

Joint declaration

To the Heads of State and Government ahead of the European Council summit on 24 and 25 October 2013

In the wake of the shipwreck that saw more than 300 people drown off the shores of Lampedusa on 3 October, the Migreurop network, together with several organisations based in the north and the south of the Mediterranean, has questioned the responsibility of European states and their partners in the implementation of the EU's migration policy (see below the opinion column “ Murderous Europe” on 4 October 2013), and has also expressed its concern to the European Parliament on the role played by the European border agency, Frontex, during this incident (see below the press release “ Frontex : controlling or saving lives ?” on 9 October 2013).

Ahead of the European Council summit, Migreurop calls on the heads of State and government to abandon security-oriented and repressive asylum and immigration policy.

More than 400 people died in the two recent shipwrecks of vessels transporting migrants near the Italian coasts. These incidents have opened the debate on the nature of European asylum and immigration policies, with officials from the European Commission and member states calling for their reform.

Civil society organisations involved in defending migrant rights are concerned by the desire of European policy makers to further empower Frontex. This solution is not appropriate. Frontex is not mandated for search and rescue or the protection of migrants' rights. The number of deaths at sea has kept increasing despite growing means given to this agency. Frontex is emblematic of European policies that criminalise migration (for example, that irregular stay is considered a penal offence; administrative procedures are prioritised over the need for international protection, etc.).

The European Summit on 24 and 25 October offers the EU the opportunity to lay the ground for a new European asylum and immigration policy.

Sanctioning international migration: an approach at odds with reality

For more than ten years, the closure of legal entry channels to the EU has been accompanied by the adoption of stringent pieces of legislation that prevent migrants and refugees to access the European territory. Between January 1993 and March 2012, over 16,000 people died at the EU's borders. Today more than ever, the EU has to take responsibility and should reform its migration policy.

The European Union is not threatened by migration flows – often assumed to only be going from South to North. Over the past 50 years, the proportion of international migration has remained stable¹, at around 3% of the world's population. Only 1/3 of international migrants have moved from a developing to a developed country and of the 15 million refugees worldwide, 4/5 of these are in developing countries.² Sub-Saharan Africa alone is hosting 25% of the world's refugees while the

¹ Source : 2009 UNDP report, Overcoming barriers, human mobility and development

² 2012 report of the United Nations High Commissioner for Refugees

the European Union is hosting 15% of these. Based on misconceptions, the European Union's unrealistic goal of having perfectly sealed borders has been the main factor shaping its migration policies since 2002.. However, the absence of legal entry channels into Europe has only served to strengthen human trafficking networks. The externalisation of migration controls has meant the relocation and outsourcing of European border controls to neighbouring countries, without any guarantees in terms of the respect for the human rights of migrants and refugees.

Cooperation with non-EU countries has too often been synonymous with conditioning development aid - used to fund migration controls - upon the signature of readmission agreements. EU member states have not hesitated to sign such agreements with dictators, for instance with the former regimes in Tunisia or in Libya. The Frontex agency was established in 2005 to coordinate border management at the EU's external borders. As its budget has increased, so has the number of deaths in the Mediterranean (source : Migreurop). Frontex has a legal personality and can thus sign agreements with non-EU countries without prior approval by the European parliament. These agreements aim to facilitate removals to these countries and, *in fine*, to detect undesirable migrants as early as possible. This has meant serious violations of migrant rights in these countries:³: breach of the right to claim asylum and of the principle of non-*refoulement* ; detention without any legal basis ; no access to a lawyer and no effectiveness of access to rights ; as well as inhuman and degrading treatment, leading to the deaths of numerous migrants.

Towards a new paradigm for European migration policy

There is an urgent need to act at the European level to reaffirm the intangibility of international law. EU member states are signatories to the Geneva Convention relating to the status of refugees: **only the effective implementation of this convention, especially through the issuance of visas**, will help avoid tragedies in the Mediterranean. The UE should not shift their responsibility towards refugees to non-EU countries that do not provide them with any effective protection. This has pushed those escaping conflicts, such as refugees from Syria or those in Tunisia's Coucha camp, to undertake perilous journeys by sea at the risk of losing their life in the process. Member states should instead focus on strengthening solidarity mechanisms within the EU rather than let member states at its external borders be solely responsible for the reception of refugees.

The role of the Frontex agency should also be questioned: Frontex is not a search and rescue agency but an instrument established to stop migrants and refugees from entering Europe. The means given to the agency do not ensure the protection of people at sea, although this is an obligation stipulated by several international conventions. Cases of non assistance to person in distress have been reported while the complete lack of clarity in terms of procedures to be applied when persons are intercepted by Frontex and how to guarantee their access to an asylum procedure raises serious concerns. Frontex is one of the causes of deaths at sea: vessels try to avoid the agency's patrols by using longer and increasingly dangerous routes.

Support provided to south Mediterranean countries should not be conditioned by migration control considerations. Instead, cooperation should take place on equal footing between countries that have shared, throughout history, a common geographical area where human, cultural and economic exchanges have always been the norm. Instead, the Mobility Partnerships proposed to several countries in the region in the wake of the Tunisian and Egyptian revolutions are highly skewed in favour of the EU's interests. Another perspective on cooperation with its south Mediterranean neighbours must be brought forward.

³ For example, Frontex is also cooperating with Serbia, where joint return flights are regularly organised, see Migreurop's press release on 13 March 2012 <http://www.migreurop.org/article2082.html?lang=en>
Serbia is no longer considered a safe country by the UNHCR, see note on August 2012 <http://www.refworld.org/docid/50471f7e2.html>

The need for a new perspective is urgent. We therefore hope that these concerns will be voiced during the European Summit on 24 and 25 October, calling for a European asylum and migration policy that is based on the respect of the rights of migrants rather than on their repression.

Key figures

- In June 2009, 75 boat people intercepted by the Italian coast guards - with the support of a German helicopter deployed for the Frontex operation Nautilus IV - are handed over to the Libyan authorities ; Italia is condemned by the European court of human rights.
- In 2011, according to the UNHCR, at least 1,500 persons died in the Mediterranean despite the heavy presence of NATO vessels in the area.
- Frontex's budget increased from €9 million in 2006 to €118 million in 2011. Although the budget decreased in 2012 (€89 million), it is still the most funded EU operational agency.
- Between 3 and 11 October 2013, at least 400 people died in the Mediterranean.
- 4/5 of refugees in the world are based in developing countries ; France is hosting 500 Syrian refugees, Lebanon 1,3 million (30% of its population).

Annexes : Inter-associative Forum : « Lampedusa : Europe murderous » - Libération October 4, 2013 ; Press release : « Frontex : » - October 9 2013

Lampedusa: murderous Europe – Libération October 4, 2013

The new shipwreck of a boat coming from Libya in which at least 300 out of the 500 passengers perished or disappeared very near to the island of Lampedusa, was not caused by fate. In 2010, in the same place, two simultaneous shipwrecks resulted in close to 400 victims. In 2009, 200 people drowned in the high seas off the Sicilian coast. Only during the first six months of 2011, UNHCR estimated that 1,500 boat people had come to their deaths while they tried to reach the coasts of the island of Malta or Italy. Since the mid-1990s, the war undertaken by Europe against migrants has killed at least 20,000 people in the Mediterranean.

War? How else could you name the deliberate establishment of border control mechanisms, in the name of the fight against irregular immigration, for the purpose of pushing back those who are driven out from their homes by misery and persecutions? These mechanisms go under the name of Frontex, the European border agency which deploys its ships, helicopters, aeroplanes, radars, heat-seeking cameras since 2005 and will soon deploy its drones from the Strait of Gibraltar to the Greek islands to protect Europe from the “unwanted”. Or even Eurosur, a coordinated surveillance system which, since 2011, calls upon cutting edge technologies to militarise the European Union’s external borders in order to limit the number of irregular immigrants who penetrate them. How else could the collaboration that is imposed by Europe upon the migrants’ transit countries – Libya, Algeria,

Tunisia, Morocco – in order for them to play the role of prison guards and dissuade them from taking the northward route, at the cost of round-ups, arrests, ill-treatment, kidnappings?

The latest shipwreck in Lampedusa was more spectacular than usual because of its scale and it did not fail to draw the crocodile tears that are ritually poured out by the same people who are responsible for it. The day of national mourning decreed by Italy - a country whose governments, of the right and left alike have never ceased to approve agreements on migration with their neighbouring countries (even when dealing with Qaddafi's and Ben Ali's dictatorships) in order to be able to send the exiles back to them -, is echoed by the declarations by the European commissioner for internal affairs, who called for the speeding up of the implementation of Eurosur, which she argues is meant to provide better surveillance at sea of the refugees' boats. Where will this hypocrisy stop? There are few maritime spaces that are equipped with an observation and surveillance net that is as tight as in the Mediterranean. If rescuing were a priority - as required by the law of the sea - would we be complaining about so many shipwrecks between Libya and Lampedusa?

Smugglers, mafias and human traffickers are already designated as the main guilty parties, as if the sinister business of those who profit from the imperious need that some migrants have of crossing the borders at any cost were not made possible and encouraged by the politicians who organise their closure. Must one recall that if some Syrians who are fleeing seek, risking their lives, to cross the Mediterranean, this is because the EU member states refuse to issue them visas that would enable them to legally come to request asylum in Europe?

People are talking about fishermen who, having seen the boat that was adrift, continued along their way without assisting its passengers, and some voices were heard calling for them to be prosecuted and punished for failing to assist people who were in danger. Have they forgotten that in 2007, seven Tunisian fishermen accused of having “assisted the irregular entry of foreigners on Italian soil” were prosecuted by the Italian justice system, imprisoned and had their boat confiscated because they had lent assistance to some migrants whose vessel was sinking, had taken them on board and transported them to Lampedusa?

No, the tragedy of Lampedusa is not the fruit of fate. It is not due to greedy smugglers, nor to indifferent fishermen. The deaths in Lampedusa, like those from yesterday and from tomorrow, are the victims of a Europe that is locked to the point of obliviousness into a securitarian logic, which has renounced the values that it claims to defend. A murderous Europe.

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Frontex : Controlling or Saving Lives?

Six days after the “tragedy of Lampedusa”, while the search for the shipwrecked continues and the number of recovered bodies rises daily, the European Commissioner for Home Affairs, Cecilia Malmström, is sending out a misleading message: the solution to prevent the deaths at sea would be to speed up the installation of Eurosur so as to better detect the boats of refugees at sea, and invest additional resources to launch a large scale search and rescue operation in the Mediterranean, coordinated by Frontex.

But of what use is Frontex? Why was the boat that sank on the 3rd of October while it was located barely 1 km from Lampedusa not rescued? How is it possible that with 9 patrol boats of the Guardia Costiera, several boats of the Guardia di Finanza, military boats and surveillance aircrafts operating in the area, the boat was not detected in time to avert the fate of the passengers? Up to the 1st of October, a boat of the Spanish Guardia Civil was anchored in the port of Lampedusa. Was it part of the Hermes operation coordinated by Frontex on the morning of the tragedy? And if so, what was it doing while the refugees were drowning?

Instead of asking these questions, Italy and European institutions consider that the time has come to re-evaluate the role of Frontex and to grant it further means. We should not be fooled! The mandate of Frontex is combating so called “clandestine” migration and not saving lives at sea. Intensifying its operations in the Sicily Strait will not diminish the number of deaths at sea: 3300 people have lost their lives near the island of Lampedusa since 2002 [1], while Frontex is in operation since 2005 and its means have grown from 19 million Euros in 2006 to 85 million Euros in 2013.

Even if Frontex’s interception operations at sea are frequently linked to rescue operations, the lack of transparency concerning the activities of the agency do not allow to know if its patrols have truly saved lives, or if they have limited them selves to signal to the nearest authorities the presence of boats in distress. Beyond this, the division of responsibilities in these operations between the European Union and the Member States remains opaque. Who should take over the intercepted or rescued migrants? Who is responsible for guarantying the respect of refugee law and the international principle of non-refoulement? These uncertainties and the absence of clearly defined procedures weaken rescue operations and leave the question of responsibility unanswered.

The proposition of reinforcing the presence of Frontex in the Mediterranean and to intensify the cooperation with Libya, reveals the will to deploy more Frontex patrols of the Libyan coast all the while further externalising the management of the EU’s borders. This policy will lead to the indirect refoulement of refugees towards Libya, where the rights of migrants are notoriously violated. [2] Rather than saving lives, the aim is to keep the future “tragedies of migration” far from the eyes and ears of the European public.

At the time when, once more, the politicians of the Member states of the European Union consider that the only lesson that can be learned from the 3rd of October wreck in Lampedusa is the need to

strengthen the surveillance of its borders, it is high time to stand up against this escalation and say, high and loud that surveillance is not the equivalent of watching over. It is impossible to simultaneously aim to block the “flows” of migrants and watch over them as human lives in need of protection. Never a policy geared at combating “clandestine” migration will be a policy that respects the rights of people.

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