**PRINCIPLES AND GUIDELINES, SUPPORTED BY PRACTICAL GUIDANCE, ON THE HUMAN RIGHTS PROTECTION OF MIGRANTS IN VULNERABLE SITUATIONS**

**- DRAFT –**

**OHCHR and the Global Migration Group have not independently verified the information contained in this document.**

**The following examples are presented without claiming to be complete or geographically representative.**

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| Principle 1: Human Rights **Ensure that human rights are at the centre of addressing migration, including responses to large and/or mix movements of migrants** | |
| Ratification   1. Ratify and implement all international and regional human right instruments and reaffirm in policy and practice the fundamental importance of respecting, protecting and fulfilling the human rights of all migrants who leave their countries, regardless of their migratory status. |  |
| Human rights-based policy   1. Ensure legislation and other measures of migration governance are consistent with States’ obligations under international human rights law and do not adversely affect the full enjoyment of the human rights and fundamental freedoms of migrants. Undertake due diligence prior to adopting new policies on migration including human rights impact assessments, and ensure consultation with all relevant stakeholders, including migrants themselves. Immediately suspend, review and amend or repeal any laws and other measures that have negative consequences or disproportionate impact on the human rights of migrants. | States of the Ibero-American Community have undertaken “[t]o promote the strengthening of human rights as a key component of the immigration policies and practices of the countries of origin, transit, and destination, ensuring the protection of the human rights of migrants within the framework of the laws of each State, regardless of their immigration status, nationality, ethnic origin, gender, or age.”[[1]](#footnote-1) |
| NON-CRIMINALISATION   1. Ensure that leaving, entering and/or staying in a country irregularly is not considered a criminal offence, given that border crossing, management of residence and work permits are administrative issues. Any administrative sanctions applied to irregular entry should be proportionate, necessary and reasonable, and should never include the detention of children. Ensure that migrants are not liable for criminal prosecution for having used the services of smugglers. | The Brazilian Parliament is finalising a new bill on migration aiming to guarantee rights, to foster inclusion and to avoid criminalizing migration. The fundamental respect for the dignity of all migrants lies at the centre of national policies. The new legislation will also provide for humanitarian visas.[[2]](#footnote-2)  Article 40 of the Ecuador Constitution states that no person shall be identified nor considered as “illegal” due to their migration status.[[3]](#footnote-3) |
| legal framework and accountability   1. Ensure that there are appropriate laws and procedures in place to enable human rights and humanitarian actors to protect and assist migrants, and to document human rights violations. Adopt or amend legislation to ensure the effective accountability of private actors engaged by the State in migration governance. |  |
| Statelessness   1. Promote and support action to prevent statelessness, recognising that statelessness can be a gendered phenomenon, and ensure that all children are able to acquire a nationality. | UNHCR is running the *Campaign to End Statelessness* in 10 years: #IBELONG to a world where everyone has the right to a nationality.[[4]](#footnote-4)  The European Network on Statelessness (ENS) document that 21 European States have national laws that fully comply with international and regional law on statelessness and the right to a nationality: Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Finland, France, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Moldova, Montenegro, Portugal, Serbia, Slovakia, Spain, Turkey, Ukraine, United Kingdom.[[5]](#footnote-5) The ENS is running a campaign, *No Child Should Be Stateless*, to prevent children from growing up without a nationality. [[6]](#footnote-6)  In December 2014, the governments of Latin America and the Caribbean adopted the Brazil Declaration and Plan of Action which set out a new regional framework for the next decade recognizing the new realities facing Latin America and the Caribbean, including “the increase in mixed migration movements, which may include people who are in need of international protection”.[[7]](#footnote-7) Chapter six of the Plan of Action addresses statelessness, including a call to “Adopt legal protection frameworks that guarantee the rights of stateless persons, in order to regulate issues such as their migratory status, identity and travel documents and, more generally, ensure full enjoyment of the rights”.[[8]](#footnote-8) |
| Policy coherence   1. Take the measures necessary to achieve policy coherence on all human rights aspects of migration at the local, national, regional and international levels through a sustainable whole-of-government approach. | The Argentinian 2004 National Migration Act and its migration regularization programmes take a comprehensive human rights approach to migration law. The provisions include respect for human rights and international commitments (Article 3), the right to migrate (Article 4) and to equal treatment (Articles 5, 6 and 13.). Migration status does not preclude admission in an educational establishment (either public or private, national, provincial or municipal primary, secondary, tertiary or university) nor restricted access to the right to health, social assistance or care (Articles 7 and 8 Law No. 25,871).[[9]](#footnote-9) |
| Principle 2: Non-discrimination **Counter discrimination against migrants in all its forms** | |
| Intersectionality   1. Elaborate and implement human rights-based legal measures that protect migrants, regardless of their gender, sexual orientation, gender identity, ethnicity, disability, religion, nationality, migration or residence status, age, their motives for seeking to cross international borders, or the circumstances in which they have travelled or are found. Protect migrants from multiple and intersecting forms of discrimination throughout their migration. Ensure that non-discrimination provisions in law are applicable to all migration governance measures. | Argentina, Brazil, Costa Rica and Venezuela strongly espouse the principle of non-discrimination and do not distinguish between nationals and non-nationals for the purposes of access to and enjoyment of fundamental rights.[[10]](#footnote-10)  The *Charter on Inclusion of Persons with Disabilities in Humanitarian Action* understands the intersection with migrant status as a factor exacerbating the exclusion of persons with disabilities in situations of risk and that further impairment may result from that intersection. The Charter was developed in a consultative process with over 70 stakeholders and is endorsed by over 100 states, civil society organizations and UN agencies.[[11]](#footnote-11) |
| Legislation, accountability   1. Repeal or amend any laws or other measures that may give rise to any kind of discrimination against migrants. Condemn and take effective measures against all acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes applied to them, including on the basis of religion or belief, because they are non-citizens or migrants in an irregular status, and other intersecting forms of discrimination including age and gender. Hold accountable those who commit such acts, including politicians, opinion-leaders and the media, and enable victims to access justice, including through accessible complaint mechanisms, and ensuring effective remedies. Ensure serious and extreme instances of hate speech and incitement to hatred are prohibited as criminal offences and brought for review by an independent court or tribunal |  |
| Terminology   1. Use correct and neutral terminology to describe migrants and migration, and promote evidence-based policies on migration that draw on research on the human rights of migrants, as well as on the fact-based impacts and contributions of migrants to countries of origin, transit and destination, including in terms of social and cultural life and diversity, economic growth, employment generation, social security policies, entrepreneurship and investment | The Polish-based Fundacja Rozwoju “Oprócz Granic” (Foundation for Development “Beyond Borders”, FROG) has worked to develop documented and undocumented women’s engagement with media. They are involved in “Broadcasts radjowe”, a bi-weekly radio initiative informs listeners about migration issues such as the role of undocumented domestic and care workers as Polish women migrate West.[[12]](#footnote-12)  *Resources*:  There are several resources providing guidance on rights-based language on migration, including:   1. A collaboration between donors, international agencies, NGOs, and media professionals, the *Media-Friendly Glossary on Migration* was launched in August 2014; 2. Human Rights Watch, *Guidelines for Describing Migrants*, 24 June 2014 3. PICUM, *Why ‘Undocumented’ or ‘Irregular’ - Terminology 'Words Matter' Campaign*, June 2014; 4. Define American, #WordsMatter factsheet and media/journalist pledge campaign.[[13]](#footnote-13) |
| Public education campaigns   1. Introduce public education measures and conduct targeted awareness campaigns in order to combat prejudice against and the social stigmatization of migrants in general, and where relevant especially those of particular nationalities or religions.[[14]](#footnote-14) Devise or support locally-rooted campaigns that focus on supporting migrants and host communities and which aim to build empathy and solidarity and to confront prejudice, stigmatisation, and the exclusion of migrants. | *Define American* is a non-profit media and culture organisation established by Jose Antonio Vargas, an undocumented immigrant, to use the power of story to influence and create media on the crucial role of migrants in a demographically changing USA, transcending politics and shifting the conversation about immigrants, identity, and citizenship in a changing America.[[15]](#footnote-15)  In Romania, community information campaigns have raised awareness of the issues faced by asylum seekers and migrants and have played an important role in fighting xenophobia and ensuring a better understanding of their situation*.*[[16]](#footnote-16)  The Austrian Redcross has developed the “Stammtisch APP” to promote discussion and counter misinformation leading to racism, to promote integration of migrants in Austria.[[17]](#footnote-17) |
| Monitoring bodies   1. Create or strengthen independent institutions and mechanisms, such as specialised national bodies, including National Human Rights Institutions or Ombudspersons, to monitor and report on all forms of discrimination against migrants. Ensure all Ombudspersons with relevant mandates adequately consider the intersection of migration with their area of focus | The African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in Johannesburg, South Africa, and technology website iAfrikan have launched a crowdsourcing platform called Xenowatch to address the lack of documentation on violence against migrants and refugees, which is not officially monitored, an information gap that constitutes a major challenge in preventing violence. People can report xenophobic threats or violence to Xenowatch online, by SMS or email. Reports will be verified, anonymized and documented on a map using the Ushahidi platform, as well as shared with the police and the United Nations High Commission for Refugees. The ACMS and iAfrikan are working with the South African Local Government Association to have data from Xenowatch be included in the scorecards they use for evaluating local political performance and the data can be used in NGO advocacy efforts to improve accountability.[[18]](#footnote-18)  The Youth Department of the Council of Europe coordinates *Hate Speech Watch*, a user-generated repository to trace, share and discuss online hate speech content, including that targeted towards migrants, asylum seekers, IDPs and immigrants.[[19]](#footnote-19)  The Santa Cruz Declaration (2006) sets out practical steps for National Human Rights Institutions (NHRIs) to undertake in relation to upholding the human rights of migrants to increase positive aspects of migration and better address any negative consequences.[[20]](#footnote-20) |
| Principle 3: Access to justice for migrants **Ensure access to justice for migrants** | |
| Access to Justice measures   1. Take measures to assist migrants, including those who are at particular risk of marginalization and exclusion, in gaining equal and effective access to justice. Ensure that dependent migration status is not a barrier to seeking or obtaining protection, support, or justice. | Several measures have been adopted in Mexico to guarantee access to justice for irregular migrants, such as the creation of the public prosecution service for migrants in the state of Chiapas, as well as the protocols adopted by the National Institute of Migration in 2010 for the identification and assistance of migrants who are victims of crime.[[21]](#footnote-21)  Article 1 of European Union Directive 2012/29/EU requires States to ensure access to justice and victim support for all victims of crime, irrespective of their residence status.[[22]](#footnote-22) |
| Remedies   1. Develop or strengthen measures to provide competent, independent, free and confidential legal and other assistance to migrants, including accessible information and interpretation services to enable them to understand their rights, obligations and any applicable procedures under criminal, administrative or labour justice processes; access due process and justice, including the right to an individual examination, the right to seek asylum, the right to appeal and the right to a judicial and effective remedy, and access victim support services. |  |
| Marginalisation   1. Strengthen or establish official mechanisms and/or procedures to monitor, receive and investigate allegations of human rights violations and abuse of migrants. Provide adequate, and effective, prompt and appropriate judicial and other remedies, including reparation, noting that reparation should be proportional to the gravity of the violations and the harm suffered. Ensure the gender balance of such mechanisms and procedures corresponds with that of the migrant population. Where relevant, include the family of migrants who went missing, were subject to an enforced disappearance, or were killed in the course of their migration |  |
| Legal assistance and representation   1. Ensure migrants are able to access independent and effective legal assistance and representation on an individual basis in legal proceedings that affect them, including during any related hearing, with quality legal aid made available without any cost to them as required by international standards | The EU Directive on the right of access to a lawyer in criminal proceedings (2013/48/EU) is a regional standard that provides for: minimum rules on right of access to a lawyer from first stage of police questioning throughout criminal proceedings, rights to legal advice in country where the arrest is carried out and where it is issued (dual legal representation), the right to have a third party informed upon deprivation of liberty as well as to communicate with consular authorities.[[23]](#footnote-23) |
| Witnesses   1. Establish mechanisms to ensure migrants who are victims of or witnesses to crimes in the course of migration are able to participate in legal proceedings, give evidence and testify whether they are in the jurisdiction of the prosecuting State or not, and without fear of expulsion if they are | Article 52.V of Mexico’s Immigration Law provides for a right to remain on humanitarian grounds for persons who are (a) victims or witnesses of crime in Mexico (b) unaccompanied children (c) political asylum seekers (Latin America), asylum seekers (1951 Convention) or people seeking complementary protection, until their immigration status is resolved (upon which they will be given permanent residence if recognized as refugees/in need of protection). For category (a), they will be allowed to remain in the country until the end of the criminal process, after which they must leave or apply for a new immigration status. Humanitarian status allows multiple entries into Mexico and work rights.[[24]](#footnote-24)  Brazil, Poland and Singapore reported specific provisions to enhance access to justice for survivors of trafficking, including treatment of a trafficked person as a victim and survivor of abuse and not as an offender; investigations to identify and prosecute traffickers; and engagement with foreign embassies and non-governmental organizations to encourage trafficked victims to come forward without risk of prosecution.[[25]](#footnote-25) |

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| Firewalls   1. Develop clear and binding procedures and standards on the establishment of firewalls between law enforcement and criminal justice actors, and immigration enforcement authorities or private actors, and ensure their implementation in practice. Ensure that immigration authorities do not conduct enforcement operations at or near places of administration of justice such as court houses and community police stations. | Numerous jurisdictions in the USA have firewalls in place between the criminal justice system and immigration enforcement. The Los Angeles Police Department in the state of California prohibits officers from initiating contact with someone solely to determine whether they are in the country legally, a practice mandated by a special order signed in 1979. The police department has stopped turning over people arrested for low-level crimes to federal agents for deportation and moved away from honouring federal requests to detain inmates who might be deportable past their jail terms.[[26]](#footnote-26) Sanctuary cities in the USA are those that have adopted a policy of protecting the rights of migrants in irregular status by not prosecuting them solely for violating federal immigration laws. These jurisdictions commit to limiting how local law enforcement and federal government agencies interact on matters of immigration enforcement. The first declared sanctuary city was San Francisco in 1989; the country now has more than 300 sanctuary jurisdictions.[[27]](#footnote-27)  In the USA, California state officials are proposing to further restrict the ability of federal authorities to detain and deport the approximately 2.3 million undocumented immigrants living in the state. Senate Bill 54 would prohibit state and local law enforcement, including school police and security departments, from using their resources for immigration enforcement. The Bill would also create “safe zones” at public schools, hospitals and courthouses where immigrant enforcement would be banned, and require state agencies to update their confidentiality policies so that information on individuals’ immigration status is not shared for enforcement purposes.[[28]](#footnote-28) |

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| Training   1. Ensure that judges, lawyers and prosecutors who are involved or may become involved in proceedings relating to migrants are aware of relevant international human rights law and standards, and respect and fulfil their roles to uphold and protect the human rights of migrants. Ensure that the judiciary, legal profession and prosecutorial services are enabled to fulfil this role, including through the legal and practical guarantees of independence and impartiality provided for by international human rights law and standards. | The US the Justice Department is trying to minimize the role of bias in law enforcement and the courts. More than 250 federal immigration judges attended a mandatory anti-bias training session in August 2016, and the Justice Department announced that 28,000 more employees would go through a similar exercise.[[29]](#footnote-29)  Bosnia and Herzegovina, Jamaica and the United Arab Emirates have reported undertaking capacity- development of government officials and service providers to improve service delivery to women migrants. Such initiatives focused on the provision of training related to gender-based violence for the judiciary, prosecutors and service providers.[[30]](#footnote-30)  *Resource:* The International Commission of Jurists (ICJ) is developing a set of Principles and recommendations on the role of judges and lawyers in situations of large-scale movement of refugees and migrants.[[31]](#footnote-31) |
| Principle 4: Rescue and assistance **Protect the lives and safety of migrants and ensure rescue and immediate assistance to all migrants facing risks to life or safety** | |
| effectiveness   1. Ensure that relevant legal frameworks, as well as international, multilateral, and bilateral agreements on competences on search and rescue zones, fully ensure the effectiveness of search and rescue operations |  |
| Rescue at sea   1. Establish, operate and maintain adequate and effective services for search and rescue at sea. Ensure that these search and rescue services operate under a broad understanding of distress, for example rescuing any unseaworthy vessels even if not in immediate danger of sinking, and that they are proactive, patrolling at-risk zones with the sole objective to save lives. Ensure that all possible resources of the States are mobilised for search and rescue when the presence of migrants in international, contiguous and/or territorial waters is considered likely according to informed risk assessments | Migrant Offshore Aid Station (MOAS) is a foundation working to saving lives at sea by providing professional search and rescue services for people in distress on the open sea in search for safe shores. MOAS actively search for vessels in distress, and immediately inform the official coast guards and/or Rescue Coordination Centre and then assists as directed or as required by the situation.[[32]](#footnote-32) |
| Rescue on land/in freshwater   * 1. Make every effort to protect the right to life of migrants, including at sea and inhospitable or dangerous land or other routes such as rivers or lakes. Ensure adequate resourcing of necessary assistance such as rescue services and equipment such as rescue beacons. Refrain from acts and omissions intended or expected to cause migrants’ unnatural or premature death, as well as their legitimate expectation to enjoy a dignified existence | Front-line officers from the Tucson sector of the US Border Patrol pooled resources to purchase and established rescue beacons at several points in the desert, from where migrants can call the Border Patrol directly when in distress, providing locations of these beacons via their own GPS units.[[33]](#footnote-33) |
| Arrival/disembarkation points   * 1. Establish pre-identified and adapted places of arrival and disembarkation, including landing points for safe disembarkation, that allow for reception and assistance which meets human rights and humanitarian standards. This should include adequate medical screening and first psychological aid and vulnerability assessments, as well as adequate food and water, blankets, clothing, dignity kits, sanitary items, and opportunity to rest. Provide assistance in a non-discriminatory, disability-, age- and gender-responsive, and culturally appropriate manner. Humanitarian assistance must not be conditioned on border control, police or other enforcement procedures. |  |
| Referrals   * 1. Develop guidelines and implement agreements with national protection bodies and other relevant actors to ensure timely and effective referrals for migrants to protection and assistance, in particular psychological and emotional support following their rescue. Ensure that specialised and priority support is provided to the most vulnerable migrants, including shipwreck survivors as well as victims of trauma, torture and sexual and gender-based violence. Put in place measures to respond to the special needs of children following rescue, whether they are travelling unaccompanied, have been separated from or are travelling with family/guardians | The government of Zambia collaborated with the IOM, UNHCR and the United Nations Children’s Fund to develop a National Referral Mechanism and associated Guidelines to effectively identify vulnerable migrants and refer them to appropriate authorities and services. More than 200 frontline officers have received training on the mechanism and associated guidelines. [[34]](#footnote-34)  Kids Café provided a safe welcoming space for unaccompanied minors in the Calais Jungle. Established by a refugee and a volunteer, the café provided 200 meals a day, English and French classes, and asylum advice for the hundreds of unaccompanied children, some as young as 7 years old, who lived there. The café was also a space where the children could be registered. The café had a drum kit, pool table, dart board and some sofas. The children could get warm meals a day, for free, and it was one of the few spaces the children could call their own.[[35]](#footnote-35)  A State-civil society partnership plan involving El Salvador, Guatemala and Honduras has been developed to improve the lives of young children and address humanitarian and social problems associated with unaccompanied children migrating to the United States.[[36]](#footnote-36) |
| Training   * 1. Provide training to those responsible for providing search, rescue or assistance on the primacy of their obligations to protect human rights including migrants’ lives and safety, address specific needs, and ensure the human rights and dignity of all persons rescued | The Swedish Red Cross created a condensed version of their volunteer training programme that can be rolled out quickly to provide volunteers with the most essential skills when the urgency of the response and associated time constraints preclude volunteers from undergoing the full training programme. They encouraged volunteers on the abridged programme to consult their e-learning platform to learn more and work closely with more experienced colleagues, to learn from them during the response. They later reflected on how the abridged programme could be improved, for example through the inclusion of information on self-care.[[37]](#footnote-37) |
| Non-criminalisation (assistance)   * 1. Ensure those individuals and organisations providing search, rescue or assistance to migrants are not criminalised or otherwise punished for doing so, including through modifying existing legislation as necessary |  |
| Recovery of missing migrants   * 1. Establish and support public policies and other efforts at national, bilateral, regional and international levels aimed at searching for people who have gone missing or died on their journey and facilitate recovery, identification and transfer of human remains and notification of families, including granting relatives the right to access justice and, as appropriate, effective redress | In Tunisia, MSF is training local fishermen in search and rescue, and training teams from the Tunisian and Libyan Red Crescents in dead body management.[[38]](#footnote-38)  In Italy, the Extraordinary Commissioner for Missing Persons (CSPS) constantly updates the National Register of Unidentified Bodies and national statistics on missing persons. In 2010, the CSPS and the Public Security Department of the Ministry of Interior developed a new information system, called Ri.Sc. (Missing People Research, in Italian “Ricerca Scomparsi”). The Ri.Sc. system, in addition to the complete and interconnected management of information, enables to make a cross between biometric and descriptive data in the 'missing person' file with those collected in the 'unidentified corps' file.[[39]](#footnote-39)  In Arizona, USA, Tucson-based grassroots organization Derechos Humanos operates the Missing Migrant Hotline Project, to help families locate loved ones who go missing while crossing the border. Staff and volunteers respond to three types of calls: migrants lost in detention, migrants lost in the desert, and those who died while crossing the US-Mexico border. The organisation keeps an updated record of the number of bodies recovered and, with the cooperation of Arizona county officials, as well as the Consular offices of México, Guatemala, El Salvador, Honduras, and Brazil, and the Binational Migration Institute, attempts to put names to those who have been recovered.[[40]](#footnote-40) |
| Principle 5: Border governance **Ensure that all border governance measures protect human rights, including the right to freedom of movement and the right of all persons to leave any country, including their own, recognizing that States have legitimate interests in exercising immigration controls** | |
| Right to leave   1. Protect the right of all persons to leave any country including their own, and ensure that migration and border-governance legislation, measures and practices are human rights-compliant, child-sensitive and gender-responsive and do not adversely impact on the human rights and dignity of migrants | Article 40 of the Ecuador Constitution recognizes the right of all individuals to migrate.[[41]](#footnote-41)  Argentina’s Immigration Law (Law 25.871), enacted in January 2004, recognises that migration is a human right, and extends constitutional and human rights protections to all persons in the country irrespective of their legal status.[[42]](#footnote-42) |
| Non-criminalisation (border crossing specifically)   1. Ensure that no migrant is criminalised for crossing a border irregularly or with the help of a facilitator |  |
| Disproportionate border governance   1. Prohibit border governance measures that cause or risk human rights abuses. Prohibit excessive use of force and dangerous border control practices, such as water-hosing and the use of dogs against migrants. Ensure there are no arbitrary and collective expulsions, including through tow-backs or push-backs, in all areas where the State exercises jurisdiction or effective control including outside the territory of the expelling State, at border areas and on the high seas |  |
| Avoid delays   1. Take all reasonable measures to minimise the duration for which migrants are delayed at borders or other crossing points on their journey. Provide adequate humanitarian assistance during border procedures and delays, including access to shelter, water and sanitation facilities, culturally appropriate food, and medical care with specific attention to the needs of children, pregnant women, older persons and persons with disabilities. | The Kino Border Initiative is located in Nogales, Arizona and Sonora, Mexico, and works on both sides of the Mexico-US border, offering migrants meals, clothes, first aid, and safety tips. Kino is often one of the first stops for people after US agents have returned them to Mexico.[[43]](#footnote-43) |
| Individual screening   1. Implement individual screening and assessment procedures as soon as possible after arrival to ensure prompt identification of situations of vulnerability for all migrants without discrimination. Such screening should, as relevant, be prior to, apart from, or alongside interviews to establish an asylum claim. Ensure sufficient numbers of competent experts are present at borders to establish and deliver human rights-based screenings and referrals | UNHCR and IDC have published a *Vulnerability Screening Tool* to assist governments and other stakeholders to identify and address situations of vulnerability in the context of migration and asylum.[[44]](#footnote-44) |
| Time for process / suspend expulsion   1. Establish practical and effective mechanisms to assess the individual situation of all migrants at borders. Prevent or suspend any expulsion until such an assessment has been completed or an appeal against any negative decision has been completed. Such a mechanism should be composed of properly qualified personnel; be able to properly identify the individual situation of migrants in order to assess risks and rights including needs for protection; work in a timely manner, including providing adequate time for the migrant to present his or her case and seek remedies where appropriate; enable access to competent legal advice and representation; be able to access all documents related to the case; provide justification for the decision in writing in a language and format understandable to the migrant; be able to exercise positive immigration discretion on humanitarian grounds where appropriate, including for migrants displaced by climate change and environmental factors; provide information on the remedies available; arrange appropriate referrals. |  |
| Property confiscation   1. Ensure border authorities are only able to confiscate migrants’ personal property when duly authorised by law and in accordance with international human rights standards in clearly defined, limited circumstances and establish clear procedures for their return. |  |
| Training   1. Provide training for border authorities on their obligations to respect, protect and fulfil the human rights of migrants and on migration experiences and abuses that can occur throughout the migration process. Use training materials that are based on the evidence of migrants’ experiences, that are border- specific and take into account the different risk factors and human rights violations that may be experienced by different groups of migrants | Azerbaijan and Bosnia and Herzegovina have undertaken various initiatives for training public officials on migration and trafficking in persons, including on the application of the provisions of the international human rights framework. Colombia provides training to its immigration authorities on provisions relating to human rights and migration, refugee law and trafficking in persons and smuggling of migrants. In Romania, immigration officials working in locations such as ports, airports and border crossings benefit from training programmes on the practical application of human rights standards.[[45]](#footnote-45) |
| Investigate HRVs / Borders P&G   1. Ensure that human rights violations at the border are promptly and properly investigated and that migrants have access to complaints mechanisms and redress. In this and other border governance concerns, follow OHCHR’s Recommended Principles and Guidelines on Human Rights at International Borders | *Resource:* OHCHR produced the *Recommended Principles and Guidelines on Human Rights at International Borders* in 2014*.[[46]](#footnote-46)* |
| Principle 6: Returns **Ensure that all returns are only carried out in full respect for the human rights of migrants and in accordance with international law, including upholding the principle of non-refoulement, the prohibition of arbitrary or collective expulsions and the right to seek asylum** | |

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| Non-refoulement   1. Ensure the relevant judicial and administrative authorities are made aware of and implement the legal obligation to ensure that no person is returned to a place where there are substantial grounds to believe that they would be at risk of torture or cruel, inhuman, or degrading treatment or punishment, or other serious human rights violations or irreparable harm, including: threats to their liberty and security of person, risk to life including lack of necessary medical care, living conditions contrary to human dignity in cases in which the person is unable to cater for their basic needs, serious forms of discrimination, where expulsions would constitute arbitrary interference with migrants’ right to family and private life, or the risk of onward refoulement. Ensure counter- smuggling measures and measures to manage irregular migration, such as the creation of special zones at airports or readmission agreements, do not breach the obligation of non-refoulement |  |

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| Voluntary return   1. Any consent given to voluntary return processes must be fully and meaningfully informed, based on up-to-date, accurate and objective information, including in relation to the place and circumstances to which migrants will be returning. Consent must be given free of any coercion, including violence and ill-treatment, the actual or imputed prospect of indefinite or arbitrary detention, or detention in inadequate conditions |  |
| countries   1. Make efforts to guarantee that returning migrants can choose the State to which they are returned, subject to the agreement of that State. Ensure that the right of any person to return to their own country is respected in law and in practice, and that nationality is not arbitrarily deprived or travel documents are not annulled in order to undermine the enjoyment of this right |  |
| international law guarantees   1. Ensure that returns are only carried out in accordance with international law, in conditions of safety and dignity, and with due procedural guarantees. Children should be accompanied throughout the return process. Migrants who are being returned should not be subject to human rights violations and abuse by state or private actors, including arbitrary detention, violence and ill-treatment, and extortion |  |
| Children – assessment   1. Make determinations on the return of children (including unaccompanied or separated children as well as children accompanied by their parents or other caregivers) in accordance with the principle of the best interests of the child. Such determinations should be reached in a formal procedure with competent officials; contain the necessary safeguards, including allowing for the fulfilment of the right of the child to be heard, and his or her right to competent and independent legal representation ; ensure that all solutions available to the child are equally assessed; incorporate the component of adequate development and survival of the child, take into account the socio-economic conditions in the child’s country of origin and family environment, including whether there is adequate safe reception in their country of origin. |  |
| Families   1. Ensure that families are kept together in the country of residence, rather than the parents being deported without their children, where return has been deemed not to be in the child’s best interest. In cases of separation, States of origin and destination should cooperate to ensure that family tracing efforts continue after return. |  |
| Sustainability   1. Make every effort to secure the sustainability of returns by mitigating the risks returnees face upon arrival in countries of origin. Realise this by implementing measures to ensure the equal enjoyment of human rights by all returning migrants, including with regard to social protection, health care, an adequate standard of living, education and decent work, and meaningful and tailored reintegration programmes that respond to the differing needs of women and men. Ensure the effective reintegration of returning children, from a human rights perspective and through targeted measures which should include effective access to justice, education, health, family life, and protection against all forms of violence. Ensure that prior to return there is an adequate plan in place for the child’s sustainable reintegration and adequate and ongoing post-return evaluation. Returns should not result in children being rendered homeless or housed in orphanages, residential care facilities, or other situations where they may face social exclusion or compromised development. Ensure returns are not to areas of repeated extreme weather and/or slow onset events. Create long-term, independent reporting mechanisms that are able to monitor potential or actual human right violations after returns. | The Belen Care Centre for Returning Underage Migrants (CANFM-Belen) in Honduras is an initiative of the Government of Honduras, led by the Department of Children, Youth and Family. It offers services similar to those provided by CAMR to returning migrant children (under 21 years old) and their accompanying families, and in addition: (1) a gender- and age-separated playground area, (2) psychological support, (3) social work, (4) gardens and green areas, (5) gender- and age-separated accommodation, and (6) vocational training, among others. The Centre supported nearly 8,378 children in 2015.[[47]](#footnote-47)  The International Committee of the Red Cross (ICRC), in collaboration with the Mexican and Central American National Societies, provides free assistance to migrants (in transit or returned) who have suffered major illnesses or injuries during their journey (including amputations, spinal cord injuries, etc.). They offer the following services: (1) donation of prostheses (before physical rehabilitation), (2) osteosynthesis materials, wheelchairs and crutches, (3) ambulance transfers, (4) referral to rehabilitation and medical care centres in Mexico and Central America, and (5) reestablishment of family links when necessary.[[48]](#footnote-48) |
| Monitoring   1. Institute independent mechanisms for ongoing human rights monitoring post-return, which should ensure that the return did not violate the principle of non-refoulement, the right to seek asylum, and/or the prohibition of arbitrary and collective expulsions; guarantee that all allegations of human rights violations during return processes are promptly and impartially investigated; monitor the human rights situation of migrants who have been returned in forced or voluntary processes; ensure access to effective complaints mechanisms and remedies where appropriate. | Post-return monitoring is carried out by local NGOs in Uganda for unaccompanied or separated children returning from Norway and in the Democratic Republic of Congo for unaccompanied or separated children returning from Belgium. This includes, in some instances, post-return support for families.[[49]](#footnote-49)  UN-Women has supported paralegal training for organisations that support returnee women migrant workers in Nepal and that deal with cases of labour rights violations and violence against women.[[50]](#footnote-50) |
| Temporary status   1. Grant temporary residence status or other temporary protected status to any migrants who cannot be removed, including those who are refused admission into the territory of their country of origin or habitual residence, or for whom there are practical obstacles to return to their country of origin or residence. Do not hold individuals who are in such situations in indefinite or protracted detention and protect against re-detention. | In Romania, tolerated status, and an accompanying document are issued by the Romanian General Inspectorate to persons who cannot leave the Romanian territory but who would not otherwise have a legal basis to remain. Tolerated status is granted for an initial period of six months, renewable for further six-month periods until the reasons for toleration cease to exist. At that time, the individual is required to depart the country. Individuals holding a tolerated document have the right to work, are required to report regularly to a territorial unit of the General Inspectorate, and must notify authorities of any changes to their place of residence. They are also required to reside in a particular geographical area and obtain approval to travel outside of this area.[[51]](#footnote-51)  In the United States, legislation provides temporary legal migration status to migrants who are victims of certain crimes, including human trafficking.[[52]](#footnote-52)  Turkey’s Law on Foreigners and International Protection (LFIP, 2014) introduced important protections and procedural safeguards in administrative decision-making for persons seeking international protection. Under the LFIP, detention is prohibited for unaccompanied children seeking international protection, trafficked persons, international protection status holders, international protection applicants (except in set circumstances) and stateless individuals. The LFIP also exempts individuals who are at risk of torture/ill-treatment if expelled; are unable to travel due to poor health, age or pregnancy; require medical treatment that cannot be obtained in the country of origin or return; or are undergoing treatment due to serious psychological, physical or sexual violence, from deportation orders and, therefore, detention. Such individuals are issued with humanitarian residence permits (with specific permits for trafficked persons). These permits can also be issued to individuals for whom a deportation order has been issued but who cannot be deported (e.g. because their country of origin refuses to accept their return). Permit holders may be required to reside at designated reception and accommodation centres and to report to authorities at specified periods. The permit includes a foreigner identification number, which is used to access health care, education and legal services.[[53]](#footnote-53) Unaccompanied children are placed “by the Ministry of Family and Social Policies in suitable accommodation facilities, in the care of their adult relatives, or in the care of a foster family, upon taking into account the opinion of the unaccompanied minor.” If they are over 16 they can be placed in reception centres.[[54]](#footnote-54) |
| human right-based return   1. Ensure in all measures relevant to returns, whether forced or voluntary, that due consideration is given to the provisions on ‘human rights-based return or removal’ of OHCHR’s Recommended Principles and Guidelines on Human Rights at International Borders |  |
| Principle 7: Violence **Protect migrants from all forms of violence and exploitation, whether inflicted by institutions or officials, or by private individuals, entities or groups** | |
| Prevention and response standards   1. Take preventative and response measures to protect migrants from violence and exploitation, whether inflicted by State institutions and officials or by private individuals and entities or groups. Ensure that prevention and response measures prevent reoccurrence, are accessible to all migrants, and that measures to protect migrants from violence and exploitation are devised in consultation with migrants and their organizations, representative employers’ and workers’ organizations, and criminal justice actors. All immigration facilities should adhere to violence prevention and response standards, including for sexual and gender-based violence prevention, and provide safe accommodation and assistance to migrant victims of violence and exploitation. |  |
| Exploitation   1. Ensure that legislation, policies and practice reduce risks that migrants will be exploited by those offering services or work in the formal and informal sectors, including being subject to forced labour or trafficking in persons. Ensure that migrant children are protected against exploitation and abuse, including the worst forms of child labour | Trade unions in Cyprus have collective agreements to monitor working conditions in the tourism and construction sectors.[[55]](#footnote-55)  The Swedish Trade Union Centre for Undocumented Migrants was created in 2008 by a number of Swedish trade union organisations, together with an organisation promoting the rights of undocumented migrants. The objectives of the centre are to inform undocumented migrants about their rights in the labour market and represent them vis‐à‐vis their employers in any proceedings if they so wish. In addition to the network of trade union organisations, the centre consists of a physical centre, open one afternoon and evening every week and staffed by trade union ombudsmen and officials from the participating organisations. It also provides a phone service giving information and helping irregular migrants get in contact with a trade union.[[56]](#footnote-56)  *Resource*: The *Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea Region* were designed by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) to respond to challenges in effective cross‐border cooperation and prevent the abuse of workers’ rights. The guidelines are available in English, Estonian, Finnish, Lithuanian and Swedish.[[57]](#footnote-57) |
| services   1. Establish accessible and confidential services for migrant victims of violence and exploitation including care, counselling, reporting and complaints mechanisms, and functioning referral pathways. Such services should include medical, sexual and reproductive healthcare, which can ensure access to essential medicines and services, as well as psycho-social and other relevant support services to assist in recovery and rehabilitation, appropriate to the human rights violations to which they have been subjected. Service providers should be trained to understand and respond to the human rights and needs of migrants and their families who have been affected by violence, and to overcome anti-migrant bias. Migrants’ experiences of violence, including domestic violence and sexual and gender-based violence, should be addressed without causing further victimisation, trauma or harm. Ensure appropriately tailored information about protection, services and rights is made available to migrants in a format and language they understand and in an age appropriate manner | Several EU Member States reported the possibility of referring victims of gender-based violence to specialised women’s shelters, providing immediate and safe accommodation to female victims of violence and their children, such as Austria, Greece, Germany, Italy, Hungary and Sweden. In Greece, in case of need, persons who are particularly vulnerable to gender-based violence are transferred to special facilities. There are 21 available shelters for victims of sexual and gender-based violence in Greece. Information on these mechanisms is available at registration and reception facilities. In Hungary, there is one special accommodation available for victims of sexual violence, torture or rape at the protected shelter in Kiskunhalas. In Sweden, the Swedish Migration Agency must offer safe housing for all persons who are victims of violence or threats of violence.[[58]](#footnote-58)  Several States (Bosnia and Herzegovina, Germany, Greece, Jamaica, Norway, Paraguay, Peru, the Philippines, Qatar, Singapore and the United Arab Emirates) have reported that they had put into place services and mechanisms to protect that group of women, including making information services available to survivors of violence. Such services took the form of multilingual telephone hotlines and e-mail addresses and the provision of information on shelters, dormitories, legal aid, health services, compensation and redress. Certain States (Bosnia and Herzegovina, Germany, the Philippines and Singapore) highlighted the importance of establishing partnerships with non-State actors in the provision of those services. Germany, Greece and the Philippines reported on the effectiveness of the results of their service provision.[[59]](#footnote-59)  *Resources*: Minimum Standards for Prevention and Response to Gender-based Violence in Emergencies, the Inter-Agency Standing Committee Gender-based Violence (GBV) Guidelines and the Minimum Initial Service Package (MISP) for Reproductive Health in Crisis Situations.[[60]](#footnote-60)  The Texas Association Against Sexual Violence (TAASA) has produced a Guidebook for Immigrant Victims, outlining their rights, access to remedies and agencies, associations and resources for service provision.[[61]](#footnote-61)  The LGBT group “Fliederlich” in Germany opened the first shelter for LGBT refugees in Nuremberg, at the request of a number of LGBT migrants who felt threatened in the shelters where were accommodated. There were also plans to open a larger shelter in Berlin.[[62]](#footnote-62)  Greece has established a gender-sensitive counselling methodology for interaction of lawyers, social workers and psychologists with migrant women who have been victims of abuse.[[63]](#footnote-63) |
| prosecution   1. Strengthen law enforcement and criminal justice responses to violence and exploitation against migrants. Ensure the prompt, independent and effective investigation and prosecution of excessive use of force, including lethal force, and of any act of violence against migrants, regardless of the status or situation of the migrant or whether the alleged perpetrator was acting in a public or private capacity. | On 18 December 2015, International Migrants Day, Mexico’s Attorney General’s Office (*Procuraduría General de la República*, PGR) formally established two bodies to investigate crimes committed against or by migrants in Mexico, as well as cases of Mexicans who have disappeared in other countries. These two bodies are the Unit for the Investigation of Crimes for Migrants (*Unidad de Investigación de Delitos para Personas Migrantes*, the “Unit”) and the Mechanism for Mexican Foreign Support in the Search and Investigation (*Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación*, the “Mechanism”).[[64]](#footnote-64) |
| firewalls   1. Take measures to encourage migrants to report crimes committed against them, with clear and binding firewalls to ensure migrants are able to report crimes against them and to participate in criminal justice proceedings and access related assistance and support. Ensure that migrants are not deterred from doing so due to fears of arrest, detention and expulsion on the basis of their migration status. Ensure that sentences imposed on those who carry out violence against, or exploit, migrants are proportionate to any human rights violations committed against migrants | In Amsterdam, the anti-discrimination unit of the police has started the “Veilige Aangifte” (Safe Return) initiative in which they inform undocumented migrants about their rights, and enable them to report crimes in secure way. Their “free in, free out” approach, allows migrants to report crimes without fear of arrest. The unit visit migrant support centre Wereldhuis every third Wednesday of the month to meet with a group of undocumented migrants, and answer queries on key thematic issues such as lodging a complaint, getting a protection order, and taking a case to court.[[65]](#footnote-65) |
| Principle 8: Detention **Uphold the right of migrants to liberty and prohibition of arbitrary detention through making targeted efforts to end immigration detention of migrants. Never detain children on account of their migration status or that of their parents** | |
| Presumption against detention   1. Establish a presumption against immigration detention in law. |  |
| Progressively end detention   1. Work towards progressively ending all forms of immigration detention. Until then, ensure that immigration detention is implemented in line with international human rights law and its procedural safeguards. These include guarantees that detention can only be ordered by a court of law ensuring that detention is always determined on a case-by-case basis as an exceptional and last resort measure and for the shortest period of time respect for due process of law, including access to legal counsel and fair trial guarantees ensuring detention is not mandatory, that it is necessary and proportionate, and that it is of limited scope and duration ensuring that there are no suitable non-custodial alternatives available to meet the same legitimate aim clearly defining in law the reasons for detention; ensuring that these reasons are explained to migrants orally and in writing, in a language and format they understand with the assistance of an interpreter if necessary; guaranteeing that information on the individual’s rights in connection with the decision is included in the detention order; guaranteeing the right to challenge the lawfulness of any deprivation of liberty in a timely manner before a court, independent of the detaining authority, and to be ordered promptly released if the detention is found unlawful. | The International Detention Coalition has developed the Community Assessment and Placement (CAP) model, consisting of five steps to prevent and reduce the likelihood of unnecessary detention. These steps are: (1) presume detention is not necessary; (2) screen and assess the individual case; (3) assess the community setting; (4) apply conditions in the community if necessary; (5) detain only as a last resort in exceptional cases.[[66]](#footnote-66) |
| Alternatives to detention   1. Develop national plans to end immigration detention and to implement human rights-compliant, non-custodial, community-based alternatives to detention based on an ethic of care not enforcement. Legislation should include the obligation of administrative or judicial bodies to start from a presumption of liberty and only if that is rejected for clear, articulated reasons to consider human rights-based alternatives to detention – one by one – including the obligation to provide adequate reasons at each step why each option is not applicable in the particular case | Alternatives to detention in law, policy or practice have been documented in states including New Zealand, Venezuela, Japan, Switzerland, Lithuania, Denmark, Finland, Norway, Sweden, Austria, Germany, and Canada.[[67]](#footnote-67)  Lithuanian law contains a list of alternatives to detention, including: periodic reporting to the territorial police office at a reporting frequency decided by the court; trusting the foreigner to the guardianship of a citizen or a foreigner legally residing in the country; or reporting about her place of stay by means of communication at certain times to the territorial police office.[[68]](#footnote-68)  All European Union countries, except for Cyprus and Malta, have legislated that alternatives to detention must be pursued prior to any decision for detention. The 2004 immigration law of the Bolivarian Republic of Venezuela prohibits detention and provides several alternatives that may be adopted within a deportation procedure, including reporting regularly to the competent authority, settling in a given locality during the administrative procedure and providing a financial security guarantee (for which the migrant’s economic condition must be taken into account).[[69]](#footnote-69)  In Slovenia, third country nationals subject to a deportation order may be required to report to the nearest police station instead of being placed in detention. Individuals are usually required to report once per month.[[70]](#footnote-70)  Austria has established in law that alternatives must first be pursued before a migrant is detained. The *Aliens Police Act* stipulates that individuals shall be provided with an alternative to detention if the grounds for detention are present and the purpose of detention can be achieved by their provision.[[71]](#footnote-71) The law establishes conditions that can be imposed as an alternative to detention including residing at a particular address determined by the authority; reporting periodically to the police station; or lodging a financial deposit at the authority.  Poland has passed legislation providing for a mandate to consider alternatives to immigration detention.[[72]](#footnote-72) Article 398 of the New Act on Foreigners provides for the Polish Border Guard authority to apply any one or more of the following conditions:   1. Reporting at specified intervals to the Polish Border Guard; 2. Lodging a security deposit, no lower than twice the amount of the minimum wage stipulated by minimum wage law; 3. Surrendering of travel documents; and 4. Directed residence at a location specified by the authorities.   TheNew Zealand Immigration Act 2009 establishes the legal grounds by which a person may be held in immigration detention and outlines conditions that may be applied to such a person instead of detention. These conditions include reporting, guarantors, and undertaking actions towards case resolution.[[73]](#footnote-73) |
| Conditions of detention   1. Ensure detention conditions guarantee due respect for the dignity of the person by ensuring adherence to the UN Standard Minimum Rules on the Treatment of Prisoners and all other relevant international standards. Conditions should reflect the administrative purpose for which migrants are being detained and migrants should never be held in criminal prisons or facilities designed for criminal corrections. Any restrictions imposed on individual autonomy should be applied only to the extent necessary to protect the rights of others and to maintain public order. Ensure that migrants deprived of liberty have prompt access to independent lawyers, including to receive visits and to communicate with such lawyers, both to make effective the right to challenge the lawfulness of detention, and as a safeguard against torture or other cruel, inhuman or degrading treatment. | Mexico’s Ley de Migración provides for migrants in detention centres (estaciones migratorias) enjoying an adequate standard of living. Article 107 lists specific standards that must be provided, including: medical, psychological and legal aid (para.1); adequate food, including three meals a day of sufficient quality. Meals should meet the special needs of children, adolescents, the elderly, pregnant or breastfeeding women, persons with specific health conditions, and other vulnerable people, and respect religious traditions (para.2); separate facilities for men and women. Children should join their mothers or fathers or other persons accompanying them, except if this is not in the children’s best interest (para.3); adequate space; accommodation should not be overcrowded (para.6); recreational, sports and cultural facilities (para.7).[[74]](#footnote-74) |
| Exploitation or violence in detention   1. Protect against the particular risks of exploitation, abuse and sexual or gender-based and other violence that immigration detention poses for migrants including children, lesbian, gay, bisexual, transgender, intersex (LGBTI) or gender non-conforming people, women, and persons with disabilities, and ensure that they receive the treatment and medication they require. |  |
| migrants with special protection needs inc. children   1. Enforce the principle of non-detention for immigration purposes of all children, regardless of their status or the status of their parents, and expeditiously and completely cease all such detention of children, even for short term periods. Ensure also that migrants with specific protection needs including but not limited to pregnant or nursing women, older persons, persons with disabilities, survivors of torture or trauma, migrants with particular physical or mental health needs and stateless persons, are not placed in detention. | Section 56 of Hungary’s Act II of 2007 on the Admission and Rights of Residence of Third-Country Nationals establishes that unaccompanied minors cannot be detained for migration matters.[[75]](#footnote-75)  In Mexico, the Regulations (Reglamento) for the Law on the Rights of Children prohibit the immigration detention of children (Article 111, 2 December 2015). Panama also legally prohibits the detention of child migrants.[[76]](#footnote-76)  Costa Rica’s immigration law recognises that all children have a right to certain protections in line with the Convention of the Rights on the Child and the UN 1951 Refugee Convention. Specifically, article 47 of the Costa Rica’s Regulation on Refugees prohibits the detention of all children regardless of whether they are accompanied, unaccompanied or separated.[[77]](#footnote-77)  The Irish *International Protection Act 2015* was signed into law on the 30th of December 2015. The law states that a person who has not yet reached the age of 18 may not be detained in immigration detention centres. Specifically, Part 3, Section 20, Subsections (1)-(5) of the Act outline the grounds for detention of foreigners in the Republic of Ireland. Subsection (6) states that: *[detention] shall not apply to a person who has not attained the age of 18 years*.[[78]](#footnote-78)  At the global level, the Global Campaign to End Immigration Detention of Children was launched in 2012 to draw attention to the detrimental effects that immigration detention has on children, and to encourage states to cease the immigration detention of children consistent with their obligations under the Convention on the Rights of the Child. The Campaign coordinates international, regional and national activities urging states to adopt alternatives to detention (ATD) that fulfil the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.[[79]](#footnote-79)  Under the Turkey’s Law on Foreigners and International Protection (LFIP, 2014) detention is prohibited for unaccompanied children seeking international protection, trafficked persons, international protection status holders, international protection applicants (except in set circumstances) and stateless individuals. The LFIP also exempts individuals who are at risk of torture/ill-treatment if expelled; are unable to travel due to poor health, age or pregnancy; require medical treatment that cannot be obtained in the country of origin or return; or are undergoing treatment due to serious psychological, physical or sexual violence, from deportation orders and, therefore, detention. Such individuals are issued with humanitarian residence permits (with specific permits for trafficked persons). [[80]](#footnote-80) Unaccompanied children are placed “by the Ministry of Family and Social Policies in suitable accommodation facilities, in the care of their adult relatives, or in the care of a foster family, upon taking into account the opinion of the unaccompanied minor.” If they are over 16 they can be placed in reception centres.[[81]](#footnote-81) |
| monitoring detention facilities   1. Ensure that centres of detention are effectively monitored by autonomous and independent mechanisms with a clear human rights mandate to prevent and address any act of torture and other form of violence, as well as to protect the rights of migrants deprived of liberty, including children. Ensure that monitoring mechanisms have clear roles and responsibilities and broad powers defined by law, including the right to gain access to any place of deprivation of liberty, including through unannounced visits, the right to access any needed information, to request reports before, during and after the inspection and to receive a prompt response, the right to receive complaints directly from migrants; and the authority to make public the results of their inspections and recommendations, while preventing the public disclosure of information that may place a migrant at risk. | New Zealand ratified OPCAT in March 2007 to provide for visits by the SPT and the establishment of NPMs. The Office of the Ombudsman has been designated as the National Preventive Mechanism (NPM) for immigration detention facilities.[[82]](#footnote-82)  In relation to immigration detention, some States have ensured that independent, regular detention monitoring is conducted at the national level. For example, such monitoring is conducted by the national human rights institutions of Fiji, Honduras, Mali, Mauritius, Mexico, Nicaragua, Nigeria, South Africa, Switzerland and Uganda, and the ombudsmen and independent commissions of Ecuador, Hungary, the former Yugoslav Republic of Macedonia, Maldives, Montenegro, the Netherlands, New Zealand, Poland, the Republic of Moldova, Senegal, Serbia, Slovenia, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland.[[83]](#footnote-83)  *Resource*: The UN Refugee Agency (UNHCR), the Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC) have jointly produced a Monitoring Manual that provides a step-by-step guide for anyone or any institution carrying out immigration detention visits. It can also be used as a checklist for authorities, detention centre staff and journalists on the standards that need to be applied when asylum-seekers and migrants are detained.[[84]](#footnote-84) |
| Consular services   1. Take the necessary measures to ensure that consulates respond effectively to the needs of their citizens being held in immigration detention. Such measures should include ensuring legal aid, promoting access to justice and other guarantees of due process, the provision of assistance, the allocation of sufficient human and financial resources to implement consular duties in this regard, and the development of ongoing training programmes for consular officials on human rights law. Detaining authorities should be made aware of the particular risks posed to certain groups, such as irregular migrants or LGBTI individuals, of being brought to the attention of consular authorities without their knowledge and informed consent. | The Mexican government with UNICEF Mexico have developed the *Protocol for Consular Attention for unaccompanied child and adolescent migrants* as a tool for Consular staff conducting initial assessments of unaccompanied migrant Mexican child and adolescents. The Protocol sets out a number of steps to establish adequate conditions for the interview and helps to provide comprehensive attention, bearing in mind the situation of each underage individual, in order to identify situations of risk and activate the inter-institutional protection chain that guarantees the safeguarding of their rights.[[85]](#footnote-85)  Principle V of the Inter-American Commission of Human Rights, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (2008) states that “Persons deprived of liberty in a member State of the Organization of American States of which they are not nationals, shall be informed, without delay, and in any case before they make any statement to the competent authorities, of their right to consular or diplomatic assistance, and to request that consular or diplomatic authorities be notified of their deprivation of liberty immediately. Furthermore, they shall have the right to communicate with their diplomatic and consular authorities freely and in private.”[[86]](#footnote-86) |
| Accountability   1. Ensure accountability and remedy for any instances of unlawful or arbitrary detention, deficiencies in detention standards and any violations or abuse of the human rights of detained migrants by State actors and private individuals, entities or security forces |  |
| Principle 9: Family unity **Ensure the widest protection of the family unity of migrants, facilitating family reunification, and preventing arbitrary or unlawful interference in the right of migrants to the enjoyment of private and family life** | |
| Non-separation   1. Develop measures to ensure the non-separation of migrant families, including in disembarkation and border control processing, reception and registration processes, as well as in the context of detention and deportation. Ensure that children enjoy the right to express their views freely concerning decisions about their possible return to their families. Family reunification should never be used to justify expedited return in the absence of due process | In Serbia, Save the Children runs rapid family reunifications of children accidently separated from their families during transit periods.[[87]](#footnote-87) |
| Facilitate reunification   1. Take positive measures, both at the domestic level as well as in bilateral and regional processes, to facilitate the unity or reunification of families. Enhance regular channels for family reunification without discrimination or disproportionate restrictions including in relation to age, income, or language. Ensure that requests for family reunifications entail no adverse consequences for the applicants and for members of their family | Uruguay recognizes the right to family reunification, due process and access to justice in its legislation.[[88]](#footnote-88)  Save the Children has helped set up bilateral coordination working groups which consist of government and non-governmental actors from both sides of the borders between Mozambique, South Africa and Zimbabwe. One of the tasks for the groups has been to work to improve protocols and guidelines for family tracing and reunification and for the provision of psychosocial support both for children in shelters and for those who have recently returned to their families.[[89]](#footnote-89) |
| Simplify procedures   1. Make all efforts to trace and reunite unaccompanied or separated children with their parents, in accordance with the principle of the best interests of the child, noting that reunification in the country of origin may not always be in the child’s best interests. Simplify and speed up procedures, without compromising human rights standards, to make it easier for children to reunite with their families. In particular, guarantee that applications by a child or his or her parents to enter or leave a State for the purpose of family reunification will be dealt with by States in a positive, humane and expeditious manner, without compromising standards. | With the assistance of the United Nations Children’s Fund, the South African Department of Social Development and the Zimbabwean Ministry of Public Service, Labour and Social Development have developed draft standard operating procedures for the tracing, reunification or alternative care placement of unaccompanied and separated children.[[90]](#footnote-90)  In Belgium, a specialized unit for unaccompanied children has been established in the Immigration Office, with the responsibility to grant residence documentation, conduct family searches and ensure that any family reunification is in the best interest of the child. In addition, specialized centres have been developed for unaccompanied minors.[[91]](#footnote-91) |
| Various forms of family   1. Ensure family registration and reunification processes recognise that various forms of family exist and do not practice gendered, heteronormative, or other stereotyped or prejudicial assumptions in registering family representatives. | In Chile, there is law ensuring recognition of civil unions made abroad in obtaining residence permits without distinguishing the sex of the parties to recognize the validity of the bond.[[92]](#footnote-92) |
| Deported parents   1. Ensure, including through legal assistance and judicial and administrative protection, that parents who have been returned or otherwise removed are able to exercise their right to family unity and custody of their children, including of those children who have citizenship of the State that is carrying out the removal, before the courts of that country |  |
| Accommodated together   1. Families with children should be accommodated together as a unit in safe and child friendly environments. Maintaining family unity should never form the justification for the detention of children whose parents or guardians are detained; alternatives to detention should instead be applied to the entire family. |  |
| Principle 10: Child migrants **Guarantee the human rights of all children in the context of migration, and ensure that they are treated as children first and foremost** | |
| Best interests and participation   1. Ensure that all policy, practice and guidance on migrant children and other children affected by migration are based on international law, in particular the principles of non-discrimination, the best interests of the child and the full participation of all children, and ensure to the maximum extent possible the survival and physical, mental, spiritual, moral and social development of migrant children and children of migrants, keeping in mind that the principle of the best interests of the child encompasses short, medium- and long-term effects of actions related to the development of the child; uphold the principle that the child’s best interest takes precedence over migration management objectives or other administrative considerations, guarantee that children in the context of migration are treated first and foremost as children, and ensure equal standards of protection are provided to all children regardless of age; incorporate due process guarantees, including the right to qualified legal representation; provide migrant children with opportunities to express their views freely in all matters affecting them and to have their views taken into account in accordance with their age and maturity; ensure that all migrant children have access to age-appropriate and child sensitive information on their rights and any processes to which they will be subject. | The Constitutional Court of Spain has upheld the right of the child to be heard in the context of unaccompanied children facing repatriation or deportation.[[93]](#footnote-93)  For child migrants, peer-to-peer approaches may be effective in communicating self-protection strategies and information about migration risks, and identifying children at risk of exploitation.[[94]](#footnote-94)  *Resource*: The *Recommended Principles to guide actions concerning children on the move and other children affected by migration* were developed at an expert meeting in Geneva in May 2016 that included participants from the UN Human Rights Office, the UN Refugee Agency, IOM, UNICEF, International Detention Coalition, Save the Children, Terre des Hommes, International Catholic Migration Commission, Destination Unknown Campaign, Caritas, PICUM and Service Social International. They have been endorsed by the UN Committee on the Rights of Migrant Workers and Members of their Families.[[95]](#footnote-95) |
| BIDs operationalisation   1. Provide guidance on the practical operationalization of the principle of the best interests of the child for all cases involving migrant children who may not be making a claim for asylum under the 1951 Refugee Convention. This guidance should be based on international human rights law and best practice, and be directed at child protection officers and other relevant officials | Save the Children has developed a best interests determination toolkit to improve the best interests determination process for unaccompanied children on the move in South Africa. Developed within the South African legal and policy frameworks, the toolkit is aimed at field practitioners who manage the identification, documentation, tracing and reunification processes in the country and is designed to ensure children’s involvement and take into consideration the range of factors that have contributed to the migratory experience of the child.[[96]](#footnote-96) |
| Age determination   1. In case of reasonable doubt regarding the age of a migrant, provide gender-sensitive and multidisciplinary age determination procedures which draw on assessments by independent and qualified psychologists and social workers in a safe, age-appropriate and dignified manner. Establish a presumption in favour of the child in situations of ambiguity. Return should be suspended and children should not be detained while age-assessment takes place. Recall in this context the absolute prohibition on the detention of children based on their migration status. |  |
| Child protection   1. Ensure that national child protection systems, in their design and implementation, take into account the distinctive needs and views of migrant children and children born to migrant parents. Coordinate child protection policies and systems internally and across borders that are in full compliance with international human rights law and ensure that officials who are likely to encounter migrant children are trained in good practices such as child-friendly communication. To the extent possible, ensure that there are adequate numbers of trained child protection officers at all stages of the migration journey | Save the Children has developed a Mobility Assessment Tool (MAT) for children on the move to gather information about children’s evolving needs and coping strategies to design better responses to protect children throughout their journeys. The MAT is a data collection tool that gathers information about children’s reasons for migration, their travel plans, their needs while in transit and their destination, coping mechanisms, and recommendations for future services and programming. The tool aims to collect evidence of the different protection issues and opportunities in each context to help identify key points of intervention that would be most effective for children in each situation.[[97]](#footnote-97) |
| child-friendly reception   1. Ensure screening of child migrants is conducted by a child protection officer, and not an immigration or border enforcement officer, who is empowered to refer the migrant child to child protection experts for further screening, interviewing, assistance and protection. Ensure that unaccompanied children are accommodated in separate reception facilities from adults. | UNHCR and UNICEF are setting up special support centres for children and families along the most frequently used migration routes in Europe. The “Blue Dot” child and family support hubs will provide a safe space for children and their families, vital services, play, protection and counselling in a single location and play a key role in identifying unaccompanied and separated children and providing the protection they need in an unfamiliar environment.[[98]](#footnote-98)  Near Gevgelija town, in the former Yugoslav Republic of Macedonia at the border with Greece, UNICEF has established a child-friendly space within the compounds of the migrant rest area established by UNHCR able to support 50 children at one time. This is a safe place for children to rest and play while families complete registration procedures. UNICEF’s mobile team is able to screen the children, identifying and referring children in need of specialized protection services. A mobile team from LaStrada, a local NGO, assists in the reunification of children with their families and to provide psychosocial support and early childhood development services to the children.[[99]](#footnote-99)  Save the Children reported a promising practice with drop-in centres in Greece and Italy doing outreach to unaccompanied children where they gather or live to invite them to visit the centre for more detailed information, counselling and assistance, stressing the service does not require identification or registration with the authorities. The NGO has seen a high number of unaccompanied children registered at the drop-in centres as a result, which helps to reduce the disappearances of children from reception centres and other temporary accommodations.[[100]](#footnote-100)  In South Africa, migrant unaccompanied children are assigned a social worker, who can refer them to the Children’s Court to make an alternative care order.[[101]](#footnote-101)  *Resource:* Minimum Standards for child protection in humanitarian action, UNHCR Framework for the Protection of Children.[[102]](#footnote-102) |
| Guardians /USCs   1. Provide unaccompanied and separated migrant children with specific protection and assistance. Establish or strengthen qualified, trained and independent guardianship mechanisms, to ensure they are promptly appointed to give the necessary protection and assistance to all unaccompanied and separated children and child-headed households as soon as they are identified. Develop national implementation plans to ensure that all migrant children are able to access competent guardians in a timely manner | Ensamkommandes forbund is an organization created in Malmo, Sweden in 2013 by former unaccompanied minors to provide support and services to unaccompanied minors in the country to help them to integrate and find support networks. The organization started informally with a few former unaccompanied minors who wanted a space where they could make the decisions, represent themselves, and make their message heard. To support the creation of friendships, the organization has incorporated a friend-matching system, where any member can volunteer to be matched with others in the network. In addition, the organization provides support to unaccompanied minors to advocate for the rights of unaccompanied minors in the asylum process as well as in society in general.[[103]](#footnote-103)  Some EU states, such as Belgium and Finland, ensure every unaccompanied or separated migrant child is assigned a guardian. In Belgium, a condition for approval of guardians is participation in ongoing training. To share good practice, the Belgian NGO *Service droit des jeunes* has created and administered with guardians, an online forum on unaccompanied and separated children to encourage networking among guardians, specialized lawyers, and NGOs.[[104]](#footnote-104) |
| Birth registration   1. Ensure the effective provision of free birth registration for all children in the context of migration, irrespective of the migration or residence status of their parent/s or other guardians | The percentage of registered children is above 90 per cent in all industrialized countries and among some countries in Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS) and Latin America and the Caribbean.[[105]](#footnote-105) Some examples in relation to migration status:   * The Netherlands provides for undocumented children’s right to birth registration explicitly in law.[[106]](#footnote-106) * In 2009, the Italian government adopted a change in the immigration law, introducing the requirement for a residence permit to be shown to register a birth. On the eve of the law entering into force, and as a result of advocacy efforts, the Ministry of Interior issued a circular clarifying that irregular migrants have the right to register their child at birth: it allows for the mother to be issued a temporary residence permit, valid for six months.[[107]](#footnote-107) * In Thailand, the right to birth registration of children of irregular migrant parents is recognized in the Civil Registration Act (2008). In addition, the 2008 Nationality Act provides for the naturalization of specific categories of persons including children of irregular immigrants born in Thailand before 1992.[[108]](#footnote-108) |
| Principle 11: Women migrants **Protect the human rights of migrant women and girls** | |
| Meet gender-specific needs of women   1. Ensure legislation, policy and programming is designed to meet the particular needs and rights of migrant women and girls. Provide adequately trained women case workers, lawyers, interviewers and independent interpreters and ensure childcare is made available during the interviews to ensure women are able to present their situation and any claim for human rights protection claims in a safe, culturally-appropriate and gender-responsive environment. Ensure women’s reports of human rights abuses are not treated through the lens of male experiences | Cambodia, China, Jamaica, Japan, Namibia, Norway, Peru, Qatar, Singapore and Sweden have reported on provisions of their penal codes that address violence against all women, including migrant workers. Some States have introduced legislation, articles or penalties that respond specifically to violence against migrant workers; Singapore has introduced a specific penalty for abuse of foreign domestic workers.[[109]](#footnote-109) Bosnia and Herzegovina, Cambodia, Greece, Italy, Jamaica, Peru and Namibia have reported on the adoption of national policies and strategies to combat violence against women and children that respond to migrant women.[[110]](#footnote-110) |
| In migrant centres   1. In all reception facilities and any other centres for migrants, ensure women and girls are not discriminated against in asset allocation and control over resources. Women staff should be present wherever women or girls are accommodated. All such centres should provide well-lit, safe and private WASH (water, sanitation and hygiene) facilities, as well as multi-purpose culturally-appropriate and women-only and mother/baby areas that provide safe spaces for women to rest and receive information as well as other services | A newly-constructed temporary shelter facility located in Serbia several kilometres from the Hungarian border meets all Sphere standards including private and secure family-only and women-only accommodation, common areas and separate WASH facilities for women and men.[[111]](#footnote-111) In the former Yugoslav Republic of Macedonia, WASH facilities in Gevgelija are made of semi-permanent construction sanitation blocks with wheelchair accessible sex-segregated toilets, sex-segregated showers and hand washing facilities. The facilities are lit at night. There is a separate a mother/baby changing station in the sanitation block which can be accessed by requesting a key from the UNICEF Child Friendly Space nearby. All toilet facilities appear to be clean and well kept.[[112]](#footnote-112) |
| Info and services   1. Ensure the availability of trained staff at all sites to support women and girl migrants who have experienced trauma, including sexual and gender-based violence. Ensure that migrant women and girls are able to access specialised medical and psychosocial support, sexual and reproductive health services and information, as well as a range of gender-sensitive and targeted services including psychosocial support, trauma counselling, legal advice and health services | The camps for Syrian refugees in Turkey have instituted, in partnership with World Food Programme (WFP), a programme enabling Syrian families to purchase pre-approved food items from participating vendors both within camps and in nearby towns and cities. These monthly food stipends are linked to each, individually registered adult in the camps, thereby affording women the same fixed and dedicated resources as their male counterparts.[[113]](#footnote-113)  At Šentilj accommodation centre and Dobova reception centre in Slovenia, health care of pregnant women was available (a mobile medical team providing basic health care was there permanently, and pregnant women were referred to a local health centre if necessary), as well as a private area for women – breastfeeding area, children’s corners, family corners, etc. (at Šentilj centre there was an area for family member reunification). Women had separate restrooms and showers and sanitary kits were available.[[114]](#footnote-114) |
| Training   1. Provide training, monitoring and supervision to ensure border police and immigration officials including contracted private actors are adequately equipped, trained, supervised and monitored for non-discriminatory practices and responsiveness to the needs and human rights of migrant women and girls | The Greek General Secretariat for Gender Equality (Ministry of Interior) has issued a guide for migrant women concerning their rights in the areas of work, health and social security. This also helps to sensitize officials and others to the need for equal treatment.[[115]](#footnote-115)  Some States have conducted training programmes for government officials, the police, the judiciary, medical staff and other service providers to ensure gender- sensitive policy implementation, service provision and assistance, including access to justice, in the context of violence against women, human trafficking and protection of migrant workers. Belgium, for example, has conducted training to raise the awareness of prosecutors, police and medical personnel about domestic violence. Italy has undertaken awareness-raising campaigns and delivered human rights courses and training for judicial system personnel to prevent and eliminate violence against and stalking of women.[[116]](#footnote-116) Certain States (Germany, Greece, Malta, Peru, the Philippines, Sweden and the United Arab Emirates) have reported on the production of guidelines, the provision of support and the conduct of training programmes for public officials (including the judiciary, police, immigration officials and civil servants) on the identification of migrants at risk and the prevention and protection of migrant women workers from exploitation and abuse.[[117]](#footnote-117) |
| Gendered policy analysis   1. Ensure a robust gender analysis of the differential impacts of migration policies and programmes on migrants of all genders, including in relation to access to visas, residence permits, employment, detention policies and labour rights as well as in the context of bilateral and multilateral agreements such as readmission agreements. Give special attention to the ways in which women and girls can be understood only as victims in need of protection as this can be used to justify restricting the mobility of women and girls. Review and amend any gender discriminatory restrictions on migration in law or practice that limit opportunities for women and girls or which do not recognise their capacity and autonomy to make their own decisions | Mexico is undertaking a review and analysis of governmental programmes and actions to ensure that they do not contain requirements that impede migrant women and their families from accessing them.  Mexico considered necessary the incorporation and mainstreaming of the gender perspective into policies and programmes addressed to the migrant population.  As part of this work, the Mexican government established the Technical Group for the Incorporation of the Gender Perspective in Care and Protection Policies for Migrant Women  within the framework of the Consultative Council on Migration Policy of the SEGOB, ensuring the state is acting in line with its international and regional obligations.[[118]](#footnote-118) |
| Participation   1. Involve a cross-section of migrant women of different nationalities, including adolescent girls, women-headed households, pregnant women and women with disabilities, in drafting and regularly reviewing relevant laws, policies and programmes to ensure that they are adequate to their needs and human rights |  |
| Principle 12: Right to health **Ensure the enjoyment of the highest attainable standard of physical and mental health of all migrants** | |
| Inclusive health systems, NAPs   1. Ensure health systems and national plans of action on health are inclusive of migrants, regardless of their status, and create legal and administrative mechanisms that make inclusion a reality in practice. Clearly reject the use of migration status as a basis to exclude people from accessing health care in the public system. Promote migrant-responsive health policies and programme interventions that can provide equitable, affordable and acceptable access to essential health promotion, disease prevention, access to medicines, and good quality care for migrants | Through its Strategic Plan for Migration adopted in 2015, Portugal access to the National Health System to all residents, whether or not they have regular status.[[119]](#footnote-119)  In Argentina, Trinidad and Tobago and Uruguay, all migrants enjoy the same access to social services as do nationals. Other States, including Belgium, France, Italy and the Netherlands, have implemented administrative systems to give irregular migrants access to a range of health services. In Chile, a decision of the Ministry of Health ensures access to emergency medical care for irregular migrants and access to health care for pregnant women and children in an irregular situation. The right to equal access of all children to health care is recognized in Greece, Portugal, Romania and Spain.[[120]](#footnote-120) |
| Services   1. Provide access to health facilities, goods, services and conditions, and ensure that they are delivered to migrants in a manner that is non-discriminatory, gender-responsive, culturally and linguistically appropriate. These services should include clinical diagnosis, treatment and health promotion, and vaccinations for children , which are in line with human rights standards and tailored to the needs of migrants where relevant | In northern France, MSF teams are providing medical consultations, nursing care, physiotherapy and psychological support at the camp known as ‘the Jungle’ in Calais, as well as opened a new camp in Grande-Synthe, near Dunkirk.[[121]](#footnote-121)  According to the Greek Ministry of Health, the health screenings of migrants aim to provide, where necessary, appropriate therapeutic intervention and to ensure the referral of those in need of medical care to competent health structures.[[122]](#footnote-122)  In Spain the Association *Salud y Familia* (Health and Family) is implementing several programmes with the aim to improve access to all health services for undocumented migrants in the Barcelona region. The association combines policy advocacy with ongoing contact with service providers and the government to guarantee undocumented persons’ access to a health card. In collaboration with the public hospitals of Cataluña, the “Mothers between two cultures” programme aims to design and pilot test intercultural education activities targeted toward immigrant mothers of diverse origins who have children of three years or younger. The objective is to improve coverage and reduce unmet needs in the area of maternal and child health prevention and promotion, by strengthening knowledge, capacity and social support networks. The Association also offers a programme called “Assistance for At-Risk Maternity” which provides partial assistance for pregnant women to receive pre-natal care and psychosocial support.[[123]](#footnote-123)  In Sweden, health screening must be offered to all applicants for international protection by the county councils/regions in which they reside. The health screening is offered to identify any health problems relating to the individual, but also as a measure for infectious disease control. The health screening is voluntary and an interpreter can be engaged if necessary. The health screening aims to deliver a medical assessment of what kind of healthcare services should be offered to the person in question. The screening must include questions about the person’s immunisation status, his or her exposure to infections, as well as other information that may be needed to discover any infectious diseases. The questions must be based on the epidemiological situation of the places where the person in question has stayed before arriving in Sweden. The health screening must also include a health dialogue (hälsosamtal) concerning the person’s past and present physical and mental health. A part of this dialogue must concern the person’s psychosocial situation or traumatic experiences. A physical examination and tests must be carried out as part of the health screening. They should be based on the findings from the questions asked earlier and the health dialogue.[[124]](#footnote-124)  In Serbia, all migrants accepted in the receptive-transit centres are provided with the access to health care. All centres currently performing reception of and care for migrants, have rooms for provision of healthcare (24 hour medical teams), including access to gynaecologists and to the international organisations competent for reproductive health of migrants, which ensures a constant access to information and services. In cooperation and with the support by the civil society organisations and international organisations, the migrants have the access to the services of psychosocial support. In cooperation with the local healthcare centres, conditions and resources have been ensured for the provision of health care, in order to adequately respond to the increasing number of people in its territory.[[125]](#footnote-125)  Article 32 of the Italian Constitution guarantees assistance to everyone under the national health-care system, based on the principles of universality and solidarity. This provides for the compulsory enrolment in the National Health-Care Service (NHS) to all migrant children being on the national territory, regardless of their legal status.[[126]](#footnote-126)  The Swiss Red Cross runs health centres for undocumented migrants in Bern and Zurich. According to Swiss Law, irregular migrants have the right to health insurance and therefore access to public health care. The centres provide health counselling, health insurance information, primary health care, psychiatric support, and preventive care. The centres also support irregular migrants to access specialists, hospitals or dentists.[[127]](#footnote-127)  Doctors and volunteers from Gynécologie Sans Frontières carry out visits to refugee and migrant women in locations lacking basic living conditions and access to adequate health care, including reproductive health care.[[128]](#footnote-128) |
| Information   1. Provide timely and accurate information to migrants on health issues and their health rights at all stages of their migration; along migratory routes, at reception points, and in communities where migrants live and work, in a language and format that migrants can understand. This should include information about universal access to health services including primary health care, as well as rehabilitative and emergency medical care that is available to migrants. | MSF operates at the arrival spots in Sicily, assisting people onshore by providing a Psychological First Aid –PFA. A mobile team composed of a psychologist and specially trained cultural mediators is deployed within maximum 72 hours after the alert given by the Italian Ministry of Interior. A number of essential services are then given to survivors, such as access to basic needs, orientation and information, referral of severe medical cases, emotional and psychological support. According to the landing location and with the agreement of national authorities, group and/or individual psychological sessions are provided.[[129]](#footnote-129)  A programme called Ventanillas de Salud, Institute for Mexicans Abroad, was created to assist the Mexican immigrant population in the United States. Beginning in 2003 in California and spreading to all Mexican Consulates in the US, it provides health information, screenings and referral services to Mexican citizens living in the US, partnering with local non-profits to provide services. They also assist in helping those eligible to enrol in federal and state health programmes.[[130]](#footnote-130)  The Swiss Red Cross runs health centres for undocumented migrants in Bern and Zurich. The centres provide health counselling, health insurance information, primary health care, psychiatric support and preventative care. The centres also support irregular migrants to access specialists, hospitals or dentists. Furthermore, the Swiss Red Cross has published a booklet with information on the right to health care, how to access health care and insurance, and recommendations for health practitioners on how to treat migrants who do not have health insurance.[[131]](#footnote-131) |
| SRH   1. Provide access to rights-based, comprehensive and integrated sexual and reproductive health information and services. This should include inter alia, menstrual hygiene products, safe and effective methods of modern contraception; emergency contraception; maternal health care including emergency obstetric services and pre- and post-natal care; safe and accessible abortion care; prevention, treatment, care and support for sexually transmitted infections including HIV; and specialised care for survivors of sexual violence and abuse. Provide, as a priority, a minimum initial service package for reproductive health | Malta has established a special unit within the Department of Primary Health to attend migrants. It is staffed with several ‘cultural mediators’ from the various migrant communities (Somali, Ethiopian, Eritrean, Congolese, and Nigerian). Half of these are women, who provide assistance at the “women’s clinic” in the health centres for prenatal and gynaecological appointments. In addition to direct assistance and cultural sensitivity training for staff, the Unit has also conducted community outreach on sexual health, how to navigate the health system, mental health, etc. They have materials in many languages, including Somali, Tigrinya, French and Arabic.[[132]](#footnote-132)  At the World Humanitarian Summit, the United Nations Population Fund (UNFPA) and 13 States – Australia, Central African Republic, Denmark, Finland, Iceland, Liberia, The Netherlands, Norway, The Philippines, Sweden, Switzerland, United Kingdom, and Uruguay – committed to intensify support including financing for humanitarian action to ensure universal access to sexual and reproductive health and reproductive rights in crisis settings to save lives, uphold human rights and dignity, and ensure that no one is left behind.[[133]](#footnote-133) This includes a rollout by 2017 of the Minimum Initial Services Package (MISP) within 48 hours of an emergency which will help prevent maternal and newborn deaths; support those who have been targeted for sexual violence and subsequent trauma; sexually transmitted infections; unwanted pregnancies and unsafe abortions; and the possible spread of HIV.[[134]](#footnote-134) |
| HIV   1. Any HIV testing offered to migrants should be conducted in a voluntary manner, ensuring pre-and post-test counselling, informed consent and in privacy and guaranteeing that results will be confidential. There should be no negative consequences of testing HIV positive such as removal or return, restriction of freedom of movement, or denial of access to care, as these represent a violation of rights and do not serve public health objectives. | The United Kingdom makes antiretroviral therapy available to all people living with HIV in the country at no cost regardless of their migration status.[[135]](#footnote-135)  The South African National AIDS Council is establishing a multistakeholder advisory committee on mobile men and migrant populations to provide advice on a comprehensive and strong programme aimed at reducing the risk of HIV transmission and other infectious diseases among migrants.[[136]](#footnote-136) |
| Long-term and chronic conditions   1. Develop strategies in conjunction with relevant actors including civil society service providers to ensure adequate continuity of care for the management of long-term or chronic health needs. Make every effort to ensure this continuity through putting adequate arrangements in place, such as mechanisms to transfer medical records along the migratory route or when migrants are detained or relocated |  |
| Mental health   1. Recognise that migrants may have particular and often urgent mental health needs. Ensure their access to adequate mental health care, including at reception and through referrals to appropriate secondary services. Ensure that migrant children have access to specific care and psychological support, which takes into account that they experience stress differentially than adults and have lower coping levels. Provide the necessary counselling for migrants who have lost family members, and for migrant women who have suffered miscarriages, en route. Design and deliver mental health promotion programmes in partnership with migrants to ensure that they are culturally appropriate and avoid stigma. | Migrant and Refugee Communities Forum (MRCF) is a bilingual mentoring support scheme in the UK, developed in 2007 in order to utilize the skills of unemployed refugee doctor service users who wanted to give something back to non-English speaking migrants and refugees experiencing mental ill health, using a US cultural brokerage model. Mentees not only reported feeling better, but started attending college, volunteering and some secured paid work. MRCF has since opened the mentoring role to all individuals who want to support migrants and refugees. Training and structured support is provided for mentoring vulnerable migrants and refugees weekly for at least six months to help them break out of isolation and build confidence for a new start.[[137]](#footnote-137)  *Resource*: The Inter-Agency Standing Committee Guidelines for mental health and psychosocial support in emergency settings[[138]](#footnote-138) |
| Firewalls   1. Develop procedures and standards on the establishment of clear and binding firewalls between public health service providers and immigration enforcement authorities or private actors, and ensure their implementation in practice. Ensure that immigration authorities do not conduct enforcement operations at or near medical facilities and premises | In the USA, non-profit organisations are explicitly exempt from any requirements to verify immigration status as a condition for providing services. Rather, any non-profit or government domestic violence service programme or shelter that denies assistance to migrants on the basis of their irregular situation is in violation of the Attorney General’s order requiring that services “necessary for the protection of life and safety” be provided without regard to immigration status.[[139]](#footnote-139)  Some US cities including Chicago have introduced municipal identification cards so that undocumented residents can more easily access public services such as healthcare and schools.[[140]](#footnote-140)  The Committee for the Rights of Foreigners of the Council for Human Rights (an advisory body to the Czech Government) concluded after a meeting with health professionals in September 2010 that reporting migrants in an irregular situation to the police is unlawful and should not take place. As a follow-up, the Czech Medical Chamber clarified this issue in a newsletter, sent to every doctor.[[141]](#footnote-141) |
| In detention   1. Ensure that migrants who are detained are held in conditions that meet all requirements of health with access to necessary healthcare services, including for sexual and reproductive health and mental health conditions, free of charge and without discrimination |  |
| Principle 13: Adequate standard of living **Safeguard the right of migrants to an adequate standard of living** | |
| Access to adequate standard of living   1. Take measures to ensure that migrants are able to access an adequate standard of living, including in temporary locations such as reception facilities and informal camps. Ensure these are accessible to all migrants, including children, persons with disabilities, older persons and pregnant, new and breastfeeding mothers. An adequate standard of living would include: adequate safe food and nutrition in a quantity and quality sufficient to satisfy an individual’s dietary needs; culturally acceptable, potable water and sanitation; appropriate and adequate clothing; adequate housing and the continuous improvement of living conditions |  |
| Housing, NAPs   1. Guarantee migrants access to shelter which includes sufficient facilities to meet their needs including their right to privacy and can protect them from threats to their safety. Ensure that they are able to carry out necessary improvements, including to temporary shelters and informal camps. Include migrants, regardless of their status, in national plans of action on housing. | In Greece a collective of refugee, student and solidarity activists have squatted City Plaza, a disused hotel that was closed for several years, since 22 April 2016. From 2nd May, City Plaza has hosted refugees who arrived prior to the EU/Turkey Deal of March 2016. It is not funded by the state or by NGOs, but is self-funded and self-run. City Plaza is collectively organised in its daily operation, with all those living at the site involved in decision making through various cross-represented assemblies. The people living on site participate in ensuring the collective living arrangements run smoothly, and there is a rota to cover all the cooking, cleaning, and additional activities required to ensure that everyone experiences comfortable living conditions. [[142]](#footnote-142) |
| Evictions   1. Ensure any evictions or planned relocation of migrants are carried out in strict compliance with the relevant provisions of international human rights law and through full and effective consultation with affected individuals. Any such evictions should only take place with the full, prior and informed consent of those being evicted, in accordance with due process safeguards as well as general principles of reasonableness and proportionality, and only after alternatives to evictions have been duly considered. Establish or modify procedures and regulations to ensure prior to, during and after any eviction that migrants are promptly provided with relevant and accurate information about their situation, their rights, applicable legal procedures and remedies, possible consequences of their non-compliance with these procedures, location of and conditions in proposed reception centres or relocation sites, as well as contacts of legal aid providers, ombudspersons and relevant civil society organizations. Strictly ensure that migrants are not subjected to forced eviction |  |
| Firewalls   1. Develop procedures and standards to establish clear and binding firewalls between public or private service providers as well as public or private housing providers, and immigration enforcement authorities. Ensure that irregular migrants are not criminalised for exercising their right to an adequate standard of living, and that private actors – such as landlords and civil society organisations – who facilitate their exercise of this right are also not criminalised. Ensure that migrants, regardless of their status, are able to access homelessness shelters | In March 2016, the European Commission against Racism and Intolerance (ECRI), part of the Council of Europe, has adopted a policy advocating for firewalls prohibiting the sharing of the personal data of, or other information about, persons suspected of irregular presence or work, with the immigration authorities for purposes of immigration control and enforcement.[[143]](#footnote-143)  The Municipality of Utrecht in the Netherlandssupported the Dutch non-profit organisation STIL to set up a shelter for women and children in irregular status called Fanga Musow(“Strong Women”) in 2005. This initiative offers undocumented women and children safe and stable accommodation, financial help, legal assistance, education and medical services. Now run as a project of Stichting Seguro, the shelter is partly funded by the Municipality (staff costs) and partly funded by numerous independent donors (other running costs and financial assistance to the women). Stichting Seguro also manages three shelters for undocumented men who are homeless in Utrecht, entirely funded by the Municipality.The Municipality also fully funds another shelter for undocumented women and children called Huize Agnes.Most of the undocumented women supported in this shelter arrived in the Netherlands as unaccompanied children and are now undocumented young women, some with children.[[144]](#footnote-144) |
| Unrestricted movements   1. Ensure that residential facilities for migrants do not restrict their day-to-day movements unnecessarily, and that migrants are not obliged to stay in closed shelter facilities, jails or immigration detention centres, whether these are operated by government or private actors. This includes the de-facto restriction of movement, in particular of women, children, LGBTI migrants or persons with disabilities, due to fear of sexual, gender-based or other violence or other harms inside or outside the facility. |  |
| Principle 14: Decent work **Guarantee the right of migrants to work, in just and favourable conditions** | |
| Policy, NAPs   1. Develop national policy, and national action plans as appropriate, to ensure the protection of the rights of all migrants in the labour market, including in respect of access to decent work and livelihood, given that everyone is entitled to the right to work and the right to just and favourable conditions of work, without discrimination on any basis |  |
| Decent work, non-discrimination   1. Ensure equality of treatment and non-discrimination of migrants with nationals and among all workers without distinction in respect of the terms and conditions of employment, including wages, rights in the workplace, social dialogue including trade union rights, recognition of skills and qualifications, and social protection. Ensure migrants are not discriminated against on the basis of occupation, recognising that many migrants, especially migrant women, are compelled to work in the informal economy and are often excluded from protection under national labour laws. | In Spain the Ley de Extranjería (Foreigners’ Law) of August 2000 denied migrants in irregular status the right to assemble, demonstrate, associate, join a union and go on strike. In January 2001, three major trade unions – the Union General de Trabajadores (UGT), Comisiones Obreras (CCOO) and the Confederación General de Trabajo (CGT) – made a public announcement stating that the law was unconstitutional, that they would not follow it, and that they would allow undocumented migrants to be members of their trade unions. Another Spanish union, the Sindicato de Obreros del Campo (SOC), has also gone against this law by making undocumented workers union members.[[145]](#footnote-145)  Labour laws in Azerbaijan, Jamaica, and Peru also ensure that migrants have equal access to social protection, including contributory pension schemes and health care.[[146]](#footnote-146)  The Swedish Trade Union Centre for Undocumented Migrants was created in 2008 by a number of Swedish trade union organisations, together with an organisation promoting the rights of undocumented migrants. The objectives of the centre are to inform undocumented migrants about their rights in the labour market and represent them vis‑à‑vis their employers in any proceedings if they so wish.[[147]](#footnote-147)  In Belgium, DUO for a JOB connects young migrants looking for work with experienced professional mentors in early retirement, who share their knowledge, experience and personal networks, to increase the likelihood that migrants find work.[[148]](#footnote-148)  The Bulgarian Red Cross offers assistance to migrants in finding jobs via an employer referral programme, job seeking support and language lessons. Six volunteers from migrant communities, under the supervision of two Bulgarian Red Cross staff members in Sofia, assist migrants to register with the employment office, draft CVs, prepare for job interviews, and secure training. The Bulgarian Red Cross also works to encourage employers to hire migrants, and refers migrants to employers who have expressed willingness to consider them. In addition, the Bulgarian Red Cross offers language lessons to support the integration process. Migrants receive lessons from Bulgarian teachers several times a week. One lesson from the project has been that the involvement of potential employer companies in implementation of the programme, for example in trainings, encourages the participation and long-term commitment of both companies and employees.[[149]](#footnote-149) |
| Monitoring, complaints, firewalls   1. Strengthen or make provision for adequate supervision of working conditions for migrants in all sectors by the competent labour market authorities, such as labour inspection services. Establishing and publicise clear and binding firewalls between complaints mechanisms, labour inspection services and complaints mechanisms, and immigration enforcement authorities, and ensure their implementation in practice. |  |
| Compensation   1. Establish effective complaints mechanisms to ensure that workers, regardless of nationality, migration or residence status, are able to take complaints against their employers, and access remedies including unpaid wages and compensation for violations of labour rights. Ensure unrestricted and effective access to judicial remedies and reparation for violations of their rights in the workplace without fear of reprisals and expulsions, and regardless of their migration status. Provide access to workers’ compensation schemes in the case of occupational injuries or accidents to all migrants without discrimination | In Thailand, all workers, regardless of migrant status, have the right to claim compensation in case of accident or injury at work through the Workmen’s Compensation Fund. All employers are obligated to pay in to the fund and may be liable under civil or criminal law if they do not.[[150]](#footnote-150) |
| 1. Ensure the protection of all migrants from abusive and fraudulent recruitment practices, including by ensuring effective regulation of labour recruiters and guaranteeing that migrants are not compelled to pay recruitment fees or related costs. Ensure the effective application of ILO’s General Principles and Operational Guidelines for Fair Recruitment |  |
| Principle 15: Right to education **Protect the right of migrants to education, including primary and secondary education as well as higher education and vocational and language training** | |
| Access to education   1. Develop procedures, mechanisms and partnerships to ensure the effective access of all migrant children to adequate and appropriate education at all levels, on the basis of equality of treatment with nationals and with primary education free of charge for all. All aspects of education should be provided on a non-discriminatory basis including examinations, qualification certification, vocational training, and financial subsidies. Develop and implement national plans of action on education and training that are inclusive of migrant students, without discrimination. | The fundamental right of all children to education, regardless of their legal status, is recognized in Argentina, Belgium, Chile, Italy, Spain, Thailand, the Netherlands and Uruguay. In France, there is a ministerial circular to the same effect. The migration law of Argentina explicitly states that education authorities shall provide to migrants guidance and counselling on the regularization procedure.[[151]](#footnote-151)  Italy guarantees to migrant children the right to education, regardless of their status, on the same terms as Italian children. The 1998 Immigration Act integrates the right to education in national legislation. It provides for the compulsory education of migrant children, the teaching of Italian, and the promotion of the culture and language of the countries of origin of migrant children.[[152]](#footnote-152)  In Serbia, migrants of school age who are in transit have the access to the services of informal education, provided by the competent institution in cooperation with the civil society organisations. The asylum seekers and children to whom asylum is granted and who are of school age shall be included in the system of formal education (free primary and secondary education).[[153]](#footnote-153)  Through its Strategic Plan for Migration adopted in 2015, Portugal promotes access to education to the children of all immigrants, whether or not they have regular status.[[154]](#footnote-154)  The US Supreme Court ruled in the landmark *Plyler v. Doe* case in 1982, that it was a violation of the Constitution to deny irregular migrant children free compulsory education under the same conditions as citizens and regular migrant children. The explicit legal ruling has been complemented by clear guidelines, for example produced by the National School Boards Association and the National Education Association, regarding legal issues and specific schools. A number of States have fully implemented this ruling to include access to other school-based services, such as free and reduced-price meals and educational assistance for children with learning disabilities.[[155]](#footnote-155) |
| Firewalls   1. Develop and publicise procedures and standards on the establishment of clear and binding firewalls between schools and other education service providers and immigration enforcement authorities. Make it clear to administrators, teachers and parents that they are not required to report or share data on the regular or irregular status of pupils or their parents. Ensure that immigration authorities do not conduct enforcement operations on or near school or other education premises. | In Belgium, head teachers are not required to inform the police of the administrative status of children and their parents, and undocumented migrants will not be arrested in the vicinity of the school. This guarantee was extended to the entire Belgian territory through a circular letter signed by the Ministry of Interior on 29 April 2003, recalling that police services cannot enter schools in order to carry out deportations.[[156]](#footnote-156) In the Netherlands, legislation explicitly prevents schools from sharing personal information with others (for example, immigration authorities) and from refusing registration because of immigration status.[[157]](#footnote-157)  Portugal provides for enhanced protection of undocumented children and the children of irregular migrants. Their details are confidential and may not be shared with immigration authorities. This practice prevents situations in which children do not attend school or receive proper health care for fear of their status being exposed.[[158]](#footnote-158) |
| Recognise qualifications   1. Implement or strengthen measures to recognise migrants’ educational and vocational qualifications and transfer educational achievements | In 1997, Germany set up a national database of leaving certificates, exams and degrees and information about the authorities responsible for recognition in specific sectors and regions. Since 2012, there has been a publicly accessible version online. Detailed information on foreign educational institutions, their courses and certificates is available for institutions that have to assess these for recognition (the database covers 180 countries, approximately 25,000 institutions, 22,000 university degrees and 25,000 evaluations on individual cases; professional qualifications – 5,800 entries – and secondary school leaving certificates – 1,500 entries – complement the academic sector). One consequence of standardizing this recognition procedure has been a significant reduction in the administrative budget for this work.[[159]](#footnote-159)  The ASEAN Qualifications Reference Framework (AQRF) is a system to relate existing qualification framework/training system between ASEAN member states. The AQRF has eight qualifications levels, ranging from basic skills to most advanced and specialised skills agreed among all 10 member states.[[160]](#footnote-160)  Ecuador’s Human Mobility Law, passed in January 2017, guarantees the right to the recognition of degrees and studies carried out abroad.[[161]](#footnote-161) |
| Curricula   1. Introduce inclusive curriculum content that fosters intercultural dialogue between migrant and host communities and promotes understanding of the situation and rights of migrants. Provide targeted training to teaching personnel at all levels and forms of education with the objective of fostering respect for the human rights of migrants and for cultural diversity. | The Platform for International Cooperation on Undocumented Migrants (PICUM) have produced a teachers’ guide to accompany their web documentary “Undocumented” to educate students at all levels about the daily lives of undocumented migrants, drawing on stories of undocumented migrants, migrants’ rights defenders, professionals and public authorities. The tool also addresses related issues such as human rights, migration, social studies, civic education, and current affairs.[[162]](#footnote-162)  In Slovenia, UNICEF trained teachers on working with migrant children and elaborated a school activities model at the Livada Primary School as a good practice. They provided teaching staff at schools with dictionaries to facilitate communication with children (Arabic, English, Slovenian).[[163]](#footnote-163) |
| Vocational training and lifelong learning   1. Support migrants’ access to vocational training and lifelong learning opportunities that help them acquire the knowledge and skills needed to participate fully in society | The Hague court found that Dutch national law (Aliens Employment Act or WAV) is in violation of Article 2 of the 1st Protocol of the ECHR by requiring students to have a residence permit in order to carry out an internship which is a compulsory part of an educational programme.[[164]](#footnote-164)  A special programme called "Mama Learns Greek" – Learning of the Greek Language Tailor-made for Migrant Mothers helps migrant mothers both learn the language and improve their ability to help their children in school. This contributes to gender equality, the integration of mothers and children, cohesion of the family and human development of mothers and children. This programme is also part of the Annual Programme of the European Integration Fund, a programme that promotes linguistic skills and women’s capacity to assist their children in their schooling and life.[[165]](#footnote-165) |
| Principle 16: Right to information **Uphold migrants’ right to information** | |
| freedom of information   * 1. Ensure that migrants enjoy the freedom to seek, receive and impart information, in a language they understand and in accessible formats.[[166]](#footnote-166) Make every effort to ensure migrants’ effective access to accurate and reliable news and information about their rights and their situation through the media of their choice. Ensure the provision of child-friendly information in age-appropriate language and formats for migrant children.[[167]](#footnote-167) | Traditional information distribution strategies, including pamphlets, posters and information sessions may not be effective in the context of large and/or mixed movements, given that individuals cannot carry non-essential material with them and time spent in the reception and transit centres is limited. In the former Yugoslav Republic of Macedonia, the NGO *La Strada* has been handing out laminated maps to women and girls – which they will likely keep given the importance of maps to their journey – on the back of which is listed contact information for protection services in countries along the transit route and in destination countries.[[168]](#footnote-168)  On arrival in Slovenia, every migrant/international protection seeker was given an information pamphlet with basic information on the country, registration procedure, available services and information on accommodation, care and health services as well as the names of organisations providing these services (Police, Caritas, Administration for Civil Protection and Disaster Relief, Red Cross, Slovenska filantropija), including the information of the Red Cross being responsible for tracing family members and reunification of families when family members get lost on route. The pamphlet was also available in Arabic.[[169]](#footnote-169)  PROGE (Die Produktionsgewerkschaft) in Austria is a union which provides information about rights such as the minimum wage, working hours and holidays, for example to seasonal harvest workers.[[170]](#footnote-170)  In Serbia Several NGOs are developing phone apps for asylum seekers with a view to providing updated information on border closures, transport options, and available services along the transit route, including one organization which wanted to include a mapping of gender-based violence health services in countries along the route.[[171]](#footnote-171)  In the Balkans, governments have discussed using loudspeakers with recorded messages in multiple languages playing in all areas of transit centres to ensure that information is properly shared, which would improve access to needed information especially for women and girls who may have lower literacy rates.[[172]](#footnote-172) |
| Information campaigns   * 1. Provide migrants with all necessary information in order to make informed decisions about their migration, including on routes, means of travel, and conditions of entry and stay. Any campaigns that are developed and implemented in this respect should be based on consultation with migrants and other affected individuals, local and community based organisations as well civil society organisations in countries of origin, transit and destination; as a primary aim provide information that is targeted to protecting human rights and promoting safe alternatives to dangerous migration routes, rather than solely focused on preventing movement; ensure that they do not, deliberately or unintentionally, foster an anti-migrant environment including by perpetuating negative stereotypes about migrants. | Welcome to Europe (w2eu.info) provides independent information, including contacts and counselling, for refugees and migrants coming to Europe. The information is accessible by country or issue.[[173]](#footnote-173)  The Netherlands Red Cross launched the Refugee Buddy app in November 2015 to provide newly arrived migrants with information about their new area of residence. The app was developed in close consultation with migrants who had said that lack of any information on where they were or what to do was a key challenge. The app provides information on: the asylum procedure; key facilities nearby (e.g., pharmacies, supermarkets, churches and mosques); relevant news; traffic and transportation; medical facilities; and Dutch culture. The app can be downloaded in Arabic or English and provides translations of common needs. The existing Red Cross Red Crescent First Aid app has also been translated and integrated into the Buddy app. The app had been downloaded 4000 to 5000 times in the first six months of release.[[174]](#footnote-174) |
| Internet   * 1. Provide access to the internet as a tool for migrants to exercise their human rights. This could include new forms of information-sharing that migrants use to navigate their journeys, to stay in contact with families, and to share their experiences, including to safely report gender-based and sexual violence. Ensure migrants are able to retain and use their communication equipment at reception centres. | NetHope, is a public & private partnership of aid groups and technology companies providing low-bandwidth Wi-fi hotspots and charging facilities to migrants along the Balkan migration route and in camps in Greece. As some services, such as booking an interview with the Greek Asylum Office, are only available online, in this case through Skype, the internet is essential for migrants to be able to access services and secure their rights such as making informed decisions about their migration and connect with family members.[[175]](#footnote-175)  Techfugees is a social enterprise coordinating the international tech community’s response to the needs of refugees. At the first event of the Techfugees Athens chapter “In transit”, activists brought together immigrants and refugees, representatives of humanitarian organisations, and active citizens to exchange ideas in an effort to map the needs and draft proposals on long-term solutions that can help tackle the integration challenge of the refugee crisis. Representatives of ActionAid Hellas shared their account of efforts in social mobilization activities for women refugees in the context of ActionAid’s Emergency Programme at the Hospitality Centre for Refugees in Schisto and Scaramangas and also at ActionAid’s Day Centre for Women. Both panellists spoke about the need to design and implement more programs that can help bring to light the skills and talents of refugees and migrants. Future plans include a partnership with the US Embassy at an event aimed at solving practical problems faced by the refugee and migrant communities in Greece bringing together long-term and newly-arrived migrants and refugees with developers, social entrepreneurs, and NGOs to come up with scalable and sustainable solutions to real issues.[[176]](#footnote-176)  Red Cross National societies use the opportunity provided by setting up charging stations where migrants can charge their smartphones to share Red Cross Red Crescent information material and audio. In camps in Rwanda, the ICRC is implementing the ‘Mobile Solar Kiosk’ project to help migrants in camps charge their phones. Many migrants in camps own phones but cannot use them due to lack of access to the Rwandan mobile network, no airtime/credit, and no access to electricity to charge their phones. A solar kiosk that allows 20 phones to be charged at any given time has been set up in the camp; the kiosk charges 60 phones per day on average.[[177]](#footnote-177) |
| Privacy   * 1. Ensure migrants’ privacy online is protected as part of the realization of their right to information and in line with the protection of personal data. Commit to not tracking, collecting, storing or sharing the following with the objective of limiting migrants’ human rights; data of migrants’ journeys, location data, or their communications through digital technologies and media, or data of those who provide assistance to migrants. | There are several reliable sources of information on data security for people working with migrants to ensure migrants’ privacy. Examples include:   1. The Electronic Frontier Foundation (EFF) have long been advising on digital security and provide a wealth of resources for activists on its website, including on protecting your data;[[178]](#footnote-178) 2. The Responsible Data Forum, a collaboration between Amnesty International, Aspiration, The Engine Room, Greenhost, HURIDOCS, Oxfam, Leiden University’s Peace Informatics Lab, School of Data and Ushahidi, has published a handbook on responsible data usage.[[179]](#footnote-179) |
| Media   * 1. Promote a safe and enabling environment for all media professionals, citizen-journalists and journalistic sources to be able to perform their work without undue interference, in order to ensure independent and accurate reporting on issues related to the movement of migrants in a vulnerable situation. End impunity for attacks on media professionals who report on such issues. | In March 2016 the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media Dunja Mijatović recommended the OSCE participating States to:   * Instruct immigration and other law enforcement agencies to respect the right of members of the media to report on issues of public interest and to ensure their safety. * Facilitate journalists’ access to areas and locations where stories related to the crisis develop: border areas, refugee camps and other relevant facilities. * Allow journalists to interview or have contact with refugees in order to report on personal stories and current living conditions. * Respect and promote media self-regulatory mechanisms in order to avoid the stereotyping of refugees.[[180]](#footnote-180)   *Resources*:  Freelance Journalist Safety Principles[[181]](#footnote-181)  The Ethical Journalism Network have produced a five-point guide for reporting on migration.[[182]](#footnote-182) |
| Principle 17: Monitoring and accountability **Guarantee monitoring and accountability in all responses to migration, including in large and/or mixed movements of migrants** | |
| Monitoring mechanisms  17.1 Establish or strengthen independent internal and external mechanisms to monitor the human rights impact of laws, policies and practices that are relevant to migrants. Publish monitoring reports (while protecting confidentiality) in line with principles of accountability and transparency. |  |
| Access  17.2. Ensure and facilitate the unrestricted access of independent monitoring bodies, including national human rights institutions, ombudspersons, national preventive mechanisms and other relevant bodies to all locations, including places of detention, and to all information that is required to effectively monitor the human rights of migrants. Enable civil society actors working with migrants to participate in monitoring and evaluating the human rights impact of governance measures. Share this information with the United Nations human rights treaty-monitoring bodies and special procedures and through the Universal Periodic Review process. Ensure that mechanisms are put in place to implement recommendations by the national and international monitoring bodies. | Within the European Network of National Human Rights Institutions, many of the members have done significant work on combatting negative stereotyping and hate speech, through their monitoring, and reporting work, such as the French Commission (CNCDH) which in its annual report on combatting racism, anti-Semitism and xenophobia is monitoring and analysing the actions of the public authorities and formulates recommendations to help them fight against this phenomena, but also through complaints handling and legal action. The latter is the case of the Belgian NHRI, Interfederal Centre for Equal Opportunities (UNIA), which handled an increased number of complaints during the past year. Several NHRIs are also working on projects to identify and prevent hate speech on the internet.[[183]](#footnote-183) |
| Complaints mechanisms  17.3 Provide and publicise accessible complaints mechanisms that migrants can use without fear of retribution, including through the use of effective firewalls. Ensure prompt, impartial, and independent investigations of violations of human rights against migrants and bring State and non-State actors found to be responsible to justice through a fair trial. |  |
| Corruption  17.4 Investigate and prosecute corruption on the part of immigration authorities as well as the involvement or complicity of authorities in abuse of migrants’ human rights, and ensure necessary legislation and resources for this purpose |  |
| Remedies  17.5 Provide effective and timely remedies that respond to the different types of human rights abuse and violations experienced by migrants. Remedies must be provided by a judicial mechanism or a mechanism with equivalent independence, impartiality and effectiveness, and ensure the provision of adequate and comprehensive reparations. |  |
| Accountability of all actors  17.6 Ensure the effective accountability of non-State actors, including private security companies and military contractors as well as private transport companies, which are involved by States in responses to migration, including large and/or mixed movements of migrants. This would include private actors who are involved in search and rescue, implementing entry restriction measures such as pre-departure screening and decisions on access to transportation, providing services to migrants, or operating detention facilities. Concrete mechanisms should be established to ensure accountability, and to guarantee remedies in the case of human rights abuses. |  |
| Principle 18: Human rights defenders **Respect and support the activities of human rights defenders and others working to rescue and provide assistance to migrants** | |
| Operational environment   * 1. Provide a safe, accessible and enabling environment in which individuals and organizations working to support migrants can operate. Ensure specific protection of human rights defenders who work in defence of migrant women’s rights, as well as migrants who defend the rights of other migrants. Do not criminalize the provision of support and assistance to migrants. Ensure that human rights defenders are not prevented from enjoying human rights owing to their work |  |
| Support / enabling   * 1. Develop and put in place sustainable public policies or programmes that support and protect human rights defenders at all stages of their work and do not place any limitations on their work that are contrary to international standards. Ensure that legislation affecting the activities of human rights defenders, including any legislation and procedures governing the registration and funding of civil society organisations as well as legislation designed to guarantee public safety and public order, is consistent with international human rights law | The Constitution of Montenegro recognizes that forming an association is a right that requires no form of approval; it is applicable to children from the age of 14 years. In Finland, online notification is sufficient to register a civil society organization and unregistered organizations operate freely, in line with recommendations of United Nations experts.[[184]](#footnote-184)  In Mexico and Côte d’Ivoire, laws have been enacted that specifically protect human rights defenders, drawing on the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.[[185]](#footnote-185)  OHCHR and UN-Women launched programmes in Mexico, the Philippines and the Republic of Moldova designed to strengthen female migrant worker organizations.[[186]](#footnote-186) |
| Protection   * 1. Take all necessary measures to ensure the protection of human rights defenders working with migrants, individually and in association with others, against any violence, threats, retaliation including discrimination, threats of deportation or other kinds of pressure or arbitrary action, by State or non-State actors, as a consequence of their work | The *Workbook on Security* by Front Line Defenders is inspired by the hundreds of human rights defenders from over 50 countries who have attended Front Line Defenders‘ workshops on security and protection. The Workbook is designed to raise awareness about security issues and to help human rights defenders consider how to mitigate threats. The workbook takes human rights defenders through the steps to producing a security plan – for individuals and for organisations. It follows a systematic approach for assessing their security situation and developing risk and vulnerability reduction strategies and tactics.[[187]](#footnote-187)  The UN has adopted the *Guidelines against Intimidation or Reprisals* (“San José Guidelines”) in response to intimidation and reprisals against those who provide information or contribute to the treaty bodies' work to promote and protect human rights. The Guidelines underline States’ responsibility to avoid acts constituting such intimidation or reprisals and mobilise treaty bodies’ means to assist and protect individuals and groups who have been targeted for seeking to cooperate or cooperating with them.[[188]](#footnote-188) Specifically, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has adopted the San José Guidelines and appointed one of its members as Rapporteur on reprisals.[[189]](#footnote-189) One of the Assistant Secretaries General for Human Rights has also been mandated to lead UN work on ending intimidation and reprisals against human rights defenders.[[190]](#footnote-190)  There are several resources available to human rights defenders to improve their digital security as technology becomes increasingly fundamental to their work, including:   1. Tactical Tech offer digital security workshops and have an archive on digital security in human rights;[[191]](#footnote-191) 2. *Security in-a-Box* is a guide to digital security for activists and human rights defenders throughout the world. It is jointly developed by Front Line Defenders and Tactical Technology Collective, along with a global network of thousands of activists, trainers and digital security experts.[[192]](#footnote-192) 3. Ononymous.org provides a collection of digital security training materials - videos, toolkits, guides – by contributors including Tactical Tech, Front Line Defenders, EFF, Open Data City, The Tor Project, The Centre for Investigative Journalism and Access Now.[[193]](#footnote-193) |
| End impunity   * 1. Investigate and pursue accountability for all attacks and threats by State and non-State actors against migrants’ human rights defenders as well as against their family members, associates and legal representatives. Condemn publically all cases of violence, discrimination, intimidation and reprisals in this context |  |
| Whistleblowers   * 1. Adopt or revise and implement national legal frameworks to protect any person who discloses information about the human rights of migrants that they reasonably believe, at the time of disclosure, to be true and to constitute a threat or harm to a specified public interest, such as a violation of national or international law, abuse of authority, waste, fraud or harm to the environment, public health or public safety. Ensure there are adequate oversight mechanisms to protect, investigate and provide redress and compensation as appropriate | Whistleblower protection has been recognised by all major international instruments concerning corruption.[[194]](#footnote-194)  *Resources*:  Transparency International have published *International Principles for Whistleblower Legislation* to ensure that policies provide accessible disclosure channels for whistleblowers, meaningfully protect whistleblowers from all forms of retaliation, and ensure that the information they disclose can be used to advance needed reforms.[[195]](#footnote-195) |
| Endorse publicly   * 1. Express public support for the important role of human rights defenders and the legitimacy of their work, including by condemning all cases of violence and discrimination against them and underlining that such practices can never be justified |  |
| Principle 19: Data **Improve the collection of disaggregated data on the human rights situation of migrants, while ensuring the right to privacy and protection of personal data** | |
| Qualitative research, including on causes   * 1. Produce and support quantitative and qualitative research on migrants’ experiences, with their consent and voluntary participation, to inform rights-based and evidence-based migration policies, to measure trends and raise awareness of risks, and to sanction and prevent abuse of the human rights of migrants. Priority subjects for research include, but are not limited to the following: Data on the number and circumstances of migrants in vulnerable situations; Analysing the root causes and drivers of the movement of migrants in vulnerable situations, including analysis of the decision-making factors and triggers for international migration; Data on the number, age and gender of migrants crossing maritime, land or air borders, including those who are killed, missing, injured, or victims of crime or enforced disappearances while attempting these crossings; Quantitative and qualitative data and indicators on immigration detention, on the alternatives applied and the reasons for applying them and discounting other options; Data on complaints, investigations, prosecutions, and convictions of all instances of human rights violations perpetrated by State or non-State actors against migrants. | The Regional Mixed Migration Secretariat (RMMS) created the Mixed Migration Monitoring Mechanism Initiative (4Mi) in mid-2014 as an attempt to address the need for better data. The 4Mi is an innovative, low-cost approach to collect and analyse data on mixed migration flows, initially out of the Horn of Africa. Through a network of thirty locally-recruited monitors in strategic migration hubs in Northern, Eastern, and Southern Africa, Southern and Eastern Europe, and the Middle East, the 4Mi project tracks Eritrean, Ethiopian, Djiboutian and Somali people on the move through interviews and questionnaires, generating data disaggregated by gender, country of origin, and their experience of human rights abuses.[[196]](#footnote-196) |
| DISAGGREGATED DATA   * 1. Disaggregate data on the human rights situation of migrants by age and gender as well as other grounds as relevant, such as migratory status, religion, ethnicity, disability, sexual orientation or gender identity and minority status |  |
| STATISTICAL DATA AND INDICATORS   * 1. Work collaboratively to collect reliable statistical data on international migration, including through developing international standardised approaches for monitoring indicators on and variables relating to migrants’ human rights | UNHCR publishes data on the numbers of migrants travelling different routes, including those dying or going missing en route, with links to other resources.[[197]](#footnote-197) IOM also maps this data.[[198]](#footnote-198) IOM has published two reports in the *Fatal Journeys* series, on tracking, identification and the tracing of dead and missing migrants.[[199]](#footnote-199)  The *Human Costs of Border Control* project published the *Deaths at the Borders Database* *for the Southern EU*, an open-source evidence base of individualised, but anonymised, information about the 3188 people who died between 1990 and 2013 at the borders, sourced from the death management systems of Spain, Gibraltar, Italy, Malta and Greece. It is the first database on border deaths in the EU to be based on official sources as opposed to the news media.[[200]](#footnote-200)  The Regional Mixed Migration Secretariat, a unit focused on mixed migration flows within and out of the Horn of Africa and Yemen, compiles monthly summaries of mixed migration movements, data, trends and issues in the sub-region, as well descriptions of political events and policy changes affecting mixed migration, publishing monthly narrative summaries, maps and media listings and quarterly and annual trend analysis.[[201]](#footnote-201)  *Resource*: In response to a longstanding demand to develop and deploy appropriate statistical indicators in furthering the cause of human rights, OHCHR developed a framework of indicators that is now being applied by national governments, national human rights institutions and non-governmental organisations worldwide to strengthen the capacity of Member States in meeting their human rights obligations.[[202]](#footnote-202) |
| Research ethics   * 1. Ensure research and data collection methodologies are firmly grounded in ethical principles, including an understanding of the need not to re-traumatize or otherwise harm migrants, as well as international standards and principles for the protection of personal data. Data should be permanently and irreversibly anonymised to ensure its use does not compromise privacy rights and that it cannot be used for immigration enforcement purposes. Ensure digital biometric technologies are never used to facilitate hi-tech forms of discriminatory profiling of migrants or to increase their vulnerability to surveillance, or are otherwise used, stored or processed in a way that can cause risks to individuals | Research in 2015 by the NGO Women for Refugee Women on women asylum seekers’ experiences of detention in the UK was carried out with care to the vulnerabilities of the individual woman and in accordance with the Social Research Association Ethical Guidelines. All participants were asked to give oral consent after the research aims and purposes were explained to them. Participants were informed that their names and details would be kept confidential.[[203]](#footnote-203) |
| Data protection and privacy   * 1. Monitor collection of all data on migrants (including biometric data) to ensure it is obtained lawfully, stored, transferred and disposed of in accordance with international standards and best practice guidelines on data protection and privacy. Personal data, including biometric data, should be handled in a confidential manner and be subject to a high level of data security to prevent unauthorized access, loss, or damage | KOK e.V., a German NGO network against trafficking in human beings, with La Strada International, the European NGO Network against Trafficking in Human Beings, implemented datACT, a joint project to develop data protection standards for anti-trafficking NGO service providers. The aim of the project was to promote the rights of trafficked persons to privacy and autonomy and to protect their personal data.[[204]](#footnote-204)  Under EU law, everyone has the right to the protection of personal data.[[205]](#footnote-205)  Recognising that there was limited guidance on protecting personal data in the context of migration, the International Organization for Migration (IOM) produced a data protection manual comprised of three parts: IOM’s data protection principles as informed by relevant international standards; comprehensive guidelines on each principle, consideration boxes and practical examples; and generic templates and checklists to ensure that data protection is taken into account when collecting and processing personal data.[[206]](#footnote-206) |
| Principle 20: Capacity and cooperation **Build capacity and promote cooperation amongst and between all relevant stakeholders to ensure a gender-responsive and human rights-based approach to migration governance and to understand and address the drivers of the movement of migrants** | |
| Partnerships   * 1. Establish or strengthen multi-stakeholder partnerships and cooperation to uphold the human rights of all migrants. Stakeholders include national human rights institutions, intergovernmental, international and regional organisations, civil society organisations including representative migrants’ associations, women’s organisations, trade unions, representative employers’ organizations and private sector actors, at the local, national, regional and international levels. Establish terms and conditions for cooperation and coordination among stakeholders with clear areas of responsibility, including referral procedures, and regular information exchange | The Praesidium project provides a multi-agency cooperation model for humanitarian reception and assistance led by the Italian Ministry of Interior and carried out by States institutions, in partnership with the International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the Italian Red Cross (CRI) and Save the Children Italy. Through this project, initiated in 2006, various activities have been coordinated among the different agencies according to their mandate and expertise, including legal information and counselling; monitoring and identification of individual cases, monitoring of migrants’ health conditions, paying particular attention to women and children or people with a disability; monitoring reception procedures. The partners also developed joint procedures to guarantee the constant presence of field officers in landing areas and in migrant reception centres. This allowed for better coordination and information exchange efforts between the different stakeholders.[[207]](#footnote-207) |
| capacity building   * 1. Build the capacity of all officials, including of law enforcement, municipal authorities and local governments, who are in contact with migrants to promote and protect the human rights of all migrants. |  |
| pathways of migration   * 1. Enhance sufficient, accessible and safe migration pathways, through both extraordinary and permanent avenues, and promote holistic approaches that take into account the demand for such pathways, such as for labour migration at all skills levels, that come from receiving societies as well as the necessity for migrants to seek protection of their rights, including the right to family life |  |
| root causes   * 1. Promote international cooperation to address the root causes and drivers of the movement of migrant in vulnerable situations in a rights-based and sustainable manner. Ensure that all responses to manage or mitigate such drivers, including those related to the adverse consequences of climate change and environmental degradation, are carried out in accordance with international human rights law and standards in order to facilitate migration with dignity and to avoid human rights violations. Ensure the meaningful participation of migrants and their communities in these responses. | The Nansen Initiative consultative process worked to build consensus among States on key principles and elements to protect people displaced across borders in the context of disasters caused by natural hazards, including those linked to climate change. Efforts are now focused on the follow up to and implementation of the recommendations of the Nansen Initiative *Protection Agenda*, endorsed by 109 governmental delegations during a Global Consultation in October 2015.[[208]](#footnote-208) The *Protection Agenda* offers States a set of tools to better prevent and prepare for displacement before a disaster strikes, as well as to better respond to situations when people are forced to move, either within their own country or across an international border.[[209]](#footnote-209) |
| Regularisation   * 1. Consider regularising the situation of migrants in an irregular status within a reasonable period of time as the most effective measure to address the needs, and secure the rights, of such migrants | The Agreement on Residency for Nationals of States Members of the Common Market of the South (MERCOSUR) was signed in 2002 and came into force in 2009. The Agreement guarantees that nationals from a country of MERCOSUR can acquire a temporary residence (and after two years, permanent residence) in any of the countries of the regional organization, and that such individuals are entitled to receive the same treatment as nationals, including in the labour market. Regularization programmes have been adopted in Argentina (2007-2010), Brazil (2009), Chile (2007) and Paraguay (2011). The programme in Paraguay allowed the regularization of about 5,000 individuals who had entered the country irregularly prior to October 2010. It has been reported that the “Patria Grande” regularization programme of Argentina that granted either temporary or permanent residence to 560,131 people has brought significant development benefits to the host country.[[210]](#footnote-210)  Article 61 of Argentina’s 2004 National Migration Act demands that in all cases in which the irregular status is identified, the primarily response from the State is to grant a time period for migratory regularization and only in the case that the regularization is not possible after an integral analyses of the categories and the spirit of the law, the Authority could consider their possible expulsion from the territory. In this final supposition, the decision would not become official until a judge reviews the administrative decision.[[211]](#footnote-211) |
| Inclusion/integration   * 1. Promote the inclusion of migrants in receiving societies. Develop integration policies, practices, institutions and partnerships which aim to support inclusion and foster greater social and economic equality and cultural diversity. In this regard gather complementary skills across the public sector, private sector, civil society and migrant communities. Ensure that migrants are able to form and join trade unions and to participate in informal networks and associations as well as community and faith-based activities. Make efforts to ensure that migrants are able freely to practice their religion or belief and to worship in private and public, including in community with others. | Through November 2016 Battersea Arts Centre in London hosted *London Stories: Made by Migrants*, a festival of storytelling in which people will share their experiences of moving to the UK capital. Contrasting with newspaper headlines against migration, a number of the 30 selected storytellers perform each night and cover the full breadth of migrant experiences: from those who emigrated in the 1940s to recent arrivals, migrations driven by a range of factors. Audiences are given cards with links to things that people can do in terms of connecting with organisations working on this.[[212]](#footnote-212)  *Good Chance* builds temporary ‘theatres of hope’ where the need for expression is great and where there is nowhere to fulfil this need. Supported by a couple of UK theatres and other allies, they spent seven months creating work with the residents of the Jungle camp in Calais and felt the difference that a space to be together, to express, can make. The daytime schedule could include writing workshops, music lessons, dance, acting and performance. They also regularly welcomed visiting companies and artists who deliver workshops over one to seven days in specific performance arts like circus and clowning, or work in smaller groups to develop a more intimate process and performance piece over a longer period. Every evening they hosted big communal events which bring all of the camp’s many nationalities together. Events included poetry slams, stand up comedy, acoustic sets, theatre performances, rap battles, film nights and mass chill outs.[[213]](#footnote-213) |
| Media   * 1. Improve knowledge, build capacity and sensitize media professionals and outlets on the situation and human rights of migrants. Strengthen the capacity of media professionals and journalists to report accurately and sensitively on migration issues with an emphasis on eliminating harmful stereotypes, upholding the rights of migrants and promoting recognition of the value of inclusive and diverse societies | In South Africa in 2013, Community Media for Development worked with 20 refugees, migrants, and South Africans to develop three mini-dramas and related discussion guides to help promote awareness, encourage dialogue, and urge migrants and refugees in South Africa to seek care. The drama, “Change the Story: Migrants and Refugees speak against Gender-based violence” was played on radio in 2013. One episode explores the plight of a migrant woman who is physically and sexually assaulted by her husband and her difficulties seeking help from police.[[214]](#footnote-214) |
| Transparency/accountability   * 1. Ensure that migration policy-making at the national, regional and international levels, is subjected at all times to oversight including parliamentary scrutiny and rendered transparent and accountable by making public all bilateral agreements, readmission agreements and Memoranda of Understanding relevant to migration. Ensure that international cooperation is always premised on the obligation to respect, protect and fulfil the human rights of migrants and never conditional on measures that prioritize the unlawful and/or disproportionate restriction or containment of migration. |  |
| Generally / overall | |
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