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EU migration strategy: compromising principled humanitarian action

Anaïs Faure Atger

EU migration policies are undermining basic humanitarian principles and making it more difficult for humanitarian actors to uphold their ethical commitments.

Over recent years, EU migration policies have negatively affected the conditions under which humanitarian actors can carry out their work along migration routes. National Red Cross Societies are witnessing with concern how these policies are narrowing the space for them to act in accordance with their fundamental principles, and in particular those of humanity, impartiality, independence and neutrality.¹

In efforts to reduce irregular migration by prioritising anti-smuggling and anti-trafficking measures, current EU policies and priorities are contributing to the criminalisation of assistance to migrants. In several EU Member States, individuals assisting migrants have been threatened with criminal prosecution for allegedly facilitating irregular entry or stay. While most accusations have later proved to be unfounded, some individuals have indeed been prosecuted. In 2018 in France, for example, several citizens providing assistance and transportation in life-threatening situations were summoned to court on grounds of smuggling. In Belgium, people offering shelter to migrants in transit were arrested and accused of human trafficking. Even when not criminalised, these types of acts of compassion are increasingly hindered by a variety of dissuasion and intimidation strategies. In Hungary, certain organisations and individuals are being labelled as having 'pro-migration' affiliations in an attempt to stigmatise those supporting migrants. In Greece, volunteers assisting migrants are often intimidated and subject to police harassment.

Across Europe, and even more visibly at borders, increasing numbers of administrative decisions and rules have been applied with the aim of narrowing

the scope of humanitarian acts. Often, their objective is to limit and control access to the locations where migrants are.² In Hungary, legislation passed in 2018 prevents individuals and organisations from providing assistance along the country's borders; as a result, migrants there experience extreme destitution and sustained health problems.

The most publicised attempts to criminalise assistance to migrants have related to search and rescue activities in the Mediterranean. Although maritime law is unequivocal when it comes to the duty to aid boats in distress, there have been increasing controversies around the legitimacy of operations aimed at saving migrant boats. Aside from being accused of facilitating smuggling and trafficking, civil society organisations performing search and rescue operations in the Mediterranean have been subjected to smear campaigns and legal restrictions. The Code of Conduct imposed by the Italian authorities in 2017 aimed to reassert government control over the operations but effectively required humanitarian organisations to relinquish some of their principles, in particular by its blurring of the separation of law enforcement and humanitarian activities.³

Besides putting many lives at risk, these trends have had a broader impact on the entire humanitarian sector by creating suspicion towards the work of humanitarians. When the legitimacy of protecting life and health and ensuring respect for human dignity is questioned, the principle of **humanity** is jeopardised.⁴ Such criminalisation of assistance inevitably affects the general public's perception of these humanitarian organisations whose work is therefore undermined and their reputations suffer. Indeed, organisations such as the Red

Cross are encountering increasing difficulties in recruiting volunteers for migration-related activities. In addition, donations to charities performing such activities have fallen. In the most extreme cases, humanitarian actors have suffered physical threats.

Politicisation of EU aid

The means by which humanitarian actors can operate are further challenged by recent trends in institutional funding modalities and priorities. EU international aid is increasingly moving away from development towards migration management objectives. Regions situated along the routes to Europe now receive the largest proportion of funding, as EU donors consider them strategic in addressing the root causes of migration. Programmes targeting would-be migrants (often young males in rural areas) are prioritised at the expense of activities aimed at other groups. **Impartiality** is threatened as the needs of certain populations risk being overlooked. There is also the danger of entrenching discriminatory practices in international aid programmes.

The European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (EUTF for Africa)⁵ is a recent example of the intertwining of border control, security and development objectives. It aims to support migration management, including through the prevention of irregular migration, enforcement of border controls and implementation of return and readmission policies. Organisations wishing to access the EUTF are required to work with actors such as law enforcement actors, who may have different objectives and ethics; this jeopardises the humanitarian organisations' **neutrality**. As EU aid to third countries is increasingly made conditional upon cooperation on EU migration management priorities, implementers of such funding risk becoming associated with these migration control objectives. Efforts to curb migration limit the scope for needs-based interventions, narrowing the space for humanitarian actors to act – and affecting their **independence**.

This trend is further reinforced as the EU and its Member States legitimise certain policy decisions by involving non-governmental organisations (NGOs) and UN agencies. The EUTF, for example, funds efforts by both NGOs and the UN to improve detention conditions and infrastructure in Libya – but the overcrowding of these facilities is a direct consequence of EU efforts to contain migrants in neighbouring third countries. The EU and its Member States appear to counter-balance their restrictive policy measures by funding aid organisations to address the needs that they create. Such politicisation of EU aid jeopardises the neutrality of humanitarian actors, as they are forced to either disengage or be associated with this political agenda. Some humanitarian organisations have taken the position that by remaining recipients of EU aid they become complicit in the perpetration of human rights violations. Following the implementation of the EU–Turkey statement in 2016, for instance, Médecins Sans Frontières announced it would no longer accept money from the EU, saying that it could not be funded by States and institutions and at the same time treat the victims of their policies.

Instrumentalisation of the humanitarian sector

In a context where migrants are facing increased risks along the routes to the EU, humanitarian actors are called upon to play a bigger role in responding to migrants' greater vulnerabilities. Such actors often supplement, and at times substitute for, public authorities in their duty to save, heal and protect. However, although authorities rely on humanitarian actors, such actors are having to deliver assistance in a context of reduced financial support and tighter legal requirements. This is particularly obvious when examining the conditions and budgets under which National Red Cross Societies are asked to run migrant reception centres across Europe.

Ironically, although humanitarian actors are asked to respond to situations which are often the foreseeable consequences of harmful policy choices, they are not

consulted when it comes to anticipating and reducing the factors contributing to the emergence of such needs. In the case of the EU–Turkey statement, European Red Cross Societies joined other civil society actors in expressing their grave concerns regarding the humanitarian implications of implementing this agreement. They identified policy recommendations and offered support in finding durable and more humane solutions.⁶ These opinions were nonetheless met with indifference. Paradoxically, the EU–Turkey statement was portrayed by most decision makers as a humane way to stop migrants putting their lives at risk in a sea crossing between Greece and Turkey. Three years later, the living conditions of migrants confined to the Greek islands as a result of the agreement continue to threaten their dignity.

Another worrying associated development relates to how State authorities are challenging the autonomy of humanitarian action. Humanitarian activities are at times used to facilitate migration control operations. In several Member States, organisations have reported that migrants risk being rounded up by immigration officers at points of service delivery. Humanitarian actors are also increasingly called on to grant immigration authorities access to their premises, services and data. At the end of 2017, the French government issued a decree allowing immigration officers to enter homeless shelters to verify people's immigration status. In Ventimiglia, Italy, the police are stationed at the entrance of the Red Cross transit centre, registering all entries. Such manipulation of humanitarian activities affects the independence of humanitarian actors, a principle which is essential to guaranteeing their access to the most vulnerable.

Restoring the balance

While States have always exerted some control over humanitarian actors, the scale of the threat to principled humanitarian action with migrants has recently increased. Universally accepted humanitarian principles are challenged, and even established humanitarian actors, such as National Red Cross Societies, are affected. As the

space for humanitarian actors to operate independently and in accordance with their mandate is reduced, so too is their capacity to meet the needs of migrants.

A balanced relationship between authorities and humanitarian organisations needs to be restored. This requires re-establishing meaningful dialogue between authorities and humanitarian actors, focusing on the humanitarian consequences of current EU migration policy choices and on the best way to address these. Together they should work to better identify those factors that prevent migrants from accessing basic services and should collaborate on whatever policy changes and programming improvements are needed.

States need urgently to respect and reaffirm humanitarian organisations' ability to act in accordance with their principles in all contexts, including in the politicised context of migration. This should be publicly acknowledged and practically supported by restoring the legal, financial and administrative conditions necessary for principled humanitarian interventions. Organisations such as the National Red Cross and Red Crescent Societies must be allowed to provide humanitarian services to all migrants, regardless of their legal status. This right should be protected, and humanitarian assistance should never be criminalised; this also requires explicitly excluding acts of humanity from the scope of anti-smuggling legislation.

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