

*Foreign Affairs Committee Inquiry:
Finding a diplomatic route: European responses to “irregular migration”*

Written evidence submitted by Refugee Rights Europe (RRE)

1. Executive summary

- 1.1.** The UK has a unique opportunity to support and implement policies, alongside Italy and France, which will protect the rights of refugees and displaced people arriving in Europe, as well as strengthen cooperation with other EU states.
- 1.2.** The UK Government has a duty in its foreign policy to uphold human rights within Europe and globally, and to ensure that its commitments under the 1951 Geneva Convention and the 1967 New York Protocol are met.
- 1.3.** The UK ought to contribute to efforts aimed at bringing about permanent European resettlement and relocation programmes, which can ensure strengthened safe and legal routes both within Europe and from countries of origin; a development which in turn is likely to improve the UK’s relations with both France and Italy.
- 1.4.** The UK ought to also seize opportunities to work with other European states to develop a well-functioning and sufficiently resourced operational plans for search and rescue missions in the Mediterranean with disembarkation in Europe, in line with international human rights law obligations to which all European states are signatories.
- 1.5.** The UK Government should refrain from contributing to the externalisation of asylum and migration control to states without a functioning asylum system adopted through national legislation, states which are not parties to the 1951 Geneva Convention and the 1967 New York Protocol, and states which do not comply in practice with international human rights law, and cease funding to Libyan detention centres in light of reports of grave human rights violations.

2. About Refugee Rights Europe (RRE)

- 2.1.** Refugee Rights Europe (RRE) is a human rights organisation and registered UK charity (No 1168841).
- 2.2.** Founded in late 2015, our organisation uses its first-hand research on the situation for refugees and displaced people seeking protection in Europe, to encourage human rights-centered policy development at national and regional levels, in accordance with the Universal Declaration of Human Rights.
- 2.3.** Further information can be found here: www.RefugeeRights.org.uk

3. Impact of refugee arrivals on Italy’s domestic and foreign policies

- 3.1. The so called ‘migration-pact’ between Italy and Libya, through which, in exchange for funds, the Libyan coast guard patrols the Mediterranean and returns displaced people to Libya, is deeply troubling¹. There are wide ranging reports of human rights violations occurring in Libya, including reports of rape, torture, detention, extortion and slavery². Italy’s agreement to return displaced people rescued in the Mediterranean to such conditions would appear to violate the principle of *non-refoulement* enshrined in the 1951 Geneva Convention.
- 3.2. Regarding search and rescue in the Mediterranean, recent developments have indicated that the Italian Government regularly attempts to block the work of search rescue vessels³. Referring to search and rescue boats as ‘sea taxis’⁴, the Interior Minister, Matteo Salvini, announced the closure of Italian ports last year⁵. Since then, boats containing hundreds of vulnerable asylum seekers have been left stranded⁶.
- 3.3. As regards domestic policy, there appears to be a concerted attempt to ensure that Italy remains an unwelcoming place for new arrivals, and widespread human rights violations have been documented⁷. Most recently, the newly implemented ‘Salvini Decree’ has seen the Italian Government strip those with humanitarian status of their rights, and restricted access to the asylum accommodation system⁸. As a result of the Decree, aid agencies and NGO’s predict thousands will become destitute.
- 3.4. On the French-Italian border, the situation is characterised by widespread suffering, with a lack of shelter, water and food available to the displaced population, with many facing serious injury or death as they attempt the dangerous border crossing⁹. The Italian Government’s response has been to push individuals back to ‘hotspots’ in the South of Italy, where they face being unlawfully detained¹⁰.
- 3.5. The closure of the French border has contributed to a situation in which Italian border towns risk becoming overburdened, with reported increases in xenophobic and anti-immigrant rhetoric¹¹.

4. Impact of refugee arrivals on France’s domestic and foreign policies

¹ <https://www.euronews.com/2018/07/08/italy-promises-billions-of-euros-to-libya-if-it-accepts-the-return-of-migrants>

² See <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf> and <https://www.msf.ie/article/migration-european-government-policies-condemn-people-be-locked-libya-or-drown-sea> and <https://edition.cnn.com/specials/africa/libya-slave-auctions>

³ <https://www.bbc.co.uk/news/uk-england-derbyshire-47044804>

⁴ <https://www.theguardian.com/world/2018/sep/12/migrant-rescue-ships-mediterranean>

⁵ <https://www.politico.eu/article/matteo-salvini-italian-ports-closed-to-migrants/>

⁶ Most recently, vulnerable asylum seekers were left at sea for 10 days: <https://www.aljazeera.com/news/2019/01/italy-rescued-migrants-disembark-10-days-190130150206115.html>.

⁷ <https://www.amnesty.org/en/countries/europe-and-central-asia/italy/report-italy/>

⁸ <https://www.theguardian.com/world/2018/dec/07/vulnerable-migrants-made-homeless-after-italy-passes-salvini-decree>

⁹ http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_InDangerousTransit.pdf

¹⁰ <https://www.ecre.org/asylum-seekers-transferred-from-northern-italy-to-taranto-hotspot/>

¹¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E&fbclid=IwAR29rTgleRWOeeW-HrG-UwTIGBbVREOZlj1dhQdioV0Uprye86DrOeYEwuE>

- 4.1. On the EU's external borders, the French Government has contributed to the externalisation of responsibility for asylum by contributing financial support to Libya¹².
- 4.2. Within the EU, the closure of France's borders in 2015 has led to a bottleneck situation at the border with Italy, as mentioned above. Hundreds of displaced people are currently living in substandard conditions, risking dangerous journeys to cross the border to France¹³. In response, France has continued to 'push-back' those to Italy whom it deems to have crossed the border illegally¹⁴. Of particular concern is the illegal push backs of unaccompanied minors at the border, whereby French police are reported to be forcibly returning unaccompanied minors who cross the border¹⁵, in violation of national and international law on the rights of the child¹⁶.
- 4.3. The impact of refugee arrivals in France on domestic policy is particularly acute in the Northern France region, where large number of refugees and displaced people have travelled with hopes of reaching the UK. For many years, a bottleneck scenario has been unfolding in Northern France, characterised by precarity, rough-sleeping, dangerous and unauthorised border-crossings, and widespread reports of police violence¹⁷. The use of tear gas and intimidation tactics, as well as what may appear to amount to sleep deprivation, is continuously reported by aid groups operating in Northern France. Such an approach appears to directly hinder an effective resolution to a detrimental and decades-long situation.
- 4.4. Moreover, many have emphasised the apparent failure on the part of the British government to meaningfully facilitate safe and legal passage for prospective asylum-seekers and those looking to be reunited with family in Britain, which can take up to two years¹⁸. During research in Calais, October 2017, RRE found that 78.7% of children were unaccompanied, with 92.2% of all respondents believing that the UK was the best country for them; 29.7% of minors reported that they had family in the UK, meaning they could be eligible for family reunion¹⁹.

5. Implications for the UK's relationship with Italy and France

- 5.1. It is RRE's assumption that the UK's limited participation in the transfer of asylum claims from other European countries to Britain is likely to impact on the UK's relationship with

¹² <https://www.telegraph.co.uk/news/2017/08/28/eu-leaders-offer-support-libyan-coastguards-chad-niger-stem/>

¹³ http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_InDangerousTransit.pdf

¹⁴ <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620493/bp-nowhere-but-out-refugees-migrants-ventimiglia-150618-en.pdf;jsessionid=1CD6F11F931944B8250967289A2CF12C?sequence=1>

¹⁵ <https://www.msf.org/violations-migrants-rights-france-italy-border>

¹⁶ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹⁷ <https://www.hrw.org/report/2017/07/26/living-hell/police-abuses-against-child-and-adult-migrants-calais>

¹⁸ <https://www.independent.co.uk/news/uk/home-news/calais-child-refugee-home-office-jungle-aunt-uk-immigration-france-a8742666.html>

¹⁹ http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_TwelveMonthsOn.pdf

both Italy and France. Italy, whose economy is currently facing a recession²⁰, has expressed concern about the lack of support from EU Member States²¹.

- 5.2.** In relation to France, RRE would assume that the UK's relationship is likely to suffer unless a more active role is taken in the identification and transfer of those in Northern France with the legal basis to have their asylum claims processed in the UK. Slow processing times means that those individuals remain the responsibility of the French state in the interim, adding to the large numbers rotating in the Northern France region, as has been the case for several decades.

6. France and Italy's action in North Africa

- 6.1.** Despite reports of widespread human rights abuses in Libya, France and Italy continue to contribute to European Commission funding to the Libyan coastguard²². This would appear to be in direct violation not only of Italy and France's national commitments to human rights, but in contravention of the EU Charter of Fundamental Human Rights and the Lisbon Treaty²³.

7. The UK's actions with France in North Africa

- 7.1.** Considering the alarming rights violations occurring on Libyan soil, RRE believes that the UK Government must urgently cease funding for Libyan detention centres²⁴ and the contribution to EU funding of the Libyan coastguard. The desire to reduce migration to Europe and the UK must not come at the expense of human rights, where there are widespread reports of human rights abuses taking place in detention centres including rape, torture and extortion.

8. The UK's actions supporting Italy in the Mediterranean

- 8.1.** The lack of state-led search and rescue efforts, and the continued blocking of NGO search and rescue vessels, has led to a deeply deplorable increase in deaths in the Mediterranean²⁵. The UK ought to contribute to search and rescue efforts in line with its commitments to the protection of vulnerable people and upholding the right to life as

²⁰ <https://www.forbes.com/sites/annalisagirardi/2019/02/01/italy-falls-back-into-recession-as-the-world-fears-global-economic-slowdown/>

²¹ <https://www.independent.co.uk/news/world/europe/italy-migrant-crisis-libya-north-africa-europe-return-eu-a8499466.html>

²² <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya#>

²³ The Lisbon Treaty (Article 21) states that "the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity and respect for the principles of the United Nations Charter and international law."

²⁴ <https://www.theguardian.com/global-development/2017/mar/10/uk-funded-camps-in-libya-indefinitely-detaining-asylum-seekers>

²⁵ <https://www.unhcr.org/desperatejourneys/>

enshrined in the Universal Declaration of Human Rights. With a proud tradition of respecting and upholding human rights domestically, and with a strong liberal democratic profile internationally, the UK has an interest in safeguarding these values in order to protect its international standing and credibility.

- 8.2.** The UK ought to also use all available diplomatic channels to support disembarkation agreements across Member States, to ensure that vulnerable people rescued at sea are not left trapped on board vessels²⁶, but are able to have their asylum claim registered and assessed in line with international refugee law.

9. The UK's attempts to influence France and Italy to register asylum seekers

- 9.1.** Rather than focusing its efforts primarily on shifting responsibility for processing asylum seekers to Italy and France – two countries who are currently experiencing vast numbers of asylum claims – the UK Government ought to acknowledge the importance of European solidarity, alongside asylum applicants' individual circumstances, such as meaningful links between an individual and a specific country, and assume responsibility for applications with clear links to the UK.

10. Brexit and future cooperation and engagement

- 10.1.** As the UK leaves the European Union, the UK must ensure that it continues to fulfil its human rights obligations in its foreign policy relations with the rest of Europe and third countries. There should be an expansion of safe, legal routes to safety to ensure that refugees and displaced people are not forced to take dangerous routes in the first instance. In particular, the UK Government must ensure that unaccompanied minors already in Europe, with family in the UK, are able to reach safety in the UK. The UK Government, through the Home Office, must ensure that family reunion applications are processed quickly and fairly, in order to reduce the amount of time that unaccompanied children are left trapped in potentially harmful environments.
- 10.2.** RRE recommends that the UK clarifies and expands the mandate of the Home Office liaison officers in Northern France²⁷, in order to achieve the abovementioned objectives.

11. The UK's compliance with international legal obligations

11.1. Migrant Policies

- 11.1.1.** In regard to UK cooperation with France on juxtaposed border controls, RRE is alarmed by the hardening rhetoric towards those seeking safety in the UK. The

²⁶ <https://www.telegraph.co.uk/news/2019/01/29/british-crew-migrant-rescue-ship-limbo-sicily-appeal-help-uk/>

²⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674880/2018_UK-FR_Summit_Communique.pdf

signing of the UK-France Joint Action²⁸ Plan this January 2019 was accompanied by concerning references by the Home Secretary, suggesting that individuals who have crossed the Channel would be immediately returned to France²⁹. Asylum applicants must be allowed to have their claims submitted on an individual basis, regardless of the means by which they entered a country - as enshrined in international and national refugee law. Moreover, the approach of blanket returns to France fails to take into consideration the context in which refugees and displaced people are currently living in Northern France, and indeed the wider context of overstretched asylum systems elsewhere in Europe.

11.2. Migration in the Mediterranean

11.2.1. As proposed under point 7.1. above, the UK's involvement in funding of Libyan detention centres must end considering the growing evidence of grave human rights abuses. Returning individuals to such conditions would appear to be a clear violation of international law. Moreover, the UK's absence in search and rescue efforts in the Mediterranean does nothing to prevent more lives being lost at sea. RRE recommends introducing such efforts into relevant future foreign policy agreements on migration management in the Mediterranean region.

11.2.2. Any future British support towards border enforcement in the Mediterranean must come with unequivocal human rights accountability for implementing parties. Reports that Frontex have failed to uphold international standards and concerns raised over transparency and accountability of its operations should be investigated³⁰, while the UK must ensure that any funding is conditional upon these human rights standards being upheld.

11.3. Protection of human welfare, including in Libya

11.3.1. Throughout Europe, refugees and displaced people are facing widespread and alarming human rights violations. RRE has been documenting the human rights situation since 2016, and its reports from Calais³¹, Paris³², Brussels³³, Italy³⁴ and Greece³⁵ show that the current European approach to asylum is simply not working. The UK ought to uphold its commitment to protect and promote human

28

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773403/UK_France_declaration_24_Jan_13.00.pdf

²⁹ <https://www.gov.uk/government/speeches/statement-migrant-crossings>

³⁰ <https://www.amnesty.ch/de/themen/asyl-und-migration/festung-europa/dok/2015/die-kampagne-sos-europa/bericht-the-human-cost-of-fortress-Europe>

³¹ http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_TwelveMonthsOn.pdf

³² http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_StillOnTheStreets.pdf

³³ http://refugeerights.org.uk/wp-content/uploads/2018/09/RRE_LeftInBetween.pdf

³⁴ http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_InDangerousTransit.pdf

³⁵ http://refugeerights.org.uk/wp-content/uploads/2018/11/RRE_AnIslandInDespair.pdf

rights by taking an active role in the protection of human welfare of asylum seekers wishing to submit their asylum claim in the UK, including by engaging in responsibility sharing across Europe.

- 11.3.2.** As emphasised in paragraphs 7.1 and 11.2.1 above, the UK ought to suspend funding of current Libyan migration management in the face of growing evidence of atrocities unfolding.
- 11.3.3.** RRE would also like to take this opportunity to highlight that the rhetoric and narrative used by the UK Government to describe those aspiring to seek asylum in the UK, ought to be carefully considered as part of the UK's role in protecting human welfare. We are alarmed that the growing rhetoric amongst some Government departments, including the current inquiry, refers to those seeking asylum in Europe and the UK, as an 'influx of migrants', and feeds into the harmful dichotomy between the 'deserving refugee' and 'undeserving migrant'. Such language is unlikely to support the development of a rational and empathetic public response to the arrival of individuals fleeing persecution, war and protracted crises.
- 11.3.4.** RRE encourages the UK Government to take a lead in underlining to the wider public that all individuals have an inalienable right to have their asylum claim assessed regardless of the means by which they had to resort to in order to reach Europe.

12. Conclusion and Recommendations

- 12.1.** The UK has a unique opportunity to support and implement policies which will protect the rights of refugees and displaced people arriving in Europe, whilst also strengthening cooperation with other EU states, in particular Italy and France.
- 12.2.** The UK has an interest in supporting European work towards permanent Europe-wide resettlement and relocation programmes, to ensure strengthened safe and legal routes both within Europe and from countries of origin. This ought to support healthy diplomatic and bi-lateral relations with both Italy and France; two countries currently facing vast numbers of asylum applications and challenging scenarios at borders.
- 12.3.** In order to strengthen positive relations with Italy and France, the UK ought to ensure that family reunification applications originating in those countries are processed in a timely manner.
- 12.4.** In the interest of healthy relations with France, and in order to uphold its legal obligations under international law, the UK ought to refrain from returning asylum seekers crossing the Channel from France without having first had asylum claims assessed and the individual circumstances of applicants considered in line with the 1951 Geneva Convention and the 1967 New York Protocol.
- 12.5.** In its work alongside France and Italy in North Africa and the wider Mediterranean region, the UK Government ought to refrain from externalising asylum and migration control to states without a functioning asylum system adopted through national legislation, states

which are not parties to the 1951 Geneva Convention and the 1967 New York Protocol, and states which do not comply in practice with international human rights law.

- 12.6.** To safeguard its international standing as a strong liberal democracy with a proud human rights record, the UK ought to carry out human rights impact assessments before entering into cooperation agreements with third party states and include conditions in all cooperation agreements concerning asylum and migration management to ensure human rights protection for all individuals. Such conditions include, but are not limited to, the obligation of non-refoulement, access to a fair asylum procedure and right to effective remedy, access to information and legal assistance, safe and adequate reception conditions, access to family reunification procedures, and no risk of arbitrary detention.
- 12.7.** In the same vein, the UK ought to take the lead in its diplomatic dealings with countries such as Italy and France, and call for assurance of independent monitoring of the implementation of non-European third country cooperation agreements.
- 12.8.** A key priority area for the UK in its relations with other European states, in particular Italy and France, would be to support the development of a well-functioning and sufficiently resourced operational plan for search and rescue missions in the Mediterranean with disembarkation in the EU. The UK ought to show good will by supporting the coordination of rescue operations in such a way that they make full use of available capacities, which includes civil society vessels.
- 12.9.** The UK should use its diplomatic channels to call for a halt to the Libyan coastguard's interception of boats in international waters until Libya is considered a safe place, upholding international maritime and human rights law in practice, and operating an adequate asylum system.
- 12.10.** In sum, the UK Government has a duty in its foreign policy to uphold human rights within Europe and globally, and to ensure that its commitments under the 1951 Geneva Convention and the 1967 New York Protocol are met. Working alongside Italy and France to ensure these obligations are met could have a positive impact on the bilateral relations with these two states currently experiencing significant strain on its asylum systems.