



EPC Sixty Minute Briefing

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Lives at risk, rights in danger - Has Europe lost its way?

Re-asserting human rights obligations in EU migration policy and practice

Thank you very much for hosting and for joining me. In a town in which there are many sets of lectures, I am honoured that you have chosen to attend this one. It is my great pleasure to have the opportunity to deliver a speech to you all today here at Scotland House, in collaboration with our colleagues from the European Policy Centre. After my speech, I would like to move into a more interactive phase, with questions and answers.

The title of this briefing is self-explanatory. I want to talk about whether Europe has lost its way. My speech will focus on migration policy and practice.

One of the things we were thinking about when we chose this venue was the Schuman roundabout. This location is poignant. It reminds one of the words of Robert Schuman himself, when he spoke of the 'European spirit'. I'm sure you're more familiar with them than me. To Schuman, the European spirit was a willingness to serve one's community, without any hidden motives of hegemony or the selfish exploitation of others. The core of that spirit, the thread that bound the nations together, was a shared respect for the rule of law, human rights and fundamental freedoms.¹

In the past 2 days, I have had the opportunity to discuss what that European spirit means with some of the European Union's most distinguished and senior institutional representatives and leaders. It was easy to agree that the guiding principles of the EU remain democracy, human rights, non-discrimination, justice, freedom and equality.² This is in fact what makes the EU potentially exceptionally strong internally and externally, compared to most other regional groupings.

¹ Robert Schuman, speaking about a European Community in Strasbourg on 16 May 1949

² Art 2 TEU the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.



Lately, though, I have wondered what Schuman would think of how this community of states has developed. The EU and its member states have achieved some great things in the area of human rights, among them is its legislation against discrimination, its focus on equality between women and men, the Charter of Fundamental Rights; or on the external front its human rights tool box and human rights framework strategy. But in some areas, we can't help wonder whether the Union is in fact still on the same path.

There are many human rights issues I could mention, but today I focus on how migrants', refugees' and asylum-seekers' lives are at risk, as EU member states fail to uphold their human rights obligations.

Whenever we raise these issues with EU leaders we pretty much receive the same answers for why it is simply not possible in the field of migration to be guided by the EU's very own treaty values. And I want to use this platform to dispel what to me are feeble excuses for not taking responsibility to save lives and treat all human beings in an equal manner and with dignity.

Doing this, it is our responsibility to give a voice to those who cannot be here today. A voice to the many migrants, refugees and asylum seekers who simply cannot understand why they, or their friends and relatives are being left to drown at sea; why they are being beaten for simply wanting to give themselves and their loved ones a better life; or why they are being detained in conditions that so many of us wouldn't think is possible in Europe.

So, let's begin with a story—the story of a Syrian woman in her early 30s with 6 children, who I call Samia. Samia's husband has already fled to Switzerland and she is now desperately trying to join him with her children. No regular route is open to her, so she takes the difficult decision to make the dangerous journey to Europe, so her children can be safe. Samia reached a small boat in Turkey, which she and her children boarded with approximately 30 others. During the journey to 'safety', she said that the Greek coastguards rammed their boat near Agathonisi Island in an attempt to scare them to turn back to Turkey.

Let me read to you her testimony, one testimony amongst so many, and I quote: '[...] they took us to Agathonisi Island where we were detained for 7 days. We were incredibly dirty and wet. But there was no shower and they did not give us dry clothes. They only gave us water; not even food. I had 100 Euro with me. I spent it all to buy food in detention. A week later, they transferred us to Samos Island. I had no money left, so I couldn't even buy food.' Close quotation marks.



This is a true story, and by comparison a lucky one. Every year, thousands of people embark on dangerous journeys on unseaworthy vessels, trying to reach Europe. Some are fleeing conflict; others are trying to escape grinding poverty. Those who manage to arrive in Europe are put in detention, sometimes for years, beaten, treated as criminals, and deprived of their dignity; others are exploited as cheap labour without any employment rights.³

I'm not sure that I'm telling you anything new, but I think it is useful to remind ourselves that none of this happens by chance. These practices form part of an explicit EU policy of deterrence, a policy of prevention, not of protection.

In the past three years, more than two and a half thousand men, women and children lost their lives attempting to cross the Mediterranean Sea.

Yes, thousands have been rescued at sea by EU member states over the past years.⁴ But many more deaths could have been prevented through a focus on search and rescue rather than deterrence or through creating safe and accessible routes for people get to the EU, preventing them from needing to board dangerous boats in the first place.

So let's be clear also that failure to rescue people in distress at sea, dangerous interceptions, push-backs, torture and abuse in detention: all of these are illegal under international and under European law.

Is this really in line with the spirit of the EU, as laid out by its founders? Have the countries of the European Union not lost their way?

And the story doesn't end here. In an attempt to distance themselves from these prevention practices, some countries are looking to 'outsource' migration control to other countries. That too often includes leaving people stuck in countries with deplorable human rights records; Libya being a case in point.

³ Potential extra story: This is what another Syrian named Bilal told Amnesty International after he was part of a group of 35, including young children, being pushed back by Greek coast guards on the morning of 6 October 2013: 'They put all the men lying on the boat; they stepped on us and hit us with their weapons for three hours. Then around 10 in the morning, after removing the motor, they put us back to our plastic boat and towed us back to Turkish waters and left us in the middle of the sea'. When a 55-year-old woman of the same group asked for water, she was given seawater to drink.

⁴ From the background document: "Italy has rescued thousands of people at sea over the past months, [including one thousand just in early January](#), since the operation Mare Nostrum was launched". And then another 400 were saved around 12 January according to [UK Reuters](#).



By ignoring the problem and hoping other countries will deal with their migration issue, EU member states are further aggravating the plight of migrants and refugees. Working with countries with deplorable human rights conditions - is this really in line with the spirit of the EU's much proclaimed values, the spirit of Schuman?

The horrific deaths of hundreds last October triggered a promise to do something about the protection of life ahead of the prevention of people arriving. Sadly, those were almost crocodile tears of European leaders. Two Justice and Home Affairs Councils, two European Summits, and one taskforce later.... all we have is the re-affirmation of the exact same policy principles that are at the root of the problem: surveillance and prevention, not rescue and protection.

Nor are we seeing an answer to the basic question; why are these people on boats on the Mediterranean in the first place? Why are they getting mistreated four times over? At home, then by smugglers who put them on overcrowded and unseaworthy vessels? And if they are still alive after those two rounds the third one could be a beating and potential push back at the EU's shores. You made it to the EU? Well then, enjoy the memorable experience of months in a Greek detention centre.

European migration policy, as far as we are concerned, is simply wrong; the December Council Conclusions are off the mark; the discourse is misleading; and the lack of international solidarity is astounding.

The lesson Europe fails to learn is that movement of people cannot be stopped. It can only be diverted for a short time, exposing migrants and asylum-seekers to further exploitation by smuggling and trafficking rings, and increasingly longer and more hazardous journeys.

One of my favourite quotations, which I mentioned to President Barroso yesterday, comes from a US electoral candidate, Rick Perry. In the context of Mexican migration issues, a proposal was made to build a wall along the US border. And Rick Perry said, in essence; if you build a 20-foot wall, migrants will find a 30-foot ladder.

At Amnesty International, we have spoken to scores of ministers, not just during the last two days. The team in Brussels has presented extensive research data, and petitions signed by thousands of Europeans; we have made films and art installations to give a face to the human stories behind every life put at risk at sea; we have even pulled a boat through Brussels, marching together with migrants; we have gathered young activists and migrants and refugees from all over Europe for a week of action along the borders in Lampedusa and then in Lesvos; and we have dressed the Schuman roundabout outside this very window on the day of the EU



summit in October with life vests. I know that all these actions can and will make a difference. But I am also deeply disappointed at the response we receive.

Let me explain the four elements around which the responses cluster:

1. First, we so often hear that it is all about 'illegal migrants' arriving at our shores. This implies that the majority of those fleeing conflict or poverty are somehow just not willing to stay in their own country, and that they are all criminals, so they mustn't be helped!
2. Second: Staying on the theme of criminals, EU leaders argue that enhanced search and rescue will only feed the criminal activity of smugglers and traffickers and fill their pockets
3. A third argument of choice for EU leaders is that the creation of more safe routes would only create a pull factor encouraging even more people to come to Europe
4. And finally – and almost most shamefully – we hear that the EU is facing its own crisis, and the 'boat is already full'

Let me explain why these arguments are all fundamentally flawed.

1) Let's be clear - migration is not a crime and no human being is illegal. You can't call a migrant illegal. Calling them illegal is dehumanising and criminalising. Changing wording from *illegal* to *irregular*, as Commissioner Malmstroem is doing – and Amnesty International always uses words such as undocumented, informal, irregular – is not just window dressing. Words are powerful. Criminalizing people for crossing or attempting to cross borders denies rights to people who pose no threat to the security of the state or its people.

In too much of Europe, 'migrant', 'asylum-seeker' and 'refugee' have become dirty words. Much of the debate on asylum and migration is fuelled by implicit xenophobia, racism or some mix of the two. We need a different debate on migration and border management. A debate, based on fact, not on fantasy; one guided by human solidarity.

2) Second: the smugglers who make money by putting others on unsafe boats are not the cause of the problem of people dying at sea. At the moment, the EU's restrictive migration policies increasingly push people into the hands of smugglers and traffickers. The only way to put smugglers out of business is to create more safe routes to access Europe. If there were more legal channels to come to Europe, the space where smugglers act would disappear. In the words of Bilal, a young Syrian refugee in Italy: *"The EU is just giving smugglers the opportunity. We are going to make it, so why make us suffer?"*



3) My third point is about the pull factor argument. During the EU summit the biggest fear voiced by EU governments was that if they start implementing the policies they know would be right, such as regularisation or increased search and rescue, more people will come. But a policy based on deterring people is not a response to that. Migration flows cannot be stopped, at best they can be diverted, often to routes which are longer and more dangerous. Rather, migration policies need to engage with underlying reasons for movement, with attention to the push factors, which include: war, repression, unrest, economic hardship, and desire to reunite with family. As long as these push-factors are there, people will still feel compelled to try and reach Europe, notwithstanding the risks. The main pull factor is one which is very rarely spoken about: it is the high demand in the EU for labour, and especially unskilled labour, in a number of sectors – including agriculture, hospitality and construction – and the lack of regular channels for these workers from third countries to seek work opportunities in the EU.

4) And as for the final point: it is simply untrue that the EU is confronted with massive migration flows. Some countries, of course, are facing a bigger influx than others. But if you look at the numbers and resources made available these arrivals can be completely managed. Countries like Italy, Greece and Bulgaria are benefitting massively from emergency funding allocated by the European Commission. The refugee boats sink at sea because they are massively overcrowded. But the 'EU boat' is anything but full.

In fact, two thirds of the world's refugees are hosted by the poorest countries of this world. If you look at the numbers, only 80 000 refugees are resettled each year globally. The US takes 50 to 60 thousand refugees a year, the EU a meagre four and a half thousand. Given the EU's land size and population size, not to mention its wealth, these numbers are shamefully low.

Let me focus briefly on the current situation in Syria, where 6 million are internally displaced. In total, nearly 40% of the country's pre-war population have been pushed out of their homes.⁵ There are 2.3 million refugees, 97% of whom ([UNHCR](#)) are now in neighbouring countries that are very tiny and relatively poor. The five countries I'm talking about are Lebanon, Jordan, Turkey, Iraq and Egypt. In the last two years, Lebanon has received 860,000 refugees from Syria.

By size of country, this would be the equivalent of 99 million additional people reaching the EU. We can't forget that the EU's nearest capital, Nicosia, is only 200 miles from Damascus. The EU as a whole – 28 member states – has pledged a total of 14,000 places, 11,000 of which are coming from Germany. 17 have pledged no places. The remaining 11 – 3,000 places. This is less than one per cent of the total number of refugees from Syria. It is roughly the number of refugees registered in Lebanon in the last five days of November. Is this an

⁵ AI calculation based on [word bank population estimation](#) of 22.4 million for 2012



adequate response?

Yes, we need a political solution. Yes, we want to end the crisis in Syria. Yet we only take 14,000 refugees. This number is all the more astounding when one takes a look at the EU's external relations efforts in humanitarian aid and foreign relations to prevent disaster in the region. If this region faces more crises, the costs to the EU would be phenomenal, politically and financially. Resettling Syrian refugees in larger numbers now would be a substantive way of responding to the potential regional disaster for two reasons: the refugee crisis itself is a hugely destabilizing factor; and secondly if we want a stable, democratically oriented society in Syria later, Syrians need to feel by the thousands that the EU cares, that it stands in solidarity with the victims of a terrible human tragedy unfolding at its very doorstep. In our conversations with EU leaders on the external side we have found that they fully understood.

As many of you know, Francois Crepeau, the UN Special Rapporteur on the Human Rights of Migrants, said that Europe was perfectly capable of absorbing 250,000 Syrian refugees per year over the next five years. We agree, and all the facts and figures tell those willing to actually look at them that this is not exaggerated. Why can this external relations insight not be constructively communicated to interior ministers of the EU? Any suggestion we make in this direction is met with incredulity and head shaking; unthinkable we are told. Is the prevalent internal discourse of scaremongering really that important? Of course, EU leaders always say that this is not something we can do – it is a matter for member states.

Let me conclude with going back to where I started speaking about Robert Schuman: decades ago, Europe led the world in creating the modern international refugee protection regime, which rose largely from the ashes of a horrific war fought on European soil; out of a belief that protection is critically needed for those who would be persecuted because of who they are or what they believe.

It is time for Europe to remember this and stop undoing the principles of protection. The horror of detention conditions in EU countries is not only shameful in itself; it is also setting a dangerous precedent for others.

Human rights do not stop at national borders. Human rights protection applies to all human beings whether at home or abroad. Protecting the human rights of migrants is a state obligation and trumps law enforcement and migration management objectives.

It should not be acceptable any longer to frame the issue in terms of a balancing act between legitimate state interest in protecting their borders and human rights. That is a false dichotomy. The two are not and cannot be allowed to be mutually exclusive.

Just in closing, I want to remind you of 5 points that we are making to the EU in relation to



migration policies:

1. It is high time that a strong focus was put on improving search and rescue operations and condition the EU focus on protecting lives
2. There is an urgent need to create safe ways for migrants and refugees to reach the EU, and access to work systems upon arrival
3. The EU must stop outsourcing migration to places where there are no human rights safeguards, such as Libya
4. Policies in line with international law must be the default position. On Malta, for example, there is mandatory detention. Several other countries practice detention, even though it should be used only as a last resort. In cases where detention is the only available option, conditions must be improved.
5. There should be burden sharing – both globally and internally, between front line member states and others.

I'm sorry that took a bit long – but it is important to convey the message carefully. Thank you, and I look forward to your questions.