the number of bodies buried is extremely small excluding 2) the bodies related to the April 18, 2018 shipwreck (see below) are not considered in this report. However, it is planned to include data for Malta in future updates

19 While the precise number of individuals represented by the human remains (Minimal Number of Individuals) associated to the shipwreck of 18/4/15 is yet unknown, it is unlikely to represent the approximate 1100 passengers that would have been in the boat.

20 MOU signed on January 24, 2017: https://interno.gov.it/sites/default/files/2020-12/protocollo_croce_rossa_24_01_2017.pdf

21 This figure (around 1100 victims) is based on the testimonies of survivors, witnesses and other informants, and does not necessarily reflect the number of bodies currently in custody by Italian and Maltese authorities. In fact, assessments of the dynamics of the shipwreck may suggest that some of the passengers, placed on deck and carried by the currents, may have 'disappeared'.

22 This perspective is based on direct and indirect knowledge, provided by migration experts and actors in the field, of dynamics related to the evolution of migration trajectories and the different contexts of disappearance or death on these routes.

23 See also Baraybar JP, I Caridi and J Stockwell (2020) A forensic perspective on the new disappeared: migration revisited. In: Forensic Science and Humanitarian Action: Interacting with the Dead and the Living, edited by Roberto C. Parra, Sara C. Zapico, Douglas H. Ubelaker. Wiley online library.

STATES' RESPONSIBILITIES: LEGAL AND POLICY FRAMEWORK

This section outlines relevant legal obligations related to the search for and identification of missing migrants and the rights and needs of their families, as well as global commitments undertaken on coordination and information exchange on missing migrants.

As human beings, regardless of their status, migrants are entitled to the rights and fundamental freedoms enshrined in international human rights law (IHRL). Moreover, several international instruments specifically address the protection of certain categories of migrants, such as victims of trafficking and migrant workers. In addition to this, refugees and asylum seekers are specifically protected by refugee law. Concerning the dead, respect due to a human being does not cease with death, and for legal, religious, cultural, and other reasons, the identity of human beings must be preserved after death[24].

Except for enforced disappearance, human rights law treaties do not set out any detailed provisions dealing specifically with missing persons or the treatment of the dead. However, several provisions contained in these have been interpreted by UN treaty bodies and regional courts as giving rise to state obligations relevant to missing persons, including clarifying their fate and whereabouts. Under IHRL, states can be held responsible for the interference with the right to life, human dignity, the prohibition of torture, cruel, inhuman, or degrading treatment or punishment, the prohibition of enforced disappearance, the right to private and family life[25]. Notably, the procedural obligation of public authorities to carry out an effective investigation into the circumstances of unlawful or suspicious deaths within the jurisdiction of a State as well as the right to an effective remedy for violations of human rights law can serve to clarify the fate and whereabouts of missing persons.

Rules related to the search for and identification of missing migrants may also be found in the international law of the sea, notably the obligation to assist and rescue persons in distress at sea, and in international criminal law[26]. Furthermore, for instance, international disaster response law also contains relevant soft law instruments related to forensic activities and the management of the dead[27].

The 2011 Humanitarian Charter and Minimum Standards in Humanitarian Response – published by the Sphere Project – set out several universal minimum standards for disposing of dead bodies in a manner that is dignified, culturally appropriate, and based on good public-health practice[28].

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24 1996 ICPO-INTERPOL General Assembly, 65th Session, Resolution AGN/65/RES/13

25 These rules are contained in various international and regional treaties. For instance, the right to life is protected under international treaty law by the ICCPR, Article 6; the ACHR, Article 4; the ECHR, Article 2; and the ACHPR, Article 4. The arbitrary deprivation of life is also considered to constitute a prohibition under customary international law. In addition, Article 3 of the Universal Declaration of Human Rights (UDHR) guarantees everyone the right to life, liberty and security of person

26 For instance, see the interpretation of these legal frameworks by the Last Rights Project's Statement and Commentary on the International Legal Obligations of States, and the Mediterranean Missing Project's Legal Memo - Dead and Missing Migrants: The Obligations of European States under International Human Rights Law

27 See also ICRC legal factsheet *Humanity after life: Respecting and Protecting the Dead*. https://www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead and The development of guiding principles for the proper management of the dead in humanitarian emergencies and help in preventing their becoming missing persons', International Review of the Red Cross, Vol. 101, N° 912, 2020. doi:10.1017/S1816383120000223

28 See: Sphere_Handbook_2011_English_0.pdf (humanitarianresponse.info) https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/Sphere_Handbook_2011_English_0.pdf

On a domestic level, states' legislation generally requires investigations into unlawful or suspicious deaths and requires states to take all reasonable steps to identify human remains. However, domestic legislation is insufficient to ensure the protection of the dead, from the recovery of bodies until their burial. Moreover, as demonstrated with this report, domestic legal frameworks are also not designed to specifically deal with the phenomenon of missing and dead migrants.

In 2018, in the Global Compact for Migration, more than 150 states committed to engage in "coordinated international efforts on missing migrants", to cooperate in "the standardized collection and exchange of relevant information" and "to identify those who have died or gone missing, and to facilitate communication with affected families"[29]. They undertook to establish "transnational coordination channels, ... designate contact points for families" to "facilitate identification [of corpses] and the provision of information to families"[30].

The Global Compact on Refugees allows "stakeholders with relevant mandates and expertise [to] ... provide guidance and support for measures to address other protection and humanitarian challenges"[31]. The UN Sustainable Development Goals also aim for the improvement of migration policies and better data exchanges on international migratory movements. In 2020, a specific indicator referring to the number of people who died or disappeared in the process of migration towards an international destination was added to the global indicator framework[32].

The need for a coordinated approach is also reflected in a growing number of global guidance documents and reports. For instance, in 2014, the Office of the High Commissioner on Human Rights recommended "standardizing the collection and analysis of data on border governance, including on regular and irregular border crossings, smuggling of migrants and trafficking of persons, [and] instances of deaths of migrants"[33]. In 2016, the Office of the United Nations High Commissioner for Human Rights published the revised version of The Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016), including specific section in the identification of human remains as well as highlighting the importance of coordination and integrated approach towards death investigations. In her 2017 report on unlawful deaths of refugees and migrants, the UN Special Rapporteur on extra-judicial summary or arbitrary executions called for the establishment of "an international permanent multi-stakeholder mechanism for the governance and coordination of search, identification and tracing activities" (para 87), the development of "common methods of recording information and forensic protocols" (para 88) and the establishment of "centralized regional databases and mechanisms to link existing national databases" (para. 116)[34]. The 2019 Guiding Principles for the Search for Disappeared Persons, developed by the UN Committee on Enforced Disappearances acknowledged the particular vulnerability of migrants and urged states to establish cooperation agreements and competent authorities "to allow for effective coordination in the search for disappeared persons at each stage of migration"[35]. The ICRC, following a global consultation, has published 4 guidance documents relating to missing migrants and management of the dead, and in particular the need to harmonize the collection of data, ensure a proper interaction with families, and create multi stakeholder mechanisms along migratory routes to exchange information and coordinate the search. In relation to the dead the guiding principles highlight the fact that these principles apply

29 Global Compact for Safe, Orderly and Regular Migration, A/RES/73/195, United Nations, 11 January 2019, Objective 8.

30 Ibid.

31 Report of the United Nations High Commissioner for Refugees: Part II: Global Compact on Refugees, UN Doc A/73/12, 13 September 2018, para. 63.

32 Following a 2020 Comprehensive Review conducted by the Inter-Agency and Expert Group on SDG Indicators, indicator 10.7.3 was included.

33 Office of the High Commissioner for Human rights, Recommended Principles and Guidelines on Human Rights at International Borders Guideline 10.10., 2014, https://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf

34 Report on the unlawful deaths of refugees and migrants the UN Special Rapporteur on extra-judicial summary or arbitrary executions, A/72/335, 2017, https://reliefweb.int/report/world/unlawful-death-refugees-and-migrants-report-special-rapporteur-human-rights-council

35 Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED C/7, Principle 9, 2019, https://www.ohchr.org/EN/HRBodies/CED/Pages/Guiding-Principles.aspx

to the dead from all circumstances and calls for attention to the need to strengthen medico legal systems and forensic institutions as an essential structure for the adequate response to the issue of missing and deceased migrants[36]. Finally, the ICRC in collaboration with members of the forensic advisory board has recently published guidance for the process of identification of missing persons, that includes important updates and a recommendation for an integrated approach mentioning specifically aspects applicable to the context of migration[37].

36 Core Dataset for the Search for Missing Migrants. International Committee of the Red Cross (2021). Available at: https://shop.icrc.org/core-dataset-for-the-search-for-missing-migrants-pdf-en.html

37 Forensic Human Identification process: An integrated approach. 2022, ICRC. https://www.icrc.org/en/publication/4590-forensic-human-identification-process-integrated-approach

AMSTERDAM UPDATE AND ICRC APPROACH

The current study showed that during the last six years, there were 1,809 officially registered deaths of presumed migrants. Importantly to note, however, this figure does not include, the victims from the 18th of April 2015 shipwreck referred to as the Mellili/Catania event (which, alone, has an estimated number of 1100 passengers and for which the remains of some ~800 individuals were recovered from the shipwreck[38]). Adding these Catania deaths, the total number of deceased migrants in Italy, Spain, and Greece between 2014 and 2019 then increases to ~2,609.

This becomes important because the latter figure represents only 13% of the over 20,000 missing/deceased migrants reported by the International Organization for Migration during this same period[39]. The question thus arises where the remaining vast majority of missing individuals are. As we pointed out in the introduction, the picture will not become clear, however, until this same type of accounting exercise is replicated on the African side of the Mediterranean as well as Türkiye (on the coasts or land border with Greece).

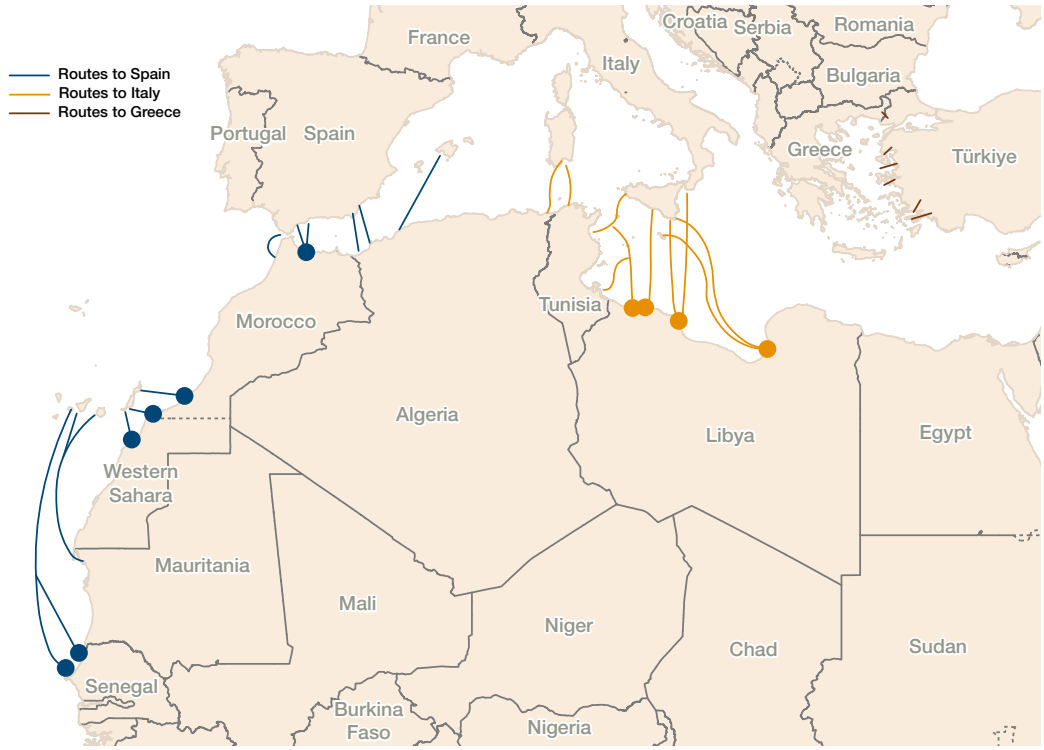

Figure 1. Illustration of correspondence between main points of embarkation and destination points. With data from Mixed migration routes to Europe, IOM's Missing Migrants Project.

* The boundaries, names and locations used in this map do not imply official endorsement.

38 See note 14.

39 https://missingmigrants.iom.int/region/mediterranean and IOM Missing migrants Atlantic route

The ICRC encourages authorities to improve the collection, centralization, and management of data about missing migrants. It also supports medico-legal systems to improve the management of the dead. However, it is important to highlight that the centralization of post mortem data on deceased migrants for identification purposes at a regional (whether European or some other) level is not only improbable but is above all impractical especially when one considers the quasi-exclusive relationship between routes from countries of embarkation and countries of arrival (see figure 1). In other words, a migrant sailing off Mauritania will head to the Canary Islands and not to Greece[40]. Dealing with each migratory route and each event (that is, shipwrecks) separately would allow making better use of the data linking the dead and the living in each specific case. The ICRC also supports families to transfer personal data from countries of origin to authorities in destination countries to facilitate forensic identification, to protect the right of families to know the fate of their loved ones.

The study shows that regardless of the efforts and mechanisms that might be put in place, there will be missing persons whose bodies might never be recovered. However, the fate of these persons may be inferred based on their whereabout. Such information, if precise, accurate, and obtained with a degree of certainty, could become an authoritative answer to families. Only with an adequate overall mapping of the corpses collected and buried will it be possible to make a reliable assessment of the situation, and thus to formulate further suitable and specific recommendations on the management of corpses and identification processes, but above all to formulate a reliable, albeit partial, response to missing persons in migration.

40 Migration trajectories, in particular the distinction between Western Mediterranean (Morocco, Algeria / Spain), Central Mediterranean (Tunisia, Libya Egypt / Italy, Malta) and Eastern Mediterranean (Egypt/Middle East to Türkiye towards Greece) routes and the "basins of origin" (Maghreb, West Africa, East Africa, Middle East, Afghanistan) are relatively distinct and constant over the years. However, over the years, depending on the evolution of EU border control policies, bilateral or EU agreements with third countries (Libya, Türkiye, Egypt, Morocco), or visa-free movement agreements between non-EU countries (ex-Tunisia-Türkiye), cases of "anomalous trajectories" have been found that make the framework of analysis more complex: Syrian families arrived in France in 2015 passing through Tunisia, Algeria, Morocco and Spain; young Moroccans directed to Spain arrived in Italy from Slovenia through the Balkan route.

THE AMSTERDAM 1.1 REPORT

Any approach to address the mortality encompassing the southern borders of the European Union (EU) depends on accurately determining the number of people that lost their lives while attempting to reach Europe by land or sea. While various estimates based on media reports have been produced since the 1990s by non-governmental organizations and journalists' associations (e.g., United for Intercultural Action, The Migrants Files, Fortress Europe)[41] as well as by the International Organization for Migration (IOM)[42], it is necessary to calculate with some degree of accuracy the number of bodies retrieved in southern EU countries, both on the coasts and along the migration trajectories (Maghreb and Sahel).

It is imperative to consider how migratory routes change and adapt over time. These route alterations are dependent on different socio-political factors as well as on changing EU Member States' border security measures, including externalization of migration border control (Global compact 2018; EU Pact on Migration and Asylum 2020). Additionally, it is important to understand the particularities of migratory routes as they have a direct impact on the caseload that each country faces. But for this analysis relating to the bodies buried in the southern EU, the attention is focused on the sea routes.

For instance, for Spain, there are several different sea migration routes: typically, the route to the Canary Islands principally involves individuals departing from western African countries (e.g., Morocco, Mauritania, Senegal, The Gambia, etc.). Conversely, the Atlantic migratory route shows movement to different destinations with individuals initiating travel from Morocco to Cadiz-Algeciras (Spain) or Algarve (Portugal). Finally, still focused on Spain as a destination, the Mediterranean route (through Mar de Alboran) is also used by those traveling from Morocco to the axis Malaga-Almeria or from Algeria to Murcia. Attempts to gain access to the enclaves of Ceuta and Melilla should also be added to this picture, although we can exclude them from the main 'sea routes'[43].

Looking at sea routes to Italy (and Malta), they are through the Mediterranean from Algeria to Sardinia, from Tunis-Libya to Lampedusa/Sicily and Malta. Finally, for Greece, typically the eastern route is from Egypt and Türkiye into Greece, either through the Aegean Sea toward the islands or by land in the northernmost part of Greece (Alexandroupoli/Evros Region). The point is that the routes of migration are highly complex and can change/alter rapidly. For example, in 2016, SAR interventions were carried out south of Crete, on boats departing from Egypt and heading to Italy. Between 2017 and 2019, cases of small boats departing from Türkiye and arriving directly in Italy (Puglia) were reported.

Understanding this complexity helps to comprehend the links between living and deceased persons from specific events (see Figure 1). The possibility of outlining privileged routes, or sections of routes, that could indicate the potential places and contexts of deaths and disappearances must therefore be integrated with specific analysis of mobility in a broader sense. This analysis involves contacts with families of missing, survivors or contacts in the diaspora, to corroborate these theses or produce alternative information (e.g. regarding cases - sporadic - of Maghrebi people who died on the Balkan route). It is a matter of considering in a systemic way 1) the evolution of general mobility in Africa, in the Middle East, and towards the EU (including whether they are linked or result from evolving European and international policies), considering also phases of "counterintuitive" trajectories (going by the Balkan route to reach Spain from Morocco), and 2) sections of "exclusive" routes linked to pragmatic needs (e.g. the Tunisia/Libya Lampedusa route is the most frequent because it is shorter and therefore less risky) but which may undergo equally functional variations (e.g. after the EU-Türkiye agreements in 2016, it was convenient to head from Egypt to Italy and not to Greece).

41 www.themigrantsfiles.com; www.unitedagainstracism.org; www.fortresseurope.blogspot.com

42 IOM - Migration deaths and disappearances https://migrationdataportal.org/themes/migrant-deaths-and-disappearances

43 Bodies found between Ceuta et Melilla are accounted for in this report (survey update 2020)

Additional findings of the VU Amsterdam study included some elements concerning the medico-legal systems in each country and highlighted limitations regarding data management and access to updated information[44].

The ICRC, aiming to cover the information gap from 2014 to 2019, carried out a follow-up study using the original VU Amsterdam methodology. This study (for continuity purposes called Amsterdam 1.1) focused on the number of registered deaths of migrants at the external borders in Italy, Greece, and Spain, on the existing death management systems in those countries, and on highlighting possible shortcomings throughout the process.

This report presents the key findings of the Amsterdam 1.1 study, seeks to draw on these national procedures and best practices identified hitherto, to provide recommendations to feed into discussions at national and regional levels (i.e., European Union, Council of Europe - CoE) for establishing the fate and whereabouts of missing and dead migrants. It aims to convey relevant messages addressing the need for enhancement and amendment of current systems regarding the management of cases involving deceased migrants and unidentified bodies in general.

The report is divided into four sections: (I) Registered deaths of migrants, per country for the period 2014-2019; (II) Key aspects of the death management systems; (III) Conclusions and (IV) Recommendations.

44 Last, Tamara, Thomas Spijkerboer, and Orcun Ulusoy. 2016. "Deaths at the Borders: Evidence from the Southern External Borders of the EU." Revue Hijra 1: 5–23; Pérez, Marta, Ignacio Urquijo, and Tamara Last. 2016. "Deaths at the Borders: Gaining Access to Civil Registries. Research Notes from Spain." Intraformazione 5 (1): 65–73.; Tselepi, Naya, Nefeli Bami, Alexandra Michalaki, and Tamara Last. 2016. "Deaths at the Borders: The Cases of Evros and the Aegean Sea. Research Notes from Greece." Intraformazione 5 (1): 50–56

I. REGISTERED DEATHS OF MIGRANTS BETWEEN 2014 AND 2019

The geographical scope of the Amsterdam 1.1 study was limited to the southernmost municipalities of Italy, Spain and the Canary Islands, and the municipalities in the shared land and sea border between Greece and Türkiye. These locations were chosen based on the results of the VU Amsterdam study, which demonstrated that these three countries had a larger number of deaths registered between 1998 and 2013. In each country, the study included a preliminary assessment to select the municipalities that had a high caseload, which in many cases were the same municipalities visited in the original VU Amsterdam study.

The Amsterdam 1.1 study showed that in the geographical areas analysed, during the last five years, there were 1,809 officially registered deaths of presumed migrants. It is important to highlight that this figure does not include the victims of the 18th of April 2015 shipwreck that occurred 60 miles off the Libyan coast, since referred to as the Mellili/Catania event, whereby the estimated number of deaths in that incident alone is estimated at ~1100[45]. It should be pointed out again that these figures, which are considered in the overall calculation, have been worked out based on testimonies and are still currently subject to a forensic verification procedure (concerning the number of bodies or fragments recovered).

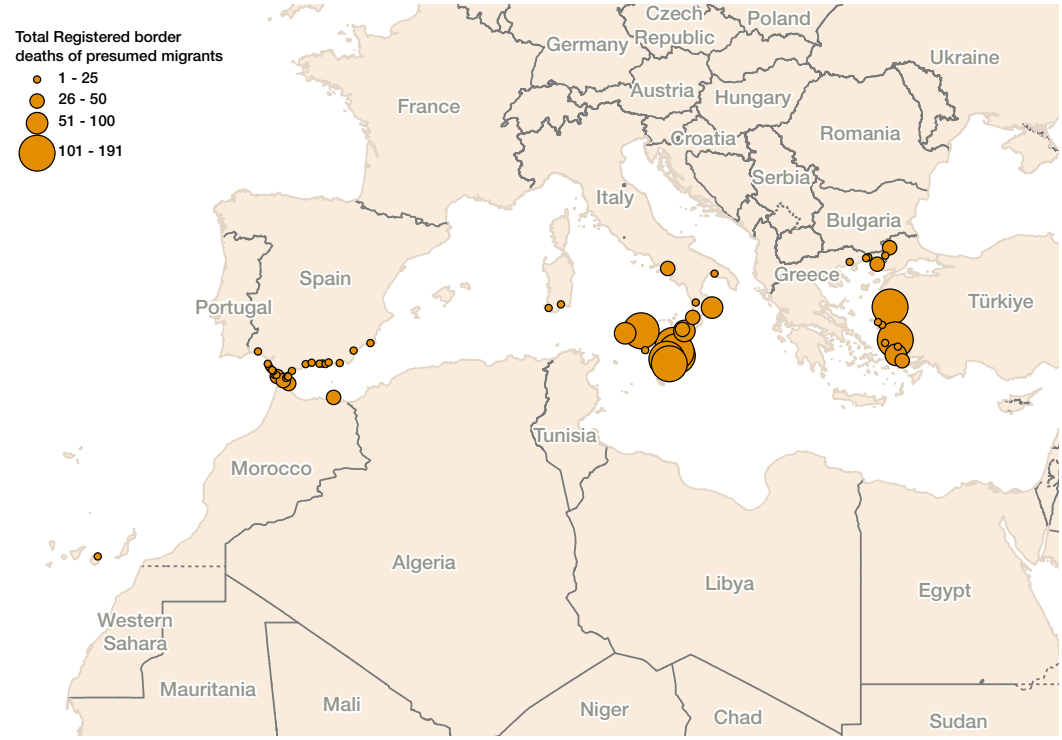

Figure 2. Registered border deaths in southern Europe (Greece, Italy, Spain) 2014 to 2019. Interactive map available at https://icrc.maps.arcgis.com/apps/View/index.html?appid=62a20ac961bb49b78f7c9008c2bfce23

* The boundaries, names and locations used in this map do not imply official endorsement.

45 While the estimated number of human remains recovered could represent about 800 individuals, ICRC has estimated the number of passengers in the boat to be around 1100, based on multiple sources. Missing Migrants in the Mediterranean – Transregional Pilot Project (so-called Catania project). Internal ICRC document.

1 - SPAIN

Between 2014 and 2019 there were 237 deaths of presumed migrants registered by Spanish authorities, of which 50.2% remain unidentified. Of this total, eleven cases corresponded to deaths that occurred long before (some cases even 8 years prior) but that were recorded in the books during the period analysed. Additionally, in seven cases the date of death was not recorded in the documents, but for which the researchers deduced that they corresponded to the time frame under analysis.

2 - ITALY

Between 2014 and 2019 there were 964 deaths of presumed migrants registered by Italian authorities, the majority of which remain unidentified (73%). Cases registered as identified (27%) were accomplished primarily through visual recognition[46]. There remain some cases (e.g. 6 in Taranto, Puglia) to be further verified which have therefore not been considered in this report; the cases of Lampedusa (7, October 2019) and later have not been added because they have not been verified with official documentation and will be integrated into the update.
However, as mentioned above, the number does not include the approximate 800 bodies recovered from the Mellili/Catania operation (the case is still under investigation, no exact number of victims has been released yet). Including that operation would increase the total number of bodies for the period 2014-2019 to approximately ~2,609.

3 - GREECE

Between 2014 and 2019 there were 608[47] deaths of presumed migrants registered by Greek authorities, of which 33% remain unidentified. Cases registered as identified (67%) were accomplished primarily through visual recognition.

46 In Italy only three methods can lead to identification: DNA, dental records and fingerprints, therefore the 27% mentioned were legally "recognized" which is also a legal term. (DPIA)

47 Data relating to Greece for the period 2014-2019 was updated in 2020. It is important to underline that more subsequent identifications were conducted via DNA, but this was not reflected on the death certificates that were issued at the time prior to burial: additional identifications were conducted via DNA at later stages. It is good to remember that this report recognizes an evolving process, in which the identification procedures are sometimes still in progress.

II. MEDICO LEGAL SYSTEMS

A. LEGAL FRAMEWORK

The investigations of unnatural or suspicious deaths on behalf of the State in all three countries are led by judicial authorities (judges or prosecutors) with the intervention of the law enforcement agencies (police, coast guard, fire brigade), forensic experts, and/or forensic doctors. The registration of deaths should occur when the judicial authorities issue orders to release the bodies for registration and burial. All three countries have laws and regulations governing, under criminal investigations, the recovery and the examination of the bodies, the registration at the civil registries, and the burials (see Annex 1. Laws and regulations governing the management of the dead). Only Italy has specific guidelines that should be used for cases of missing persons and unidentified bodies, within a centralized system called *Ricerca Scomparse* (Ri.Sc.); however, the study showed that the system is far from being fully implemented, particularly in cases involving migrants[48].

B. MEDICO LEGAL SERVICES / FORENSIC INSTITUTIONS

1. SPAIN

Spain has unified, structured, and regulated medico-legal services, under the Ministry of Justice – MoJ. Competencies in Justice and by extension, the regional forensic organization, were transferred to regional governments in 12 of the 17 autonomous Spanish regions (i.e., Madrid, Cataluña, Andalucía, Galicia, Aragón, Comunidad Valenciana, Canarias, País Vasco, Navarra, La Rioja, Cantabria and Asturias), while the central Government still maintains direct control in the five other regions (i.e., Castilla-León, Castilla-La Mancha, Extremadura, Murcia and Baleares) and in the autonomous cities of Ceuta and Melilla. Nevertheless, the official body of forensic doctors remains within a national entity under the MoJ in the entire country[49]. Additionally, a national council of forensic medicine (*Consejo Médico Forense*) was established in 2014, to provide technical and scientific guidance and recommendations to the government and to promote homogeneous standard forensic practices throughout the country. One of the projects addressed by the Council in the last five years was the management of unidentified dead migrants, and as a result, a Memorandum of Understanding – MoU - was signed in April 2017 to establish collaboration between the MoJ and the Spanish Red Cross[50].

The National Institute of Toxicology and Forensic Sciences (*Instituto Nacional de Toxicología y Ciencias Forenses*) is responsible for DNA profiling. It has three regional Departments: Madrid, Barcelona, and Seville, and a delegation in the Canary Islands. DNA profiling is performed by the corresponding Department according to the place where the sample was procured, and the profiles are incorporated into the national Combined DNA Index System – CODIS - database, created in 2007 under the Ministry of Interior[51]. The database includes a section for missing persons and unidentified bodies

48 Specifically, migrants who died at sea, which were present in the Register of Unidentified Bodies (2014) after the 2013 shipwreck, were no longer present in the update (2016) within which cases of people who died in migration do not appear to be included. (https://rncni.clio.it/). Also Greece has laws on DVI response (to include law on how victims are managed and identified). The DVI response, however, has not been activated for shipwrecks involving migrants.

49 Prieto JL (2019). Briefing report: Spain. Gap analysis report prepared at the request of Forensic Department, ICRC-Paris delegation. Internal ICRC document.

50 Resolución de 12 de abril de 2017, de la Secretaría de Estado de Justicia, por la que se publica el Convenio de colaboración con Cruz Roja Española, en materia humanitaria e identificación de cadáveres

51 Ley Orgánica 10/2007, de 8 de octubre, reguladora de la base de datos policial sobre identificadores obtenidos a partir del ADN. Real Decreto 1977/2008, de 28 de noviembre, por el que se regula la composición y funciones de la Comisión Nacional para el uso forense del ADN

(*Sistema Informatico de Datos de Personas Desaparecidas y Restos Humanos sin Identificar PDyRH*) managed by the Ministry of Interior (MoI) National Center of Missing Persons (*Centro Nacional de Desaparecidos*). Like most EU States, Spain ratified the Prüm Convention, which allows the exchange of genetic (and other) data between EU states for criminal investigation purposes notably regarding cross-border crimes and terrorism[52] [53]. Regrettably, border deaths do not fulfil the criteria of common criminal cases since reference samples (i.e. from direct family members) are generally found in countries of origin and not of arrival.

2. ITALY

Italy does not have a unified, nor structured forensic service. Doctors are individually appointed to each case by the judicial authority and are generally affiliated to one of the thirty existing forensic institutes in the country[54]. The institutes that are most likely to be involved in cases of deceased migrants are in the regions of Calabria (Catanzaro) Lombardy (Milano), Puglia (Bari), Sardinia (Cagliari, Sassari), and Sicily (Catania, Messina, Palermo), which represent approximately 24 senior forensic specialists (and around 20 junior experts - resident medical students - who may assist on such cases as well). However, the examination of bodies is also performed by independent doctors (not necessarily forensic specialists) who are appointed for sporadic single cases or in smaller, remote islands (i.e., Lampedusa).

The Italian government created in 2007 the Office of the Extraordinary Commissioner for Missing Persons (*Commissario Straordinario del Governo per le Persone Scomparse -CSPS-*) with the mandate of coordinating efforts with agencies working on missing persons and unidentified bodies and of updating the National Register of Unidentified Bodies (Registro Nazionale dei cadaveri non Identificati). The technical board of the CSPS established a system for the standardization and centralization of Ante Mortem and Postmortem data of missing persons and unidentified bodies (*Sistema Informatico Ricerca Scomparsi - Ri.Sc.-*)[55] kept within the database of the State Police. The Ri.Sc. includes standard forms for the collection of Ante Mortem – AM - and PM data. It would be necessary to verify if and in which terms the cases of unidentified persons who died in migration (at sea) are accounted for and classified within the Ri.Sc., and if the information collected by Prosecutors/Prefectures during investigations is transmitted to the CSPS office.

There are eight Police Force DNA laboratories: four laboratories of the Scientific Police (in Turin, Rome, Naples, and Palermo), and four of the investigative bodies of the Carabinieri (*Reparto Investigazione Scientifiche* – RIS -, in Parma, Rome, Cagliari, and Messina)[56]. In 2009, Italy legislated for the creation of the centralized national DNA database under the Ministry of Interior, in line with the Prüm Decision[57]. The database will centralize genetic (and other) information and allow exchange with other

52 To note that in 2008, the Prüm Convention was incorporated into EU law after the Council of the EU adopted the Prüm Decision (2008/615/JHA). The Prum decision and its implementing rules aim at stepping up cross-border cooperation between police and judicial authorities particularly on combating terrorism and cross-border crime via the automated exchange of information.

53 EU, 2018 Cross border exchange of forensic data in the frame of the Prüm decision. Directorate General for Internal Policies, Policy Department for Citizens Rights and Constitutional Affairs. European Parliament. Study. https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604971/IPOL_STU(2018)604971_EN.pdf Memoria Base de Datos Policial de Identificadores Obtenidos a partir de ADN, Ministerio del Interior, España, 2018

54 Namely: Ancona "Università Politecnica Delle Marche", Bari, Bologna, Brescia, Cagliari, Catania, Catanzaro, Ferrara, Firenze, Genova, Messina, Milano, Modena, Napoli "Federico Ii", Napoli "Vanivitelli", Padova, Palermo, Parma, Pavia, Perugia, Pisa, Roma "S. Andrea, Roma "Tor Vergata", Roma "Cattolica", Sassari, Siena, Torino, Trieste, Udine, Varese "Insubria", Verona. Antonietta Lanzarone, Italian legal and medical legal system for the management of non-identified migrant bodies. From the landing to the repatriation of the body. Medical Legal Advice. Consultancy report, ICRC Internal Document

55 Circolare 10/03/2010 and Circolare 26/07/2014

56 There are other specialized laboratories in the country such as the regional Anti-Doping Center in Orbassano (Torino), the Careggi Hospital-University of Florence, the Medical and Forensic Investigations Study of Reggio Calabria, the Laboratory of Forensic Genetics of the University of Rome - Tor Vergata, the Forensic Genetics Laboratory of the Ospedali Riuniti of Ancona and the Forensic Genetics Laboratory of Milan.

57 Law 85/2009: https://www.gazzettaufficiale.it/eli/id/2009/07/13/009G0092/sg

EU countries (for criminal investigation purposes). The database is expected to have a special section for missing persons and unidentified bodies[58].

3. GREECE

In Greece, the situation varies as well. There is no unique, centralized body governing all forensic doctors, although there is a Forensic Medical Service in Athens and other regional forensic services[59]. There are approximately 45 forensic doctors dispersed over 27 locations (clinics, hospitals, or other), employed by government agencies, universities, or hospitals (within the ministries of Justice, Education, or Health). Because of these fragmented and siloed systems, each ministry has only a portion of responsibility which causes the structures for service provision to be quite varied and diverse[60].

Biological samples collected during autopsies should be sent to one of the two existing genetic laboratories, at the Hellenic Police Forensic Science Division or at the Forensic Medical Service of Athens, dependent on the geographic region where the sample was procured. All profiles are eventually stored in the Greek CODIS[61] database created in 2009[62], which is located and operated by the Hellenic Police[63].

C. MANAGEMENT OF THE DEAD: INVESTIGATION AND IDENTIFICATION

The personnel on boats involved in Search and Rescue – SAR - operations, be it either the Italian, Spanish or Hellenic Coast Guard might recover bodies of deceased migrants at sea[64].

The recovery of bodies may also be carried out by other vessels such as those used by NGOs: e.g., Médecins Sans Frontières (MSF), SOS Méditerranée, Sea Watch, Sea-Eye, Jugend Rettet, ProActiva Open Arms, Louise-Michel, and Mediterranea Saving Humans involved in SAR operations[65]. None of the three countries have officially available guidelines for first responders concerning the collection of basic information from bodies recovered at sea (i.e. photos, visible features, personal belongings) or its transfer to the police[66]. Once ashore, the first responders must contact the competent law enforcement agency (police, coast guard), who are responsible for the investigative process, which varies slightly in each of the countries, according to national legislation.

58 Mediterranean Missing Project. Serena Romano, The Italian legal framework for the management of missing persons and unidentified dead bodies, and the rights of the relatives. Sept. 2018

59 (Author, ATH) Investigation of Death in Greece: The Legislative framework and the case of unidentified deceased migrants, year 2018. ICRC study

60 The Ministry of Justice regards the head of its Athens service as the overall head of its service; but this is not the case for the Ministry of Education or the Ministry of Health.

61 https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet

62 The Hellenic Police Forensic Science Division (Ministry of Citizen Protection) maintains an independent database of family reference samples/unidentified remains for the purposes of identification. Also, the Hellenic Police Missing Person Unit is mandated since 2017 to coordinate agencies working on missing persons and unidentified bodies (to include cases relating to migrants).

63 Polychronis Voultsos, Samuel Njau, Nikolaos Tairis, Dimitrios Psaroulis, Leda Kovatsi Launching the Greek forensic DNA database. The legal framework and arising ethical issues, Forensic Science International: Genetics 5 (2011) 407–410

64 It is important to consider how with the progressive intervention in the scenario of SAR interventions in the central Mediterranean by the Libyan Coast Guard since 2018, the conditions of recovery of bodies at sea and their management ashore are much less transparent and, according to local witnesses, extremely expedient.

65 It is necessary to consider these situations in order to improve the traceability of bodies and to be able to associate victims, missing persons and survivors of the same event, who often arrive on land at different times and places.

66 Bodies might also be washed ashore or be found by fishermen. In such cases, the same procedure applies.

1. SPAIN

In Spain, the retrieval of bodies falls under the responsibility of a judge (who is alerted by the Police), with the support of the forensic doctor on duty and of the state police (*Guardia Civil*). The body is examined at the scene by the doctor, who collects information on the possible cause, manner, and circumstances of death (including identities) and fills out a form (*Informe de Levantamiento*). The police will record the location and general identifying features as well (sex, apparent age, clothes, and personal belongings, etc.) and include them in their report (*Atestado*). A picture of the face of the deceased and fingerprints might also be taken, depending on the body's state of preservation. When feasible, visual recognition is carried out by survivors, although it is unclear if this is a method accepted by the courts (this form of identification seems to be accepted in Málaga and rejected in Granada). Law enforcement might also carry out interviews with survivors or witnesses and include this information in their report.

Reports from the forensic doctor and the police are referred to the judge, who opens a judicial file (*Diligencias previas*), additionally, the combined report is also sent to the forensic doctor that examines the bodies. Once scene processing is completed, bodies are transferred by a local funeral service to the forensic institute either in the regional capital or to a province. For instance, in Andalucía and depending on where bodies are recovered, they are either transferred to the Forensic Institute in the capital (Sevilla) or one of the provinces (Almería, Granada, Málaga, Cádiz), the exception being bodies found in the demarcation of El Campo de Gibraltar, which is transferred to the forensic facilities in that locality. For unidentified bodies, fingerprints, samples, and other PM data will be submitted by the Police to the corresponding laboratories and incorporated into the forensic databases (AFIS and CoDIS, and PDyRH). Clothing is usually kept with the dead body, while personal belongings (especially those with potential identification value such as mobile phones, documents) are retained and guarded by the Police. In the cases of unidentified bodies, the Court decides if they are kept at the Forensic institute while further investigations for identification take place, or if they are released for registration and burial.

2. ITALY

In Italy, the procedure is similar. The police in charge (usually state police -*Polizia di Stato*)[67] should inform the prosecutor's office (*Procura della Repubblica*) who will then appoint the investigator and the doctor in charge (who does not necessarily have to be a forensic doctor) to carry out a preliminary investigation about the identity of the deceased and the cause and circumstances of death. The police will write a Report of Body Retrieval (*Verbale di ritrovamento cadavere*)[68] and the doctor should write a body inspection report (*Verbale 'ispezione cadaverica*). The cause of death may be determined by external examination only and is recorded in the body inspection report. The final decision about further actions is taken by the prosecutor, who might issue an order for the body to be transferred to a medico-legal institute for autopsy and for the scientific police to carry out further investigations. However, the body inspection report carries substantial weight in this decision. For most of the border deaths analysed for this study, there was no request for autopsy or further investigations; instead, the cause of death was recorded as either 'asphyxia', 'cardiac arrest', or simply "drowning", based on external examinations, and the bodies were released for burial through the issuing of a burial permit by the Public Prosecutor's Office. If the decision is to go ahead with autopsies, the scientific unit (*Polizia Scientifica*) will intervene and carry out the photo documentation of the bodies, collect fingerprints and biological samples, and transfer them to the police laboratories, and the Prosecutor will appoint the forensic doctors accordingly.

There is no standard procedure for the identification of the deceased, so this is generally subject to the resourcefulness and know-how of the individuals who conduct the investigation. There have been successful initiatives, for example, the ICRC consultants were informed about the response to an inci-

67 There are several police forces (i.e. Carabinieri under the Ministry of Defense, Finance Guard -Guardia di Finanza- under the Ministry of Economy and Finance, Coast Guard -Guardia Costiera- under the Ministry of Infrastructure and Transport, and State Police -Polizia di Stato- under the Ministry of Interior). Each of those police bodies is involved in the processing of migrants upon landing, focusing on their own competence.

68 Compiled by the police according to Art. 347 of the Criminal Procedure Code.

dent where 24 migrants lost their lives, where one inspector of the city police of Siracusa tasked to identify the deceased established collaboration with the local Syrian migrant community and through social media, they were able to facilitate contact between families looking for their relatives and one of the investigators. This allowed the exchange of information which resulted in the identification of 22 of the bodies.

Upon disembarkation, the deceased and the survivors of the same event are separated; survivors are seen by doctors (with support of mediators) and might be questioned by the Police using a format called SIT -*Interviste di Sommarie Informazioni testimonial*-, which does not focus on the identity of the survivors or the identity of the deceased, but the criminal investigation related to the illegal migration. There is no standard procedure to ensure those police officers responsible for the investigation of migrants' deaths after a shipwreck can interview survivors and witnesses linked to the event. In addition, after disembarkation migrants might be transferred for registration to different locations within the country, and the bodies could be also sent to Forensic institutes in a different region. Valuable information is lost due to a lack of guidelines and procedures, and cases might be complicated unnecessarily. This separation between bodies and survivors, fragmented investigations (it should be remembered that Italian law does not require bodies to be identified), and the difficulty for direct family members to participate remotely in identifications or to physically reach the place of disembarkation means that bodies are often buried as unknown while investigators are still receiving information about them. A research carried out by the research program Mecmi[69] in support of the CRI Committee of Catania (2018) showed that in front of cases of burials of formally unidentified people, the investigations had produced clues, testimonies, data not used but able to corroborate an identity: an application for rectification regarding three cases was submitted to the Civil Court.

3. GREECE

In Greece, the investigation of death is under the control of the Prosecutor's office. There are general laws regarding the appointment of forensic doctors in cases involving suspicious or sudden deaths, however, there is a lack of standardization in forensic analyses across Greece. This creates inconsistencies as there are no available guidelines for the state actors that should be involved. In addition, the Code of Criminal Procedure only mandates forensic examinations to determine if the death is a result of a crime, while at the same time another Law (about the registration of deaths) sets an obligation to issue a death certificate within 24 hours from the time of death by the treating doctor or by a forensic doctor or medical expert appointed by the relevant authority[70]. There are no official guidelines available for the identification of bodies.

The repeated occurrences of deceased migrants and unidentified bodies that authorities have been dealing with during the last decades have led to a practical approach and some customary practices. The collection of bodies at sea is the responsibility of the Hellenic Coast Guard (HCG). They are tasked with police functions in their jurisdictional context, which includes the sea, harbours, and any other relevant designated areas. This means that in those jurisdictions, the management of dead bodies may fall under their purview. To illustrate some of the challenges noted within the siloed medico-legal system in Greece, an example is provided: on the island of Lesbos, the HCG will issue a unique case number while the forensic doctor will issue ***another*** case number for the same cases of the deceased migrants[71]. Case management and traceability are often linked to local practices: the alphanumeric code assigned by the forensic doctor to each body is used for any tissue sample for analysis and can be inscribed on the headstone in the cemetery where the burial takes place.

Any attempts to identify victims of shipwrecks are linked to these customary practices that may also include, for example, authorities showing photographs of dead bodies to survivors for visual identification of the deceased. They may also collect information from survivors or relatives searching for missing migrants, however, there are no standard guidelines or forms to do so. There are legal

69 https://mortsenmigration.uqam.ca/projets/

70 For unidentified remains, according to the CtD data, death certificates are issued later (in 2019 and 2018 2-3 weeks; in 2017 2-3 months; in 2014-2016 more variable)

71 HCG and forensic doctor maintain both case numbers in their reports (cross-referenced).

instruments that mandate for the collection of DNA samples to be sent to the Police laboratories and the profiles incorporated into the central database. Currently, however, there is no clarity regarding the investigative procedures for identification, including how reference samples from families are incorporated into their database.

D. MANAGEMENT OF THE DEAD: DEATH REGISTRATION AND BURIAL

1. SPAIN

In Spain the forensic doctor will send to the judge a preliminary autopsy report (*Avance de autopsia*) completing the processing of a body; this is legally considered a death certificate. The judge will then issue the license for burial (*Licencia para dar sepultura*), which includes a declaration of death (*Cuestionario para la declaracion de defuncion*) collecting all information required by the Civil Registry of the municipality where the body will be buried. Along with the judge's decision, the Civil Registry will receive from the forensic doctor the declaration of a death certificate and a form for statistical purposes (*Boletin Estadistico de Defuncion*)[72]. The Civil Registry should then register the death in their books, including the name of the cemetery where the body is sent for burial. The Civil Registry book has one entry sheet per case, which includes name, date, place of death, place of burial. In case of unidentified migrants (border deaths) the name field should state "*No Consta*" (not made known) and include the place of death or recovery (if at sea, or beach, harbor, etc.) and other observations. Finally, around 70% of the Spanish civil registries enter the data into a unified database called INFORED. We can assume that the remaining 30% is collected but not included in INFORED. This database so far is only searchable by name, so it is not practical for cases of unidentified bodies.

Throughout the study, differences were found in the terminology used in death certificates of unidentified border deaths, such as "*cadaver 1*" (body 1), "*cadaver sin identificar*" (non -identified body), No Consta ("no information available"; which should be used as the official standard), "*desconocido*" (unknown), "AAA BBB CCC". Additionally, there were instances where no cause of death was registered in the books, however, as the researchers did not have access to the files (*legajos*) it was not possible to confirm if that information had been reported by the forensic specialists. In addition, some border deaths were registered months or even years after they occurred, for reasons unknown.

2. ITALY

In Italy, once the examination of the body is complete, the doctor appointed to the case will issue a death certificate (*Certificato di Morte*) which is sent to the Municipality office. In turn, the prosecutor will issue the burial permit (*Nulla Osta al Seppellimento*). These documents will be sent to the Civil Registry (*Stato Civile*) of the municipality where the death occurred. The doctor involved in the case should also send a statistics form[73] to the National Statistics Institute (Istituto Nazionale di Statistica -ISTAT-). The book-entry at the Civil Registry includes personal data (if the body is identified) and the location where the body is buried. Once the civil registry has all the documents mentioned above, they must complete a "Record of Death" (*Atto di Morte*) and only then, issue authorization of burial (corresponding to the burial permit issued by the prosecutor). In practice, the compilation of the death certificate is not systematic, and in the case of unidentified bodies, civil registrars may issue 'substitute' documents, some kind of death certificate, attesting to the death of an unknown person.

72 The BED is sent to the National Institute of Statistics (*Instituto Nacional de Estadística*) and is a document to work throughout the subsequent process of generating statistics. The information contained in the BED is codified, treated and published as demographic-health statistics. There is one specific bulletin for deaths with judicial intervention which collects: (1) data of the court, (2) data of the death and deceased person (3) cause of death and (4) data of the civil registry. However, the cause of death section differentiates deaths by accident, homicide, suicide and 'other cases' (which includes place of occurrence and circumstances). This is a possible way to identify cases of border deaths

73 ISTAT form https://www.istat.it/it/files//2011/01/D4_2012.pdf

It is important to point out that while investigations take place, the bodies are under the jurisdiction of the prosecutor and in the custody of the health facility of the Municipality where the body was found (hospital morgues). However, particularly in Sicily, not all Municipalities have the necessary infrastructure to keep the bodies, and between 2014 and 2019, through the intervention of the ***Prefettura*** (representatives of the Ministry of Interior), bodies have been transferred between Municipalities where bodies are provisionally buried in specially designated areas. Transferring bodies between Municipalities requires the burial permits issued by the prosecutor, the burial authorizations issued by the ***stato civile***, and a body transportation permit issued by the health facility where the body was found, as well as written agreements between the Municipalities concerned. There is no centralized registration of these transfer documents, which means that to locate those bodies, it is necessary to locate the paper trail (from civil registries, from cemeteries, from the Prosecutor, from the ***Prefettura***, from the health facility, and funeral services) and then cross-reference the information accordingly. This effectively means that bodies are not traceable.

Many migrant arrivals have created logistical problems, coordination difficulties, and dispersion of information particularly in Sicily, in the period 2014-2019. There is limited coordination between different offices within the same city and between actors operating in different cities engaged in specific "multisite" cases. Such cases refer to those in which the body and the file related to the body transit through services located in different cities (e.g., disembarkation in Augusta, submitted to the authority of the Public Prosecutor of Syracuse, and burial in Catania). Considering that most of the corpses between 2014 and 2019 arrived during landing operations after SAR interventions, it was useful at the methodological level to retrieve where possible the documents related to the port of disembarkation, and consequently to the first municipality that managed the reception and subsequently the eventual transfer of the body.

3. GREECE

In Greece, the registration of death occurs once the doctor (forensic doctor or forensic pathologist) sends their medical certificate of death to the Civil Registry office for them to issue the registration of death. Currently, the Greek public registry offices are in the process of changing from handwritten documents to a new, national online system[74]. In the previous system, the officers of the Civil Registry would complete the death certificates by hand and would attach a copy of the medical reports and all paperwork. The new system, however, does not allow the registration of such detailed information. While the shift to a digital system is a positive development, it created challenges during the study as case file information was lacking. Therefore, to ensure thoroughness, in addition to consulting the Civil Registries, the researchers also consulted forensic doctor reports and, when they were available, additional documents from cemeteries or hospitals. The investigative procedure in Greece does not have clear bureaucratic parameters, which is a shared source of concern by the authorities involved. Further, smaller islands registry offices also face a lack of space problem, so that bodies were transferred to different locations without any accompanying paper trail to allow the location of the bodies. In Komotini, for example, the caretaker of the cemetery shared that some unidentified bodies (most likely representing migrants) were buried without any accompanying paperwork (stating it was either lost or destroyed). It is therefore likely that some of the bodies buried in Komotini's cemetery were transferred from other locations in Greece.

74 The centralized database became operational in January 2018. Citizens can obtain copies online as of June 2020

E. CONTACT WITH SURVIVORS AND FAMILIES OF THE MISSING

Different organizations, including the National Red Cross Societies (e.g. Italian, Spanish, and Hellenic Red Cross), international, national, and local NGOs (e.g., Refugee Support Aegean, Alarm Phone, Caminando Fronteras, Borderline) have worked with migrants for many years and continue to do so. Some of these organizations are involved in support activities (e.g., SAR operations at sea, registration of asylum seekers, restoring family links, etc.) and as such, many of them retain contact with the migrants. In **Italy** and **Spain**, the National Society Emergency teams are generally present in places of disembarkation and able to speak to survivors after shipwrecks occur[75]. Accordingly, their position could allow them to facilitate contact between survivors with the investigators or forensic authorities (with the help of cultural mediators which is crucial for linguistic reasons but also for reasons of 'trust'). The National Societies could also ensure that contact is not lost or interrupted with enquiring living relatives so that procedures such as the collection of AM data could be followed at later stages. The primary reasons are that these humanitarian actors can build and maintain efficient communication networks with families and survivors. They are aware of the right of families to know the fate of their loved ones and could help to transfer information for the identification procedures as well.

As mentioned in previous sections, there are some efforts to overcome the limitation of access to information such as the MoU signed in **Spain** between the Ministry of Justice (MoJ) and the Spanish Red Cross. In **Italy**, the extraordinary commissioner for missing persons (CSPS) the Italian Red Cross, and the ICRC signed a tripartite agreement for cooperation on the same issue[76].

75 In Greece as well, the HRC was/is present in some locations when RFL services were needed.

76 For this purpose the Commissario has signed various MoUs over the last years with several agencies, including the Ministry of Education for University and Research - Ministry of Interior, the University Hospital of Florence, the Public Prosecutor's Office at the Court of Florence, the Rome Prefecture, the Public Prosecutor's Office in the Lazio Region, the Chief of the Republic of Rome, the International Committee of the Red Cross, the Italian Red Cross and the International Commission of Missing Persons (ICMP)

CONCLUSIONS

The studyshows that variation in the caseloads of registered deceased migrants in Spain, Italy, and Greece as well as the ability of each country to manage is dependent on the functionality and capability of the medico-legal system. This includes existing policy and regulations, procedures in place, human resources, and infrastructure. The actual number of bodies that are recovered also has an impact on the quality of the response. The findings will allow the provision of recommendations to improve information management practices and the traceability of those bodies that are found.

According to the study, for six years, the remains of deceased migrants in the three countries (including the yet unknown total caseload of the Catania/Mellili shipwreck), represent around 13% of the over 20,000 missing/deceased migrants reported by the International Organization for Migration during the same period. The complete picture, however, will not be fulfilled until the exercise is replicated on the African side of the Mediterranean as well as Türkiye.

Considering the quasi-exclusive relationship between routes from countries of embarkation and countries of arrival[77], it becomes clear that centralization of data at the European level, for identification purposes is improbable, but above all, impractical. Individuals departing Western Sahara do not sail to Greece but the Canary Islands. Hence determining embarkation points and inferring likely routes is what should guide data centralization. In addition, considering the disparity in the number of cases, as well as data completeness, merging all in some European databases does not make much sense.

The development of databases at the local and national level managed by judicial authorities or institutions is undoubtedly useful to systematically store information on people who died/went missing along the migratory routes. However, this dimension is partial and cannot be considered in isolation without the intervention of external actors (i.e. non-governmental organizations, family members searching for their missing relatives, etc.) to provide complementary data. While States may have information regarding the fate (i.e. dead body), other actors may have information regarding the circumstantial information leading to the death of the person (whereabouts). There is however a gap, as there is no operational system of interconnection and data exchange.

On the one hand such a system would act as a firewall able to guarantee a fundamental level of trust between different and often tense actors, and on the other hand to provide a level of technical capacity to assemble and analyse data coming from heterogeneous databases. It would have to operate on a humanitarian, impartial basis, have the necessary technical competence, and follow relevant regulations in terms of data protection to use the available data in coordination with the different actors involved.

The logic behind this proposal stems from the fact that migratory routes across the Mediterranean are almost "exclusive" (i.e. there is a relationship between the point of embarkation and the expected point of arrival) and hence they can be incorporated into polygons within which different actors (NGOs, SAR organizations, families, ICRC, NSRC, other actors) operate and collect specific data

Considering that multiple stakeholders possess relevant data, it is envisaged to articulate a platform of "users rather than proprietors" of information where multiple actors provide information that when aggregated assists with case resolution. This in turn requires determining who are data holders, what kind of information they can provide, and determining who would hold the "container" where such information and associated tools to analyse it will be entered.

77 It is essential to make the distinction between 'quasi-exclusive' route segments, such as maritime trajectories between ports of embarkation and ports of arrival, independent or after SAR operations, and migratory routes from country of origin to country of destination (or presumed destination), which are more variable and articulated.

Therefore, it is important to encourage countries to strengthen their national data management systems, including the creation of adequate procedures to collect and exchange relevant information between agencies. Following that logic and considering that together with the Movement it carries out tracing activities of those missing while migrating to provide answers to their families, the ICRC is exploring the possibility to act as a data orchestrator for data gathered by different states and organisations. It would allow to cleanse, analyse and classify this data in order to generate relevant answers in relation to the living and the dead. It could support tracing activities in third countries and contribute to the identification of mortal remains by national authorities in their territories.

The study shows that regardless of all efforts and mechanisms that might be put in place, there are missing persons whose bodies will never be recovered but which information (whereabouts) may point to a specific outcome (fate)[78] [79]. Since migration is a diachronic, dynamic, and transnational phenomenon with several random variables that in turn generate multiple unexpected scenarios, the scenario of individually identifying all migrants is improbable. On the other hand, determining the whereabouts (and inferring the likely fate) of many may be a more attainable goal. The absence of human remains confers the ICRC the ability to formulate reliable answers with a high degree of certainty concerning the whereabouts, and inferring the likely fate, of missing persons upholding the right to know of their families[80].

78 The division between fate and whereabouts is more operational than theoretical. Whereabouts can be defined as the information concerning the ***parcours*** and location of a missing person, while fate (dead or alive) is the outcome of such ***parcours***. This implies that fate requires materiality (of the body or the person alive) to be established. However, information on the whereabouts may also assist in clarifying the fate of a missing individual. For example, if circumstantial information assists inferring the fact that a sought person is dead.

79 Different treaties and jurisprudence in IHRL refer to "fate and whereabouts" while others, to "fate or whereabouts". This, per se, generates a certain confusion.

80 If there is undisputable evidence that somebody who boarded a boat did not arrive to his/her destination because the boat sank, it is important to transmit that information to the family in a clear and concise manner stressing the degree of certainty of such statement.

RECOMMENDATIONS TO REGIONAL AND NATIONAL AUTHORITIES

States have important obligations vis-à-vis missing migrants, deceased migrants, and their families. Given their unique responsibilities and resources, states should be at the centre of any effort to clarify the fate and whereabouts of missing migrants and ensure the protection of the dead. Considering that, as outlined in this report, authorities involved in the management of deceased migrants' cases face several challenges. To support authorities to address some of them, as well as the gaps found throughout the process during *the Amsterdam 1.1 study*, **the ICRC identified the following recommendations:**

RECOMMENDATIONS TO REGIONAL BODIES

To the European Union (EU) to:

1. SET UP AN EU-LED WORKING/CONTACT GROUP ON MISSING AND DEAD MIGRANTS

While the clarification of the fate and whereabouts of missing migrants (and missing persons in general) falls under the remit of Member States (MS), the ICRC believes that the EU could capitalize on its leadership to generate the political will among Member States (MS) and encourage them to take the necessary steps to deal with this matter. The EU could particularly play the role of convener by offering a platform to favour exchanges between MS to improve national responses, enhancing MS' intra-cooperation as well as developing collaboration with third countries regarding the search for missing migrants and identification of dead bodies[81].

This group will specifically allow MS to:

1. foster information-sharing related to the extent of the phenomenon of migrants going missing/dying within the EU to better understand its different aspects.
2. take stock of the state of play in terms of EU MS' respective national death management and data collection systems to identify potential gaps.
3. develop best national practices aiming at improving EU MS' ability to clarify the fate and whereabouts of missing migrants.
4. assess the possibility to create improved means of intra and extra cooperation among MS to properly address the transregional dimension of the issue of missing and dead migrants.

81 The recommendation on cooperation among Member States concerning operations carried out by vessels owned or operated by private entities for the purpose of search and rescue activities C (2020) 6468 FINAL (including the establishment of the Interdisciplinary Contact Group) is a good example to draw on for an EU potential action to clarify the fate and whereabouts of missing and deceased migrants given the existing similarities (i.e. no legal competence of the EC to coordinate but a moral and political responsibility to support MS in this field).

2. USE RELEVANT EU FORA AND AGENCIES TO ENHANCE THE PROTECTION OF FAMILY UNITY AS WELL AS THE PROPER MANAGEMENT OF RECOVERED DEAD BODIES

The Interdisciplinary Contact Group recently established by the European Commission[82] as part of the Pact on Migration and Asylum should be used to enhance the protection of family unity in Search and Rescue operations and promote best practices on the recovery of dead bodies at sea to allow for their proper identification and provide their families with answers on the fate and whereabouts of their loved ones.
These essential topics should also be factored into relevant training and workshops provided to Frontex agents as part of their deployment to the Agency's operations.

RECOMMENDATIONS TO EU MEMBER STATES

Strengthening Medico-Legal systems in the affected countries is required to improve the management and the post-recovery management of the dead. Policy, regulation, and procedures are required to improve coordination and communication amongst States and entities, increased forensic expertise and better infrastructure in some countries are also needed.

Identification of the deceased, ensuring all basic data is collected, must be integrated into the management of the dead and be an integral part of death investigations at central, regional, and local levels. Harmonization of procedures, ensuring their consistent application is also necessary[83].

1. COLLECTION AND TRANSFER OF DATA BY FIRST RESPONDERS

a. At the local level, authorities in charge of such tasks should ensure that a photographic record is consistently carried out applying minimum standards (e.g. scale, registration of minimum data such as sex, estimated age, relevant features, state of preservation)[84]. Investigative bodies must ensure they systematically collect and record all documentation and belongings, along with the bodies.

b. At the central level, authorities must ensure that all agencies involved in first response and recovery of bodies of deceased migrants at sea (such as Italian, Spanish, and Hellenic Coast Guard, as well as other forces working with FRONTEX) use the same means for data documentation (photographic, forms, etc.).

c. Authorities must ensure that third parties (i.e. NGOs) involved in SAR operations are aware of the procedures and can coordinate with the official agencies when needed[85].

82 Recommendation on cooperation among Member States concerning operations carried out by vessels owned or operated by private entities for the purpose of search and rescue activities C (2020) 6468 FINAL

83 See also Recommendation N° R99(3) of the Committee of Ministers of Member States on The harmonization of medico-legal autopsy rules (1999) https://www.coe.int/t/dg3/healthbioethic/texts_and_documents/RecR(99)3.pdf

84 Core Dataset for the Search for Missing Migrants (icrc.org) https://shop.icrc.org/core-dataset-for-the-search-for-missing-migrants-pdf-en.html

85 Two Android mobile applications (DIVIMAP and DIVIDOC) originally conceived for SAR actors were developed by the ICRC Paris delegation in collaboration with the Institut National de Sciences Appliquées (INSA-Lyon).

2. COLLECTION AND TRANSFER OF ANTEMORTEM MISSING PERSON DATA

a. Ante Mortem missing person Data collection must be done in line with standard procedures which should be applied consistently, in every case.

b. The collection of antemortem data soon after an event is indispensable but requires remaining sensitive to the impact it may have on the interviewees; the flexibility and timeliness of procedures are paramount.

c. Debriefing of fellow travellers and survivors of shipwrecks can provide valuable information to identify the deceased, and therefore should always be carried out after disembarkation by authorities. Families traveling together can also assist by visually recognizing the deceased and initiating the identification process. Family members should be informed about the whereabouts of the remains of their loved ones as soon as possible as well.

d. Authorities are encouraged to communicate and cooperate with external actors (such as National Societies of the Red Cross, NGOs, and the ICRC) that can engage with survivors upon arrival and at later stages, which could facilitate the collection of data to identify the deceased.

e. Authorities are encouraged to recognize the importance of cultural mediators[86] and ensure their professionalization and allow clarification of their roles and responsibilities. These should include the support in the mediation with both migrants and their communities of origin to facilitate identification efforts.

f. The role of cultural mediators is critical to ensure the timely and accurate collection of information from migrants in disembarkation operation and reception centres, (e.g., using suitable tools for name transcriptions, which the ICRC can provide) and its transfer to the investigators responsible for the identification process.

g. Even locally, the transfer of data collected by non-governmental actors to the authorities in charge of identification procedures should take place under the supervision of neutral actors able to protect informants/witnesses (ICRC or Movement).

h. Italy, Greece, and Spain could create a registry of professional cultural mediators and make sure they are properly trained.

i. Given the trauma of the survivors, it is desirable to organize medium- to long-term psychological support: this could favour the "surfacing" of information/witness accounts after the event that may contribute to identification processes.

j. The identification of deceased migrants needs a coordinated multi-stakeholder effort involving a broad range of actors, from families of missing migrants to non-governmental and international organizations, as well as the Red Cross and Red Crescent Movement. In particular:
    a. The families of missing migrants and their associations should be included in all phases of the search and identification process;
    b. Considering the long-standing humanitarian mandate of the RC Movement regarding missing persons and States' commitment[87] to ensure that personal data used for tracing by the Movement will not be requested or used for purposes incompatible with the humanitarian nature of its works, the participation of Movement' actors in the identification processes is strongly recommended.

k. The Council of Europe could provide recommendations for data collection and management to be standardized and strengthened in countries of origin, transit, and destination of migrants

86 Cultural mediators are persons who have links with the community, speak the language and understand the procedures and can facilitate communication between agencies and recently arrived migrants.

87 ICRC resolution on RFL and data protection : https://www.icrc.org/en/document/rfl-code-conduct

to facilitate the exchanges of information and the identification (i.e. Morocco, Algeria, Tunisia, Egypt, excluding Libya and Türkiye at this time and northern Mauritania)

l. In Spain, the MoU which allows the Spanish Red Cross to collect and transfer antemortem data to the medico-legal system should be modified to include the ICRC to collect information in countries of origin and allow its transfer.

3. DATA PROTECTION

The exchange of information should be carried out for the sole humanitarian purpose of identifying those who have died or have gone missing, following internationally accepted data protection and forensic standards.

4. COLLECTION AND TRANSFER OF GENETIC SAMPLES AND PROFILES

Greece and Spain currently have regulations that mandate the centralization of genetic profiles in police databases. It is important to ensure that families of missing migrants have the option of transferring their samples either directly to the laboratories or through a neutral intermediary.

a. Spanish authorities are encouraged to include a specific index for deceased and missing migrants into their national database for unidentified dead bodies and missing persons (FENIX).

b. Spain and Greece must ensure that DNA samples are collected and sent for profiling and included in the national database. On the other hand, the results of the comparison of genetic profiles should be shared with the forensic doctors responsible for the examination of the bodies, to conclude the identification process.

c. Italy must ensure that DNA samples are collected and sent for profiling and included in the databases managed by the agencies in charge (Police and Carabinieri). These agencies must share all results of genetic analysis with the forensic doctors responsible for the examination of bodies to conclude the identification process.

5. DATA MANAGEMENT

The Amsterdam 1.1 study shows that data management is one of the most problematic components of the process of post-recovery management of the dead. No standard terminology has been found in official records (i.e. medico-legal reports, death certificates, and records in civil registries) in the three countries studied.

a. At the local level, in the three countries, authorities are encouraged to ensure that all agencies involved apply the same criteria and standardize the way information is recorded in official records (e.g. paper and digital).

b. Ongoing efforts in the three countries to transfer paper into digital records are commendable and should continue. However, while standardization can lead to a more homogeneous way of compiling data, there is a substantial amount of information that does not fit into the categories of a standardized form, and as such, might be lost. Therefore, authorities are encouraged to ensure that access to the original documents is possible for investigators and third parties involved in the topic.

c. The Council of Europe could provide recommendations on the adoption of common criteria regarding the burial places of foreign nationals (identified or not) who died in migration, constantly updating databases and providing a public access section. Local databases, duly protected, should be conceived in direct connection and interconnection with pre-existing databases and in a functional way for a systemic analysis.

6. ORGANIZATION AND UPDATE OF LOCAL/NATIONAL DATABASES

The development of databases at the local and national level is undoubtedly useful to systematically store information on people who died/went missing during the migration journey. However, this dimension is partial and cannot be considered in isolation without the intervention of external actors (i.e. non-governmental organizations, family members searching for their missing relatives, etc.) to provide complementary data. While States may have information regarding the fate (i.e. dead body), other actors may have information regarding the circumstantial information leading to the death of the person (whereabouts). Considering that multiple stakeholders possess data relevant to individual case resolution, it is envisaged to articulate data on a platform of "users rather than proprietors" of information (individual actors provide information that when aggregated will assist in case resolution). This leads us to determine who are data holders, what kind of information they can provide and how and if it can be shared and determine who would hold the "container" where such information and associated tools to analyse it will be entered.

a. The logic behind this proposal stems from the fact that migratory routes across the Mediterranean are almost "exclusive" (i.e. there is a relationship between the point of embarkation and the expected point of arrival) and hence they can be incorporated into polygons within which different actors (NGOs, SAR organizations, families, ICRC. NSRC, other actors) operate and collect specific data, the interest is to develop an effective data architecture, with data protection and security by design, and provide efficient tools and services allowing to aggregate, use and share data and information useful for the search.

b. In general, one could hope for the structuring of local databases (concerning the burial places/territories of foreign people who died in migration), standardized and updated locally, which could also be effectively applied for complimentary research (ex-Maghreb) in conjunction with the development of national protocols. The structuring of local databases, duly protected, should be conceived in direct connection and interconnection with pre-existing databases and in a functional way for a systemic analysis.

c. Articulation of local/national databases and macro-data analysis (input):

d. The development of these databases (from local to national, or according to the "polygons" corresponding to the sections of migration routes) exponentially increases in value to the extent that the set of collected data can converge, in a safe and organized way, towards an actor such as the ICRC that for operational skills, presence on the territory and international legitimacy can systematically analyse the macro-data collected, synthesize them and provide a complex and comprehensive reading.

e. Articulation of local/national databases and macro-data analysis (output)

f. In addition, through this synthesis process, the ICRC would be able to provide specific elements "back" to the various actors involved: additional information relating to the location of the bodies buried, to identification processes in progress, or useful for ex-post adjustments; information relating to the fate of a missing person, to the place and conditions of disappearance, to provide an adequate, albeit partial, response to families searching for missing persons.

ADDITIONAL RECOMMENDATIONS TO NON-GOVERNMENTAL ACTORS

Non-governmental, associative, and civil society actors due to their privileged relationship with people in migration (material support, representation, defence of migrant's rights, etc.), even if sometimes during segments of migration routes, are well-positioned to collect and share information, according to existing data protection rules, on dead or missing migrants. National state institutions, responsible for identification processes, burial, and/or repatriation of mortal remains, are currently unable to fulfill the gap regarding contextual, testimonial, and other information that may be gathered by non-governmental actors.

Role of first responders

Actors involved in search and rescue operations could benefit from using a standardized data collection methodology and tools customized to the emergency context and focusing on the missing and dead in their interventions. Institutions such as the ICRC in collaboration with other partners have developed some tools to that effect[88].

Collection and transfer of antemortem data

Non-governmental actors, present locally and active in transnational networks, can assist in tracing families of missing/dead migrants through diasporic networks, collecting preliminary information regarding the whereabouts of the sought person from multiple actors, collecting whenever possible or in the absence of other means, antemortem data following standardized forms (i.e. ICRC) and put families in contact with relevant national institutions or humanitarian organizations (i.e. ICRC) following the file.

Debriefing survivors and witnesses

Humanitarian actors, NGOs, or associations that support people in migration are in a position of trust that allows them to collect testimonies and information that are difficult to share with international authorities or organizations. In these circumstances, it is useful to define and share a common methodology for relating to survivors/witnesses and for collecting death and missing information in a unique and predefined manner to aid in data analysis. A progressive way of collecting information cannot be excluded, to converge different information collected by different actors along the migration routes (or in the movements between reception centres).

Data protection

The exchange of information should be carried out for the sole humanitarian purpose of identifying those who have died or have gone missing on the migratory route, following internationally accepted data protection standards - it is indispensable to guarantee the privacy and safety of witnesses/survivors/privileged interlocutors/informants who may provide relevant data to identify victims or search for missing persons, through the intermediation of non-governmental and civil society actors.

88 As discussed previously two mobile applications, DIVIDOC and DIVIMAP to ensure the traceability of mortal remains from recovery to burial, have been created in collaboration with INSA-Lyon. In addition, a mobile version of NetW4PPL, a program created with the University of Buenos Aires, to collect and visualize relationships between and among individuals has been also developed with INSA-Lyon.

Databases

Databases created by non-government actors should fulfill all security standards to protect the data they keep. Specific data sharing agreements should be established between each actor, following their respective national data protection legislation. As expressed before, the ICRC is exploring options to act as a data orchestrator, looking at data architecture, data protection, and data security requirements necessary to safely acquire, store and establish an efficient data sharing/contribution from various users/actors holding useful structured or unstructured data.

GENERAL CONCLUSIONS

This report updates the results of the VU Amsterdam research for the period 2014-2019 and focuses on the post-recovery management of the dead including, post-mortem data collection, administrative practices, burial operations, and forensic identification procedures.

The recommendations outlined above may contribute to an overall reorganization of national medico-legal and judicial systems when addressing the issue of deceased and missing migrants optimizing current practices not adapted to the emergency context of migration.

Contemporary migration is a complex phenomenon characterized by informal routes and structures and further compounded by marginalization processes at the intersection with organized crime. Therefore, the best response to support the search for missing persons and accompany their families is necessarily holistic.

The management of deceased migrants (and the collection of information relating to cases of migrants going missing) cannot ignore the complexity of the migratory phenomenon, the relationships between countries of departure, transit, and presumed destination, nor the interpersonal connections that go beyond direct family ties but which represent an indispensable basis for tracing trajectories and investigating the whereabouts of these persons.

The post-recovery management of the dead differs in the countries under analysis and requires affected states to urgently adapt to the humanitarian implications of migration policies and to the consequences of the migratory phenomenon, which has seen a serious increase in the number of dead and missing persons at different stages of the migratory route but more obviously in the Mediterranean and Atlantic. Firstly, customary practices have been adapted to fit the remains of deceased migrants as "special" cases (lack of identity, unknown family links, etc.) within the post-recovery management of the dead system. Sometimes the need to respond quickly to a large influx of unidentified or difficult to identify bodies produced an accumulation of 'unresolved' cases[89]. As already discussed, retrospective investigations are problematic since as time passes, clues to assist with case resolution become less obvious.

Secondly, the management of the remains of deceased migrants has been approached operationally from a Disaster Victim Identification (DVI) perspective. While the protocol is valid, it has limited use in these contexts (transportation fatalities of sorts), there is no antemortem data to compare with since information regarding the fatality itself is generally unknown (i.e. list of passengers, number of events, nationalities, etc.). It becomes increasingly clear that such a framework of intervention is only partially applicable (the post-mortem part) in deceased migrants. This leads us to the fact that migrant deaths or disappearances need to articulate the fate and whereabouts components and one cannot operate without the other.

Thirdly, information to date is fragmented and in different hands: Some States have recovered unidentified remains associated or not to specific shipwrecks while families, civil society or the general public, and other groups including the Red Cross and Red Crescent Movement, may possess certain information regarding the possible identities of those individuals or their possible whereabouts. There is no link however between the various components since their goals and objectives may be different (law enforcement versus humanitarian). It has been discussed, however (see footnote17) that combining different sources of information may allow exposing otherwise non-explicit relationships between and among factors/individuals, thereby creating a greater number of leads in the search for those missing.

89 An official from the Catania municipal office responsible for the local cemetery refers to these cases as "incomplete deaths".

The latter implies that we need to intervene as soon as possible after a shipwreck occurs, gathering enough data to assist authorities in identifying the dead, determining the missing in the absence of bodies, and determining the actions to be taken vis a vis surviving families. Approaches to deal with this caseload would be among others, compiling and feeding a collaborative platform of events (shipwrecks) by route, including information provided by multiple data holders on who embarked and comparing it with who arrived; information received following debriefing survivors and/or witnesses, first-responders, etc; and eventually comparing this with any tracing requests collected. ICRC is currently exploring various solutions to provide a set of tools and services required to act as a safe data depository and to use available data useful for the search (for example name matching, network analysis, and visualization, among others). Such a multidisciplinary approach, under the host of the ICRC to guarantee its solely humanitarian use and focus, would aim at determining the whereabouts as well as the fate of missing migrants.

It is necessary to place cases of migration deaths and disappearances in a context of complex mobility, both spatially and temporally: in this sense, the experimental approach developed by the ICRC's Paris Delegation forensic department[90], based on specific analysis of migrants networks, has made possible gathering information on the names, as well as places of origin of the deceased and/or missing. This methodology allows us to formulate and test hypotheses with a certain degree of certainty that in turn may become elements of information to families regarding the whereabouts of the missing person (if no bodies are found).

90 https://onlinelibrary.wiley.com/doi/abs/10.1002/9781119482062.ch7

ANNEX 1. LAWS AND REGULATIONS GOVERNING THE MANAGEMENT OF THE DEAD

SPAIN	ITALY	GREECE%
Examination of dead bodies BOE-A-1882-6036 Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal. Titulo V, Capitulo II, Arts. 334-367	Recovery of bodies Art. 5, Regulation on the Mortuary Police (D.P.R. 285/1990) Regolamento di Polizia Mortuaria Art. 12, D.P.R. 285/1990 Art. 116, Art. 347 of the Criminal Procedure Code Regulation for the implementation of the code of criminal procedure (C.P.P). D.P.R. n. 334/1989 Art. 360 C.P.P	Forensic examination of bodies Law 2928/2001, Article 180 and 18, Article 200A, Code of Criminal Procedure. Law 3772/2009, Chapter A refers to forensic doctors' functions and Forensic Medical offices under the Ministry of Justice.
DNA / Database of samples/profiles Ley Orgánica 10/2007, de 8 de octubre, reguladora de la base de atos policial sobre identificadores obtenidos a partir del ADN. Real Decreto 1977/2008, de 28 de noviembre, por el que se regula la composición y funciones de la Comisión Nacional para el uso forense del ADN.	Examination of bodies Codice di Procedura Penale Arts 72, 74, 77	Burials Law 445/1968: Cemeteries and burials. Law 210/1975: Embalming, transportation, and burial of dead bodies and human remains.
Registration BOE-A-1958-18486 Reglamento de la Ley del Registro Civil.	Identification Art. 116 of the DPR n. 334/89 Legge 14 novembre 2012, n. 203, Disposizioni per la ricerca delle persone	Death certificates, burial Law 344/1976, Article 32 paragraph 1.
Burial, exhumation and repatriation of dead bodies and human remains D 2263/1974, Reglamento de Policía Sanitaria Mortuoria	Consolidation of information about missing persons and unidentified bodies Circolare 26 luglio 2014 - Sistema di catalogazione e gestione delle informazioni concernenti le persone scomparse ed i cadaveri non identificati Circolare 10 marzo 2010 - Corretta tenuta del sistema di catalogazione e gestione delle informazioni concernenti le persone scomparse ed i cadaveri non identificati	Registrations-Central database Law 4483/2017 (articles 115-124): Greek Citizen's Register database (centralizes records from National Registry and National Population Registry, maintained by the MoI
		Collection and storage of DNA samples Law 2928/2001, Article 200A, Code of Criminal Procedure: a collection of DNA samples from crime scenes. Presidential Decree 187/2014, Article 30: Structure of Forensic Science Division of the Hellenic Police which includes the department for the National Archive of Data of Genetic Types (DNA database).
	Burial permits, death certificates, registration DPR 396/2000 Arts 10, 71, 77	Disaster Victim Identification (DVI) Law 3448/2006, article 23. Establishment of a DVI team
		Cremation of dead bodies and human remains Common Ministerial decision 20232/2010 and 4932/2017: Establishment and operation of cremation centers for dead bodies and bones (Modifications with Common Ministerial decisions: 2517/2019 and 2518/2019).

ANNEX 2. FIGURES PER COUNTRY

Spain

Border deaths from 2014 to 2019	206
Deaths recorded during 2019 (part of the year checked, depending on the zone)	13
Deaths happening long before 2014 but registered in the books during the period	11
Border deaths with no record about the date of the death. Assumed 2014-2019	7
TOTAL	**237**

10 of the border deaths were recorded in the Canary Islands (all of them between 2014 and 2018). The remaining 220 were collected in the peninsula and the autonomous cities of Ceuta and Melilla. The latter two enclaves were the only places visited during 2020.

Greece

	Amsterdam 1.1 study 2014-2019
Evros region	99
Islands*	509
TOTAL	**608**

Within the VU Amsterdam study, 182 individual entries were recorded in the North Aegean region (Lesvos, Chios, Lemnos, and Samos islands) between 1990 and 2013 and included in the database. The Amsterdam 1.1 research covered a different geographical area; therefore, it is not possible to make a direct comparison. However, as an indication, 331 individual entries were recorded in Lesvos, Chios, Lemnos, Ikaria and Samos islands. Furthermore, records of 178 individuals were collected in Leros, Kos and Rhodes, islands part of Dodecanese region. In sum; the current research to update the main database identified 509 deaths registered in the Aegean islands related to border deaths between 2014 and 2019. As a comparison, the VU Amsterdam database includes 436 border deaths in a greater geographical coverage (all Greek islands) and for a longer period (24 years).

Italy

REGION	**Amsterdam 1.1 study2014-2019**
Sicily/Trapani	94
Sicily/Agrigento	3
Sicily/Siracusa	138
Sicily/Ragusa	109
Sicily/Palermo	157
Sicily/Messina	39
Sicily/Catania	191
Sardinia	24
Puglia/Taranto	8
Campania/Salerno	26
Calabria/Vibo Valentia	34
Calabria/Reggio Calabria	87
Calabria/Crotone	51
Calabria/Cosenza	3
TOTAL	**964**

ANNEX 3. DEFINITIONS AND SOME ABBREVIATIONS.

Medico Legal System
Medico Legal System refers to the set of principles and procedures according to which investigations of suspicious events or crimes against life or integrity of individuals are done. It involves Judicial authorities (Judges, prosecutors), Investigative authorities (Prosecutors and Judicial Police) and Forensic Services (Police, forensic experts, etc).

Medico Legal Institutions / Forensic Institutions
Refers to the institutions or entities that provide forensic services to the medico legal system by performing various types of examinations and analysis based on scientific principles from different disciplines (i.e. medicine, anthropology, genetics, odontology, etc)

Management of the dead
refers to all the actions taken from the period from when a deceased individual is discovered, recovered, examined, identified and handed over to the families -including notification and provision of information), until burial (i.e., final disposition of the dead). The process involves various entities, procedures, infrastructure and disciplines. The management of the dead produces large amounts of information and a bureaucratic paper trail that includes information about, when, where how, and who died, and what happened with the body (i.e. death certificate, burial permit, etc).

Post-recovery management of the dead
A term coined to emphasize the administrative tasks performed by not necessarily forensic institutions on behalf of deceased individuals and including death registration, burial and cemetery records, sharing identification records with authorities in countries of origin (if the deceased is foreign to the country where recovered), information sharing between and among institutions and countries to make the process more articulated, among others.

Border death
Greece
Those individuals who have died attempting to cross either the Turkish-Greek land and/or maritime borders without proper documentation and whose bodies were recovered in or brought to the territories of Greece.

Italy
People who have died attempting to migrate irregularly to Europe by crossing the southern external borders of the EU without authorization, whose bodies were found on or brought to the territories of Italy. It also excludes persons who have gone missing, whose bodies have never been found.

Spain
People who have died attempting to migrate irregularly to Europe by crossing the southern external borders of the EU without authorization, whose bodies were found on or brought to the territories of Spain. It also excludes persons who have gone missing, whose bodies have never been found.

FRONTEX
European Border and Coast Guard Agency

SAR
Search and Rescue operation

The ICRC helps people around the world affected by armed conflict and other violence, doing everything it can to protect their lives and dignity and to relieve their suffering, often with its Red Cross and Red Crescent partners. The organization also seeks to prevent hardship by promoting and strengthening humanitarian law and championing universal humanitarian principles.

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