Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on human rights and international solidarity and the Special Rapporteur on the human rights of migrants

Ref.: OL ITA 1/2026
(Please use this reference in your reply)

6 July 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Independent Expert on human rights and international solidarity and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 53/9, 59/4, 60/10, 61/22, 53/5 and 61/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Bill No. 1869 *Provisions on Immigration and International Protection, as well as provisions for the implementation of the European Union Pact on Migration and Asylum of 14 May 2024*.

An analysis, recommendations and concerns on the possible negative impact of the implementation of the European Pact on Migration and Asylum on the human rights of migrants and asylum seekers, including children and those in vulnerable situations was already provided in our communication OL OTH 144/2023. Further concerns were expressed in OTH 119/2025 and OTH 166/2025.

In our previous engagement, we have requested clarifications from your Excellency's Government regarding legislative measures which, while presented as tools to protect national security and public order, reportedly have the effect of criminalizing and obstructing the legitimate work of civil society organizations and non-governmental organisations (NGOs) engaged in search and rescue (SAR) operations in the Mediterranean Sea. The Special Rapporteurs are further concerned that these measures may adversely affect the fundamental rights of migrants, asylum seekers and refugees, including their rights to life, safety, access to protection and humanitarian assistance, and would welcome information on the compatibility of such measures with Italy's obligations under international human rights law, refugee law and international maritime law.

We wish to recall that the legislative framework is essential to the realization of the human rights incluidng the rights to freedom of peaceful assembly and association

His Excellency
Mr. Antonio Tajani
Deputy Prime Minister and Minister for Foreign Affairs and International Cooperation

of migrants in Italy; realization that has faced challenges over the years and which we, UN special procedures mandate holders, have brought to the attention of your Excellency's Government (ITA 4/2019, ITA 5/2020; ITA 7/2020; ITA 2/2021; ITA 1/2022; ITA 1/2023; ITA 4/2024; ITA 3/2024; ITA 7/2024; ITA 4/2025; ITA 6/2025).

Following a review of the Bill and its compliance with international law, we would like to provide the following observations:

The Bill No. 1869 (hereinafter referred to as the Bill) presented on 14 April 2026, and currently under scrutiny, introduces new provisions in Article 2, which could potentially limit the rights of refugees, asylum seekers and migrants rescued at sea, while also obstructing Search and Rescue (hereinafter 'SAR') activities carried out by civil society organisations and human rights defenders in the Central Mediterranean, restricting the possibility of disembarkation to a place of safety and of search and rescue of persons in distress.

Article 2 of the Bill, as it stands, represents a further extension of the Italian Decree-Law (15/2023) and the practice of assigning distant ports of disembarkation for persons rescued in distress at sea, highlighting incompatibility with international maritime law and the law of the sea. These concerns have previously been addressed to your Excellency's Government (ITA 4/2024 and ITA 1/2023). We acknowledge and appreciate the responses received.

We are concerned that provisions in the Bill will have a significant impact on the rights of refugees, asylum seekers and migrants rescued at sea, while also obstructing SAR activities carried out by civil society organisations in the Central Mediterranean.

We note with grave concern that, since 2014, the International Organization for Migration (IOM), through its *Missing Migrants Project*, has recorded at least 26,760 deaths and disappearances along the Central Mediterranean route[1], while acknowledging that the true number is likely considerably higher.Further information received indicates that, since February 2023, 15 NGO-operated search and rescue vessels have reportedly been detained on 41 occasions, resulting in more than 1,000 cumulative days of detention. We are concerned that the proposed legislation may significantly undermine the operational capacity of humanitarian actors engaged in life-saving activities at sea and may adversely affect the protection of the rights to life and safety of migrants and refugees in distress.

Specific concerns about provisions in the Bill No. 1869

Article 2 provides that in situations where there is a "serious threat to public order or national security", the entry into Italy's territorial waters may be temporarily prohibited by a resolution of the Council of Ministers, on the proposal of the Minister of the Interior. While the provision is "without prejudice to compliance with international treaties and agreements," we are concerned that the Bill, if enacted, would lead to failures to ensure protection of persons in situations of distress at sea, and to

[1] IOM, Missing Migrants [Accessed 11 June 2026].

violations of international human rights law, in practice, given the lack of clear procedural safeguards and judicial oversight of the imposition of prohibitions on entry.

Article 2.1-*ter* of the Bill sets out four conditions justifying a temporary ban on entry into territorial waters. These are: 1. The concrete risk of acts of terrorism or the infiltration of terrorists into the national territory; 2. exceptional migratory pressure compromising the secure management of borders; 3. serious health emergencies of international significance; 4. and high-level international events requiring the adoption of extraordinary security measures.

We consider that these conditions are broad and lack clear definitions and criteria for their application, leaving them open to interpretation. Laws must be accessible and sufficiently precise to allow members of society to decide how to regulate their conduct (predictability) and must not confer unlimited or broad discretion on those who enforce them. The absence of precise definitions risks significantly expanding the margin of discretion afforded to the administrative authorities. Such broad clauses may be applied in a flexible and inconsistent manner, undermining legal certainty and the effectiveness of safeguards for those concerned. It also challenges the principles of legality and predictability of administrative action.

The provision for a ban based on the risk of 'acts of terrorism' and 'infiltration' on national territory' lends itself to broad interpretation difficult to challenge. The provision does not specify how risk assessments would be carried out, leaving the criteria, parameters, and sources of information undefined. Additionally, the risk assessment may be based on classified information, with a consequent curtailment of the rights of defence and significant imbalance between the administration and the parties involved in any legal proceedings. Judicial review risks being undermined, thereby impacting the effectiveness of the protection of rights. Furthermore, the broad scope and strong symbolic significance expose the measure to a high risk of political exploitation, which could indirectly criminalise SAR NGOs.

The reference to 'exceptional migratory pressures' is also vague and is not accompanied by objective criteria or quantitative parameters suitable for defining its scope of application and safeguards for those concerned. It also challenges the principles of legality and predictability of administrative action.

We recall that, as stated by the European Court of Human Rights in *Hirsi Jamaa and Others v Italy*, "problems with managing migratory flows cannot justify having recourse to practices which are not compatible with the State's obligations", under the European Convention on Human Rights.[2]

We recall that international law requires that everyone rescued at sea be promptly disembarked and delivered to a place of safety. The International Maritime Organization's MSC.167(78) – Guidelines on the Treatment of Persons Rescued at Sea (hereafter MSC.167(78)) – define a place of safety as a location where rescue operations are considered to terminate; where the survivors' safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs)

[2] Hirsi Jamaa and Others v. Italy, *(Application No. 27765/09),* para. 179.

can be met, taking into account the particular circumstances of each individual (MSC.167(78), paras. 6.12 and 6.15).

We further recall that the right to life must be ensured, as a fundamental and non-derogable human right set out in the International Covenant on Civil and Political Rights and other international human rights treaties, without discrimination.[3] Moreover, under international law, an act of omission - that is, not acting appropriately, including when failing to recognize an apparent situation of distress – could amount to an internationally wrongful act of a State.[4]

We note that Article 2. 1-*quinquies* provides that the ban on entry is temporary and exceptional, and valid for a maximum of 30 days, but can be extended for an additional 30 days and up to a maximum period of six months. Further, Article 2 provides for the imposition of penalties, including fines, and for the confiscation of the vessel in the event of repeat offences. While Article 2 does not explicitly refer to NGO search and rescue vessels, we are concerned that the possible imposition of penalties without statutory guarantees of due process, judicial oversight and effective access to courts, may further hinder search and rescue operations, and create a chilling effect for human rights defenders, civil society organisations and humanitarian actors assisting persons in distress at sea and ensuring their disembarkation to a place of safety. In particular, it might affect their ability to exercise their right to promote, defend and protect human rights and fundamental freedoms, which would not be in line with the provisions of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. These include articles 1 and 2, which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We are concerned that the justifications listed allow for sweeping restrictions on search and rescue operations, and disembarkation to a place of safety, without clarity as to how judicial oversight of the imposition of such bans and their implementation will be ensured, or adherence to due process requirements, including of necessity, proportionality and non-discrimination, and rights of appeal for those affected.

The possibility that such bans may be imposed based on classified information with a consequent curtailment of the rights of defence and significant imbalance between the State and the affected parties involved in any legal proceedings, is a serious concern, undermining the principles of equality before the law, and of legality.

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[3] See general comment No. 36: article 6 (Right to Life), 2019, CCPR/C/GC/36. The Human Rights Committee reaffirmed the need for an expansive interpretation by stipulating that the right to life is a right that should not be interpreted narrowly (para. 3). The Committee further noted that a State's obligation to respect the right to life includes an obligation to take action in the case of foreseeable threats to the right to life and in life-threatening situations, even in situations in which those threats and situations are not caused directly by the State (para. 18). The Committee also recalled that States are required to respect and protect the lives of individuals who find themselves in a situation of distress at sea, in accordance with their international obligations on rescue at sea (para 63). Furthermore, the Committee recalled that States must respect and protect the lives of individuals located in places that are under their effective control (para. 63).

[4] See Article 1, 2 and 3, Responsibility, of States for Internationally Wrongful Acts, 2001, International Law Commission.

Article 2.1-sexies provides for transfers of persons on board vessels subject to interdiction orders to third countries other than their country of nationality or origin, with which Italy has entered into specific agreements or arrangements providing for their assistance, reception, or detention in dedicated facilities, where international organizations specializing in the fields of migration and asylum operate, including for the purpose of repatriation to their country of nationality. This provision raises serious concerns regarding violations of the principle of non-refoulement and of the prohibition of collective expulsions.

We emphasize that the prohibition on refoulement under international human rights law applies to any form of removal or transfer of persons, including deportation, where there are substantial grounds for believing that the returnee would be at risk of irreparable harm upon return, due to torture, cruel, inhuman or degrading treatment or punishment, or other serious human rights violations, such as arbitrary deprivation of life, enforced disappearance, arbitrary detention, trafficking in persons or slavery, or flagrant denial of fair trial. The prohibition is absolute and without any exception, and applies to all persons, irrespective of their citizenship, nationality, statelessness, or migration status.

The absolute prohibition against refoulement under human rights law is broader than in refugee law, meaning that persons may not be returned even when they may not qualify for refugee status under the 1951 Refugee Convention relating to the Status of Refugees and the 1967 Protocol, or under domestic law. Accordingly, the obligation of non-refoulement under human rights law must be assessed independently of refugee status determinations, to ensure that the fundamental right to be free from return to serious human rights violations is respected. Article 3(1) of the Convention against Torture further provides that '[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. Article 3(2) states that "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights".

Specifically, article 2 of the ICCPR entails "an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm" (Human Rights Committee, general comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004) para. 12).

We further highlight that the duty to respect and ensure the right to life under article 6 of the ICCPR requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life would be violated (general comment No. 36, article 6, Right to Life, para. 30, CCPR/C/GC/36).

State parties to the ICCPR must adopt special measures and respond urgently and effectively in order to protect individuals who find themselves under a specific threat, including victims of domestic and gender-based violence and human trafficking,

and displaced persons, asylum seekers, refugees (Ibid, para. 23). The absolute prohibition against refoulement under human rights law is broader than in refugee law, meaning that persons may not be returned even when they may not qualify for refugee status under the 1951 Refugee Convention or domestic law. Accordingly, non-refoulement under human rights law must be assessed independently of refugee status determinations, to ensure that the fundamental right to be free from return to serious human rights violations is respected.

We recall that access to the courts, to judicial review and guarantees of judicial oversight, are essential to ensure compliance in law and in practice with international human rights law. Access to a competent, impartial and independent judicial or administrative body and individualized, prompt and transparent pre-removal risk assessments, ensuring procedural safeguards are essential, including access to legal representation and to interpretation where necessary.

The imposition of prohibitions on entry to territorial waters may also lead to a denial of the right to the highest attainable standard of physical and mental health. We recall that article 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR) guarantees the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In addition, by virtue of article 2(2) and article 3, the ICESCR proscribes "any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health" (Committee on Economic, Social and Cultural Rights, general comment No. 14 para. 18).

The Bill also raises further concerns about the proportionality and reasonableness of the system of sanctions provided, due to: (i) the automatic nature of confiscation and precautionary seizure in the event of repeat offences; and (ii) the significant economic and operational impact on rescue operations carried out, and consequently on the very freedom of association of NGOs.

Finally, the rules on repeat offences as set out in the provision appear excessively broad, potentially encompassing diverse and past violations and potentially capable of causing a cumulative distorting effect by applying to entirely different cases and not based on the actual seriousness of conduct.

On the criminalisation of civil society organisations carrying out search and rescue operations

Civil society and humanitarian organisations engaged in SAR operations play a crucial role in safeguarding human life and supporting the implementation of States' obligations under international maritime and human rights law.

As private, non-profit associations pursuing a lawful and humanitarian purpose, they fall within the scope of protection afforded by article 22 of the International Covenant on Civil and Political Rights (ICCPR) as they aim to achieve a common

lawful purpose through collective work. They are private, independent entities composed of individuals who operate on a non-profit basis and who voluntarily pursue the conventional goal of safeguarding the lives of all people at sea, regardless of their legal or personal status.

Legislation imposing a so-called "naval blockade" or equivalent interdiction on SAR vessels would directly affect the ability of these organisations to carry out their core statutory activities. As the United Nations Human Rights Committee has already recognised,[5] the right to freedom of association does not only concern the right to form an association but also guarantees the right of that association to freely carry out its statutory activities. As a fundamental right, any lawful restriction must be interpreted narrowly, as it is constitutes an exception to the right itself. Accordingly, all such restriction should be subject to rigorous scrutiny to ensure that their scope and limits are clearly defined. In cases where limitations are imposed, the highest degree of balance must be struck between the objectives and justifications for the restriction, on the one hand, and the rights exercised through the association, on the other. When an association's purpose is the protection of fundamental rights - such as the right to life - any attempt to limit or interfere with its activities, as is the case of NGOs engaged in SAR operations, must be subject to strict rules/scrutiny.

Moreover, where such measures are accompanied by severe sanctions, including fines and vessel confiscation, the restrictions shall be proportionate and "necessary in a democratic society". To meet the necessity requirement, authorities must demonstrate that the measure is genuinely effective in achieving the stated legitimate objective and that it constitutes the least intrusive means available among those capable of achieving the desired objective. The State must also prove that the measure is necessary to avert a real, not hypothetical, threat to one of the grounds for limitation, such as national security or public order (A/HRC/23/39, para. 23). In assessing the proportionality of a restriction imposed on associations, States must examine whether the measure is excessively burdensome and whether the nature and severity of the sanctions imposed for non-compliance are proportionate to the seriousness of the violation. Restrictions must not undermine the substance of the right or have a chilling effect that prevents its enjoyment (A/HRC/50/23, para. 14).

Given the quasi-criminal nature of the sanctions imposed by Italy on these associations, it is reasonable to assume that the legislation in question significantly exceeds the permissible limits on restrictions to freedom of association. Therefore, these provisions raise serious concerns regarding to Italy's compliance with its obligations to respect, protect and fulfil these rights under international conventions and peremptory norms of international law**.**

We are also concerned that such penalties are disproportionate to the economic capacity of civil society organizations, particularly smaller associations with limited resources. Ultimately, these punitive measures serve to dismantle the operational environment for human rights defenders and civil society action, rendering the right to freedom of association virtually impossible to exercise. On the contrary, States must ensure that sanctions for non-compliance with legal obligations are proportionate to the alleged wrongdoing.

[5] *Viktor Korneenko et al. v. Belarus*, Human Rights Committee, CCPR/C/88/D/1274/2004.

On stigmatising migrants in distress at sea: right to life, right to seek asylum and to be identified as victims of trafficking in persons, lack of consideration for the principle of non-refoulement

We also wish to draw the attention of your Excellency's Government, to the likelihood that, once approved, Article 2 of Bill No. 1869 will have a direct impact, not only on civil society and NGOs engaged in SAR activities and their personnel and shipmasters – but more importantly on people in distress at sea in the Central Mediterranean, including refugees, asylum seekers and migrants.

While the Bill does not formally prevent the rescue of people, in practice, it disrupts and jeopardises the process of disembarking people in a safe place[6] having a significant impact on the duty to rescue. Article 2 of the Bill attempts to justify restrictions on search and rescue operations by private vessels with the excuse of national security and public order. Shipmasters are subject to binding obligations under international law, including the protection of human life at sea and respect for the principle of *non-refoulement,* while coastal States have the duty to respect, protect and fulfil those rights. These obligations cannot be contradicted or undermined by domestic provisions that impose conduct incompatible with international standards.

Article 98 of the United Nations Convention on the Law of the Sea of 1982. provides that masters of ships shall be required to "(a) render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him". Similar obligations are further specified in the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR). Italy is signatory of all of them. We wish to remind your Excellency's Government that Article 98 is considered customary law; that it applies to all maritime regions and to all persons in distress, without discrimination; and that it applies to all ships, including private and NGO vessels under a State flag.

Coastal States are required to coordinate rescue operations and allow the prompt disembarkation of the survivors in a place of safety, facilitating the work of the shipmaster.

Article 2 fails to take into account States' international human rights obligations arising in the course of SAR operations, of which the non-derogable obligation to respect and protect the right to life, as enshrined in article 6 of the ICCPR, ratified by your Excellency's Government in 1978, is paramount. The right to life constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed by other human rights and it should not be interpreted narrowly (CCPR/C/GC/36, paras. 2-3).

[6] A 'place of safety' is a location where the lives of survivors are not threatened, where their basic human needs can be met, and where transportation arrangements can be made for their next or final destination, in compliance with the principle of non-refoulement and with due regard for the protection of their fundamental rights (EU Regulation No. 656/2014 and International Maritime Organization (IMO) 2004 Rescue Guidelines).

In light of the above-mentioned international human rights standards, SAR operations aiming at saving lives at sea cannot represent a violation of national legislation on border control or irregular migration, as the right to life should prevail over national and European legislation, bilateral agreements and memoranda of understanding and any other political or administrative decision aimed at 'fighting irregular migration'.

The Bill's provisions also risk violating the principle of *non-refoulement*, enshrined in article 33 of the 1951 Refugee Convention. In particular, the possibility of transferring people rescued at sea to "third countries" (i.e. countries other than their country of nationality or origin) arise concerns with respect to article 4 of Protocol No. 4 to the European Court of Human Rights (ECHR) as resembles a form of collective expulsion, a practice for which Italy has already been condemned by the ECHR.[7] Practices whereby countries of destination cooperate with another to prevent migrants and refugees from arriving have been characterized as "pullbacks" and as violations of the principle of *non-refoulement.* The Bill's provisions also risk undermining the right to seek asylum, by reducing or delaying access to asylum procedures. According to article 14 of the Universal Declaration of Human Rights, everyone has the right to seek and enjoy asylum. The assessment of asylum applications cannot be carried out at sea. According to the principle of solidarity at sea, established by the UN Convention on the Law of the Sea, particularly in its article 98, all vessels which encounter people in danger at sea, have a duty to rescue them and transport them to a place of safety, regardless of who they are. In addition, a SAR operation is only complete once the rescued persons have reached a place of safety.

The Bill refers to people on board vessels being prevented from entering territorial waters as 'migrants'. However, prior to disembarkation and the initiation of State procedures, individuals rescued at sea and on board a shipping vessel must be considered, from a legal perspective, as shipwrecked persons. The duty to render assistance must be fulfilled regardless of the status of the persons involved, in accordance with the fundamental principles of the laws of the sea. Immigration regulations cannot be invoked before a rescue operation has concluded, as a rescue is completed only when rescued persons are disembarked at a place of safety and reach national territory.

This classification of the persons on board, as introduced by the Bill, shapes the legal framework applicable within the Italian SAR region by blurring the boundary between law enforcement measures and SAR operations. This distinction is not purely theoretical, as it directly affects the rights of individuals rescued at sea, among others: the right to life, the right to seek asylum (non-refoulement and the prohibition of collective expulsion), the right not to be subject to torture and other cruel, inhuman or degrading treatment or punishment, and the right to an effective remedy, particularly where measures adopted at sea restrict access to legal assistance or judicial review.

All the above analysis indicates that there is a need to ensure adequate search and rescue capacity in the Mediterranean and to prioritize the primary obligation to save lives at sea, while upholding the principle of *non-refoulement* under international human rights, refugee, and humanitarian law. Considering the concerns detailed above,

[7] *Hirsi Jamaa and Others v. Italy* [GC], Application No. 27765/09, Judgment of 23 February 2012.

we strongly urge your Excellency's Government to reconsider the Bill No. 1869 and Article 2. The legislation risks contravening the human rights obligations of the Republic of Italy and the creation of unjustified impediments to the rights of assembly and association.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned observations on the proposed Bill and any planned amendments to the Bill to ensure compliance with international law.

2. Please provide information on the measures undertaken by your Excellency's Government to ensure that the legislative framework relating to the provision of humanitarian assistance, including search and rescue for migrants, refugees, asylum seekers and victims of trafficking in distress at sea, is conducive to human rights defenders and civil society organizations assisting persons in distress at sea and doing their work freely and safely.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Andrea Bolaños Vargas
Special Rapporteur on the situation of human rights defenders

Cecilia M. Bailliet
Independent Expert on human rights and international solidarity

Gehad Madi
Special Rapporteur on the human rights of migrants