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Committee on Migration, Refugees and Displaced Persons

Saving migrants' lives at sea and protecting their human rights

Report¹

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Summary

The report underlines the serious ongoing humanitarian crisis in European waters and expresses concerns regarding the lack of action to save migrants' lives at sea, in the context of increasingly restrictive policies. By overlooking international human rights obligations while protecting borders, some member States are causing an unacceptable human suffering and even, in some circumstances, a humanitarian crisis, which could be prevented. The report highlights the legal and administrative obstacles faced by NGOs while carrying out search and rescue with the only aim of saving lives at sea and give protection to migrants in distress. It furthermore condemns the practice of some member States which are facilitating pushbacks to unsafe third countries on the pretext of deterring migration.

To address this crisis, the report calls for urgent reforms. It emphasises the need for full compliance with international law to guarantee the right to life at sea, the re-establishment of large-scale, states-led search and rescue missions, and the recognition of European waters as a humanitarian space. It recommends a re-evaluation and review of current agreements with Libyan and Tunisian coast guard authorities, in the light of their non-compliance with human rights standards, and demands the respect of the *non-refoulement* principle. The report stresses the need for safe legal migration pathways to reduce reliance on migrant smugglers and prevent further deaths. It ultimately calls for a radical shift in European migration policies, stressing that protecting human rights is fully compatible with border protection, and emphasising the shared legal and moral responsibility of all member States in preventing further tragedies.

¹ Reference to committee: [Doc. 15881](#). Reference 4782 of 22 January 2024.

Contents

A.	Draft resolution	3
B.	Draft recommendation	6
C.	Explanatory memorandum	7
1.	Introduction	7
2.	International rules and standards protecting the safety of life at sea	7
3.	A continuing humanitarian crisis at sea and left-to-die situations in European waters	10
3.1.	The dangerous migration sea routes in Europe	10
3.2.	The end of large-scale search and rescue missions in European waters	11
3.3.	Obstacles and criminalisation of search and rescue NGOs	12
3.4.	Criminal networks of migrant smugglers versus legal pathways	13
3.5.	The persistent threat and violation of international law	14
4.	Preventing deaths at sea, improving rescue operations, and better protecting the fundamental rights of migrants	17
5.	Conclusion	19

A. Draft resolution²

1. Daily, people flee their home countries to escape war, violence, political oppression, or climate change. They seek safety and a better life. Among them, there are people trying to reach Europe, and many by sea, where they risk their lives through dangerous journeys, as recorded since 2014 by the International Organization of Migration, but as witnessed since a longer period.
2. The Parliamentary Assembly is appalled by the numerous and recurring tragedies of migrants' lives lost in Europe's oceans and seas.
3. The Assembly recalls the European Convention on Human Rights and its Article 2 safeguarding the right to life. The Assembly refers in this respect to the European Court of Human Rights' landmark judgment *Safi and Others v. Greece*, which stressed States' obligation to carry effective investigations into violations of Article 2, to take appropriate steps to safeguard the lives of those within their jurisdiction and in the context of any activity, whether public or not, in which the right to life may be at stake. These obligations under Article 2 arose in the context of an operation to rescue migrants who were drowning while trying to cross borders at sea. The Assembly also recalls that States should effectively protect rescued migrants from torture and inhuman or degrading treatment, in accordance with Article 3 of the Convention, and effectively investigate any violations of this fundamental provision. The Assembly further recalls the importance of respecting the non-refoulement principle, as applied by the Court in the context of maritime search and rescue operations in its judgment *Hirsi Jamaa and Others vs Italy*.
4. The Assembly urges member States to fully comply with refugee, maritime and international humanitarian instruments, especially the UN Convention on the Law of the Sea, which places upon member States an obligation to ensure that shipmasters promptly render assistance to anyone in a situation of distress at sea, under Article 98. It additionally underscores the importance of the International Convention on Maritime Search and Rescue, the International Convention for the Safety of Life at Sea, the Council of Europe Convention on Action against Trafficking in Human Beings, the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), and the UN 1951 Refugee Convention.
5. The Assembly also encourages member States to use the Council of Europe's expertise in the migration field, in particular the newly established Division on Migration and Refugees; the [thematic work](#) of the Commissioner for Human Rights of the Council of Europe on migration; and the Council of Europe Programme on Human Rights Education for Legal Professionals (HELP).
6. The Assembly wishes to honour the bravery of all those saving migrants' lives in Europe's oceans and seas, including member States' national coast guard authorities and navies, NGOs, and volunteers. All these people risk their own lives to save others.
7. The Assembly underlines in this respect the important role of the International Maritime Organization in promoting a common and effective application of the legal framework of rescue at sea, as underlined in [Resolution 1999 \(2014\)](#) "The "left-to-die boat": actions and reactions".
8. The Assembly, echoing [Resolution 2305 \(2019\)](#) "Saving lives in the Mediterranean: the need for an urgent response", emphasises States' responsibility to prevent drownings in European waters. In this respect, the Assembly urges all member States to share responsibility for safety and protection of life in European waters, by committing to assist coastal member States in search and rescue operations, including by increasing the resources of their coast guard authorities.
9. The Assembly recalls that Greece's Aegean, Spain's Canary and Italy's Sicily islands, in particular Lampedusa, have been major points of entry for migrants trying to reach Europe, and that the Western African/Atlantic and Central Mediterranean migration sea routes are among the most dangerous in the world. The Assembly thus calls on member States to further strengthen the financial and material capacities of the coast guard authorities of these regions - namely the Hellenic Coast Guard, *la Sociedad de Salvamento y Seguridad Marítima en Canarias* and *la Guardia Costiera Capitaneria Di Porto Lampedusa* to enable them to pursue their missions of rescuing migrants in distress and preventing deaths at sea.

² Draft resolution adopted unanimously by the Committee on 9 April 2025.

10. The Assembly calls on member States to re-establish large-scale European search and rescue operations. This should involve creating a European sea search and rescue corps with the sole mandate of saving lives at sea in full respect of international human rights law.
11. To this end, the Assembly calls on member States and the European Union to:
 - 11.1. allocate appropriate funds and means for search and rescue operations explicitly earmarked for this purpose of saving lives;
 - 11.2. establish platforms of coordination for search and rescue operations, ensuring an effective complementarity between public and private search and rescue actors, and with clear responsibilities among member States;
 - 11.3. enhance the identification of distress situations and an effective response by the closest and most suitable ships;
 - 11.4. in co-operation with the Council of Europe, develop and maintain systematic human rights awareness raising and training of border guard and other security forces involved in migrants search and rescue operations, as well as the capacity of law enforcement (including border and coast guard), judicial and prosecutorial authorities concerning effective investigations of violations of Article 2 or 3 of the Convention, including in the context of migrant search and rescue operations.
12. Regarding international and domestic laws, the Assembly calls on member States to:
 - 12.1. join and ratify, if not yet the case, the Convention on the Law of the Sea and other relevant international treaties, and respect their terms and obligations;
 - 12.2. adopt clear, binding, and enforceable common rules aimed at enhancing search and rescue capacities, fully consistent with international maritime law and international human rights refugee law obligations, as already underlined in [Resolution 1999 \(2014\)](#) “The “left-to-die boat”: actions and reactions”;
 - 12.3. recognise Europe’s oceans and seas as maritime humanitarian spaces to allow better protection to independent civil search and rescue missions, and participate in reinforcing co-operation amongst all search and rescue actors in line with [Resolution 2356 \(2020\)](#) “Rights and obligations of NGOs assisting refugees and migrants in Europe”;
 - 12.4. organise safe pathways at sea for migrants in distress;
 - 12.5. take appropriate action to render effective the prohibition of pushbacks, collective expulsions, and other illegal actions vis-à-vis migrants at sea;
 - 12.6. monitor swiftly, independently, and thoroughly all cases of human rights violations at sea and violations of the international maritime law, and produce an annual report to this end, notably:
 - 12.6.1. allegations of pushbacks;
 - 12.6.2. allegations of both delayed or absent responses to distress calls from responsible authorities, and instances of endangerment;
 - 12.6.3. cases of non-rescue, delayed rescue, or other issues in operations at sea, including allegations that rescued persons have been disembarked in unsafe places.
13. To protect the human rights and fundamental freedoms of rescued migrants, the Assembly calls on member States to:
 - 13.1. ensure that the survivors are safely disembarked in the place that can be reached more promptly, where their safety is no longer threatened, and their basic needs are met, in accordance with the International Convention for the Safety of Life at Sea and the other search and rescue relevant instruments;
 - 13.2. ensure migrants’ assistance at disembark, including vulnerability, health and mental health screenings, and provision of legal information;
 - 13.3. adopt clear, binding, and enforceable common standards for a human and dignified reception and assistance of survivors, with a particular attention to vulnerable people, especially women and unaccompanied children.

14. The Assembly encourages the European Border and Coast Guard Agency (Frontex) to seek an agreement with member States to send alerts of migrant boats also to qualified civil society actors, acting as complementary actors. It welcomes and encourages the development of the institution of the independent Fundamental Rights Officer within the Frontex structures, with the aim of ensuring human rights compliance of the agency's activities and beyond.

15. As tackling migrant smuggling must not lead to criminalise smuggled people and humanitarian organisations as it happens in some member States, the Assembly asks member States to closely consider the recommendations made in [Resolution 2356 \(2020\)](#) "Rights and obligations of NGOs assisting refugees and migrants in Europe" and in [Resolution 2568 \(2024\)](#) "A shared European approach to address migrant smuggling", including by strictly defining in domestic legislation the definition of the crime of migrant smuggling and the scope of criminalisation, in line with the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Palermo, 2000). The Assembly asks member States to pay particular attention to vulnerable populations, such as victims of torture and trafficking, migrant women, and unaccompanied migrant children.

16. In order to avoid further tragedies, the Assembly urges member States to cease delaying disembarkation or diverting ships to distant ports, impounding rescue ships, planes, and drones, and allow humanitarian civil society organisations to operate complementarily to public actors without introducing legal and administrative obstacles.

17. Moreover, the Assembly urges ending such tragedies by establishing safe legal pathways for migrants in need of international protection. Furthermore, member States must protect and recognise European waters as maritime humanitarian spaces to be regarded as sacrosanct in the name of humanity.

18. Welcoming the adoption by the EU in 2021 of its Integrated Border Management Fund and its renewed Asylum, Migration and Integration Fund, the Assembly encourages greater cooperation with the Council of Europe in these areas, in particular in the implementation of the EU Pact on Migration and Asylum by member States.

19. Given extensive reports describing unacceptable violations of human rights and international maritime law by the Libyan coast guard authority and the Libyan General Administration for Coastal Security, the Assembly calls on member States to reconsider their co-operation with these authorities, including their funding, training, and provision of equipment, in order to ensure they fully respect their human rights obligations.

20. Considering the challenges Tunisia faces regarding migrants' human rights on its territory and at sea, the Assembly calls on member States to re-evaluate their co-operation with Tunisia, especially its coast guard authority, in the light of these key human rights' issues. This includes an examination of the support given to the Tunisian coast guard authority, through funding, training, and provision of equipment.

21. Considering the widespread protection concerns affecting migrants and refugees in Tunisia as expressed, among others, in the joint communication to the Tunisian Government issued jointly by different United Nations Human Rights Special Procedures, the Assembly calls on member States to avoid instructing vessels involved in rescue operations to disembark refugees and migrants on Tunisian territory.

B. Draft recommendation³

1. The Parliamentary Assembly, referring to its Resolution (XXX) 2025 “Saving migrants’ lives at sea and protecting their human rights”, and noting the challenges posed by the continuous humanitarian crisis in Europe’s oceans and seas caused by some member States having put aside international maritime and humanitarian law, recalls the principles by which Council of Europe member States are bound, their collective legal obligations in this area, and stresses the need for enhanced action by the Organisation to support them in this field.

2. The Assembly invites the Committee of Ministers to support by all possible means the development and operationalisation of a new Action Plan on Migration and Asylum, when it will be implemented, currently prepared under the coordination of the Division on Migration and Refugees, which may include provision of guidance and assistance to member States to ensure and promote human rights in the context of border control operations, and the enhancement of effective administrative and judicial investigations into violations of Article 2 or 3 of the Convention.

3. Given the challenges met by Tunisia regarding the situation of migrants on land and at sea and the fundamental rights at stake, the Assembly invites the Committee of Ministers to take into account and address this critical area in the context of its co-operation activities with Tunisia.

³ Draft recommendation adopted unanimously by the Committee on 9 April 2025.

C. Explanatory memorandum

1. Introduction

1. For more than 25 years, there has been a deadly continuous humanitarian crisis in Europe's oceans and seas, where tens of thousands of migrants have perished. The Parliamentary Assembly has been addressing this humanitarian crisis for many years.⁴ This report is based on two motions for a resolution tabled on 11 October 2022 and on 11 December 2023, both recalling the tragedies of migrants' lives lost at sea. Mr Fourat Ben Chikha (Belgium, SOC) tabled a motion on "Protecting human rights and saving lives in the North Sea and the English Channel", while I tabled a motion on "Saving migrants' lives at sea and protecting their human rights".⁵ Following the two motions, the Bureau of the Assembly seized the Committee on Migration, Refugees and Displaced Persons ("the committee") on 22 January 2024. I was appointed rapporteur on 16 April 2024.

2. This tragedy resulting from migrants' lives lost in almost all Europe's oceans and seas ("European waters") is an indignity to our civilisation and must not be tolerated. The International Organization for Migration's (IOM) Missing Migrants Project estimates⁶ that over 31 000 migrants perished or disappeared, trying to reach Europe via the Mediterranean Sea, between 2014 and February 2025.

3. While binding international rules and standards regulate safety at sea (first part of the report), the continuing humanitarian crisis at sea has led to left-to-die situations in European waters with the loss of countless lives across almost all European waters (second part of the report). Such a crisis can nonetheless be overcome, by implementing strong public policies aimed to prevent deaths at sea, improve search and rescue missions, and better protect migrants' fundamental rights (third part of the report).

4. Considering the cross-cutting nature of this report, it is relevant to mention that colleagues have highlighted similar concerns in their respective work. The report prepared by my colleague Ms Sandra Zampa (Italy, SOC) on "The challenges and needs of public and private actors in migration management" is dealing with the situation of actors assisting migrants and refugees in congestion points and reception centres. Likewise, the report does not address the matter of missing migrants, covered by [Resolution 2569 \(2024\)](#) "Missing migrants, refugees, and asylum seekers – a call to clarify their fate". Furthermore, the report approaches migrant smuggling, but does not fully address it, and thus refers to [Resolution 2568 \(2024\)](#) "A shared European approach to address migrant smuggling". Finally, I refer to Resolution xxx (2025) "Putting an end to collective expulsions of aliens" regarding the issue of collective expulsions and the principle of *non-refoulement*. Therefore, my report explores different facets of the same issues and provides a supplementary viewpoint in relation to these crucial reports and resolutions. For the sake of brevity, when the term "migrants" is indicated, it covers "migrants, asylum seekers, and refugees" unless explicitly otherwise.

2. International rules and standards protecting the safety of life at sea

5. International institutions have played a key role in recognising, ensuring and reinforcing the safety of life at sea. Article 2 of the European Convention on Human Rights guarantees the right to life, including at sea, as ruled by the European Court of Human Rights ("the Court") in its 2022 landmark judgment *Safi and Others v. Greece*.⁷

6. Indeed, the Court recalls in this judgment that Article 2 §1 enjoins the States not only to refrain from the intentional and unlawful taking of life but also to take appropriate steps to safeguard the lives of those within its jurisdiction (*Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], 2014, §130). In broad terms, this positive obligation has two aspects: (a) the duty to provide a regulatory framework; and (b) the obligation to take preventive operational measures. The Court has

⁴ [Resolution 1872 \(2012\)](#) "Lives lost in the Mediterranean Sea: Who is responsible?"; [Resolution 1999 \(2014\)](#) "The 'left-to-die boat': actions and reactions"; [Resolution 2000 \(2014\)](#) "The large-scale arrival of mixed migratory flows on Italian shores"; [Resolution 2050 \(2015\)](#) "The human tragedy in the Mediterranean: immediate action needed"; [Resolution 2305 \(2019\)](#) "Saving lives in the Mediterranean: the need for an urgent response"; [Resolution 2462 \(2022\)](#) "Pushbacks on land and sea: illegal measures of migration management".

⁵ Respectively <https://pace.coe.int/en/files/31296> and <https://pace.coe.int/en/files/33195>.

⁶ <https://missingmigrants.iom.int/region/mediterranean>.

⁷ *Safi and Others v. Greece*, no. 5418/15, 2022, <https://hudoc.echr.coe.int/eng?i=001-218512>. See also Case-Law Guide on Article 2, <https://ks.echr.coe.int/web/echr-ks/article-2> and Case-Law Guide on Immigration, <https://ks.echr.coe.int/en/web/echr-ks/immigration>.

found the positive obligation under Article 2 to take appropriate steps to safeguard the lives of those within its jurisdiction to apply in the context of any activity, whether public or not, in which the right to life may be at stake (*Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], 2014, §130).

7. Such positive obligations arose under Article 2 in the context of an operation to rescue migrants who were drowning while trying to cross borders at sea, in the case *Safi and Others v. Greece*. The Court found that the investigation into a coastguard operation in 2014 in the Aegean Sea during which eleven relatives of the migrant applicants who were aboard a fishing boat drowned was ineffective. Major shortcomings identified by the Court included the insufficient participation of the applicants in the criminal proceedings, and that there were lines of further investigation which were clearly necessary, but which were not pursued by the prosecuting authorities. In addition, it was found that the Greek Coast Guard failed to adequately respond to a sinking migrant boat and found violation of the Convention on the following grounds: loss of life among refugees after specific oversights and delays by national authorities in conducting and organising their rescue from the capsized boat; refugees brought from the capsized boat to a Greek island body-searched after being ordered by law enforcement personnel to disrobe together as a group in front of at least thirteen people; and deaths of some refugees on board as a result of the sinking not effectively investigated. Furthermore, the Court found a violation of Article 3 of the Convention due to the degrading treatment suffered by certain applicants during their public strip search by the coast guard on an outdoor basketball court on the island of Farmakonisi.⁸

8. On 12 February 2025, the Grand Chamber of the European Court of Human Rights held hearings in the cases of *COCG and Others v. Lithuania*, *HMM and Others v. Latvia*, and *RA and Others v. Poland*, which concern allegations that each of these three States carried out summary returns of asylum seekers across the border to Belarus. In addition to eleven member States who intervened as third parties for the respondent States, represented by Finland on the day of the hearing, and an equally impressive number of NGOs, the Council of Europe Human Rights Commissioner Michael O’Flaherty (“the Commissioner”) also intervened as third party.⁹

9. In his oral observations, the Commissioner, while recognising the challenges member States meet regarding the irregular arrivals at borders and the security concerns, underlined that such geopolitical situations cannot provide a legitimate justification for the violation of rights that the Convention protects in an absolute manner. The Commissioner added that in the context of the *non-refoulement* principle, the Court has clarified that it cannot be subject to limitation, either in relation to the challenges faced by States to manage migration or for national security reasons, or whatever other reason. He recalled the clear case law of the Court establishing that the person’s own conduct, including their crossing of a border in an irregular manner, does not diminish the State’s obligations. By this established case law, the Court thus demonstrates that border protection is not incompatible with human rights’ protection.

10. At United Nations level, additional international instruments reinforce such commitments and obligations at sea. Ships are required by international law to rescue people in distress at sea. The Convention on the Law of the Sea states that any ship “should proceed with all speed to the assistance of persons in distress at sea” (Article 98). The UN International Convention on Maritime Search and Rescue and the UN Convention for the Safety of Life at Sea also reinforce States’ commitments regarding the safety of life at sea. This is also recalled in the Recommendations of the UN Secretary General on missing migrants and migrants in distress contained in his last report on the implementation of the Global Compact for Migration.¹⁰ Moreover, the principle of non-refoulement, principle of international customary law *inter alia* recognised by the 1951 UN Refugee Convention and in the jurisprudence of the Court under Article 3, prohibits returning people to countries where they face danger.

⁸ The execution of the judgment is supervised by the Committee of Ministers, see

<https://hudoc.exec.coe.int/?i=004-61467>.

⁹ www.coe.int/en/web/commissioner/-/commissioner-o-flaherty-intervenes-in-three-hearings-concerning-summary-returns-of-asylum-seekers-from-lithuania-latvia-and-poland-to-belarus. Quotations that follow are more precisely from www.coe.int/en/web/commissioner/-/oral-intervention-before-the-grand-chamber-in-the-case-of-r.a.-and-others-v.-poland.

¹⁰ https://migrationnetwork.un.org/sites/g/files/tmzbd416/files/sg-report-2024/A_79_590-EN.pdf.

11. Since its creation, the International Maritime Organization (“the IMO”) has developed rules for the safety of life at sea. It calls¹¹ “for greater focus to be placed on addressing unsafe migration by sea so that fewer lives are lost due to large numbers of people setting out to cross the sea in overcrowded and unseaworthy vessels.” It moreover urges “concerted action by the international community to tackle unsafe, mixed migration by sea, in the Mediterranean and other sea areas.” The IMO Assembly adopted Resolution A.920(22) on “Review of safety measures and procedures for the treatment of persons rescued at sea”.¹² The resolution “recommends reviewing measures and procedures for the treatment of rescued persons, ensuring that the life of persons on board ships is safeguarded and that coastal communities assist them satisfactorily.” The IMO has furthermore issued a circular on *Interim measures for combating unsafe practices associated with the trafficking, smuggling or transport of migrants by sea*. It also adopted in November 2022, at the Maritime Safety Committee’s 106th session, a resolution on recommended co-operation to ensure the safety of life at sea, the rescue of persons in distress at sea and the safe disembarkation of survivors. It emphasises the importance of effective and timely involvement of governments in cases of rescue of migrants at sea by merchant ships, emphasizing the need for co-operation in all phases of search and rescue, and of minimising the time survivors remain aboard the ship rendering assistance and, mostly, noting that, according to international law, a search and rescue operation is not concluded until the survivors have been disembarked and delivered to a place of safety.¹³ The IMO Maritime Safety Committee had also issued the Guidelines on the Treatment of Persons Rescued at Sea (MSC.167(78)), which defines place of safety as “a location where the survivors’ safety of life is no longer threatened, and their basic human needs (such as food, shelter, and medical care) can be met”.

12. At the EU level, the European Commission’s Recommendation (EU) 2020/1365¹⁴ promotes improved information sharing and coordination in EU search and rescue (“SAR”) operations. It specifically targets co-operation between EU member States and relevant stakeholders, focusing on privately-owned rescue vessels. Based on this recommendation, the European Commission established in 2021 the European Contact Group on Search and Rescue.¹⁵ This platform aims to implement the existing legal framework and the evolving SAR practice among the EU members and Schengen Associated States. The Commission is moreover coordinating the relocation of rescued people across the EU and promoting solidarity and co-operation among member States.¹⁶

13. Regarding the safe third country concept, it is useful to refer to [Recommendation No. R \(97\) 22](#) of the Committee of Ministers to member States containing “guidelines on the application of the State safe third country concept”, which lists the necessary preconditions to define a country as a safe destination in the context of asylum issues.¹⁷ Based on PACE [Recommendation 2238 \(2022\)](#) “Safe third countries for asylum seekers”, the Committee of Ministers is currently evaluating the need for and feasibility of updating Recommendation No. R (97) 22 ([Doc. 15874](#)). Furthermore, the landmark case *Ilias and Ahmed v. Hungary* [GC] ruled by the European Court of Human Rights set the general principles of protection against *refoulement* and inhuman or degrading treatment of asylum applicants prior to applying the safe third country concept. A thorough examination must be conducted to confirm that there is no risk that the asylum applicant would be deprived of accessing the asylum procedure in the third country, and that the applicant is not at risk of expulsion or *refoulement* in the third country, even if the third country is an EU Member State or party to the Convention. According to the Court, the asylum applicant is not to be removed to a third country if there are insufficient guarantees against *refoulement*.¹⁸

14. There are thus strong existing international rules aimed at ensuring the safety of life at sea in European waters. Whereas territorial waters only extend to 12 nautical miles, the set of obligations referred above extend to international waters as well, which are the largest, and where most shipwrecks

¹¹ www.imo.org/en/OurWork/Facilitation/Pages/UnsafeMixedMigration-Default.aspx.

¹² [https://wwwcdn.imo.org/localresources/en/OurWork/Facilitation/Documents/Resolution%20A.920\(22\).pdf](https://wwwcdn.imo.org/localresources/en/OurWork/Facilitation/Documents/Resolution%20A.920(22).pdf).

¹³ See also www.iom.int/news/iom-joins-call-save-lives-sea.

¹⁴ <http://data.europa.eu/eli/reco/2020/1365/oj>.

¹⁵ https://home-affairs.ec.europa.eu/policies/migration-and-asylum/migration-management/search-and-rescue_en.

¹⁶ Additional references: EU Regulation 656/2014, which provides, *inter alia*, an important set of indicators for the definition of distress. See also the Pact on Migration and Asylum, which has introduced specific rules on solidarity following disembarkation of people rescued at sea.

¹⁷ <https://rm.coe.int/native/0900001680505fc5>. See also the explanatory memorandum to the Recommendation, <https://rm.coe.int/16804ef72e>.

¹⁸ Application no. 47287/15, Judgment 21.11.2019 [GC], <https://hudoc.echr.coe.int/eng?i=002-12661>.

happen. There is nonetheless still room for improvement in their concrete implementation, which is mainly left to the will of, and measures taken by, member States.

3. A continuing humanitarian crisis at sea and left-to-die situations in European waters

15. Migrants risk their lives in European waters to escape persecution, conflict, violence, human rights abuses, and situations that significantly disrupt survival and public order, including climate change. Tragedies at sea keep repeating themselves, and the regular shipwrecks and failed attempts to cross European waters are countless. The report will avoid a sad inventory; resources such as the IOM Missing Migrants Project thoroughly document these numerous cases.¹⁹

16. But there have been several turning points in the recent history of migrants' deaths in European waters. The *Adriana* shipwreck that occurred on 14 June 2023 in Greece is a recent and symptomatic example. Over 600 adults and children perished. The victims – in common with all those dying at sea during migration, had left their home fleeing dire conditions, seeking safety and a decent life. Each one of them had a name, a family, and a dignity, which all disappeared in those waters.

17. “European countries are failing to protect refugees and migrants trying to reach Europe via the Mediterranean. Backsliding in the protection of the lives and rights of refugees and migrants is worsening and causing thousands of avoidable deaths each year”, said in March 2021 the Council of Europe Commissioner for Human Rights Ms Dunja Mijatović (2018-2024).²⁰ This statement is one of the numerous calls from international and non-governmental institutions witnessing the regular crossing of migrants in European waters.

3.1. The dangerous migration sea routes in Europe

18. A vast number of migrants reach Europe by sea.²¹ These migration sea routes are dangerous and lead to high mortality rates. Several factors contribute to this, including long distances travelled from the country of origin, rough waters, unseaworthy and overcrowded boats, risks of interception or drowning, and bad weather. By going through such perilous journeys, European waters have become a graveyard for thousands of migrants each year. In any case, this must never be tolerable.

19. The Central Mediterranean route is used by migrants from North Africa, especially Libya and Tunisia, to reach Italy and Malta, despite arrivals in Malta have been almost null for a number of years. They mostly come from sub-Saharan Africa, Nigeria, Sudan, Eritrea, and Gambia. They also come from North Africa and South Asia, Bangladesh, and Pakistan. According to preliminary data published by the EU Border and Coast Guard Agency (Frontex),²² there was last year a 59% decrease in the number of recorded crossings on the Central Mediterranean route compared to 2023, due to fewer departures from Tunisia and Libya. Despite this decrease and the necessity to understand the causes of such a decrease, Frontex still recorded 66 766 crossings via this particular route, making it the second most widely used in 2024 after the Eastern Mediterranean/Türkiye-Greece route.

20. As for the Western Mediterranean route, it is taken by migrants hoping to reach Europe through Spain. They cross the Alboran Sea or the Strait of Gibraltar and mainly come from Morocco, Algeria, and West Africa. In 2023, over 280 000 people departed from North Africa on dangerous sea journeys to Europe through West and Central Mediterranean, 58% more than in 2022.²³ According to the same data, over a quarter of those who departed were intercepted and disembarked in North Africa, not in Europe, and over 3,300 died.

21. The migrants fleeing Syria, Afghanistan, and other conflict zones of this region take the Eastern Mediterranean/Türkiye-Greece route. These people arrive in Türkiye and reach Greece through the

¹⁹ <https://missingmigrants.iom.int/>.

²⁰ *A distress call for human rights. The widening gap in migrant protection in the Mediterranean*, report from March 2021, www.coe.int/en/web/commissioner/thematic-work/migration. This is a follow-up report to the 2019 Recommendation “Lives saved. Rights protected”, available at the same page.

²¹ <https://dtm.iom.int/europe/arrivals>.

²² www.frontex.europa.eu/media-centre/news/news-release/irregular-border-crossings-into-eu-drop-sharply-in-2024-ogpweX.

²³ <https://reporting.unhcr.org/operational/situations/west-and-central-mediterranean-situation>.

Aegean islands, notably Rhodes, Lesbos, Chios, and Samos. Over 2 500 migrants have died between 2014 and 2024 on this migration sea route.²⁴

22. The Western African/Atlantic route is taken by migrants attempting to reach Spain's Canary Islands by crossing the Atlantic. These people are from West Africa, especially Senegal, Mauritania, and the Gambia. The route is divided into three separate routes, comprising the Agadir/Dakhla, Mauritanian, and Senegal-Gambia routes. The Atlantic route to the Canary Islands saw record arrivals in 2024 and has also proved to be one of the most dangerous and deadliest routes in the world.²⁵ According to the Frontex abovementioned data, there were last year 46 877 irregular arrivals. This represented an 18% increase in the previous year and the highest figure since Frontex began collecting data in 2009. A report from NGO *Ca-Minando Fronteras* has revealed that at least 10 457 people died or disappeared trying to reach Spain via migration sea routes in 2024. According to the report, this represents a 58% increase from the previous year. That report identified the Atlantic route as "the most lethal in the world", responsible for 93% of recorded casualties. "An average of 30 lives have been lost every day [in 2024] because migration politics have been prioritised over human rights", *Ca-Minando Fronteras* X posted.²⁶

23. Despite the short distance of the English Channel migration route, the journey is extremely dangerous because of strong tides, unpredictable weather, busy shipping lanes, and cold waters. In recent years, increasing numbers of migrants have attempted to cross the Channel on small boats.²⁷ The United Kingdom and France have intensified patrols, but crossings continue. From 2023 to 2024, 31 079 migrants were detected arriving by small boats.²⁸ Most of the migrants were Afghan (19%), Iranian (12%), and Turkish (11%). In 2024, 6 310 migrants were rescued at sea in the Pas-de-Calais, France, a 30% increase from the previous year, according to France's Channel and North Sea Maritime Prefecture's Operational Review. In the same year, 45 203 migrants were involved in an assistance or rescue operation at sea in the Channel (+26%).²⁹

3.2. The end of large-scale search and rescue missions in European waters

24. The Mediterranean is symptomatic of the evolution in SAR policies in European waters. On 3 October 2013, 368 people died in the Lampedusa shipwreck. A second shipwreck occurred on 11 October 2013, in which 268 people died. These tragedies marked a turning point in European search and rescue policies.

25. Following the tragedy, Italy, with EU support, launched the *Mare Nostrum* rescue mission on 18 October 2013. This state-run operation used the navy and coast guards to address the humanitarian crisis in the Strait of Sicily. The Operation ended on 31 October 2014 and was replaced by *Operation Triton*,³⁰ a much more limited initiative launched by the Council of the European Union, with fewer and smaller ships, a much smaller operational area, and a mandate focused on border control, and which lasted until 2018.

26. In the following months, several shipwrecks occurred, culminating in two shipwrecks on 12 and 18 April 2015, tragedies in which approximately 1 400 people died.³¹ In response, the EU launched on

²⁴ www.barrons.com/news/greece-says-migrant-arrivals-rising-in-south-east-islands-550d92a2.

28 November 2024, www.infomigrants.net/en/post/61429/over-2500-migrants-have-died-since-2014-on-turkeygreece-route.

²⁵ See Resolution xxx (2025) "Putting an end to collective expulsions of aliens". See also www.canarianweekly.com/posts/Canary-Islands-have-record-high-migrant-arrivals-of-41-000-so-far-in-2024, www.reuters.com/world/europe/number-migrants-reaching-spains-canary-islands-breaks-all-time-record-2024-12-02/, https://mixedmigration.org/wp-content/uploads/2024/07/QMMU_Q2_2024_WA.pdf.

²⁶ <https://caminandofronteras.org/en/monitoreo/monitoring-the-right-to-life-2024/>, <https://x.com/walkingborders/status/1872186932442063220?mx=2>.

²⁷ <https://migrationobservatory.ox.ac.uk/resources/briefings/people-crossing-the-english-channel-in-small-boats>. See also <https://france3-regions.francetvinfo.fr/hautes-de-france/pas-calais/migrants-plus-de-traversees-qu-en-2023-un-nombre-record-de-morts-la-repression-sur-les-cotes-pose-question-3053359.html> (only in French).

²⁸ Official Statistics, 'Irregular migration to the UK, year ending March 2024, (Home Office, 2024), 3.1, <https://www.gov.uk/government/statistics/irregular-migration-to-the-uk-year-ending-march-2024/irregular-migration-to-the-uk-year-ending-march-2024>.

²⁹ www.premar-manche.gouv.fr/communiqués-presse/bilan-operationnel-2024-de-la-prefecture-maritime-de-la-manche-et-de-la-mer-du-nord.

³⁰ Respectively www.marina.difesa.it/en/operations/pagine/marenostrum.aspx and https://ec.europa.eu/commission/presscorner/detail/de/memo_14_609.

³¹ www.bbc.com/news/world-europe-36278529, www.infomigrants.net/bn/post/20055/migrant-deaths-19000-in-mediterranean-in-past-6-years.

18 May 2015 the European Union Naval Force Mediterranean, EUNAVFOR MED Operation, later re-labelled as *Operation Sophia*). This was an EU military operation that was established to neutralise established migrant smuggling routes in the Mediterranean. Both Triton and Sophia's missions rescued over 100 000 migrants between 2015 and 2016.

27. Beyond the 2013 and 2015 tragic shipwrecks, myriads of smaller tragedies occur, with many small boats sinking across European waters, generally with little reaction.

28. The EU and member States, through changing operations, have largely abandoned their initial life-saving goal, favouring coastal patrols and the training of Libyan coast guards. From 2016, with the absence of large-scale SAR missions, but also because of the high number of people crossing, the number of deaths increased in 2016. In 2017-2018, the death toll decreased, because the number of attempted crossings decreased, due to the co-operation with Libya, which had other, very negative consequences. In response, numerous NGOs have committed to search and rescue operations. To monitor the European waters, NGOs have invested in ships and training for the operators, and later in planes and drones. Many operate in Mediterranean waters; others in the Atlantic, or the English Channel.

29. The weak point for both public and private SAR actors is the absence of a unified European SAR strategy. This situation has left coastal member States like Italy, Greece, Malta, or Spain to handle most SAR operations alone, complemented to some extent by SAR NGOs.

30. On the occasion of a fact-finding visit carried out to Sicily on 16-18 September 2024, I was present at Lampedusa port on 16 September 2024 to witness, together with the other PACE members part of the delegation, the disembarkation of approximately 70 migrants coming from Libya who were rescued by the Lampedusa Coast Guard Authority. Among all the migrants present in the boat rescued, four of them died because of the inhalation of the toxic engine smoke. The parliamentarians were impressed both by the rescued migrants in shock and by the efficient handling of the disembarkation process.

31. I wish to honour the bravery of all those working to save migrants' lives in European waters, including the various European coast guard authorities, NGOs, and volunteers. All these people risk their own lives to save others.

3.3. Obstacles and criminalisation of search and rescue NGOs

32. The coast guard authorities of coastal member States have most certainly played a significant role in saving migrants' lives at sea. State-led search and rescue efforts are moreover supplemented by many NGOs and volunteers. To achieve such challenging operations efficiently, NGOs and volunteers should be able to act in all European waters with no obstacles, provided they respect international maritime and humanitarian law. As SOS Mediterranée recalls, all operations are conducted in strict accordance with such international obligations, and in liaison with competent authorities,³² and all SAR NGOs share this approach.

33. However, rather than co-operating with these organisations, some member States have imposed ever more stringent legal and administrative measures to disrupt NGOs' SAR operations. Many humanitarian vessels thus face legal restrictions, impoundments, or fines, reducing their ability to operate. Legal and administrative restrictions on SAR NGOs begin with the seizure of rescue vessels, citing reasons such as improper registration or port regulation violations.³³ Some countries also require NGOs to obtain special permits or co-ordinate with State agencies, which delays their ability to respond to distress calls. Recent Italian laws and practices have imposed strict regulations on NGO rescue ships, requiring them to dock at distant ports instead of the nearest safe harbour. In addition, NGOs must not respond to additional distress calls on their way to a port, regardless of their capacity and position to the boat in distress. This increases travel time and delays their return to rescue zones, increasing the risk of people drowning before receiving assistance, beyond the fact of becoming more expensive.³⁴

³² www.sosmediterranee.org/legal-framework.

³³ See for instance www.msf.org/msf-ends-operation-geo-barents-commitment-return-central-mediterranean-sea.

³⁴ See recommendations in *Europe must end repression of human rights defenders assisting refugees, asylum seekers and migrants - Commissioner for Human Rights*, <https://www.coe.int/en/web/commissioner/-/europe-must-end-repression-of-human-rights-defenders-assisting-refugees-asylum-seekers-and-migrants>. See also <https://sos-humanity.org/en/press/joint-statement-by-search-and-rescue-organisations/>. See also www.gazzettaufficiale.it/eli/id/2024/10/11/24G00171/sq. According to this decree, the government is introducing obligations for pilots and drone operators involved in sea rescue to report emergencies immediately to the authorities, with fines up to €10,000 and impoundment of the aircraft should they not comply.

34. The European Union Agency for Fundamental Rights made similar observations: “Several rescue vessels deployed by civil society organisations were unable to carry out SAR operations following inspections, investigations or the detention of ships by port authorities. In other cases, crew members or civil society actors faced criminal proceedings related to their SAR activities. Such criminal proceedings, as well as administrative measures against deployed vessels—like blocking ships in ports due to alleged technical irregularities relating to maritime security or temporarily detaining them for contravening national law—have a chilling effect and intimidate civil society actors.” The Agency added: “Since 2017, Germany, Italy, Malta, the Netherlands, and Spain have initiated 81 administrative or criminal proceedings affecting SAR operations by civil society actors. The majority concerns measures against SAR vessels; only one out of five measures concern criminal proceedings against the staff working for the NGOs deploying the vessels or against the crew.”³⁵

35. On 17 October 2024, a Sea-Eye representative testified before the committee and stated that following their March 2024 rescue mission, Sea-Eye was the first organisation to have a ship detained for 60 days, halting Mediterranean operations. This detention raised concerns about constitutionality, in relation to the principles of proportionality and reasonableness.

36. While national policies aimed at protecting land and maritime borders are completely legitimate, administrative obstacles and legal actions vis-à-vis private-led SAR operations can have a chilling effect on SAR operations by diverting the NGOs of their objective and making them wasting time and resources.

3.4. Criminal networks of migrant smugglers versus legal pathways

37. The absence of safe legal pathways is the one of the main root causes of migrant smugglers’ existence. Another is the protection and complicity of local authorities. It is clear that most people would prefer to migrate using safe and regular means instead of dangerous routes.³⁶ Over the years, European border security has tightened, and legal pathways to Europe are limited. The need for wider access to legal pathways to migration as an effective policy measure is enshrined in the UN Global Compact on safe, orderly, and regular migration, which until so far only 28 member States of the Council of Europe have endorsed. The European Commission has also launched an initiative to “expand labour migration pathways, as part of its overarching approach to migration management and its focus on reducing irregular migration”.³⁷ Visa restrictions and long asylum processes may be considered as factors which push migrants to prefer irregular means of entry, leaving them at the mercy of migrant smugglers.

38. These factors create a window of opportunity for criminal networks, who exploit these restrictions by offering clandestine routes. To profit from the ready demand, migrant smugglers became well-structured criminal organisations.³⁸ They have transnational businesses and networks covering multiple countries, including with connexions with migrants’ countries of origin, to ease extortion procedures. They have moreover established profitable systems and face low risks of being apprehended, as underlined for instance by the Council of the European Union.³⁹ To facilitate such journeys, these criminal networks may offer additional services to migrants, such as accommodation in stash houses and hotels, delivery of fraudulent documents, sometimes with the complicity of corrupt officials, and access via corrupt officials in transit countries with failed law enforcement, such as Libya.

39. By prioritising profit over human lives, migrant smugglers play a major role in the deadly expeditions in European waters. To escape patrols, smugglers use riskier routes. To maximise profit, they provide migrants with unseaworthy boats, with limited flotation devices in the case of capsizing, often overcrowded and lacking life vests or sufficient fuel. They furthermore often force migrants onto

³⁵ European Union Agency For Fundamental Rights, *Search and Rescue (SAR) operations and fundamental rights – June 2024 update*, page 8, <https://fra.europa.eu/en/publication/2024/june-2024-update-ngo-ships-sar-activities>.

³⁶ www.ohchr.org/en/press-releases/2014/12/open-safe-and-regular-migration-channels-crucial-stop-human-rights.

³⁷ https://home-affairs.ec.europa.eu/news/new-interactive-tool-maps-legal-pathways-eu-foreign-job-seekers-2025-01-29_en.

³⁸ See for instance the interesting Europol publication *Criminal networks in migrant smuggling*, 2023, www.europol.europa.eu/cms/sites/default/files/documents/Europol%20Spotlight%20Report%20-%20Criminal%20networks%20in%20migrant%20smuggling.pdf.

³⁹ www.consilium.europa.eu/en/policies/migrant-smuggling-human-trafficking.

boats at gunpoint, leaving them with no choice but to embark.⁴⁰ They promise safe passage while abandoning them at sea.⁴¹ Despite such dire conditions, smugglers are often the only way for migrants to reach their destinations.

3.5. *The persistent threat and violation of international law*

40. Governments often use the argument that search and rescue NGOs attract migrants, encouraging riskier sea crossings, a sort of “pull factor”, increasing the number of migrants and empowering smugglers. However, research refutes the assertion that search and rescue operations increase migration. Instead, studies show that conflict, violence, and persecution are the primary push factors.⁴² This is acknowledged by the current Frontex Director Hans Leijten, who has affirmed that NGO rescue missions in the Mediterranean are ‘not a pull factor’ for migrants. “You have never heard me saying that it’s a pull factor. So that’s what my opinion is”, he said.⁴³ Heard by the committee on 24 June 2024, Frontex Director recalled before the parliamentarians that human rights are not antithetical to effective border management. He stated that since his appointment, there had been no reports of potential pushbacks. He added that the Fundamental Rights Officer at Frontex is mandated to provide an independent opinion in relation to allegations of wrongdoing.

41. Although there are some positive developments under the current Frontex direction, the role of Frontex has also been criticised by different SAR actors, notably for rarely issuing mayday alerts or informing NGO rescue ships. Rather, it has been alleged that Frontex has shared boat locations with the Libyan Coast Guard, thereby facilitating pushbacks to unsafe conditions in Libya. The case of the *Adriana* shipwreck is symptomatic of such a failed system.⁴⁴ Frontex identified the ship to be in distress in Greece’s SAR zone. However, it failed to use its autonomous power to issue a “mayday call”. By the time approval was granted to carry out a rescue mission, the ship had already half capsized and caused the death of 600 migrants.

42. Lighthouse Reports, a respected investigative journalism organisation, alleged Frontex’s unlawful activities in the Central Mediterranean. Its director, Mr Klaas van Dijken, testified before the committee on 9 December 2024, detailing Frontex’s direct role in Libyan coast guard interceptions. Another investigation from Lighthouse Reports revealed that Frontex has shared locations of migrant boats with the Libyan Coast Guard over 2 000 times in three years, despite watching them whip, beat and shoot at passengers.⁴⁵ This includes, according to Lighthouse Reports, sharing by Frontex of the coordinates of migrant boats with the Libyan militia Tariq Ben Ziyad, known for its links with Wagner mercenaries and Al-Qaeda. In an internal report, Frontex wrote that Tareq Ben Zayed is part of the Libyan Coast Guard.⁴⁶ What is clear is that militia or the Libyan Coast Guard cannot detect small boats on their own: they rely solely on coordinates provided by Frontex and national air operators.

43. Following the report by the European Anti-Fraud Office (OLAF) on the misconduct of several individuals employed by the Agency in relation to Frontex operational activities in Greece in 2020,⁴⁷ the Agency reacted in a statement and explained that such practices were of the past and that it would take remedial measures.⁴⁸ Frontex issued Management Board Decision 43/2022 adopting the rules for the Executive Director and the Management Board to inform the Consultative Forum of the follow-up to its

⁴⁰ www.infomigrants.net/en/post/60409/smugglers-put-a-gun-to-our-heads-and-forced-us-onto-the-boat-syrian-women-recount-horrors-of-libya-and-deadly-mediterranean-crossing-part-2.

⁴¹ www.infomigrants.net/fr/post/45032/fact-check-three-myths-that-migrant-smugglers-tell.

⁴² See for instance *Search-and-rescue in the Central Mediterranean Route does not induce migration: Predictive modeling to answer causal queries in migration research*, Alejandra Rodríguez Sánchez, Julian Wucherpfennig, Ramona Rischke and Stefano Maria Iacus, 3 August 2023, www.nature.com/articles/s41598-023-38119-4. See also www.ispionline.it/it/pubblicazione/migrazioni-nel-mediterraneo-tutti-i-numeri-24892.

⁴³ www.euronews.com/my-europe/2024/09/04/ngo-rescue-missions-in-the-mediterranean-not-a-pull-factor-for-migrants-frontex-chief-says.

⁴⁴ The Guardian, 28 February 2024, Emily O’Reilly, *Six hundred drowning but no mayday call. Is this how Europe deters migrants?*, www.theguardian.com/commentisfree/2024/feb/28/600-people-drowning-eu-deters-migrants-adriana-tragedy.

⁴⁵ www.lighthousereports.com/investigation/frontex-in-the-central-mediterranean, www.lighthousereports.com/investigation/2200-frontex-emails-to-libya.

⁴⁶ www.lighthousereports.com/investigation/frontex-and-the-pirate-ship.

⁴⁷ https://anti-fraud.ec.europa.eu/system/files/2021-12/olaf_report_2020_en.pdf.

⁴⁸ www.frontex.europa.eu/media-centre/news/news-release/statement-of-frontex-executive-management-following-publication-of-olaf-report-amARYy.

recommendations and to ensure that action is taken with regard to recommendations of the Fundamental Rights Officer.⁴⁹ Through these reactions, Frontex seems determined to improve its practices and transparency in its activities.⁵⁰

44. Regarding the behaviour of coast guard authorities, there have been reports alleging that Greek and Maltese coast guard authorities have forced migrant boats back to unsafe locations, such as Libya.⁵¹ There are also reports that the Maltese coastguard has on several occasions ignored distress calls.⁵² Such practices could lead to a violation of the principle of *non-refoulement*.⁵³

45. The Libyan Coast Guard has been regularly intercepting migrant boats before they reach European waters, in agreement with the EU and member States.⁵⁴ There have been reports of violent interception tactics,⁵⁵ including shooting at migrant boats,⁵⁶ collaboration with smugglers, and the forcible returns of people to Libya. On 17 October 2024, a Sea-Eye representative told the committee that the Libyan Coast Guard had repeatedly obstructed rescue operations, endangering migrants, including with firing warning shots.⁵⁷

46. In its last mission report regarding EU-Libya co-operation, the Independent Fact-Finding Mission on Libya (FFM) of the United Nations Human Rights Council (HRC) mentioned a link between crimes against migrants in Libya and the support provided by member States and the European Union. The Mission “has reasonable grounds to believe that crimes against humanity are being committed against migrants in Libya. Migrants are subjected to widespread and systematic arbitrary detention. Acts of murder, enforced disappearance, torture, enslavement, sexual violence, rape, and other inhumane acts are being committed in connection with their arbitrary detention. The ongoing, systematic and widespread character of these practices by DCIM [the Directorate for Combatting Illegal Migration] and other actors involved reflects that mid- to senior level officials are participating in the migration cycle of violence.”⁵⁸

47. Among many other sources, Lighthouse Reports gathered testimonies of migrants heavily tortured by the militia and then sold into slavery. For instance, Jamal, a Syrian whose name has been changed for his protection, was intercepted at sea on 25 May 2023. He explained he was then taken “to a big prison” where he and others were beaten “with sticks and iron” and robbed of all their belongings, including passports and cell phones. “There was no water available in the prison. We drank in the

⁴⁹ <https://prd.frontex.europa.eu/document/management-board-decision-43-2022-adopting-the-rules-for-the-executive-director-and-the-management-board-to-inform-the-consultative-forum-of-the-follow-up-to-its-recommendations-and-to-ensure-that-act/>.

⁵⁰ See also the EU Ombudsman calls for changes to EU search and rescue rules and a public inquiry into deaths in Mediterranean, www.ombudsman.europa.eu/en/press-release/en/182676.

⁵¹ For Greece, see the case of Pylos shipwreck, e.g. www.amnesty.org/en/latest/news/2024/05/greece-trial-of-pylos-shipwreck-survivors-must-not-be-a-shield-in-the-investigation-of-the-alleged-responsibilities-of-the-greek-authorities; www.lighthousereports.com/investigation/drowning-in-lies. See also <https://www.bbc.com/news/articles/c0vv717yvpeo>. For Malta, see for instance *Médecins Sans Frontières, Death, despair and destitution: the human costs of the EU's migration policies*, www.msf.org/death-despair-and-destitution-human-costs-eu-migration-policies, page 33.

⁵² For example, in June 2024, during a rescue operation, Malta ignored distress calls and Italy postponed the rescue until the morning due to alleged bad weather, resulting in the death of one person during the night. www.doctorswithoutborders.org/latest/left-drown-distress-calls-unanswered-mediterranean.

⁵³ See for instance the Sea Watch Airborne annual report 2023, https://sea-watch.org/wp-content/uploads/2024/06/Airborne-Annual-Report-2023_Sea-Watch.pdf, especially the main findings’ and demands’ chapters. See also the [report](#) the Council of Europe anti-torture Committee issued on 12 July 2024 following an ad hoc visit to Greece, and reporting allegations of ill-treatment by the Greek coastguard of small boats carrying migrants. See also BBC, 17 June 2024, *Greek coastguard threw migrants overboard to their deaths, witnesses say*, www.bbc.com/news/articles/c0vv717yvpeo.

⁵⁴ www.statewatch.org/analyses/2020/eu-military-mission-aids-pull-backs-to-libya-with-no-avenues-for-legal-accountability.

⁵⁵ www.sosmediterranean.org/series-of-erratic-and-aggressive-behaviour-of-the-libyan-coast-guard.

⁵⁶ https://sea-watch.org/en/libyan_coast_guard_shots_fired.

⁵⁷ <https://foreignpolicy.com/2023/07/04/migrant-sea-rescue-mediterranean-libyan-coast-guard>.

⁵⁸ www.ohchr.org/en/hr-bodies/hrc/libya/index, www.ohchr.org/en/press-releases/2022/06/accountability-pivotal-prosecute-those-responsible-war-crimes-and-crimes?sub-site=HRC. See the Mission’s report, www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/regularsession/session50/2022-06-29/A_HRC_50_63_AdvanceUneditedVersion.docx, especially section G, *inter alia* paragraphs 75 and followings.

bathroom. They fed us rice, soup or pasta in small quantities. We were held for 20 days by the Tariq bin Ziyad brigade,” he said.⁵⁹

48. Likewise, Tunisia is not a safe place for migrants. Member States have given extensive support to Tunisia through bilateral agreements, for instance France, Italy, Germany, or the United Kingdom.⁶⁰ These States have financed, equipped (boats, vehicles, IT equipment, etc.), and trained Tunisian forces and its coast guard authority to intercept migrants at sea. But such supports have coincided with worsening human rights abuses, including sexual violence, deportations to deserts, and violations of the non-refoulement principle.⁶¹ Moreover, since the establishment of a Tunisian Search and Rescue Zone in June 2024, EU-backed Tunisian Coast Guard operations have increased, often involving violent and dangerous tactics.⁶²

49. Following a practice which is, unfortunately, more and more frequent, the EU has outsourced SAR operations to the Tunisian coast guard authority (*Garde Nationale Maritime*).⁶³ Investigating the EU-Tunisia Memorandum of Understanding, the EU Ombudsman Emily O'Reilly (2013-2024) concluded that the European Commission did not assess the Memorandum's human rights impact beforehand. Moreover, the EU did not publish the findings of the inquiry.⁶⁴

50. An international research group (the researchers have chosen to remain anonymous for their safety), Researchers X, released a report titled *State Trafficking: Expulsion and Sale of Migrants from Tunisia to Libya*.⁶⁵ The report describes concerning instances of systemic State violence, human trafficking, and violations of international law, all facilitated by border externalisation policies. The report details the forced expulsion of migrants from Tunisia to Libya between June 2023 and November 2024. It contains 30 testimonies from affected individuals and documents the direct involvement of the Tunisian police and military in the sale of human beings at the border. The report further exposes the interconnexions between EU-funded expulsion infrastructure and the kidnapping industry operating within Libyan prisons.⁶⁶

51. NGOs and human rights groups have challenged these practices before the courts, which have dealt with more and more cases of human rights violations at sea. At the national level, cases have been initiated in Italy, Germany, and France. The European Court of Human Rights issued the previously mentioned judgment *Safi and Others v. Greece*, in which the Court concluded that there had been violation of the Convention by the Greek Coast Guard which failed to adequately respond to a sinking migrant boat.⁶⁷ The Court requires all States to establish independent and effective investigation into migrant deaths at sea. The essential purpose of such an investigation is to secure the effective implementation of the domestic laws safeguarding the right to life and, in those cases involving State

⁵⁹ www.lighthousereports.com/investigation/frontex-and-the-pirate-ship.

⁶⁰ About France and Germany, e.g. <https://english.elpais.com/international/2023-06-18/france-and-germany-join-forces-against-migration-from-tunisia-in-wake-of-latest-mediterranean-tragedy.html>. About Italy, e.g. www.infomigrants.net/en/post/56538/italys-meloni-talks-migration-in-tunisia. About the UK, e.g. www.infomigrants.net/en/post/62607/uk-government-strikes-deal-with-tunisia-to-tackle-migration.

⁶¹ www.lighthousereports.com/investigation/desert-dumps.

⁶² In one incident in November 2024, the Coast Guard rammed a boat, causing 53 deaths, while survivors were deported and sold to Libyans. www.infomigrants.net/fr/post/61341/did-the-tunisian-coast-guard-ram-a-migrant-boat-and-cause-52-people-to-drown.

⁶³ www.infomigrants.net/en/post/50569/eutunisia-deal-would-disregard-human-rights-say-italian-migrant-ngos.

⁶⁴ www.ombudsman.europa.eu/en/decision/en/193851; www.theguardian.com/world/2024/oct/23/eu-refuses-to-publish-findings-of-tunisia-human-rights-inquiry. See also the SOS Humanity position paper *Rescue Refugees Instead of Outsourcing Protection to Third Countries*, <https://sos-humanity.org/en/press/position-paper-externalisation>.

⁶⁵ https://statetrafficking.net/StateTrafficking_EN_21012025_light.pdf. Website with French version and video testimonies available here: https://statetrafficking.net/StateTrafficking_EN_21012025_light.pdf.

⁶⁶ See also www.occrp.org/en/news/trafficked-and-tortured-shocking-report-links-eu-aid-to-migrant-exploitation; libyareview.com/52604/eu-accused-of-complicity-in-migrant-slave-trade-between-libya-tunisia.

⁶⁷ *Safi and Others v. Greece*, no. 5418/15, 2022, <https://hudoc.echr.coe.int/eng/?i=001-218512>. See Section 3.1 of the present report for more developments.

agents or bodies, to ensure their accountability for deaths occurring under their responsibility.⁶⁸ There are also ongoing procedures against Frontex.⁶⁹

52. Dr Omer Shatz, Legal Director of the NGO front-lex,⁷⁰ was heard by the committee on 17 October 2024. He stated that between 2015 and now, widespread breaches of international refugee, maritime, and human rights law have targeted migrants, stemming from EU and member States' policies and aimed at preventing arrivals. Dr Shatz informed the committee about ongoing investigations by the International Criminal Court into the treatment of 'migrants' in the Central Mediterranean route, with evidence suggesting the EU's facilitation of these crimes.⁷¹ Dr Shatz advocated for a paradigm shift in the manner in which migration policies of EU institutions and EU member States are understood and enforced in the Mediterranean, and argued that such violations could amount to crimes against humanity under international criminal law.

4. Preventing deaths at sea, improving rescue operations, and better protecting the fundamental rights of migrants

53. We cannot close our eyes to the ongoing human tragedy in European waters. This tragedy must end, primarily by establishing safe legal pathways for migrants and persons in need of international protection. Furthermore, member States must protect and recognise European waters as maritime humanitarian spaces to be regarded as sacrosanct in the name of humanity.

54. With migrant trafficking at its height, and with member States and international institutions struggling to tackle this crime, European waters remain partly lawless zones. It is thus urgent to address and, as far as possible, prevent migrant smuggling. This starts with the effective enforcement of international treaties. The Convention on Action against Trafficking in Human Beings ([CETS No. 197](#)) is an essential instrument to tackle migrant trafficking, complemented by the Council of Europe's expertise in the field. The *acquis* from the International Maritime Organization guidelines is also essential in combating human trafficking.

55. Despite solid instruments, migrant smuggling remains the main path of irregular migration to Europe. Migrants in need of international protection will continue to flee desperate conditions and, in the absence of alternative safe legal pathways, will continue to use these criminal networks. A phenomenon of this scale requires a strong collective effort to be dismantled.

56. The member States of the Council of Europe and the European Union must ensure that safe pathways are accessible to reach their territory, including when people are intercepted in European waters. It should be recalled that the principle of *non-refoulement* applies across the jurisdiction of all States, including in their territorial waters. Furthermore, this principle should be fully respected in contiguous zones and in international waters whenever a seacraft flying the flag of a European State is exercising control over an individual, as can be the case during an interception operation, or when such a seacraft is being tracked, or re-routed in the high seas (a possibility deriving from Article 7 of EU Regulation 656/2014, which Frontex is bound by as per Article 10 of Regulation 2019/1896). These elements are based on the interpretation by the Court of the notion of extra-territorial obligations of member States in *Hirsi Jamaa and Others v. Italy*.⁷² As an addition to the provision of legal alternatives to migrant smuggling routes, including by sea on regular sea-crossing routes, ensuring that these obligations are upheld is essential in order to reduce and hopefully finally prevent dangerous journeys

⁶⁸ *Al-Skeini and Others v. the United Kingdom* [GC], no. 55721/07, 2011, para. 167, <https://hudoc.echr.coe.int/fre?i=001-105606>. See also Case-Law Guide on Article 2, <https://ks.echr.coe.int/web/echr-ks/article-2>

⁶⁹ See for instance Sea-Watch vs. Frontex, <https://sea-watch.org/en/sea-watch-vs-frontex/>.

⁷⁰ www.front-lex.eu.

⁷¹ See in this respect the Communication filed to the International Criminal Court, concerning the commission of crimes against humanity against migrants in the Central Mediterranean route. See www.statewatch.org/media/documents/news/2019/jun/eu-icc-case-EU-Migration-Policies.pdf ; See also www.theguardian.com/law/2019/jun/03/icc-submission-calls-for-prosecution-of-eu-over-migrant-deaths. See also the Human Rights Council's Fact Finding Mission Report (March 2023) whose findings corroborate the allegations that EU officials are participating in Crimes Against Humanity against 'migrants' in the Central Mediterranean Route. See www.echr.eu/en/case/migrants-and-refugees-in-libya-face-crimes-against-humanity-the-icc-must-investigate and www.echr.eu/en/publication/redacted-art-15-communication-to-the-icc-on-crimes-against-refugees-and-migrants-in-libya.

⁷² Application no. 27765/09, paragraphs 70-78, <https://hudoc.echr.coe.int/eng?i=001-109231>.

and the resulting deaths at sea. New legal frameworks are not needed to establish these paths. The 1951 Refugee Convention, the Convention on the Law of the Sea, and the International Convention for the Safety of Life at Sea adequately address existing needs. Such paths rather necessitate a strong political willingness and should be jointly monitored by international organisations, especially the EU and UN agencies (UNHCR, IOM⁷³), coastal member States, and SAR NGOs to ensure smooth operations and compliance with human rights.

57. Tackling migrant smuggling has resulted in several member States criminalising smuggled people and humanitarian organisations. Member States should thus closely consider the recommendations made in [Resolution 2356 \(2020\)](#) “Rights and obligations of NGOs assisting refugees and migrants in Europe” and in [Resolution 2568 \(2024\)](#) “A shared European approach to address migrant smuggling”. According to these resolutions, people in need of protection should never be criminalised or administratively sanctioned for crossing a border unauthorised pursuant to Article 31 of the United Nations Convention relating to the Status of Refugees and Article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings.

58. Humanitarian assistance and any support to migrants in accessing their fundamental rights free from any form of criminal liability should therefore be explicitly exempted, in the case where such acts are conducted without seeking any financial benefit, which is obviously the case for SAR NGOs. This implies strictly defining in domestic legislation the definition of the crime of migrant smuggling and the scope of criminalisation, in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). The instrument identifies the need for a for-profit motive in the definition of smuggling, with the aim of avoiding the criminalisation of legitimate humanitarian action.

59. As recommended by the Commissioner for Human Rights of the Council of Europe, all member States are urged to contribute assets specifically dedicated to search and rescue activities so that their number and operational reach can be expanded. This should lead to sufficiently resourced and fully operational system for saving lives at sea, commensurate with the current challenges in the Mediterranean. Vessels should be deployed along routes where they can make an effective contribution to the prevention of casualties and able to safeguard rescued people’s dignified treatment. All concerned coastal States should ensure that full use is made of all search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea, including vessels run by NGOs.⁷⁴

60. Regarding the protection of human rights defenders as a whole, the Commissioner has issued in February 2024 a series of recommendations in its publication “Protecting the Defenders – Ending repression of human rights defenders assisting refugees, asylum seekers and migrants in Europe”. To reverse the abovementioned repressive trend against human rights defenders, the Commissioner calls for urgent action, including: reforming laws, policies and practices unduly interfering with the activities of human rights defenders; ensuring that smuggling laws do not criminalise any form of human rights or humanitarian work with refugees, asylum seekers and migrants; lifting restrictions on access to places and information; ending stigmatising and derogatory rhetoric; establishing effective safety procedures for defenders faced with violence and threats and effectively investigating such incidents.⁷⁵

61. Whereas formal humanitarian corridors exist in war zones to help people fleeing for safety, similar corridors dedicated to saving lives at sea are absent. Nevertheless, in the absence of State action, the work of SAR NGOs could be seen *de facto* as maritime humanitarian actions for people in distress at sea, however with some important restrictions. Such NGOs provide emergency relief by rescuing people in distress at sea, and once aboard their ships, they receive assistance, but this does not equate to a systematic, safe, and legal route across the sea. Moreover, the civil fleets conduct a minor part of rescues overall, and the capacities of NGOs are increasingly restricted by the national authorities in

⁷³ www.unhcr.org/what-we-do/protect-human-rights/asylum-and-migration/protection-sea, <https://publications.iom.int/books/protection-migrants-sea>.

⁷⁴ Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean, page 25. <https://rm.coe.int/lives-saved-rights-protected-bridging-the-protection-gap-for-refugees-/168094eb87>.

⁷⁵ <https://www.coe.int/en/web/commissioner/-/europe-must-end-repression-of-human-rights-defenders-assisting-refugees-asylum-seekers-and-migrants>.

question and a broader criminalisation across Europe. Moreover, such NGOs cannot provide a protected escape from Libya or Tunisia, as a true humanitarian corridor would imply.

62. It is thus crucial not to conflate SAR NGOs' presence at sea with safe legal pathways. People attempting to cross European waters will continue to face life-threatening risks, lack of protection, and will often be criminalised for their escape. To prevent further deaths, we must advocate for safe legal pathways for people in need of protection, such as through the delivery of humanitarian visas, resettlement programmes, and the activation of temporary protection mechanisms.⁷⁶ And as long as these pathways are not in place, European coast guard authorities need more search and rescue capacities and a better coordination among public and private SAR actors, through ambitious and collective financed search and rescue programmes.

63. Moreover, recognising European waters overall as maritime humanitarian spaces would save migrants' lives at sea, allow better protection to independent civil search and rescue missions, and participate in reinforcing co-operation amongst all SAR actors. Furthermore, migrant shipwreck survivors should benefit from special assistance meeting their specific needs and traumas, while questions such as the identification of missing family members must also be tackled.⁷⁷

64. During a hearing held on 11 March 2025 with a representative of Sea Watch, the committee heard about an interesting proposal that could be implemented at the EU level. Supported by 14 NGOs, the *Mare Solidale* scheme is a proposal for an EU-led search and rescue programme designed to save lives in the Mediterranean. It suggests that the EU can decide today to implement a rescue program in accordance with human rights, rooted in lessons learned from the past operation "Mare Nostrum".⁷⁸

5. Conclusion

65. There is a shameful continuing humanitarian crisis in the migration sea routes to Europe, where tens of thousands of migrants have perished over the last 25 years. We are failing in our legal and moral responsibilities to rescue migrants, uphold human rights, and provide safe migration pathways. Abandoning these desperate people to migrant smugglers is akin to giving smugglers a license to kill.

66. Meanwhile, member States pursue restrictive migration policies and increase controls at borders. Saving migrants' lives at sea will not endanger the stability of institutions and national economies. On the contrary, Europe should see migration as an answer, among others, to relieve Europe from demographic ageing and labour shortage and should thus prioritise a proper, managed and safe migration policy.⁷⁹

67. I call for urgent action to enhance search and rescue operations in European waters, to do more to dismantle migrant smuggling networks, and uphold international humanitarian and human rights obligations.

68. When Europe ended large-scale search and rescue missions, a number of non-governmental organisations came forward to fill the gap, and they can only be commended. The small world of SAR NGOs is not enough, however, and it faces obstacles and even criminalisation by member States, which impose restrictive legal and administrative measures on their search and rescue missions. It is important to note that NGOs cannot replace the obligations of member States to provide for sustainable and coordinated search and rescue operations. But they can help saving lives. Member States and the EU must make full use of all vessels capable of rescuing people in distress. Member States should fully support them by making the registration of NGO ships less burdensome, by allowing them to operate on their territory and from their harbours and by informing them of distress cases.⁸⁰

69. International maritime and human rights law constitutes a core pillar of democratic societies. Member States and international institutions are the gatekeepers of such rules and must of course apply them to their own policies, frameworks and practices. It is thus worrying to observe recurrent violations

⁷⁶ See <https://redcross.eu/latest-news/ngos-call-for-safe-and-legal-avenues-for-migrants>.

⁷⁷ See in this respect the report *Preventing and responding to deaths at sea* by the European Union Agency for Fundamental Rights, <https://fra.europa.eu/en/publication/2023/fra-deaths-sea-paper>.

⁷⁸ <https://sea-watch.org/en/mare-solidale>.

⁷⁹ On these issues, see respectively Resolution 2586 (2025), <https://pace.coe.int/en/files/34148>, and [Resolution 2504 \(2023\)](https://www.ohchr.org/en/instruments/treaties/Resolution%202504%202023).

⁸⁰ See Study *Places of Safety in the Mediterranean: The EU's Policy of Outsourcing Responsibility*, by [Prof. Dr. Anusheh Farahat](#) and [Prof. Dr. Nora Markard](#), <https://eu.boell.org/en/2020/02/18/places-safety-mediterranean-eus-policy-outsourcing-responsibility>.

of international law at sea, including numerous cases of pushbacks and pullbacks, where migrants are forcibly returned to unsafe countries. Frontex and member States have also been accused of having facilitated pushbacks, including by sharing coordinates of migrant boats with the Libyan authorities, despite knowing the dangers these migrants would face upon return. The Fundamental Rights Officer, within Frontex structure, has been strengthened over the last years, including with an increased staff. This is a welcome development in the work of the Agency towards further transparency of its activities.

70. Another very concerning trend consists of member States shifting responsibility for search and rescue operations to coast guard authorities of Libya and Tunisia, countries that are unsafe for migrants. This shift of responsibility is on-going, despite widespread reports of human rights abuses, including torture, enslavement, and trafficking of migrants intercepted in European waters.

71. It is therefore crucial to fully respect and implement international humanitarian and maritime law in addressing this crisis and in ensuring safer search and rescue operations. Given the extensive reports of human rights abuses and mistreatment of migrants by Libyan and Tunisian coast guards, I call on an immediate moratorium of all agreements, funding, and logistical support for Libyan and Tunisian coast guard authorities pending a thorough review and rethinking. I call moreover for an immediate halt to pushbacks and other illegal actions vis-à-vis migrants in distress at sea.

72. Tackling migrant smuggling is an essential part of the response. The activities of the Council of Europe, especially the work of the European Committee on Crime Problems ([CDPC](#)), are essential for achieving such an aim. The Council of Europe's activities are not enough, however. To reach such an ambitious objective and reverse the situation, member States cannot hide in the shadows anymore. We must collectively promote safe legal pathways for migration through carefully controlled and safe channels, including for people in need of international protection. Moreover, member States and international institutions must recognise European waters as maritime humanitarian spaces, to provide safe passages for migrants and refugees and to keep them away from the criminal networks of smugglers. This includes dedicated search and rescue zones and improved coordination between States, NGOs, and agencies like Frontex.

73. Europe needs a shift regarding migration policies. Protecting border and respecting migrants' human rights are compatible. Such a shift will neither create any pull factor, nor lead to massive migration. Preventing migrants' deaths at sea is a shared moral and legal obligation that requires urgent and coordinated action from European governments and international institutions.