

## **UNHCR Contributions**

### **Report of the Secretary-General on Oceans and the Law of the Sea, Part II**

**June 2020**

1. In the absence of safer means to seek international protection, refugees and other persons under UNHCR's mandate continued to resort to dangerous journeys by sea in many parts of the world including in the Mediterranean Sea, in the Bay of Bengal and in the Andaman Sea. They often move along migrants seeking better life using the services of smugglers and, in many instances exposing themselves to the risks of being trafficked, kidnaped for ransom purposes or subjected to unhuman and degrading treatments. During the reporting period UNHCR continued to 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.

#### **Mediterranean Sea**

2. Between 1 September 2019 and 22 June 2020, some 71,400 refugees and migrants crossed the Mediterranean Sea to Europe, of which 20,600 did so in 2020. Nearly 60% of sea arrivals in this period were to Greece (after crossing from Turkey), with 18% each arriving to Spain (crossing from Morocco and Algeria) and Italy (primarily crossing from Libya and Tunisia). Arrivals to Europe in this period represent a 4% decrease compared to the period between September 2018 and June 2019. Many of those crossing the sea since September 2019 likely had international protection needs, supported by the fact that some 43% of sea arrivals in this period were nationals of Afghanistan and the Syrian Arab Republic. During this period, some 765 people are believed to have died at sea.
3. Besides the death toll, UNHCR and partners are also concerned about the security risks, as well as trafficking, exploitation and abuse. Women and girls, and individuals with diverse sexual orientation and gender identities are at heightened risks and face additional challenges to access information, asylum and protection.
4. In the Central Mediterranean, the number of refugees and migrants attempting to cross the sea from Libya in 2020 has increased by over 70% compared to the same period in 2019. So far this year, the primary nationalities departing from Libya have been Sudanese (23%), Bangladeshi (20%), and Somalis (6%).
5. UNHCR appreciates the efforts of all actors conducting search and rescue operations and continues to engage with coastal States on the need for refugees and migrants in distress to be rescued without delay and taken to a safe port for disembarkation. Rescue capacity in the central Mediterranean, in particular, has diminished due to the effects of the COVID-19 pandemic and the cessation of EUNAVFOR MED Operation Sophia. Beyond the current COVID-19 crisis, UNHCR called

for renewed efforts to reduce the loss of life at sea, including increased search and rescue capacity and a predictable disembarkation mechanism.<sup>1</sup>

6. In the second week of April, Italy and subsequently also Malta declared that neither of their respective ports could be considered to be a 'place of safety' according to the Hamburg Convention on Maritime Search and Rescue due to the COVID-19 situation and – in the case of Malta - overstretched reception capacities. As for Italy, this affected only NGO vessels rescuing persons at sea while Malta did not make such a distinction. Malta further announced that it would no longer be in a position to guarantee the rescue of persons in distress at sea, and on several occasions sent private fishing vessels on its behalf to rescue boats in the Maltese search and rescue region (SRR). On one occasion, this resulted in the group being disembarked in Libya. As a result of Malta's announcement, only 138 people were disembarked there in April and May with the remaining 425 people rescued by the Armed Forces of Malta or fishing boats on Malta's behalf transferred onto several pleasure cruise vessels and held off the Maltese coast until Malta allowed their disembarkation in early June (with one group spending 39 days at sea). Similarly, people rescued by an NGO spent 12 days on the NGO vessel before permission was granted for them to be transferred to an Italian vessel where they remained off the Italian coast for a further two weeks prior to disembarkation. In addition to almost 500 people who arrived spontaneously from Libya between Italy's announcement on 7 April and the end of May, just over 400 people rescued by the Italian Coast Guard and/or the Guardia di Finanza in Italian territorial waters around Lampedusa, and some 80 people rescued by a merchant vessel close to Lampedusa in the Maltese SRR were disembarked in Italy. In addition, a further 1,050 people arrived in Italy from Tunisia in this period, with around 40% having been rescued or intercepted at sea by Italian authorities.
7. To move away from the current ad hoc arrangements whereby relocation of rescued persons within the European Union is negotiated on a boat-by-boat basis, resulting in often lengthy waiting periods before disembarkation can take place, UNHCR and IOM are jointly calling for the establishment of a predictable regional disembarkation and solidarity mechanism for refugees and migrants rescued at sea as per their written proposals in 2018/19.
8. In order to prevent dangerous crossings, in addition to strengthen asylum systems along the Central Mediterranean route, UNHCR encourages the implementation of legal pathways, including through family reunification, education and labor mobility, as well as strengthened communication with communities' strategies.
9. UNHCR continues to advise against returns to Libya, which cannot be considered a place of safety.  
<sup>2</sup> Despite this, some 8,400 refugees and migrants have been disembarked there since September 2019, mostly as a result of interceptions and rescues by the Libyan Coast Guard. The reduction in search and rescue capacity in the Libyan SRR, including due to restrictions on search and rescue NGOs and the absence of EU State vessels consistently engaged in rescues off the coast of Libya, together with coordination by European authorities with Libyan counterparts regarding rescues

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<sup>1</sup> <https://www.unhcr.org/news/press/2020/5/5eac53214/news-comment-search-rescue-central-mediterranean-gillian-triggs-assistant.html>

<sup>2</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Position on Returns to Libya - Update II, September 2018, available at: <https://www.refworld.org/docid/5b8d02314.html> [accessed 26 June 2020]; See also *SS v Italy* "assistance to or cooperation with a coastal State in circumstances where there is foreseeable risk that it will result in increased incidence of returns to places where migrants and refugees are at risk of serious human rights violations must at minimum be accompanied by clear and effective measures to mitigate that risk..."

and interceptions by the Libyan Coast Guard in the Libyan SRR, has contributed to a situation in which more boats are traveling further from the Libyan coast this year than last year in order to pass beyond the Libyan SRR and seek rescue by European actors or arrive directly in Europe. This can increase the level of risk refugees and migrants are facing at sea on these longer journeys, despite smugglers appearing to have generally reduced overcrowding on boats and provided more with satellite phones compared to 2017. Detection of boats by aerial surveillance and increased calls for help from boats have helped reduce the number of deaths so far, but with around 80 people usually on each inflatable boat, any capsizing or deflation at sea far from help would soon result in many more deaths.

10. In the Eastern Mediterranean, UNHCR has called for an end to push-backs at sea and for asylum-seekers to have access to asylum procedures.<sup>3</sup> While the Hellenic Coast Guard has shown exceptional dedication and courage to save countless refugee and migrant lives at sea, the present allegations go against Greece's international obligations and can expose people to grave danger.
11. Post-disembarkation procedures raise different protection concerns in North Africa, presenting specific security risks such as shootings, shelling, and detention in Libya, and limited access to persons under UNHCR's mandate in detention or at risk of refoulement, as well as narrow protection space for persons with diverse profiles in Algeria and Mauritania
12. In response to the protection risks faced by individuals with different ages, genders and backgrounds, including trafficking, exploitation and violence, UNHCR calls for the implementation of strengthened coordination with academic institutions, including on disclosure and identification of protection needs, and accessible services.

### **South-East Asia**

13. From January 2019 to June 2020, about 3,300 Rohingya embarked on a journey across the Andaman Sea and Bay of Bengal. A small number of Bangladeshi and other Myanmar nationals have also undertaken this journey. A minority reached Malaysia, their intended destination, others were intercepted at sea, turned back after spending several months stranded at sea, or their ship wrecked or washed ashore due to engine trouble or bad weather.
14. In response to these movements, some coastal states have implemented interception and pushback measures, to prevent onward journeys towards their territory. In the absence of adequate search-and-rescue efforts, these practices have resulted in refugees and migrants remaining stranded at sea in dangerous circumstances for several months aboard vessels.
15. At least 170 Rohingya refugees have died or gone missing in the Andaman Sea and the Bay of Bengal since January 2020, including 166 in the first half of 2020. Refugees at sea face life-threatening distress situations due to unseaworthy vessels, unpredictable sea and weather conditions, shortages of food and water, and physical and sexual abuse by smugglers.
16. Some states demonstrated that rescue at sea and subsequent disembarkation can be managed safely, in respect of adequate measures to manage public health risks. In the first half of 2020,

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<sup>3</sup> <https://www.unhcr.org/news/briefing/2020/6/5ee33a6f4/unhcr-calls-greece-investigate-pushbacks-sea-land-borders-turkey.html>

Bangladesh, Malaysia and Indonesia implemented health screening and quarantine arrangements for persons rescued at sea.

17. UNHCR has actively engaged with States and other stakeholders in the region to promote protection at sea and responsibility sharing, including coordinated search and rescue, equitable and predictable disembarkation options, and screening mechanisms. For instance, in Indonesia, Malaysia and Bangladesh, UNHCR has engaged during the reporting period with national coast guard agencies and conducted capacity building initiatives to promote and support a protection-sensitive response to the needs of persons rescued at sea. Furthermore, UNHCR and partners such as IOM and UNODC have called for greater coordination and responsibility-sharing by states to address the maritime movements of refugees and migrants in the Bay of Bengal and Andaman Sea
18. With the support of UNHCR, IOM, and UNODC, the fifth meeting of the Bali Process Task Force on Planning and Preparedness in February 2020 enabled a dialogue with Member States on protection at sea and protection-sensitive measures to respond to mixed movements. Among others, the fight TFPP Co-chair statement recognized “the primacy of saving lives at sea and not endangering the life and safety of persons in responding to irregular maritime migration”.
19. There are to date no regional mechanisms in place to ensure equitable and predictable disembarkation of refugees and migrants in distress at sea, 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. The Indonesian Presidential Regulation remains the sole commitment in South-East Asia to rescue and disembark refugees in distress.

#### **East Africa**

20. During the period of September 2019 – January 2020, most Somali returnees departed from Yemen due to the general insecurity. They reported problems encountered during the sea crossing and 25% of those interviewed stated that their boat capsized.
21. In Somalia, since 2018, UNHCR has been engaged in “The Telling the Real Story pilot”, which is a community-based initiative that disseminate stories about the dangers of onward irregular movement including risks of crossing the sea. UNHCR also provides reception facilities for returnees from Yemen that have crossed the sea and engages with advocacy activities related to safe and timely disembarkation.

#### **Gulf of Aden**

22. Despite ongoing conflict, humanitarian crisis, , and increasing risks of exploitation and abuse, the number of mixed populations flows to Yemen by sea continued in 2019. UNHCR registered 7,775 asylum-seekers from Somalia (90%), as well as Ethiopia, Eritrea, and other countries . During the first months of 2020, mobility restrictions and security measures imposed due to COVID 19 pandemic contributed to a decrease in the number of individuals who reached Yemen (30,838) in relation with the same period of the previous year (74,333) . Registration of asylum-seekers by UNHCR showed similar trends in 2020, with 3,546 persons mostly from Somalia seeking asylum . While young men made up the majority, an estimated one-fourth of new arrivals are women and children.

23. In the context of the Refugee and Migrants Multi-Sector and the Mixed Migration Working Group, UNHCR and IOM continue to lead the humanitarian response for migrants, asylum-seekers and refugees in Yemen, including those arriving by sea. Support for reception, registration and refugee status determination is provided by UNHCR, along with health care, financial and other assistance services. The Assisted Spontaneous Returns (ASR) of Somali refugees supported by UNHCR decreased during COVID 19 pandemic, however counselling through help desks continued in Aden.