



EU Search and Rescue Activities in the Mediterranean

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Abstract

This article focuses on the EU's search and rescue activities in the Mediterranean, the location of some of the world's deadliest migration routes. It argues that saving lives at sea is not an act of grace, nor of simple solidarity with those at risk. Rather, it is first and foremost a legal obligation under international law. Understanding this fact is essential when engaging in the underlying and frequently misleading debate on our humanitarian obligation to render assistance to people in distress at sea. The article also makes the point that the EU must clearly distinguish between economic migrants and refugees in need of humanitarian protection, and prioritise dedicating its resources to those genuinely in need of safeguarding. Legal pathways and humanitarian corridors can only be set up for refugees.

Keywords

Search and rescue, Mediterranean, Human trafficking, Migration, Refugees, Europol

Introduction

This article argues that the EU needs to prevent people from risking their lives crossing the Mediterranean and end the viability of the business model of human smugglers and traffickers. Saving lives at sea is not an act of grace, nor of simple solidarity with those at risk. It is first and foremost a legal obligation under international law. Understanding this fact is essential when engaging in the underlying and frequently misleading debate on our humanitarian obligation to render assistance to people in distress at sea. The route from Libya to Europe is still the migration route with the highest death toll in the world (UN News 2019). Our primary aim needs to be to deter people from risking the dangerous and deadly crossing of the Mediterranean. This is the basis of our determined commitment to fighting organised crime and human traffickers; however, protecting the most

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vulnerable is no less of an obligation for the EU. Migrant smugglers make huge financial gains by exploiting people and putting their lives at risk (*The Guardian* 2015). This cynical multi-billion-euro business must end. Therefore, we must push for a holistic approach that ensures proper coordination of sea rescues and a migration policy that is fair on those in need of protection, firm on those who are not eligible and strong against human traffickers.

The problem of fatalities at sea is not born at sea; it arises on land. Increased information sharing, coordinated operational actions and engagement with third countries will all support efforts to ensure that smugglers have no space in which to act. Europol, the EU agency for law-enforcement cooperation, plays a fundamental role in fighting migrant smuggling. Europol's European Migrant Smuggling Centre, supported by the work of Eurojust, the EU agency for judicial cooperation between member state agencies, is already a key asset, but its capabilities can be enhanced. Its main task is supporting police and border authorities to coordinate highly complex cross-border, anti-smuggling operations. In this regard, strengthening Europol's mandate is imperative. In addition, close cooperation and engagement with third countries is paramount to prevent migrant smuggling. One step in this respect is to share information and carry out awareness-raising campaigns of the risks of smuggling and irregular migration. This is crucial to prevent prospective migrants and asylum seekers, including people in more vulnerable situations such as children, from embarking on hazardous journeys to the EU. As part of a coherent 'Africa Strategy' we must support countries of origin and transit in the fight against people smugglers and help to build capacity, both in terms of effective asylum legislation, law enforcement and border management, and in the fields of education, health and social policy.

Non-governmental organisations conducting search and rescue operations

The European People's Party has been very clear that all non-governmental organisation rescue vessels can be part of the search and rescue (SAR) solution in the Mediterranean. At the same time, we call on all vessels to follow the instructions given in compliance with international and EU law by the competent Maritime Rescue Coordination Centre, and to cooperate with the member state authorities and the European Border and Coast Guard Agency (Frontex) in order to ensure the safety of migrants. However, for Frontex to share intelligence about operational activities with every boat in the Mediterranean would endanger more lives by facilitating, instead of dismantling, the business models of smugglers. Providing assistance that respects international conventions and applicable rules is not and should not be criminalised. This does not imply that any criminal act committed during an SAR operation should not be prosecuted. We cannot allow a legal vacuum to exist at sea.

Protecting the most vulnerable

The EU must clearly distinguish between economic migrants and refugees in need of humanitarian protection and prioritise dedicating its resources to those genuinely in need

of safeguarding. Legal pathways and humanitarian corridors can only be set up for refugees. Irregular economic migration to the EU must be significantly reduced for the sake of those in need of humanitarian protection as defined by the Geneva Convention. For those in pursuit of a better life, we need well-managed rules on legal migration which respond to the evolving labour market's needs.

SAR in the broader context of asylum and migration

Migration has been and will continue to be one of the defining challenges for Europe. It is therefore imperative that the EU finds a common European response to this challenge that balances solidarity and responsibility. Faced with the largest flows of displaced people since the Second World War, it is vital that we act collectively, determinedly and urgently. An effective reform of the Common European Asylum System (CEAS) is overdue. Strong borders, fair procedures and a sustainable system able to anticipate future migration crises need to be part of it. Effectively implementing the CEAS and safeguarding the Schengen area go hand in hand with the effective protection of the EU's external borders, alongside an efficient return policy for those third-country nationals without legal grounds to stay in the EU.

Despite the continuous efforts of member states, the European Commission and Frontex, the return rate is far from satisfactory. Increasing the number of returns requires additional efforts from both member states and third countries. Member states' return systems need to work in a coordinated manner. The full implementation of the Schengen Information System for Return is also key, enhancing border procedures and fighting secondary movements. The member states' competent return authorities should make full use of Frontex's new mandate on returns, taking into account its extension in both the internal and the external dimensions, including pre- and post-return activities. For the external dimension of its return mandate, Frontex should make use of all available tools and capacities to create leverage for cooperation with third countries in the field of returns. This needs to be part of a coherent new Africa Strategy. Cooperation should be mutually beneficial and based on the 'more for more' principle, whereby additional efforts by countries of origin and transit are rewarded with increased cooperation and additional support. Therefore, all relevant EU policies, instruments and tools, including trade agreements, as well as development aid, legal migration and visa policies should be linked with the cooperation of third countries in the fields of migration, return and readmission to assist with preventing irregular migration and returning irregular migrants to their countries of origin.

One of the overarching objectives of EU policies must be to address the root causes of migration. The focus should therefore be on assisting with the development of stable institutions to promote sustainable societal development in countries of origin and transit. This will require not only increasing development funding but also taking steps to create a new framework that enables a substantial increase in private investment from both Africans and Europeans. There should be a particular focus on education, health, infrastructure, innovation, good governance and women's empowerment. It is essential

to work with partner countries on resilience and stability, and on creating jobs and opportunities, both for migrants and refugees and for the host communities.

The EU needs to build on the experience of the EU Trust Fund for Africa and continue the work done so far on the African continent. It should replenish the Trust Fund for 2020 with contributions from member states and the Commission whilst identifying the precise needs it can fulfil.

The effectiveness of returns can only be improved if we increase coordination and work towards a European approach. The EU should ensure that in the future model, the majority of asylum seekers' applications are made outside the Union, or at the Union's external borders, prior to a decision on admission. The reformed CEAS should ensure that member states accept their fair share of responsibility, respecting the principle of solidarity, the latter being at the core of any EU approach to migration. A reformed CEAS should enable member states to form part of an EU framework where incoming asylum seekers are fairly distributed among them, thereby alleviating the pressure on states of first entry. Member states that are reluctant to participate in this framework must make significant, tangible contributions through other forms of meaningful solidarity. An EU framework for relocation between member states should ensure that all applicants in clear need of international protection are in a position to fully and swiftly enjoy their protection rights in the member state of relocation, while preventing applicants who are likely to receive a negative decision on their application from being relocated to another member state.

The EU should resume the discussion about regional disembarkation platforms on both sides of the Mediterranean where asylum seekers could be received safely and their claims assessed in an efficient, dignified and humane way. Such platforms could be operated by the European Asylum Support Office and Frontex without prejudice to the proper functioning of the reformed Dublin system. Every safe country in the Mediterranean, both EU states and third countries, has a role to play in SAR operations. Disembarkation must take place in accordance with international law, both inside and outside EU territory. Member states should be able to provide an examination on admissibility or an examination on the merits of an application, which would make it possible for such applications to be decided upon at the external border or at regional disembarkation platforms in certain well-defined circumstances. The accelerated examination procedure and the border procedure are necessary tools to deal efficiently with the examination of applications that are clearly fraudulent, manifestly unfounded or inadmissible. These should therefore be mandatory components of the future European Asylum Policy, which should also prioritise applications that take place at the external borders or outside Europe. We need to revisit regional arrangements for determining places of disembarkation to relieve front-line states of sole responsibility for disembarkations.

The 2016 EU–Turkey deal had significantly reduced the migration pressure on Europe. By establishing similar agreements with transit countries and countries of origin, illegal migration can be prevented while a large number of migrants can benefit from financial support in the countries of origin or transit. The EU facility for refugees in

Turkey has given almost 1.7 million Syrians support for basic daily needs, and more than 500,000 refugee children have been supported to attend school. Strengthening and further harmonising the CEAS rules should also ensure that treatment is equal across the EU in relative terms and reduce undue pull factors to come to the EU.

Resettlement is a safe and legal alternative to irregular and dangerous journeys for people in need of protection, and, by supporting it, it offers the EU a chance to demonstrate European solidarity with the non-EU countries hosting large numbers of people fleeing war or persecution. The member states' continued commitment to resettlement as a safe and legal pathway into the EU confirms that this remains one of the core instruments enabling people in need of international protection to arrive in the EU in an orderly, managed, safe and dignified manner. At the same time, greater responsibility for protection should not only be taken by the EU as a whole, but also by the international community, as it is currently shared in an uneven manner at the global level. Further development in this regard should be fostered and based on the UN Refugee Forum, where the principle of international responsibility sharing should be turned into concrete action. The smart management of migration requires not only a policy to address irregular flows while ensuring protection for those in need, but also a proactive policy of sustainable, transparent and accessible legal pathways. Europe is an ageing continent with a declining working-age population. The EU should explore ways of attracting innovative entrepreneurs who can boost economic growth and help create jobs. Legal migration has to become part of the overall discussion with countries of origin and transit on how to cooperate in the management of migration flows. The EU should foster cooperation between small and medium-sized enterprises in member states and third countries and push for a system of investment rather than solely aid.

It is well known that safe and legal migration pathways are the best ways to avoid loss of life.

Conclusion

The flow of refugees and irregular migrants across the Mediterranean is a major challenge for the EU. The EU must focus more on the root causes of these flows. It is essential to work with countries of origin on stability and, furthermore, to improve the economic opportunities of their inhabitants, thus giving people less incentive to migrate to Europe and potentially risk their lives in the process. This should be achieved firstly through enhanced investment and economic cooperation with African countries, and secondly through the provision of development aid. Cooperation on migration that engages partners in Africa to tackle the challenge should be one of the pillars of a coherent new Africa Strategy. The EU's institutional resilience, which facilitates its ability to admit and handle newcomers, should be also strengthened, as should the EU's capacity to return those who do not acquire refugee status.

Although irregular migration to the EU should be stopped, there is also a need to undertake initiatives that seek to stop the loss of life in the Mediterranean when people

from North Africa try to reach Europe. The member states, the EU and non-governmental organisations operating in the Mediterranean should cooperate more effectively to help those trying to reach Europe. However, these efforts should be better coordinated. Otherwise, we risk fuelling the exploitative business model of human smugglers and traffickers, who profit from the plight of those who seek to reach Europe. Efforts should be undertaken to create disembarkation platforms on the shores of the receiving states. The whole procedure of potential admission, resettlement or return could then be handled at these locations. Safe and legal pathways to reach the EU should be created, and those in need should be helped.

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Author biography



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