

Oceans and the Law of the Sea: Report of the Secretary General

UNHCR Submission 2024

In the absence of safer avenues to seek international protection, refugees and other persons under UNHCR's mandate continued to undertake perilous sea journeys across various regions, including the Mediterranean Sea, the Caribbean, the Gulf of Aden, the Indian Ocean, the Bay of Bengal and the Andaman Sea. Often traveling alongside migrants seeking better lives, they relied on smugglers, exposing themselves to risks such as trafficking, kidnapping for ransom, and various forms of inhuman treatment.

During the reporting period, UNHCR intensified its efforts to protect individuals at sea through several key initiatives. Despite the absence of sufficient safeguards in international maritime law for refugees and migrants undertaking sea journeys, UNHCR advocated for a good-faith interpretation of these laws in light of international refugee and human rights standards. In particular, UNHCR publicly and repeatedly underlined that persons rescued at sea must be disembarked in a place of safety, where their lives are no longer threatened, and their basic human needs are met.¹ Advocacy and partnerships were strengthened to promote effective, cooperative, and protection-sensitive approaches to search and rescue (SAR) and disembarkation. Operational support was also provided at disembarkation points and sea arrival locations. Efforts to support access to asylum and address the root causes of dangerous journeys were also enhanced.

UNHCR maintained active dialogue with the International Maritime Organization (IMO) and the International Chamber of Shipping (ICS), ensuring these organizations were informed and involved in all UNHCR communications with shipping companies regarding SAR operations.

UNHCR led advocacy through the Inter-Agency Group on the Protection of Refugees and Migrants Moving by Sea, an informal coalition of UN and international entities with expertise in sea protection. The group analysed SAR practices along different sea routes and identified gaps in existing regional responses to protection concerns.

In September 2023 IOM and UNHCR launched the e-learning course on [Protection of Migrants and Refugees Moving by Sea](#), which aims to enhance understanding of the legal standards providing protections in the context of rescue and interception operations. Designed for State authorities, humanitarian organizations and partners engaged in sea interventions, the course equips learners with the necessary knowledge to operate effectively in different functions.

In the lead-up to the [Global Refugee Forum](#) UNHCR launched the [Multistakeholder Pledge: Developing Comprehensive Responses to the Protection Challenges Faced by Refugees and Migrants Moving by Sea](#), encouraging States and other stakeholders to take new concrete steps to reduce losses of life at sea and ensuring the development of protection-sensitive responses in favour of asylum-seekers, refugees, stateless people and migrants in maritime movements.

¹ See: UNHCR, *Legal considerations on the roles and responsibilities of States in relation to rescue at sea, non-refoulement, and access to asylum*, 1 December 2022, available at: <https://www.refworld.org/docid/6389bfc84.html>; Inter-Agency Group, *Joint Statement on Place of Safety*, May 2022, available at: <https://www.unhcr.org/media/40227>; and UNHCR, *UNHCR Position on the Designations of Libya as a Safe Third Country and as a Place of Safety for the Purpose of Disembarkation Following Rescue at Sea*, September 2020, available at: <https://www.refworld.org/docid/5f1edee24.html>.

UNHCR engaged with the EU SAR Contact Group, providing comments on the Roadmap towards a “European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea” and participating in an informal exchange on the type of information that shipmasters may exchange with rescued people following SAR incidents,

In November 2023 UNHCR participated in the High-Level Dialogue Platform within the [Centre for Humanitarian Action at Sea](#). The platform aims to foster cross-sectoral dialogue and collaboration amongst the commercial shipping industry, humanitarian organisations and State actors on issues of search and rescue.

UNHCR contributed to the [10th session of the Working Group on the Smuggling of Migrants](#) including through the co-organisation of a side-event focused on issues related to preventing and combating the smuggling of migrants by sea.

Andaman Sea and Bay of Bengal

From September 2023 until April 2024, about 3,168 individuals (73 % women and children) were recorded leaving or attempting to leave Bangladesh or Myanmar by boat. During the same period, 278 individuals were reported as dead or missing. Analysing broader trends, from 2021 until the end of 2023, the maritime movements in the Andaman Sea and Bay of Bengal increased by 480%. Given the insecurity in the refugee camps in Bangladesh, limited opportunities for legal pathways to third-country solutions, lack of effective protection, and the root causes of displacement remaining unresolved, the current trend analysis anticipates a further increase in maritime movements during the 2024-2025 period commencing in September, when weather conditions are expected to be more conducive.

The vast majority of perilous maritime movements in the Asia Pacific region occurs across the Andaman Sea and Bay of Bengal, with predominantly stateless Rohingya refugees departing from Myanmar and from refugee camps in Bangladesh. UNHCR continues to work with States and partners to establish a comprehensive regional response, prioritizing reducing loss of life at sea through efficient search and rescue, protection-sensitive responses upon disembarkation, and advocating for access to safe and legal pathways and to asylum procedures.

Authorities from various agencies within the Government of Bangladesh are active members of the Anti-Trafficking Working Group (ATWG) in Cox’s Bazar. The ATWG, co-chaired by UNHCR and IOM, has developed messages to raise awareness about the risks and dangers that may arise before, during, and after irregular onward sea movements from Bangladesh. These messages are widely disseminated across all refugee camps. As a result, in 2023, 419 trafficking victims were identified and assisted.

UNHCR continues its advocacy with regional platforms such as the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process). In collaboration with the Bali Process, UNHCR supported capacity-building sessions on Protection at Sea for law enforcement officials from Sri Lanka, Bangladesh, Malaysia, Thailand, and Indonesia.

UNHCR is furthermore concerned about so-called pushbacks at sea. UNHCR was made aware of instances elsewhere in the region where Rohingya refugees (found to be in distress at sea) were detained upon arrival and subsequently refoiled. UNHCR is actively engaging with a number of Governments to ensure the principle of non-refoulement is fully respected in several additional cases.

Mediterranean situation

Generally, in 2023, some 212,100 refugees and migrants were reported to have attempted to cross the central Mediterranean Sea from Algeria, Libya, and Tunisia to Europe, a 52% increase compared to known attempts in 2022, and the highest number since 2017.

The Central Mediterranean Sea route continued to account for the majority of boat movements in the Mediterranean region, with over 50,000 arrivals in Italy, the highest number and overall proportion of sea arrivals of any destination country on the Central and Western Mediterranean and the North-West Africa Maritime Routes. Arrivals to Italy through the central Mediterranean Sea in 2023 stood at 150,273 individuals, a 73% increase compared to 2022. Most of these arrivals were rescued by Italian authorities, some arrived with no direct assistance, and according to the Italian Institute for International Political Studies (ISPI), about 14,090 persons (9% of the total arrivals) were rescued by Search and Rescue (SAR) NGOs and subsequently disembarked in Italy in 2023.² The figures on arrivals in Italy compare with those in Malta (177), and Spain (55,350) respectively. Tunisia and Libya accounted as the main countries of departure in the Central Mediterranean. During the same period, there were 38,400 sea arrivals recorded in Greece and 6,900 in Cyprus in the East Mediterranean part. Between September 2023 and April 2024, some 708 people were reported to have died or gone missing in the Central Mediterranean Sea, a decrease from 1,472 persons in previous reporting period.

Limited state-led SAR capacity continues to result in loss of life at sea. UNHCR continued to call upon States to ensure that rescue and humanitarian assistance at borders and at high seas are not criminalized. In this context, UNHCR shared its legal observations with EU co-legislators on the new Facilitation Directive meant to amend the EU framework for preventing and responding to smuggling.³ Further, UNHCR continued to raise concerns to Malta about its strict definition of ‘distress’ and non-adoption of the 2004 SAR amendments.

Tunisian and Libyan authorities increased their engagement in interceptions of departing boats, which regularly resulted in disembarkations in their national ports. The number of individuals intercepted or rescued and then disembarked in Tunisia was 29,491 people, almost three times the number of individuals disembarked in Libya during the reporting period. UNHCR has repeatedly underlined that Libya is not a safe place for disembarkation following rescue at sea,⁴ given the systematic exposure of disembarked refugees and migrants to human rights violations in the country. Throughout the reporting period, the Libyan Coast Guard (LCG) reportedly continued to use intimidating tactics to dissuade and frustrate rescue efforts by SAR NGOs.

In the East Mediterranean, UNHCR called for conclusive investigations into reports of incidents involving pushbacks and other human rights violations of refugees and migrants at Greece's sea borders⁵. In Cyprus, following the reports of interceptions and returns by Cypriot state vessels of boats departing from Lebanon,

² [ISPI - Standoffs in the Central Mediterranean \(Crisi in mare\) - Google Sheets](#)

³ UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the European Commission Proposal for a Facilitation Directive*, 14 March 2024, <https://www.refworld.org/legal/intlegcomments/unhcr/2024/en/147898>

⁴ UN High Commissioner for Refugees (UNHCR), *UNHCR Position on the Designations of Libya as a Safe Third Country and as a Place of Safety for the Purpose of Disembarkation Following Rescue at Sea*, September 2020, <https://www.refworld.org/policy/countrypos/unhcr/2020/en/123326>

⁵ <https://www.unhcr.org/europe/news/press-releases/un-high-commissioner-refugees-wraps-visit-greece-welcomes-progress-integration>

UNHCR has advocated for ensuring that any measures adopted by Cyprus in response to increased sea arrivals are in line with international law.⁶

Through constructive dialogue with coastal and flag states, and regional organizations, and through engagement with relevant maritime and humanitarian stakeholders, UNHCR continues to call for the development and implementation of a regional scheme to improve coordination on Search and Rescue (SAR) operations at sea to prevent deaths and persons going missing at sea and ensure predictable disembarkation protocols and subsequent processing of persons rescued/intercepted at sea. During the reporting period, UNHCR continued convening monthly consultations with the “Central Med SAR Network” which includes NGOs and UN agencies (IOM and OHCHR). These meetings provided an active forum to exchange information on SAR challenges and advocacy opportunities and helped inform the work of the Inter-Agency Group on the Protection of Refugees and Migrants Moving by Sea at global level. UNHCR and IOM have also been working towards further collaboration on SAR in the Central Mediterranean Sea and the mixed movements, particularly on increasing data sharing and producing joint products.⁷ UNHCR’s Special Envoy for the Western & Central Mediterranean situation has also began communication by formal letter with shipping companies whose vessels were involved in providing assistance to individuals in distress at sea in the Central Mediterranean, or who reportedly had failed to do so. Through this initiative, UNHCR recognized and commended the positive efforts of merchant vessels and crews in rescuing and assisting persons in distress at sea by sending letters of appreciation to the relevant shipping companies, owners of the vessels, reserving copies for related flag States.

In terms of the West Africa-Atlantic route, from September 2023 to April 2024, some 44,800 refugees and migrants are reported to have crossed from the African coast to the Canary Islands, a significant increase compared to 16,400 during the previous reporting period.

Atlantic route

As briefly mentioned above, between September 2023 and early May 2024, some 44,500 people arrived by sea in the Canary Islands after departing from West and North Africa. At least 731 people were reported to have died at sea along this route within this period, but NGOs reported that the actual number may have been far higher. In Mauritania and Morocco, UNHCR continued to work with partners to conduct outreach to people on the move to warn them of the dangers of migration by sea, advising on the protection and assistance options available where they are, including for people in need of international protection.

Within the context of the 2023 Global Refugee Forum, The Gambia and Guinea Bissau used the opportunity of the multistakeholder Global Refugee Forum to reiterate their commitment vis a vis protection sea and seek the support of relevant actors by pledging to support comprehensive responses to the protection needs of asylum-seekers, refugees, stateless people, and migrants moving by sea. The Gambia, in particular, committed to establish mechanisms for screening and referral of persons with specific needs including children, single women, older persons, persons with disabilities, victims of trafficking and survivors of trauma and ensure strengthened specialized services to address their needs in addition to ensure access to

⁶ <https://apnews.com/article/migration-syria-refugees-lebanon-boats-cyprus-03fc83d7bce1aed0514fd1113c82fe9a>

⁷ UNHCR, IOM. Migrant and Refugee Movements Through the Central Mediterranean Sea: Joint Annual Overview, 28 November 2023, <https://data.unhcr.org/en/documents/details/105077>

justice for refugees and migrants subjected to abuse and exploitation prior to and during smuggling by sea, including in transit and destination countries”.⁸

Western Indian Ocean route

UNHCR initiated a data collection project named “A data voyage on the western Indian Ocean” with support from its Data Innovation Fund. Through a partnership with Mixed Migration Centre (MMC), qualitative data on movements along the routes linking Tanzania, Comoros, Madagascar and Mayotte will be collected and analyzed with a view to increasing knowledge and understanding of the phenomenon. MMC will coordinate with UNHCR France which will be directly involved in the exercise in Mayotte.

In November 2023, sixteen individuals found themselves stranded on Anjouan Island in the Comoros, where they were detained. They were eventually released thanks to the intervention of CARITAS, a local NGO, in collaboration with the Coast Guard. In March 2024, approximately fifty individuals were abandoned by smugglers on Grande Comore, under the false belief that they had arrived in Mayotte. Resident Coordinator Office confirmed that no one got detained. In April 2024, another group of twenty-eight individuals were stranded on Anjouan Island. Claiming to be from the Democratic Republic of Congo, most of the group eventually reached Mayotte. During this period, UNHCR also intervened on behalf of individuals arriving in the Comoros by air, advocating against refoulement in several cases.

The Government of Comoros expressed willingness to engage with UNHCR on several fronts: capacity building for key officials and members of civil society on obligations under international refugee law, technical advice and inputs on revisions to draft laws, policies and action plans on human trafficking and on combatting smuggling of migrants, as well as on the revision of the law on entry and stay in Comoros. The Government also agreed to facilitation and support of UNHCR’s mentioned data collection project. Nevertheless, the Government has ceased notifying international organizations about new arrivals. Previously, the Comorian government would alert the IOM if a group was stranded on one of the islands, and the IOM would subsequently inform the UNHCR.

Caribbean situation

In the north and eastern Caribbean, available statistics indicate a continued rise in maritime movements along the route towards The Bahamas, with most noteworthy trends occurring in the months of March and April 2024. In these months, the Royal Bahamas Defense Force (RBDF) recorded the apprehension of 875 persons, with an additional 626 individuals apprehended by the Turks and Caicos Islands patrol unit (in collaboration with RBDF). All encountered individuals were Haitian. During this period, information was released of a reported 537 individuals repatriated by sea to Cap-Haitien by the RBDF, and an additional 60 repatriated by Turks and Caicos authorities. These events follow the last repatriation occurrences in September 2023, of which 55 Haitians were returned by air. While recognizing the ongoing efforts of the competent Coast Guards, UNHCR notes the need to continue to work closely with the authorities of several island states in the region to support the development of systems to ensure the identification of asylum-seekers and of other people in need of international protection.⁹

⁸ <https://globalcompactrefugees.org/>

⁹ UN High Commissioner for Refugees (UNHCR), *International Protection Considerations with Regard to People Fleeing Haiti*, HCR/PC/HTI/2024/01, 20 March 2024, <https://www.refworld.org/policy/countryspos/unhcr/2024/en/147710> [accessed 19 May 2024]

On 25 January, UNHCR Trinidad and Tobago with MCO-Washington facilitated a remote workshop titled "Understanding the Intersection between International Human Rights Law and Refugee Protection Law" hosted by CARICOM IMPACS. The 131 participants included the police, immigration officers, customs agents, national security agencies including coast guards, representatives from Government ministries, and the DPP office, countries in attendance were Andorra, Anguilla, Antigua and Barbuda, Bahamas, Belize, Bermuda, the Cayman Islands, Grenada, Guyana, Jamaica, St. Vincent & Grenadines, Suriname, Trinidad and Tobago, the Turks & Caicos Islands and the British Virgin Islands. Topics included UNHCR's mandate and key notions of refugee protection. Further, in September 2023, 81 members of the Trinidad and Tobago Defence Force attended a training session on international protection and screening for the specific needs of asylum-seekers, refugees, and migrants in vulnerable situations, as part of a workshop delivered by UNHCR, in collaboration with the UNFPA, IMO, OHCHR, the Pan American Development Foundation, the Caribbean Centre for Human Rights, Living Water Community and La Casita Hispanic Cultural Centre. Topics covered included the international protection of refugees, screening at entry points, the identification of specific needs, and communicating with survivors of gender-based violence, in addition to best practices in treating refugees and migrants in irregular situations, psychological first aid, and the support offered by various partner organizations.

Gulf of Aden

Between September 2023 and March 2024, some 12,000 people crossed the sea to Yemen, compared to 73,700 between September 2022 and March 2023. UNHCR and partners are working to strengthen communication measures with people along the routes to warn them of the risks involved and to advise them on protection and assistance options available. At least 157 people drowned as the result of shipwrecks between September 2023 and May 2024 in the Gulf of Aden.

Amid ongoing conflict, climate-induced displacement, humanitarian crisis, and increasing risks of exploitation and abuse, the number of movements from and to Somalia has been returning to pre-pandemic levels. Smuggling remained attractive to young people seeking to migrate to the Middle East, Europe, and other destinations through the Gulf of Aden. However, the Somali authorities, UNHCR and IOM remained resource-constrained to monitor the entry and exit points fully and lacked reliable data and resources to monitor the number of people being trafficked and to support interventions. In Yemen, UNHCR and IOM are working together on a joint strategy on responding to mixed movements by sea in a way that protects the rights of all persons and takes into account the specific circumstances of persons in need of international protection.

In terms of patterns, a noteworthy shift was observed in movements toward coastal embarkation points, from Obock, Djibouti being the most common to Bari region, Somalia. The change could be due to varying weather conditions and sea tides, as well as greater patrolling of the Djiboutian Coast Guard.

In March 2024, the war in Gaza and threats by Yemeni Houthi rebels to attack US and other military bases in Djibouti led the Djibouti authorities to close all secondary entry and exit points with Yemen, and to tighten security at the border. From now on, the only official entry and exit point with Yemen is the port of Obock. Two incidents marked the month of April 2024 (on 8 and 23 April), when two boats sank near the tourist village of Godoria, around 20 km from the town of Obock. In the first case, 38 people died, 4 disappeared and 22 survived, all of them Ethiopian nationals. In the second incident, the death toll was 27, with 17 missing and 33 survivors. A Yemeni identity card was found on one of the bodies and all the others

were Ethiopian. The survivors were taken to the IOM office, where they received the necessary care and support before continuing their journey to Ethiopia.

In Somaliland, the UNHCR-IOM co-led Mixed Migration Task Force (MMTF) collaborates with various stakeholders to address migrants' needs and combat illegal migration and trafficking. As the number of individuals trafficked from Somalia through the Gulf Aden is uncertain, the MMTF 2022-2024 strategy recognizes the need for better monitoring and support for trafficking victims. Therefore, in 2023, UNHCR, in partnership with the University of Hargeisa Legal Clinic, supported the Somali government with capacity-building training sessions on refugee law and international protection for 177 government staff, including coast guards and border and immigration officials. However, despite these efforts, more awareness among government officials and resources are required to enhance effective responses.

UNHCR Division of International Protection, 14 June 2024