



International Federation
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Международная Федерация
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المنتدى الدولية لحقوق الإنسان



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RESEAU EURO-MEDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان



Open letter to EU Interior Ministers and Commissioner for Home Affairs

(sent October 8)

Dear Ministers,

As the Council is set to debate the tragic events which occurred off the coast of Lampedusa, Italy on 3 October, causing the death of at least 300 people, and ahead of President Barroso's visit to Lampedusa tomorrow, we are writing to call on the European Union and its member states to take urgent measures to prevent further loss of life.

This latest tragedy occurred when a boat, which had set off from Libya heading for Italy, with more than 500 people on board, mainly from Eritrea and Somalia, caught fire and sank approximately one kilometre from the shore of Lampedusa. These events are yet another grim reminder of the tragic fate of increasing numbers of migrants who cross the Mediterranean to seek protection and a better life in Europe.

This shipwreck is only the last in a long list of tragic accidents that have occurred in the Mediterranean over recent years, and the second in the space of a week [1]. The majority of victims are people who have fled conflicts in Eritrea, Somalia, Ethiopia and, more recently, Syria and who are entitled to protection under international refugee and human rights law. It is estimated that 20,000 people have lost their lives in the past two decades while attempting to reach Europe's southern borders from the other side of the Mediterranean.

Reacting to the latest disaster, EU Commissioner for Home Affairs Cecilia Malmström pledged to step up EU efforts to prevent such tragedies and to show solidarity both towards migrants and countries experiencing increasing migration flows. Yet many of the solutions proposed – EUROSUR, increased resources for Frontex – merely promise more of the same.

The EU and its member states must reflect on their own responsibilities and the contribution of restrictive, security-based migration policies to causing such tragedies. Enhanced border controls, including through the establishment of a specialised border surveillance agency, Frontex, and the elaboration of new tools, such as EUROSUR, soon to become operational, have forced more and more migrants and refugees fleeing persecution and conflict in their countries and seeking protection and a better life in Europe, to take increasingly dangerous routes, putting their lives at risk.

These measures, coupled with limited opportunities for regular migration and obstacles to seeking and obtaining asylum, are among the causes of the ever increasing number of people dying on Europe's doorstep in an attempt to reach its shores.

In parallel, the EU and its member states lack an effective and coordinated approach to search and rescue operations. In the absence of clear, harmonised rules on search, rescue and disembarkation, migrants continue to be the victims of an intricate set of policies which enable states to evade their

responsibilities and increase risks. While the mandates of Frontex and EUROSUR contain references to search and rescue, the “fight against illegal immigration” continues to trump such obligations. Furthermore, national laws criminalising rescue operations by qualifying them as aiding and abetting irregular immigration, contribute to private carriers failing to carry out their obligations under international maritime law, which requires them to assist boats in distress.

Putting the blame for these tragedies on criminal networks and smugglers exploiting migrants’ despair is tantamount to turning a blind eye to the real causes that make the smuggling possible. Restrictive migration policies which prevent migrants and refugees from entering the EU in a regular manner allow these illegal activities to flourish, and are indirectly responsible for the human tragedies that result.

It is time to put assistance to boats in distress and preventing loss of life at the top of the EU’s priorities.

FIDH, EMHRN, Migreurop and AEDH call on the European Union and its member states:

To overhaul their migration policies to ensure that security concerns do not come at the expense of human rights and that any policy on migration, including rules regulating search and rescue operations, are concerned first and foremost with protecting the lives and the human rights of migrants rather than sealing off borders.

To increase search and rescue capacity and cooperation in the Mediterranean, in order to prevent further loss of lives.

To establish clear and harmonised rules for search and rescue of persons in distress at sea, so as to avoid any confusion over the obligation to launch a search and rescue operation for a boat in distress and what constitutes a vessel in distress, and ensure that appropriate assistance is rendered to such vessels, as recommended by the Parliamentary Assembly of the Council of Europe (PACE) in its April 2012 report “Lives lost in the Mediterranean Sea” [2].

In the context of negotiations over a forthcoming regulation establishing rules for the surveillance of the external sea borders during operational cooperation coordinated by Frontex, to ensure that the human rights of refugees, asylum-seekers and migrants are prioritised and operations are conducted in full compliance with international human rights and refugee law and standards.

To repeal national laws that criminalise rescue at sea, in order to ensure that private vessels are not encouraged to evade their obligations under international maritime law, which require them to assist boats in distress.

To ensure that security concerns are not the only motivation behind Frontex’s activities, but that search and rescue obligations and the human rights of migrants are prioritised as required in its mandate.

To ensure that human rights and assisting migrants in distress are central to the functioning of the new Mediterranean surveillance and data-sharing system EUROSUR, soon to become operational.

To ensure that, in accordance with the ruling of the European Court of Human Rights in the case of *Hirsi & others vs. Italy*, following an interception, people are not pushed back to a country where they risk being treated in violation of Article 3 of the European Convention on Human Rights.

To open new channels for regular migration, thereby reducing the risks linked to migrants’ attempts to enter the EU irregularly and contributing to combating exploitation of migrants by smugglers.

To put the respect for the lives and rights of migrants, asylum-seekers and refugees at the centre of any multilateral or bilateral cooperation agreement on migration with third countries, including readmission agreements, technical cooperation and mobility partnerships, and ensure that border control and security are not prioritised over migrants' rights when negotiating such agreements.

To refrain from entering into further agreements with third countries until they demonstrate that they respect and protect the human rights of refugees, asylum-seekers and migrants and put in place a satisfactory system for assessing and recognising claims for international protection, and to set aside agreements with countries that do not respect these conditions.

To launch discussions on concrete measures to increase responsibility sharing, including in rescue services, processing of asylum claims, relocation and resettlement, to reduce the number of people putting their lives at risk attempting to reach European shores and assist those in need of international protection, while helping frontline member states cope with increasing migration flows. This should include discussion on fundamentally revising the Dublin regulation, which in its current form counterproductively places disproportionate responsibility on external border states, as recommended by the UN Special Rapporteur on the Human Rights of Migrants, François Crepeau in his April 2013 report [3].

To respect the families' right to know the fate of those who lose their lives at sea by improving identity data collection and sharing.

In the words of Jean-Claude Mignon, head of the Council of Europe's Parliamentary Assembly (PACE), in reaction to the events in Lampedusa, "A terrible human tragedy is taking place at the gates of Europe". We hope that another tragedy like the one we have witnessed will not be necessary for the EU and its member states to acknowledge that a radical change is needed in their approach to migration, which places preventing loss of life and respect for human rights at its core.

We look forward to discussing this further with you.

Yours sincerely,

Karim Lahidji, President FIDH

Olivier Clochard, President Migreurop

Serge Kollwelter, President AEDH

Michel Tubiana, President EMHRN

Footnotes

[1] On 30 September, 13 people, mainly from Eritrea, drowned in another shipwreck off the Italian coastal town of Ragusa, Sicily. In December 2012, 20 people died near Lesvos Island in Greece. In October-November 2012, 89 people died in the Strait of Gibraltar. In September 2012, 58 people died off the coast of Izmir, Turkey. In 2011, at the height of the Arab uprisings, more than 1,500 perished in a single year... The list goes on.

[2] The report was issued in the aftermath of the accident that costed the lives of 63 people that drifted in the Mediterranean for two weeks and eventually perished for failure of some EU (namely Italy, France, the UK and Spain) and non-EU countries and NATO to respond to their distress calls. The UN Special Rapporteur for the Human Rights of Migrants François Crepeau also recommended in its April 2013 report, 'Regional Study: management of the external borders of the European Union and its impact on the human rights of migrants', available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46_en.pdf, that guidelines and procedures be developed for ensuring that rescue at sea is implemented effectively.

[3] Report of the Special Rapporteur for the Human Rights of Migrants, François Crepeau, April 2013, cit.