

Criminalization of solidarity - borderline-europe

In addition to the military armament and sealing off of the EU borders, the criminalization of flight and any form of solidarity and humanitarian behavior by citizens and civil society organizations has been increasingly pursued in recent years. A large number of legal proceedings in various member states have been documented in corresponding studies by borderline-europe, the Institute of Race Relations (IRR), the Migration Policy Group (MPG) and others.

A central issue in this context is the action against civil search and rescue organizations at sea (SAR NGOs), including the consequences for those affected and refugees. Since the publication of an "internal" Frontex report in 2016, in which cooperation between SAR NGOs and traffickers from Libya was assumed, restrictive measures by state authorities have been steadily increasing. The presence of NGOs in the central Mediterranean and the Aegean Sea is being massively restricted as a result. Elements of this approach include the introduction of the *Code of Conduct for NGOs Involved at Migrants' Rescue Operations at Sea*, confiscation of ships, the closure of the ports of Italy and Malta for ships with rescued persons on board, up to investigation proceedings against crew members or captains and the detention of civilian rescue ships in the ports under flimsy accusations. Various European states intervened by withdrawing the flag status of such ships, refusing permission to take off or, as in the case of Germany, trying to create new hurdles through ship safety regulations.

Since the EU and its member states withdrew SAR operations in the Central Mediterranean, civil society actors were often the only remaining presence on the spot. However, almost all of them are currently being held ashore by state intervention. The strategies of criminalizing and blocking civilian rescue and observation ships have a direct effect in increasing the risk for refugees and migrants at sea and, in the worst case, result in an increase in deaths. The risk of letting people drown is consciously accepted for the purpose of deterrence. Moreover, humanitarian actors are often the first to provide medical assistance and translation services. The absence of such assistance therefore has a negative impact on the physical and mental health of the refugees, who often suffer from severe depression, mental illness and physical injuries caused by the dangerous and traumatic experiences of flight.

Finally, the systematic and growing criminalization of search and reconnaissance flights as well as monitoring by ships illustrates the common interest of the European states in pushing civil society observers out of the areas of the EU maritime borders. This is demonstrated, for example, by the initiative of the German Ministry of Transport to prevent Mare Liberum ships from monitoring human rights violations in the Aegean, as well as the cooperation between the Italian and Swiss aviation authorities, which led to the grounding of the observation aircraft „Moonbird“ which is operated by Sea-Watch and the Humanitarian Pilot Initiative (HPI) in the Central Mediterranean. Such systematic blockades increase the probability of further deaths of refugees. In addition, they make it more difficult or even impossible to document human rights violations as they have been proven to be committed by European coastguards and Frontex in cooperation with third parties such as the Libyan coastguard.

Targeted actions with the aim of silencing civil society thus endanger human lives and violate not only European basic values such as the rule of law and democracy, but also the basic rights of refugees, migrants and EU citizens. According to the European Charter of Fundamental Rights, every person has the right to freedom of thought and conscience (Article 10), freedom of expression and information (Article 11), freedom of assembly and association (Article 12) and judicial rights (Articles 47-50). Humanitarian actors have the right to provide assistance on land and at sea, particularly where Member States do not guarantee migrants' right to life (Article 2) and their effective right to asylum (Article 18), or protect them

from torture and inhuman or degrading treatment (Articles 4 and 19), forced labour and trafficking in human beings (Article 5).

In addition to criminalizing solidarity, the member states of the European Union systematically violate the Geneva Convention on Refugees by criminalizing and imprisoning persons seeking protection. In numerous cases, refugees are arbitrarily accused of being smugglers and of aiding and abetting illegal entry and are sentenced to brutal punishments. In addition, asylum seekers are also increasingly criminalized in Germany for illegal entry or residence. This violates Art. 31, para. 1, Geneva Convention, which prohibits the criminalization of refugees in this case.