



A polycentric approach to border externalization: Legal strategies to contrast migrants' rights violations

Conclusions of a joint international conference

On 19, 20 and 21 May 2021, four human rights organisations - [ASGI](#), [NULAI Nigeria](#), [ASF](#) and [CIHRS](#) - organised an international conference on the subject of “Border externalization policies: consequences on mobility in Africa and on the right to asylum”.

During the conference, which took place simultaneously in Abuja, Roma, Tunis, as well as in Libya, the organisations, in collaboration with the panellists and experts from Italy, Libya, Tunisia and Nigeria, reflected on how to develop transnational strategies to fight against externalization policies.

[Video of the press conference](#)

The following are the main conclusions of the joint reasoning developed during the conference:

As outlined [repeatedly](#) by human rights organisations, the European Union (EU) and European Member States' externalization policies severely restrict the freedom of movement of African citizens and, as a result, constitute a serious obstacle to the fundamental right to asylum.

European externalization policies are **part of a broader global migration management strategy**, in which reinforcement of borders, security policies, rushed expulsions and delocalization of border control play a central role.

As part of this strategy, European and African states, EU agencies, and a number of international institutions, intergovernmental agencies, private companies, and non-governmental organisations (NGOs) all intervene in building up and defining systems to control and manage mobility.

In that regard, human rights organisations have observed that externalization policies are also taking advantage of the humanitarian mandate of international institutions and NGOs, and the tight link between development actions and migration management. In Tunisia, Libya and Nigeria, this work, which aimed at mitigating the effects of externalisation policies, has become an important source of legitimisation and implementation of these same policies.

The [New Pact on Asylum and Migration](#) has confirmed and reinforced a European approach that aims to confine the processes of selecting and determining the legal status of persons on the move outside the territory of the Union. This confinement takes place through cooperation with countries of origin and transit of migration flows, and through the development of a [“legal fiction of non-entry”](#) in *transit areas* on EU territory.

As the Conference was underway, media reports [announced](#) the possibility of the European Union concluding a new externalization agreement with Libya, according to which the Libyan government would prevent migrants from departing Libya and arriving in the Southern borders of the EU, by strengthening the operational capacities of the Libyan Coast Guard. On 20 May, EU Commissioner for Home Affairs Ylva Johansson and Italian Minister of Interior Luciana Lamorgese travelled to

Tunisia to reinforce the country's joint maritime border control system and, at the same time, envisaged new mechanisms to intensify repatriations to Tunisia.

This worrying situation makes it necessary to develop new litigation strategies to identify the legal responsibilities of the different actors involved in migrants' and refugees' rights violations. To this end, it is essential to disseminate lessons learnt from the litigation and rights protection actions put in place by the organisers of the Conference. It is also necessary to strengthen and expand the litigation strategies that can be developed through transnational networks for the defence and promotion of migrants' and refugees' rights.

In particular, the organisers commit to strengthening cooperation and structuring joint action around the following objectives:

1. Ensuring the accountability of African and European states for grave fundamental rights violations of the rights of people on the move, especially the right to liberty and security, including by advocating for the strengthening of human rights sanction mechanisms and universal jurisdiction.
2. Challenging bilateral agreements and EU financial support for the implementation of border control and migration management aiming at containing human mobility.
3. Challenging the violation of the right to asylum stemming from the application of summary asylum procedures and the facilitation of the readmission of asylum seekers in transit countries, stemming from the abusive application of the concepts of "safe third country" and "country of first asylum".
4. Engaging towards the publication of return agreements to allow the evaluation of their legality, especially in relation to the impact of their application on the fundamental rights of foreign citizens.
5. Committing to legally monitor the activities of humanitarian actors - such as international institutions and NGOs – that legitimate externalization policies and to promote legal actions to ensure their accountability for fundamental rights violations.
6. Committing to monitor free trade agreements between African countries (within ECOWAS) and between EU and African countries (such as the EU Tunisia DCFTA), and highlight the ways in which it limits freedom of movement and economic activity and encourages human trafficking.
7. Challenging the collection of personal data and the misuse of biometric control systems affecting the right to free movement and right to asylum.