



Empty boats at sea indicate illegal pull-backs by the so-called Libyan Coast Guard.

Photo: Leon Salner

## Position Paper:

### Rescue Refugees Instead of Outsourcing Protection to Third Countries

#### EU outsources refugee protection to third countries and is complicit in violations of the law

The lack of safe refugee routes and the restrictive migration policy of the European Union and its member states are forcing people on the move to take increasingly dangerous routes. Externalisation – the outsourcing of border controls and responsibility for asylum to non-EU countries - is a central component of the European closed-door policy. Attempting to prevent people from fleeing curtails their right to asylum and causes suffering as well as thousands of deaths at the EU's external border in the central Mediterranean.

Since 2016 (until 2027), the EU and its member states invest at least 327.7 million<sup>1</sup> euros in the border regimes of Libya and Tunisia to prevent people from coming to Europe, thereby supporting human rights violations. This includes support for the so-called Libyan and the Tunisian coastguards, who carry out illegal pull-backs to Libya and Tunisia. A large proportion of this tax money comes from development cooperation funds. Since 2023, a new form of externalisation policy has been the agreement between Italy and

Albania to outsource asylum procedures. Although the disembarkation of people in Albania who have been rescued from distress at sea violates international law and the rights of people seeking protection, it is being discussed as a blueprint within the EU for further forms of externalisation policy.

Outsourcing migration control undermines the European and international system of refugee protection. Detaining refugees in non-EU third countries and conducting asylum procedures outside the EU does not work in practice, is extremely expensive, poses a threat to the rule of law and leads to serious human rights violations, such as the violation of the principle of non-refoulement, arbitrary detention and the denial of the right to asylum.<sup>2</sup>

#### Human rights violations through EU cooperation with Libya

##### → Libya is not a place of safety

According to international maritime law, a rescue at sea is only complete when the survivors come ashore in

place of safety.<sup>3</sup> Because refugees and migrants in Libya are exposed to serious human rights violations, Libya is not a place of safety. European and national courts have repeatedly ruled that returns to Libya of people rescued from distress are contrary to international law.<sup>4</sup>

Libya has not signed the 1951 Refugee Convention and offers no legal status for refugees. Instead, refugees and migrants are subjected to grave human rights violations such as detention, forced labour, human trafficking, torture, sexualised violence and arbitrary executions. These human rights violations take place in such a systematic manner and scale that the United Nations (UN) Independent Fact-Finding Mission on Libya classifies them as crimes against humanity.<sup>5</sup>

#### → Illegal returns to Libya

Although the return of people rescued at sea to Libya violates international law and constitutes a criminal offence, the EU and its member states support the Libyan actors responsible for these human rights violations.

Since 2016, the so-called Libyan Coast Guard receives training and deliveries of patrol boats and equipment.<sup>6</sup> The EU also significantly contributed to Libya's declaration of a Libyan Search and Rescue Zone in 2018 and the establishment of a Rescue Coordination Centre for maritime rescue. In doing so, the EU and its member states ensured to formally transfer the responsibility for the coordination of rescues in a specific area to Libya, even though Libya is not a place of safety for survivors. It has been repeatedly confirmed in court that the EU-supported Libyan rescue coordination centre and the so-called Libyan Coast Guard do not carry out maritime rescue operations in accordance with applicable international law.<sup>7</sup> Instead, the so-called Libyan Coast Guard intercepts people fleeing across the Mediterranean and returns them to Libya in violation of international law – often using force and firearms.<sup>8</sup> The report of the UN Fact-Finding Mission on Libya published in 2023 also cites evidence that the so-called Libyan Coast Guard is riddled with militias and involved in human smuggling and trafficking, and is therefore part of the system responsible for human rights violations in Libya and at sea.<sup>9</sup>

The EU and its coastal states such as Italy and Malta, as well as the EU border protection agency Frontex, are nevertheless working with Libyan authorities on land and at sea to keep people away from the EU and deny them their right to asylum. Instead of passing on distress cases to nearby (rescue) ships, these actors directly pass on information to the so-called Libyan Coast Guard.<sup>10</sup>

With the support of the EU, between 2016 and November 2024, the so-called Libyan Coast Guard illegally intercepted and returned more than 144,800 people against their will and in violation of international law to “hell”, as survivors on board the Humanity 1 have described the situation in Libya.<sup>11</sup>

“Migration over the Mediterranean is a catastrophe, because the European Union is financing Libyan authorities. These authorities terrorise refugees. [...] They carry out human trafficking. Europe should stop supporting these militias.”

(Anonymous, 28 years old, Sudan, rescued in 2023 by the crew of the Humanity 1)

### Human rights violations through EU cooperation with Tunisia

#### → Tunisia is not a place of safety

In view of the dramatically deteriorating human rights situation for refugees and migrants as well as for Tunisian citizens since 2022, the disembarkation of people rescued from distress at sea in Tunisia violates human rights and international maritime law.

Although Tunisia has signed the 1951 Refugee Convention, the country has neither a formal nor a functioning asylum system, the entry and stay of refugees and migrants is criminalised, and there is no individual assessment of protection status. Since February 2023 in particular, the Tunisian government's racist tone has intensified, leading to an increase in attacks on refugees and migrants from sub-Saharan Africa and their arbitrary detention.<sup>12</sup> The disembarkation of survivors in Tunisia is also linked to the collective refoulement of people seeking protection to the desert border region between Tunisia and Libya or Algeria in violation of international law, as well as chain deportations to Libya by Tunisian security forces.<sup>13</sup>

At the same time, many Tunisian citizens are not safe in their country, either. The fundamental rights of women, non-Muslim people, LGBTQI+\* and political opponents are under threat and lawyers, journalists and human rights defenders are increasingly being arrested, intimidated and harassed.<sup>14</sup>

#### Illegal returns to Tunisia

For more than a decade, the EU and its member states have been supporting the Tunisian state in controlling its borders in order to stem migration to Europe. In July 2023, the EU and Tunisia strengthened their cooperation in a Memorandum of Understanding. Tunisia was promised 1 billion euros, including 105 million euros for border and migration control.<sup>15</sup>

The EU and its member states support training programmes for the Tunisian police, and supply equipment

\* LGBTQI+ stands for different identities and sexualities in the queer spectrum. Specifically, the term stands for lesbian, gay, bisexual, transgender, queer and intersex people.

for the Tunisian Coast Guard as well as for data collection and management.<sup>16</sup> Both the German Federal Police and Germany's international development agency, the Gesellschaft für Internationale Zusammenarbeit (GIZ), are directly involved in cooperation programmes to support the Tunisian security forces and Coast Guard in border surveillance and migration control.<sup>17</sup> However, the Tunisian Coast Guard illegally forces refugees back to Tunisia and commits serious human rights violations at sea. It frequently endangers the lives of refugees – including through high-speed manoeuvres that threaten to capsize boats, physical violence as well as the use of tear gas at close range and collisions with boats.<sup>18</sup> Witness testimonies also suggest that the EU-funded Tunisian security forces are co-operating with people smugglers and are responsible for widespread sexualised violence against women from sub-Saharan Africa.<sup>19</sup>

In June 2024, EU support enabled the establishment of a Tunisian Search and Rescue Zone.<sup>20</sup> As previously in Libya, the establishment of the Search and Rescue Zone and support for the Tunisian Rescue Coordination Centre is being used to outsource the duty of maritime rescue and responsibility for coordinating distress cases to Tunisian authorities, leading to an increase in illegal returns to Tunisia. The progressive withdrawal of EU actors from the central Mediterranean has led to an increase in human rights violations.

#### Human rights violations caused by outsourcing asylum procedures to Albania

The agreement between Italy and Albania, first implemented in practice in October 2024, represents a new form

of externalisation. People who have been rescued from distress at sea and categorised by the Italian authorities as 'not being in particular need of protection' are brought to Albania. On Albanian soil, their asylum application is then considered extraterritorially under Italian law in an accelerated border procedure. On board Italian Coast Guard vessels, as well as an Italian military ship, these persons categorised as 'not in particular need of protection' are identified and brought to Albania. However, the conditions for an appropriate assessment of mental and physical state of health, required to determine protection status, cannot be met on board a ship.<sup>21</sup> Overall, the cost of the agreement amounts to 653 million euros over five years.<sup>22</sup>

With this agreement, Italy is violating international law and undermining the individual right to asylum. The disembarkation of people rescued from distress at sea in the Albanian harbour of Shengjin contradicts the obligation under international maritime law to bring people ashore at the nearest place of safety.<sup>23</sup> Furthermore, the lack of procedural safeguards for the individual examination of asylum rights and the subsequent detention of people seeking protection in Albania violates the fundamental rights of people seeking protection.<sup>24</sup> Citing judgements of the European Court of Justice, several Italian courts found the detention of the first nineteen survivors brought to Albania to be unlawful and ordered their transfer to Italy.<sup>25</sup>

## Our demands to the EU and its member states

The EU and its member states must honour their obligations to protect refugees as set out in international and EU law. They must not circumvent and dilute their responsibility to protect refugees and uphold human rights by outsourcing this responsibility to third countries.

We call on the EU and its member states:

**1. to end any cooperation with Tunisia and Libya in the field of migration or maritime search and rescue that leads to the violation and restriction of refugee rights, namely:**

→ **to end support for the so-called Libyan and Tunisian Coast Guard**

The EU and its member states must immediately stop training, equipping and funding the so-called Libyan and Tunisian Coast Guard. Supporting actors who commit human rights violations and are associated with human trafficking means sharing responsibility for these violations.

→ **not to force people rescued from distress at sea back to Tunisia and Libya and not to participate in illegal returns**

Returns to Libya or Tunisia are illegal. The responsible European coastal states, Malta and Italy, and the European Border and Coast Guard Agency Frontex must ensure that people rescued from distress at sea are not brought ashore in Libya or Tunisia.

→ **to revoke official recognition of the Libyan and Tunisian Search and Rescue Zones**

The Libyan and Tunisian Search and Rescue Zones fulfil neither the technical nor the humanitarian requirements<sup>26</sup> necessary to properly coordinate search and rescue operations. The EU and its member states must work within the International Maritime Organisation (IMO) to ensure that recognition of the Libyan and Tunisian Search and Rescue Zones is revoked.

**2. to protect the right to asylum in the EU:**

→ **The agreement with Albania must be cancelled by the Italian government.**

In its implementation, the agreement violates international maritime law and undermines the right to asylum. It jeopardises the fundamental rights of refugees.

→ **The agreement with Albania must not serve as a blueprint for similar models of outsourcing asylum procedures to third countries**

The EU and its member states must clearly reject extraterritorial and externalised asylum procedures. Asylum procedures must be carried out in accordance with European law within the EU.

## Our demands to the German government

As an influential EU member state, Germany must work towards ending any cooperation with Tunisia or Libya that leads to restrictions on refugee protection. Germany must not be complicit in human rights violations.

We expect the German federal government to:

**1. clearly oppose the outsourcing of EU migration control to Tunisia and Libya and urge an end to existing cooperation agreements.**

**2. end personnel and financial support for the Tunisian Coast Guard and Rescue Coordination Centre** through actors such as the German Federal Police and GIZ.

**3. speak out at EU level and to other member states against the outsourcing of asylum procedures to third countries, such as the Italy-Albania Agreement, and thus stand up for the rights of people seeking protection as enshrined in EU and international law.**

<sup>1</sup> The figure was calculated in-house and relates to the following projects and funding instruments: SIBMMIL (2017–2024), EUTF (2015–2024), BMP Maghreb (2018–2024), NDICI (2021–2027), Strengthening the Tunisian Coast Guard Training Pillar (2023–2026), MoU between EU and Tunisia (since 2023).

<sup>2</sup> UNHCR (2021), [UNHCR Note](#) on the 'Externalization' of International Protection.

<sup>3</sup> SAR (1979): [Anlage 1.3.2](#); IMO (2004): [Resolution MSC.167\(78\)](#).

- 4 Civil Court of Crotona (26.06.2024): [Court judgement no. 348/2024](#); Supreme Court of Cassation (02/2024): [No. 4557](#); European Court of Human Rights (23.02.2012): [Hirsi Jamaa v. Italy](#).
- 5 OHCHR (27.03.2023): [Report of the Independent Fact-Finding Mission on Libya](#).
- 6 The following projects and funding instruments have been supporting the so-called Libyan Coast Guard since 2013: Operation Seahorse (2013–2019), EUNAVFORMED Sophia (2015–2020), EUTF (2015–2024), EUNAVFORMED Iriini (2020–2025) and NDICI (2021–2027).
- 7 Civil Court of Crotona (26.06.2024): [Court judgement no. 348/2024](#); Supreme Court of Cassation (02/2024): [Court judgement no. 4557](#).
- 8 Humanity 1 has already witnessed the so-called Libyan Coast Guard carrying out illegal pull-backs [eight times](#). During one of the pull-backs witnessed, the so-called Libyan Coast Guard intervened in a rescue operation of the Humanity 1 [with armed force](#) by firing into the water, thus threatening the lives of the people in distress at sea and the crew members of the Humanity 1.
- 9 OHCHR (27.03.2023): [Report of the Independent Fact-Finding Mission on Libya](#).
- 10 SOS Humanity (07.05.2024): [Humanity overboard](#), p. 7; Lighthouse Reports (11.12.2023): [Frontex and the pirate ship](#).
- 11 The figure was calculated specifically based on data from [UNHCR](#) and [IOM Libya](#). Survivors report on the 'Libyan hell' [here](#).
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