

AMNESTY INTERNATIONAL AND HUMAN RIGHTS WATCH

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PLAN OF ACTION: TWENTY STEPS FOR A FAIR AND PREDICTABLE RESCUE SYSTEM IN THE MEDITERRANEAN SEA

ACTION 1: Establish a temporary mechanism for predictable disembarkation and relocation

Against the backdrop of stalemate in the reform of the Dublin system, and drawing on recommendations put forward previously by the European Council for Refugees and Exiles (ECRE),¹ Amnesty International and Human Rights Watch call on European governments to establish temporary arrangements for disembarking and relocating in Europe people rescued at sea, and make the following recommendations in this regard:

1. Participation in the mechanism should be as wide as possible and should be decided from the outset rather than being declared on a ship-by-ship basis. Countries not intending to join the mechanism immediately, however, should be able to join later.
2. There should be clear criteria for the determination of places of safety in Europe where people rescued at sea are to be promptly disembarked, consistent with international law and standards.
3. EU and Schengen Associated States should agree on an equitable system of sharing responsibilities with respect to people disembarked in the form of relocation arrangements.
4. While participating states may decide to offer relocation to asylum seekers only, eligibility of asylum seekers for relocation should not be subject to additional criteria such as nationality or presumed manifest well-foundedness of their protection claim or other criteria such as age, religion or gender. Any filtering system would impose an additional administrative burden on the asylum authorities in the landing countries and might potentially result in the discrimination against certain asylum seekers.
5. Relocation arrangements should comply with the legal framework of the Common European Asylum System. This requires that individuals rescued and disembarked in the EU are immediately informed of the possibility to apply for international protection, are promptly granted access to an asylum procedure and to adequate reception conditions and are ensured appropriate solutions if they belong to specific groups such as unaccompanied minors or victims of torture, sexual violence or trafficking.
6. There should be no automatic or otherwise unlawful detention of people disembarked. Detention should be used only as necessary and proportional on a case-by-case basis for the shortest time possible.
7. Transfers should be carried out in accordance with the Dublin Regulation. States should safeguard the primacy of family unity and submit requests under the humanitarian clause for those not entitled to family reunification under the Regulation. Participating countries should commit to accepting humanitarian clause requests issued by the member state of disembarkation, unless the number of persons requested for relocation exceeds the allocation share of the receiving country.
8. The allocation share should be based on objective criteria (e.g. GDP and population size) and should be defined at the outset between participating member states and Schengen Associated States to avoid unpredictable and time-consuming processes of pledging during individual search and rescue operations.
9. Arrangements should be in force for a specified period and be renewable until a reform of the Dublin system is agreed.

ACTION 2: Ensure proactive search and rescue operations in the Mediterranean

Amnesty International and Human Rights Watch recommend that EU institutions and member states ensure and enable robust search and rescue operations in the central Mediterranean. In particular, EU states and institutions should:

10. Ensure that an adequate number of vessels with search and rescue as their primary purpose are deployed along the routes taken by boats carrying refugees and migrants for as long as departures of refugees and migrants continue.
11. Refrain from penalizing shipmasters for assisting people in distress at sea, minimize any economic loss for private

¹ See ECRE's Proposal for a predictable and fair relocation arrangement following disembarkation, January 2019

- shipmasters engaging in search and rescue operations, and ensure that any vessels in such situation are promptly granted a place of safety where survivors can disembark and receive adequate assistance.
12. Ensure that NGOs can continue to contribute to rescuing refugees and migrants at sea, in compliance with relevant international law and standards, and that, in line with the UN Declaration on Human Rights Defenders, they can operate in a safe and enabling environment.
 13. Issue clear guidelines to shipmasters to prevent the disembarkation of any people rescued at sea in countries – such as Libya – that cannot be regarded as places of safety.
 14. Limit any cooperation with the Libyan Coast Guard, until such time as they treat people intercepted humanely and do not send them back to detention and abuse, to cases where their intervention is essential to prevent immediate loss of life and make it conditional on measures to mitigate against the risks of disembarkation in Libya, including by asking that the Libyan Coast Guard limit their search and rescue activities to Libyan waters except when their vessels are able most quickly to respond to a vessel in distress in international waters; allow search and rescue operations by civilian vessels, including boats operated by NGOs, to take place unhindered; and refrain from instructing them to disembark in Libya those they have rescued or to transfer them onto Libyan ships.
 15. Ensure robust monitoring of the Libyan Coast Guard conduct and operations at sea, and an accountability process in case of breaches of international law.

ACTION 3: Protect migrants and refugees' rights in migration-related cooperation with Libya

As European governments engage with Libyan authorities, emphasis should be geared towards promoting the protection of rights, including those of refugees and migrants. Amnesty International and Human Rights Watch recommend that EU governments and institutions make continuing cooperation with the Libyan authorities conditional on concrete and verifiable steps towards:

16. The prompt release of all refugees and migrants being arbitrarily detained in Libya, and the end of the system of automatic, indefinite detention.
17. The full and formal recognition of the United Nations Refugee Agency, UNHCR, in the form of a memorandum of understanding that guarantees the organization's full access to people of concern across the country and the possibility to carry out its full mandate, irrespective of the nationality of beneficiaries.
18. The signing and ratification of the 1951 Refugee Convention and its 1967 Protocol and adoption and enactment of new legislation, policies and procedures on migration and asylum, providing for the decriminalization of irregular entry, stay and exit; an end to automatic detention; and the creation of an asylum system that complies with international standards.
19. The establishment of independent, impartial, and transparent monitoring of human rights violations against refugees and migrants in Libya, with the aim to ensure accountability for state and non-state actors.

ACTION 4: Commit to global responsibility sharing and to facilitating regular migration pathways

In accordance with the 2016 Global Strategy for the EU's Foreign and Security Policy, Amnesty International and Human Rights Watch call on EU states and institutions to:

20. Step up efforts to implement and increase resettlement pledges and open alternative pathways to protection to people in need of international protection – including for the thousands stranded in Libya – and commit to reviewing migration policies with a view to facilitate regular pathways for would-be migrants.