ALL AT SEA: EUROPE'S CRISIS OF SOLIDARITY ON MIGRATION

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SUMMARY

- The European Union's approach to migration has created a crisis of solidarity. While migrant arrivals in Europe have declined, so has cooperation and responsibility sharing within the EU.
- Member states' reluctance to take sustained responsibility for search and rescue operations has exacerbated voters' sense that the EU has lost control of the situation.
- The bloc seems to favour informal, ad hoc initiatives on migration governance that have little transparency, as seen in its disembarkation arrangements and the Emergency Trust Fund for Africa.
- The EU threatens to undermine its credibility in driving reform in north Africa when it cherry-picks its commitments to international obligations, and when it legitimises and funds counterproductive migration practices.
- The bloc requires bold leadership in telling a story about migration as a normal and necessary phenomenon, and in promoting inclusive, sustainable policies among member states and with third countries.

Introduction

The European Union's approach to migration has created a crisis of solidarity. As it stands, the bloc has no system through which member states can share responsibility for hosting migrants in a fair manner. As a consequence, they continue to wrangle with one another over which of them should host the asylum seekers and other migrants who reach Europe's shores. These disputes go to the heart of member states' current inability to agree on the reform of the Dublin Regulation.

Member states on the EU's southern border call for the institutionalisation of relocation quotas and greater shared responsibility for migrant arrivals, but the members of the Visegrád group (the Czech Republic, Hungary, Poland, and Slovakia) refuse to support any form of solidarity mechanism. Meanwhile, countries in northern and western Europe tend to emphasise their relative openness to limited relocations yet seem mostly concerned about stopping secondary movements. Simultaneously, the European Commission is pushing for reforms that would increase the role of what it calls "safe third countries" in hosting migrants.[1] Amid this disarray, these countries are concerned that they will become a dumping ground for the EU's unwanted migrants, not least because the bloc's relocation arrangements continue to be ad hoc and to lack transparent procedures.

This paper analyses some of the major flaws in the EU's current approach to migration. It explores how the bloc's efforts to assign responsibility for asylum processing to north African countries may weaken its capacity to reform its migration and asylum system, and to protect individuals fleeing persecution. The paper shows that providing safe, legal migration pathways is necessary to reduce dependency on smugglers and the risk that migrants will embark on dangerous journeys. The EU's migration policies will only be credible and sustainable if they avoid producing panic and promote solidarity both within Europe and between Europe and third countries.

The bloc's current approach to cooperation with third countries is marked by unstable, security-driven deals and an insular, not-in-my-backyard approach that

leads to chaotic governance. There is a significant possibility that, in time, this will exacerbate anti-immigrant populism in Europe by warping EU citizens' view of contemporary migration. Nonetheless, the EU now has an opportunity to take a more productive and sustainable approach to migration across the Mediterranean. If the bloc's leaders seize the opportunity, they can redefine its migration policies in ways that improve Europe's internal cohesion and create mutually beneficial relationships with north African countries.

From cooperation to crisis

There are several promising indications of a shift in the European migration agenda. These include:

- In December 2018, 152 countries ratified the Global Compact for Safe, Orderly and Regular Migration. The agreement sets out 23 objectives on good migration governance, grounded in the values of state sovereignty, shared responsibility, anti-discrimination, and human rights. Even though nine countries – including the United States and the members of the Visegrád group – did not sign it, the agreement demonstrates that most nations desire change.
- In July 2019, French President Emmanuel Macron announced that 14 EU member states had signed up to the "solidarity mechanism" for relocating migrants across the bloc.
- In September 2019, a specialist in migration succeeded far-right leader Matteo Salvini as Italy's interior minister in a new coalition government. The government is committed to depoliticising migration policy, treating migration governance as an administrative matter, and taking the heat out of the current debate – to ease public discontent.
- EU citizens no longer appear to regard immigration as their main priority (as partly evidenced by a recent European Council on Foreign Relations survey). This may be partly reflected in the success of Green parties in the May 2019 European Parliament election, given that these parties generally welcome migrants as a matter of both human rights and economic planning for ageing populations.
- The newly appointed leaders of the EU's institutions have repeatedly

declared that they want a "fresh start" on migration governance. The new president of the European Commission, Ursula von der Leyen, has called for the bloc to develop "a new way of burden sharing" and "a more sustainable approach to search and rescue" (SAR). At the same time, she has advocated stronger humanitarian cooperation with third countries and affirmed Europe's "moral duty" to help those fleeing persecution and conflict. In a similar vein, the mission letter to the commissioner-designate for justice and home affairs, Ylva Johansson, states that "we should aim to unite around our common values and humanitarian responsibilities, and seek to make our communities and our society more cohesive and integrated".

Together, these developments may indicate a shift towards a more sustainable, cooperative form of migration governance – one that reassures European voters. Nonetheless, member states' decision not to support Italian SAR operation Mare Nostrum in 2014 has had several negative knock-on effects: every rescue operation in the Mediterranean since then has been the product of an ad hoc emergency arrangement and states' temporary assumption of responsibility. Indeed, member states' reluctance to take sustained responsibility for SAR and their policy of outlawing attempts by NGOs to fill the resulting gap in rescue operations has made it increasingly difficult for migrants who are rescued in the Mediterranean to reach an open, safe port in Europe. This has, in turn, exacerbated voters' sense that the EU has lost control of the situation.

Member states' approach to cooperation on migration and asylum establishes no transparent rules, procedures, or processes on SAR, disembarkation, or relocation. The EU initially began to address the relocation of asylum seekers through a temporary, Europe-wide instrument with specified rules and procedures, but it now seems to be moving backwards to engage in relocation with less formality, fewer players, and more room for discriminatory practices. The bloc seems to favour informal, locally negotiated initiatives on migration governance, including those on cooperation with third countries – as seen in its disembarkation arrangements, the EU-Turkey agreement on migration, and the Emergency Trust Fund for Africa. Meanwhile, SAR in Europe is at a standstill, as EU member states increasingly assign responsibility for it to countries on the other side of the Mediterranean.

European cooperation with north African countries is also driven by a desire to delegate responsibility for border security and asylum processing to them. Morocco and Tunisia lack asylum systems that meet international standards. Attempts to reform these systems have reached an impasse, partly because these nations fear that the EU will label them as safe third countries and thereby make them responsible for the vast majority of asylum seekers in the region. Under EU pressure, the Libyan authorities have dramatically extended their SAR zone, barring NGOs from entering it. This has also led to a rise in the number of migrants returning to Libya – where they are at risk of torture, slavery, and death – despite the United Nations' calls for a halt to such activity.

Between 2015 and 2018, the annual number of migrants arriving in Europe fell sharply, to 140,000. Some European politicians have argued that EU migration agreements with north African countries are a success story, in the sense that they appear to have dramatically reduced the number of migrants who reach European shores. Yet there is a price for this policy of delegation to countries that are low on the democracy index and non-signatories to the 1951 Geneva Convention. Although the absolute number of migrants has fallen, the EU's delegation of border control and SAR activities to Libya has increased the rate of migrants deaths, from one in every 38 arrivals in 2017 to one in every 14 in 2018, to one in every three in the first four months of 2019. A similar trend is apparent along the route between Spain and Morocco.

The criminalisation of sea rescues

In October 2013, a fishing boat carrying more than 500 migrants sank near the Italian island of Lampedusa, causing the deaths of 366 people. José Manuel Barroso, then president of the European Commission, came to Italy to pay his respects. Enrico Letta, Italy's prime minister at the time, declared a national day of mourning. Rome granted those who lost their lives a state funeral and honorary Italian citizenship. This humanitarian moment gave birth to the Italian SAR operation Mare Nostrum later in the year. The Italian Navy was charged with monitoring and rescuing migrants in a 70,000-square-kilometre area covering the SAR zones of Italy, Libya, and Malta. The Italian government, the opposition, and significant sections of the public all supported the creation of the rescue

operation, which eventually led to the rescue of more than 150,000 migrants. (The Italian government unsuccessfully sought co-funding for the operation from the EU.) Yet, while some drownings drew public sympathy, the growing appeal of the pull-factor narrative – which held that rescues encouraged migration – gradually undermined popular support for the mission. The Italian government eventually turned its back on all European cooperation mechanisms and closed its ports to rescue vessels. According to one high-level Italian official, the decision to end Mare Nostrum helped spur populism in Italy, because it demonstrated that the government was no longer in control of the situation.[2]

The end of the mission meant that there was no national SAR operation in the central Mediterranean. To fill the gap, Frontex launched Operation Triton in November 2014. Yet Triton ships only ranged around 30 nautical miles off the coast of Lampedusa, leaving a zone that extended 40 nautical miles off the coast of Libya unpatrolled. Moreover, these ships did not actively patrol but responded to calls. While the decline in rescue operations failed to reduce migrant crossings, migrant deaths increased dramatically. During January-April 2014, there were 26,644 crossings and 60 documented drownings. In the same period the following year, the number of crossings moderately increased – to 26,228 – but the number of deaths skyrocketed to 1,687.

The EU launched Operation Sophia in June 2015 with a core mandate to counter people trafficking. Under international and EU law, the ships that participated in the mission were obliged to assist vessels in distress. Yet, in March 2019, the EU began to replace these ships with unmanned aerial vehicles, as part of a €95m investment.[3] The legal obligation to help someone in distress does not apply to such vehicles, which now patrol waters off the Libyan coast. Accordingly, the EU has not carried out a rescue in these waters in more than a year.

Since 2017, the EU and its member states have criminalised NGOs' rescues at sea and imposed hefty fines on the organisations. They have denied their boats access to ports, confiscated vessels, and arrested ship captains. For instance, in June 2019, Sea Watch – an NGO led by Captain Carola Rackete – rescued more than 60 migrants off the coast of Libya. After the migrants were denied embarkation access for two weeks, several German cities indicated that they would accept them. But there was no mechanism for safe disembarkation that would allow the migrants to

reach Germany. Rackete eventually defied Italy's ban by bringing the migrants to Lampedusa, invoking an obligation to do so under international law. Salvini, then in government, banned commercial and private boats from disembarkation in Italian ports. This led to a disembarkation crisis in which Italy prevented the Aquarius, an NGO vessel carrying more than 600 migrants, from entering Italian waters in August 2018. The Spanish government subsequently allowed the ship to dock in Valencia.

Nonetheless, the Spanish government has also criminalised NGO rescue operations – albeit with much less media fanfare than there was in Italy. Spain has refused to grant departure permits to NGO rescue vessels since January 2019. The Spanish Ministry of Development recently threatened Spanish NGO Proactiva Open Arms with a fine of up to €900,000 for defying orders to confine its rescue ship to port.

Within the pull-factor narrative, SAR operations carried out by NGOs are then partly responsible for migrant deaths (along with smugglers) – and even profit from SAR operations.[4] Yet there is no evidence to support the pull-factor narrative. Comparative figures on migrant departures from Libya show that, by June 2019, around 85 people tried to cross the Mediterranean every day but, with NGOs present, the number was around 76.

This rescue and disembarkation crisis has led to semi-permanent emergency measures under which EU member states quarrel over which of them will open their ports to ships carrying migrants, leaving many of the vessels in limbo for extended periods. There is no common legal framework covering European countries' SAR and disembarkation activities. The solidarity mechanism that 14 EU member states signed up to only emerged after the EU's foreign affairs and interior ministers met to discuss how to respond when a boat in distress sought to dock in Europe.

According to Macron, the operations of the mechanism will be "quick" and "automatic". However, this does not seem to have been the case so far. Since Macron announced the mechanism, NGO rescue vessel Ocean Viking became stuck in waters between Malta and Sicily for 13 days. Just six countries (France, Germany, Luxembourg, Ireland, Portugal, and Romania) took in migrants from the

ship – and only then after almost two weeks. Around the same time, the Italian government left more than 80 migrants adrift on the NGO vessel Open Arms for almost three weeks. It finally allowed the migrants to land on Lampedusa after a prosecutor intervened, permitting them to come ashore against Salvini's wishes. France, Germany, Luxembourg, Portugal, and Romania later took them in.

There is little publicly available information on the workings of the solidarity mechanism, including its arrangements for disembarkation. To date, all EU states on the Mediterranean coast (Croatia, Cyprus, France, Greece, Italy, Malta, Slovenia, and Spain) have refused to participate in a rotating disembarkation process, which makes it difficult to pressure Italy to open its ports to rescue vessels.[5] At the same time, some member states are concerned that the formalisation of temporary disembarkation mechanisms will halt the reform of the Dublin Regulation.[6] Five member states announced a deal to distribute migrants from the Mediterranean in early October 2019, but it is too early to tell how they will operationalise the arrangement.

An emphasis on externalisation

In combination with their attempts to step up border security and dismantle SAR, European countries have increasingly emphasised cooperation with third countries. They have presented this as a humanitarian move that builds local capacity, thereby limiting the need for onward migration and deterring migrants from risking their lives by embarking on perilous journeys.

Cooperation with third countries on migration governance is nothing new: European leaders announced that it was "a key priority" as far back as the 1999 Tampere Summit. Since then, this dimension of migration governance has dramatically grown in allocated funding and political salience. Externalisation forms part of the EU's attempt to get around a problem in which the first country of arrival is always responsible for taking in migrants. It does so by ensuring that a state can make decisions on whether to accept migrants before they arrive in the EU.

This is why north African countries have become such important players in European migration governance. It is also part of the reason why the EU

established the Emergency Trust Fund for Africa at a summit in Valletta in November 2015. The declared objective of the north African element of the fund – whose 2015-2020 budget of €647.7m covers Algeria, Egypt, Libya, Morocco, and Tunisia – is to "contribute to safe, secure, legal and orderly migration from, to and within the region and support an effective management of migration flows that protects human rights".

Federica Mogherini, the EU's high representative for foreign affairs, confirmed this in a speech on the implementation of the EU Global Strategy at the plenary session of the European Parliament in July 2019. She stated that: "our partners look at Europe to find a reliable, credible, predictable partner; someone you can cooperate with; someone that invests always in peace, democracy, human rights, and cooperation". These remarks are anchored in the EU's long-standing ambition to become an international actor defined by its principled and values-based agenda. Mogherini's statement echoed one by her predecessor, Catherine Ashton, who commented in 2010 that "we do crisis management the European way. With a comprehensive approach. In support of international law and agreements". However, EU policy and practice in north Africa undermine this claim.

The failure of disembarkation platforms

European leaders have long called for a system that externalises migrant and asylum seeker processing. For instance, the UK government proposed the creation of transit processing centres outside the EU as early as 2003. The German government renewed this proposal in 2005. Today, there are similar calls for bilateral and EU-supported initiatives to return migrants and asylum seekers for processing in Libya, Morocco, and Turkey. In June 2018, the European Council advanced the idea of establishing regional disembarkation platforms to "eliminate the incentive [for migrants] to embark on perilous journeys".

European leaders hoped that they could ease public concerns about migration if they signalled that they were managing migration at a distance, shifting responsibility for it to third countries. Thus, the European Council said that Europe would create the platforms "in close cooperation with relevant third countries", as well as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration. It added that "such

platforms should operate distinguishing individual situations [to give applicants a fair hearing], in full respect of international law and without creating a pull factor". Under these arrangements, the process of returning migrants to north African countries after they had been intercepted in the Mediterranean would centre on respect for international law. Particularly important in this are the principle of non-refoulement – not returning migrants to places where they would be in danger – and provisions such as the prohibition against collective expulsions stipulated by the European Court of Human Rights. The process would also call for returning people to a safe port where they would be guaranteed a reception in humane conditions and granted the opportunity to apply for asylum. However, the EU has sought partnerships with many states that are ill-equipped to fulfil these conditions.

North African countries eventually rejected the European Council's proposal for disembarkation platforms. The African Union, which pushed for these countries not to succumb to the EU's demands, expressed suspicion that the platforms would become de facto detention centres. An AU position paper stated: "African capitals worry that this plan will see the establishment of something like modern-day slave markets, with the 'best' Africans being allowed into Europe and the rest tossed back". Although the idea of the disembarkation platforms never entirely gained traction, the EU has implemented many elements of them – including returns of migrants and asylum seekers to countries such as Libya, Morocco, Tunisia, and Turkey, as well as outsourced asylum processing that enables only a select few to enter the EU.

Resistance to resettlement

The resettlement quotas for migrants from north Africa that EU member states have put forward on a voluntary basis are far lower than those called for by UNHCR. According to the organisation, more than 1,000 refugees and migrants have been resettled from Libya to Europe in 2019, while more than 1,200 others were returned to Tripoli after being intercepted by the Libyan Coast Guard in May alone. There is no set European approach to resettlement. Italy is the only EU member state that has directly resettled migrants from Libya – while the others claim that doing so poses too great a security risk.[7]

The EU defends its approach to processing migrants and refugees in north African countries on the basis that it will resettle those most in need of protection. In this way, the provision of asylum becomes more about goodwill than formal obligations. The EU's criteria for "the most in need" introduces a hierarchy of protection that – because it is largely based on biology rather than biography – does not match the definition of a refugee under the Geneva Convention. That is to say, the eligibility criteria of the EU draft law on a resettlement framework privileges women at risk, children, the elderly, the disabled, and survivors who display the physical effects of violence and torture.

The EU's draft legislation on its resettlement framework follows an incentives logic, in the sense that it stipulates several conditions for resettlement quotas. These include mechanisms for demonstrating a fall in irregular migrant departures; stepping up returns through readmission agreements; and establishing conditions for the return of asylum seekers based on a functioning asylum system. In practice, resettlement rates from countries across the Mediterranean are extremely low.

Spanish-Moroccan cooperation

Since 2004, the Spanish and Moroccan governments have deployed joint patrol teams that have covered the Strait of Gibraltar and, later, the Atlantic coast. Joint stations in Spain and Morocco have enabled the countries' police forces to work side by side every day. A Spanish-Moroccan commission on police cooperation meets regularly. Due to an increase in patrols along the Central Mediterranean Route in 2017, Spain received 34,000 migrants – more than any other EU country – the following year. This prompted Spain to call for the Moroccan authorities to take on a more active role in SAR activities in their waters.[8]

Under Spain's February 2019 deal with Morocco, Spanish SAR operation Salvamento Marítimo was tasked with taking migrants rescued at sea to Moroccan ports in certain situations: where the Spanish authorities were assisting the Moroccan Coast Guard in Morocco's maritime area of responsibility and where the nearest port was located in Morocco. A spokesperson for the CGT, the lead union at Salvamento Marítimo, commented: "this kind of measure could turn us into someone to avoid. Deaths will rise. They will stay away from anything that smells

of repatriation."

Italian and EU cooperation with Libya

Libya, which suffers from a long-running war and endemic instability, has become a key migration priority for the EU. This is because more migrants travelling towards Europe pass through Libya than any other country. Nonetheless, migrant departures from Libya have slowed since 2018, due to fragile European deals with the country.

Italy and Libya have engaged in bilateral cooperation on migration since the late 1990s. They stepped up this cooperation after signing the 2008 friendship treaty, under which the Italian government promised to finance infrastructure in return for access to oil and help in "combating illegal migration". This has resulted in joint Italian-Libyan patrols since 2009 and an increase in returns of migrants to Libya. The latter practice momentarily halted in February 2012, after the European Court of Human Rights condemned it in a landmark ruling on *Hirsi Jamaa and others versus Italy*. The court ruled that the return of 24 migrants to Tripoli on Italian Navy ships constituted a violation of Article 3 of the European Convention on Human Rights (on torture and inhumane treatment), in the light of unsafe conditions in Libya. The court also condemned Italy for engaging in collective expulsion.

Despite this condemnation, the Libyan Coast Guard has, with Italian and EU support, intercepted an increasing number of migrants and returned them to Tripoli since 2017. There, they are often exposed to human rights abuses such as arbitrary detention, torture, starvation, and slavery. The Libyan Search and Rescue Region and the Libyan Maritime Rescue Coordination Centre was set up with financial support from the EU Trust Fund for Africa. In August 2017, encouraged by the EU, the Libyan authorities extended their SAR zone to 94 nautical miles off the coast and assumed responsibility for coordinating operations in that area, forbidding NGO rescue vessels from entering it. A submission by two civil rights lawyers to the International Criminal Court condemned the EU for its role in returning migrants to Libya.

Unsafe conditions for migrant returns

While UNHCR and the International Organization for Migration are supposed to maintain a presence at disembarkation points to conduct a medical and protection needs assessments, they have little knowledge of what happens to migrants and refugees thereafter. The numbers of migrants recorded at disembarkation points do not correspond to those placed in detention centres.[9] One interviewee described the disembarkation point as a "cattle market" from which unmarked cars would take migrants to unknown locations.[10]

Libya has not signed the Geneva Convention, while UNHCR's branch in Tripoli is severely underfunded.[11] Moreover, the organisation does not have access to all detained migrants. Indeed, Libya first holds many migrants in informal detention centres run by militias. In this way, the criminal exploitation of migration in Libya has become big business. There are reports of systematic torture and extortion in informal detention centres, in which criminals force the families of detained migrants to hear the suffering of their relatives by phone until they pay a ransom. [12]

According to the Global Detention Project, the EU and the Italian government have pushed the Tunisian Coast Guard to intercept boats carrying migrants towards the EU from Libya. They expect Tunisia to process asylum claims on its own soil and return those it deems to have no protection needs. On both sides of the Mediterranean, then, there are attempts to shift responsibility for migration. For instance, a group of 75 migrants were stranded off the coast of Tunisia for three weeks after the authorities claimed that they could not disembark because the local reception facilities were full. The authorities eventually allowed the migrants – most of whom had Bangladeshi nationality – to disembark, on the understanding that they would be deported immediately. The Bangladeshi embassy's envoy threatened to withdraw the migrants' food and water if they refused to agree to their return. One migration analyst based in Tunisia told the author that such threats are frequently used to pressure migrants to return to their country of origin. In Tunisia, detention centres are often hidden in unknown locations. Detainees are frequently deprived of the opportunity to seek asylum, forcing them to either pay for their own deportation or, if they lack the funds to do so, to fend

for themselves after the Tunisian security forces dump them in the desert on the Tunisian-Algerian border.[13]

All this undermines a key premise of the EU's externalisation agenda in Tunisia and Morocco: that these countries can provide adequate reception conditions and protections to migrants and asylum seekers. Similarly, although Morocco was the first African country to sign the Geneva Convention, there are major gaps in its human rights protections.

Nonetheless, Morocco has made some positive steps in its migration policy in recent years. In 2013 the country introduced new asylum and migration policy commitments designed to bring it into compliance with international standards. The Moroccan government has also carried out "exceptional" regularisation procedures for some undocumented migrants, allowing them to obtain residence permits. However, migrants and asylum seekers have continued to report threats to their safety and wellbeing in Morocco. Since 2018, the Moroccan authorities have engaged in extensive crackdowns on these people, especially those from sub-Saharan Africa. The authorities have often subjected them to mass round-ups, arbitrary arrests, forced displacement to remote areas of the country, and summary deportations – all in the name of the fight against irregular migration.

Like Tunisia, Morocco has drafted an asylum law but still not submitted it to parliament. The European Commission currently recommends that the Dublin Regulation be amended to include a mandatory inadmissibility check. This would mean that member states would be obliged to confirm whether an individual applying for asylum had transited through a "safe third country". If the individual had done so, the member state would send him or her back to that country to seek asylum there. Some Tunisian and Moroccan officials – who watch EU asylum reforms closely – see this potential measure as a major disincentive to finalising their asylum laws, lest they become the "EU's dumping ground".[14] Indeed, one official based in Tunisia cited the example of Turkey in this, pointing out that, ever since the country ratified its first asylum law in 2013, it has become a mechanism for outsourcing EU asylum policy.[15]

Conclusion and recommendations

All these factors have contributed to the crisis of solidarity within the EU. As one migration official in Brussels recently commented, "migration has broken the trust lines … coastal countries like Greece, Italy, and Spain do not trust other member states that they will help with arrivals and the main countries of asylum in Europe do not trust the Mediterranean countries that they will register the arrivals". Thus, while migration arrivals have declined, so have cooperation and responsibility sharing within the EU. This leads to an endless state of emergency, with ad hoc national measures that weaken both solidarity between member states and voters' confidence in the bloc. It may also perpetuate a closed-border mentality in which migration and EU cooperation are a threat to national sovereignty. There is a severe risk that the widespread perception of weak European solidarity on migration governance will fuel Euroscepticism across the EU – as it has in Italy.

The bloc's current approach to migration will also undermine European cohesion in other ways. Acquiescence to national migration policies that fall into a grey zone of international law will likely help create a culture in which states feel able to cherry-pick their international commitments. This culture may spill over into broader European efforts to cooperate with north African countries, affecting a key priority outlined in the European Neighbourhood Instrument in north Africa: the promotion of democracy, the rule of law, and human rights. The EU threatens to undermine its credibility in driving such reforms when it cherry-picks its commitments to human rights and international obligations, and when it legitimises and funds counterproductive migration practices, especially those in Libya. Reactive, short-sighted European efforts to shift responsibility to others – from smugglers to NGOs, to other member states, to north African countries – only increases the risk of migrant fatalities in the Mediterranean.

Moreover, there is no evidence that Europe's current approach to migration has reduced populism on the continent. The number of migrants arriving in Europe has declined, but public anxiety about the issue remains relatively high. To find a meaningful and sustainable way forward, European policymakers should concentrate less on reducing the number of migrants arriving in Europe and more on countering the narrative of invasion that has taken hold among many voters.

They can do so by demonstrating control of the situation. This will require bold leadership in telling a story about migration as a normal and necessary phenomenon, and in promoting inclusive policies that are much more reassuring to all parties and much more humane than ad hoc emergency measures.

In this context, EU member states can strengthen European solidarity and create more effective migration policies in several ways. They should:

- Beef up European SAR capabilities by creating a permanent European Mare Nostrum, in line with von der Leyen's call for "a new, more sustainable, reliable and permanent approach to search and rescue, replacing existing ad-hoc solutions". The European Commission has proposed a significant increase in funding for migration and border control under the 2021-2027 EU budget. This should allocate adequate funds to the establishment of a permanent, comprehensive EU mechanism for SAR.

- Explore the possibility of a European SAR zone across the Mediterranean, to enhance European coordination and responsibility in the area. The authorities could move migrants rescued in European "shared waters" to any member state. And SAR activities would increasingly become the responsibility of the EU rather than individual member states. Just as border control has become increasingly Europeanised in the past decade, so can SAR activities.

- Set up a temporary mechanism through which countries on the Mediterranean can share responsibility for disembarkation in a planned and systematic manner. This should combine with planned and prompt relocation of disembarked migrants among member states, regardless of individuals' nationality. Participation in this mechanism should be voluntary.

- Strengthen reception and asylum processing mechanisms in ports of entry, to ensure that member states fulfil their obligations to protect asylum seekers and refugees under European and international law.

- Explore how the EU can make greater use of the University of Oxford's Migration Observatory to inform the public about migration issues; challenge myths about migration; address widespread fears; and shape policy. This would demonstrate the economic, social, and cultural benefits of migration.

These steps are necessary but not sufficient in themselves. In their relationships

with north African countries, EU member states should:

- Commit to significantly increasing resettlement and speed up migration and asylum application processing in receiving countries.
- Commit, as the European Commission has, to "ensuring the protection of human rights of migrants is at the heart of the EU migration policy ... with Libyan authorities" and to not returning migrants to Libya.
- Refrain from supporting the return of migrants and refugees to unsafe spaces, either directly or indirectly (through funding, intelligence sharing, or provision of equipment). Given that Libya cannot provide humane rescue and a safe port, this should involve a redesignation of the Libyan SAR region in cooperation with the Libyan authorities.
- Introduce European SAR operations in the area previously covered by the Italian Mare Nostrum mission. (As discussed above, this would not create a pull factor.)
- Provide more resources for the development of a durable and comprehensive legal and institutional protection framework for asylum seekers and refugees in Morocco and Tunisia.
- Support the implementation of national asylum laws, in cooperation with UNHCR. This could involve, for example, organising study trips to learn from other countries' experiences or training judges, lawyers, and police officers in the effective implementation of asylum law. To promote cooperation, these efforts should be accompanied by a commitment from the European Commission and member states to rule out the "safe third country" notion in asylum governance.

All these steps would help the EU and its member states establish more effective migration policies. In doing so, they would reassure voters, improve European cohesion, strengthen their relationships with north African countries, and respect their international commitments.

About the author

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Acknowledgements

[1] Interview with a European asylum official, Brussels, June 2019.

[2] Interview with a former Italian government official, Paris, September 2019.

[3] Interview with a former Frontex official, Brussels, June 2019.

[4] Interview with a former Italian government official, Paris, September 2019.

[5] Interview with an international civil servant, Brussels, June 2019.

[6] Interview with a Spanish government official, Brussels, June 2019.

[7] ECFR interview with an international organisation official, Rome, June 2019.

[8] Interview with a government official, Madrid, March 2019.

[9] Interview with migration analyst, Tunis, July 2019 (by Skype).

[10] Interview with migration analyst, Tunis, July 2019 (by Skype).

[11] Interview with an international organisation official, Rome, June 2019.

[12] Interview with migration analyst, Tunis, July 2019 (by Skype).

[13] Interview with an international civil servant, Tunis, July 2019 (by Skype).

[14] Interview with an international civil servant, Brussels, June 2019.

[15] Interview with an international civil servant, Tunis, July 2019 (by Skype).

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