

UNHCR Contributions
Report of the Secretary-General on Oceans and the Law of the Sea, Part II
June 2019

1. Refugees fleeing conflict and persecution continued to resort to dangerous journeys by sea throughout the reporting period in many parts of the world: in the Caribbean, across the Gulf of Aden and the Red Sea, along the various routes from North Africa towards Europe, in the Bay of Bengal and Andaman Sea, and elsewhere. Refugees and stateless people travelling in unseaworthy vessels in search of safety and asylum typically, but not always, do so alongside migrants who may not ultimately require international protection as refugees but whose lives and human rights must be protected. Death and injury at sea, strained and at times insufficient search-and-rescued responses, difficulties in securing safe disembarkation, as well as exploitation and endangerment by smuggling operations, remain common features along many routes. UNHCR continued during the reporting period to actively pursue and support protection at sea, through advocacy in support of effective, cooperative and protection-sensitive approaches to search and rescue and disembarkation arrangements; through operational activities at places of disembarkation or arrival by sea; and through supporting access to asylum and other longer-term action on addressing the drivers of dangerous journeys.

Caribbean

2. There has been a growing number of asylum-seekers and refugees arriving in the **Caribbean**, with diverse profiles and travel patterns, and originating from nearly 50 countries worldwide, in 2018. While mixed flows of refugees and migrants by sea continued to be evident in the Northern Caribbean, there was also a notable increase in arrivals by sea to the Southern Caribbean in 2018, as a result of outflows from Venezuela. As noted in the Regional Refugee and Migrant Response Plan (RMRP) for the Venezuela Situation,¹ protection at sea is a significant challenge in the Caribbean, with refugees from Venezuela arriving in Caribbean countries after risking perilous boat journeys to reach safety.
3. From September 2018 to present, multiple incidents at sea took place near the **Bahamas**, **Trinidad and Tobago**, and the **Turks and Caicos Islands**, highlighting the serious risks involved in sea journeys undertaken by refugees and migrants in the region. On 1 February 2019, a boat capsized off the coast of the Abaco Islands, the Bahamas, resulting in the death of at least 30 Haitians, while 35 others remained missing. On 31 March 2019, at least 14 Haitian nationals lost their lives when their boat capsized near West Caicos, Turks and Caicos Islands. Two major incidents occurred in 2019 involving boats departing from Güiria, **Venezuela**, to Trinidad and Tobago: the boat *Jhonnaly Jose* capsized on 24 April 2019, carrying at least 25 Venezuelans, with 4 individuals rescued and at least 21 missing, followed by the disappearance of the boat *Ana María* on 16 May 2019 with approximately 33 Venezuelans on board, which prompted investigations into the possibility of hijacking and links to a human trafficking network. UNHCR's advocacy for a comprehensive approach to protection at sea in the Caribbean includes the

¹ See *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela January-December 2019*, December 2018, available at www.unhcr.org/refugee-response-plans.html.

promotion of search-and-rescue efforts to reduce loss of life and measures to address the exploitation, abuse and violence experienced by people travelling irregularly by sea, as well as capacity-building to establish protection-sensitive responses to irregular mixed movements and access to fair and efficient asylum procedures.

4. Caribbean countries and territories have continued to develop the Caribbean Migration Consultations (CMC) as a government-led regional platform to promote coordinated, rights-based and effective management of issues related to migration and forced displacement in the region. A series of thematic workshops and meetings in the framework of the CMC have recently taken place, including a workshop on data collection and management hosted by Jamaica in September 2018, a network meeting on human trafficking hosted by Guyana in March 2019, and a consultation meeting on human mobility in the context of climate change and natural disasters hosted by Trinidad and Tobago in June 2019. In a High-level Meeting to take place in 2019, it is anticipated that participating countries and territories will formalize the structure and jointly identify the key priorities and plan of action for the CMC, which could include regional issues related to protection at sea.

Gulf of Aden and Red Sea

5. In **Yemen**, there has been a considerable increase in arrivals by sea in 2019 to date. According to IOM data, it is estimated that approximately 55, 430 individuals entered Yemen from Djibouti or Somalia by sea in 2019 (at end April). Many intend to cross to Saudi Arabia while others apply for asylum in Yemen. In the context of the increase in arrivals, the government in the south has introduced detention measures with over 2,000 people, primarily migrants, being reported by the UN to be detained in the southern city of Aden in April 2019. This number includes at least 400 children. Some of those detained are registered with UNHCR and are subsequently released from detention upon identification by UNHCR.

Mediterranean Sea

6. The overall trend of decreasing numbers of arrivals by sea across the **Mediterranean Sea** to Europe in recent years continued in 2018, with approximately 116,650 arrivals that year, representing an almost 50 per cent decrease on 2017, when slightly over 172,300 refugees and migrants arrived by sea in Europe. However, the number of people estimated to have died at sea during Mediterranean crossings, though also decreasing in absolute terms, has remained very high: approximately 2,275 people are believed to have died at sea in 2018.² Approximately 23,550 refugees and migrants have crossed the Mediterranean to Europe so far in 2019 (at 18 June). Approximately 560 people are believed to have died or gone missing in the same period, however it is not possible to determine the full extent of loss of life at sea, which may be higher.³
7. UNHCR has continued to advocate for a predictable regional disembarkation and responsibility-sharing mechanisms for the Mediterranean as outlined in the *Proposal for a regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued*

² See generally www.unhcr.org/desperatejournneys.

³ See <https://data2.unhcr.org/en/situations/mediterranean>.

at sea jointly developed by UNHCR and IOM.⁴ In its updated guidance in September 2018,⁵ UNHCR has maintained its advice that under current circumstances post-rescue disembarkation to Libya cannot be considered to be delivery to a place of safety, and must be avoided wherever possible.

8. As of 18 May, the **Libyan** Coast Guard had rescued or intercepted over 2,220 refugees and migrants in 2019. The number of disembarkations in Libya increased in May (1,095 individuals) when compared to April and March of 2019. UNHCR and IOM have access to disembarkation points with partners to distribute food, water and core relief items. Wherever possible, subsequent joint counselling and monitoring is undertaken in the detention centres where the persons are being transferred.
9. A growing trend of departures from Libya to **Tunisia** has been observed since the last quarter of 2018. UNHCR and its partners in Tunisia are closely monitoring the situation at the border. Since hostilities began on 4 April 2019, no significant influx of asylum-seekers from Libya to Tunisia was recorded. Out of 1,421 persons profiled by UNHCR's partner in the south since January 2018, fourteen per cent were recorded to have arrived by sea having been rescued or intercepted by the Tunisian authorities or by commercial vessels. As of end of April 2019, 1843 individuals were registered with UNHCR, out of whom 600 (32.5%) were asylum-seekers and 1233 (66.9%) recognized refugees.
10. While the overall number of sea arrivals to Cyprus in 2018 dropped compared to 2017 (43 boats carrying some 787 persons), several boats carrying Syrians arrived directly from Lebanon, in addition to those arriving from Turkey. A considerable number reported travelling this way in order to join close family members already in Cyprus, given that the vast majority of Syrians are afforded subsidiary protection status in Cyprus and are deprived of family reunification rights. 2018 was also marked by fatalities at sea for the first time in Cyprus. Some 30 Syrian refugees died at sea, while some 32 were reported missing in three different incidents between May and December 2018. All three shipwrecks occurred in northern and eastern waters.
11. To date in 2019, there have been five reported incidents of arrivals by sea, with some 64 Syrians reaching the shores of Cyprus in both the southern and the northern areas of Cyprus. However, the numbers of asylum applicants continue to increase with many applicants indicating that they have arrived irregularly by boat in the northern part of Cyprus without being detected. In the first five months of 2019, some 200 applicants stated that they have arrived by boat in approximately 16 different incidents. In addition, some 151 applicants have arrived as stowaways aboard cargo vessels. One boat which departed from Lebanon has been reported missing in 2019 with approximately 10 Syrian refugees believed to have been on board.
12. Between 1 September 2018 and 31 May 2019, there were 4,854 arrivals by sea in **Italy**. Arrivals by sea to Italy in 2018 decreased by 80 per cent compared to the previous year. This decrease has continued in 2019, with 1,566 sea arrivals in the January-May 2019 period, compared to 13,430 for the same period in the previous year. So far in 2019, 35 per cent of those arriving in Italy had departed from Libya. The increased capacity of the Libyan Coast Guard; the disengagement from maritime operations by EUNAVFORMED; the reduction of Frontex's Themis operation's operational area to cover only the Italian SAR zone; and the "closed ports" narrative by the current Italian Government have all impacted on the humanitarian situation in the

⁴ IOM and UNHCR, *Proposal for a regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued-at-sea*, July 2018, www.unhcr.org/5b35e60f4.

⁵ See *UNHCR Position on Returns to Libya: Update II*, September 2018, www.refworld.org/docid/5b8d02314.html.

Central Mediterranean, generating increasing concerns for refugees and migrants crossing at sea with regard to rescue at sea, safe disembarkation, and access to asylum procedures. Between 1 January and 31 May 2019, more than 500 people are believed to have died or gone missing in the Mediterranean (of whom 314 in the Central Mediterranean). Close to 660 people died or went missing during the same period in 2018 (of whom 375 in the Central Mediterranean).

13. A number of incidents took place during the reporting period in which refugees and migrants rescued in the Central Mediterranean remained stranded for several days aboard rescue boats due to government authorities denying or delaying authorization to dock and disembark. Non-Italian flagged NGO rescue vessels were prevented from docking in Italy and had to sail to Spain or Malta to safely disembark rescued individuals. In other instances, refugees and migrants rescued by NGOs as well as by Italian authorities' vessels were allowed to disembark in Italy only after other EU countries accepted redistribution of new arrivals. Further, starting in 2017 and continuing into 2018 and 2019, a number of investigations have been launched against various NGOs conducting rescue operations in connection with allegations of abetting illegal immigration. While these allegations have not been proven before court authorities so far, restrictions continue to be placed on NGO rescue vessels. During the first five months of 2019, the Italian Minister of the Interior issued five Directives that address various aspects of SAR, all with the objective of limiting disembarkation in Italy. In May 2019, the Italian MOI tabled a draft Security Decree including possible sanctions for private vessels or NGOs engaging in search-and-rescue activities.
14. The numbers of refugees and migrants arriving in **Malta** by the central Mediterranean Sea route from Libya have increased since July 2018. Approximately 1,445 refugees and migrants arrived by sea to Malta in 2018, a sharp increase from the 23 sea arrivals in 2017. In the first five months of 2019, another 677 refugees and migrants arrived by sea, a significantly higher number than the 243 arrivals in the first half of 2018. The most common nationalities represented on this route in 2018 were Sudanese, Bangladeshi, Eritrean, Ivorian, and Somali. The first months of 2019 also saw a relatively high number of Nigerian and Moroccan arrivals. Over 30 per cent of those rescued and brought to Malta in 2018 were rescued by NGO vessels.
15. Following the increase in arrivals, Malta has entered into a number of ad hoc responsibility-sharing agreements in 2018 and 2019 with various EU Member States to relocate individuals rescued by NGO vessels. A total of 423 persons were transferred to different EU Member States in 2018, while an additional 154 persons were transferred in 2019.⁶ Throughout 2018 and 2019, UNHCR office has observed disembarkations in Malta, collected data on new arrivals, and supported the implementation of ad hoc solidarity agreements between Malta and other EU Member States. In addition, UNHCR monitored reception and detention conditions and provided information on basic rights and asylum applications to newly arrived persons. Together with implementing partners, UNHCR has been providing legal and psychosocial assistance to new arrivals and assisted in family tracing and reunification.
16. Those disembarking in Malta continue to include a significant number of persons in need of international protection. In addition, over 300 apparently unaccompanied or separated children reached Malta in 2018. Another 160 apparently unaccompanied or separated children arrived in the first five months of 2019. Refugees and migrants interviewed by UNHCR staff following arrival in Malta reported multiple abuses during their journeys, including kidnapping and torture

⁶ 2018 transfers were conducted by France, Spain, Italy, Germany, Portugal, Ireland, the Netherlands, Luxembourg, Belgium and Norway; 2019 transfers by France, Germany, Portugal, Luxembourg, the Netherlands and Spain.

for ransom, forced labour, sexual violence and exploitation, as well as witnessing multiple deaths. Testimonies also described the difficulties experienced by refugees and migrants arising from specific search-and-rescue situations, including claims regarding vessels refusing to provide assistance, multiple days spent at sea before being allowed into Maltese territorial waters, and confusion and tensions at sea due to fears of return to Libya.⁷

17. Significant changes were noted in 2018 in the routes taken by refugees, and migrants from West Africa heading to Europe. The main entry point to Europe became Spain as more people attempted the perilous sea crossing over the Western Mediterranean, as well as the West Africa Atlantic Coast sea route to the Canary Islands.
18. At the end of 2018, the western Mediterranean route from North Africa to Spain had become the most used route across the Mediterranean Sea. More than 58,000 migrants and refugees reached Spain through its southern coast by sea in 2018. Morocco and Guinea were the two top nationalities, comprising 20 per cent each of all sea arrivals, followed by nationals of Mali. From January to May 2019, some 8,300 persons arrived in Spain by sea, and over 160 people died or went missing in the attempt. This represented a 10 per cent increase in sea arrivals compared to the same period in 2018. Nearly 50 per cent of the arrivals so far in 2019 came in January (4,612), and there was a steady decrease during the following months, with less people arriving each month compared to 2018. The most common nationalities of those arriving by sea has been Moroccans (24 per cent), Guineans (15 per cent) and Malians (14 per cent) as of April 2019. While almost 76 per cent of arrivals are men, 14 per cent are women and 10 per cent are children, as of April 2019.
19. Search-and-rescue activities are regularly conducted by the Spanish maritime search and rescue agency, together with other relevant Spanish law enforcement agencies. The Spanish authorities took a number of measures in February and March 2019, in conjunction with Moroccan authorities, to enhance Moroccan search-and-rescue capacities, while decreasing its own search-and-rescue activities in the Moroccan SAR area. During the same period, Spanish authorities decided to block the departure from port, on a temporary basis of the NGO vessels Open Arms and Aita Mari. Both NGOs have since been authorized to leave port in order to transport humanitarian assistance to Greece
20. UNHCR in Spain has for many years been systematically building awareness and capacity on international protection, and promoting an identification and referral mechanism for all irregular arrivals, including sea arrivals, to be implemented in main disembarkation points, where reception, identification and referral hubs could be established. In addition UNHCR has since 2016 gradually increased its presence along the south coast of the country, in order to carry out protection monitoring, conduct capacity-building initiatives for local stakeholders, and provide information on asylum procedures to persons arriving irregularly by sea in the main disembarkation points in the provinces of Cádiz, Málaga, Granada and Almería. These activities have been strengthened as of July 2018, through a partnership with the Comisión Española de Ayuda al Refugiado (CEAS), which has allowed for the deployment of three teams each comprising a lawyer and a cultural mediator, in order to expand UNHCR's local presence and reinforce the systematic provision of asylum information to all sea arrivals.
21. In **Greece**, UNHCR has established close cooperation with the Hellenic Coast Guard over a number of years. This cooperation is supported by a memorandum of cooperation, which includes provisions on advocacy, information sharing on incidents at sea and new arrivals,

⁷ Such as in the case of the rescue by the private oil tanker *El Hiblu* on 26 March 2019.

delivery of non-food items, and capacity-building activities with Coast Guard staff members. UNHCR has established direct communication with the Joint Rescue Coordination Center centrally and the local Coast Guard offices at field level, and follows up closely on incidents of distress at sea, search-and-rescue operations, stowaway cases, asylum-seekers in port transit areas, and other serious protection incidents such as pushbacks at sea and allegations of ill-treatment during interception operations.

22. Since 2008, UNHCR has been involved in a range of border-monitoring activities in Greece, including in relation to incidents at sea such as allegations of interceptions, “pushbacks”, ill-treatment and violence. UNHCR has also been engaged with stowaway cases involving commercial ships where disembarkation at a safe port of call is requested. UNHCR monitors incidents of distress at sea which are communicated to UNHCR by various sources, and follows up on search-and-rescue responses and the safe reception of the rescued persons in the Reception and Identification Centres. UNHCR intervened in and undertook follow-up activities in Greece on 79 distress-at-sea incidents in 2018, and 39 incidents in 2019 to date.
23. UNHCR has coordinated efforts in Greece to establish a shipwreck response mechanism in coordination with authorities and NGOs, after having observed that the management of such situations could benefit from a more systematic approach. The development of a checklist on shipwreck response by UNHCR has contributed to a harmonized and more systematic response, including for rescue and first reception; medical and psychological care; administrative procedures; measures relating to dead and missing persons; tracing; legal aid; and referrals to support services. UNHCR field teams are involved in shipwreck responses. One shipwreck incident at sea occurred in 2018 with 16 dead and 3 missing persons; three incidents occurred in 2019 with 12 deaths. UNHCR also conducts multi-day trainings for Coast Guard officers; two trainings were conducted in 2018 and one in 2019. In addition, UNHCR has contributed on protection and refugee law issues to training events conducted by EUNAVFOR Med for Libyan Coast Guard officers at the training centre on Crete, Greece.

West Africa

24. Movements by sea, including asylum-seekers, were also noted in West Africa during the reporting period. While data on deaths at sea is often unavailable for these routes, casualties were recorded on the West Africa Atlantic Coast maritime route to Canary Islands. Some smaller West African coastal states have limited capacity to effectively undertake monitoring and rescue-at-sea operations.
25. Mixed movements by sea from the West Africa region are likely to continue as the root causes and triggers of displacement and migratory movements—such as poor governance, human rights violations, conflicts/ethnic violence, terrorist threats and poverty—remain unresolved. A deteriorated security situation and the ensuing large-scale displacement in and from Mali, northern Burkina Faso, Niger, northeast Nigeria, and Cameroon may contribute to an increase in secondary movements including movements towards Europe by sea, with higher risks of maritime incidents.

South-East Asia

26. In 2018, 17,000 Rohingya crossed from Myanmar to Bangladesh, mostly by boat. The same year also saw a resumption of small-scale mixed maritime movements through the Bay of Bengal and

the Andaman Sea towards Malaysia and Indonesia. At least 760 people using this route departed from Myanmar and Bangladesh in 2018. The trend has continued in 2019 with close to 600 people undertaking the same journey to date. Many vessels were however intercepted at sea by the authorities before they could leave the territorial waters of Myanmar or Bangladesh. The sea journey remained dangerous and at least 21 refugees are believed to have died or been reported missing at sea between January 2018 and May 2019, including ten deaths during the first five months of 2019.

27. Despite the political commitments made by all Bali Process member states in their March 2016 Bali Declaration on People Smuggling, Trafficking in Persons, and Related Transnational Crime and reaffirmed at the August 2018 Bali Process Ministerial Conference,⁸ there are to date no regional mechanisms in place to ensure coordinated search-and-rescue operations and disembarkation of refugees and migrants in distress at sea. The Indonesian Presidential Regulation remains the sole commitment in South-East Asia to rescue and disembark refugees in distress. With the support of UNHCR, IOM, and UNODC, the fourth meeting of the Bali Process Task Force on Planning and Preparedness in February 2019 focused on information sharing on maritime movements and current responses in the region. During the reporting period, UNHCR has conducted two trainings for navy, coastguard and other law enforcement officials from South-East Asian countries on protection at sea and trafficking in persons.

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⁸ See *Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime*, 23 March 2016, www.refworld.org/docid/5799ef3c4.html; and Declaration of the Seventh Ministerial Conference of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process), 7 August 2018, available at www.baliprocess.net/ministerial-conferences-and-senior-officials-meetings.