EXTERNALIZATION OF MIGRATION AND THE IMPACT ON THE HUMAN RIGHTS OF MIGRANTS

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS

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Introduction

This briefing is submitted in response to the call for inputs of the Special Rapporteur on the human rights of migrants on the topic of "externalization of migration and the impact on the human rights of migrants". In view of the increased reliance by EU countries on cooperation with third countries in the management of migration, and of the EU's ongoing efforts to lower the safeguards surrounding asylum and return procedures, Amnesty International welcomes the Special Rapporteur's decision to dedicate their forthcoming report to this issue.

This submission consists of an overview of Amnesty International's **positions and policy considerations regarding externalization of migration control** as a whole, and of a compilation of the organisation's **recent research and campaign work on specific instances of externalization.** It reflects the state of play of EU legislation and proposals that are likely to expand countries' ability to engage in externalization schemes. These include the European Commission's proposal for a Return Regulation in March 2025, the proposal for an EU list of safe countries of origin in April 2025, and the proposed revision of the 'safe third country' concept in the Asylum Procedures Regulation in May 2025.

Overarching concerns and policy considerations

The prevailing approach to external migration policies in Europe centres on the narrow objective of **countering irregular border crossings and 'externalising' responsibility for border management and refugee protection to states outside the EU**. This reductive focus has hampered capacity to cooperate towards safe and regular mobility and a fairer distribution of responsibility. This approach has, moreover, generally been implemented through partnerships with states that do not uphold human rights and that often lack adequate monitoring in addition to evading, public parliamentary and judicial oversight. **Refugee protection** and the expansion of **safe pathways**, by contrast, typically represent a secondary or minimal part of these agreements.

Human rights implications

Amnesty International's global body of research and analysis has found that when cooperation with third countries on migration control is limited to preventing and deterring arrivals by externalising border enforcement, the necessary safeguards and oversights are often evaded, and the outcome is marked by a significant downgrading of human rights standards, undermining of internal/external policy coherence, and reduced autonomy and influence vis-à-vis external partners. These arise from both the policy objectives as well as the means through which these objectives are achieved and maintained.

Amnesty International submits that these policies may have severe impacts on: **the right to seek asylum**, particularly when the partner countries that people are prevented from leaving or are returned to lack an effective asylum system or may expose them to rights violations; **the principle of non-refoulement**, by contributing to pullbacks, pushbacks or returns without adequate assessments of protection needs, both directly or indirectly; **the right to liberty**, as various forms of deprivation of liberty and at times arbitrary detention are often involved to prevent people's onward movement; as well as **protection from torture and other ill-treatment**. These risks are all the more significant where cooperation lacks an adequate assessment of the human rights records of partner countries and adequate monitoring and conditions.

Transparency and monitoring

Many recent migration agreements by the EU or EU member states have taken an informal format and been negotiated by ad hoc configurations of actors (such as 'Team Europe' formats), which limit transparency, including as to the beneficiaries and impact of EU funds, and carry unclear legal implications. In this context, both the European and national parliaments have been denied adequate scrutiny over the development, ratification, implementation, and monitoring of key agreements. Several states themselves and the European External Action Service expressed frustrations over their limited oversight of EU-Tunisia negotiations, for instance. Similarly, civil society organisations in the EU and third countries alike have not been consulted or involved in the development of these deals – casting doubt on the EU's stated commitments to support civil society in Tunisia, Egypt, and other partner countries.

While international human rights standards may be mentioned in the text of recent agreements, these have not been accompanied by concrete efforts to ensure human rights compliance in practice or guarantee that EU funding does not benefit actors contributing to human rights violations.

No ex-ante human rights impact assessment was conducted ahead of these deals, which should be public and based on robust benchmarks. EU funding, equipment, and technical support has not come with concrete human rights indicators and effective independent monitoring attached, and no clauses are foreseen to suspend cooperation in the event of rights abuses by actors benefiting from EU support.

Broader implications

Amnesty International has noted that these agreements have also rendered the **EU less critical of third countries' glaring human rights abuses, weakening Europe's credibility as an autonomous global power and credible human rights actor**. The EU's cooperation with Libya, for instance, was found by UN Commissioned Investigators to have aided and abetted violations of international human rights law, international humanitarian law and the commission of crimes against humanity.

European leaders have been reluctant to raise public concerns or condemnation over human rights abuses perpetrated in countries with which they partner on migration against asylum seekers, refugees and migrants. They have also been silent regarding assaults on the rule of law; repression of dissent, free speech and civil society; or the jailing of critics, journalists and judges by authorities in Egypt and Tunisia. European government are also at risk of undermining international justice efforts in the same countries (see: Libya/Italy: Reported arrest of Osama Njeem an opportunity to end cycle of impunity for Libyan militia abuses). In doing so, Europe risks enabling the consolidation of a tightened grip on power by repressive leaders.

This approach also **undermines the international refugee protection system**, with European governments increasingly shifting rather than sharing responsibility for upholding the right to asylum worldwide.

Amnesty International's position on externalization deals in Europe and key reports and publications

Overarching analysis

- Briefing Paper: The human rights risks of external migration policies, June 2017

Analysis of EU developments

- Press Release: EU: Return proposals a "new low" for Europe's treatment of migrants, March 2025
- Briefing: EU Leaders should Uphold Right to Asylum in Europe, November 2024
- Joint Statement: The future EU must uphold the right to asylum in Europe, July 2024
- Contribution to European Ombudsman's Strategic Inquiry OI/3/2023/MHZ – The Role of the European Border and Coast Guard Agency (Frontex) in the Context of Search and Rescue Operations, October 2023

Key examples of externalisation efforts in the EU

The primary aim of most recent EU and member states' migration agreements with third countries has been to prevent people's access to the EU's territory, including by containing them in countries in which they are exposed to

rights violations, that lack effective asylum systems or protection from refoulement and arbitrary detention, and where they often lack access to adequate services. Recent agreements with **Tunisia** and **Egypt**, as well as ongoing cooperation with **Libya** and **Türkiye**, seek to reduce arrivals to Europe, including through increased interceptions at sea and disembarkations by respective coast guards, despite overwhelming evidence of abuse, violence, and unlawful returns taking place. Relevant reports and press releases relating to these examples are listed below.

Egypt

Against the background of the EU's cooperation with Egypt and the Strategic Partnership of 2024, Amnesty International has documented extensive abuses against refugees, asylum seekers and migrants, including detention in cruel and inhumane conditions and unlawful deportations without due process.

- Press release: Egypt: Halt arbitrary arrest, disappearance and threatened deportation of Ahmadi minority members, April 2025
- Report: Egypt: "Handcuffed like dangerous criminals": Arbitrary detention and forced returns of Sudanese refugees in Egypt, June 2024
- Press release: EU/Egypt: Put human rights at the centre of all cooperation, March 2024

Tunisia

In Tunisia, Amnesty International has warned that the EU risks complicity in human rights abuses through its assistance to Tunisian authorities, including in the context of the EU-Tunisia Memorandum of Understanding of 2023, despite their ongoing systematic use of collective expulsions of asylum seekers, refugees and migrants to Libya and Algeria – including children or pregnant women. These take place without a judicial process or individualised assessments of protection needs and vulnerabilities; sometimes involve violence; and have resulted in multiple documented deaths and grave humanitarian needs in desert areas.

- Press Release: Tunisia: Year-long arbitrary detention of human rights defenders working with refugees and migrants, May 2025
- Joint Statement: Tunisia is Not a Place of Safety for People Rescued at Sea, October 2024
- Press Release: Tunisia: Amnesty International's Secretary General denounces rollback of human rights upon concluding four-day visit, July 2024
- Press Release: Tunisia: Repressive crackdown on civil society organizations following months of escalating violence against migrants and refugees, May 2024
- Press release: EU/Tunisia: Agreement on migration 'makes EU complicit' in abuses against asylum seekers, migrant and refugees, July 2023

Italy-Albania

In November 2024, Albania and Italy signed an agreement establishing that Italy would build two detention centres in Albania where people intercepted by Italian authorities at sea while trying to reach Italian shores would be detained, subjected to accelerated asylum procedures, and potentially to return procedures. The agreement was signed without any conditions requiring respect of human rights obligations during its implementation and **without any mechanism to monitor and assess its human rights impact** and to suspend the cooperation in case of violations. The agreement is in breach of Italy's obligations under international and EU law and Italy's Constitution and has already infringed on a range of human rights, including the rights to life and physical integrity of people in distress at sea, and the rights to liberty, to asylum, and to adequate remedy, of people transferred to Albania. While under the terms of the agreement, people remain under **Italian jurisdiction,** it is likely that their right to seek asylum and have their claims fairly assessed will be severely curtailed.

In March 2025, the Italian Government hastily approved a decree allowing for people detained in Italy who are subject to an expulsion order to be forcibly transferred to detention centres in Albania, altering the original purpose of the deal. This follows several Italian court rulings rejecting orders of detention for people sent to the centres in Albania, on the basis that they are not in line with EU and Italian law. While transfers from the high seas have been paused due to these rulings, the new decree provides no justification or criteria for transporting and detaining people in another country, making these decisions likely to be arbitrary and discriminatory. The decree is also expected to

increase the likelihood of dangerous, swift returns to countries of origin, disproportionately impacting racialized people.

- Press Release: Italy: New detention centres in Albania are a "stain on the Italian government", July 2024
- Report: The Italy-Albania Agreement on Migration: Pushing Boundaries, Threatening Rights, January 2024
- Press Release: Italy: MPs should reject "unworkable, harmful and unlawful" migration deal with Albania, January 2024

Libya

For several years, Amnesty International has documented how assistance from Italy and the EU to Libya continues to enable Libyan coastguards to intercept thousands of people at sea every year, and take them back to detention centres in Libya, where they are subjected to "hellish" conditions, including prolonged arbitrary detention; enforced disappearances; torture and other ill-treatment, including rape; unlawful killings; and various forms of exploitation, amounting, per the UN, to crimes against humanity. On 12 June 2025, the European Court of Human Rights will rule on the case of *S.S. and Others v. Italy* (no. 21660/18), examining Italy's responsibilities for its cooperation with Libyan authorities in a rescue operation, as a result of which the Libyan Coast Guard took 47 people back to Libya, where they were detained and exposed to abuses, and an unknown number of people died. Amnesty International and Human Rights Watch submitted a joint third-party intervention in the case, arguing that Italy shares responsibility for human rights violations that result from maritime operations by Libyan authorities that are carried out employing unnecessary or disproportionate force or that end in people being returned to abusive conditions. The submission also argues that the cooperation does not condition support to Libya upon human rights standards and recognition of the right to seek asylum.

- Press Release: Libya/EU: Conditions remain 'hellish' as EU marks 5 years of cooperation agreements, January 2022
- Report: Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya, July 2021
- Europe: Plan of Action – Twenty steps to protect people on the move along the central Mediterranean route, June 2021
- Report: Libya: 'Between life and death': Refugees and Migrants trapped in Libya's cycle of abuse, September 2020
- Press Release: Libya: Renewal of migration deal confirms Italy's complicity in torture of migrants and refugees, January 2020
- Amicus Curiae/Third Party Intervention: Italy: Human Rights Watch and Amnesty International Submissions to the European Court of Human Rights in the case of SS. and Others v. Italy (no. 21660/18), November 2019; and relevant Public Statement: Italy shares responsibility for Libya abuses against migrants: third-party intervention filed at European Court of Human Rights, November 2019
- Report: Between the Devil and the deep blue sea: Europe fails refugees and migrants in the central Mediterranean, August 2018
- Public Statement: Italy: Refugees and migrants in the central Mediterranean, cutting the lifelines, May 2017

Türkiye

Cooperation with Türkiye through the EU-Türkiye Statement of 2016 has likewise exposed refugees and migrants to human rights violations, with people being returned from Türkiye to Syria and Iran in violation of non-refoulement, experiencing violence and unlawful returns at Greek borders, or becoming trapped in undignified living conditions on the Greek islands following the implementation of the deal.

- Litigation launched by Amnesty International Netherlands in coalition with other NGOs: Netherlands: NGOs seek justice for rights violations under EU-Türkiye deal, March 2025
- Research briefing: Greece: Samos: "We feel in prison on the island": Unlawful detention and sub-standard conditions in an EU-funded refugee centre, July 2024
- Report: Afghanistan: "They don't treat us like humans": Unlawful returns of Afghans from Turkey and Iran, August 2022
- Report: Greece: Violence, lies, and pushbacks – Refugees and migrants still denied safety and asylum at Europe's borders, June 2021
- Press Release: EU: Anniversary of Turkey deal offers warning against further dangerous migration deals, March 2021
- Report: Turkey: Sent to a war zone: Turkey's illegal deportations of Syrian refugees, October 2019
- Report: Greece: A blueprint for despair. Human rights impact of the EU-Turkey deal, February 2017