

Shifting Borders

**Externalising
migrant vulnerabilities
and rights?**

 **RED CROSS**
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Cover photo:
Migrants fleeing
Libya

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Carpentier/
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The Red Cross and the externalisation of EU migration policy: addressing the humanitarian challenges

Leon Prop, Director, Red Cross EU Office



World Disasters Report 2012

Focus on forced migration and displacement

The World Disasters Report 2012 focuses on forced migration and on increasing number of people forcibly displaced by conflict, political upheaval, violence, disasters, climate change and development projects. The enormous human costs of forced migration – destroyed homes and livelihoods, increased vulnerability, disempowered communities, and collapsed social networks and common bonds – demand urgent and decisive action by both humanitarian and development actors¹.

European Red Cross Societies place a high priority on the issue of asylum, migration and displacement. Many Red Cross² staff and volunteers are providing aid and care to refugees, asylum seekers and migrants. European Red Cross Societies are particularly active in supporting refugees, providing counselling services, health care and humanitarian assistance and the worldwide representation of the Red Cross and Red Crescent Movement allows National Societies to be active all along the migratory trail with a specific focus on situations and conditions in which migrants are especially susceptible to risks.

In Spring 2011, the upheavals in North Africa saw large numbers of people forced to flee the violence. A year later, Member States of the European Union (EU) adopted the plan “EU Action on migratory pressures – a strategic response”³. This Action Plan follows from the 2009 Stockholm programme⁴ which already identified the external dimension of migration and asylum policies as an EU priority and aims at regularly monitoring progress towards this goal. It sets out concrete steps for an intensification of the externalisation of the EU migration policy through strengthened cooperation with countries of origin and countries of transit, concerted management of the EU’s

¹ IFRC, World Disasters Report 2012 – Focus on forced migration and displacement, Geneva, IFRC, 2012.

² Thereafter, “the Red Cross” refers to National Red Cross Societies of the Member States of the European Union.

³ Council of the EU, EU Action on migratory pressures – a strategic response, 8714/1/12 REV 1, 23 April 2012.

⁴ European Council, The Stockholm programme – an open and secure Europe serving and protecting citizens, OJ C 115/1

external border, and the facilitated removal of migrants from the EU. However this Action Plan fails to consider the situation of forced migrants in search of a safe haven in the EU.

The Resolution *Migration: Ensuring Access, Dignity, Respect for Diversity and Social Inclusion* adopted during the 31st International Conference of the Red Cross and Red Crescent⁵ enshrines the Movement's commitments towards reducing the specific vulnerabilities of migrants. With this Resolution, States have undertaken to ensure that national procedures at international borders include adequate safeguards to protect the dignity and the safety of all migrants. States have also agreed to ensure that migrants are granted appropriate international protection and have access to relevant services in accordance with international law. To implement these commitments, States shall ensure that relevant laws and procedures are in place to enable National Societies to enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status.

From a humanitarian perspective the effects of externalisation are worrying. On the ground level, the journey to the EU has become increasingly dangerous adding even further to migrants' vulnerabilities. At policy level, the scarcity of legal ways to access the EU makes it more difficult for vulnerable migrants to reach the EU safely and exercise their legal rights. The Policy on Migration of the International Federation of the Red Cross and Red Crescent Societies (IFRC)⁶ identifies the extent to which migrants have access to assistance, services and legal support as key criteria in assessing their vulnerability. Yet externalisation has a dire effect on access to support and complicates the delivery of humanitarian services.

This booklet intends to support the work of humanitarian actors in ensuring access to protection and dignity for migrants in this context of externalisation. Divided into five chapters, it considers the humanitarian implications of different aspects of externalisation. It also presents a selection of European Red Cross Societies' activities which aim to address emerging and evolving migrant vulnerabilities. Lastly, as the externalisation of migration controls requires a coherent, global response, the publication also includes contributions from different organisations active in the delivery of assistance and protection to migrants.

⁵ IFRC, *Migration: Ensuring access, dignity, respect for diversity and social inclusion: Resolution 3 of the 31st International Conference of the Red Cross and Red Crescent*, Geneva, IFRC, 2011.

⁶ IFRC, *Policy on Migration*, endorsed by the 17th General Assembly of the International Federation of Red Cross and Red Crescent Societies in Nairobi, Kenya in November 2009. Hereinafter referred to as the IFRC Policy on Migration.

The externalisation of migration controls

Claire Rodier, Vice-President, Migreurop

The “externalisation” of border controls – i.e. the process which uses various methods to transfer migration management beyond national borders – is a recent dimension of high-income countries’ migration policies. Practiced in other parts of the world such as Australia (which developed reception centres for asylum seekers in micro-States within its sphere of influence), externalisation was formalised by the European Union (EU) in 2004 and was confirmed by the European Pact on Immigration and Asylum of 2008. By increasing their vulnerability, externalisation has serious consequences for migrants and those seeking international protection.

Externalisation in the EU involves transferring responsibility and, in effect outsourcing its immigration and asylum policy by subcontracting controls. A work programme adopted in 2004 at The Hague European Council, devoted an important part of the agenda to “the external dimension of asylum and immigration.” This programme stressed the need for the EU to support specific third countries, through targeted partnerships (Neighbourhood Policy, Euro-Mediterranean Partnership, the Balkans Stability Pact, relations between the EU and Africa), in order to improve these countries’ ability to manage migration, protect refugees and prevent and combat illegal immigration. Coupled with the tightening of border controls and a highly selective immigration policy, these partnerships are developing into an instrument of deterrence at source with respect to those who, in one capacity or the other, need to migrate.

Using a flexible approach, the EU forces or persuades its partners – migrants’ countries of origin or transit - to collaborate in its migration policy to the detriment of respect for human rights. In line with these collaborative agreements for “migration flow management”, usually concluded under pressure from the EU, officials from these countries in effect play the role of EU border guards to prevent potential migrants from leaving, or those in transit, from travelling to Europe. This was the case in 2005, when more than a dozen sub-Saharaners died, some of them killed by Moroccan army bullets, during attempts to cross the “fences” of Ceuta and Melilla, the Spanish enclaves in North Africa. This form of subcontracting often enables the EU to discharge its responsibilities towards refugees, based on unfair “burden sharing”. In early 2012, when it was announced that a wall would be constructed in eastern Greece to prevent border crossings from Turkey, that country actively cooperated with EU policy by locking its eastern border with Iran and organising a thorough search for refugees in the region.



TUNISIA, Thousands of Bangladeshis walking towards the nearest refugee camp in Tunisia, 2011

© Benoit Matsha-Carpentier/
IFRC

Readmission agreements are a key tool in these collaborations. Negotiated by the EU with ever more source or transit countries, they require the countries to “take back” not only their own nationals who have entered and or stayed illegally in an EU Member State, but also any other person in this situation, irrespective of their nationality. This means that the EU gives these countries a free hand to deal with the people sent back to them, regardless of the conditions for return in these countries. The 2010 agreement with Ukraine well illustrates this cynicism, since Ukraine is regularly criticised by international organisations for racist violence against migrants and refugees.

European policy relating to combating illegal immigration is symbolized by FRONTEX, the European agency established by EU Member States in 2004 to manage, reinforce and streamline cooperation between national border authorities in the EU. This agency’s effect is to distance people seeking international protection. FRONTEX’s maritime interceptions in the Mediterranean Sea are designed to prevent would-be migrants and asylum seekers from reaching the Spanish, Italian and, since 2010, Greek coasts. The conditions under which the identification of potential asylum seekers takes place - in principle a compulsory EU standard for those seeking access to EU states - are questionable. The European Parliament was so concerned that in 2008 it requested that the mandate of FRONTEX “*explicitly [include] an obligation to meet international human rights standards and a duty towards asylum seekers in rescue operations on the high seas*”⁷.

⁷ European Parliament Resolution of 18 December 2008 on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR) (2008/2157(INJ)).

Another consequence is that externalisation diminishes the role of civil society organisations advocating on behalf of asylum seekers and migrants. This reduces democratic accountability and commitments to fundamental rights which EU Member States have ratified. It may also encourage migrants to take even more dangerous routes. The UN High Commissioner for Refugees, Antonio Gutierrez, pointed out in 2008 that *“there are more and more barriers to entry to the European territory, the consequence being that many people seeking protection have no other choice but to resort to smugglers and traffickers in order to cross borders”*⁸.

The increasing power of these measures and the resulting fragility of the right to asylum is illustrated by a dramatic drop in asylum claims over the past decade. For all high-income countries including the EU, UNHCR recorded a decrease of approximately 42 per cent in the decade to 2011⁹.

Ironically, while the Arab Spring was welcomed by European governments, their first reaction in February 2011 was to deploy FRONTEX off Tunisia and Libya in order to prevent populations freed from dictatorship from approaching their coasts. UNHCR estimates that 1,500 people died or were missing at sea during the first six months of 2011.

In March 2011, a boat carrying 72 people (Eritreans, Ethiopians, Ghanaians, Nigerians and Sudanese) drifted for more than two weeks between Libya, which they were fleeing, and Italy, which they sought to enter. Despite their distress and the large presence of NATO ships and helicopters in the area, no one came to help; 63 passengers died. An investigation led by the Council of Europe’s Parliamentary Assembly clearly points the finger at European states and their border-control measures to discourage fishermen and merchant ships from fulfilling their obligations of rescue at sea¹⁰.

The balance of power may appear unequal between an increasingly aggressive “Fortress Europe” and the thousands of migrants on the move due to conflict and poverty. But an encouraging sign came in early 2012, when the European Court of Human Rights condemned Italy for deporting migrants to Libya in 2009 without previously assessing the scope and provisions for international protection which these individuals could claim. A first step towards rolling back the policy of externalisation?

⁸ Intervention de M. António Guterres, Haut Commissaire des Nations Unies pour les réfugiés, à la Conférence ministérielle « Bâtir une Europe de l’Asile », Paris, le 8-9 septembre 2008.

⁹ “Asylum-seeker numbers nearly halved in last decade”, UNHCR press release, 28 March 2011.

¹⁰ PACE Migration Committee report, Lives lost in the Mediterranean Sea: who is responsible?, April 2012.

CHAPTER 1

SPAIN, No one knows how many migrants have died in the last ten years attempting to cross in small boats from Western Sahara, Mauritania and Senegal to the Canary Islands, 2006

© Manuel Lérica/
Spanish Red Cross



The tightening of border controls

The common management of the EU's external border has, since the establishment of the border free Schengen area in 1985, benefited from a constant increase of means and capacities. This strategy was designed to prevent irregular migration as well as support border control operations of those Member States situated along the external border of the EU. Over the past years, the EU has strengthened its external border agency FRONTEX and reinforced its cooperation with border control authorities of neighbouring states including through joint operations. The journey of migrants towards the EU is in this way hindered, irrespective of the motive for which they are migrating and of the human rights situation in the region they are prevented from leaving. Such border control mechanisms violate the prohibition against refoulement when holding back a refugee in a country where his or her life is in danger. In addition, migrants in transit tend to be particularly exposed to abuses and exploitation.

The Policy on Migration reminds that migrants entering as a clandestine or irregular 'mixed group' should be considered as individuals with specific needs, vulnerabilities and rights, including the right to seek asylum¹¹. In its Position paper on access to international protection, the Red Cross reminded EU Member States that international refugee and human rights laws are applicable wherever and whenever they exercise effective control over potential asylum seekers¹². This requires ensuring an effective guarantee of asylum seekers' right to seek asylum and of the right to access a fair asylum procedure.

¹¹ Point 7 of the IFRC Policy on Migration – Working along the migratory trail.

¹² Red Cross EU Office, Position paper on the right to access to international protection, November 2011.

Campaign against externalisation: When you don't exist

Amnesty International

Over the last decade, European countries have increasingly sought to prevent people from reaching Europe, and have "externalised" elements of their border and immigration control. Externalisation refers to a range of border control measures: including measures implemented outside of the territory of the state – either in the territory of another

state or on the high seas. It also includes measures that shift responsibility for preventing irregular migration into Europe from European countries to countries of departure or transit. Externalisation measures are usually based on bilateral agreements between individual countries in Europe and countries of departure or transit.

The policy of externalisation of border control activities has been controversial. The implementation of migration control agreements between European and non-European countries has led to serious human rights violations. The lack of transparency surrounding many European countries' border management practices and agreements with third countries means that these violations continue unchecked. The lack of scrutiny creates a permissive environment in which migrants, refugees and asylum-seekers are left vulnerable and are denied protection of their rights. There is ample evidence of people being returned to a country where they face a real risk of serious human rights abuses, such

as indefinite detention in extremely poor conditions, beatings and other ill-treatment, in some cases amounting to torture. Other human rights violations include the violation of the right to claim asylum and the right not to be subjected to collective expulsions.

The cooperation on migration control between Italy and Libya is a well known example of how agreements between European and non-European countries can lead to serious human rights violations. In February 2012, the policy of push-backs previously implemented by Italy was condemned by the European Court of Human Rights in

Migrant's boat intercepted by Italian authorities, Lampedusa, November 2012.

© Italian Red Cross



the case of *Hirsi Jamaa and Others v. Italy*. The Italian government publicly committed to implement the judgement. However, only a few weeks later, Italy and Libya once again agreed to start their collaboration on migration control in the absence of any safeguards for the treatment of migrants, asylum seekers and refugees intercepted in the desert or at sea, taken at check points or from the streets or caught while trying to board boats. Agreements between other countries in Europe and non-European countries, and agreements and operations involving the EU and FRONTEX, also need to be examined in terms of their impact on human rights.

The existence of bilateral or multilateral agreements between States does not relieve States of their human rights obligations. States should assess all agreements to ensure that they are not based on, or likely to cause or contribute to, human rights violations. Migration control agreements should include specific measures that ensure that the rights of migrants, refugees and asylum-seekers are safeguarded. States should not enter into migration control agreements unless there are effective mechanisms to ensure that the human rights safeguards will be implemented. Equally, the provision of technical and financial assistance should be consistent with human rights. A State cannot deploy its official resources, agents or equipment to implement actions that would constitute or lead to

human rights violations, including within the territorial jurisdiction of another State.

Amnesty International's campaign "When you don't exist" aims to improve the protection of human rights for migrants, refugees and asylum-seekers in Europe and its borders. Under the slogan "S.O.S. Europe", Amnesty's campaign seeks to raise awareness of human rights violations at the borders of Europe and aims to hold those who are responsible to account.

In this context Amnesty International recommends European countries and the EU to:

- ensure that their migration control policies and practices do not cause, contribute to, or benefit from human rights violations;
- ensure their migration control agreements fully respect international and European human rights and refugee law, as well as the law of the sea; include adequate safeguards to protect human rights with appropriate implementation mechanisms; and be made public;
- ensure their interception operations look to the safety of people in distress in interception and rescue operations and include measures which provide access to individualised assessment procedures, including the opportunity to claim asylum. ■

More information on Amnesty International's campaign is available at www.whenyoudontexist.eu.

Addressing migrants' needs in remote territories

Spanish Red Cross

The Spanish Red Cross is a very active National Society providing humanitarian assistance and many other support services to vulnerable migrants along the migratory trail. In particular, the Spanish Red Cross is active in the Spanish enclaves of Ceuta and Melilla, an EU external border located in the African continent.

The Spanish Red Cross started providing humanitarian assistance in the region in the late 90's when thousands of African migrants started to cross the Spanish-Moroccan border looking for protection and a better life in Europe. In response, the government opened two reception centres, one in Melilla (480 places) and one in Ceuta (512 places), currently run by the Ministry of Labour and Social Security. These centres are designed as first reception facilities where the basic needs of migrants and asylum seekers can be covered while their cases are being analysed and a decision is reached regarding their legal status and right of entry.

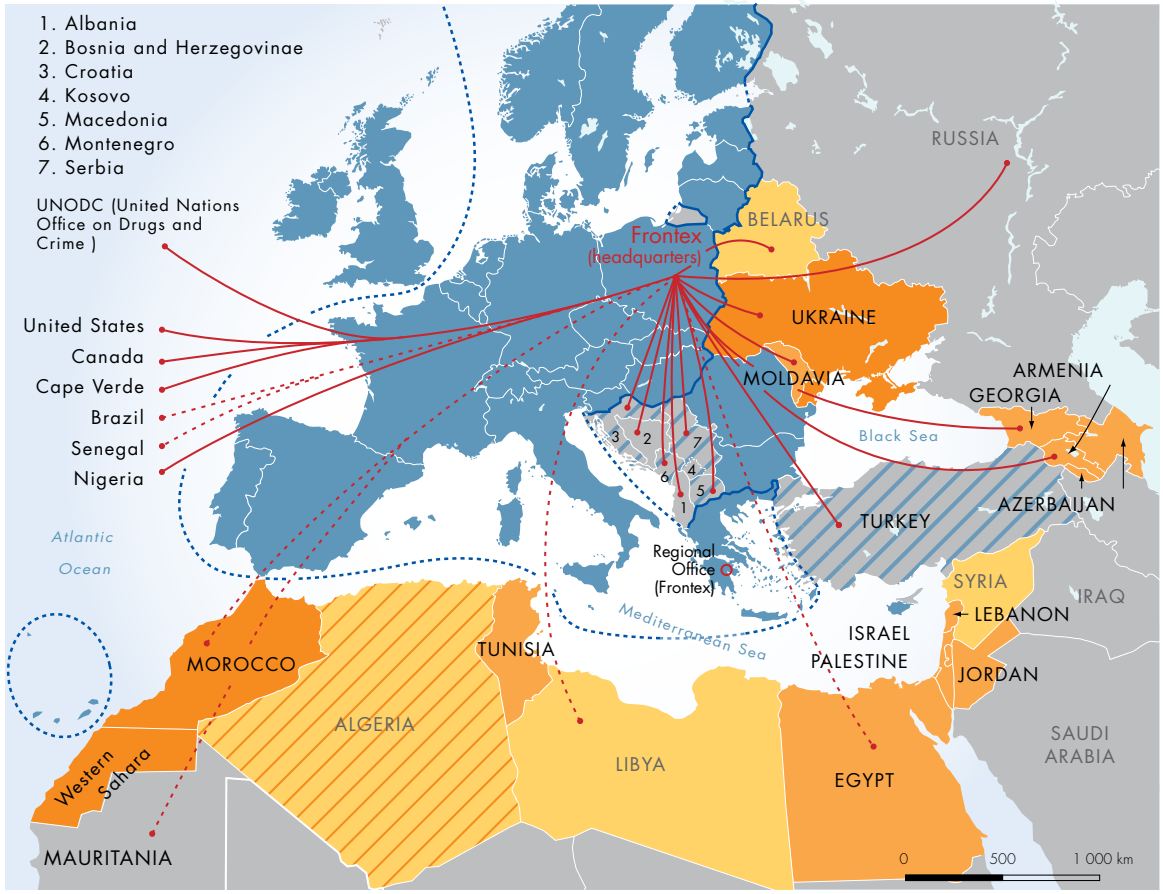
Within this context, the Spanish Red Cross works in partnership with civil servants from the Ministry of Labour and Social Security and other NGOs to ensure migrants receive adequate legal assistance and proper psychosocial attention. In particular, the Spanish Red Cross provides information on legal procedures which includes legal advice, mainly directed towards the identification and support of people in need of protection such as asylum seekers and victims of trafficking.

An essential dimension of the services provided by the Spanish Red Cross consists in ensuring access to health care, including

access to a psychological attention service. This service focuses on assisting migrants with general mental health aspects; some of which are specifically related to migratory background, current situation and expectations for the future such as apathy, anxiety, depression, conflicts resolution, sleep disorders. It also foresees more general services such as health screenings, follow up of pregnant women and children, vaccination, treatments and medication, health promotion workshops (HIV and sexual health education, nutrition, hygienic habits, etc.) and referrals to the public health care system.

Additionally, the Spanish Red Cross facilitates migrants' subsequent transfer to the mainland including through the provision of training and education services (literacy programmes, basic computing and language courses as well as schooling support). The main objective for the Spanish Red Cross's presence in these centres is to contribute to the fulfilling of migrants' rights and aspirations and to ensure that those in need of protection are identified and able to access the asylum system. ■

Outside the European Union, Frontex Deploys its web



State of the EU or associated with EU

State candidate for EU entry

Schengen area

Frontex

- Working agreement ratified
- Working agreement under negotiation

European Neighbourhood Policy (ENP) / situation in April 2012

- Plan of action ratified
- Plan of action ratified, accompanied by an "advanced status" or an enhanced agreement
- Plan of action under negotiation
- Formal link, without specific agreement

Notes: 1. Two other agreements were also signed: one with the Council of Border Troops Commanders to CIS* (CIS Border Troop Commanders Council) and the other with the MARRI Regional Centre in the Western Balkans. 2. Informal contacts were also made with the authorities in Algeria, Tunisia and China as well as the services responsible of border control in several countries in West Africa: Gambia, Guinea-Bissau and Guinea (Conakry).

* Commonwealth of Independent States

Datas : European Union, Frontex.

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CHAPTER 2

Responding to the immediate humanitarian needs of migrants who have made it to the Italian shores

© Bastianetto, Italian Red Cross



Interdiction at sea and at borders

The reinforcement by the EU of border control measures has been justified by the need to detect and prevent migrant crossings arguing that these are all illegitimate. However many migrants and asylum seekers have no choice but to migrate and the intensification of these controls has not resulted in increased protection and safety along the border. Instead, on the one hand migrants resort to alternative and often more dangerous routes where the assistance of smuggling and trafficking networks becomes the only option to reach safety. On the other hand, the fear of being prosecuted for facilitating the passage of undocumented individuals has contributed to the danger of the journey as illustrated by ongoing failures to respond to distress signals, particularly within the Mediterranean¹³. A dramatic number of migrants are losing their lives at the borders of the EU, and limited capacities and mechanisms for identification mean that family members are left behind without any news regarding the fate of their beloved ones.

The Policy on Migration encourages the Red Cross to focus on situation and conditions in which migrants, all along their journey, are most in need and at risk¹⁴. Border crossings are particularly challenging and require paying attention to the specific needs of each member of mixed migrant groups to assert their individual claims through adequate procedures¹⁵. The Red Cross is concerned by the absence of legal avenues to access international protection in the EU which de facto forces migrants to resort to illegal entry and has put forward recommendations for the setting up of safe and effective legal avenues to access international protection¹⁶.

¹³ PACE Migration Committee report, "Lives lost in the Mediterranean Sea: who is responsible?", March 2012.

¹⁴ Point 7 of the IFRC Policy on Migration – Work along the migratory trails.

¹⁵ IFRC, Advisory note on action to reduce the risks of migration, Supplementary Guidance on the Policy on Migration.

¹⁶ Red Cross EU Office, Legal avenues to access international protection, February 2013.

Emergency operations in the Mediterranean Islands

Italian Red Cross

The Italian island of Lampedusa is the southernmost point of Europe, being situated only 113 kilometres from Tunisia. Following the Arab Spring in February 2011, about 50,000 people had, within two months, landed on the small island of Lampedusa, generally resident to 2,400 people.

In response to such an influx of migrants, the Italian Red Cross helps support the local

authorities in addressing the immediate humanitarian needs of migrants. The Italian Red Cross is the only organisation that has sufficient access and resources to be able to provide immediate medical assistance particularly for vulnerable cases. After an average of 5 days at sea, the health conditions of migrants are indeed highly precarious.

Once immediate humanitarian needs are addressed, the Italian Red Cross offers migrants the possibility to contact their relatives through the Restoring Family Links network which allows Red Cross and Red Crescent Societies from all over the world to work together to assist people separated from their loved ones. This helps to identify those who have made the journey and those who are missing. Yet it often proves difficult to match people, who are sometimes registered with fake names in the detention premises, with requests from families looking for their missing relative.

The greatest challenge nowadays is to deal with the increasing number of boats which

never reach the coasts as bodies are regularly washed up on the island's shores. Indeed, there currently exists no process to identify these corpses in order to inform the family.

The expertise developed by the Italian Red Cross in dealing with emergency operations has led to the setting up of a 10 steps guideline¹⁷ which could be used by Red Cross and Red Crescent Societies around the Mediterranean to facilitate their work in providing humanitarian protection and assistance to those in need. ■

¹⁷ Croce Rossa Italiana, 10 steps Lampedusa - Guideline and tools in an emergency context caused by international migratory flows in the Mediterranean.

Responding to mixed migration arrivals : the DRIVE project

ICMC Europe

The DRIVE project ("Differentiation for Refugee Identification and Vulnerability Evaluation"), led by the International Catholic Migration Commission (ICMC) in partnership with seven other non-governmental organisations worked with migrants to assess government and NGO responses to boat and other mixed migration arrivals in Greece, Italy, Malta and Spain over the period June 2008 – 2011. Below are some of the main conclusions and recommendations of the DRIVE project which are included in the report 'Mayday! Strengthening responses of assistance and protection to boat people and other migrants arriving in Southern Europe'¹⁸.

The DRIVE Mayday report shows that protection is currently only provided for a limited number of people who need it, and is governed by systems of access and identification

that are far too limited. Such systems are needed for all migrants in distress and from the very moment of their arrival, not only because they are human beings, but also because such approaches reflect the quality of our societies. Humanitarian assistance must address basic needs and should include the provision of food, drink, shelter, clothing, medical and emergency psychological support.

Greater cooperation between key actors is essential in cases of mixed migration and should be broadened to cover multiple needs. This entails coordinated action between different agencies with different mandates, and should be further developed at entry points for both sea and land arrivals. In order to strengthen protection at borders it is important to identify whether a migrant requires urgent assistance or belongs to a group that is entitled to specific rights. It is important to draw a distinction between each person in terms of the distinct procedures and services that correspond to

¹⁸ ICMC Europe, Mayday! Strengthening responses of assistance and protection to boat people and other migrants arriving in Southern Europe, September 2011.

his or her rights and make referrals to those who provide the relevant procedures and services. Identification procedures can ensure that asylum seekers, children, victims of trafficking and victims of torture can enjoy the specific protective provisions set out in international and EU law. Identification has two functions: as a sifting and channelling mechanism, but also as a precondition to effectively accessing rights.

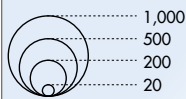
Although not systematically defined in migration contexts under international or

European legal instruments, various groups of persons may be entitled to legal protection and services, due to their particular vulnerabilities. These may include people with disabilities, people with serious medical needs, pregnant women, single mothers with children and victims of sexual and gender-based violence and trauma. Vulnerability is not a static concept, and can vary according to context. For that reason, specific protection and assistance should be assessed on an individual basis. ■

© Migreurop

Deaths per thousand on European borders

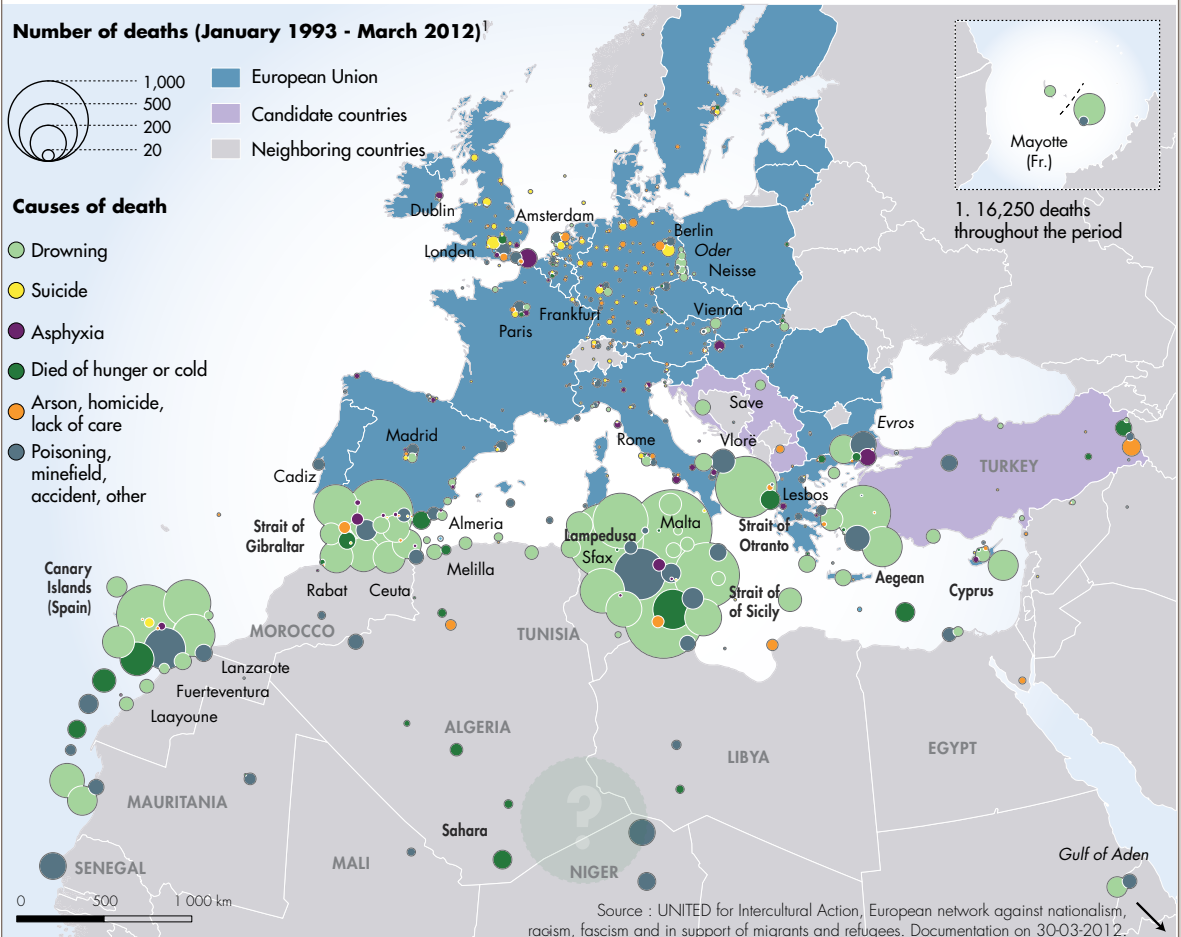
Number of deaths (January 1993 - March 2012)¹



- European Union
- Candidate countries
- Neighboring countries

Causes of death

- Drowning
- Suicide
- Asphyxia
- Died of hunger or cold
- Arson, homicide, lack of care
- Poisoning, minefield, accident, other



CHAPTER 3



An Iraqi national returned home after having the support of the Swedish Red Cross and the Iraqi Red Crescent

© IFRC

Returning migrants to countries of origin or transit

Return and readmission agreements aim at facilitating the expulsion of migrants to their country of origin or to a country which they transited on their way to the EU. The EU and its Member States have since 2007 signed readmission agreements with several third countries, privileging those situated along the external border such as Morocco, Libya, Serbia, Ukraine and Turkey with a view to accelerating the removal of irregular migrants. When issuing a return decision, Member States may simultaneously pronounce a re-entry ban of several years. Yet, the facilitation of transfers between the EU and third regions overlooks the situation of migrants upon return and the human rights situation in the country. By failing to systematically consider the sustainability of the return operation, its compatibility with the Geneva Convention and the likelihood of chain refoulement particularly for those migrants who are returned to countries other than their own, any technical decision to expedite return is of concern. The coercive nature of forced return can further be considered in tension with the concept of human dignity.

The Policy on Migration reminds us that return to the place of origin is not the necessary end of migration and that returning migrants often face challenges, particularly in terms of their reintegration¹⁹. Assisting migrants in return must be part of an integrated and impartial approach that addresses the needs and vulnerabilities of the returnee in countries of destination and return. National Societies shall avoid participation in expulsions or deportations of migrants but may respond to humanitarian needs in agreement with the returnee.

¹⁹ Point 8 of the IFRC Policy on Migration- Assisting Migrants in Return.

Red Cross action to assist migrants in return: the ERCRI and Ramirev projects

Several National Societies implement actions in favour of returnees after noting the additional vulnerability caused by return to persons who are already in a vulnerable situation. The nature of the activities offered varies from providing pre-departure counselling and assistance to providing support after return.

However, it can be a challenging task to support people who are obliged to return. Bearing in mind the profound vulnerability of many returnees, the interest of States in returning people who are not (or no longer) entitled to stay on their territories, and the role of National Societies as neutral humanitarian players, the

Fundamental Principles of the Movement become critical in the identification of appropriate activities.

The European Red Cross Return Initiative (ERCRI) was a joint project by British Red Cross, Bulgarian Red Cross, Danish Red Cross, German Red Cross, Swedish Red Cross, Swiss Red Cross and the Red Cross EU Office. The

objective was to contribute to a sustainable return in safety and dignity and to provide recommendations for the development of an effective coordination structure and the implementation of concrete joint return projects. A Best Practice Model for Return was identified according to which a successful return and reintegration programme should include: (1) legal

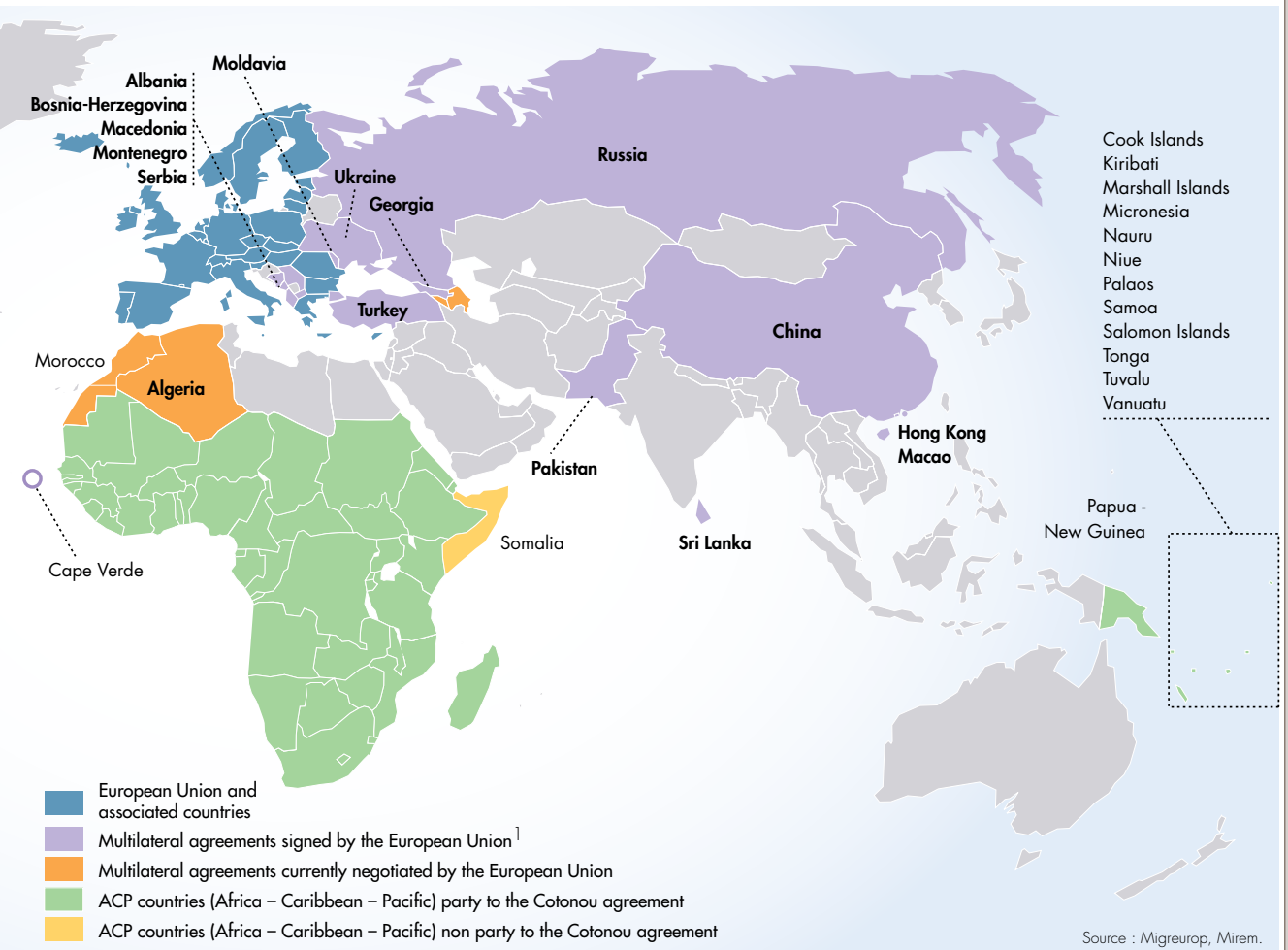


and return counselling in the host country on an individual basis, (2) reliable information on the situation in the country of return specific to the individual, (3) assistance to obtain relevant documents prior to return, including support for travel costs and health and medical assistance, (4) vocational or other skills training in the host country or in the country of return, (5) arrival

and initial re-integration support, including legal advice, assistance with registration procedures, advice on how to access basic services in the country of return, psychosocial support, accommodation for an initial period and basic humanitarian support on a needs basis (in the individual case or for a group of returnees) monitoring and follow-up in the country of return.

© Migreurop

EU's external cooperation to facilitate expulsions



The **RAMIREV** project (representations and initiatives relating to migratory and voluntary return project) of the Belgian Red Cross – French speaking community intended to define the position of the Belgian Red Cross in relation to assisted voluntary return. It assessed the relevance, in the current context, for the organisation to engage in such operations based on four criteria: usefulness, ethics (in particular compliance with the seven Red Cross and Red Crescent principles), feasibility and priority. In

the course of the study, it was noted that voluntary return was not, at its core, a humanitarian concept but rather the result of a political will to limit immigration by encouraging migrants to return to their countries of origin. The Belgian Red Cross decided not to increase its involvement in assisted voluntary return on the basis that if it tried to humanise the initiative, it could be exploited by political agendas which are far from the Red Cross primary mission and objectives. ■

Study on the human rights of migrants at the borders of the European Union: Turkey

François Crépeau, Special Rapporteur on the human rights of migrants of the UN Human Rights Council

“Turkey is one of the key bridges to Europe. Its unique geographical location makes it a hub for migrants from all over the world including Sub-Saharan and North Africa, the Middle East, and Asia. Many of those migrants are in an irregular situation and some are transiting through Turkey with the wish to enter the EU. Indeed, the Turkish-Greek border remains one of the key points of entry for irregular crossings to Europe. In recent years however, because of its economic strength, coupled with the difficulty many people face in reaching EU territory due to strict migration controls, Turkey itself has increasingly shifted from being solely a transit country to also becoming a destination country for migrants worldwide. (...)

While the EU and Turkey have developed a close cooperation on migration issues, which has led to some notable positive developments, the assistance offered to Turkey regarding migration management appears to focus largely on securitising the borders and decreasing irregular migration to the European common territory through focusing on projects related to the

detention and removal of migrants in Turkey and the increased monitoring of the Turkish border. Often neglected from the equation, is an equivalent emphasis on the human rights of those most vulnerable and most affected by the migration process: the migrants themselves. (...)

However, I remain troubled about the detention in ‘removal centres’ of some apprehended migrants in an irregular situation, including families and children. Alternatives to detention must always be explored, especially when families and children are concerned. I have observed that the EU focus on heightening border security has led to an increased prioritisation of detention as a solution, including plans for the funding of new detention centres in Turkey by the EU. (...)

I visited the Edirne Province at the Greek border. While I welcome the efforts deployed to rescue numerous persons attempting to cross the river into Greece by the local authorities, I regret that these people, including those who are in a regular situation in Turkey, are automatically detained. This appears to be in

response to increasing pressure from the EU to secure the border. (...)

I observe that it remains very difficult for persons to seek asylum in Turkey. I met with many migrants in an irregular situation in detention centres who may have had valid refugee claims, but who were unable to file an asylum application or communicate with UNHCR and civil society organisations. Moreover, Turkey maintains its geographical limitation to the 1951 Convention relating to the Status of Refugees, and will thus only accept nationals of a Council of Europe member state for refugee

status. For nationals of other countries, resettlement is the only possibility to obtain a durable solution, and they often must wait several years to be resettled, particularly as the EU does not accept a large number of such refugees for resettlement. I thus urge the EU to increase the number of refugees resettled from Turkey on its territory as an important mechanism for responsibility sharing.”

This text is an extract from the press release issued following François Crépau’s visit to Turkey (25 to 29 June 2012). ■

CHAPTER 4



German Red Cross providing integration support to resettled refugees

© Jörg F. Müller/
German Red Cross

Encouraging other states to take responsibility for protection

The external dimension of EU asylum policies relies on the presumption that regions of origin and of transit are better placed to host refugees and process asylum claims. This principle has been given effect through the implementation of measures such as the safe third country concept according to which asylum applications associated with certain regions should be systematically considered as unfounded²⁰. The promotion of Regional Protection Programmes run by the EU follows a similar objective as they aim at providing protection to forced migrants as soon as possible after the initial displacement and as close as possible to their home areas. In practice, these measures exclude asylum seekers from EU asylum procedures and facilitate their transfer and return back to third countries. As a result, it becomes harder for forced migrants to have their asylum claims properly assessed in Europe. This is taking place with insufficient monitoring of the effectiveness of the protection provided in these countries, of the compliance of such measures with EU protection commitments and of the specific, personal situation of each migrant which may have ties within the EU.

The Policy on Migration acknowledges that people who are displaced may not be in a position to return or stay in the region or country where they have sought refuge. Situations of armed conflict may produce displacement but social and economic distress as well as the lack of services and absence of prospects for development are also major causes for secondary migration. For this reason, they may take the path of migration to reconstruct their lives elsewhere²¹. The Red Cross argues that asylum processing outside of the EU may cause possible problems for refugee protection in particular the lowering of refugee status determination standards and disproportionate pressures on communities and regions of origin²².

²⁰ First introduced in article 23 of the Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status, OJL 326, 13.12.2005.

²¹ Point 9 of the IFRC Policy on Migration – Responding to the displacement of populations and point 10 – Alleviating the migratory pressures on communities of origin.

²² PERCO, Transit processing centres outside the European Union, Argumentation Tool for PERCO National Societies for use in discussions with their respective governments, October 2005.

Regional Protection Programmes and capacity building activities in third countries and EU protection commitments

Annabelle Roig-Granjon, Senior European Affairs Officer, UN High Commissioner for Refugees

In 2011, UNHCR welcomed the new principles of the EU Global Approach to Migration and Mobility, in particular its individual (migrant)-centred approach, the establishment of a dedicated pillar on Asylum & Protection, the recognition that measures to address

statelessness issues as well as the development of an international legal framework for IDPs are needed. In particular, UNHCR appreciated the call to solve protracted refugee situations, the focus on resettlement (from 4,100 places in 2011 to “20,000 in 2020”) and finally, the focus on the “external dimension”, through i.a. further investment in Regional Protection Programmes (RPPs).

The concept of Regional Protection Programmes was first included in The Hague Programme in 2004, which expressed the *need for the EU to contribute in a spirit of shared responsibility to a more accessible, equitable and effective international protection system, in partnership with third countries, and with a view to provide access to protection & durable solutions at the earliest possible stage*. RPPs were to be carried out in ‘close partnership’ with countries in regions of origin/transit, and in close cooperation with UNHCR. For UNHCR, four points remain crucial with regard to RPPs: 1. They are not to be a substitute for, or reason for denying, access to protection in Europe; 2. They need to be implemented in genuine partnership with the target countries; 3. Coordination with other EU projects and programmes is paramount and last but not least; 4. The European Union should have realistic expectations about RPP results (asylum system development is a slow process and a long term objective). UNHCR also welcomed the strong link with resettlement as long as resettlement places to the EU are being increased so as to have a real impact in terms of international solidarity.

Seven years later, it is time to take stock of this EU policy option and evaluate the impact of the existing RPPs. Four such RPPs have been developed: the first in Eastern Europe (Belarus, Ukraine, Moldova), then in Tanzania, in the Horn of Africa (Kenya, Djibouti, Yemen) and

last year in North Africa (Tunisia, Libya, Egypt). Globally, RPPs’ investment has produced some protection dividends such as improved capacity of the authorities and the civil society, better access to people in need, increased assistance to most vulnerable individuals, increased awareness-raising to protection needs, outreach to detention centres and border monitoring. These results have varied from region to region and country to country. The challenges have however been important: limited to no increase of resettlement places (EU), limited project absorption capacity (Ukraine), limited integration opportunities coupled with the increasing phenomenon of racism and xenophobia (Eastern Europe), political instability (Libya, Egypt), insecurity (Kenya), large scope of needs (Horn of Africa) and lack of ownership of the project by local authorities (all places).

Taking into account the fact that the development of asylum systems is a long term endeavour, it could be argued that the EU RPPs have had some mid-term positive impact in the protection of refugees and asylum seekers in the regions concerned. What remains crucial and is probably still lacking to a large extent, is a more forceful sign of co-solidarity in relation to RPP. If the EU’s overall goal is to help vulnerable countries to develop better treatment and protection standards for the most marginalised groups of their societies, essentially composed of migrants and refugees, the 27 Member States of the Union ought to show that they really care to help and that they are ready to responsibly co-share the related challenges and difficulties. One way of demonstrating solidarity is by increasing the intake of refugees through resettlement programmes. Such political resolve has not yet been demonstrated at the European level, seven years after the launch of the first RPP. ■

Arrival at the
airport

© Peter de
Ruiter/UNHCR



Advocating for a Better and Bigger Resettlement Programme

German Red Cross

Over recent years, the German Red Cross has noted with concern the tendency of the EU to reinforce and externalise their border controls thereby rendering access to the EU territory and to international protection increasingly difficult, if not impossible. The EU also encourages third states, such as transit countries, to prevent migrants from leaving their country through awareness raising campaigns, the conclusion of readmission agreements and by providing support to the setting up of local asylum systems. Whereas capacity building on asylum processing of third countries per se cannot be dismissed, it does not and must not relieve the EU and its Member States from its obligations under the Refugee Convention and other International and European fundamental rights commitments.

The German Red Cross has constantly been advocating for legal alternatives to access international protection in the EU in order to protect people in need of international protection from death and destitution during their attempt to enter the EU. One of the already existing mechanisms for taking over responsibility for refugee protection is the Resettlement Programme under UNHCR mandate in which the German Red Cross is an active partner.

Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third state willing to provide them with a refugee status and permanent residence permission²³. In this process, the German Red Cross provides counselling on questions regarding legal status, social benefits and integration issues for resettled refugees.

Whereas the German Red Cross welcomes the adoption of a European as well as a German Resettlement Programme, it nevertheless calls on Germany and other EU Member States to increase the number of refugees they are willing to resettle each year. Germany has decided to resettle a mere 300 refugees per year for the next three years, a number that seems to be too miniscule in comparison with the size of the German annual tax income and population. Since September 2011, German Red Cross has been a partner in the European Resettlement Project together with European governments, IOM, UNHCR, ICMC and other European Red Cross Societies advocating for the enlargement and improvement of the German and European Resettlement Programmes. ■

²³ UNHCR, *Resettlement Handbook*, July 2011.

SWEDEN,
Jabbar from
Iraq is reunited
with his family
after six years
of separation,
Arlanda Airport,
2006

© Magnus
Bergström /
Swedish Red Cross



CHAPTER 5



Crowded migrant
detention centre on
the Greek island of
Lesbos, October
2009

© UNHCR-
L. Boldrini

Migration related detention on the rise

The possibility to detain undocumented migrants and asylum seekers is foreseen in an increasing number of EU policy instruments. Despite its documented harm on the well-being of migrants, this practice has become a common attribute of migration and asylum management. The EU's efforts to build the capacities of third states on migration and asylum also include financial and technical assistance in the construction of detention facilities. Such generalisation has not led to an improvement of the conditions for migrants and has prevented considering alternatives to this policy choice. Migration related detention is often associated with lengthy and arbitrary deprivation of liberty, at times in prison facilities, limited legal review possibilities, scarcity of legal aid, and the limited access by independent actors to these facilities. This may lead to malpractices and further violations of rights while for vulnerable groups including migrant families, minors and victims of trafficking or of torture the harm caused by detention is even greater.

The Policy on Migration takes stock of the fact that migrants of different origins and profiles are often detained in groups and that when detained in the course of the migratory process they may be exposed to heightened risks. National Societies may contribute to improving their treatment and conditions of detention but should ensure that their work for migrants in detention is carried out in the migrants' interest, and thus does no harm²⁴.

24 Point 5 of the IFRC Policy on Migration – Link assistance, protection and humanitarian advocacy for migrants.

Challenges for developing activities in detention

Malta Red Cross

Systematic detention of “boat” migrants in Malta is a matter of great concern to the Malta Red Cross (MRC). Migrants originating from several African countries, often fleeing persecution, violence or economic hardship arrive on safe ground only to find themselves locked up in military barracks surrounded by military personnel and police.

Although living conditions in the detention centres have improved over the last months, the lengthy detention with no respite, for a large

number of them up to 18 months, cannot but exacerbate the trauma and sense of insecurity that they have experienced on their long and arduous journey to “freedom”. And, for those who are not deported back to their country of origin, another series of hurdles lies ahead as integration in Malta or relocation in another country is not an easy affair.

Unfortunately, the detention policy serves to fuel the negative, often xenophobic, perception and attitude towards the “boat” migrants

of a large proportion of the Maltese. Several NGOs are advocating strongly for the relaxation of the arbitrary detention policy and are also calling for more robust measures to help the integration of migrants in Malta and to facilitate their transfer and integration in other countries in Europe or elsewhere.

MRC volunteers visit the barracks regularly and make it a point to do so when a new group of “boat” migrants arrive so as to offer support and to identify any persons falling under the official “vulnerable” categories (pregnant women, minors, disabled or sick persons). The latter are duly signalled to the detention authorities.

A priority is to help migrants re-establish contact with lost family members with the help of the Red Cross and Red Crescent network in the respective countries. However, although this task may sometimes be thankless as too many cases remain unresolved, it has a side benefit for the person looking for a family member, the “enquirers”, who find a trusted person to confide in and to be there for them.

Much more must be done to reduce the vulnerability of migrants in Malta, in particular, those languishing in detention with nothing to do all day long and those who have lost their loved ones under tragic circumstances. ■

Ukrainian man
detained for
removal in Porto,
Portugal

© JRS



Becoming Vulnerable in Detention

Philip Amaral, Advocacy and Communications Coordinator, JRS Europe

In 2010, the Jesuit Refugee Service (JRS) Europe released a study on the impact of detention on migrants' level of vulnerability. The report, *Becoming Vulnerable in Detention*, is based on systematic interviews with 685 asylum seekers and irregular migrants detained in 21 EU Member States. Its most central finding is that detention has a distinctively detrimental effect on a person's physical and mental well-being.

During interviews with detainees, JRS Europe and its partners measured the impact of detention on vulnerability on the basis of several key indicators. Access to information, physical and mental health and language capacities are three factors that most affected detainees' personal level of vulnerability. Forty percent of asylum seekers claimed to have no knowledge about asylum procedures; 85 percent of persons detained for more than four months said they had little to no information about why they were in detention. Looking at physical and mental health, the study shows that detention poses serious harm for otherwise healthy people. The living conditions of the centre, such as the lack of fresh air and physical confinement led to crippling stress. Detainees expressed having symptoms related to severe depression and anxiety due to being cut off from the outside world, their inability to plan for the future and the general lack of information about their cases. Prolonged detention was found to exacerbate the adverse mental health effects of detention. Minors and asylum seekers, particularly those in the 'Dublin II system', were found to be especially vulnerable due to their fragile situations. Underlying these factors were detainees' inability to communicate with detention centre staff due to language barriers. The lack of a shared language made it very difficult for detainees to

get reliable information, and in some cases led to physical and verbal abuse from detention centre staff as well as co-detainees.

The report offers a story of detainees who not only come with pre-existing special needs, but also detainees who become vulnerable while they are detained. People's level of vulnerability fluctuates in relation to their individual circumstances, meaning that some are more susceptible to the negative aspects of a detention centre than others. In practice, this means that every person who enters detention must be individually assessed by qualified and independent personnel in order to prevent unnecessary harm from being caused. Furthermore, detainees should be given comprehensive support from the first day of their detainment. Full access to information in a language they can understand, as well as access to appropriate medical and psychological care, can lessen detainees' vulnerability to harm. Living conditions should be of a high standard, with plenty of opportunities for indoor and outdoor recreational activities, as well as regular access to visitors.

The best way to reduce the harm posed by detention is simply to reduce its usage. Non-custodial, community-based, alternatives to detention that respect fundamental rights and human dignity should always take precedence. Detention should only be used as a last resort. If it cannot be avoided, then it should be as short as possible with regular judicial reviews that grant opportunities for release into the community. ■

The problem of externalising the EU's borders

**Roger Zetter, World Disasters Report 2012 Editor,
Emeritus Professor of Refugee Studies,
University of Oxford**

Few issues have such political saliency in the EU and its Member States than resistance to migration and asylum seeking. In the last two decades, Europe has turned from a continent of asylum and refuge to a continent of restrictionism and deterrence for refugees and asylum seekers.

Huge political and institutional capital has been invested in constructing 'Fortress Europe' to prevent migrants from gaining entry, whilst constraining settlement opportunities for those who do manage to penetrate the borders. These are the twin strategies by which the EU has regulated migration. But controls have not stopped here. There has been an accelerating drive – notably under the Swedish and Cypriot Presidencies in 2009 and 2012 respectively – to establish the 'externalisation' of border controls. If the borders are insufficiently secure, then moving the 'virtual' borders is now a vital instrument in the armoury of the EU's securitisation of asylum. These developments resonate powerfully with a public rhetoric which politicises refugee and asylum issues as an existential threat rather than a question of moral obligation.

This publication highlights the severe threats to the quality and scope of rights and protection that externalisation represents for migrants, refugees and asylum seekers. And it demonstrates why the advocacy of the IFRC and its national societies, and why a humanitarian response to the needs of migrants caught up in the threatening machinery of externalisation, are more than ever essential. In this context, the 2011 IFRC International Conference Resolution on *Migration: Ensuring Access, Dignity, Respect for Diversity and Social Inclusion*, sets out an agenda and a mandate to tackle the increasing vulnerability which instruments, like externalisation, create.

Externalising borders transfers migration management to other countries and it is symptomatic of the insidious process by which immigration policy and practice become invisible. This makes the advocacy task of civil society organisations more difficult and it diminishes the accountability of governments to fundamental rights. Moreover, it dramatically increases the vulnerability of those most in need of protection as refugees and migrants are compelled to seek more and more dangerous routes in order to gain entry and make their claims. And, as the World Disasters Report 2012 emphasised, the vulnerability of forced migrants is a key global challenge.

By making it almost impossible to seek refuge in Europe we have created conditions where even those who have a powerful claim for protection risk being identified as ‘bogus asylum seekers’ or economic or illegal migrants. As immigration and asylum law become detached from International Humanitarian Law, our responsibility to protect under the 1951 Geneva Convention becomes a matter of political expediency rather than humanitarian obligation.

As Europeans, we have to advocate for the restitution of international refugee law, norms and principles and standards of protection which have been increasingly undermined and rejected by the EU and Member States. We must re-take responsibility for managing our own immigration policies – not pass it to other countries. And we need to be more proactive both within Europe, and in the main host countries, in promoting the protection of fundamental human rights for forcibly displaced persons.



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The Fundamental Principles of the International Red Cross and Red Crescent Movement

Humanity

The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality

It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality

In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence

The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

Voluntary service

It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity

There can be only one Red Cross or one Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality

The International Red Cross and Red Crescent Movement, in which all Societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.

Shifting Borders

Externalising migrant vulnerabilities and rights?

“Many states have effectively decided that the misery of excluded forced migrants is an unfortunate price worth paying to avoid having to confront difficult political questions” World Disasters Report 2012 – Focus on forced migration and displacement, 20th issue, 2012.

This booklet takes a closer look at the effects of the externalisation of European Union migration controls on migrant vulnerabilities and rights. It breaks this process down into its five main characteristics and identifies human costs associated to these.

The Red Cross EU Office booklet features:

- The tightening of border controls
- Interdiction at sea and at borders
- Returning migrants to countries of origin or transit
- Encouraging other states to take responsibility for protection
- The rise of migration related detention

In each chapter, the Migration Policy principles of the International Federation of Red Cross and Red Crescent Societies, which guide the Red Cross and Red Crescent Movement approach towards migrants are highlighted and illustrated by related European Red Cross Societies' activities. The booklet also examines initiatives of other organisations engaged in reducing migrant vulnerabilities.

This booklet intends to move away from the prevailing political concerns used at times of regulating the mobility of people, towards focusing the discussion on the acute vulnerabilities of migrants. While the World Disasters Report 2012 – Focus on forced migration and displacement contains extensive evidence on the situation of forced migrants including in the context of externalisation, this booklet sets the issue of forced migration and displacement within the specific context of the EU migration and border control policy.

The Red Cross EU Office represents and promotes the interests of the European Union Red Cross Societies and of the International Federation of Red Cross and Red Crescent Societies, the world's largest volunteer-based humanitarian network, reaching 150 million people each year through its 187 member National Societies.

The Red Cross EU Office works to increase the Red Cross influence on European Union policies across a number of areas that are of importance for its members such as Migration and Asylum, Social Services, International Development and Disaster Management.

For more information, please visit www.redcross.eu and www.ifrc.org



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