

Safety, rescue at sea and legal access

Stefan Kessler

If it is to live up to its own values, the EU needs to step up search and rescue operations in the Mediterranean and open up legal means for access to protection in Europe in order to avoid the need for risky journeys across the Mediterranean.

Promoting human rights and protecting human dignity are among the core values of the European Union (EU), whose institutions are legally bound by the Charter of Fundamental Rights where these values are enshrined. That is why saving and protecting the lives of migrants must be a priority for the EU and why the EU needs a comprehensive search and rescue operation. However, despite calls from NGOs to prioritise saving human life, the EU's answer to the Mediterranean tragedies has focused more on preventing migrants from coming to Europe than on saving lives.

Following two incidents in October 2013, Italy deployed the Mare Nostrum operation near the Libyan coast which helped to save tens of thousands of lives. Unfortunately Mare Nostrum was shut down in 2014. It has been replaced by the Frontex Triton operation which covers a smaller geographical area, has much fewer resources and focuses more on border surveillance than on saving lives. Search and rescue is mostly provided by the Maltese and Italian navies and by the commercial ships which regularly answer the emergency calls of boats in distress. NGOs such as Médecins Sans Frontières, the Migrant Offshore Aid Station and the Norwegian Refugee Council also supply their own boats for search and rescue.

However, without a structured European-wide operation, there is a huge risk that at

least some boats in distress will not be helped in time and more migrants will lose their lives while trying to cross the Mediterranean. What is needed is a search and rescue operation similar to the Italian Mare Nostrum, which would cover a wide geographical area and which would benefit from enough resources. Instead, European leaders focus more on fighting smugglers and on possible military action in the Mediterranean to destroy unseaworthy vessels.

Legal and safe routes

Moreover, in order to avoid more deaths in the Mediterranean, European leaders need to think about opening up more legal and safe routes for forced migrants. There are concrete proposals on the table; in November 2014, several faith-based organisations issued a joint policy paper on safe and legal paths to protection in Europe.¹ This paper calls for the development of a 'toolbox' to meet the specific needs of the different groups of persons who are forced to flee war, indiscriminate violence, political persecution and other human rights violations.

Among the 'tools' is the resettlement of refugees who have already been recognised by UNHCR. More places could be offered as an annual resettlement quota for the EU (such as 20,000 places per year by the year 2020, as proposed by the Resettlement Saves Lives Campaign²). Even these would be

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very small numbers for the entire EU. While resettlement and humanitarian admission would remain voluntary for Member States, the EU could offer – in addition to funding – expertise and policy coordination to encourage pledging of higher numbers.

Another tool could be an improved facilitation of family reunification. Family life is of great importance for the well-being of refugees and crucial for their successful integration. The EU Court of Justice has stressed that the aim of the applicable EU laws is to enable family life and that the law must be interpreted and applied in this light. An application of EU law at national level meeting these requirements and refraining from unjustified restrictions would enable a considerable number of persons in need of protection to come to Europe in a safe and organised way and to join relatives already living there (who can support them in building a new life). The concept of ‘family’ should also be interpreted more broadly to include not only the nuclear family but other relatives as well.

In addition to these measures, for some groups of forced migrants the issuing of a humanitarian visa could provide an effective route to protection. Where persons can access an embassy or consulate of a Member

State, be it in their country of origin or in transit countries, they could be provided with a visa authorising them to travel to this State. Upon the applicant’s arrival in the country of destination, the usual asylum procedure would follow. The issuing of humanitarian visas under this model should not need to depend on a positive assessment of the likely outcome of the application.

We also strongly recommend taking into consideration the temporary lifting of visa requirements for certain groups; this would allow persons seeking protection to travel safely and spend their money on ordinary means of travel rather than paying smugglers.

Legal foundations for these proposals can already be found in existing EU legislation and all these existing elements should be further developed and brought together to form a comprehensive set of legal provisions and policies to fit the circumstances. Then the European Union would be living up to its own standards and values.

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1. http://jrseurope.org/news_detail?TN=NEWS-20141120064619
2. www.resettlement.eu/page/resettlement-saves-lives-2020-campaign



UNHCR/Achilleas Zavalis

Arriving on Lesbos after crossing by boat from Turkey.