Examples of externalisation measures

Please share examples of externalisation policies or measures, including prevention of leaving, push back or pull back practices, interdiction at sea, joint border controls or interceptions, readmission arrangements, safe country concepts, third country and offshore processing, extraterritorial detention/reception centres (including "return hubs").

If available, please provide information in relation to these examples on the following: a) What is the (legal) basis for these measures, specifically, are they based on formal or informal agreements?; b) Which entities are responsible for negotiating, concluding and implementing these arrangements (executives/parliaments/agencies e.g. border agencies, police forces or equivalent)?; c) To what extent are these measures practical to implement in practice?

Example 1: Joint sea patrols in the Adriatic Sea conducted by Italian and Albanian coast guards aim to intercept migrant boats before reaching EU shores.

Legal Basis: Formalized via bilateral maritime cooperation agreements and EU-level coordination with Frontex involvement.

Responsible Entities: Maritime authorities, Frontex, Ministries of Defense and Interior in both countries.

Practical Implementation: These operations are routinely conducted but often face criticism for inadequate safeguards for migrants' rights during interception and return.

Example 2: Joint land border controls along Albania's borders with neighboring countries, coordinated with EU member states and Frontex.

Legal Basis: Based on formal agreements within EU-Albania cooperation frameworks and border security accords.

Responsible Entities: Albanian Border Police, Frontex, and corresponding agencies in neighboring states.

Practical Implementation: Effective in controlling irregular migration flows, though limited resources and corruption concerns can hamper consistent application.

Transparency and monitoring

a) Is the legal basis for externalisation measures (such as Memoranda of Understanding) publicly available?; b) Is the information on externalisation measures (including implementing measures and technical cooperation) made available under freedom of information/access to documents laws, when requested?; c) What monitoring mechanisms are foreseen and how do they function in practice?; d) Are human rights impact assessments carried out, especially prior to agreement, and if so, what are their modalities, including findings being public?; e) Are there complaint mechanisms in place?

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a) Legal Basis Public Availability: Key agreements like the Italy-Albania Protocol are partially public but full texts and details are often not fully accessible.
b) Access to Information: Freedom of Information laws exist but practical access to detailed documents on externalisation and cooperation is limited, often restricted for security reasons.
c) Monitoring Mechanisms: Monitoring is mainly done internally by Albanian authorities and EU agencies like Frontex, with limited formal human rights oversight. NGOs provide independent but informal monitoring.
d) Human Rights Impact Assessments: Formal, comprehensive impact assessments prior to agreements are generally lacking or not publicly shared. Human rights evaluations tend to occur reactively.
e) Complaint Mechanisms: Specific complaint channels related to externalisation are limited and not well publicized, making it hard for migrants to raise grievances effectively.

Cooperating States

a) How do cooperating States benefit from these arrangements?; b) What is offered in exchange for cooperation; c) Are the arrangements subject to democratic scrutiny and oversight (e.g. by parliamentary committees)?; d) Are the measures made public and/or announced by the authorities in cooperating States?; e) Did the agreements trigger changes in national laws or policies?

a) Benefits: Cooperating States (mainly Italy and EU countries) gain better control over migration flows and reduce pressure on their own asylum systems.

b) What's Offered: Financial support, capacity building, joint operations, and development aid are provided to Albania in exchange for cooperation.

c) Democratic Oversight: Some parliamentary scrutiny exists but is generally limited and lacks full transparency in both Albania and cooperating States.

d) Public Disclosure: Key agreements are announced publicly, but operational details are often confidential.

e) Legal/Policy Changes: Agreements have prompted changes in migration and asylum laws and policies, especially in Albania.

Non-State actors

a) What is the role of non-State entities in the development and implementation of externalisation measures? These entities may include international/regional/intergovernmental organisations, private companies (including Private Military and Security Companies (PMSCs) and technology companies), armed groups, or NGOs; b) What are the implications of the involvement of non-State entities with regard to transparency, accountability, and human rights protections?

a) International and Regional Organizations: Bodies like the International Organization for Migration (IOM), UNHCR, and Council of Europe often provide technical assistance, capacity building, and monitoring support. They may help design reception standards or conduct training but do not usually

implement border controls directly. Frontex, though an EU agency, operates with a hybrid status and often cooperates closely with Albanian authorities in joint border operations.

Private Companies: Some private security firms or technology providers (e.g., for surveillance, biometric systems, data management) are contracted by governments or EU agencies to support border management infrastructure.
However, information on specific PMSCs or private firms active in Albania's externalisation framework is limited or confidential.

Non-Governmental Organizations (NGOs): NGOs play a key role in monitoring human rights conditions, providing legal aid, and advocating for migrants and asylum seekers. They often act as watchdogs and report on abuses or procedural flaws within externalisation settings.

Armed Groups: There is no documented involvement of armed groups in official externalisation measures in Albania.

b) Implications for Transparency, Accountability, and Human Rights

Transparency: The involvement of private companies and some international agencies can reduce transparency, as contractual details and operational practices may be kept confidential citing security or commercial sensitivity.

Accountability: Non-State actors, especially private firms, often operate under less direct public accountability frameworks compared to state agencies. This creates challenges for effective oversight and responsibility for abuses or failures.

Human Rights Protections: While international organizations and NGOs promote human rights standards, private security and tech companies may prioritize efficiency or security over rights, risking rights violations (e.g., surveillance misuse, harsh detention conditions).
The fragmented roles of diverse actors complicate coherent protection frameworks and grievance mechanisms for affected migrants.

Use of technology

a) In what ways is technology, including specific tools or systems, employed to facilitate or support externalisation measures?; b) If technology enabling the collection and processing of personal data is provided to or acquired by cooperating States, where is that data stored and by whom?; c) In which ways does the use of technology contribute to or exacerbate the risk of violations of the human rights of migrants and to what extent are there avenues for justice?

a) Technology Used: Surveillance tools (CCTV, drones), biometric systems (fingerprinting, facial recognition), and data-sharing platforms support border control and migrant processing.

b) Data Storage: Personal data is stored by Albanian authorities, cooperating States, and EU agencies, with limited public detail on management and protection.
c) Human Rights Risks: Technology can lead to privacy violations, biased profiling, and support pushbacks or forced returns, risking migrants' rights.
d) Justice Avenues: Legal protections exist but are hard for migrants to access due to limited transparency and weak oversight.

Human rights implications

What is the (practical and/or legal) situation of individuals once they are transferred or taken to the cooperating States, irrespective of their nationality and migration status?; b) What human rights risks arise in connection with specific externalisation measures or particular phases of their implementation—such as prevention of departure, interception, detention, or return/transfer?; c) To what extent do migrants and their families have access to justice for human rights violations that occurred as a result of externalisation practices throughout their migration journey?

a) Situation of Individuals Transferred to Cooperating States

Legal and Practical Status: Once transferred to cooperating States (e.g., migrants sent back to Albania under the Italy-Albania Protocol), individuals often face limited access to asylum procedures and legal safeguards.
Conditions in reception or processing centres may vary, with reports of overcrowding, inadequate services, and restricted freedom of movement. Their migration status often remains uncertain, impacting access to healthcare, legal aid, and social rights.

Some migrants face prolonged detention or expedited returns without sufficient procedural guarantees.

b) Human Rights Risks by Phase

Prevention of Departure: Risk of coercion, lack of information, and interception without legal safeguards. Individuals may be prevented from leaving without access to protection or remedies.

Interception and Pushbacks: Practices at sea or land borders may involve pushbacks without assessment of asylum claims, violating the non-refoulement principle. Risk of physical harm or unlawful detention.

Detention:
External centres and border facilities often have poor detention conditions, with inadequate access to basic needs, legal counsel, and protection from abuse.

Return/Transfer:
Risks include forced removals to unsafe environments, lack of effective remedy, and violations of rights to family unity and due process.

c) Access to Justice for Human Rights Violations

Limited and Fragmented: Migrants and families face significant barriers in accessing justice:

Lack of information about rights and procedures

Language and financial obstacles

Limited availability of legal aid

Complex jurisdictional issues when violations involve multiple States or private actors

Judicial remedies exist in theory, especially in cooperating EU States, but in practice, enforcement is inconsistent.

NGOs and international organizations provide some support but face challenges in ensuring accountability for abuses linked to externalisation.

Responsibility and jurisdiction

a) How can the responsibility of the externalising State be established in cases of human rights violations? b) What jurisdictional approaches may be invoked to assess the extraterritorial application of human rights obligations in the context of externalisation practices involving migrants?; c) Please provide examples of rulings by international or national courts related to externalisation measures, including addressing migrants who have not yet reached the territory of destination countries.

a) State Responsibility: Albania and cooperating States (e.g., Italy) may both bear responsibility for human rights violations linked to externalisation, especially when they exercise effective control over migrants—for example, in joint centres or during returns.
If Albania hosts offshore processing centres or implements policies agreed with cooperating States, it is also accountable under international law.

b) Jurisdiction: Courts can apply extraterritorial jurisdiction to Albania or cooperating States when they control migrants outside their borders, such as in Albania's reception or return hubs. This includes authority exercised during interception at sea or joint border operations.

c) Relevant Cases: While no major international rulings specifically target Albania's externalisation yet, the principles from cases like Hirsi Jamaa v. Italy (ECtHR) provide a legal framework applicable to similar Albania-related arrangements. Albanian courts have limited jurisprudence on this, but EU courts and human rights bodies increasingly scrutinize cooperating States' obligations related to Albania.