

# Humanitarianism:

the unacceptable  
face of solidarity



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# Glossary of terms and abbreviations

Asylum seeker	A person who has applied, or is seeking to apply, for recognition as a refugee (in the broad sense, see below)
Defend Europe	Mission set up by leading European identitarians (see GI) to hamper search and rescue NGOs in the Mediterranean
Dubs Amendment	Scheme to resettle up to 3,000 vulnerable unaccompanied refugee children from around Europe in the UK, which became s67 Immigration Act 2016
EEA	European Economic Area (EU+ Iceland, Liechtenstein, Norway)
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRE	European Council On Refugees & Exiles
EU	European Union (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Spain, Sweden, United Kingdom)
EU-Turkey Agreement	Agreement whereby Turkey prevents migrant boats leaving for Greece, and takes back those arriving in Greece, in exchange for financial aid, visa concessions and the prospect of eventual EU membership, in force March 2016
EUNAVFOR	EU Naval Force
Facilitators Package	EU legislation comprising a Directive and a Framework Decision committing member states to criminalise help for illegal entry, transit or stay in the EU
FIDH	International Federation for Human Rights
FN	Front National
FRA	Fundamental Rights Agency of the EU
FRONTEX	European Border and Coast Guard Agency
GEFIRA Foundation	Global Analysis from the European Perspective, a think-tank for 'investors, financial planners and politicians'
GI	Génération Identitaire

HRW	Human Rights Watch
IOM	International Organization for Migration
LIBE Committee	Civil Liberties, Justice and Home Affairs Committee of the European Parliament
MSF	Médecins Sans Frontières
Migrant	A person seeking a home in another country, for whatever reason
NGO	Non-Governmental Organisation
Operation Mare Nostrum	Italian government search and rescue operation, October 2013–October 2014
Operation Sophia	EUNAVFOR Mediterranean anti-smuggling operation, renamed after a baby girl born on one of its vessels
Operation Triton	Frontex border surveillance and control operation launched in November 2014
RAIH	Réseau d'Accueil et d'Insertion de l'Hérault
Refugee	A person forced by war, conflict or persecution to flee her/ his own country (NB this is a broader definition than that in the 1951 Refugee Convention, which focusses on those fleeing political, racial, social or religious persecution)
SAR	Search and Rescue
Scafisti	Helmsmen of migrant boats, frequently prosecuted as smugglers although many are paying passengers
Schengen Agreement	1985 agreement between five EU member states to remove border controls between their countries, later incorporated into EU law and (as the Schengen Acquis) extended to most EU and EEA member States
Smuggling	Moving goods or persons between countries illegally by avoiding border customs or immigration controls
Trafficking	Recruitment, transportation or harbouring of persons through force, threats, deception, abuse of power or buying or selling, for exploitation
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund

# Introduction

**Liz Fekete**

***Allowing people to die at Europe's borders just because of their administrative status is a complete disregard for the value of human life.***

François Crépeau,

UN Special Rapporteur on the human rights of migrants

In 2015, the UN Special Rapporteur on the human rights of migrants warned that war, violence and persecution were leading to 'an age of unprecedented mass displacement' and it was time for the world to prepare. Though the publication of a photograph of the body of 3-year-old Alan Kurdi, washed ashore and lying lifeless on a beach near Bodrum, was to momentarily shock the global media out of its complacency, many ordinary Europeans were already alert to the UN's message, and had been busy mobilising the largest humanitarian voluntary effort since the second world war.

For such humanitarians, the belief that all humankind should be treated humanely and equally is not some abstraction – assisting those in great need and responding to emergencies are what you simply get on with. That humanity is under an obligation to intervene in the face of suffering, is a principle embodied in religious teaching, as well as humanist and secular thought. From time immemorial, fishermen and mariners have come to the aid of those at peril on the seas. Medical ethics, too, from the Hippocratic Oath onwards, have been influenced by principles that later would be defined as humanitarian. In the wake of the first and second world wars, humanitarian principles were codified in the Geneva Conventions on the laws of war and on refugees, the Universal Declaration of Human Rights and the European Convention on Human Rights (ECHR). The code of conduct of organisations like the International Red Cross, founded in 1863, and later the Red Crescent, to provide assistance to victims of armed conflict and strife, as well as those of other more modern disaster relief committees, also flowed from well-established humanitarian principles. Such codes of conduct stress that humanitarian assistance must be impartial, not based on nationality, race, religion or political point of view, but solely on need.

But whether today's Europe respects and upholds that humanitarian tradition on land and sea is now in question.

## **Downgrading humanitarianism, isolating NGOs**

Operation Mare Nostrum, an Italian military-humanitarian mission in the Mediterranean to rescue boat people close to Libya, ended in 2014 and was replaced



with Operation Triton, which does not have search and rescue at its centre and involves deploying fewer vessels further away from the Libyan coast. And since the downgrading of search and rescue missions in the Mediterranean, EU interior ministers as well as senior figures within its border force, Frontex (which is in charge of Operation Triton) have gone out of their way to verbally attack, legally undermine and politically isolate NGO search and rescue operations (SAR NGOs) in the Mediterranean.

On land, as physical border fences have been erected to keep refugees and migrants out, decrees have been promulgated in Italy and France forbidding citizens to give food and drink to refugees and migrants. In addition, anti-smuggling laws have been used to prosecute individuals who provide food, shelter and transport to the displaced. The European Commission (EC), though lobbied on behalf of humanitarian volunteers, has refused to revise its 2002 Facilitators Package, claiming that there is not enough evidence to suggest that laws against smuggling and trafficking have been in any way misapplied by member states.

With the same careless ease, EU leaders back the Italian government's bullying of SAR NGOs, which have been all but forced to sign a code of conduct forfeiting the neutrality and independence at the heart of their ventures by (for example) forcing them to allow armed police on board rescue ships. It now seems that the downgrading of humanitarianism also involves stripping NGOs of any neutrality, so as to ensure that there are no independent witnesses to a process that institutionalises complacency in the face of human suffering – a complete absence of a moral compass and the complete opposite of the humanitarian ethos.

At the same time, refugee solidarity groups, which have been filling gaps in state provision in many border towns, are finding themselves regarded as an anti-social presence, targeted and harassed by the police. As we report, just providing food, water and shelter (in the form of sleeping bags) can be enough to single humanitarian workers out to the police as 'enablers of irregular migration'. The activities of humanitarian workers are treated as anti-social, a 'pull factor' encouraging migration and the nomadic existence at places like Calais and Ventimiglia.

### **Shrinking space within a bordered debate**

With these increasing restrictions and intergovernmental attempts at de-legitimation, the political space in which humanitarian emergency relief and refugee solidarity work operates is shrinking fast.<sup>1</sup> If, in today's Europe, the imperatives of a deterrent asylum system mean that 'border defence, not the protection of life, remains the priority at Europe's frontiers',<sup>2</sup> then those who take refugees to a place of safety, or feed or clothe them, are deemed guilty of unpatriotic displays of unacceptable solidarity. Suffice it to say that what is deemed unacceptable here is compassion and solidarity with the rightless non-citizen, the foreigner, the sans-papiers, the perceived border-breaker. Humanitarianism, which should by its very nature be a universal principle, has now been constricted, with distinctions made between 'us' and 'them' through a bordered political culture ensuring that human solidarity ends at the European gateway. All this of course is manna for the far Right which can now argue, with some justification, that its provocative campaigns and harassment of those who support refugees are legitimised



by mainstream politicians and the laws and practices of the EU and its member states. The IRR believes that Europe's misguided policies and rhetorical assaults on refugee solidarity groups are in contradiction with policies to end extremism. It is, we argue in Section 3, legitimising the extremism of a growing, intolerant far Right which has singled out humanitarian workers as 'race traitors' for a campaign of harassment and physical violence.

### The evolution of crimes of solidarity

Prosecution of humanitarian assistance to would-be migrants and refugees is now very obvious and very politically pointed. But prosecution of what NGOs term 'crimes of solidarity' is not new. In fact it began several decades ago, with heavy-handed police tactics and, on occasion, prosecution of those individuals (including priests) involved in a sanctuary movement, providing a place of safety for those facing deportation. Certainly, for IRR researchers, the concept of 'crimes of solidarity' is a familiar one. It was the subject of an IRR report in 2006, which criticised the 2002 EU Directive and Framework Decision on 'Strengthening the Penal Framework to Prevent the Facilitation of Unauthorised Entry, Transit and Residence'.<sup>3</sup> The IRR returned to the issue of crimes of solidarity in 2008, carrying out a survey of legal and other measures which criminalised asylum seekers and those who sought to act in solidarity with the undocumented.<sup>4</sup> We warned then that 'aiding illegal entry' laws were being used as a kind of dragnet, in which different categories of people – including priests, teachers, social workers and politicians – risked becoming entangled.

One manifestly unjust prosecution that we highlighted speaks to today's reality of harassment of NGO rescuers at sea. In 2007, the seven-member crew of two Tunisian fishing boats were charged with facilitating illegal immigration and detained in Agrigento, Sicily, having rescued a group of forty-four Eritrean, Sudanese and Ethiopian migrants whose inflatable dinghy was about to sink off the Italian island of Lampedusa. As they awaited trial, the Tunisian fishermen endured years of stress and hardship, including the impounding of their boats and the loss of their livelihood.<sup>5</sup>

***'If you believe your government doesn't show morality then you have to go against your government.'***

Bernard Duchatelle

### What the report covers

The starting point for the research reported on here was our dual concerns about the situation in the Mediterranean Sea, today often compared to a war-zone (in terms of casualties), and at Europe's land borders. For by summer 2015, with the downgrading of the humanitarian mission in the Mediterranean and the militarisation of land borders, the IRR sensed a new low in the criminalisation of solidarity. The IRR had previously looked at the use of 'aiding illegal immigration' laws at the point of access to housing, welfare or medical assistance and the criminalisation of those providing assistance to deportees, but this report focuses on the systematised shrinking of space for humanitarian activism at Europe's borders.

*Humanitarianism: the unacceptable face of solidarity* is a report that could not have been written without the publications and news alerts of advocacy organisations across

***'I was at  
peace  
with  
myself,  
and I still  
am now.'***  
Dieter Dehm

Europe which have highlighted the many ways in which the political culture they operate in is contracting and hardening. While drawing on their communications, our analysis is based on a detailed examination of a smaller sample of cases (twenty-six case studies, involving forty-five individuals). All these cases involve humanitarian actors prosecuted under anti-smuggling and/or immigration laws since September 2015. We do not claim that our material is exhaustive, since we have focused on those cases that already have had some publicity. What is significant is that there is no typical 'profile' for those caught up in the legal net. Nor is there a typical age-group from which they are drawn, with the youngest being 24 and the oldest 70. There is simply no typical 'offender'. Cases have not only been brought against left-wing politicians and No Border activists, but also against academics, journalists, interpreters, students, a former Children's Ombudsman and her husband and the retired. Details of each case discussed in the body of the report are provided in Appendix 1.

We also provide, in Section 1, a lawyer's appraisal of the legal ambiguity that surrounds these prosecutions. It should be read alongside the timeline we provide that records the milestones of EU and member state policies vis-à-vis the global crisis of displacement and their relation to the prosecution of humanitarians. The timeline establishes the link between these prosecutions and the EU's downgrading of the humanitarian mission in the Mediterranean. It also reveals prosecutions clustered around the flare-up points on Europe's borders, where, without proper planning and assistance, dangerous bottlenecks of people and/or makeshift camps develop. Prominent among these are Ventimiglia in Italy, Calais in France, the Øresund bridge from Copenhagen, Denmark to Malmö, Sweden, and Lesbos, in Greece. This is a subject returned to in Section 2, where we focus on the hostile policing and security environment that volunteers and researchers alike face, in both France and Italy.

### **Xeno-racism and extremism**

This report is in part written out of a simple belief that no one should be stigmatised, harassed or prosecuted for saving lives at sea or assisting weary and displaced people at a border. From it we hope that EU politicians and civil servants will learn why people choose to act out of conscience and to disobey unjust laws; why European laws that equate humanitarianism with trafficking are objectionable; and why ordinary citizens are resisting categories of 'us' and 'them' imposed by governments. For, in the final analysis, the reason that the Institute of Race Relations has taken up this issue is because we feel that when protecting 'us' from 'them' becomes more important for European ministers, civil servants and border police than saving lives, it is time to name such policy and practice as state racism. What we are seeing is the extension of structured racism against foreigners, which we term xeno-racism (which in earlier years involved the denigration, segregation and expulsion from *within* countries), into life and death policy decisions at Europe's borders.<sup>6</sup>

### **References**

- 1 See 'On "Shrinking Space": a framing paper', Transnational Institute, April 2015.

- 2 See Daniel Trilling, 'Should we build a wall around North Wales?', *London Review of Books*, Vol. 39, No. 14, 13 July 2017.
- 3 Frances Webber, 'Asylum: from deterrence to criminalisation', *European Race Bulletin* No. 55, Spring 2006.
- 4 Liz Fekete, 'Asylum Rights: Grinding down the human rights defenders', *European Race Bulletin* No. 65, Autumn 2008.
- 5 While the crew members were acquitted in November 2009, the two captains of the vessels were found guilty of resisting a public officer and committing violence against a warship, although they subsequently won their appeal in September 2011, thereby avoiding a prison sentence.
- 6 The term was first coined by A. Sivanandan. See Liz Fekete, 'The emergence of xeno-racism', *Race & Class*, Vol. 43, No. 2, October-December 2001.



# The legal framework: when law and morality collide

**Frances Webber**

The distinction between trafficking, smuggling and humanitarian action should be clear. But ambiguity and legal uncertainty, built in to the EU's legal framework, has allowed member states to criminalise humanitarians – a situation the European Commission has refused to rectify.

If law generally exists to regulate relationships, the criminal law is supposed to set standards of decent conduct, and to punish and mark collective disapproval of acts which, through their disregard of such standards, damage the moral fabric of society as a whole. But in countries across Europe, the criminal law is increasingly being used as a weapon to punish and deter those seeking not to violate but to uphold standards of decency. The EU and member states, in seeking to wrest back control and stop spontaneous movements of refugees into and across the continent through militarisation of the sea and the borders, and through policies of deterrence and destitution within their borders, have increasingly resorted to criminalising those providing the humanitarian assistance withheld at an official level. Beyond the borders, this means criminalising sea rescue; at the internal borders, it means criminalising those providing lifts to help people reach their destination; and within borders, it means harassing those providing food, shelter and clean water in informal encampments or on the streets. In Greece and Italy, volunteers working with NGOs are under investigation and threat of prosecution for their sea rescue missions. In France, as one court rules the criminalisation of food distribution illegal, another rules the provision of food, housing and medical care unnecessary and illegal. In Norway, Denmark, Sweden, Switzerland and the UK, drivers giving lifts to undocumented migrants have found themselves in court. And in Italy, activists have faced banishment from their home town for providing food and showers. Across the continent, criminal laws designed to target organised smuggling gangs and profiteers are distorted and stretched to fit an anti-refugee, anti-humanitarian agenda, and in the process, criminalise decency itself.

## **Distinguishing human trafficking from human smuggling**

All EU and EEA member states have laws against human smuggling and trafficking, and against assisting illegal residence. But of the plethora of such laws, only the ban on human trafficking is absolutely clear-cut in terms of aligning law with standards of conduct – because human trafficking involves the exploitation of human beings, their coercion into forced labour, prostitution or organ donation. There is and can be no such thing as humanitarian trafficking. Smuggling, on the other hand, may involve profiteering, but it also has a long history as a response born of human solidarity, which older Europeans recall – whether bringing Jews out of Germany and Nazi-occupied territories before and during the second world war, or helping people cross the Berlin



Wall during the cold war. Yet politicians and media frequently fail to distinguish trafficking and smuggling, often using the words as synonyms – usage which, deliberately or not, demonises all transport of migrants and refugees as inherently evil.

The moral distinction between trafficking and smuggling is reflected in the UN Protocols respectively dealing with them, which supplement the UN Convention on Transnational Organised Crime.<sup>1</sup> The title of the Convention is self-explanatory: it is about organised crime. For that reason, while the protocols commit states to prosecute trafficking and smuggling respectively, ‘smuggling’ is defined<sup>2</sup> to include only acts done for material benefit. To make matters doubly clear, Article 6 tells states to establish as criminal offences acts including smuggling, providing false documents, assisting unlawful stay, etc ‘when done intentionally and in order to obtain, directly or indirectly, a financial or material benefit’. So as far as the UN Protocol is concerned, carrying irregular migrants or otherwise providing assistance to them is not a crime when it is not done for profit. Paradoxically, this does not mean that signatory states cannot prosecute humanitarian helpers. ‘Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law’, it adds.<sup>3</sup>

### **The 2002 Facilitators Package**

When EU member states first drew up collective action against human smugglers and those assisting illegal entry, stay or movement across its borders in 1990, under the framework of the Schengen agreement, they too restricted criminalisation to those acting for gain.<sup>4</sup> But by 2002, the EU’s position had shifted to an obsession with controlling borders and stopping ‘disorderly movements’ and spontaneous migration of refugees and migrants to Europe from elsewhere. The ‘Facilitators Package’ of that year, comprises a Directive and a Council Framework Decision regulating member states’ national penal laws against human smuggling.<sup>5</sup> The Directive requires member states, through their national law, to criminalise the intentional assistance of illegal entry or transit through a member state, and the intentional assistance for material gain of illegal stay.<sup>6</sup> States may exempt humanitarian smuggling from criminalisation, but are not obliged to. Similarly, although states are obliged to prosecute those assisting unlawful stay for gain, they are not limited to for-profit cases but may also prosecute those who gain nothing from their assistance. The Framework Decision sets out minimum sentences for smuggling for profit involving endangerment or by criminal organisations, and ancillary measures including confiscation of vehicles, deportation and extradition.

The Directive’s title is ‘Defining the facilitation of unauthorised entry, transit and residence’, but it fails to define ‘intentional assistance’ of illegal entry or residence, leaving it to national authorities and courts to decide. This, and the failure to legislate for a clear exemption for humanitarian assistance, leave a ‘high degree of legislative ambiguity and legal uncertainty’, according to a study for the European Parliament<sup>7</sup> – that has allowed humanitarian assistance – by sea rescue, giving lifts, providing food – to be criminalised, sometimes in a way which clearly conflicts with international human rights obligations such as the duty to rescue those in distress at sea, and to relieve destitution.

### List of treaties and EU legislation

Convention and Protocol relating to the Status of Refugees (United Nations, 1951, 1967)

Convention implementing the 1985 Schengen Agreement (intergovernmental, 1990)

Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence (European Union, 2002)

Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (European Union, 2002)

Dublin Regulation, Regulation 604/2013/EC establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (European Union, 2013)

European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950)

International Convention on Maritime Search and Rescue (International Maritime Organization, 1979)

International Convention on the Safety of Life at Sea (International Maritime Organization, 1974)

UN Convention on the Law of the Sea (United Nations, 1982)

UN Convention on Transnational Organised Crime: Protocol Against the Smuggling of Migrants by Land, Sea and Air; Protocol to Prevent, Suppress and Punish Trafficking in Persons (United Nations, 2000)

### Case law in the member states

In bringing national laws in line with the Facilitation Directive, very few member states included an explicit humanitarian exemption for aiding illegal entry or transit. European national laws on facilitation are a patchwork of different patterns of criminalisation and exemption.<sup>8</sup> What is legal in one country may be illegal in another. Some countries' laws appear to have been drafted in an effort to reflect, or accommodate, international human rights obligations such as rescue at sea and the preservation of human dignity and physical integrity (ie, not allowing people to starve, freeze or die preventable deaths); others are drafted with a sublime disregard for such obligations. In some states but not all, the facilitation laws are part of a grid of penal laws which criminalise illegal entry and/ or enforce a 'hostile environment' by imposing duties of reporting and bans on providing accommodation, jobs or services to undocumented migrants. National laws are themselves sometimes ambiguous and confusing. They are also unevenly enforced. This unclear legal framework has resulted in confusion and uncertainty for humanitarian workers, intending volunteers and in some cases, police and courts across Europe. Would-be volunteers seeking to help refugees crossing Bulgaria in early 2016 were reportedly warned off by NGOs on the basis that their actions could be construed as criminal.<sup>9</sup> Finland exempts from criminal



penalties assisting illegal entry for humanitarian reasons, but because assisting illegal stay is not included in the exemption, a church in Pori, western Finland, seeking in November 2016 to offer sanctuary to refused asylum seekers, was warned by a local police chief that it could face charges for violation of the Foreigners' Act for hosting undocumented migrants on its premises.<sup>10</sup>

When, in September 2015, Danish children's author and ombudsman **Lisbeth Zornig Andersen** and her husband **Mikael Lindholm**, watching the stream of refugees walking from Rødbyhavn ferry terminal towards Copenhagen (a distance of 160 km), decided they wanted to help by giving a lift, they asked police if it was legal. The police didn't know. The following day, after the couple's Facebook account of their actions inspired hundreds of others to do the same, the police issued a statement saying giving lifts to refugees was illegal. The day after that, the police changed their position, saying that offering lifts was 'leaning towards breaching the law' but not illegal *per se*, and the refugees they had detained in Rødbyhavn were released and picked up by waiting cars to be driven towards Copenhagen, to make their way freely to Sweden, until Sweden closed its borders. But Zornig Andersen and Lindholm, along with quite a few others, including **Lise Ramslog**, a 70-year-old Danish woman, were not only charged with facilitating illegal transit (and in Lindholm's case, for taking the refugees home for coffee and biscuits, harbouring!), they were also convicted and fined. On appeal, their fine was increased from DKr 22,500 each to DKr 25,000 each (a total of around £5,700).

The current humanitarian crisis, which became more visible in Europe around three years ago, has both illuminated and reinforced the militarisation and securitisation of EU and member states' migration policy. Below, I take a closer look at member states' law and practice in three specific areas: sea rescue and smuggling (affecting in particular Greece and Italy); land smuggling and giving lifts (affecting the states along the Western Balkans route, the borders of Italy, Switzerland and France, Austria, Germany, Denmark and Sweden, and the Norwegian border with Russia); and the provision of food and other humanitarian assistance at and around informal camps at the 'migration bottlenecks', particularly in Italy (Ventimiglia and Como) and France (the Roya valley and Calais).

### Sea rescue and smuggling

After the ending of the Italian government's [Mare Nostrum](#) search and rescue mission in October 2014 for lack of EU and member states' willingness to fund it, inevitably the death toll in the Mediterranean rose sharply. The EU's response was not to prioritise rescue but to militarise the Mediterranean further in order to catch the smugglers and destroy their boats.<sup>11</sup> In July 2015, it launched the EU naval force ([EUNAVFOR](#)) which in October, as [Operation Sophia](#), began boarding, search, seizure and destruction of vessels suspected of being used for human smuggling or trafficking on the high seas, and arrest of the smugglers. Search and rescue missions were left to the NGOs, some large, like Save the Children and Médecins Sans Frontières (MSF), some small and crowd-funded, who took to the sea to try to prevent some loss of life. In the eastern Mediterranean, over half a million refugees, crammed into small dinghies, left Turkey for the Greek island of Lesbos between January 2015 and February 2016; another 300,000 made for Chios or Samos. Volunteer rescue ships

aided by beach-based volunteers played a vital role in rescue operations until the EU-Turkey agreement effectively closed off the route. Team Humanity Denmark's **Salam Aldeen** estimates that his rescue ship, based at Lesbos, helped to save between ten and fifteen thousand people between September 2015 and January 2016.

*'Helping people is moral and legal.'*

Felix Croft

In the early hours of 14 January 2016, according to Aldeen and his colleague **Mohammad Abbassi**, their ship, manned by the two Danes and three volunteers from Spanish NGO Proem-Aid, answered a distress call and, after notifying the Hellenic coastguard, were searching for two sinking boats when the coastguard appeared with a military vessel, escorted them to shore and arrested them for human smuggling. The crew were also arrested for possession of offensive weapons, as they had knives (to cut tangled ropes), and were held for two days before being bailed – Aldeen on €10,000, the others on €5,000, to await their trial, set to take place on 7 May 2018. Aldeen is forbidden to leave Greece in the meantime and must report weekly to Greek police (his colleagues have been permitted to leave the country).

Greek law on facilitation of illegal entry expressly exempts rescue at sea, a paramount duty for states and shipmasters under international conventions such as the 1974 International Convention on the Safety of Life at Sea, the 1979 Convention on Maritime Rescue and the 1982 UN Convention on the Law of the Sea. So why were the crew arrested? The Greek authorities are refusing to comment on the case pending the trial, but at the time of the arrest, the coastguard claimed that their boat was heading towards Turkey (and so, they conclude, was engaged in smuggling, not rescue). But the arrest appears to reflect both the Greek authorities' dislike for the plethora of international volunteer groups working autonomously on Lesbos to provide rescue and support for refugees – later that month, a joint ministerial decision banned unregistered volunteer activities and required NGOs working in Lesbos to register, putting them under state control – and also the fundamental difference of attitude between the volunteers, who wanted to rescue and welcome the migrants, and the authorities, who wanted to stop them.<sup>12</sup> The Hellenic coastguard was implicated in several pushback incidents, the most serious of which, in January 2014, led to the deaths of three women and eight children.<sup>13</sup>

The [EU-Turkey agreement](#) meant that from March 2016, migrant boats were forced to take the much longer and more dangerous central Mediterranean route to Europe, from north Africa to Lampedusa and Sicily. Italian law provides no 'rescue' exemption for facilitating entry, or smuggling, and in the previous decade, two prosecutions in particular brought into question Italy's compliance with the international law of the sea. The three-man crew of German NGO rescue ship *Cap Anamur* were arrested for bringing thirty-seven rescued African migrants to Sicily in June 2004, and finally acquitted of facilitating illegal entry in October 2009, and the captains and crew of two Tunisian fishing boats were arrested in 2007 for bringing forty-four migrants they had rescued to Lampedusa. They too were acquitted in 2009,<sup>14</sup> but the prosecutions deterred boat rescues, causing many more migrants to drown.

Eight years after the *Cap Anamur* and Tunisian fishermen's acquittals, Sicilian prosecutors are once again initiating investigations into NGOs conducting search and rescue missions. The investigations follow accusations by Frontex of NGOs getting too

close to Libyan territorial waters, intercepting or rescuing migrant boats ‘without any prior distress call and without any official information as to the rescue location’, and have culminated in the [seizure](#) of German NGO Jugend Rettet’s rescue ship *Iuventa* when it docked at Lampedusa in August 2017, and charges of facilitation for crew members. Prosecutor Ambrogio Cartosio says he is convinced the crew’s motives are exclusively humanitarian, but claims ‘encounters’ between crew and smugglers, who on three occasions since September 2016, he says, handed migrants over to them, an accusation the crew strongly deny. An application for the return of the ship was [rejected](#) by a Trapani court in September 2017. As part of the investigation into Jugend Rettet, Father **Mossie Zerai**, an Eritrean priest and Nobel peace prize candidate living in Italy, was notified that he was being investigated for facilitating clandestine immigration. Zerai is founder and president of the Habeshia Information Agency, which receives requests for assistance that are passed on with the boats’ coordinates to the Italian and Maltese rescue coordination centres.

***‘I can confirm with all conscience that I have nothing to hide and that I have always acted with full legality... My goal is to save lives.’***

Don Mossie Zerai

The seizure and investigations come at a time when the EU is training the Libyan coastguard to build its capacity to intercept migrant boats, and Frontex is leading claims that NGOs’ search and rescue operations act as a ‘pull factor’ encouraging more migrant smuggling (see Introduction and section 3). Once again, there is a fundamental difference of attitude between the NGOs, who want to rescue and welcome migrants, and the authorities whose priority is to stop them. It may be no coincidence that Jugend Rettet had just refused to sign Italy’s controversial [Code of Conduct](#), criticised by Amnesty International and Human Rights Watch, which requires NGOs to allow police to board rescue boats and

makes them answerable to the Libyan coastguard which has opened fire on them, as well as the Italian coastguard. As in the Greek case, the Italian authorities appear to seek control of the NGOs so that their operations can be subsumed within the EU agenda of destroying the migrant boats. Meanwhile, this policy itself has been condemned; in July 2017, a cross-party [House of Lords inquiry](#) into Operation Sophia concluded that the policy of destroying smugglers’ boats has led to more deaths, with refugees being sent to sea on less seaworthy vessels.<sup>15</sup>

### **Land smuggling and giving lifts**

Bringing undocumented migrants (who may also be refugees) across the EU’s external borders has been criminalised for decades. Even giving lifts to migrants close to the borders has been fraught. In 2002, the Facilitation Directive required member states to criminalise the assistance of transit through their territory as well as illegal entry into them. But it has only been in the last three years, with the closing of the EU’s internal borders, that bringing refugees across internal borders – Italy to France, Austria to Germany, Denmark to Sweden – has been the subject of prosecution.<sup>16</sup>

When, in August 2015, Angela Merkel waived the normal Dublin criteria and opened Germany’s southern border with Austria to enable Syrian refugees to come to

Germany, Berlin-based refugee support Peng Collective called for a convoy of refugee helpers ('Fluchthelfer.in') to collect refugees from Austria and bring them to Germany, and over 700 people responded. Border controls were re-introduced in September, and Bavarian police arrested a number of 'border crossing helpers' who gave people lifts from Vienna to the German border, or within Germany, for migrant smuggling or for the lesser offence of abetting illegal entry. (In German law, someone smuggling for profit, a repeat smuggler, or one carrying more than two people can be prosecuted for smuggling, while the carrying of one or two people not for profit amounts to the less serious offence of assisting illegal entry. Humanitarian motive is not recognised or exempted.) 'Helpers' found themselves handcuffed, strip-searched and detained in 'container cells' at the German-Austrian border for up to thirty-one hours. Activists in the 'convoy of hope', around fifty cars which travelled to Hungary to bring refugees to Germany, were also reportedly arrested on suspicion of smuggling. More than 700 'smugglers' were reported to be in detention during the weekend of 12-13 September 2015, although how many of them were humanitarian and how many opportunists making money is impossible to know.<sup>17</sup>

**Wolfgang Wurm**, 47, an Austrian industrial designer, gave a lift to an Iranian family (parents, young daughter, two young male cousins) from Salzburg to the Bavarian border. When he asked a policeman at the German border where he should drop them, he was arrested, body-searched, treated like a serious criminal and told he could be charged with aggravated smuggling, because of the number of people he was carrying and the fact that the daughter had to sit on her father's lap. This meant a potential sentence of up to ten years. Wurm is not an activist, he simply acted out of the impulse to help, he says.<sup>18</sup> Among those criminalised for bringing in refugees were relatives with status in Germany. Two Syrian brothers were arrested on 15 September 2015 after bringing their son and nephew from Austria to the border, where the young men walked through the border. Arrested by Bavarian police, they were convicted of facilitating illegal entry and given a 90-day fine of €15 per day, reduced on appeal to €10 a day, and a further appeal was dismissed.<sup>19</sup> And parliamentary deputy **Diether Dehm** of Die Linke, was threatened with having his immunity lifted and being charged with facilitation after he brought a young African refugee from Italy through Switzerland to Germany in August 2016, to be reunited with his father after his mother's death. In April 2017 the threat was withdrawn for 'lack of evidence'.

Danish law does not recognise humanitarian motive as providing a defence to facilitation of illegal entry, transit or residence. We saw above how in Denmark, in the case of **Lisbeth Zornig Andersen**, police vacillated in their response, not knowing if it was legal or not. A May 2016 report said that 297 people, who in September 2015 offered lifts to refugees travelling to Sweden in the same spirit as Zornig and Lindholm, were arrested and faced charges of facilitation of entry or transit.<sup>20</sup> When Zornig, **Lindholm** and 70-year-old pensioner **Lise Ramslog** were convicted, in March 2016, DPP MP Peter Poulsen said 'Human smuggling is not right – not if it's done by the train company and not if it's done by private individuals.' The train company which brought thousands of refugees through Denmark without tickets was not however prosecuted.

Foreigners in Denmark sometimes paid a high price for trying to bring in family members. Between October and December, one received an expulsion order, as well

as a 40-day suspended sentence, for assisting his ex-wife, son-in-law, two children and grandchild to gain entry; another was fined Dkr 10,000 (approximately €1,300) for bringing in his brother and the brother's friend (both 13 or 14 years old); and a third was given 40 days' imprisonment and expulsion for helping his sister and brother-in-law and their two children to get in. But two further cases demonstrate that the law's requirement of intentionality has allowed sympathetic courts some leeway. **Reem El Awwad** and **Mimoza Murati**, two non-Danish members of the solidarity group *Med Menneske Smuglerne* ('With the human traffickers'), [founded](#) in November 2015, who faced expulsion from Denmark as well as a possible prison sentence for taking a refugee from Copenhagen to Sweden, were acquitted in March 2016 for lack of evidence, along with their two Danish colleagues **Calle Vangstrup** and **Annika Holm**. And two women, **Anna Hegelund** and **Maria Sloth**, a councillor and a parliamentary candidate who, in September 2015, gave a pair of African migrants somewhere to sleep and bought them ferry tickets to Norway, were acquitted in August 2016 of facilitating illegal stay and transit after the court said it was not proved that this was their intention.

*'I think it is very strange that we have a law saying you have to go to court for helping people.'*  
Maria Sloth

In Sweden, as in Denmark, humanitarian motive for smuggling or giving lifts does not provide an exemption, although profit, bringing migrants in numbers or endangerment are all aggravating factors. Most weeks since September 2015, police have detained a handful of people driving across the Øresund bridge from Denmark on suspicion of smuggling, prosecuting around half of them. The police say most cases they deal with are of asylum seekers already living in Sweden picking up family members from Germany. But, an **unnamed young man** was sentenced to three months in prison [in August 2016] for bringing a family with two children, whom he met at a gas station in Denmark, across the bridge to Sweden. He wanted to help the children and took no payment, but the Swedish authorities do not consider bringing people from Denmark 'humanitarian', as Denmark is safe, so the sentence was not reduced or suspended.<sup>21</sup> A more celebrated case was that of TV journalist **Fredrik Önnvall**, his cameraman and interpreter, who in February

2017 were all found guilty of people smuggling by the Malmö district court, which accepted the humanitarian motivation and gave the three suspended sentences and 75 hours community service for bringing in a 15-year-old boy who pleaded to be taken with the crew when, in spring 2014, Önnvall was making a TV documentary on the refugee crisis in Greece.

In the autumn of 2015, thousands of asylum seekers from as far afield as Sudan, as well as Balochis from Pakistan, Afghans, Iraqis and Syrians, arrived at the Norwegian Arctic border from Russia, travelling on bicycles to get round the Russian ban on travelling on foot and the Norwegian ban on driving to the border. Around 200 were held in a former barracks near the airport, fifteen kilometres outside the town of Kirkenes. A refugee support group, Refugees Welcome to the Arctic, was set up in Kirkenes by Merete Nordhus, a former nurse, providing warm clothing for them, and when in January 2016 the government said it would be returning them to Russia, the group was involved in protests and resistance. Nordhus, Merete Eriksson and **Eirik Nilsen**, a redundant miner in his 40s, drove refugees to the town centre where they found sanctuary in a Lutheran



church. Police were stationed outside the church, and when they returned to the camp to pick up more refugees, police arrested them. The three were released later the same day, but were charged with assisting illegal residence and given fines of DKr 12,000 (Nordhus) and DKr 5,000 (the others). In Norwegian law, assisting illegal entry is illegal unless the person helped is a refugee and the aim was to bring him or her to a safe country, and assisting illegal residence is illegal, although someone who provides humanitarian assistance to an undocumented migrant is not punishable unless the purpose and effect of the help is to make removal more difficult. Nordhus and Eriksson paid their fines, with help from supporters, but Nilsen took his case to court, and was acquitted in July 2017, on the basis that although he was careless and his behaviour was risky, it had not been proved to be criminal.

In the UK, humanitarian motivation is relevant only to sentencing, not to guilt.<sup>22</sup> So **AH**, a 25-year-old volunteer with a refugee support group, who in January 2017 tried to bring an Albanian mother and two sons to the UK in the boot of her car to join their husband and father, was sentenced in March to 14 months' imprisonment, although the sentence was suspended to take into account her 'misguided humanitarianism'.<sup>23</sup> In Switzerland, too, humanitarian motive is relevant only to sentence: a 43-year-old Socialist MP and founder of a refugee support group, **Lisa Bosia Mirra**, famed as the refugees' 'Mother Teresa' for her work in providing food for those stranded on the Italian side of the border, and caring for lone children and tracing their family members, was sentenced in September 2017 to a suspended 80-day fine (around SFr 8,800) for bringing refugees including unaccompanied children into the country on various occasions during August and September 2016.

Greek law, as we saw, exempts sea rescue but not humanitarian smuggling by land, and in December 2016, 61-year-old **Mikel Zuloaga** and 59-year-old **Begoña Huarte**, members of a Basque refugee welcome group, were arrested by the Igoumenitsa coastguard and charged with smuggling for attempting to take eight refugees to the Basque country in a camper van.<sup>24</sup>

The first Italian prosecution for attempted humanitarian smuggling of migrants across the border to France was in July 2016, when 28-year-old **Felix Croft** came across a pregnant African asylum seeker, her husband, uncle and two children in Ventimiglia, and decided to take them across the border to his home in France as there was no room for them in the church where they had sought shelter. He was arrested on the motorway and charged with facilitation. At his trial, prosecutors sought a three-year deterrent prison sentence and a €50,000 fine, but on 27 April 2017, the Imperia court said no crime had been committed, and Croft was acquitted.

French courts do not share this view. French law on assisting entry, transit and stay exempts from prosecution close relatives, spouses and partners, and specific humanitarian acts (see food distribution, below), but not humanitarian smuggling. In October 2015, ex-soldier **Rob Lawrie**, a volunteer at the Calais camps, was arrested at the Calais border for putting a four-year-old Afghan child in the sleeping compartment of his van in response to her father's pleas, to take her to her relatives in Leeds. In January 2016, the Boulogne court gave Lawrie a suspended €1,000 fine for the lesser charge of endangerment, which they substituted for the charge of assisting illegal entry.

Members of *Roya Citoyenne*, a solidarity group helping refugees in the *Roya* valley, near the Italian border, have repeatedly been convicted of facilitation of entry and transit, fined and given suspended prison sentences for bringing refugees across the border. They say that refugees walking along the mountain roads are in great danger, and indeed, official figures show that [fourteen migrants died](#) attempting to cross the Franco-Italian border in the year from September 2016,<sup>25</sup> but this danger does not excuse the group's members, and other solidarity volunteers, in the eyes of the law. 29-year-old Italian **Francesca Peirotti**, arrested in November 2016 with eight people from Eritrea, Ethiopia and Chad in her van, was convicted and fined in May 2017 at Nice. Four pensioner members of the group were convicted and given suspended fines at the same court in June for bringing six young refugees from Eritrea and Chad to Nice in January. **Pierre-Alain Mannoni**, acquitted in January 2017 of assisting illegal transit and stay for giving a lift to three Eritrean young women, planning to take them home to rest, had his acquittal reversed in September 2017 by the Aix appeal court. The group's leader, farmer **Cedric Herrou**, who has helped at least 200 migrants enter France in the past year, has been arrested six times in 2017 and in August 2017 was given a four-month suspended prison sentence for assisting entry, transit and stay by the same court. Below, the Aix court's reasoning and its implications for solidarity work are further analysed.

### Provision of food, shelter and showers

In many EU countries, the welcome given by civil society to migrants and refugees arriving, passing through or stuck at the border has shamed the official neglectful response. Official reception conditions in Greece and Italy have been squalid, in France often non-existent, inadequate or in the wrong places. Attempts to move migrants away from the borders they seek to cross often involve deliberate lack of provision for them, and the bulldozing and evacuation of informal camps, as at Idomeni, Ventimiglia, Como and Calais. As with sea rescue, civil society groups have stepped into the breach, and refugee community kitchens, provision of healthcare, distributions of water, clothing and bedding, even community schools have been established in the border zones.

Most EU countries exempt humanitarian assistance, or not-for-profit help, from criminalisation for assisting illegal stay, on the basis that simply providing the basics of human existence – food, water, shelter, sanitation and clothing – should not be criminalised. Even the toughest EU legal regimes, such as the UK, which has no humanitarian exemption, in practice does not prosecute NGOs supporting undocumented migrants. But at the border bottlenecks, authorities have found ways of harassing not only the migrants, but also the volunteers and activists helping them.

In April 2016, more than 60 volunteers from several countries, operating within the framework of Aid Delivery Mission in Idomeni, on the Greek border with Macedonia, were reportedly subjected to police harassment, including threats of arrest and an arbitrary house search by armed policemen and trained dogs without a warrant or explanation. In the Italian border town of Ventimiglia, the council imposed a [by-law](#) in August 2015 banning the distribution of food except at a Red Cross facility outside the town, on pain of a €200 fine and a three-month prison sentence. The following month the informal camp was demolished. In May and July 2016, No Borders activists



supporting an informal camp near the Red Cross camp, which was full to capacity, were banished from the town by the local police chief in a process known as a *foglio di via*.<sup>26</sup> The by-law prohibiting food distribution was re-promulgated in August 2016, and in March 2017, three French and British volunteers with Roya Citoyenne were arrested for distributing food to irregular migrants. It is the second arrest for one of the volunteers, **G rard Bonnet**, aged 64.<sup>27</sup> The by-law was [revoked](#) in April 2017 after a public outcry.

At Udine, near the borders with Slovenia and Croatia, the NGO ‘Incoming guests’ (*Ospiti in arrivo*), and seven volunteers were accused in June 2016 of facilitating irregular entry of migrants by providing health care and other support. And at Como, near the Swiss border, in October, Fabio Gabaglio and fifteen other No Borders activists were served with orders expelling them from the town for a year, for organising an informal camp for migrants, providing food and showers, and for protesting against its dismantling, the forced transfer of migrants to an institutional facility and the bussing to Taranto, southern Italy of migrants refused entry to Switzerland.<sup>28</sup>

***‘I’m proud of what I did and will never regret having done it, but I don’t want to be known as a criminal.’***

Lise Ramslog

Article 12 of Italy’s immigration law provides that assisting unlawful stay is only criminal if the purpose is to take ‘unfair advantage’ of the migrant, and makes it clear that ‘relief efforts and humanitarian assistance offered in Italy to foreigners in need, irrespective of their stay status in the territory of the State, do not constitute crimes’.<sup>29</sup> The prosecutions and banning orders not only appear to violate these provisions, but are also incompatible with human rights obligations expressed in Articles 2 and 3 of the European Convention on Human Rights, which protect the right to life and ban inhuman or degrading treatment.

In France, when Calais mayor Natacha Bouchart [banned](#) the distribution of food to migrants as a ‘security risk’ in March 2017, in an attempt to prevent the establishment of a new camp following the demolition of the ‘Jungle’ camp in October 2016, the administrative court in Lille quickly [suspended](#) the order. The effect of the measure, the court said in a judgment of 22 March, was to deprive ‘a very precarious population of vital food assistance’. It was ‘neither adapted nor necessary, nor proportionate’ to the aim: ‘The mayor has inflicted a serious and manifestly unlawful interference with the freedom to come and go, freedom of assembly and, by preventing migrants from satisfying basic needs, the right not to be subjected to inhuman or degrading treatment enshrined in Article 3 of the European Convention on Human Rights.’<sup>30</sup> In June 2017, the court affirmed its previous decision, and went further, ordering the installation in Calais of toilets, showers and facilities for drinking water for migrants and refugees. The court gave the mayor ten days to comply, or face €100-a-day fines. The mayor’s appeal was dismissed in July 2017 by the Conseil d’Etat, France’s highest administrative court.<sup>31</sup> The ruling should give pause to the police who arrested a volunteer from S cours Catholique, a journalist and seven children who were being taken for showers at the charity’s temporary Calais HQ (although they did apologise and release them several hours later), and to the Paris prefect who banned food distribution outside the La Chapelle centre, leading to arrest and fines for members of Solidarit  Migrants Wilson, both in February 2017.

*‘If we have to break the law to help people, let’s do it.’ ‘Our role is to help people overcome danger, and the danger is this border.’*

Cedric Herrou

But on the other side of France, the appeal court in Aix has issued decisions which put into question the humanitarian exemption for those assisting illegal stay. The law exempts from prosecution ‘those providing legal advice, food, accommodation, medical care or other assistance to ensure dignified and decent living conditions, health and well-being, and not for gain’. When **Cedric Herrou** of Roya Citoyenne was prosecuted for assisting illegal stay, for putting people up at his house, and for leading a large volunteer project

to take over an abandoned SNCF holiday complex as refugee accommodation, the first-instance court acquitted him on the ground that this was covered by the exemption. His colleague **Pierre-Alain Mannoni**, who was stopped taking refugees to his house to put them up overnight before taking them on to the railway station, was acquitted on the same grounds. But the prosecutor’s appeal in each case was successful. The Aix appeal court, in two similar convoluted judgments in August and September 2017, ruled that the assistance provided was not necessary ‘to ensure dignified and decent living conditions’ for the refugees, and that in any event, the aim of those providing it was not to provide food, accommodation etc, but to help the refugees evade immigration controls. Herrou, who had earlier been convicted of assisting illegal entry to France and given a suspended fine, had his sentence converted to suspended

imprisonment for four months, while Mannoni was sentenced to two months suspended. In October, the Nice court which had acquitted Herrou and Mannoni because of their humanitarian motivation convicted **Raphaël Faye**, the 19-year-old son of a Roya Citoyenne activist, on a charge of assisting illegal transit, for driving three refugees from a railway station in Alpes-Maritimes to Cedric Herrou’s house in June – a ten-minute journey. Herrou has an agreement with local police allowing those he hosts to claim asylum. His argument that he had no way of knowing they were in France illegally was given added force by the fact that he picked up four passengers, one of whom was a French national – but his familial association with Roya Citoyenne seems to have predisposed the tribunal to a guilty verdict. Faye was given a three-month suspended sentence, and his lawyer said he would appeal the conviction.

The rulings were a blow for Roya Citoyenne, and provided encouragement for the FN, whose Nice councillor Olivier Bettati and his group Defend the Roya went to court to demand the dissolution of the organisation, arguing that it was a humanitarian cover for flouting the law. The case was to be heard in October 2017.

### **Complacency in the European Commission?**

In March 2017, the European Commission [published](#) its long-awaited evaluation of the Facilitators Package.<sup>32</sup> In its Action Plan for 2016, a review of the framework had been promised ‘to ensure that appropriate sanctions are in place while avoiding risks of criminalisation of those who provide humanitarian assistance to migrants in distress’. A year earlier, it had told a House of Lords Select Committee that it planned to bring the current EU legal framework into line with international instruments (in particular those existing at the UN level) and ‘to strengthen criminal sanctions while clearly excluding organisations providing humanitarian assistance’.<sup>33</sup>

The Commission's evaluation of the effectiveness of the Package was hampered by the lack of data on investigations, prosecutions and convictions across EU member states, but since smuggling had increased exponentially, the Package was evidently not an effective deterrent for smugglers. But the risk of criminalisation had deterred volunteers wanting to help migrants and refugees, according to many of those consulted for the evaluation, or responding to the public consultation. Only seven member states, according to the Commission, had incorporated the optional exemption from prosecution for humanitarian assistance included in the Facilitation Directive,<sup>34</sup> and it was impossible to tell whether other states prosecuted humanitarian smugglers, because what data there was did not break down prosecutions for smuggling or facilitation in that way. The overwhelming majority of respondents, over 92 per cent, called for a mandatory humanitarian exemption. It was 'contrary to general moral principles and EU core values, including responsibility to uphold human rights' to punish humanitarian smuggling, as well as affecting legal certainty. The Commission noted that the study carried out for the LIBE Committee of the European Parliament also called for a mandatory exemption for humanitarian aid, as well as for monitoring of EU member states' practice.<sup>35</sup> It also accepted that member states who did criminalise humanitarian smuggling, or other humanitarian assistance to irregular migrants, would be violating human rights and EU law.<sup>36</sup>

But those demanding change were sorely disappointed: the Commission decided that there was 'limited evidence that social workers, family members or citizens acting out of compassion have been prosecuted and convicted', or that would-be volunteers were fearful of prosecution, or were deterred from helping through such fear. It opted to make no changes, concluding that 'the effective implementation of the existing legal framework and a reinforced exchange of knowledge and good practice between prosecutors, law enforcement and civil society could contribute to improving the current situation and avoid criminalisation of genuine humanitarian assistance'.<sup>37</sup> A Statewatch analysis of the EC evaluation concluded that 'the Commission's refusal to act is effectively a sign to states across the EU that they are free to harass, impede and even prosecute individuals attempting to help some of the most vulnerable people in European society'.<sup>38</sup>

### Clear evidence of criminalisation

Without a fraction of the resources of the European Commission, the IRR has found clear evidence from many sources that humanitarian actors across Europe are criminalised. Most of the cases referred to are reported in mainstream news sources. The EU's own Fundamental Rights Agency has reported a number of such cases in its 2014 report *Criminalising migrants in an irregular situation and those engaging with them*, and in its monthly overviews of migration from October 2015 to date. Human rights and migrant support groups including Borderline Europe, Borderline Sicilia, *Delinquants Solidaires*, refugees.dk (Denmark) report on crimes of solidarity; GISTI in France has a database, regularly updated, with details of cases and links to judgments. There can be no excuse for ignorance of the criminalisation of humanitarianism. With the Facilitators Package, and with the 2017 evaluation, the EU had the opportunity to honour Europe's collective memory by requiring member states to exempt humanitarian smuggling, rescue and other assistance to migrants and refugees from

criminalisation. Its failure to do so shows the gulf between law and morality in its and member states' policies.

## References

- 1 [The Protocol to Prevent, Suppress and Punish Trafficking in Persons \(2000\); Protocol Against the Smuggling of Migrants by Land, Sea and Air \(2000\)](#).
- 2 Article 3(a).
- 3 Article 6.4.
- 4 Through the Schengen Convention (Convention implementing the 1985 Schengen Agreement), Article 27 (1), which required Contracting Parties to impose 'appropriate penalties on any person who, for financial gain, assists or tries to assist an alien to enter or reside within the territory of one of the Contracting Parties in breach of that Contracting Party's laws on the entry and residence of aliens'.
- 5 The Facilitation Directive (2002/90/EC) defining the facilitation of unauthorised entry, transit and residence, and the Framework Decision (2002/946/JHA) on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.
- 6 Facilitating illegal entry and transit, not defined in the Directive, equates with smuggling, although it can include a much broader range of conduct including provision of false documents (passport, visa) and/or travel tickets, enabling a migrant to travel by air, ship or train, or 'lending' a genuine document with a substituted photo. Facilitation of illegal stay can include provision of accommodation or false papers to help people stay 'underground', provision of a false story to enable someone to be granted asylum, or organising a sham marriage.
- 7 *Fit for purpose? The Facilitation Directive and the criminalisation of humanitarian assistance to irregular migrants*, LIBE, 2016. The recommendations include a mandatory exemption for humanitarian assistance covering facilitation of irregular entry, transit and residence, to ensure clarity and certainty; regular monitoring of the Directive's implementation in member states and its effects; and EU funding for cities and civil society organisations to address the needs of irregular migrants.
- 8 Belgium, Finland, France and Malta exempt some or all humanitarian acts in relation to facilitation of illegal entry, transit and residence; Greece exempts rescue at sea and carriage of those 'in need of international protection'; Hungary, Lithuania and Spain provide a defence of necessity (rescue from imminent peril), and in the case of Spain, exemption for carrying a refugee; Austria and Portugal exempt not-for-profit smuggling, while in Germany, facilitation of entry or stay is a crime if done for profit or repeatedly or for several persons (unless performed within the scope of professional or honorary duties), otherwise it is a lesser offence. Facilitation of illegal stay must be for profit to be criminalised in Austria, Bulgaria, Cyprus, the Czech Republic, Italy (where humanitarian assistance to irregular migrants is also exempt), Luxembourg, the Netherlands, Poland, Portugal, Romania and Sweden. In Ireland, facilitation of illegal stay is not criminalised at all. See FRA, *Criminalisation of migrants in an irregular situation and of persons engaging with them*, March 2014, Annex.
- 9 [FRA weekly update 8](#), 16-22 November 2015.
- 10 The church was following the example of the Turku Lutheran church which in July 2007 provided sanctuary to a refused asylum seeker after the Ecumenical Council said the church had a duty to help anyone who feared their life might be in danger. Satakunnan Kansan, 30 November 2016; YLE Uutiset, 7 June, 31 July 2007.
- 11 See the European Commission's [EU Action Plan against Migrant Smuggling](#) (27 May 2015), targeted at criminal smuggling gangs, setting out plans to identify and destroy smugglers' boats, use of satellites for surveillance, to improve cooperation including with African states, information exchange, debriefing of migrants at hotspots, handbook on prevention of smuggling, improving returns processes (for deterrence) and capacity building of national enforcement agencies (integrated border management). Creation of safe and legal routes for those in need of international protection is not discussed.
- 12 In October 2015, the Greek migration minister, Yiannis Mouzalas, responding to EU criticism that Greece was not doing enough to protect its borders, said refugees were not enemies, and its duty was to protect, not repel or drown them. The EU responded by helping Macedonia fence off its border with Greece in November, which closed the western Balkans route and trapped tens of thousands of

- refugees in Greece, threatening in January 2016 to expel Greece from Schengen, and finally, doing a deal with Turkey to stop refugees leaving that country, with effect from March 2016. But within Greece, many officials, including police and coastguards, were unsympathetic to refugees; some were members of Golden Dawn.
- 13 The young migrant steering the boat was charged with their deaths and sentenced to 145 years' imprisonment. Acquitted on appeal, he must still serve a ten-year sentence for smuggling. The prosecution in Greece and Italy of helmsmen, often minors and forced to steer at gunpoint by the smugglers, has been the subject of a number of reports, by [Borderline Sicilia](#) and others; see eg, [The Intercept](#), 16 September 2017.
  - 14 The captains were convicted of violence against a warship and resisting a public officer for ignoring orders not to enter the harbour, sentenced to prison and their boats confiscated. The convictions were overturned in 2011.
  - 15 [The Guardian](#), 12 July 2017
  - 16 The exception is the border between France and the UK: since the UK always maintained border controls, assisting illegal entry from France has always been prosecuted.
  - 17 See [Taz](#), 1 October 2015.
  - 18 [Die Welt](#), 2 October 2015.
  - 19 Cited in Borderline Europe, *Criminalisation of flight and escape aid*, March 2017.
  - 20 'Human trafficker – when humanity becomes criminalized', [refugees.dk](#), 1 May 2016.
  - 21 Hovrätten över Blekinge och Skåne: B 1405-16. [FRA monthly overview](#), January 2017.
  - 22 In its evaluation of the Facilitators Package (see below), the EU got this wrong: the Immigration Act 1971 section 25 criminalises assisting illegal entry, whether or not for gain, and whether or not the person assisted is an asylum seeker, while section 25A criminalises those bringing asylum seekers to the border for gain, to enable them to claim asylum there.
  - 23 She was also given 250 hours community service and a six-month nightly curfew enforced by an electronic tag, demonstrating the draconian level of sentencing in the UK for immigration-related offences. See Appendix 1.
  - 24 [Ekathimerini](#), 30 December 2016.
  - 25 This banishment order is imposed by the police, not the courts.
  - 26 Bastamgi, 19 September 2017
  - 27 [Citoyens Solidaires](#), 22 March 2017.
  - 28 [Ecoinformazioni](#), 16 October 2016.
  - 29 FRA, *Criminalisation of migrants in an irregular situation and of persons engaging with them*, March 2014, Annex.
  - 30 [Défenseur des Droits](#), 22 March 2017.
  - 31 [The Local](#), 27 June 2017; [Reuters](#), 31 July 2017.
  - 32 European Commission, REFIT evaluation of the EU legal framework against facilitation of unauthorised entry, transit and residence: the Facilitators Package, March 2017.
  - 33 UK House of Lords European Union Committee, Report on the EU Action Plan against Migrant Smuggling, 4th Report of Session 2015–16, 3 November 2015, paras. 100–1.
  - 34 As noted above, the Commission wrongly listed the UK as a country which exempts 'humanitarian smuggling'; all UK law does is to exempt not-for-profit facilitation of arrival at the border of asylum seekers.
  - 35 *Fit for purpose?* above.
  - 36 The EU Charter of Fundamental Rights, which is part of EU law, mirrors and expands on the rights contained in the European Convention on Human Rights.
  - 37 [European Commission](#), REFIT evaluation, March 2017.
  - 38 Chris Jones, *Hindering humanitarianism: European Commission will not ensure protection for those aiding sans-papiers*, Statewatch, April 2017.

# The ‘hostile environment’ – the lived experience in Calais\*

**Anya Edmond-Pettitt**

## Background and causes of hostile environment

The hostile environment principle has been a part of the British immigration scene for a number of years. Prime minister Theresa May made it clear, while she was home secretary, that asylum policy should not act as a ‘pull factor’ for refugees and migrants and that a central plank of immigration policy would be to create a ‘hostile environment’ for irregular migrants already in the country, who were expected to leave. This was legally enforced via the Immigration Acts of 2014 and 2016. Similarly, David Cameron, whilst prime minister, echoed this hostility through his use of provocative language in the lead up to the referendum on EU membership. In an ITV interview in July 2015 he referred to refugees and migrants as ‘swarms’,<sup>1</sup> also conjuring up the threat of the Calais ‘Jungle’ camp coming to the Southeast of England, if the remain vote did not prevail.<sup>2</sup> This political fear-mongering continues to be reinforced by the tabloid media with frequent inflammatory front page headlines such as ‘Migrants: How many more can we take?’<sup>3</sup>, ‘1 in 9 workers are migrants’<sup>4</sup> and ‘Migrants Swarm to Britain.’<sup>5</sup>

The hostile environment principle is not just reflected in the rhetoric of politicians and the scaremongering of the media. In policy terms, Britain has continued to enforce the 2003 Le Touquet agreement with France and finance the militarisation of policing in Calais<sup>6</sup>. The Le Touquet agreement, which is still in force, saw the British border extended to Calais and the French border extended to Kent for border control purposes. Currently, an estimated 650 Compagnies Républicaines de Sécurité (CRS) agents and mobile gendarmerie deal with a population of anything between 200 and 500 displaced people residing in Calais. This allows the number of refugees arriving in Britain to remain rather low by physically extending the ‘hostile environment’ to Calais.

The CRS, also known as the riot police, are a mobile unit deployed by the French government predominantly for public order policing and border duties, such as patrolling borders and maintaining order during demonstrations and large public

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\* This piece is based on the personal experience of the author, who volunteers at Calais, and the experiences of volunteers with: Refugee Community Kitchen, Refugee Youth Service, L’auberge des migrants, Care4Calais and the Refugee Rights Data Project, who were interviewed in June 2017. All of those interviewed have volunteered with their organisation for over a year, either full-or part time, and all, bar the volunteers for Care4Calais and Refugee Rights Data Project, live in Calais as permanent humanitarian workers.



events. CRS officers are equipped with a handgun as well as handcuffs, a baton, incapacitating (pepper) spray or a taser device, as deemed necessary.<sup>7</sup> In using the CRS to police the displaced population in Calais, the French government perpetuates the idea that refugees and migrants are a violent and criminal element that must be dealt with through a securitised state response. This idea of the displaced people's criminality percolates down into the way they are treated throughout society: not vulnerable individuals worthy of rights, but an anti-social mass to be pushed from pillar to post. The tools used for policing are described by witnesses on the ground as *'Intimidation, coercion, fear, power imbalance which inherently lead to this idea of brutality and violence'*. Central to this is the depriving of refugees and migrants of virtually any information about the asylum process. The use of the CRS agents, within a wider culture of policing in which the hostile environment principle is embedded, means that it is no surprise that high levels of police violence are being reported by refugees to the humanitarian workers.

Since the demolition of the 'Jungle' in October 2016, and the French government's pledge never to allow such a camp to develop again,<sup>8</sup> state-sanctioned violence and harassment has increased substantially. By its nature, the embedding of the 'hostile environment' principle within policing necessitates a culture that treats the very presence of displaced people in Calais as illegitimate. There are many stories of the violence endured by the displaced people in Calais, but one vivid image is that of a CRS agent who dragged *'a 16 year old boy who is drunk off his head because he's been celebrating his one year anniversary of being in the street of Calais ... they are dragging him across let's say 50 metres across the pavement with his arm. His whole body pulled like a dead animal.'* A central pillar of policing is dispersal, with police officers constantly waking up the refugees and migrants throughout the night, removing and destroying their sleeping bags. It is a form of policing that is semi-criminalising existence itself; it borders on persecution.

That is not to say that police violence towards displaced people is a new phenomenon in Calais; it was also present while the 'Jungle' was still standing. However, as one volunteer described it, when the 'Jungle' was in existence, there was at least the opportunity for the police to develop dialogue and ties with the camp community, *'the opportunity to sit down and be heard – for community policing. This does not happen now'*.

### **The experience of volunteers**

Along with the assault on the existence of displaced people, the humanitarian workers and volunteers, who are filling in the gaps in the state's provision and working to support them, are also stigmatised and/or criminalised through a process of guilt by association. Just providing food, water and shelter (in the form of sleeping bags) is enough to single humanitarian workers out to the police as enablers of irregular migration. Their actions are regarded as a 'pull factor' that encourages the migration to and nomadic existence at Calais.

Most of the volunteers and humanitarian workers I spoke to wanted to talk about the ways in which the situation on the ground had changed since the demolition of the 'Jungle' in October 2016<sup>9</sup> and the election in May 2017<sup>10</sup> of Emmanuel Macron



***'We, as an organisation and as individuals, do not regret our actions. It's our democratic right and obligation to oppose unjust laws.'***

MedMenneskeSmuglerne

as president. They raised a number of concerns about the situation in Calais including the increase in police violence towards them as well as the displaced people, the relationship between the humanitarian workers and the community in Calais and the policy of 'moving on' to stop the creation of another 'Jungle'.

The decision of the French government to use the CRS rather than the Police Nationale (which polices major cities and large urban areas and is under the control of the interior ministry) sets the tone for reception of displaced people. The CRS focuses on crowd management and riot control. It is not a unit trained or expected to negotiate or liaise with organisations, groups or individuals within a community-oriented policing framework. In fact the way the CRS operate in Calais actively dissuades any sort

of communication or discussion with the displaced population. The CRS are never accompanied by interpreters, nor do they carry language-appropriate information explaining the asylum process. Instead, they break up any migrant groupings they find, continually moving them on; though where they are supposed to go to is not made clear. This intimidation is often conducted alongside some sort of violence. Typical examples included: *'the CRS basically kind of did a running charge with their rubber pellet guns'*, *'sore eyes from use of pepper spray'* and *'then the CRS van slowed down and an arm stuck out and an arm sprayed pepper spray out the windows at the refugees walking on the side of the road'*. Policing in Calais is conducted in a climate of intimidation and brutality, with no attempt at community policing.

### **Police presence**

The demolition of the 'Jungle' saw its population dispersed, significantly to Paris, and elsewhere across France. Although not the focus of this piece, the treatment the displaced population has encountered in Paris appears, from newspaper reports, disturbingly similar to that experienced in Calais, which indicates that the hostile environment principle is spreading.<sup>11</sup> The dispersal saw the migrant and refugee community in Calais decrease dramatically. At its height the estimated population of the 'Jungle' was 9,000; at the time of writing it is only six percent of that, with an estimated 500 refugees and migrants living in Calais. Conversely, the CRS presence has only decreased to 65 per cent of its size at the height; from 1,000 to 650. This means that while the 'Jungle' was in existence the ratio was one CRS agent to nine displaced people, but there are now more CRS agents than there are refugees and migrants living in Calais. The way the police interact with the displaced population has also changed since the demolition of the 'Jungle'. The lack of a camp means that the police patrol the streets far more and are more visible in the town rather than congregating around the port. Additionally, volunteers stated that the police have become more aggressive, one describing how their actions are now *'petty to the point that the CRS are just malicious really ... the CRS have literally come over and taken the hose away from 5 – 10 people who want to fill up their water bottle and they're not allowed to do that even'*, and they have seen *'CRS fighting over a plate of salad with one of our volunteers ... It's a bit like a zoo now'*.

### National and local perspectives

However, the most fundamental concern articulated by all those interviewed was the lack of any sort of long-term plan. What is being referred to as the ‘refugee crisis’ is not a problem only for Calais but rather a Europe-wide issue, with Calais being only one of many ‘flare-up’ points. Yet there is no clear national or international response. There does not seem to be a coherent plan for the displaced population, instead there is what *‘appears to be a political game of chicken between France and the UK. Calais is a local flare-up point where it is pushed back to the people of Calais to respond to it ... this then seems to end up with a climate of hostility and people being encouraged to leave Calais but without an actual exit route in place.’* Neither country is willing to set out a plan or vision on how to deal with this problem beyond the need to keep migrants out.

The issue is compounded by the fact that the French state has not set out a national response but rather has allowed each region to dictate its own policy approach. For example the Nord region, which includes Dunkerque, sanctioned an official camp for its refugee and migrant population. The Grande Synthe camp is no longer present, having burned down, and reports from the ground indicate that the police are now taking a similar approach as at Calais. But in July, Grande Synthe mayor Daniele Carême said he would reinstate the camp if national authorities continued to neglect the refugees. On the other hand, Pas de Calais, which includes Calais, never accepted the camp that developed and had it removed. This difference in policy and approach to the displaced population complicates their situation further, as what is acceptable in one region is not in another and yet there is no information given to the displaced people to help them navigate a complex situation. The lack of any coherent plan for the refugees and migrants as well as the extension of the hostile environment to Calais and the state’s pledge not to allow any new camps to develop have all contributed to the increase in police violence visited on the refugees and migrants in Calais.

### Human rights abuses

In addition to the violence and intimidation the refugees experience and the interruption of their sleep patterns, they have also been prohibited from accessing even the most basic things, such as food and water, in Calais. In March 2017, the mayor of Calais, Natacha Bouchart (from the centre-right party Les Républicains) banned the distribution of food to refugees and migrants in a drive to reduce the numbers of both refugees and humanitarian workers. Eleven NGOs lodged a legal complaint against this action, which the administrative court in Lille suspended on 22 March, subsequently confirming in June that it was ‘not possible to leave these people, who are in a state of complete destitution, without any aid’.<sup>12</sup> The court ordered that volunteers be allowed to distribute food and water and also instructed Calais municipal officials to provide drinking water, toilets and showers. The authorities in Calais were given ten days to comply or face fines of €100 for each day that they failed to meet requirements. The Calais administration immediately launched an appeal against the ruling, but on 31 July France’s highest court, the Conseil d’Etat, upheld the ruling, saying ‘these living conditions reveal a failure by the public authorities that has exposed these people to inhuman or degrading treatment’. Meanwhile, the Calais authorities restricted aid distribution to between 6pm and 8pm. These distributions are heavily policed and often cut short by the CRS agents present. There is regular harassment at the distribution

points, of refugees and volunteers alike. CRS agents intimidate all present with arbitrary identity checks – which often lead to refugees scattering and any humanitarian volunteer found without proof of identity taken to the police station to be held. It is French law that proof of identity must be carried at all times in Calais as it is within 20 miles of the French border. However, demands to produce proof of identity seem to be increasing, as one volunteer stated: *‘in twenty years of travelling to and from Calais I have been asked to present my proof of identity only once and that was on entering the “Jungle”’.*

The intimidation by the CRS is insidious. A volunteer spoke of CRS agents finding *‘all sorts of legal ways to intimidate, fine and make life difficult for people involved ... For a long time they have been stopping British cars coming through, checking if they have the right equipment ... you have to have the safety triangle and this and this.’* Additionally, volunteers spoke of fines, intended to limit the weight of cargo on goods vehicles, being issued against vans bringing in food for refugees in Calais, with vehicles also impounded, further hindering the work of the volunteer groups. To counter this intimidation and violence, many of the volunteer groups have begun recording their interactions with the CRS and challenging their actions so as to create a body of evidence and a record of incidents. It is the hope that this sort of action may ultimately produce a policy shift as the current policing will be proven to be illegal and immoral.

One high-profile incident involved a journalist for the French paper *Libération*, who was accompanying Mariam Guerey, a worker from the aid organisation Secours Catholique, while they helped seven Eritrean refugee children access showers at the Secours Catholique premises in Calais in February 2016. All were arrested by the CRS, taken to the police station, held for two hours, but eventually released with a warning.<sup>13</sup> This sort of intimidation was used as a means to deter future help being offered. It had been experienced by every one of the volunteers I interviewed. One particular incident saw passports of a number of volunteers being confiscated by CRS agents, who *‘held them for too long and they stood around with them plus it was not a natural checking. There was a slight element of intimidation like trying to scare us. They look at them so slowly and they made some notes, they dropped one of them in the mud.’*

### **The consequences of harassment**

The main arena in which they experienced the stigma of guilt by association most keenly was on the distribution line. There have been accounts of CRS throwing tear gas into the distribution lines, or lining up in formation and then doing *‘a running charge with their rubber pellet guns’* into the congregated people. There are also frequent reports of the CRS forcing the early closure of the distribution point, well before all those present have had the chance to have food or water. One volunteer described a situation where the CRS shut down the distribution early by blocking the *‘vans again, they barricaded the back of the big truck there ... we were trying to open the van and they literally pushed Jacob out of the way’.* During this incident one volunteer was arrested for assaulting a CRS agent after she *‘carried on handing out plates of food and one of the CRS grabbed her shoulder from behind. It shocked her and she, like, threw the plate into his face.’*

This experience of being *persona non grata* extends to treatment by locals. Some volunteers experienced this at the Calais Tourist Information office. Once it became

clear they were volunteers working with the refugees their reception became very cold and they were told that the office was there ‘to serve tourists’ and not volunteers.

Since the demolition of the ‘Jungle’ camp, it has been a priority of the French state to prevent the development of a new camp and this means harassment of refugees and migrants while they sleep. The bedding of refugees is removed and destroyed by CRS agents daily. In addition to the destruction of bedding, either by confiscation or by spraying the blankets with pepper spray, the CRS also patrol throughout the night and move on refugees they find sleeping. A researcher I spoke to from the Refugee Rights Data Project said that the *‘sleep deprivation is intentional and it really leads to a deteriorating mental health.’*

Ironically, by adopting the British hostile environment principle in Calais the CRS agents are in fact helping to push more refugees, in the words of a volunteer, *‘to try even harder and more aggressively because the condition here confirms to the kids that the UK is the only right decision. The experience here is what some compare to their experience in Libya.’* The lived experience in Calais and the violence experienced reinforces the idea for many of the displaced people that *‘Oh France is so horrible we have to go to the UK because we hear that it’s nice there and that they respect human rights.’* Unless a long-term, pragmatic but holistic policy is put in place, the refugees and migrants living in Calais will continue to be hounded, their mental health will continue to deteriorate and they will continue to reach for desperate measures to alleviate their situation. The humanitarian workers and volunteers on the ground are not only attempting to provide effective help but also to work with state officials to get young people access to the child protection system, and the health provision that they so desperately need. Yet they find resistance both from French agencies and also from the British Home Office, which was described as *‘quite shambolic, it is quite understaffed, it has a high turnover of staff.’*

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# Criminalising trust: (un)-doing research with migrants in Italy

**Simon McMahon\***

In 2015 over a million people crossed the Mediterranean Sea by boat in search of safety and a better life in Europe as part of what became known as ‘the Mediterranean migration crisis’. But in fact, Italy had already been in a state of proclaimed crisis for years. Since at least 2011, with the arrival of thousands of north Africans in the shadow of the instability and violence that followed the Arab Spring, the Italian government has framed the arrival of migrants and refugees from across the sea as an ‘*emergenza*’.

Criticisms associated with Italy’s attempts to manage Mediterranean migration range from short-termism and a denial of refugees’ rights to widespread corruption and a criminalisation of solidarity. But less reported has been the impact it has had on research and the transparency of the treatment of refugees and migrants in the country.

## **Institutional barriers to research**

I have been researching migration in Italy since 2009, and over the past two years in particular I have examined the experiences of refugees and migrants and the practices of border control in the country. From the outside, Italy’s reception system for refugees and migrants could be interpreted as a highly structured, managed response to irregular migration. Whereas in 2011 boats carrying migrants could land directly on Italian shores, since 2014 this has been very rare. Migrant boats are intercepted at sea, and migrants disembarked in highly secured ports and transferred to reception facilities. The whole process involves public and private organisations under the oversight of local prefectures and the Ministry of the Interior.

The campaign *LasciateCIEntrare* has sought to break down the institutional barriers to researching and reporting on Italy’s treatment of migrants and refugees. Campaigners have argued that Article 21 of the Italian Constitution declares the importance of a free press, but for the press to be able to exercise the right to report freely on the lives of refugees and migrants, they need access to the places where they are housed and their legal status is decided. Since its formation in 2011 campaign members have been able to access detention centres and refugee reception facilities across the country, often in the company of parliamentarians. They still find today that it is extremely difficult to report from inside these locations. And not all of us have the same clout and influence that they do.

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One prefect I spoke with about obtaining access for my research embodied the country's rigid, closed institutional structures. He repeatedly underlined the need to obtain formal written permission. There were protocols to follow. To go to the ports, an application for permission should be sent the day before a disembarkation. To go to reception centres, an application should be sent to the prefect, who in turn would ask for authorisation from the Interior Ministry. The process could take weeks or months, he told me, and the authorisation granted would be valid for just one day. And although in conversation he said my request was reasonable, weeks later he replied to my written application with just two lines of text saying it was not accepted. (At least he replied; others ignored my applications or ping-ponged them from one person to the next.)

Leaving his office, I walked past row after row of haphazardly shelved files and papers. They lined the corridor walls and filing cabinets, as well as being piled on the floor and balanced precariously on chairs. Openly on display were the words *profughi*, *asilo*, *espulsioni*, *cittadinanza* with dates going as far back as 2000. The prefect's rigid demands and reliance on protocol contrasted sharply with this disorganised and chaotic approach to managing information.

### **Securitisation and criminalisation: two sides of the same coin**

Researchers, reporters and activists in Italy have tended to develop strategies for working around the institutional barriers. These involve meeting people outside reception centres and developing informal relationships with local gatekeeper organisations. For my research, I have spent significant time in churches, mosques and informal squats, for example, in order to meet people who had experienced the reception system first hand. Some were said to be 'in transit', on their way northwards and out of Italy. Others had been given papers ordering them to leave the country but couldn't make the journey and had nowhere to live.

Being able to meet and speak to people about their experiences in these contexts relied heavily on being able to build trust with them and the organisations which supported them. But building trust is a complicated task. In qualitative research, it is not unusual for interviewees to ask for a favour or some help in return for taking part in an interview. This can raise ethical issues for researchers and a need to set clear boundaries and limits as to what can and cannot be done. In Italy it was also complicated by the criminalisation of solidarity, with accusations of facilitating illegal migration being a particular, recurrent concern.

In my research, interviewees asked me to change money, which they could not do at a bank themselves without documents, or to help them to buy a travel ticket (with their own money) to continue

***'I was angry... angry about being criminalised for acting with simple human decency ... My husband and I could not have acted differently. It would have been a betrayal of everything we hold dear and believe in, including what we teach our children.'***

Lisbeth Zornig



their journey. To help in this way could raise ethical concerns about the power imbalance between the interviewee and the researcher in any context, but in Italy local researchers and activists also warned that it could be interpreted as facilitating illegal migration. Some of the people I met during my research had already faced denunciations from the police.

The securitisation of the reception system and criminalisation of support for refugees and migrants are two sides of the same coin, with significant implications for research. They both keep independent observers out of the sites where, post-arrival, refugees and migrants are processed. They create uncertainty and worry among researchers and refugees and migrants alike.

This would be understandable if it were aimed at ensuring the safety and protection of the people under the care of the state. But in 2016 acts of violence by border officials in 'hotspot' ports were documented by Amnesty International. Similar violence had already been noted in 2014 and was documented by Syrian refugees on their mobile phones. Irregularities have also been noted in status determination processes at ports and in reception facilities, such as when groups of people have been given expulsion orders with little or no justification or explanation of their rights.

These and other cases highlight a pressing need for independent, rigorous and transparent examination and evaluation of the workings of Italy's reception system for migrants and refugees. But the system that I have found during my time in the country posed barriers and threatened to undermine efforts to build trust with people whose voices needed to be heard.



## ‘Traitors to the Nation!’

### Liz Fekete

The rhetoric of politicians and the EU’s border force (Frontex) against NGO search and rescue missions (SAR NGOs) operating in the Mediterranean has legitimised right-wing extremism. A range of Islamophobic anti-immigration groups have joined the fray, accusing humanitarians of being traitors to the nation.

The Alternative Right<sup>1</sup> likes to compare its direct action campaigning against SAR NGOs with the tactics of Greenpeace. This is maritime disruption serving a lofty cause, its supporters proclaim, identifying themselves as brave patriots protecting European civilisation from mass invasion of immigrants and Muslim terrorists. For the Alternative Right, SAR NGOs are one element in the wider conspiracy to change the cultural face and racial make-up of Europe fundamentally, through immigration. A concerted programme to destroy Europe has all kinds of supporters – from US Democrats, Hillary Clinton and George Soros, the Open Society Foundation and other funders of NGOs, to human traffickers with which the NGOs, by saving refugees’ lives, are supposedly in collusion. Humanitarianism, equated with a lack of patriotism, civilisational vigour and racial pride, is something the hard Right despises.

The high-profile campaign of Génération Identitaire (GI) to ‘defend Europe’ from migrants and refugees and to disrupt the work of SAR NGOs, started in publicity stunts and provocations, only later developing into an organised attempt to patrol the Mediterranean and harass humanitarian sea missions. On 12 May 2017, three of the ‘identitarians’ (as they are known), together with Canadian alt-right journalist Lauren Southern, chartered a small boat to shadow the crew of the *Aquarius* rescue ship operated by SOS Méditerranée in conjunction with a medical team from Médecins Sans Frontières. Then, through crowd-funding, it raised £56,489 for GI in less than three weeks, allowing it to charter the 422-tonne *C-Star* and launch a direct action campaign against the NGOs. But Defend Europe’s mission, disrupted from the start by anti-racists,<sup>2</sup> ended in disaster, as its crew was pushed from shore to shore. Having set sail from Djibouti in early July, GI’s crew on board *C-Star*, joined by the likes of Daily Mail Online columnist Katie Hopkins, were declared a public order threat and refused docking rights in Sicily. Seven members of its crew, including its captain and owner, were subsequently detained in the north Cypriot port of Famagusta and accused of people smuggling. And this was just the start of *C-Star*’s problems. As Tunisian fishermen and NGOs mobilised to refuse the vessel docking rights, it ended up stranded in the Med due to engine failure, having to be rescued by the very same SAR NGOs it sought to disrupt!

The humiliation of the *C-Star* mission does not mean that GI’s and other far-right groups’ disruption of and attacks on humanitarian work will cease. For the activists of GI’s campaign to ‘Defend Europe’ are not alone in attacking humanitarian workers, with some far-right activists now prepared to resort to open violence. Powerful extreme-right electoral parties are also mobilising and US-style vigilante and even

paramilitary organisations are emerging. Those who act in solidarity with refugees and migrants are considered self-hating westerners and race traitors.

### **A toxic narrative fuelled by conspiracy theories**

As the EU jettisons the humanitarian principles that are meant to be at the heart of its decision-making, the far Right grows in confidence. Its cause is furthered by senior officials from Frontex (who have accused the NGOs of colluding with smugglers and encouraging trafficking) and by several EU interior ministers who have taken the same line. Official investigations into SAR NGOs' activities, launched by Sicilian prosecutors Carmelo Zuccaro and Ambrogio Cartosio, have also provided ammunition. There is no doubt that the investigations and threat of prosecutions in Sicily and Germany, and the repeated verbal denunciation of rescue NGOs by European politicians, have amplified the far Right's extremist message and emboldened members of their networks to disrupt, harass and sometimes physically assault humanitarian workers.

***'They were in pain, it was clear on their faces, they were cold, they were frightened, and there, in the centre there was nothing to care for them. I should have done what?'***

Pierre-Alain Mannoni

There are many examples of far-right blogs exploiting politicians' rhetoric against NGO search and rescue missions. Yet the article that first set the tone for the demonisation of SAR NGOs appeared not on a far-right portal but on the pages of the mainstream *Financial Times*. On 14 December 2016, the *Financial Times* had a headline 'EU border force flags concerns over charities' interaction with migrant smugglers'. The newspaper's incendiary and unsourced claim was that it had obtained 'confidential' insider information from Frontex that humanitarian organisations operating in the central

Mediterranean were colluding with migrant traffickers. Unsubstantiated as they were, the accusations of unlawful conduct were repeated in February 2017, when Frontex director Fabrice Leggeri claimed in an interview with *Die Welt* that NGOs were encouraging trafficking. He provided no evidence, merely speaking of their failure to cooperate with security services. Attacks on the NGOs also emanated from the Dutch Gefira Foundation.<sup>3</sup> Shortly before the December 2016 *Financial Times* article, Gefira's website alleged 'Caught in the act: NGOs deal in migrant smuggling' and 'NGOs are smuggling immigrants into Europe on an industrial scale'. Gefira, whose work is often cited on far-right blogs and by conspiracy theorists, also issued a video purporting to monitor the activities of SAR NGOs through Satellite AIS vessel tracking data.

Shortly after the *FT* article appeared, prosecutors in Sicily opened investigations into unnamed SAR NGOs accused of complicity with human traffickers. The Austrian minister of foreign affairs, Sebastian Kurz, during a visit to the Frontex mission in Malta, repeated this message, declaring 'The NGO madness must be stopped'. By the summer of 2017, the threat of investigation and prosecution also hung over two German NGOs, this time named as Mission Lifeline and Jugend Rettet. The German and Austrian interior ministers also publicly attacked SAR NGOs, with Wolfgang Sobotka calling for legal 'punishments' against sea rescuers, as 'it's crucial that self-

appointed emergency sea rescuers no longer cooperate with the [people smuggling] rings'. In this way, as Watch the Med co-founders warned in their report *Blaming the Rescuers; criminalising solidarity, re-enforcing deterrence*, a 'toxic narrative' with corrosive effects had been established, creating a 'climate of hostility' towards SAR NGOs and threatening 'the continuation of their operations, while allowing 'state actors to divert public attention away from their own failures'.

### Far-right amplifiers

Frontex was joined in its anti-NGO propaganda work by far-right conspiracy theorists and so-called 'alt-light' commentators, the foremost being Breitbart News in London and Junge Freiheit (JF, Young Freedom) in Germany. Both carried stories on GI activities, building up the profiles of its 'hipster identitarian leaders' such as Pierre Larti in France and Martin Sellner in Austria. Both portals broadcast identitarian activities and built on the slurs against SAR NGOs voiced by mainstream politicians and Frontex. Criticisms of NGO search-and-rescue missions in the Mediterranean are reported in Breitbart News under headlines like: 'ITALY INVESTIGATES AID GROUPS SUSPECTED OF WORKING WITH TRAFFICKERS TO FACILITATING (SIC) ILLEGAL IMMIGRATION' and 'PUBLIC ANGER GROWING AT "TAXI" NGOS PICKING UP MIGRANTS FROM MEDITERRANEAN'. Comparing SAR NGOs to 'migrant taxi services' is a favourite jibe of Breitbart News, which likes to cross-reference this particular taunt back to a February 2007 Frontex report which described NGOs' work as tantamount to 'providing a taxi-service to Europe'.

According to journalist Rachel Knaebel, who follows Germany's New Right media,<sup>4</sup> 'Junge Freiheit also speaks with a lot of empathy about the identitarian movement'. She told us that JF's 'tone may be more polite than that of Breitbart, but what is said is very similar'. For instance, the rescue boat *Aquarius* of the NGO SOS Méditerranée is described on JF's website as 'the smuggling boat Aquarius', and NGOs operating in the Mediterranean are associated with illegality. 'Naming the smuggling insanity by its true name' (Den Schlepperwahnsinn beim Namen nennen) blares out one such headline (11 August 2017). Under the headline, *C-Star* crew member Robert Timm explains, 'for months now, NGOs, financed by donations, have been smuggling hundreds of thousands of illegal migrants into Europe under cover of humanitarian rescue, and they are not afraid to work with criminal human traffickers to do it.'

Some of the NGO missions receive funding from the Open Society Foundations (OSF), founded by investor and philanthropist George Soros, who is repeatedly identified by Breitbart as a Hungarian-Jewish financier secretly trying to impose the deviant 'Soros Plan' on Europe. Soros and OSF are something of an obsession for the Breitbart news team, who declare on its pages that it's 'Breitbart vs Soros'. Another headline shouts, 'SOROS-FUNDED ORG URGES "ETHNIC CLEANSING" OF JOURNALIST VOCABULARY ON IMMIGRATION', while yet another, enthusiastically supporting the Hungarian prime minister, declares 'ORBAN: GLOBALISTS WILL USE MASS MIGRATION TO REPLACE EUROPEANS AND "CRUSH THE WILL OF THE PEOPLE"'.

Another much-favoured Breitbart theme is of white people, particularly professional aid workers, under attack from ‘foreigners’. A typical headline reads, ‘RED CROSS THERAPIST STABBED TO DEATH BY SYRIAN ASYLUM SEEKER’. There’s a vicious underlying message in these seemingly factual reports, particularly if stories involve the rape of white women. Reporting on what these black, brown and rapist Muslims do to the ‘bleeding hearts’ who try to help them reinforces the contempt of Breitbart readers for liberals. It’s a framework that proves popular amongst fellow ‘alt-light’ travellers in the mainstream press, such as Daily Mail Online’s Katie Hopkins or former *Sun* editor Kelvin McKenzie who, in an interview with the *New York Times*, reportedly said, ‘I think the fake news headline that would give the country the most joy would be “Jeremy Corbyn knifed to death by an asylum seeker”’.

These popular Alternative Right outlets also feed a number of other fake news and conspiracy theory websites and blogs, particularly those in the US that blame Hillary Clinton and George Soros for destroying Europe by socially engineering immigration. ‘NGO Fleet Bussing Migrants Into The EU Has Ties To George Soros, Hillary Clinton Donors’ shouts Disobedient Media, whose editor-in-chief William Craddick specialises in anti-Clinton conspiracy theories. Citing the work of Gefira, Craddick claims to have carried out an investigation into OSF funding of Save the Children and MSF, concluding that ‘The financial involvement of George Soros and other big name supporters raises questions about the true intentions of various sponsors operating ships within the fleet.’

### Who are Defend Europe?

These, then, are the cultural waters in which the relatively new European identitarian movements are swimming. How should we gauge them and their influence on the political scale? Identitarians such as those in GI do their best to avoid the label ‘fascist’, preferring the media label ‘alt-right’. Identitarians first emerged from the French New Right in 2002, as the youth wing of Bloc Identitaire. They are part of the second wave of the European New Right that has spread its tentacles into Germany, Austria, Scandinavia, Hungary and Poland. Heavily influenced by the far-right, counter-jihadist and ‘Stop the Islamisation of Europe’ movements, GI’s logo is the Greek λ representing the Spartan shields used against the Persian Empire. Identitarian leaders like Martin Sellner, a student of philosophy and law at the University of Vienna, or Lorenzo Fiato, a 24-year-old political science graduate from Milan, project themselves as slick cultural activists belonging to just another identity politics movement, mobilising ‘for the defence of our identity, culture and way of life’ against the ‘multicultural social experiment’, which is displacing ‘Natural Europeans’. They say that they are adapting the ‘tactics of the left to advance the cause of the right’. Hence the comparison with Greenpeace: it defends the planet, they defend Europe.

What distinguishes identitarians is a proclivity for publicity stunts and symbolic activism. Recent activities include: in Berlin, unfurling a banner over the Brandenburg Gate with the words ‘Secure borders, secure future’; also in Berlin, attempting to storm the Justice Ministry to protest draft legislation cracking down on internet hate speech; and in Vienna, disrupting a theatre performance with refugee actors playing Elfriede Jelinek’s *Die Schutzbefohlenen*, spraying fake blood on the stage to represent ‘the blood

of the Bataclan and Brussels', and draping a huge black cloth resembling a giant niqab over a 90-metre statue of Empress Maria Theresa.

But how much is this new trend just offensive playing to the gallery and self-promotion, and how much serious strategic action? How should we read this tendency? German identitarian Christoph Gurk has said, for example, that the movement seeks to 'make racism modern and fashionable'. But the groups strongly deny that they are fascist, explaining away their actions as patriotism, protecting and 'building up the confidence' of their own 'ethno-cultural identity'. In this they draw on French intellectual Renaud Camus' work condemning the 'grand replacement' (ie, the replacement of Europeans by immigration). Nevertheless, researchers at Hope Not Hate categorise identitarians as part of the far-right family, pointing out that its Defend Europe activities have been supported by prominent Holocaust denier Peter Sweden (a pseudonym for Peter Imanuelson), David Duke, a former grand wizard of the Ku Klux Klan, as well as the American-based Daily Stormer, the largest neo-Nazi website in the world.<sup>5</sup>

In May 2017, GI launched its 'Defend Europe' campaign against NGOs 'human smuggling' on YouTube. Its technically sophisticated video undoubtedly has extremist if not fascist connotations. Images of medieval Christian crusaders tumble into demonstrations where 'stop immigration' and Pegida placards are prominently displayed. Between photographs of far-right icons like Enoch Powell and Richard Spencer, messages pop up attacking UN one-worldism and 'diversity' policies that are equated with 'white genocide'.

***'Do I regret it? Not for a second.'***

Fredrik Örnevall

GI's trademark is provocation. It treads a fine line between legality and lawlessness, whipping up bigotries, but leaving the physical harassment and violence to street fighting forces and neo-Nazi vigilantes. Humanitarianism sickens the identitarians, as it does fascists. To act out of humanitarian instincts is to be weak and unpatriotic, to deny vital instincts. There is a clear continuity between the old fascist hatreds of 'cosmopolitanism' and the new assault on humanitarianism. The only difference is that whereas the hatred of cosmopolitans was tied up with anti-Semitism and hatred of the rootless Jew, the new racism is tied up with Islamophobia and the counter-jihadi strain of modern fascism.

### **Does the far Right manipulate state interventions against NGOs?**

To return to the present maritime disruption in the Med, Frontex, in its portrayal of SAR NGOs as providing assistance to smugglers, seems to have given the green light to far-right provocateurs and extremist politicians, from the likes of the Front National, the Northern League and Alternative for Germany, to GI and company. And what is clear is that the far Right does not have to resort to physical violence to disrupt humanitarian missions: it can simply tie SAR NGOs up in the bureaucracy and red tape which necessarily follow claims of wrongdoing. Questions are now being asked as to whether the investigations conducted by state prosecutors in Germany and Italy were initiated as a result of malicious claims by the hard Right. It was the chief executive of the German NGO Sea-Watch who, in April 2017, first



**'We'll  
be back  
to do it  
again.'**

Mikel Zuloaga

accused Carmelo Zuccaro, the state prosecutor in Catania, Sicily, of acting disreputably by involving himself in 'a smear campaign against Sea-Watch, driven by representatives of Frontex and Lega Nord'. The director-general of Médecins sans Frontières subsequently pointed out that MSF had been left at the mercy of a far-right hate campaign as the direct result of 'false and ridiculous information' put out by the likes of Frontex. Now the reputations of many NGOs have been seriously damaged, with reduced donations as a result. But the NGOs have tried to fight back against smear and innuendo at every point, making their operations as transparent as possible with assurances that, if any real evidence of direct support for criminal networks was found, they would act. At a press conference in the European parliament in Brussels, they released the 'Common Statement from SAR NGOs operating in the Mediterranean' demanding that 'unsubstantiated accusations of unlawful conduct by SAR NGOs' 'without the presentation of substantiated evidence cease immediately'.

Evidence is emerging that the hard Right is playing a role in instigating complaints against NGOs. The German NGO Mission Lifeline, which is currently preparing for its first mission in the Mediterranean, decided to speak out about the undercover criminal investigation into its work, after it received a letter from the state prosecutor in Saxony stating that it was under investigation for 'migrant smuggling'. Mission Lifeline's leader Axel Steier says that when he received the letter telling him to report to the Dresden police, he thought it was a fake, but was soon shocked to learn that a 'private person' had made a complaint against the NGO in 2016 and that it had unknowingly been under investigation for 'migrant smuggling' ever since. Mission Lifeline has now seen the letter sent to the state prosecutor that initiated the undercover investigation, and feels it is clear from the whole tone of the letter that it was initiated by the far Right. Dresden is a power-base of Pegida and Alternative for Germany. 'It's a political move', Steier told IRR. In normal circumstances, the prosecutor 'would never have investigated a complaint like this'. He said that the whole experience necessitated a change of focus within the organisation, 'from concentrating on your mission onto how to act against the complaint'. Not before time, in July 2017 Dresden prosecutors announced they had dropped the investigation into Mission Lifeline on the grounds that, as the NGO was not yet in possession of a rescue ship, no anti-smuggling laws could have been violated.

Even more worrying claims emerged in July 2017. Italian journalist Andrea Palladino is investigating allegations of a connection between the private security company, IMI Security Service, which is believed to have denounced the crew of the *Iuventa* ship to the prosecutor's office of Trapani, and GI. The allegations rest on the alleged role played within IMI Security Service by a former Italian navy officer, Gianmarco Concas, who has in the past acted as a spokesperson for GI and yet is named as a participant on a closed Facebook group for employees of IMI.<sup>6</sup> IMI Security Service provided private security for a Save the Children rescue ship. But, unbeknown to it, IMI, it appears, was playing an undercover role, reporting back to Italian intelligence services, the Trapani prosecutor, and Matteo Salvini of the Northern League. While IMI has denied any links to Defend Europe it cannot explain Concas' presence in the closed Facebook group.<sup>7</sup>



And in France, the FN accused a local refugee and migrant support group in the Alpes-Maritimes of acting as a ‘humanitarian front for law-breaking’. FN councillor Olivier Bettati and his newly-formed Défendre la Roya organisation issued a summons demanding the dissolution of the group, Roya Citoyenne, on the grounds that its members help refugees at Ventimiglia, on the Italian border with France, cross the border illegally. (The case, due to be heard in Nice on 18 July 2017, was deferred and had not gone to court at the time of writing.)

### From provocation to violence and trolling

But harassment of those in solidarity with asylum seekers goes beyond disruption and can escalate into violence, when people feel they can attack with impunity. The IRR has been monitoring physical attacks on those who support refugees for a number of years. As ‘citizens’ initiatives’ formed against the dispersal of Syrian refugees, serious assaults on committed politicians escalated. They include the attempted murder of Henriette Reker, stabbed in the neck on the day before she was elected mayor of Cologne in October 2015, by a fascist sympathiser who targeted her because of her pro-refugee views; the September 2016 attack on Joachim Kebschull, the refugee-supporting mayor of the German town of Oersdorf, who was left unconscious after being struck with a blunt instrument; and the murder of British Labour Party parliamentarian Joanne Cox in June 2016, in Birstall, West Yorkshire, in the run-up to the EU referendum, by a white supremacist who repeatedly shouted ‘Britain First’ as he shot and stabbed the pro-refugee MP.

Needless to say, the attacks are not confined to politicians. Anyone engaged in work supporting refugees and migrants will face regular abuse on social media. An Italian clergyman in Bulgaria was forced out of his parish and left the country after receiving death threats for his support of a Syrian refugee family. In Finland, the climate for refugee and migrant support groups deteriorated considerably after the Finns Party (previously known as the True Finns) became part of the coalition government in 2015.<sup>8</sup> On social media, the attacks are explosive, with refugee activists being forced to withdraw from Facebook and Twitter. One Finnish refugee activist, speaking on condition of anonymity, told of the fear she had faced since her photograph and personal details were shared on the anti-immigrant website MV-lehti. Founded in 2014, (literally, What the Fuck? Magazine) by Ilja Janitskin. MV-lehti has churned out constant reports of immigrant crimes, attacked liberal and leftwing journalists and politicians and has been accused of sending dead rats to the homes of opponents. In August 2016, the Helsinki district court rejected an attempt by police to shut down MV-lehti for disseminating false information and encouraging hate speech, refusing to disclose the reasons. Then, in October 2016, a successful prosecution was brought *in absentia* against Janitskin, who lives in Spain, for money laundering, illegal threats, breaches of confidentiality and copyright infringement. ‘We

***‘We’re not surprised by the violence and threats... It’s the same message from the C-Star, the Italian prosecutors and Frontex. A different level of violence but the message is the same.’***

Riccardo Gatti, Proactiva Open Arms

have our government to blame for all this', the refugee activist concluded. 'It suits them to allow the bullying to continue.'

Recent attacks shows the level of far-right confidence that they now have virtual immunity from prosecution. On 30 June 2017, identitarian activists from the French far-right group Ligue du Midi invaded the offices of Réseau Aide Information Hérault (RAIH), an association in Montpellier working with unaccompanied child refugees. They ransacked the room, broke crockery, shouted 'no subsidies to finance the invasion' and accused RAIH members of being 'collaborators', before proudly uploading a video of their attack on Facebook.

### References

- 1 Following the analysis of Hope Not Hate, we concur that given the complexities and confusions over terms like 'alt-right', 'alt-light' and New Right, it is more useful to refer to these seemingly new movements as the Alternative Right, an international movement 'whose core belief is that "white identity" is under attack from pro-multicultural and liberal elites'. See *Hope Not Hate*, 'The International Alternative Right: From Charlottesville to the White House', September 2017.
- 2 See Simon Murdoch, 'Far right takes to the waves but HOPE not hate report helps stem the tide', *Hope Not Hate*, May-July 2017.
- 3 The Gefira Foundation, based in Nijmegen, was formed in 1987 by Franck Biancheri, who also formed the Newropeans party which advocated greater democratisation of the EU. Since he died in 2012, the new director Bart Kruitwagen has taken the think-tank into explicit New Right territory on immigration issues, and Biancheri's friends and family have now distanced themselves from the foundation. See Lorenzo Bagnoli, 'Chi sono Gefira e gli "identitari" di Defend Europe: le nostre interviste', *Open Migration* website, 2 August 2017.
- 4 Rachel Knaebel, 'The press of the right', *Le Monde diplomatique*, English edition, August 2017.
- 5 Joe Mulhall, 'Why has Katie Hopkins set sail with a bunch of far-right activists', *The Guardian*, Comment is Free, 21 July 2017.
- 6 See Andrea Palladino, 'Caos Mediterraneo: le manovre occulte di Defend Europe sull'indagine Iuventa', *famigliacristiana.it*, 4 August 2017.
- 7 Daniel Howden, 'The Central Mediterranean. European Priorities, Libyan Realities', *Refugees Deeply*, October 2017.
- 8 Following a split within the Finns party in 2017, it left the coalition government. See also Tatu Ahponen, 'True Finns, False Hopes', *Jacobin*, March 2017.

# Timeline charting the criminalisation of sea rescuers and others – and the fightback

## 2014

**30 October:** François Crépeau, UN Special Rapporteur on the human rights of migrants, urges the British government to reconsider its decision not to support search and rescue operations in the Mediterranean. ‘Allowing people to die at Europe’s borders just because of their administrative status is a complete disregard for the value of human life’, he said, adding that to ‘bank on the rise in the number of dead migrants to act as deterrence for future migrants and asylum’ is ‘like saying, let them die because this is a good deterrence.’ ([OHCHR News](#), 30 October 2014)

**31 October:** As the Italian government formally ends its €9m-a-month naval search and rescue (SAR) operation, Mare Nostrum, which rescued over 100,000 shipwrecked migrants and refugees in a year, because of lack of EU support, NGOs and European parliamentarians predict more deaths at sea. MN is replaced by Operation Triton, led by EU’s border agency Frontex, which would deploy fewer vessels, much further from Libya (where most shipwrecks occur) and whose priority is border surveillance rather than search and rescue. ([The Guardian](#), 31 October 2014)

## 2015:

**14, 18 April:** In what is believed to be the largest loss of life to be documented in recent Mediterranean history, over 1,200 people perish in two shipwrecks, with MSF pointing out that such figures resemble those of a war zone. Already in February, 300 had died off Lampedusa. ([BBC News](#), 15 April 2015, [Independent](#), 20 April 2015)

**20 April:** The UN Human Rights Commissioner calls on the EU to take a ‘more sophisticated, more courageous and less callous’ approach to migration, and says that the ‘continuing failure of governance and monumental failure of compassion’ lay behind the latest tragedies in the Mediterranean. ([UN Human Rights](#), 20 April 2015)

**23 April:** A funeral march is held in Brussels, ending outside the European Council, to protest EU policies leading to the record migrant death toll in the Mediterranean. IOM statistics indicate that more than 1,750 people have died so far in the Mediterranean in 2015, over thirty times the number in the same period the previous year. The EU’s ten-point Action Plan, announced to deal with the crisis, is widely denounced as focused on military operations against smugglers, rather than saving lives. ([EU Observer](#), 23 April 2015; [Statewatch](#), April 2015)

**18 May:** EU defence and foreign ministers agree a military mission, EUNAVFOR MED, to destroy boats used by people smugglers in the Mediterranean, which ECRE says will cause more deaths: ‘the solution to smuggling is to create safe legal channels

for migration'. The Italian coastguard urges the EU to focus on search and rescue. ([The Guardian](#), 18 May 2015)

**27 May:** The European Commission publishes its 'EU Action Plan against Migrant Smuggling' which promises to 'tackle migrant smuggling... while avoiding risks of criminalisation of those who provide humanitarian assistance to migrants in distress'. ([European Commission](#), 27 May 2015)

**13 July:** Hungary begins construction of a border fence along the Serbian border to keep out migrants. ([The Guardian](#), 13 July 2015)

**30 July:** Work begins on high-security fencing supplied by the UK government around train terminals in Calais to stop asylum seekers attempting to reach the UK. ([BBC News](#), 31 July 2015)

**August:** The mayor of the Italian border town of Ventimiglia prohibits the unauthorised distribution of food and drink to refugees. Violation of the order is punishable by a three-month prison sentence and a fine of €200. ([The Local](#), 27 March 2017)

**30 August:** Campaigners travelling back from Calais after providing assistance to refugees are stopped in Dover, questioned and allegedly threatened by border officials. ([RS21](#), 30 August 2015)

**2 September:** Turkish journalist Nilüfer Demir's photograph of the body of Alan Kurdi, a 3-year-old Syrian-Kurdish refugee child washed ashore and lying lifeless on a beach near Bodrum, is syndicated across the world, provoking a global wave of shock and sympathy and the eventual mobilisation of the largest civilian force of humanitarian volunteers since the second world war. ([Time](#), 18 Nov 2016)

**8 September:** Amidst chaotic scenes, hundreds of Danish citizens respond with offers of help, as TV broadcasts images of hundreds of refugees walking along the Rødby highway towards Sweden, having arrived from Germany. Several people are arrested by Danish police for giving lifts to refugees. Swedish police spokesman Lars Forstell says that fourteen people have been detained on suspicion of illegally transporting migrants across the Øresund Bridge from Copenhagen to Malmö. ([Copenhagen Post](#), 8 September 2015)

**13 September:** As Germany introduces temporary border controls at its southern border, Bavarian police arrest hundreds of volunteer 'border crossing helpers' who gave people lifts from Vienna to the German border, or within Germany, handcuffing, strip searching and detaining them in 'container cells' at the German-Austrian border for up to 31 hours. More than 700 'humanitarian smugglers' are reportedly in detention during the weekend of 12/13 September. ([Taz](#), 1 October 2015)

**30 September:** Italian police bulldoze a makeshift camp at Ventimiglia, near the French border, occupied by 250 refugees. ([The Local](#), 30 September 2015)

**October:** Former Danish children's ombudsman and children's author Lisbeth Zornig Andersen, and her husband Mikael Lindholm, are charged with human smuggling under anti-trafficking provisions of the Aliens Act after complaints are made against the couple for the humanitarian assistance they provided to a Syrian family on 7 September, at the height of the Danish refugee crisis. After appearing on a TV debate with a representative of the Danish People's Party, Zornig Andersen's Facebook page was flooded with hate mail, and she was called a 'traitor, an idiot and a Muslim lover'. ([The Guardian](#), 11 March 2016)

**2 October:** A two-month study by researchers from the University of Birmingham, working with Doctors of the World, finds 'diabolical' conditions in the 'Jungle' camp at Calais, which national and local authorities ignore. Cramped makeshift tents are plagued by rats, water sources contaminated by faeces and inhabitants are suffering from tuberculosis, scabies and post-traumatic stress. The report follows revelations of police violence in the camp. ([The Guardian](#), 22 September, 2 October 2015)

**7 October:** The EU's southern Mediterranean naval force, EUNAVFOR Med Operation Sophia, launched in response to the April 2015 mass drownings and operational since July, moves into phase 2, which involves boarding, search, seizure and destruction of vessels suspected of being used for human smuggling or trafficking on the high seas, and arrest of the smugglers. ([Statewatch](#) briefing, June 2016)

**November:** The ironically-named MedMenneskeSmuglerne ('With the Human Traffickers') is founded in Denmark to offer moral and practical support to the increasing number of people prosecuted for helping refugees. (MedMenneskeSmuglerne [facebook page](#))

**November:** In Bulgaria, NGOs refuse offers of support for refugees trying to reach western Europe because of the risk that they will be accused of smuggling, after a number of taxi drivers are charged with facilitation for picking up Afghans ('illegally travelling foreigners'). ([FRA weekly update 8](#), 16-22 November 2015)

**6 November:** Two campaigners from the London2Calais group, who have been travelling to Calais to assist refugees, reveal that Kent police used anti-terrorism laws to detain and question them. ([Independent](#), 6 November 2015)

**11 November:** In eastern Slovakia, soldiers start work on a barbed wire fence near the border with Croatia. ([Balkan Insight](#), 11 November 2015)

**December:** A study commissioned by the LIBE committee of the European parliament calls for a review of the legislative framework of migrant smuggling and facilitating illegal entry and transit, warning that the existence of 'significant inconsistencies, divergencies and grey areas is leading to a situation where humanitarian actors are often deterred from providing assistance'. Read the report [here](#)

**9 December:** After Macedonia closes its border with Greece, stranding thousands of asylum seekers with no shelter, food or clean water, Greek police begin evacuating the Idomeni camp. ([Trust.org](#), 9 December 2015)

## 2016

**4 January:** The Swedish government introduces identity checks on all train, bus and ferry passengers arriving from Denmark and refuses entry to those without identity documents. ([The Local](#), 4 January 2016)

**14 January:** Following arrests of a number of Danish taxi drivers for human smuggling for taking fares across the Øresund bridge to Sweden, the Danish Taxi Drivers Council warns members to check passports if in doubt about passengers' right to enter Sweden. ([FRA monthly overview](#), February 2016)

**14 January:** In Lesbos, five volunteer lifeguards with Proem Aid and Team Humanity Denmark are arrested by the Hellenic coastguard after responding to an SOS call at sea, held for over 48 hours, and charged with human smuggling and (as their rescue equipment included a small knife which is used in case of entanglement in ropes, etc), violation of weapons law. ([FIDH](#), 27 April 2016)

**18 January:** Bulldozers move into the 'Jungle' at Calais to clear part of the camp near the motorway for 'security reasons', as police move some residents to refitted shipping containers. ([BBC News](#), 18 January 2016)

**28 January:** A joint Ministerial Decision published in the Greek Government Gazette prohibits all independent, unregistered volunteer activities conducted in Lesbos, putting non-governmental organisations and other civil society actors under state control. Weekly committee meetings will register, classify and coordinate all civil society actors, and any unregistered entity conducting human rights work could face charges of complicity in a criminal organisation. ([FIDH](#), 27 April 2016)

**24 February:** Four days after Sicilian NGO Borderline Sicilia expressed concern about refugees and migrants who have been forced under threat of death to steer boats and find themselves arrested as smugglers, four children are among those apprehended by police as *scafisti* (helmsmen) on arrival in Sicily. ([FRA monthly overview](#), February 2016)

**11 March:** Lisbeth Zornig Andersen and her husband (*see October 2015*) are convicted of people smuggling and fined 22,500 kroner each (€3,000, increased to €3,300 on appeal on 21 September 2016). ([Independent](#), 24 September 2016)

**20 March:** The EU-Turkey deal agreed in Brussels comes into force ([European Commission press release](#), 19 March 2016)

**18 April:** In its report *Death by Rescue: The Lethal Effects of the EU's policies of Non-Assistance at Sea*, academics attached to Goldsmiths, University of London provide a detailed reconstruction of the two shipwrecks that occurred one year ago in the



Mediterranean and conclude that the EU ‘policy of retreat from state-led Search and Rescue operations’ (a policy of non-assistance) ‘created the conditions that led to massive loss of life’. ([Goldsmiths](#), 18 April 2016)

**27 April:** The Observatory for the Protection of Human Rights Defenders strongly condemns the crackdown on civil society actors providing humanitarian relief on the Greek islands. Judicial harassment of Team Humanity Denmark and PROEM-Aid is highlighted (*see 14 January*), as well as incidents in the Idomeni border area between Greece and Macedonia, when more than sixty volunteers from several countries, operating within the framework of Aid Delivery Mission, were subjected to police harassment, including threats of arrest and an arbitrary house search by armed policemen and trained dogs without a warrant or explanation. Read the statement [here](#).

**May:** After Austria begins work in April on border controls to stop migrants crossing the Brenner Pass border with Italy, the Italian government proposes measures to stop migrants travelling north. ([BBC News](#), 17 May 2016)

**9 May:** The Dubs amendment (named for its sponsor, a beneficiary of the 1938-40 Kindertransport programme) is incorporated into British law as section 67 of the Immigration Act following a campaign to bring to the UK 3,000 lone refugee children stuck in camps in Europe. ([BBC News](#), 21 April 2016)

**17 May:** The UN Special Rapporteur on the human rights of migrants condemns the EU and member states for abandoning Greece, as the European Commission reveals that only 1,500 refugees have been settled (fewer than a thousand from Greece) since September 2015 under the EU’s programme to relocate 160,000 in two years. ([Office of the Human Rights Commissioner](#), 17 May 2016; [European Commission](#), 20 May 2016)

**30 May:** Activists who demonstrated in Ventimiglia in solidarity with migrants being transferred elsewhere in Italy, and volunteers providing humanitarian assistance, are detained and given a three-year ban from the town. ([Amnesty International](#), 1 June 2016)

**June:** After the NGO ‘Incoming guests’ (*Ospiti in arrivo*), based in Udine, Italy, and seven volunteers are accused of facilitating irregular entry of migrants by providing health care and other support for migrants, an online petition, ‘Arrest us all’ is launched to express solidarity. In the same month, police dismantle the informal ‘Baobab’ camp in Rome, a hub for asylum seekers and migrants and associations and volunteers providing support and services such as health care. ([FRA monthly overview](#), July 2016)

**4 June:** The Hungarian and Serbian authorities order a priest installing four mobile toilets for migrants in the border zone to remove them. ([FRA monthly overview](#), July 2016)

**13 July:** The mayor of Calais, Natasha Bouchart, announces that the French interior ministry has approved the destruction of what remains of the Jungle camp at Calais following the demolition of the southern part of the camp in January. ([Independent](#), 13 July 2016)

**22 July:** French humanitarian volunteer Felix Croft is arrested by Italian police and charged with aiding illegal immigration as he tries to bring a pregnant asylum seeker and her family from the Italian border town of Ventimiglia into France. ([Nice Matin](#), 27 April 2017)

**8 August:** The Italian interior minister says Ventimiglia ‘will not be our Calais’ after 200 migrants, who broke through police barriers and made their way into France on 4 August, were sent back to Italy by French authorities over the weekend. ([The Local](#), 8 August 2016)

**11 August:** Authorities in Ventimiglia reinstate the order of August 2015, revoked in the spring, prohibiting the unauthorised distribution of food and drink to migrants in public areas. ‘On health grounds’, only the Red Cross is authorised. Read the decree [here](#).

**24 October:** French police evacuate the informal camp in Calais, evicting between 6,000 and 8,000 migrants and transferring many to reception centres across France. ([BBC News](#), 25 October 2016)

**5 December:** Gefira, a Dutch-based think tank, accuses NGOs of dealing in ‘migrant smuggling’ and of ‘smuggling immigrants into Europe on an industrial scale’ and releases a video monitoring the activities of SAR NGOs through AIS vessel tracking data. ([Gefira](#), 5 December 2016)

**15 December:** The *Financial Times* claims on the basis of ‘confidential reports’ compiled by Frontex that NGOs are colluding with smugglers. ([Financial Times](#), 15 December 2016)

**29 December:** 13,000 people sign an online petition in support of 61-year-old Mikel Zuloaga and 59-year-old Begoña Huarte, members of a Basque refugee welcome group, who were arrested by the Igoumenitsa coastguard in Greece on 27 December and charged with smuggling for attempting to take eight refugees to the Basque country in a camper van. ([Ekathimerini](#), 30 December 2016)

## 2017

**12 January:** In France, a new group, *Délinquants solidaires*, which aims to ‘end the offence of solidarity’ and brings together over 350 national and local associations and trade unions, publishes its manifesto online. The group denounces the increase in questioning, arrests and prosecutions of people taking solidarity action for migrants, and announces a series of solidarity rallies in February across France. ([Délinquants Solidaires](#))

**14 January:** A court in Boulogne-sur-Mer finds Rob Lawrie, a former soldier volunteering at Calais, not guilty of people smuggling but guilty of endangering a child, for hiding a 4-year-old Afghan child in his van as he returned to the UK. He is fined €1,000, suspended for five years. Lawrie took action after receiving desperate pleas from the girl’s father to bring her to Britain, where she could live with relatives in Leeds. ([The Guardian](#), 14 January 2017)

**2 February:** In what is widely seen as a test case on whether humanitarian smuggling from Greece is criminal, TV journalist Fredrik Örnevall, his cameraman and interpreter are all found guilty of people smuggling, receiving a suspended sentence and an order to complete 75 hours community service. In the spring of 2014, Örnevall was making a TV documentary on the refugee crisis in Greece when a 15-year-old boy pleaded with him, 'Take me with you'. ([The Guardian](#), 9 February 2017)

**10 February:** In Nice, hundreds of people gather outside court as Cedric Herrou, part of a group of ordinary citizens who live close to the border with Italy and provide food and lodgings for migrants, is acquitted of assisting migrants' illegal stay but convicted of aiding illegal immigration and given a suspended fine of €3,000. ([BBC News](#), 10 February 2017)

**15 February:** After the charity Secours Catholique (Catholic Relief) installs portable showers in Calais for homeless migrants, CRS riot police arrest one of the charity's employees, a journalist from *Libération* and seven children who arrive to take a shower. ([Passeurs d'Hospitalité](#), 16 February 2017)

**24 February:** The president of the French National Consultative Committee on Human Rights writes an unprecedented open letter to prime minister Bernard Cazeneuve complaining of persistent police harassment of volunteers and relief organisations providing humanitarian assistance to refugees abandoned by the French state, including children, at Calais, Ile-de-France and the Roya valley. ([Passeurs d'Hospitalité](#), 15 March 2017)

**27 February:** In an interview with *Die Welt*, Frontex head Fabrice Leggeri accuses NGOs of encouraging trafficking through their failure to cooperate with security agencies. MSF deplors the fact that Frontex has made such 'extremely serious and damaging' charges using the megaphone of the media, pointing out that Frontex officials have refused to meet with them to discuss problems. ([The Guardian](#), 27 February 2017)

**2 March:** Calais mayor Natacha Bouchart issues a decree banning the distribution of food to migrants as a 'threat to peace and security'. ([The Guardian](#), 2 March 2017)

**10 March:** The Catholic priest, who offered a home to a Syrian family forced to move out of their home in Belene, northern Bulgaria following a racist campaign, is withdrawn from the parish and returns to Italy after receiving death threats. ([Balkan Insight](#), 10 March 2017)

**20 March:** Three French and British volunteers with Roya Citoyenne are arrested in Ventimiglia distributing food to migrants, an action banned by decree (*see 11 August 2016*). It is the second arrest for one of the volunteers, Gérard Bonnet, aged 64. ([Citoyens Solidaires](#), 22 March 2017).

**22 March:** A court in Lille rules unlawful the 2 March decree by the Calais mayor banning the distribution of food to migrants, saying that it violates human rights guarantees and constitutes inhuman and degrading treatment. ([Défenseur des Droits](#), 22 March 2017)

**22 March:** The European Commission publishes its evaluation of the 2002 ‘Facilitators Package’ which concludes that there is insufficient evidence that humanitarian assistance is being criminalised to make the humanitarian exemption in the Directive mandatory, as called for by most consultees. ([European Commission](#), 22 March 2017)

**22 March:** Catania’s public prosecutor Carmelo Zuccaro tells a parliamentary committee that prosecutors are looking at how search and rescue NGOs are funded and whether smugglers contact them directly. ([The Local](#), 23 March 2017; [FRA monthly overview](#), April 2017)

**24 March:** During a visit to the Frontex mission in Malta, Austrian foreign minister Sebastian Kurz accuses private search and rescue missions of making themselves partners of the traffickers and creating the conditions for even more deaths by picking up refugees close to the Libyan coast. ‘The NGO madness must be stopped’, he said. NGOs call his comments outrageous: ‘Are we supposed to let the people drown?’ they ask. ([Sea-eye](#), 24 March 2017)

**29 March:** Search and rescue NGOs meeting at the European Parliament in Brussels issue a common statement demanding that ‘unsubstantiated accusations of unlawful conduct by and criminalisation of SAR NGOs’ cease immediately. The NGOs launch their own *Voluntary Code of Conduct for Search and Rescue Operations undertaken by civil society Non-Government Organisations in the Mediterranean Sea*. Read the voluntary code [here](#)

**30 March:** Denmark’s integration minister Inger Støjberg calls on citizens to contact the authorities if they suspect a person of being an illegal immigrant. ‘Completely normal Danes’ are urged to contact the police if they are ‘at their local pizzeria and think that there is something weird going on in the back room’. ([The Local](#), 30 March 2017)

**7 April:** A Statewatch analysis of the European Commission evaluation of the Facilitators Package (*see 22 March*) concludes that ‘the Commission’s refusal to act is effectively a sign to states across the EU that they are free to harass, impede and even prosecute individuals attempting to help some of the most vulnerable people in European society’. (Read *Statewatch Viewpoint* at [here](#).)

**12 April:** The EU again revises its target for refugee resettlement from Greece and Italy, earlier reset from 160,000 to 98,000, down to 33,000, after only around 16,000 refugees have been relocated since September 2015 under the scheme, which runs until September 2017. ([European Commission](#), 12 April 2017)

**18 April:** New research finds that unaccompanied child refugees in Greece trying to make their way across Europe are being forced to sell their bodies in order to pay smugglers. ([The Guardian](#), 18 April 2017)

**22 April:** Following protests against the criminalisation of those who give food to migrants, Ventimiglia town council revokes its ordinance prohibiting the practice,

saying it is necessary on ‘humanitarian grounds’, as more migrants are arriving in Ventimiglia and the Red Cross camp is full. (*Genova Repubblica*, 23 April 2017)

**24 April:** The chief executive of the German NGO Sea-Watch says the organisation is considering legal action against Sicilian state prosecutor Carmelo Zuccaro for defamation after Zuccaro, in an interview with *La Stampa* newspaper, implied a level of cooperation including financial transactions, between smugglers and NGOs. Describing the allegations as ‘a scandal’ and ‘insulting to our supporters’, he says Zuccaro has involved himself in a ‘smear campaign against us that is driven by representatives of Frontex and Lega Nord’. (*Sea-Watch*, 24 April 2017)

**27 April:** Felix Croft, a French humanitarian worker charged in Italy with aiding illegal immigration (*see 22 July 2016*) is acquitted on the ground that no crime had been committed. (*Pulse*, 27 April 2017)

**12 May:** Three Génération Identitaire members and Canadian far-right journalist Lauren Southern are detained by the coastguard in Sicily following an attempt to disrupt migrant rescue ships from leaving port. (*Hope not Hate*, 15 May 2017)

**18 May:** Trapani prosecutor Ambrogio Cartosio tells the parliamentary inquiry (*see 22 March 2017*) that his investigation into claims that NGOs are aiding and abetting clandestine immigration is focused on ‘specific individuals’ and that no names of NGOs or details of the investigation would be given until it is over. (*ANSA*, 18 May 2017)

**21 May:** Voters in the Swiss canton of Bern reject the 105-million-franc extra funding approved by the cantonal government to help asylum seekers, in a referendum brought by the right-wing Swiss People’s Party (SVP) in which 54.3 per cent voted no. The funding would have been dedicated to providing accommodation for unaccompanied minors. (*The Local*, 22 May 2017)

**26 May:** An MSF vessel carrying 1,400 passengers rescued at sea is denied permission to dock for 48 hours as Sicily’s ports are closed for the G7 summit. It finally docks on 28 May. (*Efe*, 28 May 2017)

**29 May:** Northern League leader Matteo Salvini says that Italy is experiencing not immigration, ‘but an invasion organised, funded and planned by Brussels’, with the ruling Democratic Party acting as ‘an accomplice to this invasion along with the [left wing] cooperatives and the pseudo-aid associations’. (*ANSA*, 29 May 2017)

**4 June:** The French far-right Génération Identitaire claims to have raised €73,000 in less than three weeks through its crowdfunding ‘defend Europe’ campaign aimed at stopping rescue boats in the Mediterranean (*see 12 May*). (*The Guardian*, 4 June 2017)

**5 June:** Humanitarian campaigner Caroline Criado-Perez, responding to far-right crowdfunding to disrupt migrant rescue, raises over £50,000 in hours for MSF search and rescue teams. (*Independent*, 5 June 2017)

**9 June:** Watch the Med co-founders publish *Blaming the rescuers: criminalising solidarity, re-enforcing deterrence*, which rebuts the claims made against search and rescue NGOs and details the ‘toxic narrative’ against such missions fomented by Frontex and political leaders. The authors say the ‘climate of hostility’ unleashed towards NGOs threatens the continuation of their operations and allows state actors to divert public attention from their own failures. ([Goldsmiths](#), 9 July 2017). Read it [here](#)

**20 June:** A legal challenge is launched against the British government’s decision to close the Dubs scheme (*see 9 May 2016*), under which only 200 vulnerable lone asylum seeking children were brought to the UK in 2016, after the demolition of the Calais camp, and none in 2017. ([Independent](#), 20 June 2017)

**25 June:** Marcus Knuth, immigration spokesman for the Danish Liberal Party (part of the governing coalition), says state funding should be withdrawn from organisations conducting rescue missions in the Mediterranean, as they provide an incentive for people to cross, a position shared with the right-wing Danish People’s Party. ([DR.DK](#), 25 June 2017)

**26 June:** A Nice lawyer, Mireille Damiano, who regularly represents migrants and those assisting them who are charged with ‘solidarity’ offences, receives anonymous death threats. ([France info](#), 29 June 2017)

**27 June:** The Lille administrative court orders officials in Calais to provide drinking water, toilets and showers for migrants and refugees within ten days, or face €100-a-day fines. The mayor of Calais plans to appeal the decision. The court refuses to order a new migrants’ shelter in the town. ([The Local](#), 27 June 2017)

**27 June:** Front National councillor Olivier Bettati and his newly formed group Défendre la Roya issue a summons demanding the dissolution of humanitarian organisation Roya Citoyenne, whose members provide assistance to refugees at Ventimiglia, on the Italian border, and in France, arguing that it is a front for law-breaking. The case, due to be heard in Nice on 18 July, is deferred until September at the earliest. (Roya Citoyenne [facebook page](#), 14 July 2017)

**28 June:** The Italian government announces it may close its ports to NGOs conducting search and rescue, as it cannot guarantee accommodation for all new arrivals. The EU urges Italy to postpone the decision, and offers financial support to help Italy deal with the crisis. ([The Local](#), 29 June 2017)

**30 June:** Identitarian activists from the French far-right group Ligue du Midi invade the offices of RAIH, an association in Montpellier which works with unaccompanied child refugees. They ransack the room, break crockery, shout ‘no subsidies to finance the invasion’ and accuse RAIH members of being ‘collaborators’, and upload a video of the disruption onto Facebook. ([LCI](#), 7 July 2017)

**4 July:** Dresden prosecutors drop their investigation into Mission Lifeline for ‘migrant smuggling’, concluding that, as the NGO was not yet in possession of a rescue ship, it was not in a position to break the law. Axel Steier, head of Mission Lifeline, says that



when he received the letter telling him to report to the Dresden police he thought it was a fake. ([Tagesspiegel](#), 4 July 2017)

**5 July:** As the Austrian foreign minister says the country will protect the Brenner Pass border against a potential refugee influx from Italy, the defence minister confirms that 750 troops are on standby and four armoured vehicles sent to Tyrol. ([The Guardian](#), 5 July 2017).

**12 July:** A cross-party House of Lords inquiry concludes that the tactics used by the EU's naval mission Operation Sophia to disrupt the business of people smuggling in the Mediterranean has failed, resulting in more deaths, with the policy of destroying smugglers' boats leading to refugees being sent on less seaworthy vessels. ([The Guardian](#), 12 July 2017)

**12 July:** Amnesty International, Human Rights Watch and UNICEF criticise the Italian government's proposal to introduce an 11-point code of conduct for NGO search and rescue missions which would bring NGOs under the control of the Libyan and Italian coastguards. ([The Guardian](#), 4 July 2017; [UNICEF press release](#); [Deutsche Welle](#), 12 July 2017)

**18 July:** Austrian interior minister Wolfgang Sobotka calls for legal 'punishments' to be introduced against sea rescuers, stating that 'it's crucial that self-appointed emergency sea rescuers no longer cooperate with the [people smuggling] rings'. German interior minister Thomas de Maizière also intervenes in the debate, repeating Italian accusations that NGO rescue boats conceal their transponder positions from coastguards and turn on their lights to give boatloads of refugees a 'goal'. ([Deutsche Welle](#), 18 July 2017)

**21 July:** Enzo Bianco, mayor of the Sicilian port city of Catania, blocks the far-right GI-chartered *C-Star* 40-metre vessel from docking, citing the threat it poses to public order. He says he considers it 'a provocation by those involved, with their sole purpose being to fuel conflict by pouring fuel on the fire'. ([The Guardian](#), 21 July 2017)

**31 July:** Italy's code of conduct for NGO search and rescue missions, backed by the European Commission, comes into force, but four NGOs – Doctors Without Borders, Sea-Watch, Jugend Rettet and SOS Méditerranée – refuse to sign it. The Italian interior ministry says that all those organisations not participating in the scheme will be outside the 'organised system of sea rescue' and will face 'all the consequences'. ([EU Observer](#), 1 August 2017; [Info Migrants](#), 10 August 2017)

**1 August:** Shortly after docking at Lampedusa, *Iuventa*, the ship of the German search and rescue mission Jugend Rettet, is seized on the orders of prosecutor Ambrogio Cartosio, who accuses the NGO of cooperating with traffickers. There is no evidence to bring charges against the crew members who regard the events as a 'warning sign' given the timing of the ship's seizure, the day after the deadline for signing the code of conduct. ([Zeit Online](#), 9 August 2017); see an interview with Jugend Rettet [here](#)

**2 August:** Italy despatches a naval patrol boat to Libya to support the Libyan coastguard against people smugglers. Italian defence minister Roberta Pinotti says Italy is providing technical support, not seeking to impose a 'hostile' naval blockade to prevent the departure of migrant boats. ([The Guardian](#), 2 August 2017)

**7 August:** Tunisian fishermen at Zarzis harbour prevent the C-Star from docking. The Tunisian Forum for Economic and Social Rights says it will oppose any attempt by the C-Star and its 'racist and dangerous crew' to dock and take on fresh supplies of fuel, food and water in any Tunisian port. ([The Guardian](#), 8 August 2017)

**8 August:** The Aix-en-Provence appeal court reverses the acquittal of Cedric Herrou on charges of assisting unlawful stay in France by lodging undocumented migrants (*see 10 February*), ruling that the migrants did not need humanitarian assistance, and that in any event, Herrou's actions were motivated by militancy against immigration controls, disqualifying him from the 'humanitarian' exemption. It imposes a suspended four-month prison sentence. ([Syndicat de la Magistrature](#) press release, 14 September 2017)

**15 August:** Save the Children, Sea-Eye and Médecins Sans Frontières suspend sea rescue missions in the southern Mediterranean following repeated clashes with Libyan coastguard vessels at the border of Libyan waters, with warning shots fired at Spanish aid group Proactiva Open Arms, who were told not to proceed any further 'or we will shoot you'. ([The Guardian](#), 15 August 2017)

**29 August:** The Italian government denies an Associated Press report that it is working with the Libyan authorities to pay militias, particularly the Al-Ammu and Brigade 48 militias, linked to trafficking, to prevent migrants crossing the Mediterranean, thereby cementing the militias' power. ([Associated Press](#), 29 August 2017).

**1 September:** On the second anniversary of the death of Alan Kurdi, the UNHCR states that 8,500 people have died or disappeared attempting to cross the Mediterranean. Most departed from Libya bound for Italy, from Turkey bound for Greece or, more recently, from Morocco bound for Spain. ([The Guardian](#), 1 September 2017)

**11 September:** The IOM reveals in its annual [report](#) on border deaths, *Fatal Journeys*, that border restrictions are forcing migrants to travel by more dangerous routes, increasing the risks. ([Politico](#), 11 September 2017)

**11 September:** The Aix-en-Provence appeal court reverses the acquittal of Pierre-Alain Mannoni on charges of assisting unlawful stay in France, on the same grounds as its decision on Cedric Herrou (*see 8 August*). The magistrates' union condemns the decisions and calls on the government to show true solidarity towards the migrants and to stop challenging those who help them. ([Syndicat de la Magistrature](#), 14 September 2017)

**12 September:** A joint IOM/UNICEF investigation finds that over three-quarters of children crossing the central Mediterranean from north Africa experience abuse, forced labour or trafficking. Read the report [here](#). ([Reuters](#), 12 September 2017)

**16 September:** A new report shows that refugees forced at gunpoint to steer migrant boats to Sicily are still prosecuted for ‘favoreggiamento’ (facilitating illegal entry), despite a leading prosecutor’s admission six months ago that ‘they are not smugglers’. An estimated 1,400 people are held in Italy’s prisons for driving a boat or holding a compass. ([The Intercept](#), 16 September 2017)

**19 September:** Fourteen migrants have died attempting to cross the Franco-Italian border in the year since September 2016, according to official figures. ([Open Migration](#), 19 September 2017)

**20 September:** Lord Dubs prepares to visit a group of sixty children in Greece, who have heard nothing from the Home Office since being identified a year ago as vulnerable and provisionally eligible for admission to the UK under the Dubs scheme. ([The Guardian](#), 20 September 2017)

**22 September:** A court in Trapani, Sicily refuses the application of Jugend Rettet to release its search and rescue ship, *Iuventa*, which was seized in Lampedusa and transferred to Sicily in August (*see 1 August*) on suspicion of collusion with human smugglers. ([AYS](#), 22 September 2017)

**1 October:** The Refugee Rights Data Project reveals ‘terrifying’ conditions for refugees in Ventimiglia, and that over half of the 150 destitute male refugees they interviewed there have experienced violence by the French police who are abusing recently imposed anti-terror protocols to send children back illegally from France. ([Independent](#), 1 October 2017)





# Appendix 1

## This report draws on the following cases

### DENMARK

**Danish citizen, name unknown:** Private citizen. Arrested in September 2015 and charged with violation of immigration laws after giving Afghan refugees a lift from Germany to a Danish ferry port. Convicted and fined in January 2016, though judge accepted his motives were humanitarian.

**Anne Hegelund, Maria Sloth:** Both members of the Red-Green Alliance. Arrested in September 2015 and charged with violations of immigration laws, after giving two African migrants a place to sleep and buying them tickets for the ferry to Norway. Acquitted in August 2016, on grounds that the case against them was unproven.

**Lise Ramslog:** Private citizen. Charged in September 2015 with assisting unlawful transit after giving a lift to two refugee families with small children from her small coastal town in southern Demark to Sweden. Convicted and fined in March 2016.

**Reem El-Awwad, Mimoza Murati, Calle Vangstrup, Annika Holm Nielsen:** Supporters of MedMenneskeSmuglerne. Arrested in September 2015 and charged with violation of immigration controls for assisting a refugee to travel by boat from Denmark to Sweden. Acquitted in October 2016, due to the case being unproven, with the prosecutor's appeal dismissed in March 2017.

**Lisbeth Zornig Andersen, Mikael Rauno Lindholm:** Private citizens. Charged in October 2015 with violations of immigration laws after taking a Syrian refugee family to their home the previous month, giving them a hot drink, driving them to the railway station and buying them tickets to Sweden. Convicted in March 2016 of aiding, harbouring and transporting people without valid documents, with the verdict confirmed and fines increased on appeal.

### FRANCE

**Rob Lawrie:** Volunteer in Calais. Arrested in October 2015 and charged with assisting illegal entry after attempting to transport a 4-year-old child into the UK to join family members in Leeds. Convicted of the lesser charge of endangering another person and given a fine (suspended).

**Cédric Herrou:** Supporter of Roya Citoyenne, he owns an olive farm close to the border with Italy. Arrested in October 2016 at an abandoned SNCF holiday complex in which he and others were hosting around sixty refugees, and charged with assisting undocumented foreigners enter, move about and reside in France. Convicted in February 2017 and given a suspended fine for assisting entry, but acquitted of assisting residence. This partial acquittal was then reversed and he was given a suspended prison



sentence on the prosecutor's appeal in August 2017, on the grounds that his motive was not humanitarian but evasion of immigration controls. Arrested six times in 2017, most recently in July 2017 at Cannes railway station with around 150 refugees.

**Pierre-Alain Mannoni:** University professor connected to Roya Citoyenne. Arrested in October 2016, after being intercepted by police driving three Eritreans to Marseille. Charged with assisting the stay of irregular migrants in France. Acquitted in January 2017, but later convicted and given a suspended sentence.

**Francesca Peirotti:** Volunteer with Habitat & Citoyenneté. Arrested in November 2016 at Menton, having been intercepted by the police driving an Eritrean family and other Eritrean and Ethiopian girls in a rented van. Charged with assisting illegal entry. Convicted and fined in May 2017. Appeal pending.

**René Dahon, Françoise Gogois, Gérard Bonnet, Daniel Oudin:** Case supported by Roya Citoyenne. Arrested in January 2017 and charged with assisting irregular movement in France after they were intercepted transporting six young refugees from Eritrea and Chad to Nice. Convicted and fined in June 2017, although fines suspended.

**Haydée Sabéran, Mariam Guerey:** Journalist for Libération and volunteer with Secours Catholique. Arrested in Calais by riot police in February 2017 after attempting to take seven migrant children to the charity's HQ for a shower, where police had blocked access. No charges brought.

**Raphaël Faye:** Son of Roya Citoyenne activist. Arrested in June 2017 taking three people to Cedric Herrou's home from railway station ten minutes away, charged with assisting irregular movement in France. Convicted in October 2017 and given three-month suspended sentence.

## GERMANY

**Wolfgang Wurm:** Austrian industrial designer arrested in Bavaria in September 2015 after bringing an Iranian family from Salzburg to the German border, threatened with charge of aggravated smuggling.

**Diether Dehm:** Left Party (Die Linke) MP. Arrested in August 2016 after attempting to bring a young African refugee from Italy to Germany to be reunited with his father after his mother's death. Public prosecutor dropped the case in April 2017 due to lack of evidence.

## GREECE

**Salam Aldeen and Mohammad Abbassi:** Danish volunteer lifeguards with Team Humanity Denmark in Lesbos. Arrested by the Hellenic Coast Guard in Lesbos in January 2016. Charged with violation of migration law and weapons offences, with the latter charge linked to possession of a rope knife. Case is ongoing. Aldeen, a Danish-Iraqi citizen, is prohibited from leaving Lesbos.



**Manuel Blanco, Enrique Rodríguez and Julio Latorre:** Spanish volunteer lifeguards with SAR NGO, Professional Emergency Aid (PROEM-AID). Arrested by the Hellenic Coast Guard in Lesbos in January 2016. Charged with violation of migration law and weapons offences with the latter charge linked to possession of a rope knife. Case is ongoing.

**Begoña Huarte and Mikel Zuloaga:** Spanish activists and writers, supported by Harrera Solidarioa. Apprehended in December 2016 in Igoumenitsa and charged with facilitating illegal entry after attempting to board a ferry with eight refugees inside a camper van. Case ongoing.

### ITALY

**Felix Croft:** Arrested in July 2016 and charged with aiding illegal immigration after assisting a family in Ventimiglia. Acquitted in April 2017 due to 'no crime having been committed'.

**Gérard Bonnet plus two others, names unknown :** All volunteers with the French organisation Roya Citoyenne. Arrested in March 2017 and charged with breaching the Ventimiglia city ban prohibiting the distribution of food.

**Don Mossie Zerai:** Priest, Nobel prize nominee and president of the Habeshia Information Agency, which helps migrants and refugees at sea in distress. Told in August 2017 he was under investigation for facilitating illegal immigration in connection with an investigation into SAR NGO Jugend Retett. Case ongoing.

### NORWAY

**Eirik Nilsen, Merete Eriksson and Merete Nordhus:** Members of Refugees Welcome to the Arctic. Arrested in January 2016 and charged with assisting illegal residence after trying to help Syrian refugees, threatened with removal to Russia, to a place of safety in a church. All three were fined by the public prosecutor. Nilsen refused to accept the fine and his case went to court. He was acquitted on 3 July 2017, on the basis that although he was careless and his behaviour was risky, it had not been proved to be criminal.

**Norwegian citizen, name unknown:** A private citizen in Hordaland, western Norway, was charged with assisting illegal residence for allowing an Albanian asylum-seeking family to stay, for three months, in an empty house he was selling while they pursued their appeal against refusal of asylum. He was convicted in August 2016 and given a heavy fine.

### SWEDEN

**Young man, name unknown:** Convicted in August 2016 of facilitating illegal entry for bringing a family with two children across Øresund bridge from Denmark to Sweden, and sentenced to three months, despite humanitarian motive.

**Fredrik Örnevall and two others (names unknown):** Journalist with state broadcasting service SVT, cameraman and interpreter. Arrested and charged with facilitating illegal entry after helping a 15-year-old Syrian boy interviewed for a television documentary travel from Greece to Sweden in spring 2014. All three found guilty in February 2017 and given suspended sentences. Although the court accepted that the motive was humanitarian, it also ruled that *'jurisprudence leaves little scope to acquit someone for that reason'*.

### SWITZERLAND

**Lisa Bosia Mirra:** Socialist party MP and founder of the Firdaus Association which raises money for migrants. Arrested in September 2016 and charged with aiding illegal entry, residence and transit after being stopped at a border point with four African children in her car. In September 2017 a court upheld the public prosecutor's finding that she committed the offences on many occasions, and her sentence of a suspended fine.

### UNITED KINGDOM

**AH:** Volunteer with migrant support group. Arrested in January 2017 at UK border controls at Coquelles trying to smuggle an Albanian woman and her two sons to the UK in the boot of her car. Charged with attempting to facilitate illegal immigration. Convicted in March 2017, although judge, giving a 14-month suspended sentence, accepted that her motives were humanitarian.

# Appendix 2

## Contacts

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### SAR NGOs

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**MedMenneskeSmuglerne**

[facebook.com/medmenneskesmuglerne](https://facebook.com/medmenneskesmuglerne)  
Twitter: [@medsmuglerne](https://twitter.com/medsmuglerne)

**FRANCE**

**Délinquants solidaires**

<http://www.delinquantssolidaires.org>

**Roya Citoyenne**

[www.roya-citoyenne.fr](http://www.roya-citoyenne.fr)  
[facebook.com/royacitoyenne](https://facebook.com/royacitoyenne)

**Secours Catholique-Caritas France**

[www.secours-catholique.org](http://www.secours-catholique.org)  
[facebook.com/Secours.Catholique.](https://facebook.com/Secours.Catholique)  
[Caritas.france](https://Caritas.france)  
Twitter: [@caritasfrance](https://twitter.com/caritasfrance)

**Citoyens Solidaires 06 – Comité de soutien aux citoyens solidaires des Alpes-Maritimes**

[www.citoyenssolidaires06.com](http://www.citoyenssolidaires06.com)  
[facebook.com/csolidaires06](https://facebook.com/csolidaires06)  
Twitter: [@csolidaires06](https://twitter.com/csolidaires06)

**Groupe d'information et de soutien des immigrés (GISTI)**

[www.gisti.org](http://www.gisti.org)  
[facebook.com/Gisti-179469575398244](https://facebook.com/Gisti-179469575398244)  
Twitter: [@legisti](https://twitter.com/legisti)

**L'Auberge des Migrants**

[laubergedesmigrants@hotmail.fr](mailto:laubergedesmigrants@hotmail.fr)  
[www.laubergedesmigrants.fr](http://www.laubergedesmigrants.fr)  
[facebook.com/LAuberge-des-Migrants-358496450338](https://facebook.com/LAuberge-des-Migrants-358496450338)  
Twitter: [@AubergeMigrants](https://twitter.com/AubergeMigrants)

**ITALY**

**Borderline Sicilia**

[www.siciliamigranti.blogspot.co.uk/](http://www.siciliamigranti.blogspot.co.uk/)

**LasciateCIEntrare**

[info@lasciatecienrare.it](mailto:info@lasciatecienrare.it)  
[www.lasciatecienrare.it/j25/](http://www.lasciatecienrare.it/j25/)  
[facebook.com/LasciateCIEntrare](https://facebook.com/LasciateCIEntrare)  
Twitter: [@MaipiuCIE](https://twitter.com/MaipiuCIE)

**NORWAY**

**Refugees Welcome to the Arctic**

[www.rwti.no](http://www.rwti.no)  
[facebook.com/refugeeswelcometotheartctic](https://facebook.com/refugeeswelcometotheartctic)

**Anti-Rasistisk Senter Oslo**

[www.antirasistisk.no/](http://www.antirasistisk.no/)  
[facebook.com/arsnorge](https://facebook.com/arsnorge)  
Twitter: [@Antirasistisk](https://twitter.com/Antirasistisk)

**SWITZERLAND**

**Firdaus Association**

[associazione.firdaus@gmail.com](mailto:associazione.firdaus@gmail.com)  
[www.associazionefirdaus.com](http://www.associazionefirdaus.com)  
[facebook.com/associazione.Firdaus](https://facebook.com/associazione.Firdaus)

**UK GROUPS WORKING IN CALAIS**

**Care4Calais**

[www.care4calais.org](http://www.care4calais.org)  
[facebook.com/care4calais](https://facebook.com/care4calais)  
Twitter: [@Care4Calais](https://twitter.com/Care4Calais)

**Mobile Refugee Support**

[facebook.com/MobileRefugeeSupport](https://facebook.com/MobileRefugeeSupport)

**Utopia56**

[utopia56.asso@gmail.com](mailto:utopia56.asso@gmail.com)

[www.utopia56.com](http://www.utopia56.com)

[facebook.com/asso.utopia56](https://facebook.com/asso.utopia56)

**Refugee Community Kitchen**

[www.refugeecommunitykitchen.com](http://www.refugeecommunitykitchen.com)

[facebook.com/groups/  
RefugeeCommunityKitchen/](https://facebook.com/groups/RefugeeCommunityKitchen/)

[Twitter: @RefugeeCKitchen](https://twitter.com/RefugeeCKitchen)

## Selected further reading

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Landry, Rachel, *The 'humanitarian smuggling' of refugees: Criminal offence or moral obligation?* Oxford, Refugee Studies Centre, October 2016

Jones, Chris, *Hindering humanitarianism: European Commission will not ensure protection for those aiding sans-papiers*, Statewatch, April 2017

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