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Civil Society Atlas



Solidarity under attack

Focus on migrant defenders

Figures. Analyses. Interviews. Worldwide.

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Preface

Civil society organisations – including partners of Brot für die Welt – are finding themselves subject to increasing repression: Once again in 2022, many NGOs worldwide lost or were unable to renew their registration. Countless employees of human rights organisations were harassed, defamed, criminalised, arrested or killed – or were only able to carry out their work in exile. Human rights and civil society initiatives are the backbone of democracy and are essential for development, justice and peace. We are publishing this sixth edition of the Civil Society Atlas in order to draw attention to these abuses and mechanisms of repression, as well as to the key role that civil society organisations play. 2022 was a year of both positive and negative developments in the *civic space*: While according to the CIVICUS Monitor 2022 the number of people living in predominantly free societies increased between 2021 and 2022, the number of people living in states whose leaders fully suppress civil society – almost one in three people – also increased. The situation has also become more difficult for those working to help a particularly vulnerable group: people on the move. Governments around the world are trying to prevent the work of these supporters, known as *migrant defenders*. They are preventing their registration, blocking their financing from home and abroad, intimidating them, defaming and criminalising them, as we illustrate with examples from Greece, Honduras, Mexico, Niger, South Africa, Pakistan and Thailand. Based on experiences from our partner organisations worldwide, we provide examples to demonstrate and explain why it is becoming increasingly dangerous to help people on the move. This anecdotal approach is necessary because research, data and studies on the particular situation of people assisting



migrants and refugees are still only available in certain regions.

Freedom, democracy, equality, the rule of law and respect for human rights – these are the values on which the European Union was founded. That is why the EU and Germany

have a special responsibility to keep these values at the heart of everything they do. But the situation with European migration policy is often quite different: All too often, refugees and migrants are disenfranchised and denied any support. And those civil society actors who advocate for people on the move are coming under intense pressure. These actors are fighting for pluralism, tolerance, justice, solidarity – values which Brot für die Welt holds dear.

Bishop Christian Stäblein, Commissioner for Refugee Issues of the Protestant Church of Germany, emphasises that refugees and their supporters worldwide need our unconditional support and protection: “*Migrant defenders*, in fighting against injustice, are suffering injustices themselves. Because they fight for the lives of refugees, people are trying to make their lives difficult. By attacking *migrant defenders*, these people are wounding and tearing holes in the network of solidarity available to refugees and migrants.”

Healing these wounds, or preventing them in the first place: that is the goal of Brot für die Welt. That is why we provide financial and personnel support to partners who are advocating for the rights of refugees and migrants. Our Civil Society Atlas shows that this mission has been successful, and that our partners can regain their freedoms and become beacons for resolving political conflicts and finding creative solutions. We are encouraged to see civil society around the globe increasingly connecting, organizing and mobilising people.

Dr Dagmar Pruin

President of Brot für die Welt

On terminology: In this Civil Society Atlas, Brot für die Welt uses the terms migrant and refugee for people on the move, all who have been forced or decided to leave their homeland. We use the term *migrant defenders* for all actors who are committed to the rights of these groups.

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At a glance

1

Solidarity under attack

There is no shortage of regulations and declarations on the rights of refugees and migrants. In 2018, the global community last reaffirmed its commitment in the Global Compact on Refugees and the Global Compact for Migration. But the reality is often very different: refugees and migrants are increasingly faced with violence, disenfranchisement and even death.

And those who draw attention to this plight have to live in fear: *migrant defenders*, i.e. those who document human rights violations and support migrants in need, are being targeted in many places by a global system that aims to restrict people's mobility through violence. The *shrinking space* of civil society is therefore increasingly being felt by those who oppose the disenfranchisement of people on the move, who fill the vacuum left by states by providing care, and who, above all, act in solidarity with them.

From legal or physical restrictions on their actions, to defamation campaigns, prison sentences and threats of violence, the entire gamut of political repression is currently being applied against those who stand up for refugees and migrants. Some states are even prosecuting those who provide water, food or legal advice to migrants, or who rescue migrants stranded at sea. This criminalisation of *migrant defenders* has become a key component of a migration policy whose main goal is to keep migrants at bay.

2

Country reports

This Civil Society Atlas presents examples from four different countries to show both the challenges and risks but also the opportunities for civil society actors working to assist refugees and migrants. In Greece, for example, NGO workers are being denied access to people on the move, authorities are interfering with civilian sea rescues, and free reporting is being suppressed. In Mexico, migrant defenders not only have to deal with intimidation and threats from

the state – they also suffer violence at the hands of the cartels. In Pakistan, it is nearly impossible to openly advocate for refugees from Afghanistan. Those who work in this area can do so only in secret or under strict government conditions – for the risk to their own lives is too great. In Niger, a strict interpretation of the so-called anti-smuggling law is massively hindering the work of migrant defenders: any actions that support refugees and migrants are subject to punishment.

But there are also several reasons for hope: civil society is now better connected in many countries than ever, allowing NGOs to share creative solutions. NGOs are also increasingly taking their fight to court to set precedents that the people in power cannot ignore.

3

Our political demands

However, to ensure enjoyment of human rights worldwide and to foster an independent civil society, politicians must also act. The Federal Government of Germany and the parliament must unequivocally stand up for an independent civil society and universal human rights – including in the digital sphere. German embassies should strengthen their efforts to promote human rights, human rights defenders and the scope for action of civil society.

For German decision-makers, standing up for human rights has to begin with their own policies. That is why they must advocate for migration policy that respects human rights – regardless of a person's immigration status. Laws, policies and practices that accept or promote human rights violations should be immediately changed or abolished. The Federal Government should fight to ensure that *migrant defenders* are not criminalised for their engagement. Instead, these defenders must be given free access to migrants and refugees seeking assistance, whether at borders, at sea, or at intake facilities. Politicians must also work to ensure that defenders of human rights are protected from repression worldwide. And that NGOs are not prevented from doing their work by governments which abuse their power and their country's laws.

Solidarity under attack: Migrant defenders under increasing pressure



Worldwide, almost 103 million people are currently fleeing war and climate disasters, while another 281 million people are living as migrants outside their home countries. Many states and governments are trying to deprive these people of their rights or to keep them out of their countries. But civil society is also increasingly at risk – precisely because of its commitment to people on the move.

Migrant defenders at risk

In many countries, human rights activists and NGO workers who assist refugees and migrants are being detained, oppressed, defamed and even killed. But they are fighting back.

On the streets of Johannesburg, many migrants try to keep themselves afloat by working as informal traders. But the mayor of the South African metropolis wants to drive them out. The city is tightening laws, the police are seizing goods. When two lawyers from the legal aid NGO Socio-Economic Rights Institute of South Africa represented some of the informal traders in court in 2022, they were subject to intimidation: A local senior politician posted their mobile phone numbers and addresses. Others on social media threatened to rape them or burn down their offices. The NGO had to close the office for a week.

This case from South Africa is an example of a worldwide trend in the fight against personal mobility and against unwanted asylum seekers, refugees and migrant workers. These days, this fight is being fought not only at the borders themselves, with fences, dogs, biometrics and radar – for which the EU shells out enormous sums. Rather, states are increasingly targeting and putting pressure on those who stand up for vulnerable people: private activists and advocates, solidarity groups, lawyers, NGOs – even other migrants and refugees.

Penalty tax on international donations

This trend first reared its ugly head in Hungary in 2018. That's when autocratic Prime Minister Viktor Orbán declared that the will of the people was clear: they did not want any migration. Orbán introduced a package of laws targeting those who “coordinate illegal immigration” – which is what Orbán accused NGOs of doing. He changed criminal and asylum law, and gave police expanded powers. Even the distribution of informational material became punishable with prison time, for the crime of “promoting illegal immigration”. A penalty tax had to be paid on donations from abroad, and civilians were no longer allowed to enter the “transit zone” along the border. Anyone who provided humanitarian aid or legal advice had to get special permission. And because many of the NGOs received donations from Hungarian billionaire George Soros through his Open Society Foundation, these laws in Hungary were dubbed the “Stop Soros” package. In 2021, the European Court of Justice overturned it. However, on the day of the verdict, Hungary's government declared that its position on migration remained unchanged: “As long as there is a national government in Hungary, it will prevent Hungary from becoming an immigration country.” And it has continued to pursue this policy to this day.

Elements of the Hungarian approach can now be found in many other countries worldwide. While governments in the EU, in North and Central America, in the Maghreb and Sahel, in Eastern Europe and in Western Asia are disregarding the rights of migrants and refugees with increasing brazenness, they are also taking action against those who disagree with them. Refugees and migrants are under formal protection worldwide, as last reaffirmed by the UN Global Compact for Migration and the UN Compact on Refugees, which were adopted in 2018. The two covenants were ratified by 152 and 181 states, respectively. However, both state and private criminal actors continually disregard the standards set forth in these declarations. Time and time again, refugees and migrants are being detained, captured, mistreated and exploited. And, increasingly, this same fate is suffered by those who assist them: the *migrant defenders*.

This dynamic is closely linked with global issues of wealth distribution and injustice. For migration is itself a manifestation of global inequality, as people seek to share in the prosperity denied to them and live in security. But the Global North is trying to prevent it – even as it is increasingly dependent on immigration. We must not forget that migration for employment and educational reasons are important drivers of social and economic development in the countries of origin. And in times of wars, autocracies and climate change, people need safe escape routes and migration corridors.

In many places, however, these safe routes are obstructed by powerful border regimes which allow only selective mobility – whether towards Australia from the Pacific region, towards the USA from Central America, or towards Europe from Africa and the Middle East. The growing influence of authoritarian and far-right actors in recent years has exacerbated the often militaristic closure of the destination countries to migrants and refugees. The racist claim that nations must

be defended against external intruders who do not share their culture is one of the key tenets of this populist agenda. It has contributed to increasingly aggressive action against people on the move, sometimes with support from centrist parties who fear the populists.

NGOs document and file lawsuits

It is often civil society actors – including NGOs, churches and the media – who document these abuses, draw attention to legal violations and demand accountability. They stand up to repressive forces – with political lobbying and strategic litigation, with research and campaigns, by providing both physical and digital protection, and above all with practical, on-the-ground solidarity. They are the “silent backbone of international refugee aid”, as Amnesty Secretary General Agnes Callamard called them. But these activists have been under pressure for years, and the situation is only worsening. *Migrant defenders* are at the centre of a global political battle over freedom of movement, human rights and justice. They have become the target of political attacks and defamation worldwide – partly because they often make easier scapegoats than the refugees themselves.

These attacks prevent migrant defenders from doing their work and deter other potential defenders, not to mention the associated mental distress and destruction of livelihoods. They require new strategies for protecting one’s work, communications and employees, and they use up scarce resources that could otherwise be spent on the work. Some NGOs have had to close down or severely restrict the scope of their work – to the detriment of those who need their help. We see this not only in autocratic states with regimes that attempt to stay in power through human rights violations, but also in democracies. For even democracies do not want witnesses to their disenfranchisement of refugees.

There is very little systematic documentation of the worldwide repression of migrant defenders. There is no central repository which documents charges, arrests, investigations against migrant defenders or the withdrawal of accreditations. Individual NGOs are trying tirelessly to document this dynamic on their own, but it never captures more than a part of the whole picture. In addition, many are afraid of reprisals and shy away from speaking publicly about the attacks they have suffered. The UN refers to them as “secret defenders”.

Brot für die Welt views these attacks on civil society actors with concern. This is yet another reason why this Civil Society Atlas is crucial – because it provides a summary of this on a global scale poorly researched topic. Respect for human rights, including along migration routes, is guaranteed by international

“The gangs are signalling: stay out of it”

Ms Vásquez, 177,000 migrants from Honduras arrived at the US border in 2022. Ten years before that, the figure was much lower, at 20,000. Why the increase?



Adelina Vásquez: There are several reasons for this: Violence. Corruption and impunity, which means human rights are no longer guaranteed. Hurricanes caused by the climate crisis, which have shown how vulnerable the country is. On top of that, the state social security systems barely function. All this has led to a humanitarian crisis – and to emigration. This is exacerbated by transit migrants from South America and the Caribbean, as well as from Africa, Asia and Europe. To cross Honduras, you need a pass from the police. In return, they demand all kinds of things; we’ve seen blackmail and corruption. More and more transit migrants find themselves running out of money. They are stuck in the big cities.

Honduras is one of the deadliest countries in the world – how severe is the violence against migrants?

Adelina Vásquez: Enormous. Organised crime and narcos see migrants as big business. In the northern border region, people arrive by bus, and the gangs promise to bring them onwards to the US – but then they blackmail and torture them, make them disappear or murder them.

Have you experienced violence as a migrant defender?

Adelina Vásquez: Let me put it this way: We see the situation from a social worker’s perspective. We try to document attacks and violence against migrants. However, because organised crime and the police work closely together, we have hardly any support. This is the greatest danger for us. The gangs are signalling to us: “Don’t stick your nose in, stay out of it.” They don’t express the threats directly. But their message is clear. That’s why we are trying to safeguard our work as much as possible, so that we can continue to report the violence against migrants, for example to the Commission on Human Rights.

Adelina Vásquez López Director of the Centro de Desarrollo Humano Honduras (www.centrocdh.org)

law. That is why we need civil society engagement – especially in those places where no one is looking. Many of our civil society partners fear that they will no longer be able to assist migrants and refugees, and that they will not be able to draw attention to abuses, out of fear of punishment.

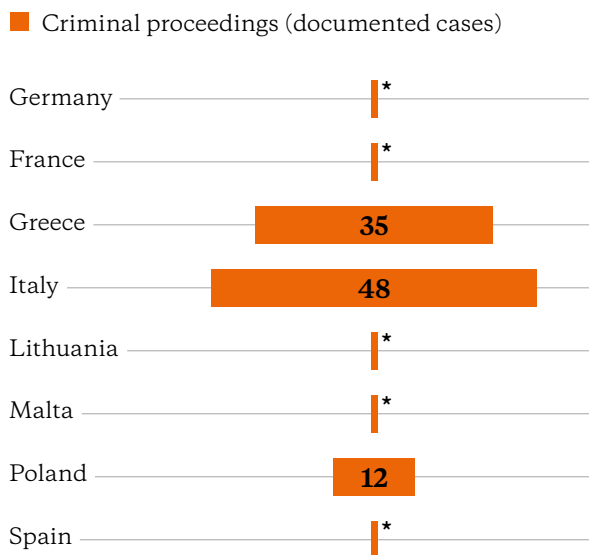
Witnesses are denied access

Civil society often fills a vacuum that state actors intentionally create. And it is precisely this solidarity which malignant actors are trying to disrupt, often with an intensity similar to that

levelled against migrants themselves. One way to restrict civil society is by denying physical access. As a rule: the greater the disenfranchisement, the more likely they will try to keep any witnesses out. Libya, who in cooperation with the EU is capturing tens of thousands of refugees on their journey across the Mediterranean and dragging them back to atrocious camps, has virtually banned relief workers and media from the country. Poland blocked access to a “red zone” on the border with Belarus as the number of refugees rose. Those few who passed through the red zone were sent to one of the detention camps in the country. Only accredited NGOs have access to these camps – as is the case in Greece, France or the arrival centres in Bavaria. Not only are migrant defenders excluded from these areas, they are also subject to threats and punishment. One famous example was the case of the American Scott Warren, a member of the Christian group No More Deaths. Warren was known for setting up water stations for Latinx migrants in the Sonora Desert of Arizona. The public prosecutor’s office prosecuted him for allegedly smuggling in foreigners. Warren faced 20 years in prison, though he was acquitted in 2019. But even if the end result is an acquittal, these trials consume valuable resources and can often last years. And they often disrupt the life and work of the accused so deeply that they effectively amount to a punishment. What’s more, since 2010, penalties for facilitation of illegal entry have been significantly increased in many countries. In Greece, for example, you almost have a better chance in court if you are accused of bank robbery than if you are a refugee who dared to steer a boat across the Aegean Sea.

Criminalised in the EU

In 2022, at least 102 people faced criminal charges in these eight countries for standing up for refugees and migrants.



* The total number of cases in these five countries is seven

Source: PICUM Briefing (2023) – *More than 100 people criminalised for acting in solidarity with migrants in the EU in 2022*

Legal action against church groups

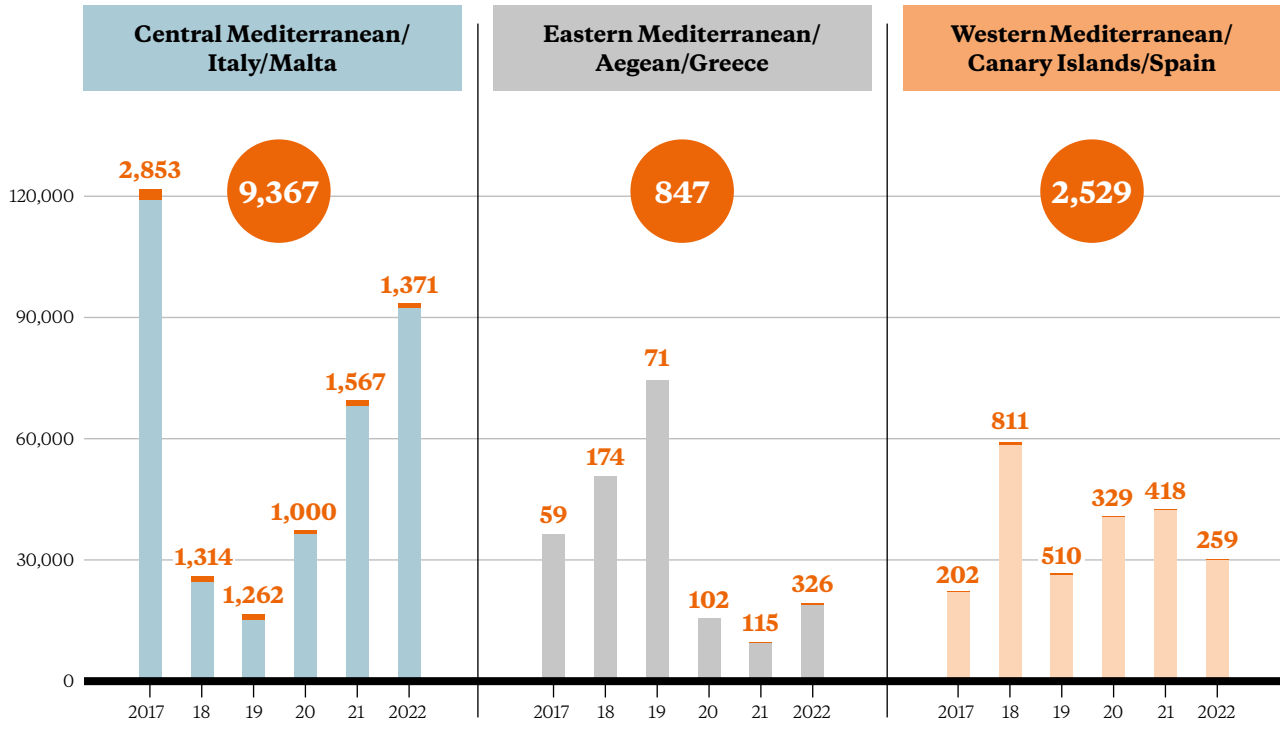
This repression is undermining the willingness of others to act. In the event of an accident, fishing boats or commercial vessels are often able to reach the scene most quickly – and are even obliged to do so according to maritime law. However, as the consequences of providing assistance become increasingly uncertain, many are staying away. In August 2020, for example, the Danish container ship Maersk Etienne took on board 27 shipwrecked people in the central Mediterranean. But both Malta and Italy refused to accept the refugees. It was only after five weeks that they were able to disembark in Malta. For the shipping company, this meant enormous economic losses. And the number of such cases is growing. The Alarm Phone initiative has documented case after case where shipwrecked people in the Mediterranean are waiting for rescue or die at sea – and merchant ships pass by without stopping, even though they are aware of the disaster.

In Germany, the judiciary is taking action against churches whose parishes grant church asylum (see page 16). The Orderly Return Act (Geordnete-Rückkehr-Gesetz), penned by former Interior Minister Horst Seehofer (CSU), further criminalises deportation opponents: since 2019, all information about the course of a deportation is considered an official secret under criminal law. This is intended to make protests more difficult.

Dangerous sea crossing

Registered* death and missing persons at sea and at land borders en route to Europe

■ Total arrivals
 ■ Dead and missing persons
 ● Total number of deaths from 2017 to 2022



* Known cases, actual figure is likely higher.

Source: UNHCR/IOM Missing Migrants Project, own calculation

Elected politicians in Europe are not safe either. In Italy, for example, a court sentenced Mimmo Lucano, the mayor of the Calabrian town of Riace, to 13 years in prison at the end of 2021. Lucano had accepted 450 African migrants into his community. Using government subsidies, he had set up small businesses where the migrants could work. The project earned international praise, but the state did not look kindly on Lucano's work. In the end, Lucano was faced with severe charges relating to alleged fraud. An appeal is pending as of spring 2023. New criminal offences are created, existing ones are abused, or unreasonably harsh charges are filed. These can range from accusations of terrorism to organised crime. Belgian journalist Anouk Van Gestel, former editor-in-chief of the women's magazine Marie Claire, knows this all too well. In 2017, she had taken in a young Sudanese man in her Brussels flat. Over the phone, Gestel asked a smuggler if he could take him to England. The police recorded the conversation and, based solely on that call, van Gestel was charged with belonging to an "international criminal organisation" – she was only acquitted in 2021.

Global solidarity is growing

Migrant defenders are fighting not only against the disenfranchisement of people on the move, but also against the repression directed at them. In many places they can count on broad support within society. There are many examples of this from all over the world (see page 26), but here are two: Although dozens of private rescue boats have been seized or immobilised since the Cap Anamur in 2004 – one of the first private rescue boats – donations for sea rescue have grown. There are more private rescue boats active on the Mediterranean today than there were back then.

And the enormous support for war refugees from Ukraine, for example in Poland and Central Europe, is proof that civil society and governments can work together. What's more, there is now more global solidarity within the migration sphere, with better networking and more resources than ever. This is evidenced by the mere fact of how much we know about human rights violations. That's something to build on.

Civil society in fetters

When the work of migrant defenders is hindered, the ones who suffer are the ones who need their assistance the most: people on the move. These are people who have been deprived of their most basic rights.

260 kilometres: that's all it is from Zarzis in southern Tunisia to Lampedusa. But the 18 people who boarded a boat to Italy on 21 September 2022 never arrived there. Their ship sank; all drowned. None was older than 25 years, and the youngest victim was a fourteen-month-old baby.

On 23 September, relatives asked the coast guards of Tunisia, Italy and Malta for help. But the coast guards did nothing to find the missing boat. The Sea Watch 3, a ship owned by the German NGO of the same name, could have started the search. But precisely, on 23 September, the Italian authorities had detained the rescue ship in Reggio Calabria in southern Italy for bringing ashore 427 people. That was too many, the authorities argued: this quantity of rescued people was “a danger to persons, property or the environment”, the inspection report concluded. The Sea Watch 3 was not allowed to ship out again for months. In August 2022, the European Court of Justice ruled that the authorities may only search humanitarian organisations if they “demonstrate, in a specific and detailed manner, that there are serious indications of a danger”.

From that day until the end of the year, the UN International Organisation for Migration IOM recorded 276 deaths in the central Mediterranean. That's two lives a day.

Perfidious foreign agent laws

Since 2014, some 40 ships have been sent by private NGOs to the Mediterranean Sea for sea rescue operations – a considerable civilian mobilisation effort. Without them, it is likely that far more people would have drowned since then than the 26,000 who actually did. But attempts by the authorities to block this “civilian fleet” are as old as the fleet itself: after completing a rescue mission, they are often denied access to a port for weeks. They are detained on flimsy grounds – mostly for alleged technical defects – as was the case with the Sea Watch 3. Ships are seized, crews are detained or face charges. According to research by Brot für die Welt, rescue vessels sent to the Mediterranean by NGOs since 2016 have been blocked from operating for a total of 1,116 weeks – 32 percent of their possible weeks at sea. (See graphic on page 13). The rest of the time they were prevented from operating rescue missions.

This blocking of sea rescue vessels is now one of the most visible public strategies for hampering the work of civil society actors in order to stem migration. The calculation: if fewer refugees are saved, fewer refugees will eventually attempt the journey. But there is no evidence for this deeply immoral attitude.

The NGO Borderline Europe has been documenting these attacks for years. “Individuals and organisations that advocate for the rights and dignity of refugees are being systematically defamed, harassed and persecuted by state authorities”, Borderline writes. Sociologists Elias Steinhilper and Donatella della Porta say that the “*shrinking space* for civil society is the most salient aspect” in the topic of migration. In criminalising migrant defenders, many states have expanded their definitions of terrorism, have enacted new secrecy requirements and new laws against alleged incitement, or have made it more difficult for organisations to collect donations.

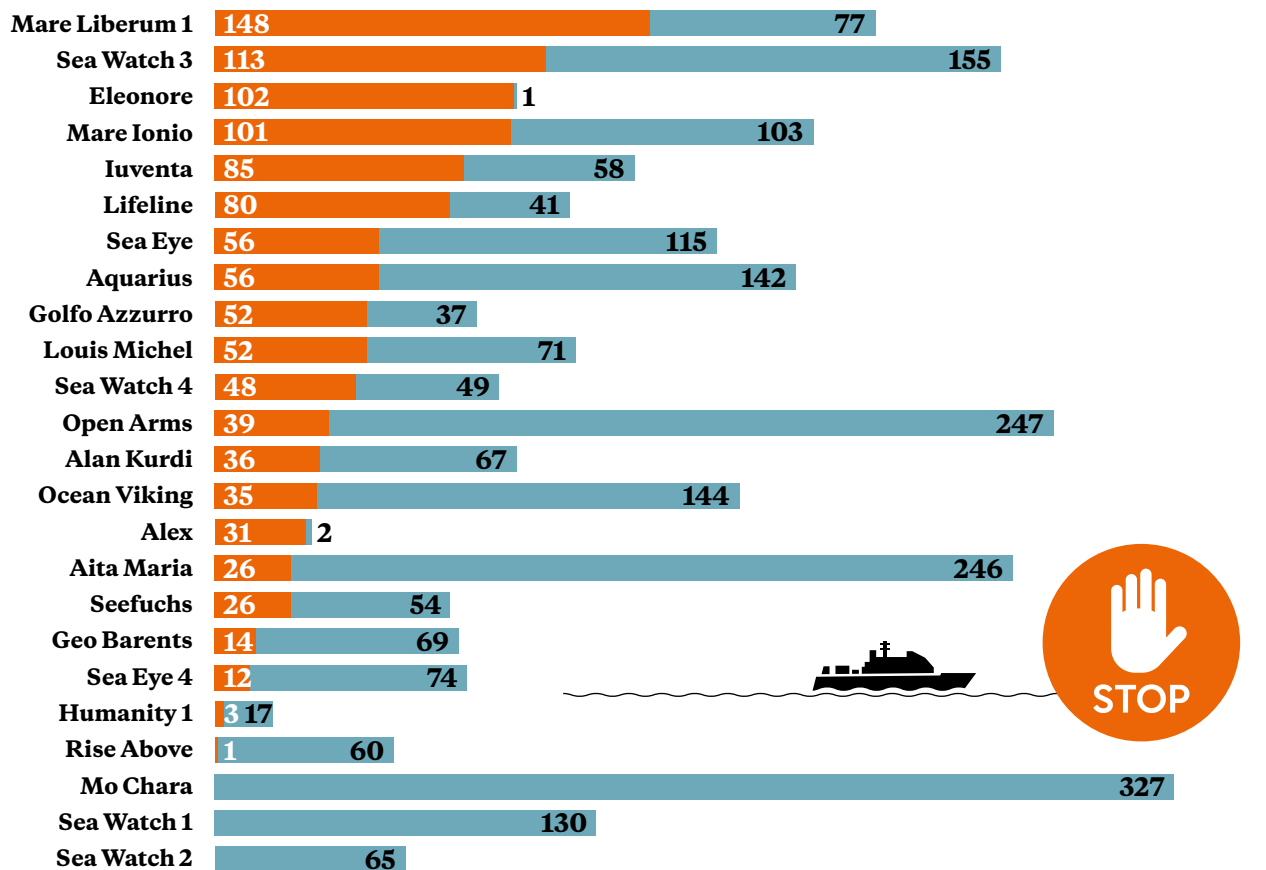
“Foreign Agent laws” have proved to be a perfidious instrument, the number of which has grown enormously worldwide in the last 20 years. Under these laws NGOs – especially those who receive money from foreign partners – can be accused of espionage. This suppresses critical voices and eliminates the watchdog and public information activities of civil society organisations. The UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, also sees the accusations of money laundering or counterterrorism as pretexts for restricting the foreign funding of NGOs. “The aim of governments is to prevent human rights organisations from performing their legitimate work.”

This policy is as international as global migration itself. In Myanmar in 2021, for example, extremists shot and killed Mohammed Mohib Ullah, a human rights defender who had been advocating for Muslim Rohingya refugees. In Turkey in June 2022, the police arrested about two dozen employees of the Migration Monitoring Association for alleged “membership in an armed organisation”. In Thailand, a court sentenced Andy Hall, an employee of the Migrant Worker Rights Network, to four years in prison. A state-owned agricultural company had denounced him for writing a paper about its treatment of migrants. The trial, which resulted in an acquittal, dragged on from 2013 to 2020. And in the Philippines, Migrante

Lost time: blocked rescue vessels

These sea rescue NGOs were unable to save people stranded at sea for weeks because their ships were blocked by government authorities. From 2016 to 2022, these 24 ships were blocked for a total of at least 1,116 calendar weeks, an analysis by Brot für die Welt found.

Figures in calendar weeks from 2016 to 2022 ■ Blocked* ■ In operation Evaluation period:
364 weeks



* This figure includes: waiting for port entry for longer than seven days after rescue mission, flag/registration withdrawn, departure prohibited, crew detained, ship seized or operation stopped/interrupted after threat.
Source: information from NGOs, EU Fundamental Rights Agency, own calculations

International, an organisation that advocates for Filipino migrant workers, fell victim to “red-tagging”: being defamed as an alleged communist or terrorist organisation. The common thread among all these cases is the abuse of security regulations and other laws.

Vague formulations

To silence critical voices, they are often accused of disinformation. For example, when the NGO Human Rights Watch (HRW) wanted to publish a report on the deportation of hundreds of thousands of Afghans from Turkey on 18 November 2022,

HRW employee Bill Frelick received a text message from the head of the Turkish presidential office for immigration the night before. It demanded that HRW postpone publication in order to give Turkey more time to draft a statement. HRW had already asked for a statement weeks prior. If Frelick had agreed to the postponement, his report would have been published just after the new Turkish disinformation law came into force. Article 29 of this law is directed against false information which is likely to disturb the “domestic peace in Turkey” – a vague formulation that is open to broad interpretation. And those who break this new rule can now be jailed for up to three years.

No access to the “red zone”

Where people are disenfranchised, witnesses are persona non grata. And the consequences are fatal for those in need of assistance: abuses are not documented, violations of the law go unpunished, help does not arrive.

Siddig Musa Hamid Eisa was 21 years old when he died on 3 October 2022. The Sudanese man drowned in the border river Świsłacz, between Belarus and Poland. Newspapers wrote that Eisa was the 27th person killed in the region since Belarus began smuggling refugees toward Poland in the summer of 2021.

No one knows how many people actually died there. That’s because on 2 September 2021, Poland had declared a strip up to 10 kilometres wide along the border a restricted area. Media, activists, doctors, MPs, lawyers, even the UN refugee agency UNHCR were forbidden to enter the “emergency zone”. This area was controlled by the border police and a state militia known as the “territorial defence” force. They violently drove tens of thousands of recent arrivals back to Belarus. But Belarus did stop people from entering, again with extreme brutality. So they were stuck in the forest, without food, clean water and medication, in freezing temperatures, sometimes for weeks. People from the outside were not allowed access to

the area either. The media could not report on the crisis and on the committed numerous human rights violations.

Death as deterrent

Deprivation of rights until death, as a means of deterrence: that was the true purpose of the restricted zone, and Poland did not want anyone there to witness it. Time and time again, observers, journalists, and humanitarian aid workers are not allowed to meet with refugees.

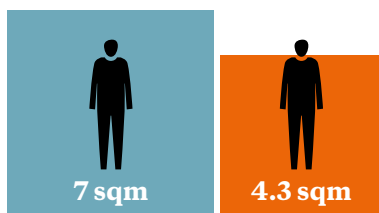
This has fatal consequences for those in need of assistance: abuses are not documented, violations of the law go unpunished,

Not enough space to live

In many camps, detained refugees have less space than is required by law. Three examples

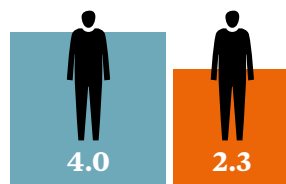
■ **Required:** minimum accommodation space* in sqm ■ **Actual:** Space per person in sqm* on the date in question

“Arrival centre” in Bamberg, Germany



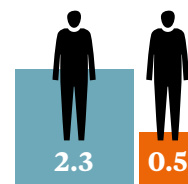
Total living area: approx. 10,500 sqm
Official maximum occupancy: 1,500 persons
Occupancy on 23/1/2023: 2,283 persons

Intake camp in Wedrzyn, Poland



Total living area: 1,400 sqm
Official maximum occupancy: 350 persons
Occupancy on 31/12/2021: 612 persons

Border Patrol Central Processing Center El Paso, USA



Total living area: 2,413 sqm
Official maximum occupancy: 1,040 persons
Occupancy on 18/12/2022: 4,600 persons

* Living and sleeping; does not include: kitchen, bathrooms and social rooms

Source: Own research: government of Upper Franconia/Bavaria, Proasyl, asylumineurope, icrc, Daily Mail

help does not arrive. In 2010, for example, the Libyan dictator Gaddafi kicked the UN refugee agency UNHCR out of the country. Since then, more and more refugees have been kidnapped, detained, tortured and even killed. The UNHCR is back in Libya today but has virtually no access to the internment camps outside the capital of Tripoli.

Refugees are also sealed off in some places in the EU: in the autumn of 2022, Amnesty International reported that the Latvian government had housed migrants in tightly guarded tents in remote areas of the forest. Without anyone even knowing about these places, let alone been allowed inside, people were arbitrarily detained in temperatures as low as minus 20°C before being deported to Belarus, according to AI. Detainment: deprivation of liberty without having committed a crime. It has become a key tool in the fight against migration. In Greece, only accredited NGOs have access to the “Closed Control Access Centres”, as the new detention camps are known (see page 28). Anyone who is not to the government’s liking must stay outside.

Access in Germany also denied

Access to refugee shelters is restricted even in Germany. In 2016, for example, the Hamburg Refugee Council filed a complaint because it was not granted access to the initial intake facility in Nostorf-Horst. Since 2013, EU Member States have had to ensure that relatives, lawyers and NGOs have access. But in 2019, the Schwerin Administrative Court ruled that the federal state could restrict access “for security reasons”.

In 2021, the Bavarian Administrative Court also ruled that the Bavarian Refugee Council’s Infobus was rightly denied access to the so-called “Ankerzentren” – arrival centres. Only people and organisations “with whom the individual asylum seeker has previously made contact and whose assistance they desire” would have to be allowed in, the court said. This makes the work extremely difficult, said Hannah Sommer from the Infobus project. “Vulnerable groups in particular are difficult for us to reach.”

Australia’s “Pacific solution” is notorious, with years of internment on remote islands like Christmas Island or even outside the territory on the island state of Nauru – with no access by independent NGOs. The USA has the most detention camps in the world. In December 2019, immigration authorities changed the national standards for detention camps that hold more than 50,000 detainees nationwide. Since then, NGOs do not have to be granted access to these camps, which are often privately run. This has been “catastrophic” for the situation of detainees, writes the American Civil Liberties Union (ACLU). But who can take action if no one finds out?

“Massive attacks on social media”



Ms Dass, you defend migrants who are subject to attacks – where does this xenophobia come from?

Sherylle Dass: For years, leaders in this country have publicly claimed that migrants are to blame for the high crime rate. People repeat this lie, and then it escalates. There is a hashtag #PutSouthAfricaFirst on Twitter. People demand that we expel migrants because they are allegedly taking jobs away from South Africans. This culminates in calls to loot their shops – or physically assault them. Some migrants have even been killed.

Is your organisation also under attack?

Sherylle Dass: Yes. It is true that the government has not taken any systematic action against us; civil society in South Africa is far too strong for that. So far, fortunately, the government has not taken steps to suppress dissent or activism on migration issues altogether. But we are massively attacked on social media channels for almost every case we take to court representing migrants and refugees. The problem is doxxing: people post our private information, including our addresses, which puts us at risk. Or we are accused of being puppets of George Soros etc., some of whom we receive money from. They say these donors are trying to influence politics through NGOs like us to bring about regime change. We hear this from politicians across all four of the biggest political parties: that we are agents of these foundations.

How do you defend yourself against such attacks?

Sherylle Dass: We are trying to break through xenophobic narratives, including with campaigns against the large tech corporations that use their social media services to reinforce racist narratives. This trend is dangerous. There will be an election in South Africa in 2024, and we expect violent attacks against migrants, and thus against all those who stand up for their rights. And social media is a powerful tool for that.

Sherylle Dass Regional Director of the Legal Resource Center in Johannesburg/South Africa (<https://lrc.org.za>)

Church asylum: threat to democracy – or its saviour?

Many church communities in Germany offer asylum to people whose lives they believe are in danger. In so doing, they question the decisions made by the state and the courts. There are strong arguments for and against granting church asylum. Which prevail?



Interview with **Stephanie Höhner**, pastor of the Himmelsfahrt parish in Munich, and **Thomas de Maizière**, former Federal Minister of the Interior and President of the German Evangelical Church Congress 2023 in Nuremberg

Ms Höhner, is church asylum a manifestation of an active and value-based civil society, or is it a sign that people are flouting rules and laws?

Stephanie Höhner: For me, it's an expression of faith. As a pastor and as a Christian, it is my job to spread the good news of the Gospel. And for me that means not just talking about it, but living by it. For me, part of that is providing shelter and protection to vulnerable people.

How do you see that, Mr de Maizière?

Thomas de Maizière: There is no right, neither in national nor international law, to enter whichever country you choose. Every state has rules for being admitted and being allowed to stay. In a constitutional state, of course, these rules are even more important. So there must be a distinction between those who are allowed to stay after a due application of the law and those who have to leave the country. Church asylum is therefore something alien to a democracy. But in provable cases of hardship, based on the ultima ratio principle, there is an informal agreement between the state and the churches to accept church asylum on a case-by-case basis after an orderly procedure.

Ms Höhner, do you see yourself as an enemy of democracy?

Stephanie Höhner: No, not at all. We accommodate people in accordance with the agreements that church

representatives concluded with the Federal Office for Migration and Refugees in 2015. We stick to the agreed procedural steps precisely because I am a fan of democracy. I only grant church asylum in cases where I think that something slipped through the cracks at the Federal Office and the true severity of the case was not recognised. In those cases we request a reconsideration. We protect refugees so that they cannot be deported during this period, so that the decision will not be prejudged.

Mr de Maizière, you have not been Federal Minister of the Interior for some time. Do you see things in a different light now that you are at a distance from your former role?

Thomas de Maizière: Yes, of course. The office shapes a person, and that's the way it should be. As a Minister of the Constitution, the Federal Minister of the Interior has a special obligation to the law. And in this case there is a conflict between what is lawful and what is merciful. The Minister of the Interior must side with the law. Now I can let the Christian voice in my heart speak more loudly. That said, when Ms Höhner says they want to give time for reconsideration, that sounds all well and good. However, in some cases the intention is to make deportation impossible by allowing a certain period of time to expire, followed by an asylum procedure in Germany due to the expiry of the deadline. This is more than a just period of reflection for

cases of particular hardship; it is the undermining of a legally stipulated deadline.

Stephanie Höhner: That's not true. Based on the arrangement made between the state and the churches, we are not allowed to take in cases where the deadline is less than two weeks away, because the Federal Office will not have time to review these cases. But until then, we assume that the Federal Office will be able to review these cases. We are given a precise date of when the deadline will expire – sometimes we only have ten days to submit a dossier. Usually we have four weeks. We are not systematically undermining deadlines.

Can you tell me more about this arrangement?

Stephanie Höhner: In justified cases of hardship, we are allowed to grant church asylum to people who are at risk of being transferred to a Dublin III country. We report these cases to the Federal Office. They therefore have the people's address. We submit a dossier justifying the hardship. The Federal Office then gets to decide again: Is it a case of hardship or not?

But that means you're ignoring a decision that's already been made and forcing another one.

Stephanie Höhner: We're not trying to force anything. But there is a good tradition on which this arrangement is based. According to that tradition, churches are given the privilege to grant church asylum and ask for a second review.

Thomas de Maizière: Let me briefly explain: In 2015, in an internal meeting with the Catholic Bishops' Conference, I strongly criticised church asylum from a constitutional perspective. This opinion was made public by someone party to the conversation and a huge debate followed. In a democracy, it's okay to have fundamental disagreements about such issues. To find a way out of the disagreement, we reached an agreement for future cases. It states: the churches recognise that church asylum is not an independent institution beyond the rule of law, but is rather a tradition based on Christian humanitarian grounds. This was an important point for me: the churches cannot place themselves above the law. At the same time, the rule of law recognises that there are centuries-old traditions under which church spaces enjoy special protection.

Ms Höhner, you have already been the subject of several investigations. Are you just unlucky that your parish is in Bavaria?

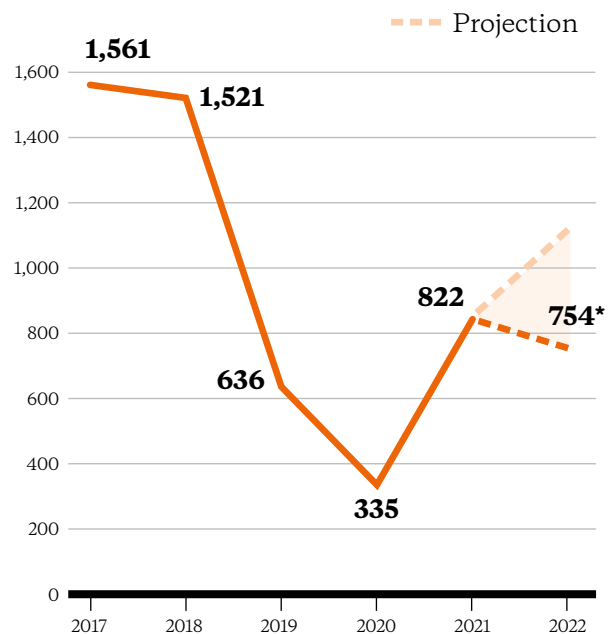
Stephanie Höhner: Yes, the federal state certainly plays a role. Church asylums are persecuted only in a very few German states. I've only heard of it happening in Bavaria, Hamburg or Lower Saxony. But that doesn't stop me from doing it anyway. Seven cases have been brought against me for facilitating the illegal stay of refugees who were obliged to leave the country. All charges were dropped on the grounds that it was not aiding and abetting but rather a failure to act, i.e. not forcing the people out onto the street when the Federal Office declined to recognise the hardship.

Mr de Maizière, you have said that courts have made legally binding decisions. If Ms Höhner is acquitted by the courts for her behaviour, that is surely a valid argument for church asylum.

Thomas de Maizière: Only at first glance. In this case the criminal courts did not examine whether her failure to discontinue accommodation was illegal, but rather whether her personal conduct was punishable by law. A failure to act is punishable only if there was a duty to do so. But there are many situations in law that are illegal but which are nevertheless not punishable. And thank God for that. For

Church protection

Number of people who have found protection in church asylum to prevent their transfer from Germany to another EU country ("Dublin cases").



* Until the end of August 2022

Source: Federal Government, parliamentary question

example, you can build a house illegally and get a demolition order. But it is not easily punishable.

As Federal Minister of the Interior, to what do you attribute the varying church asylum figures among the individual federal states?

Thomas de Maizière: They don't actually vary that much. They are highest in North Rhine-Westphalia, followed by Bavaria and Hesse. Incidentally, this also roughly corresponds to the population distribution, although not exactly. However, the numbers certainly depend on how engaged church congregations are and where certain refugees are located. Your question is implying that where the CDU or the CSU is in power, the approach is stricter than elsewhere. I can't see that from the numbers.

Ms Höhner, what does life in church asylum look like?

Stephanie Höhner: We have our own rooms in the rectory, where my flat is also located. We have cleared an office and a meeting room for church asylum use. There are two beds in each room, plus a small bathroom and a kitchenette. A team of volunteers goes shopping twice a week and three German teachers have been giving lessons four times a week for six years. After all, we only take in people who we believe have a good chance of staying, so we take small steps to help them integrate. The people living in church asylum also do small

jobs for us: sweeping snow or leaves, cleaning the church or setting up the Christmas tree. This gives structure to their lives and makes them feel needed. Church asylum is not granted lightly and is not easy work. We live with these people in a small space. It is difficult for them, too, as they are often not able to leave the premises for several months. No parish takes these decisions lightly.

What criteria do you use to determine who has a realistic chance of staying?

Stephanie Höhner: I don't make that decision by myself. Almost all of them have legal support, and they don't get that unless they have a realistic chance. I look at the experiences people have had in the so-called Dublin countries. These personal accounts are often difficult to read. We're talking about hair-raising, horrible experiences. Very often violence by police or in prisons, lack of medical care or insufficient food. Women are also frequently affected, and in many countries they do not have protected spaces. In Italy, for example, they slip into homelessness or forced prostitution.

Thomas de Maizière: I would like to say two things about this. The tradition is closely linked to church spaces. After all, the trade union federation could also take in refugees and say: the state has to respect that. Or to put it in non-legal terms: this is a sacred space, and the state has no business here. And by the way: the more secular a society becomes, the less acceptance the church enjoys amongst the population, and the more church asylum must be strictly confined to church spaces. The second point – and this is a problematic point of view. We in Germany are passing judgement on the conditions in other EU states. It's not just Ms Höhner who is doing that – this is what the courts are doing when they determine something like: deportation to Bulgaria is not in keeping with the respect for human dignity. However, the European Union is designed to ensure that all states accept the decisions of other states. And we are operating on the basic assumption that there are no inhumane conditions in EU countries. But now the courts find that such conditions do exist after all. So we urgently need to replace the current European asylum system with a new one – Ms Höhner and I probably agree on that.

So the Dublin procedure hasn't worked?

Thomas de Maizière: The principle was well meant. But it doesn't work when the numbers get too high. And when conditions on the ground vary widely across the

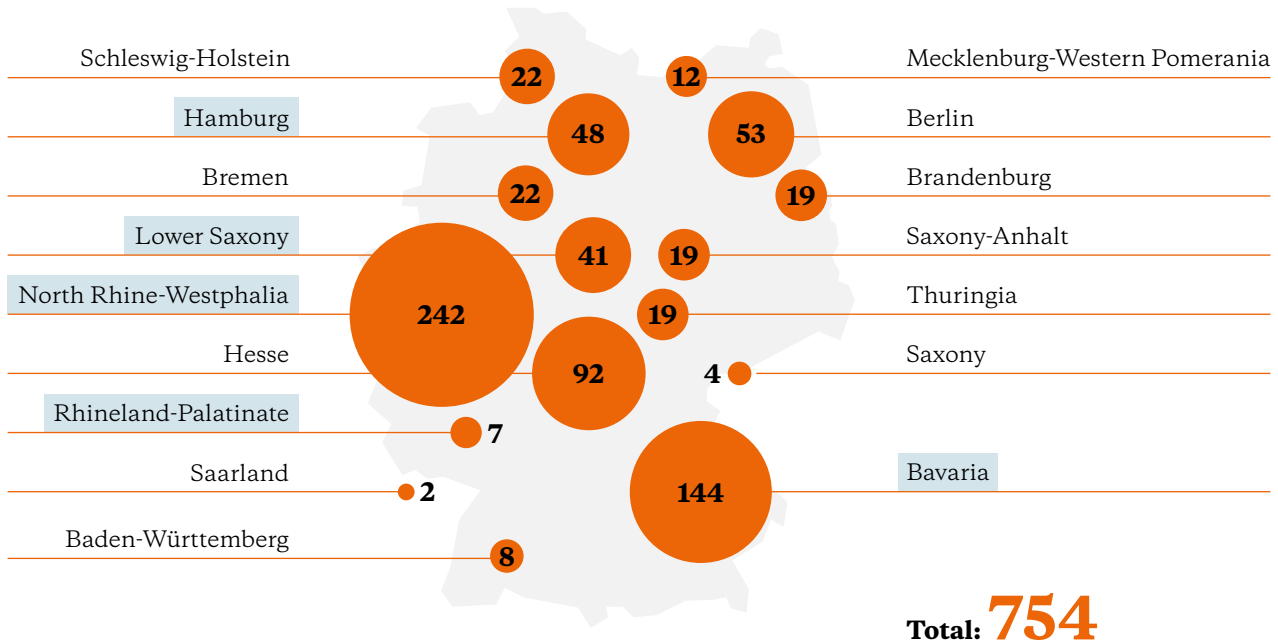
The Dublin procedure

This regulation is a key part of the Common European Asylum System (CEAS). The Dublin III Regulation covers all persons who have applied for asylum in a state participating in the CEAS (the EU plus Iceland, Liechtenstein, Norway and Switzerland) and for whom a final decision has not yet been made. Generally speaking, a person can only apply for asylum in the first country they enter. The regulation, which along with its predecessor directives has been in force since January 2003, was intended firstly to ensure that every person who applies for asylum in the territory of the contracting states is guaranteed the right to an asylum procedure. And secondly, that exactly one contracting state is responsible for reviewing the facts of an asylum application. In 2015, the Federal Office for Migration and Refugees (BAMF) reached an agreement with the Protestant and Catholic churches: each parish will report church asylum cases to the BAMF and submit a hardship dossier justifying why the BAMF should reconsider the deportation. The BAMF is obliged to review the case.

Church protection in German federal states

Number of people in church asylum per federal state, 2022*

■ States with prior criminal proceedings against clergymen for church asylum cases



* Until the end of August; source: Federal Government, parliamentary question

European Union. Now, we could discuss whether it was the right decision to admit Bulgaria into the EU. Of course, no one would do that with Italy or the Netherlands. But there have also been church asylum cases where they tried to prevent deportation to these countries. It is time for Europe to pull itself together and try to find a legal solution that is humanitarian and reasonable, and that binds everyone by the same laws and conditions.

But Ms Höhner is merely trying to make up for developments which you yourself criticise.

Thomas de Maizière: It may sound like that at first glance. But when even the courts are reaching such decisions, it means there is actually less need for church asylum.

Stephanie Höhner: It's not like I make my judgements based on the motto: "Anyone set to be deported to Bulgaria will definitely get church asylum here." For example, I took in a woman who was very pregnant and was due to be deported to Spain one day before she started her maternity leave. She already had a certificate from her gynaecologist, which attested to her inability to travel. I found this to be an unreasonable hardship.

Mr de Maizière, will church asylum continue?

Thomas de Maizière: Yes, and it will remain controversial. This is not a bad thing, because it is part of the normal tension in a constitutional state between what is legal and what is just. Legality has to do with the formal application of laws on individual cases, in structured proceedings by administrators and courts. Justice, on the other hand, is a material thing. For example, Ms Hoehner might look at an individual case and say: this case was unjust.

Stephanie Höhner: But just and unjust are woolly terms here. What I find unjust, others might consider just. It's not about my personal feelings; it's about real danger to a human being.



Available in German only:

You can find the **audio of the conversation** between Stephanie Höhner and Thomas de Maizière on our website. Please follow the QR code.

Between Enlightenment and Gaslighting

The reporting on refugees and migration is ambivalent: whilst some in the media document and investigate human rights violations, others stoke fear.

Sky News reporter Jonathan Samuels stood on Lesbos beach, sleeves rolled up. He held a tattered booklet up to the camera: he had “just discovered” how refugees in smuggling boats “receive a manual with tips, maps, phone numbers”, according to the clip from late 2015. It was supposed to be a scoop exposing the clandestine machinations of the smuggling industry – at least that was the subtext of the report. In reality, the “Welcome2Greece” guide has been available for download in four languages since August 2014. It was created and distributed by the network Welcome2Europe. It contained information which many arrivals lacked and rarely received from the state. But the effect of the report was to associate civil society initiatives with human smuggling. This makes the work of migrant defenders massively more difficult.

Enlightenment or propaganda?

The media’s role in reporting on refugees and migration is a contradictory one. On the one hand, it is only because of the in-depth research going on today that we know more than ever about the disenfranchisement of migrants in transit and at borders. For example, the director of the EU’s border and coast guard agency Frontex, Fabrice Leggeri, was forced to resign in 2022 after Der Spiegel and other media outlets were able to prove Frontex’s involvement in mass pushbacks. Journalists play an invaluable role in documenting human rights violations, giving migrants a voice in the media, and illuminating complex issues. At the same time, the media is also responsible for propaganda that lays the groundwork for political attacks on NGOs – like the Sky News report. Another example is the Italian talk show *Quarta Repubblica*. In November 2022, several of their employees met with Libyan smugglers and pretended to be mothers of refugees. They elicited a statement from a smuggler saying that there was no cause for concern, that he had “contact” with sea rescue NGOs. The TV station Rete 4 passed on the claim without verification – neither it nor the smuggler provided any evidence. The report, however, provided the new Prime Minister Giorgia Meloni with ammunition for her campaign against NGOs such as Sea Watch. The disastrous consequences that media coverage can have on NGOs can be seen in other parts of the world as well. In Mexico, the NGO Pueblo Sin Fronteras (PSF) supported migrants on their way to the USA for over 15 years – without any major issues. In March 2018, online portal BuzzFeed issued the headline: “A Huge Caravan Of Central Americans Is Headed For The US, And No One In Mexico Dares To Stop Them.”

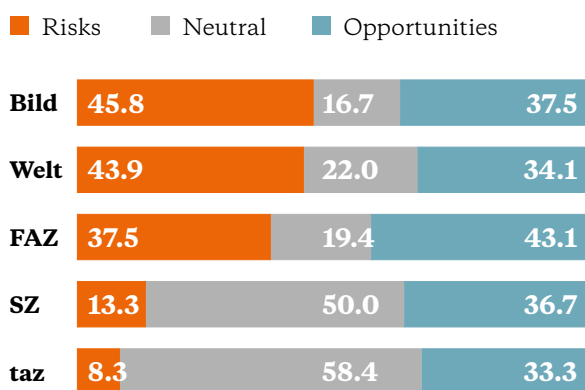
According to PSF, about 1,170 people were travelling in the caravan in 2018 – not a particularly high number. But President Trump re-tweeted the BuzzFeed report, and it escalated so that PSF was now accused of smuggling in “terrorists”. Trump sent the military to the border. PSF leader Irineo Mujica was jailed for several months.

In Hungary, state media presented the Hungarian investor George Soros as the mastermind of a plot to smuggle migrants into the country. Employees of the media holding company MTVA admitted that they had created an “atmosphere of fear” about migration in order to secure the re-election of Prime Minister Viktor Orbán. Once back in office, Orbán introduced the so-called “Stop Soros” law. Its intention was to make the work of NGOs virtually impossible, though it was later declared illegal by the European Court of Justice.

Journalists who take the side of migrants are also frequently attacked. In 2021, for example, it was revealed that the public prosecutor’s office in Trapani, Italy, had intercepted telephone conversations from around a dozen journalists who had been in contact with sea rescue NGOs. A clear violation of press freedoms.

Opportunity or risk?

Here’s how five leading media outlets* in 2021 reported how migration is changing society, in percentages.



* n = 326 media articles examined

Source: Mediendienst Integration 2022, HS Macromedia

Verdict: 187 years of prison

Punishments for smuggling continue to rise. Convictions are being handed down not only for migrants who navigate their own boats, but also NGO employees who rescue people from the sea.

“If this continues, the trial will take another 50 years”, said Seán Binder. On 10 January 2023, the trial against him and 23 other rescue divers and NGO employees finally started. The activists of the Emergency Response Centre (ERC), a small Greek NGO that no longer exists, had been waiting for the trial date for five years. Cases like these threaten to “criminalise life-saving work”, as Liz Throssell, spokeswoman for the UN Human Rights Commissioner, described on 10 January 2023.

“Forgery”, “espionage” – the court decided to drop these charges on that day. However, German-Irish rescue diver Binder and the others still have to answer for alleged “money laundering”, “forming a criminal organisation” and “facilitation of illegal entry”. For each case of “facilitation of illegal entry”, they can be sentenced to up to 20 years in prison – and there are hundreds of such cases involved. And the judicial system has until 2038 to carry out the trial. That’s the date when the statute of limitations for these and the other charges expires.

Greece is not the only country that persecutes *migrant defenders* for so-called “solidarity crimes”. In more and more countries, justice systems are taking aim at activism which undermines the country’s migration policy (see graphic on page 10).

Anti-terrorism methods

Based on both old and new laws, charges are frequently brought against migrants who navigate their own boats or help their relatives flee, as well as against organisations and individuals who work with refugees. In the US in 2018, for example, Attorney General Jeff Sessions ordered his department to interpret more harshly an old statute against “smuggling” in foreigners. They expanded the definition of “facilitation of illegal entry”, a definition that had been in force since 2005. Offices of religious groups that support migrants in the Arizona desert were raided by heavily armed police. The number of charges for “smuggling and harbouring” increased by 16 percent that year, and many aid organisations were forced to go to court. 62 journalists, activists and lawyers were targeted in a “comprehensive intelligence operation”. The UN later criticised these methods, saying they should be reserved for the fight against terrorism. They accused the government of abusing security laws to crack down on migrant defenders. All the way back in 2002, the EU issued a facilitation of unauthorized entry directive that defined how member states should take legal action against those who assist with illegal entry. The directive abolished the “profit-seeking” requirement for the offence: previously, only those who facilitated entry against payment could be punished as smugglers.

Since then, however, this offence can also apply to NGO staff, as was the case with the rescue ship *Iuventa*. In 2016 and 2017, it saved more than 14,000 people from drowning. For that work, 21 of the crew members have been on trial in Sicily since May 2022. The public prosecutor accuses them of having “criminally transported [...] foreigners for the purpose of illegal entry”. They face up to 20 years in prison.

Fatal accidents time and again

With the directive, the EU implemented the UN Palermo Protocol from 2000, with the goal of better protecting victims of human smuggling and trafficking. However, the UN protocol defines human smuggling as a “material benefit” that involves violence or coercion. It was “not the intention to criminalise the activities of family members [...], religious groups or NGOs”, the UN said at the time.

But that is exactly what is happening today. The EU directive does stipulate that states can refrain from punishment in cases of humanitarian assistance. But this is not mandatory. Many EU countries have steadily increased the penalty for smuggling – without exceptions for “humanitarian assistance”. The goal is to intimidate civil society with the threat of huge penalties. In Greece, for example, the penalty for facilitation of illegal entry until 2001 was up to three months in prison and a fine of at least the equivalent of 293 euros. Today, prison sentences of up to ten years and fines of up to 60,000 euros are possible – per person transported.

One consequence of this is that smugglers often leave the refugees to pilot the boat themselves. Time and again this results in fatal accidents – and legal prosecution for those who steered the boat. This sort of criminalisation of the victims is a clear attempt to deter others. In May 2022, for example, a court on the Aegean island of Syros convicted Afghani citizens Kheiraldin A., Abdallah J. and Mohamad B. They had piloted a ship containing 80 people on Christmas Eve 2021 – the smugglers had left the group to their own devices at sea. After the engine failed, the ship capsized and 18 people drowned. Kheiraldin A. was sentenced to 187 years in prison, and his accomplices to 126 years for “facilitation of illegal entry”.

Crime or act of solidarity?

Profit-seeking smugglers – or assistant to those in need? Each reader of this Civil Society Atlas is free to draw their own conclusion as to what constitutes a crime. What do you think?

1956



In 1956, hundreds of thousands of Hungarians fled from the dictatorship to the West. Many stayed in camps in Andau, Austria, but some farmers also let them **sleep in their barns**. They picked the people up at the border in horse-drawn carriages, while the government in Vienna promised “unconditional solidarity”.

1964



West Berliner Klaus-Michael von Keussler belonged to a group that dug a tunnel under the **Berlin Wall** to help others escape. The passage was 145 metres long but only 80 centimetres high. In October 1964, 57 people used this tunnel to cross from East to West Berlin.

**“He said: Pay for me 4,000 dinar,
I will put you in the sea.
Or if you not want to pay 4,000 dinars,
I will send you back to your country.”**

Quote from a migrant held by human traffickers at Libya’s notorious Al Nasr Detention Center in April 2019, writing to journalist Sally Hayden via WhatsApp. From her book *My Fourth Time, We Drowned* (2022).

2015



In 2015, hundreds of **volunteers**, NGOs and the UNHCR provided for up to 15,000 refugees in the Greek refugee camp Idomeni for months.

2015



In August 2015, 71 women and men from Syria, Afghanistan, Iraq and Iran suffocated in the hold of this refrigerated lorry on the A4 motorway near Parndorf in Austria. After packing them inside, the smugglers simply abandoned the lorry out of fear of the police – condemning the people to their **deaths**.

2015



In Libya's Zawiyah detention camp, militias **detain** people who are on their way to Europe. They are often released only after relatives pay a ransom – plus the fee for a space on a boat across the Mediterranean.

2015



The ferry **business** on the Rio Suchiate is booming: just a few metres from the official border crossing, ferrymen take people from the Guatemalan side to the Mexican side. This illegal border traffic takes place under the eyes of the national guard and police.

2017



Belgian **journalist** Anouk van Gestel was charged with “membership in an international criminal organisation”. In 2017 she took a young Sudanese man named Moha into her flat in Brussels and asked a smuggler over the phone if he could take the man to his destination in the United Kingdom.

Section 96

Smuggling foreigners into the federal territory

(1) The following is punishable with a prison sentence of three months to five years, in less serious cases with a prison sentence of up to five years or a fine: anyone who

1. incites another person to commit or assists that person in committing an act referred to in section 95 (1) no. 3 or (2) no. 1 (a), and
 - a) receives a pecuniary advantage or the promise of a pecuniary advantage in return or
 - b) acts in such a manner repeatedly or for the benefit of several foreigners or
2. incites another person to commit or assists that person in committing an act referred to in section 95 (1) no. 1 or no. 2 (1a) or (2) no. 1 (b) or no. 2 and receives a pecuniary advantage or the promise of a pecuniary advantage in return.

Excerpt from the German Residence Act, updated 2022

2018



Lifeguards Seán Binder (pictured) and Sarahardini are on trial in Greece for being first responders on Lesbos, keeping a lookout for refugee boats and helping people get **safely** to shore. They face decades in prison. Proceedings are ongoing to this day.

2020



More than 350 migrants were **rescued by the crew** of Sea Watch 4 off the coast of Sicily on 1 September 2020. Libyan smugglers sometimes charge up to 1,000 euros for passage, usually on dangerously overcrowded, unseaworthy boats. The frequency of fatal accidents is enormous.

The extended arm of the border guard

When transit states become gatekeepers of the EU’s external borders, civil society also suffers. That’s because countries like Niger and Libya are taking action not only against refugees and migrants, but also against those who fight for their rights.

For years, governments have relied on using transit countries as gatekeepers. The goal is to stop the migrants when they are en route or before they set off. For Europe, that means stopping migrants not just at the EU borders, but in Niger or Libya. In addition to projects combating the root causes of migration, the USA also finances border defences in countries like Mexico, Guatemala and El Salvador (see graphic).

The EU policy of containment

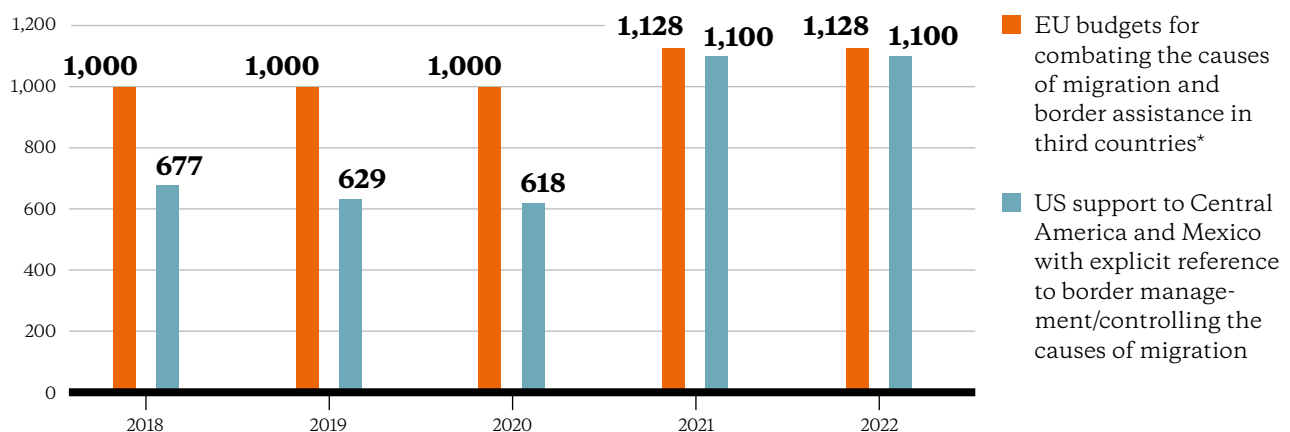
Even before the Arab Spring, the EU worked with dictators like Gaddafi in Libya or Ben Ali in Tunisia to stem the flow of migrants – the technical term is “externalisation”. After 2015, states such as Sudan, Turkey and Egypt were also increasingly enlisted to protect the EU border. When Egypt’s military ruler Al-Sisi came to Berlin in November 2018, German Chancellor Angela Merkel said: “Egypt has done an excellent job securing its maritime borders. There is essentially no migration from Egypt to Europe, even though there are many refugees

living in Egypt. We are very appreciative of this effort, and so we are supporting Egypt with an unrestricted loan of 500 million euros.”

The EU therefore often finds itself partnering with authoritarian regimes like Al-Sisi’s – for reasons of geography and transit routes, but also because they can more easily enforce unpopular practices in violation of human rights. At the same time, this strengthens their power: According to an analysis by the German Institute for International and Security Affairs, Al-Sisi is using “the high priority the EU attaches to cooperation with third countries on migration policy to consolidate power”. This is bad news for civil society, as Al-Sisi’s human rights record is disastrous.

Rising budget for containment

Today, the EU and the US pay approximately the same amount to third countries to keep migrants and refugees out. In millions of euros



Only selected multilateral budgets with migration relevance. General development collaborations and bilateral programs of individual EU member states not included. Average amounts per year

Source: * EUTF (2015–2020), NDICI (2021+2022), EU Commission, US Congress

Resistance from civil society against this containment policy is therefore almost non-existent in Egypt, writes the online portal Migration Control. Research on the outsourcing of border defence or the living conditions of refugees is simply too dangerous. Although Egyptian human rights groups or trade unions were campaigning sporadically for the rights of immigrants or refugees, civil society was “increasingly paralysed and only capable of working in isolated instances”.

But even semi-authoritarian states like Niger – one of the most important partners in EU migration control – are cracking down on critics (see page 46). In 2020, for example, the government in Niamey arrested Moussa Tchchangari, director of the NGO Alternative Espace Citoyen (AEC), for several months. The charge: violating the law of assembly. AEC is one of the most important voices against the criminalisation of migrant defenders in Niger.

A question of “national security”

Australia has relied on containment within transit zones for much longer than the EU. In 2001, the government introduced the “Pacific solution”. It provides for all asylum seekers arriving in Australian territory to be held in detention camps – including some on Australian soil since 2023, though before that primarily on remote islands. These closed camps, for example in Papua New Guinea or Nauru, were privately run and paid for by Australia; civil society organisations and the media had little access. Most of these camps have since been dissolved. But at the height of this practice, between 6,000 and 12,000 adults and about 2,000 children were detained annually between 2010 and 2016 alone.

This did not go unchallenged in Down Under – among others by the #LetThemStay campaign in 2016. This campaign demanded that refugees no longer be deprived of their rights. The state responded by classifying its defence against arrivals as a matter of “national security”. Disclosure of living conditions in the camps was criminalised as an act of “sedition”. This applied to anyone who reported on the situation in the camps – journalists as well as camp employees. Even submissions by NGOs reporting to international bodies such as the UN have since been considered betrayal of state secrets.

In Mexico, the government has built an extensive network of checkpoints along the entire route from Guatemala to the US border over the past decade – in return for substantial sums from the United States (see graphic on page 24). The consequence of this externalisation policy? Countless human rights violations. This also makes the work of Brot für die Welt partner organisations and other non-governmental organisations in Mexico more difficult. Their rights are also being violated, and their employees threatened (see page 34).



“A high degree of self-censorship”

Ms Pattanaik, you coordinate a worldwide network of NGOs that support migrants.

Are you being restricted in your work?

Bandana Pattanaik: As coordinators, we are not directly or physically threatened – unlike some members of our network. People on the ground experience violence, also from the police and the military. For us in Thailand, the problem is that our employees at our headquarters in Bangkok, almost all of whom are foreigners, only have temporary residence and work permits. Most recently, they were allowed to stay in the country for only three months. The result is a high degree of self-censorship.

Do you think that the government is deliberately using this visa practice to hinder your work?

Bandana Pattanaik: You have to look at this in a broader political context. In 2021, India introduced a repressive NGO law under the Foreign Contribution Regulation Act; Oxfam India, for example, lost its licence to operate in India as a result. In Thailand, too, the government is working on a new NGO law, and we fear that this law will incorporate elements of the Indian model. This would directly affect us, because we get money from foreign partners. Unfortunately, the ASEAN is not using its mandate to speak out against *shrinking space* in the region.

How is your network handling it?

Bandana Pattanaik: The NGOs have become cautious. Big NGOs can say what they want, they have a strong legal department. They can go on the offensive and attack governments. But not everyone has this safety net. Smaller players tend to stay silent, because otherwise they will quickly disappear. They walk a very fine line: they want to be more strategic than confrontational. But they know: those who hold back may not be deliberately oppressed by the state, but they are not taken seriously either. That’s why we are reflecting and considering what is the right strategy for each country.

Bandana Pattanaik Coordinator for Global Alliance Against Traffic in Women, Thailand (www.gaatw.org)

Civil society fighting against repression

Globally, refugees and migrant defenders are banding together, resisting and reclaiming their freedoms. One key to their success is setting legal precedents and using digital solutions wisely.

In many countries of the world, it has become extremely difficult and often dangerous to advocate for people on the move. To fight against repression and restrictions on basic rights and freedoms, many of those affected therefore have no choice but to organise themselves. In doing so, they become their own defenders – and the driving force of political debates and creative solutions.

An important corrective

One example is the exploited undocumented workers on the Andalusian vegetable plantations, who built their own grassroots union known as SOC-SAT – and defended themselves against both physical attacks and wage fraud. In Mexico, defenders who had previously migrated themselves accompany the caravans from Central America on their way to the USA. As part of the “Back to the Borders” project of the Welcome2Europe initiative, young migrants who had reached their destination in Europe temporarily returned to the Aegean islands, where they shared information with recent arrivals about what to expect on the rest of their journey. In Togo, deportees from Europe joined together in the Association Togolaise des Expulsés. They inform young men who are considering making the journey through the Sahara to Europe about the dangers in an open-minded discourse. In Poland, defenders used the messenger service Signal to track the geodata of refugees hiding from police in the forest. They were able to bring water, food, blankets, medicine and power banks.

On the Mediterranean coast and in the Sahara, people set up alarm phones for refugees. In Libya starting in October 2021, refugees overcame extremely harsh conditions to organise against mistreatment and internment in government camps. Detainees went on strike, and released prisoners held a rally in front of the UNHCR building for several months – in December 2022 they even marched with hundreds of activists in front of the UNHCR headquarters in Geneva.

In the U.S., defendant Scott Warren’s group No More Deaths organised mobile legal aid workshops for local aid workers. In Mexico, at the invitation of Brot für die Welt, people came together in June 2022 to discuss what they can do to counteract the increasing violence against refugees and migrants, as well as the organisations that assist them.

This list could go on and on. It is impossible to cover the entire global ecosystem of groups which have organised and empowered themselves in this way. These initiatives are often

supported or funded by larger groups. And yet, it is often these smaller, self-organised groups which set the agenda for debates in civil society, the media and the scientific community.

Another important tool for enforcing the rights of migrants is the judiciary, where civil society actors carefully choose which cases to pursue in court – sometimes with the possibility to set precedents. In EU courts, for example, activists won a ban on deportations to Libya, and successfully overturned Hungary’s “Stop Soros” package. Organisations such as FrontLex or the Berlin-based European Center for Constitutional and Human Rights (ECCHR) are suing over the mass pushbacks in Croatia, the violence at the Melilla border fence, and European cooperation with the Libyan coast guard – and they have won several cases. True, authoritarian governments such as Poland or Hungary often aggressively ignore judgements. Nevertheless, these decisions are an important corrective that can pre-emptively stop state-sponsored human rights violations – for example, if they deter the Italian government from carrying out the anti-refugee “sea blockade” it announced during the election campaign.

NGOs are also becoming increasingly professional in documenting human rights violations. Today, civil society actors such as Forensic Architecture are reconstructing incidents at external borders with the highest technical proficiency. Groups like Alarm Phone are documenting in real time the state’s failure to provide assistance to migrants stranded at sea.

NGOs and *migrant defenders* are finding increasing success: In 2021, Grupa Granica from Poland quickly established a resource-rich humanitarian aid network along the Polish-Belarusian border. By cooperating with locals, they have been able to at least partially undermine the sealing off of the “red zone” (see page 14).

Opposition to authoritarian parties

The *shrinking space* for civil society is closely related to the rise of populist and authoritarian parties. A range of communities quickly rose up against these parties – both in the USA and in Europe. Under the slogan “Solidarity Cities”, for example, more than 700 European cities are now actively promoting a solidarity-based migration policy. Local networks of NGOs and politicians are trying to change the repressive policies of nation states which are hostile to refugees. At the same time they offer “safe harbour” at a local level, in a world where others have closed their doors.

Civil society at risk:

Four cases in Europe, Latin America, Asia and Africa



In almost 90 countries, Brot für die Welt supports partner organisations in defending human rights, denouncing environmental destruction and protecting activists from repression. These country portraits from Greece, Mexico, Pakistan and Niger illustrate the problems facing civil society actors who assist refugees and migrants – along with some possible solutions.



| Exhausted but safe: The crew of the rescue ship Sea Watch 4 rescued 90 migrants off the coast of Libya. Their dinghy was in danger of capsizing on 24 August 2020. None of the coast guards they radioed had responded.

Greece

Assistance forbidden

CIVICUS rating: Obstructed

In 2015 and 2016, non-governmental organisations and volunteers were celebrated for helping refugees and migrants. Today, they are prohibited from handing out water or dry clothes.



For 30 days, fourteen-year-old Hasan walked with his parents and siblings from Kobané in Syria to northern Greece, more than 1,800 kilometres. But shortly after his arrival at the camp, his heart gave out. When the ambulance arrived two hours later, Hasan was dead. There were doctors from a NGO living only a few hundred metres away. But the state has banned them from entering the refugee camps since early 2022.

Six years earlier, things were different: When more than 860,000 refugees arrived in Greece in 2015, they were warmly welcomed. “At that time and in the following year, the solidarity of the Greeks was huge”, recalls Dorothee Vakalis of NAOMI, a partner organisation of Brot für die Welt. “For our food drives in Idomeni, people brought rice, tomatoes, oil every day.” This help was necessary, because the state did not provide the refugees with housing, medicine, food, legal advice or language courses. These jobs fell to volunteers from all over Europe, spontaneous initiatives and NGOs.

Today, the situation in Greece is vastly different: regardless of their right to protection under international law, refugees are considered “illegals” and criminalised by many Greeks and the state. Civil society NGOs which support refugees are also under attack in Greece: they are faced with ever higher bureaucratic hurdles, and their employees are harassed or arrested as “smugglers”. “We used to be able to go to the beach, greet people, put up signs with our phone numbers – that’s unthinkable today”, says Alice Kleinschmidt of Borderline Europe on Lesbos.

The situation for asylum seekers and migrant defenders in Greece has been deteriorating for years. It started in 2016 with the EU-Turkey deal, which aims to prevent refugees from travelling to Europe. This deal has exacerbated the geopolitical

*The punishment:
up to
100
years of prison*

conflict between Greece and Turkey. And to this day it leads to refugees being pushed back and forth between the two countries for days, on the Mediterranean or the border river Evros – without food, without clothes, without support.

And it culminates in what are known as “push-backs” – pushing asylum seekers back onto the sea or the Evros, i.e. back into Turkish territory, or to the borders with neighbouring states. Pushbacks violate international human rights and international law – especially since the refugees are often mistreated and tortured.

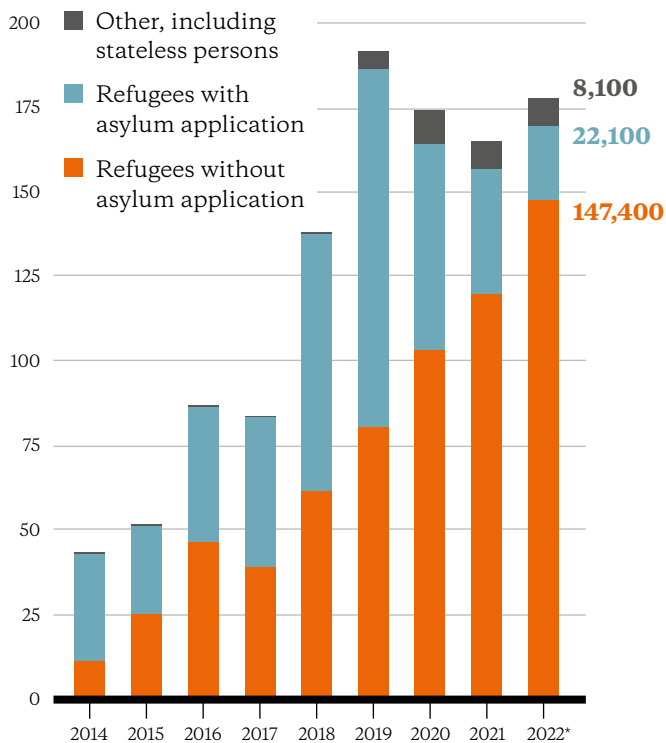
According to the Greek Ministry of Justice, the country’s prisons are full of people accused of smuggling refugees into the country – alongside those convicted of drug offences. One common charge is transport: according to Article 30 of Greek immigration law 4251/2014, any person who drives a vehicle that helps people enter Greece without valid entry documents is committing a criminal offence. The terrible thing is, because the punishment is ten years per person transported, the sentences often amount to more than a hundred years in prison. The law mainly affects refugees who take over piloting of the boat, even for a short time, because smugglers no longer even come on board. According to the NGO Borderline Europe, the Greek coast guard arrests one to two refugees per ship on average. The charge: facilitation of illegal entry.

Restricted access

The strict refugee policy and the isolated refugee camps and walls around the camps enjoy broad support amongst the Greek population: in 2022, four out of five Greeks were satisfied with the government’s actions. One example of the government’s containment policy is the Zervou Refugee Camp on Samos, a pilot project that serves as a model for four other Closed Controlled Access Camps (CCAC) in Greece. These camps are intended to replace the old camps in the long term. The camps are reminiscent of Guantánamo: huge concrete walls, triple barbed wire. The official policy is free entry and exit from 8 a.m. to 8 p.m., though this often exists only on paper – not least because the camps are located in remote places on the island. Every coming and going is recorded by chip. And the trip to the next village is expensive. The EU has financed the construction of these dystopian camps to the

Delayed asylum procedures

Most refugees are in the country without having applied for asylum. Some don't get an appointment to apply for over a year.*



* Since 2022, the Greek government has been using fast-track procedures which allow for speedy deportation.

Source: Atlas der Migration 2022/UNHCR, Refugee

Data Finder

tune of 274 million euros – after all, Greece is the “protective shield of Europe”, according to EU Commission President von der Leyen.

NGOs and lawyers hardly ever gain access to the CCACs (see interview on page 32). And the Greek government prefers not to see them in the country's other camps as well. Only those who have a specific appointment and permission of the authorities are allowed to enter the camps. NGOs can no longer offer open counselling meetings. The isolation of camp inmates from potential assistance only increased after the right-wing ruling party Nea Dimokratia passed another law – Law 4662/2020 – in April 2020,

Registration costs up to **25,000** euros

which changed registration requirement of Greek and foreign NGOs: since then, all organisations working on asylum, migration and social inclusion have to undergo a multi-stage registration process to be allowed to work. It is complex, opaque and – at up to 25,000 euros – expensive. For example, NGOs have to present audited financial statements that demonstrate at least two years of humanitarian experience – this automatically excludes younger organisations.

Criticism dismissed as fake news

Brot für die Welt partner Equal Rights Beyond Borders is currently taking legal action against this procedure before the highest administrative court in Greece, claiming that it is unconstitutional. The United Nations has also sharply criticised it. For Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, the registration requirement with the government's “broad discretion” has the effect of “further restricting the civil society space and significantly and disproportionately increasing state control over the work of NGOs in the area of migration”. The Expert Council on NGO Law of the Council of Europe said the procedure currently makes it “virtually impossible” for NGOs to work in the field of asylum, migration and social inclusion.

Journalists who report on the failures and mistakes of Greek refugee policy and on state repression against refugees, migrants and defenders have also come under pressure. At the end of 2022, it became known that, in addition to a number of politicians, Stavros Malichudis, who writes in international media about the treatment of refugees in Greece, had been wiretapped using the Predator spy software.

Media reports about pushbacks are often dismissed by the Greek government as fake news. “One gets the feeling that it is not those who commit human rights violations at the borders who have to justify themselves, but rather those who

document them”, criticises Franziska Grillmeier, who writes about migration in Europe for Zeit.de and other media. Since the end of November 2021, spreading alleged fake news can be prosecuted in Greece under Article 191 of the Greek Criminal Code. “But who determines what is fake and what isn’t?” asks Grillmeier. For example, Panayote Dimitras of the Greek Helsinki Monitor, who has been working for refugees for years, is accused of having founded a criminal organisation. The organisation Equal Rights Beyond Borders has called it a “witch hunt” against Dimitras, and an “unprecedented reversal of reality”. It’s the sort of thing that intimidates others.

Journalists are increasingly denied contact with refugees. “The biggest problem for me is the increasingly difficult access to camps, to borders or to other places where people are staying, demonstrating, calling for help,” Grillmeier says. She is frequently turned away, for example because the authorities claim the location is a restricted military area. The camps themselves she can only visit when accompanied by the authorities – which makes it nearly impossible to report freely. “You can’t sit down with someone who has been tortured and candidly ask what happened, not with a police officer beside you”, Grillmeier said. When she approaches the authorities with questions, she often receives a very belated response. Or none at all.

3 criminal proceedings against NGO Josoor

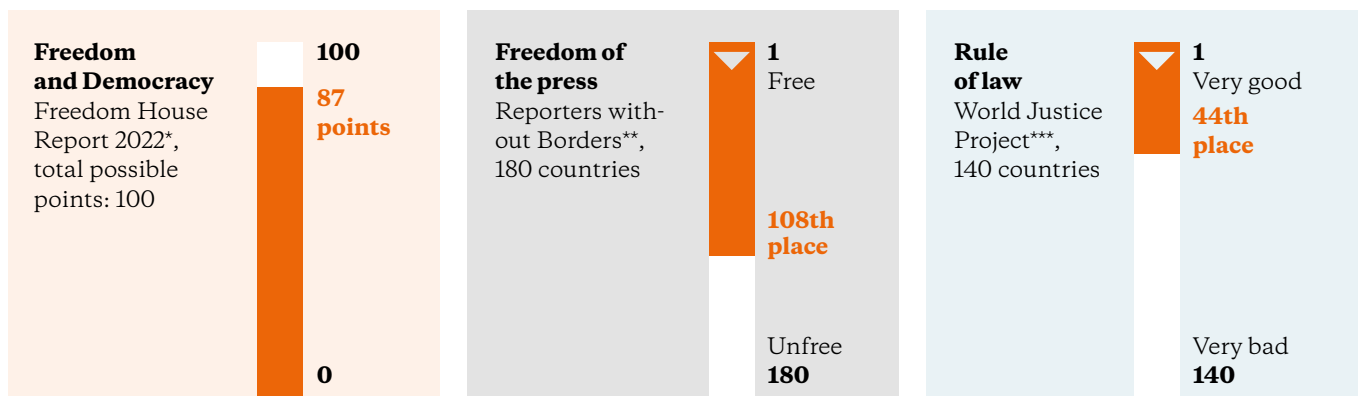
Sea rescue under pressure

More and more NGOs are withdrawing due to the increasing repression – especially NGOs working in sea rescue (see page 13). Their ships are detained in ports, NGO staff and volunteers are sometimes taken into custody. “Unfortunately, increasing repression and criminalisation by the Greek authorities have made further outreach impossible”, said the NGO Mare Liberum.

Organisations such as Borderline Europe Lesbos are adjusting their program, for example offering social counselling outside the camps. Other NGOs like Josoor have given up altogether. The Greek government has launched three criminal proceedings against Josoor; the accusation: facilitating illegal entry. All were dropped for lack of evidence. Nevertheless, the government is still making “enormous efforts to find evidence of our alleged misconduct”, the NGO writes on its homepage. The state is not afraid to recruit asylum seekers as informants or to monitor the phones of NGO teams.

How democratic is Greece?

Three indices show the situation in the country – and the freedoms for civil society.



Source: * Freedom House: “Freedom in the World 2022 Country Report”; ** Reporters without Borders (RSF): World Press Freedom Index 2022; *** World Justice Project: Rule of Law Index 2022

“Arbitrary and disproportionate”

Interview with **Alexandros Chrysomallos**
Lawyer at Equal Rights Beyond Borders



Mr Chrysomallos, you advise refugees who want to apply for asylum in Greece – but you do not always have access to the camps. How do you get in contact with them in the first place?

Alexandros Chrysomallos: Usually other organisations or the UN Refugee Agency UNHCR point out cases to us. We can't just walk into the camps and spontaneously meet people – especially since all NGOs working with asylum, migration and integration have to register in a special state register since 2020. We need a permit for every visit to the camp. But asylum seekers have the legal right to a lawyer. And at any time.

Why do you think the government has introduced this special register?

Alexandros Chrysomallos: Apparently to prevent unwanted NGOs and lawyers from entering the camps, to advise asylum seekers and help them find justice. And because they are afraid that NGOs will find out about state misconduct. The other day, the prime minister said that the register was needed to decide whom the government would work with and who they wouldn't. As if it was an invitation to a party!

Can you enter the camps today?

Alexandros Chrysomallos: Yes, but it took almost a year to register. Now we can get into the camps. But we are still not allowed to participate in registrations and questioning by Frontex. For a long time we couldn't get into the quarantine facilities on Kos and Chios, for example. They no longer exist, but in 2022 all those arriving in the country still had to spend five days there, and even 14 days at the beginning of the pandemic. They had their mobile phones confiscated, often destroyed. This is illegal. The reason I'm emphasising the past is that the state could reintroduce the quarantine at any time.

Why is it so important that you advise refugees as soon as they arrive in Greece?

Alexandros Chrysomallos: Many of them have no papers. They can be returned to the country of origin immediately. That is why it is important that they are given legal advice on the first day of their arrival – before they submit their application and before they have their interview with the authorities. Because the islands have accelerated asylum procedures; they can be completed within one or two weeks. On the mainland, in contrast, asylum procedures run quite slowly: all appointments for 2023 were already booked up by autumn 2022. But only those who have officially applied for asylum are entitled to housing, food, medical care.

Also NGO employees have to register ...

Alexandros Chrysomallos: Yes, and this individual registration requirement – which, by the way, does not apply to NGOs working on other issues – is similarly opaque. The criteria are arbitrary, and many of the requirements are disproportionate. For example, we have to provide a certificate of good conduct from the police. Or report new phone numbers within 24 hours. After their “review”, the authorities can say: You are not doing your job well, so we refuse to register you. Then you are never allowed to work with refugees and migration again.

Where would the state be without an NGO like yours?

Alexandros Chrysomallos: Without NGOs, Athens would not be able to care for the many refugees and manage the necessary tasks. In my country, the state does not voluntarily provide medical assistance for refugees, social work, and so on. Rather, it is forced to do so because of its adoption of the EU Charter of Fundamental Rights, the European Convention on Human Rights and the Geneva Convention on Refugees.

Does the population at least view NGOs with a respect worthy of the important work they do?

Alexandros Chrysomallos: Unfortunately, no. In Greek, the abbreviation for NGO is MKO – and unfortunately, it no longer has a positive connotation among the population since the government and the state-aligned media have been so massively critical of refugees and migrant defenders. Very often, NGOs are associated with human trafficking or smuggling, even if they work in a field quite different to migration.

Do you feel this hostility and repression personally?

Alexandros Chrysomallos: Unlike many activists in other countries, we do not fear for our lives when we leave the office. We don't have to take a different route home from work every day. But we are afraid of being surveilled, so we try to protect our laptops and phones. Because the fear of being spied on is always accompanied by a kind of self-censorship. And every time the police call us about a client, we are frightened at first, because we have to fear being targeted ourselves, even though we have only exercised our right to freedom of expression or assembly. The state is massively violating the fundamental rights of refugees – and this can happen to us as well, their lawyers.

What gives you strength?

Alexandros Chrysomallos: One thing is our collaboration with other NGOs. Our conversations with them sometimes feel like a therapy session because we all have similar problems. It helps us to cope with this roller coaster of emotions – hope, disappointment, excitement, worry, fear – which is also tiring. Often, my colleagues and I get frustrated when we cannot do anything for a case. Nevertheless, we still try to expose and fight against these reprehensible and illegal practices, in the hope that one day these abuses will be a thing of the past and we can say: the fight was worth it!

Short and sweet

Our partner: Equal Rights Beyond Borders (ERBB)

How it originated: 2017 by German and Greek lawyers

Project area: Greece and Germany

Focus: ERBB supports people who want to apply or have applied for asylum in Greece and provides them with legal advice.

More info: <https://equal-rights.org>

| Barbed wire and guards: NGOs and lawyers have hardly any access to the centre for asylum seekers in Zervou on the Greek island of Samos. They are no longer able to provide legal advice.





| Water for the thirsty: Members of the NGO FRAYMA help migrants crossing the Mexican state of Chiapas on their way north. FRAYMA is a partner of Brot für die Welt.

Mexico

State and cartels working hand in hand

CIVICUS rating: Repressed

Hundreds of thousands of migrants cross Mexico on their way north. Those who support migrants live in constant fear. The president does little to protect them.



Every morning, Mexican President Andrés Manuel López Obrador – often referred to as AMLO – gives a press conference at the National Palace, which he calls his *mañana*. From seven o'clock onwards, he gives his opinions on current events. Comments on recent developments from his own personal point of view. Answers questions from journalists. The left-wing nationalist promised voters in 2018 that his government would be more transparent than that of his predecessors. AMLO has huge problems to deal with: violence and corruption, the links between the state and organised crime.

AMLO's daily press conference can also be a kind of tribunal. Again and again, the president picks on and attacks individual organisations or journalists. He focuses especially on civil society actors who advocate for environmental and climate protection, equality and human rights. Or NGOs that support migrants. It's as if he doesn't want anyone to care about this issue.

When the president talks, the tone often slips into nationalism rhetoric. According to him, the NGOs he targets are foreign-funded and badly run – such as the organisation Artículo 19, which fights for freedom of the press and freedom of expression, and which revealed in 2022 that the state continues to spy on NGOs using the Pegasus software. The president likes to portray this organisation as a vassal of the US government in Washington. When the head of state makes such public defamatory remarks about organisations committed to tackling migration issues, it is no surprise that these organisations find themselves

In 2021,
34,000
people were
murdered.

attacked, harassed and defamed – by the authorities, citizens, the police.

According to COMDHSE, an alliance of civil society organisations which work with and for migrants and which includes two Brot für die Welt partners Voces Mesoamericanas and Fray Matías de Córdova human rights centre (FRAYMA for short), such attacks against migrant defenders are on the rise – including attacks by state institutions. *Migrant defenders*, for example those who provide legal advice, are frequently denied the opportunity to work with migrants – sometimes with violence. Some have been thrown out of the offices of the migration ministry, others have been photographed there without their consent and threatened. In other cases, the national guard or the police have prevented human rights defenders from doing their work, claiming that what they were doing was illegal, that accompanying asylum seekers was forbidden. But hundreds of thousands of women, men and children travelling through Mexico in search of a better life urgently need this assistance and legal advice.

In northern Mexico, just across the border, the United States beckons as a realm of supposed hope and opportunities – despite its draconian defences. The people coming from the south left their home countries for various reasons: because of escalating violence, for political reasons, due to the consequences of climate change or because of the lack of economic opportunities. Most come from El Salvador, Honduras and Guatemala. In 2022 alone, more than 600,000 migrants crossed Mexico's southern border, the UN refugee agency UNHCR estimates. Many of them continue to see the US as their destination. But more and more of them are also trying to build a new life in Mexico.

A country held hostage

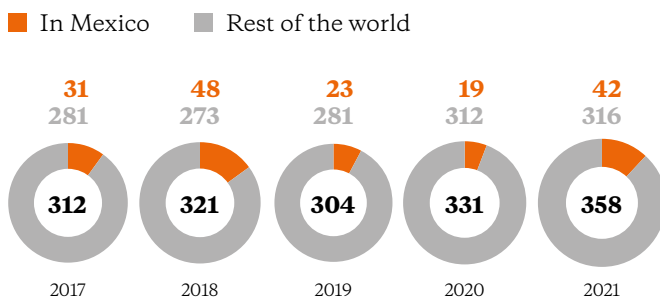
Some of the migrants also originate from Mexico itself. There is a great deal of inequality in the country, and young people lack opportunities. Another reason is the violence that has been escalating since 2006: drug cartels and organised gangs, state actors and the military – and often a combination of all three – are holding the country hostage. Since 2006, more than 110,000 people have been officially reported as missing. In 2021 alone, 34,000 people were murdered.

Migrants are a popular target of criminals: many are attacked, beaten, raped, robbed or murdered along their route. According to figures from the National Human Rights Commission, between 2011 and 2020, at least 70,000 refugees were kidnapped by traffickers, drug cartels, police, the national guard and others. Many become victims of organ trafficking, are forced into prostitution or enslaved, sometimes being abducted to other countries. One in three women refugees in Mexico report being the victim of sexual violence. Countless people are detained in special state-run detention camps. Many refugees who pass through the country never reappear. This is another reason why migrants organise themselves into caravans, with the idea that there is safety in numbers.

99%
of violations
are never
investigated

Deadly engagement

Number of human rights defenders killed in Mexico and worldwide.



Source: Frontline Defenders Global Analysis 2017–2021, Human Rights Defenders Memorial

Migrant defenders risk their lives

Those who support migrants along their route also have their rights violated. Human rights defenders provide food and water, arrange medical treatment, and document rights violations. They accompany migrants at border crossings, give them legal advice, organise accommodation and lobby governments for their rights.

This work is important because migrants receive virtually no support from the state. This puts activists at great risk, says Michel Forst, former UN Special Rapporteur on the situation of human rights defenders. Criminals also target human rights defenders: “with blackmail, rape, kidnapping and murder”, Forst writes in a report on the situation in Mexico. These groups don’t want anyone to ruin their business.

According to Forst, however, migrant defenders also suffer abuse from state migration authorities and private security companies monitoring railways along the migration routes, which try to bully activists and delegitimise their work by arguing that it is illegal. This hand-in-glove approach by state and non-state actors against *migrant defenders* is characteristic of Mexico, NGOs say.

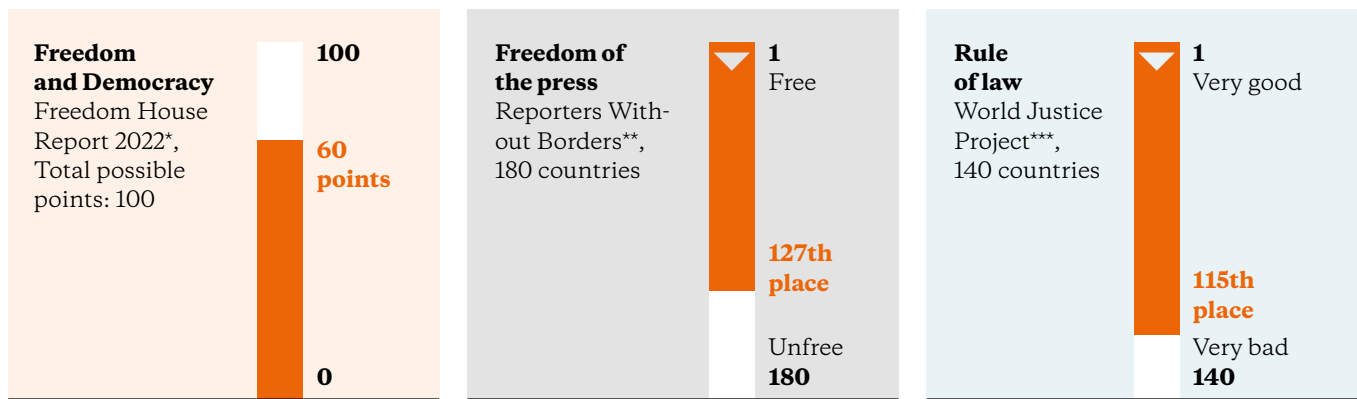
In the Mexican legal system, most of the perpetrators go unpunished. 99 per cent of human rights violations are unaccounted for. In the Global Impunity Index 2022, Mexico ranked sixth among countries with the highest impunity ratings, for all acts and crimes. The Mexican state seemingly does not want to find out the truth. What’s more, individual representatives go to great lengths to ensure that human rights violations are neither investigated nor solved, sometimes in order to conceal links between state security forces and organised crime.

No willingness for the truth

Partner organisations of Brot für die Welt are among those threatened. The staff of the FRAYMA Human Rights Center, for example, help migrants arriving in Tapachula on the Guatemalan-Mexican border. For this work they are filmed, blackmailed and robbed – where the attacks come from is often unclear. FRAYMA also assists detained migrants in applying for asylum or filing a complaint with the National Human Rights Commission due to poor detention con-

How democratic is Mexico?

Three indices show the situation in the country – and the freedoms for civil society.



Source: * Freedom House: “Freedom in the World 2022 Country Report”; ** Reporters without Borders (RSF): World Press Freedom Index 2022; *** World Justice Project: Rule of Law Index 2022

ditions. But state authorities physically block their access to migrants. Or they don't issue the permit required to visit the detention centres. When they are able to visit the detention centres, FRAYMA employees are often harassed: women in particular are sexually harassed during the security check.

There have also been documented reports of human rights defenders being harassed by national guard officers and officials of the National Institute for Migration (INM). In 2021, for example, journalists, human rights defenders and members of the National Human Rights Commission in Tapachula in the state of Chiapas accompanied a long train of several thousand migrants migrating north after crossing the border from the south. Armed men in plain clothes and vehicles with tinted windows initially watched them and later blocked their way. Media representatives and activists were not able to fulfil their most important task: observing, accompanying, documenting.

72
migrants
found dead

Accomplices in the military and federal police

Lawyer Ana Lorena Delgadillo, award-winning journalist Marcela Turati and forensic anthropologist Mercedes Doretti were intimidated in a very different way. All three women work for partner organisations of Brot für die Welt and fight for the rights of families whose relatives have disappeared while fleeing. One example of such work was pushing for an investigation into the two San Fernando massacres (see interview on page 39). In 2010, 72 migrants were found dead in this narco-dominated area not far from the US border; the following year, another 196 people were found dead, many of them migrants. Armed men had kidnapped them, killed them and buried them. The notorious Los Zetas cartel, led by former Mexican army special forces, perpetrated both massacres – and the police joined in, according to investigative reports.

In 2021, Delgadillo had argued before the Supreme Court to obtain the release of the investigation reports of this mass murder – and found something horrifying in them: not only the Zeta cartel was under investigation. Delgadillo, Turati and Doretti themselves were also considered suspects. Prosecutors had used the Pegasus software to spy on their smartphones – saying they were members of organised crime and guilty of kidnapping. The accusation still has

not been dropped. Today, says Ana Lorena Delgadillo, she is probably no longer under surveillance. However, the criminal investigation that the state has launched against them is still ongoing. “This is exactly how they put pressure on us human rights defenders: the public prosecutor’s office can take further action against us at any time.”

Defenders are a threat to the business

Defamation, false accusations and illegal spying are certainly threatening – and often the precursor to direct physical violence. Baptist pastor

40,000
US dollar
ransom

Lorenzo Ortíz learned this first hand when he was kidnapped by members of a cartel in Nuevo Laredo. Ortíz has been working in this city on the US border for five years, assisting migrants with their most basic needs: food, clothes, medicine. He also maintains five refugee shelters in northern Mexico. But the cartel makes money from smuggling and human trafficking; someone like Ortíz who protects them is a threat to the business.

On the evening of 6 June 2022, Ortíz’s activism became his undoing: he and 15 people he had sheltered were abducted. The kidnappers threatened to kill the pastor and demanded a ransom of about 40,000 US dollars – a sum they later reduced to 20,000 US dollars.

Ortíz and his fellow prisoners were lucky: the national guard freed them after 29 hours. Ortíz himself gives a cool assessment of the situation: “For the cartel, this is all a business – they see people as goods”, he said after his release. He is aware of the danger he is facing because he looks after migrants in Nuevo Laredo, admitting: “We might pay a high price.” This time, at least, he got away. But as long as he continues his work, his life is in danger.

| Every year, migrants commemorate the 72 women, men and children massacred by cartels in San Fernando on 24 August 2010. Here they are in Saltillo in 2019.





“They knew everything about me”

Interview with **Ana Lorena Delgadillo**

Founder and Director of the Fundación para la Justicia y el Estado Democrático de Derecho in Mexico

Ms Delgadillo, you take care of people whose relatives have been disappeared or killed as migrants in Mexico.

Why is this work so important?

Ana Lorena Delgadillo: Because in the past 16 years more than 100,000 people have been disappeared in my country, including migrants in transit – there is no official data to tell us exactly how many. Their families have rights, but very few are aware of them. We support them in asserting these rights so that as many crimes as possible can be solved.

But how can you help the family? Many live in countries that border Mexico ...

Ana Lorena Delgadillo: When we started working with families twelve years ago, we realised very quickly that it was a transnational problem and that we needed to network across national borders in Central America and the United States. Since then, we have been documenting individual cases as examples for training the families to assert their rights. We have managed to ensure that relatives can now request investigations at Mexican embassies and consulates in their own country. That way family members do not have to make an expensive and dangerous trip to Mexico; many would not get a visa anyway.

What factors complicate your work?

Ana Lorena Delgadillo: The many hurdles that are put in our way. For example, we have to keep pushing the public prosecutor’s office to investigate disappearances, or nothing will happen. This is very tedious. To make progress in identifying bodies, for example, we need access to information and permits, which we often get only after tough negotiation – if at all. But every small step is a step towards the truth.

You have also been investigated ...

Ana Lorena Delgadillo: Yes. In 2011, another mass grave was discovered in northern Mexico, where 196 bodies were

buried, including many migrants. We represent some of the families whose relatives were murdered here, known as the San Fernando massacre. The Attorney General’s office was investigating, and because there are links to organised crime, the investigations were particularly delicate. We worked closely with the judiciary but did not get access to the files. So we sued and went all the way to the Supreme Court, which took us eight years. We discovered that I, a medical examiner and a journalist, had also been investigated.

What was that like for you when you found out?

Ana Lorena Delgadillo: I was shocked. I am a criminal defence lawyer, and it is my job to demand that those who cause great violence in our country are investigated. And then you realise: no, they are also investigating you and the families you represent. That was hard. Investigators also used the Pegasus software to secretly monitor smartphones; it’s one way they attack defenders and journalists in Mexico. They knew everything about me. The state used its most powerful instrument to intimidate us.

Short and sweet

Our partner: Fundación para la Justicia y el Estado Democrático de Derecho, A.C. (FJEDD)

How it originated: In 2011 as a regional reference organisation for migrant rights

Project area: Central America and Mexico

Focus: The foundation supports migrants from Guatemala, Honduras, El Salvador and Mexico and their relatives in legal proceedings and advocates for reforms to ensure the rule of law.

More info <https://www.fundacionjusticia.org>



| Most Afghan refugees seek protection in Pakistan – many of them crossing the border near the city of Chaman. But they are not welcome: the Pakistani government is deporting more and more refugees.

Pakistan

Constant danger of exposure

CIVICUS rating: Repressed

Those who assist Afghan refugees are subject to severe oppression. The state does not want them to support.



Only three countries take in more refugees than Pakistan: Turkey, Colombia and Germany. At the beginning of 2022, the UN refugee organisation UNHCR registered around 1.5 million people in Pakistan; it is estimated that another million people live in the country without refugee status. About 90 percent of the registered refugees – and probably also the non-registered ones – come from Afghanistan. In the summer of 2021 alone, a quarter of a million Afghans fled from the Taliban to Pakistan after NATO troops withdrew.

Pakistan has never signed international conventions on the protection of refugees, such as the 1951 UN Convention on the Status of Refugees and 1967 Additional Protocol on the Status of Refugees. The country's law on foreigners from 1946 still applies. However, for the moment Pakistan is taking in the refugees registered in the country by the UN refugee agency (UNHCR): they get a registration card, they get to go to hospitals and send their children to school. Universities are also open to them.

However, the Pakistani government does not want to accept any more refugees from Afghanistan. Meanwhile, their main goal is to get them to leave Pakistan “voluntarily”, sometimes by applying pressure: in 2022 alone, some 65,000 people were displaced from Pakistan. Afghan refugees in Pakistan report increasing police harassment, forced evictions and extortion. In Sindh province, for example, more than 1,500 Afghan refugees were arrested and some deported in late 2022, even though some had valid residence permits.

Refugees are considered a security risk in Pakistan. The government and military argue that the

65,000
*people were
displaced
in 2022*

Taliban have entered the country along with them and that crime and terrorism have increased – citing some instances where this is true. One in two Pakistanis also holds this view, according to the latest World Values Survey in 2018, the world's most comprehensive study of value judgements. Activists report that this attitude remains unchanged. Many of those who do not want refugees in the country also argue that Pakistan's economy is down and that Pakistani families also have to struggle daily for survival. “The refugees and their plight are not a priority for many Pakistanis”, deplores someone who spoke with Brot für die Welt, who must remain anonymous for security reasons.

High degree of impunity

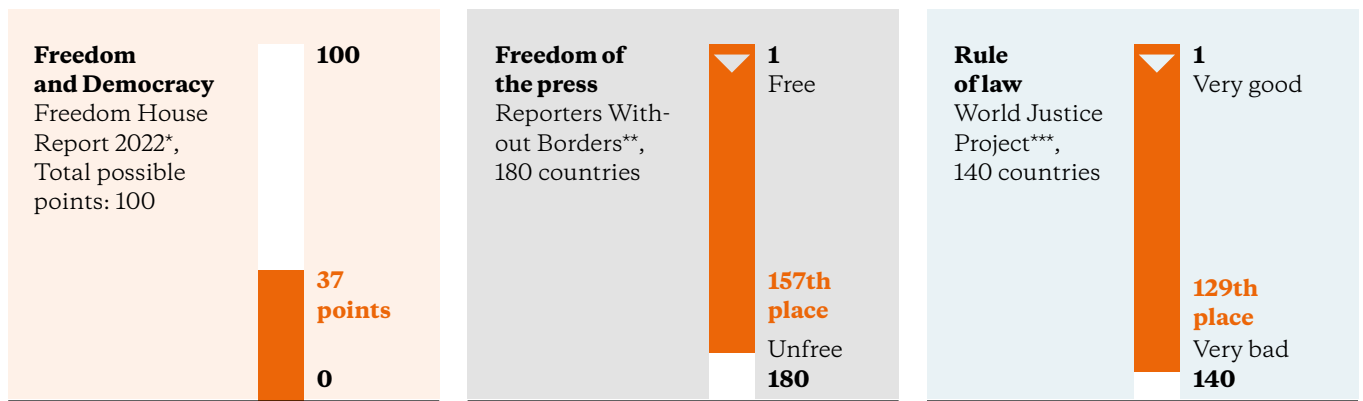
Other factors contribute to the high degree of uncertainty in the country: since Imran Khan was ousted as head of government in April 2022 after a vote of no confidence, tensions between the political camps have continued to rise. Khan denies any legitimacy to his successor Shehbaz Sharif. Violent clashes between the supporters of the parties occur frequently, sometimes being fought in the streets. The flood disaster in the summer of 2022 has made the situation even worse: one third of the country was underwater for weeks at the time, affecting 33 million people – and as recently as the winter of 2022/23, 598,000 people could not return to their homes.

In addition, politics and government are rife with corruption, lack of transparency and discrimination, especially against sexual, religious and ethnic minorities. Many offences and crimes are not prosecuted, the perpetrators never held responsible. According to the Committee to Protect Journalists, there are only nine countries that are less likely to prosecute crimes than Pakistan.

It is true that constitutional reforms in 2010 and 2018 strengthened formal democratic structures, i.e. parliament, provincial self-government, the judiciary and the office of the prime minister. But ultimately, intelligence agencies and the military – Pakistan has the sixth largest army in the world – have controlled the country since its independence in 1947. Pakistan has not been able to develop its own democratic culture. The journal *Internationale Politik* describes Pakistan as a “broken democracy”.

How democratic is Pakistan?

Three indices show the situation in the country – and the freedoms for civil society.



Source: * Freedom House: “Freedom in the World 2022 Country Report”; ** Reporters without Borders (RSF): World Press Freedom Index 2022; *** World Justice Project: Rule of Law Index 2022

Churches and mosques are targeted

Anyone who defends human rights or reports violations is quickly considered an enemy of the state or an agent of the West or India. Under the pretext of national security, the government, military and intelligence services silence all those who they accuse of criticising them, their policies, their actions or Islam. NGO offices are attacked or even burned down, as in the case of Plan International. Activists are attacked, threatened, repressed, arbitrarily detained, surveilled, kidnapped or even killed. It is the Pakistani government and the security agencies themselves which are intimidating these people or failing to protect them from attacks by radicalised groups. Many activists are also being prosecuted for their human rights work. The state relies on arbitrary interpretations of the law, especially those relating to cyber security, anti-terrorism and the criminal code.

This repression against civil society actors has also affected people who advocate for those whom the Pakistani state is eager to be rid of: refugees. In September 2021, for example, the provincial government of Balochistan threatened to persecute and severely punish anyone who provides refuge, shelter or food to Afghan refugees. Up until that point, churches and mosques in particular had been working to assist refugees.

Missing for more than

7
months

In many places they can now only help in secret. “We are in constant danger of being discovered, threatened, blackmailed and abducted by the military”, says one activist, who must remain anonymous.

One common practice – which serves to both intimidate and punish – is to abduct human rights defenders, including some courageous journalists in Pakistan. The official term is enforced disappearance. Many states around the world use this practice to crack down on and intimidate critics. Many are still missing (see graphic on page 43). According to Amnesty International, in 2022, 13 families in Pakistan asked for investigations into the circumstances surrounding a disappearance. One of the victims is Muhammad Idris Khattak. He has documented many cases of enforced disappearances for Human Rights Watch and Amnesty International – and was himself abducted on 13 November 2019. Seven months

later, under pressure from Khattaki's daughter, the Pakistani Defence Ministry announced that it had taken him into custody and charged him with violating the State Secrets Act.

What Khattak was accused of, the Defence Ministry did not say – nor did it say where he was. Not even his attorney was allowed to speak to him, and Khattak remained missing. He was not heard from again until December 2021: he had been sentenced to 14 years in prison for espionage by a military court. International human rights organisations such as Amnesty International are trying to get him released. So far in vain.

The UN Commission on Human Rights strongly criticised Khattak's conviction. According to a UN press release, this and other human rights violations committed on behalf of or with the consent of the military and security forces are an "attack on the community of human rights defenders in Pakistan". It sends "a chilling message" to all civil society actors.

State delays registration

Above all, the state is trying to prevent the funding of human rights NGOs by donors from abroad. NGOs have to go through an elaborate and opaque registration process at the provincial social ministries, and they need a MoU from the Ministry of Economy (EAD). The NGO's employees also have to undergo screening. This procedure is criticised even at home.

The authorities frequently delay registration procedures or refuse to grant MoUs (see interview on page 44). It didn't use to be this way: from 1990 to 2010, NGOs were allowed to work unhindered. Regulatory laws existed, but the state was lax in enforcing them. NGOs became increasingly influential, and thanks to funding from abroad, they were sometimes better equipped than the government agencies themselves – yet another reason that religious leaders, politicians, intelligence services and generals came to see them as

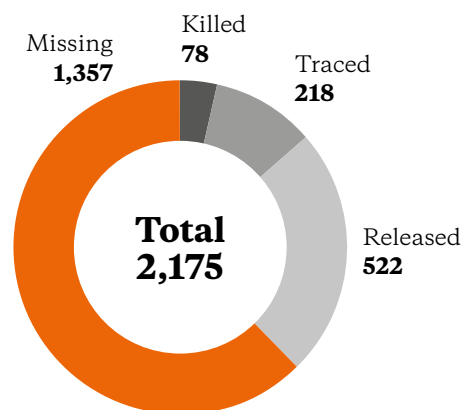
75%
of NGOs
stopped working

a thorn in their side. In order to control which non-profits are active and in what areas – and to curb them if necessary – five laws at the provincial level now regulate the registration of NGOs. The state thus gets to decide which projects are financed – and they consciously suppress such topics as human rights, strengthening democracy, religious freedom and conflict resolution. In March 2021, the EAD approved only 359 of 979 applications – just one in three. International aid organisations such as Plan International, Open Society Foundation and Action Aid were rejected because they worked with refugees from Afghanistan.

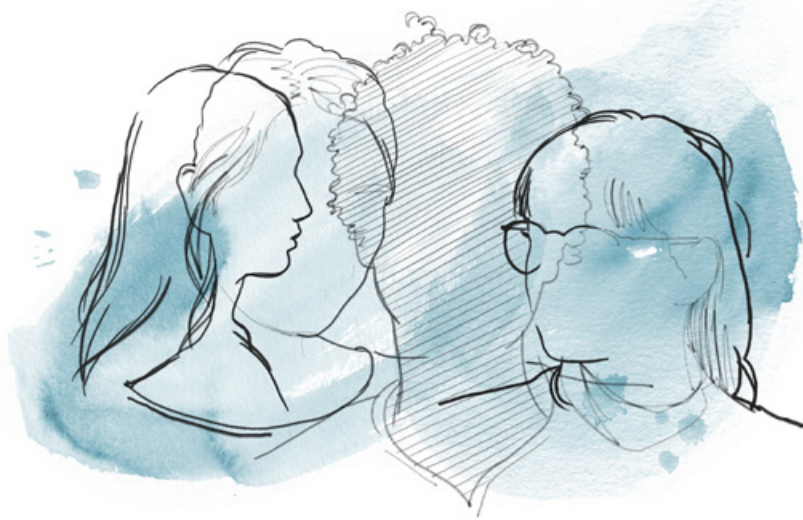
With registration laws and control over who sends money to Pakistan, the state is certainly in compliance with international anti-terrorism guidelines. However, this also allows the Pakistani government to undermine all civil society forces that criticise it or that it suspects of working against national or religious interests. The result: in 2014, the National Anti-Terrorism Agency (NACTA) still counted 64,719 NGOs. In 2019 – the year of the most recent survey to date – only 15,982 were still active. Seventy-five percent had stopped working within five years.

Disappeared without a trace

In 60 per cent of enforced disappearance cases from 2021, the victims are still considered missing.



Source: Defence of Human Rights and Public Service Trust (DHR Pakistan), Annual Report 2021



“They know who we are”

We have had to publish this interview anonymously – it is too dangerous for activists in Pakistan to appear under their real names. We spoke to five people who work with refugees and migrants.

How strong is civil society in Pakistan?

Unfortunately, it is very weak today. There are several reasons for this: Many NGOs did not survive the Covid pandemic: They had to cease activities, staff left, and everyone began looking out for themselves, including many foreign donors. But the main reason that civil society is so much more vulnerable today than it was ten years ago is that the government aggressively intimidates any activists who disagree with its policies. They are threatened, arrested or abducted by the military and the intelligence services.

How does this situation affect you?

We are constantly afraid of being exposed and arrested – or worse. This discourages not only NGOs but also trade unions and women’s rights activists. In addition, the state now strictly regulates and restricts NGOs – thus hindering and often preventing work on human rights or the environment, for example. Over-regulation and control have weakened even large organisations, or dealt a death blow to quite a few of them. The number of people involved in helping refugees has fallen by 90 per cent in the past ten years.

How is your work specifically hindered?

Projects with and for refugees are only permitted if they have been registered with the Ministry of Social Affairs. All organisations receiving money from abroad must also sign a Memorandum of understanding with the Ministry of Economic Affairs, which requires them to disclose their funding sources.

This sounds formal and straightforward, but the procedures are complex, often arbitrary and each province interprets the requirements differently. In addition, applications are often delayed, so that few organisations obtain registration at all – or only months after they have submitted their application. And if a project is approved, it will only be for

one year anyway. No one is able to implement a project in such a short time.

Are NGOs and activists surveilled?

Not every organisation, but many. The state has spent billions of dollars over the past decade in their anti-terrorism efforts – but also for spying on human rights organisations. For example, we know of a case where an NGO was due for a security audit. When the examiner said farewell, he wished one of the employees a nice holiday. He knew that he had a trip planned – and he hadn’t heard it from him! We also heard about other cases where visitors from Brussels are being followed and spied on. And not just with digital espionage technology like Pegasus. But rather physical surveillance, at every turn.

Does this affect all civil society NGOs?

Yes, the full spectrum, but especially those who advocate for refugees from Afghanistan. It affects even those who distribute hot food and water. Like everywhere else in the world, the issue has become very political and divisive; some refugees are welcome, others are not. It’s no different from the situation in Europe. For 50 years, the people of Pakistan and Afghanistan saw themselves as brothers and sisters. Now, many citizens in our country think that there has been an increase in shootings and drug trafficking in Pakistan because of the refugees from Afghanistan. Even some people who want to help refugees – those from Syria, not Afghanistan – have been led to believe this. The consequences for refugees are drastic. After all, the need for assistance is greater than ever.

Can NGOs who work with refugees, the majority of whom come from Afghanistan, obtain the necessary financing under these conditions?

Only with great difficulty. Because of high bureaucratic hurdles, it is almost impossible to obtain money from abroad. Since the Pakistani state does not provide financial resources for refugees, we struggle to support them. And anyway, only those brave and fearless enough dare to continue. This eternal fear, this constant stress – only a few can withstand it.

What makes your work so dangerous? Do you have an example?

We provide refugees with money so they can buy something to eat. But we have to hand over the money in person going door to door. There is no other way to reach the refugees. They frequently change their location and swap the SIM cards of their phones to protect themselves from persecution. We also have to go through barriers and checkpoints to carry out our work. There is a constant danger of being recognised and punished by soldiers or police. We've been assaulted by them, because they know who we are, because we've been doing this for so long. We are also at risk from corrupt bank employees when withdrawing money, or even from refugees who are not part of a project and therefore don't receive any support, even though they also need money. Some of them threaten us when we are in the field, or they insult and defame us.

How do you protect yourself?

We always try to be out at different times and take different routes, so that we cannot be followed – but this does little to reduce the threat, because we are well known. We also try to communicate safely and smartly and to secure our data. And we're very careful about what we write, not just on social media. It seems we're managing it – we haven't had to stop our work yet.

What will it take to strengthen civil society again?

A global plan against *shrinking space*. More money for civil society engagement in Pakistan, because the NGOs here are at rock bottom. And a renewed trust in government is needed, which civil society has lost because of the experiences of the past few years. But for that to happen, the state must first signal its willingness to stop obstructing and threatening us.

| Members of the Human Rights Commission of Pakistan (HRCP) requested information on the whereabouts of Idris Khattak on 13 March 2020 in Karachi. The human rights activist had disappeared the year before. He is still incarcerated.





| A full lorry on the way to Ouallam: Niger is an important transit country for many migrants and refugees simply because of its location. Not all of them want to continue on to the Mediterranean and Europe.

Niger

Building bridges instead of walls

With its strict anti-smuggling law, the Nigerian government is complying with EU demands to prevent migration. In return they receive money from Brussels. Refugees – and all those who support them – are the ones who bear the brunt.

CIVICUS rating: Repressed



A good 3,800 kilometres as the crow flies separate Brussels from Agadez, an ancient city in central Niger and a transit point on Africa's migration and refugee routes to the north. 3,800 kilometres, two continents, the Sahara and the Mediterranean between them. And yet it can be argued that Niger is an outpost of the European Union. That's because Niger, at the behest of Brussels and dependent on its cash flows, is pursuing what is bureaucratically known as "migration prevention policy".

The foundations were laid in 2015: in November of that year, the EU-Africa Summit took place in Valletta, the capital of Malta, located in the Mediterranean Sea, which for years has been one of the deadliest hurdles for migrants and refugees. It was the first time that cooperation on migration was officially agreed. The motto: "More for More", that is, more funding from the EU for more cooperation. And cooperation here means more willingness to take back refugees who are not wanted in the EU. Or to make sure that they don't set out at all.

Central to this cooperation is Niger, a country of 26 million people and one of the poorest in the world, which is an important transit country for many migrants and refugees due to its location. They come from neighbouring countries such as Mali, Nigeria or Senegal. According to the International Organisation for Migration (IOM), some 380,000 people migrated from Niger to other countries between January and October 2022. Not all of them want to continue on to the Mediterranean and Europe. The majority remain

5 to
10
*years in prison
for transport*

in the region. There has always been seasonal labour migration, for example by farmers looking for a job in the city because of the climate crisis. Still others are driven to flee by hardship and violence; as many countries are terrorised and destabilised by extremists.

The path through the desert becomes increasingly dangerous

One specific consequence of the EU's pressure is Niger's human smuggling act, law number 2015-36. Known as the Anti-Smuggling Act, Niger adopted the law in 2015 to achieve what the EU expects of it: curbing refugees flows, and putting an end to northward migration. The law de facto prohibits the cross-border transport of undocumented migrants to Niger. Facilitation of entry into or exit from the country is punishable by law. But people who transport migrants within the country or provide them with accommodation are also arrested and charged – the authorities always assume that the transporters have criminal intentions.

They are particularly targeting the transport of migrants from Agadez to the north. Before 2015, driving migrants from A to B and providing them with sufficient water or sun protection was a legal business that was important for the local economy and contributed to political stability in the country, says Moctar Dan Yayé of the Alarm Phone Sahara project, which is co-financed by Brot für die Welt. Back then, the path through the desert was safer for the migrants (see interview on page 50). Today, drivers are equated with human traffickers. And because the wording of the law is vague, the Nigerian authorities have a lot of room for interpretation on how to combat "illegal" migration. A catalogue lists the penalties provided by the law. Cross-border transport: five to ten years in prison. Or the equivalent of a 1,500 to 7,600 euro fine. And anyone who helps a non-Nigerien to stay "illegally" without complying with current residence rules will face two to five years in prison or the equivalent of 750 to 3,000 euros in fines.

One year after the adoption of Anti-Smuggling Act 2015-36, it is easy to see how closely the government in Niamey cooperates with its European partners. Initially, the law was enforced only sporadically. In October 2016, Angela Merkel travelled to Niger and met with then-President

Mahamadou Issoufou. Merkel wanted Niger to close the route to Europe. Issoufou demanded one billion euros for his “action plan against illegal migration”. After the visit, he began consistently enforcing law 2015-36. The billion euro loan was approved in 2017 and would continue to 2020; migration numbers declined only briefly (see chart).

Refugees and migrants suffer most from the consequences of the law. The passage through the desert state of Niger has become more dangerous and expensive – today it costs up to 800 euros per person. There are hardly any drivers who know the routes and the dangers. They will also have to pay bribes at many checkpoints set up since 2016 in order to proceed at all. There are also less shelters for refugees and migrants, less support

Passage costs up to **800** euros

of any kind. Even IOM and the United Nations High Commissioner for Refugees (UNHCR) are overburdened because of the many people affected and the lack of funds; they can no longer care for all the refugees in the Agadez region or organise voluntary return programmes. People who have decided to or been forced to leave their homes for various reasons now have to look for other ways. They are even more on their own than before.

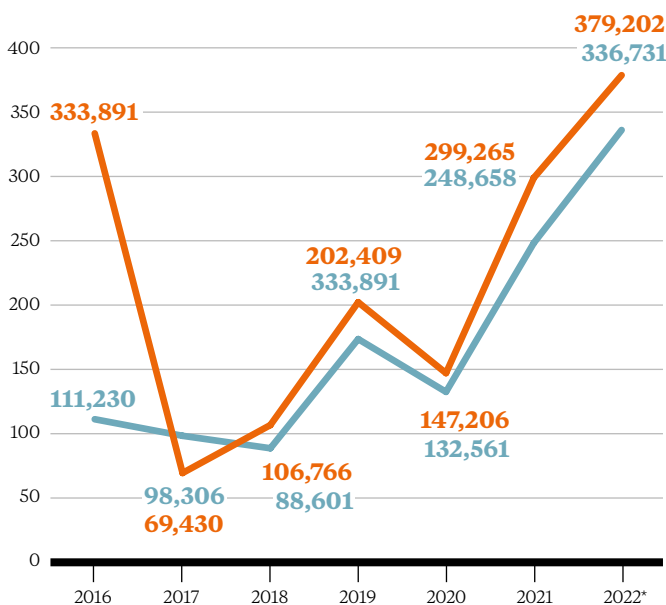
Since the law was introduced, civil society in Niger has been fighting for survival. NGOs lack the money to train, research, document, buy computers or anti-spy technology. Without these things, they can neither publicise grievances nor lobby at the national and EU level for a human-rights based migration policy. But they also lack money to bring activists to remote locations – for Niger is one of the largest countries in Africa. The state does not support them – “It has no interest in a strong civil society”, says Moctar Dan Yayé. “More than that: It is actively working to suppress them.”

Many come and go

The implementation of Anti-Smuggler Act 2015-36 has only reduced migration temporarily.

Total number of migrants

- leaving Niger
- arriving in Niger



* Until October 2022

Source: <https://niger.iom.int>; IOM Niger: Infosheet MRRM Programme October 2022

Denounced by a neighbour

And so today only a few people in Niger dare to assist migrants and refugees. A new Cyber Criminality Act allows the state apparatus to listen to phone or WhatsApp conversations. “Today we are worried about speaking openly – they could arrest us for that”, says Moctar Dan Yayé. The government is also putting pressure on his project Alarm Phone Sahara: a volunteer was jailed for nine months without trial for advocating that a migrant be released from prison. Another volunteer served three months in prison because a neighbour denounced her. In both cases, there was no trial.

In early 2023, human rights activist Abdoulaye Seydou of the M62 civil rights movement was imprisoned. He had publicly called for an investigation into a military air strike against terrorists that had also killed civilians. Judges said that he had disturbed the public order. What

How democratic is Niger?

Three indices show the situation in the country – and the freedoms for civil society.



Source: * Freedom House: “Freedom in the World 2022 Country Report”; ** Reporters without Borders (RSF): World Press Freedom Index 2022; *** World Justice Project: Rule of Law Index 2022

got him imprisoned, however, were accusations of setting fire to the Tamou gold mine and leaving false evidence to blame the attack on the security forces. This is “an arbitrary arrest”, says the NGO Frontline Defenders – an arrest which will also affect other NGOs, according to Yayé: “Now civil society is even more afraid to uncover and point out violations.”

The state also took tough action against Moussa Tchangari. The director of the NGO Alternative Espace Citoyen (AEC) was jailed for several months in 2020 for violating the Assembly Act. AEC is one of the most important voices against the criminalisation of migrant defenders in Niger.

Several NGOs file lawsuits against the anti-smuggling law

Law 2015-36 also violates the protocol of the Economic Community of West African States (ECOWAS), claim initiatives such as Alarm

Even more checkpoints erected after
2015

Phone Sahara. They filed a complaint with the Court of Justice of ECOWAS in the fall of 2022, together with the Italian Association for Legal Studies on Immigration (ASGI). The Economic Community of West African States has 15 member states, including Niger. They guarantee their residents freedom of movement, visa exemptions and free trade within this community of states. But in their interpretation and application the law, the Nigerien authorities are effectively violating the right of ECOWAS citizens to enter and travel within Niger, the NGOs argue, pointing to numerous checkpoints that the police have set up since 2015. National police officers, once trained and equipped by the European civilian mission (EUCAP-Sahel Niger) for the fight against terrorism, are preventing and thus infringing on the free exchange of goods and the free movement of people that is guaranteed within ECOWAS.

It may seem paradoxical that Niger is also one of only four countries in Africa to adopt a law to protect human rights defenders. Article 4 of this law from June 2022 is far reaching and guarantees the right to freedom of association and expression. But Stéphanie Wamba of the Africa programme of the International Service for Human Rights is sceptical: as long as the government of Niger uses other laws to intimidate and arrest those who help migrants and refugees, “the human rights law is only a piece of paper”.

“Everything we do is punishable”

Interview with **Moctar Dan Yayé**

Founding member and head of communication and public relations at partner project Alarm Phone Sahara



Mr Moctar Dan Yayé, you offer an emergency telephone service for people crossing Niger; the number is on your website. What happens if a migrant dials this number?

Moctar Dan Yayé: Then I or one of our people answers the phone and we talk to the caller. If this person is in distress, for example if he is on his way to Libya by car, which has broken down and is stranded somewhere in the Sahara, we try to find out exactly where. If possible, we send one of our volunteers. Maybe he or she can help fix the car or point the way to the next village or water source. In extreme emergencies, we also inform the police or the military – but only if the caller wants us to. This is because migrants and refugees often end up in camps and are unable to continue their journey.

Do those stranded in the desert always have mobile phone reception?

Moctar Dan Yayé: No. That’s why our volunteer network is so important. They are all people who live in the region themselves. They include drivers who have to travel a certain route every day – so they help us to patrol it. When they hear or see people who are in distress, have lost their way or have been abandoned in the Sahara, they call us. Or they offer immediate help themselves. Of course, they don’t always have mobile phone reception either – but they know where to go to get it. Our volunteers also include women, especially in the cities. This makes it easier to make contact with and get help for migrant women in need.

How do you support people who are abroad but know someone who is missing in Niger?

Moctar Dan Yayé: I’ll give you an example. Just last night a woman from Senegal contacted me via WhatsApp. Her brother has been missing for two years. He disappeared en route. The family doesn’t know: Is he in Mauritania? In Morocco? In Nigeria? We can help with the search through our volunteer network and our social media channels. If

possible, we publish a photo with information about the person. We have to try everything – and we do.

Since 2015, the Nigerian government has been using the law to crack down on refugee assistance. How does that affect your work?

Moctar Dan Yayé: Law 2015-36 is a huge problem for our work. The insidious thing is that it is directed against human trafficking, but it is so vaguely and so broadly worded that in principle it criminalises all those who assist “irregular” migrants – that is, all those travelling towards the Algerian and Libyan borders. In fact, everything we do is punishable by law. For example, we use a little motorcycle with a trailer to save people and coordinate help. Even that is punishable.

Were refugees and migrants less at risk before 2015 – before this anti-smuggling law came into force?

Moctar Dan Yayé: Yes. It was much safer for them than it is today to cross the Sahara. The cars they got into were registered. The drivers were known, they paid taxes, the whole thing was legal. At the stops the names of the travellers were written down, so that people knew who was traversing the dangerous route through the desert. In addition, the vehicles usually travelled along an official route – and in a convoy. If a car broke down in the desert, the other drivers helped to repair it. Or they would take the passengers.

And today?

Moctar Dan Yayé: Today the route is extremely dangerous. None of the people on the ground know the drivers, and no one takes the names of the passengers. Because they want to avoid the checkpoints, the drivers today take their own varying routes. If a vehicle breaks down in the desert, the people are lost, many die. They are often thrown out of the car as well, as many drivers take off when they see police

or military. Because anyone caught with refugees and migrants faces prosecution.

Does the government need to roll back the law?

Moctar Dan Yayé: Yes – or at least change it so that assistance is not criminalised. However, there is little to suggest that this is happening in a way that will actually improve the situation for migrants and their supporters.

What would improve the situation of NGOs in Niger?

Moctar Dan Yayé: The fact is, the EU and the international public know that our civil society organisations are subject to repression and threats in this country. Germany has a special responsibility. Firstly because it has a hand in our migration policy as an EU member, and secondly because of its own history. It would serve us if European civil society were to give us more support. And if European governments were to link their funds to more stringent conditions – for example, that the Nigerien state guarantees freedom of expression or allows civil society to operate freely. It would also benefit us if my government finally understood that organisations like ours are helping them to solve social problems and improve development in the country. Unfortunately, it sees us only as adversaries and tries to silence us.

Short and sweet

Our partner project: Alarm Phone Sahara (APS)

How it originated: In 2017 as a cooperative network

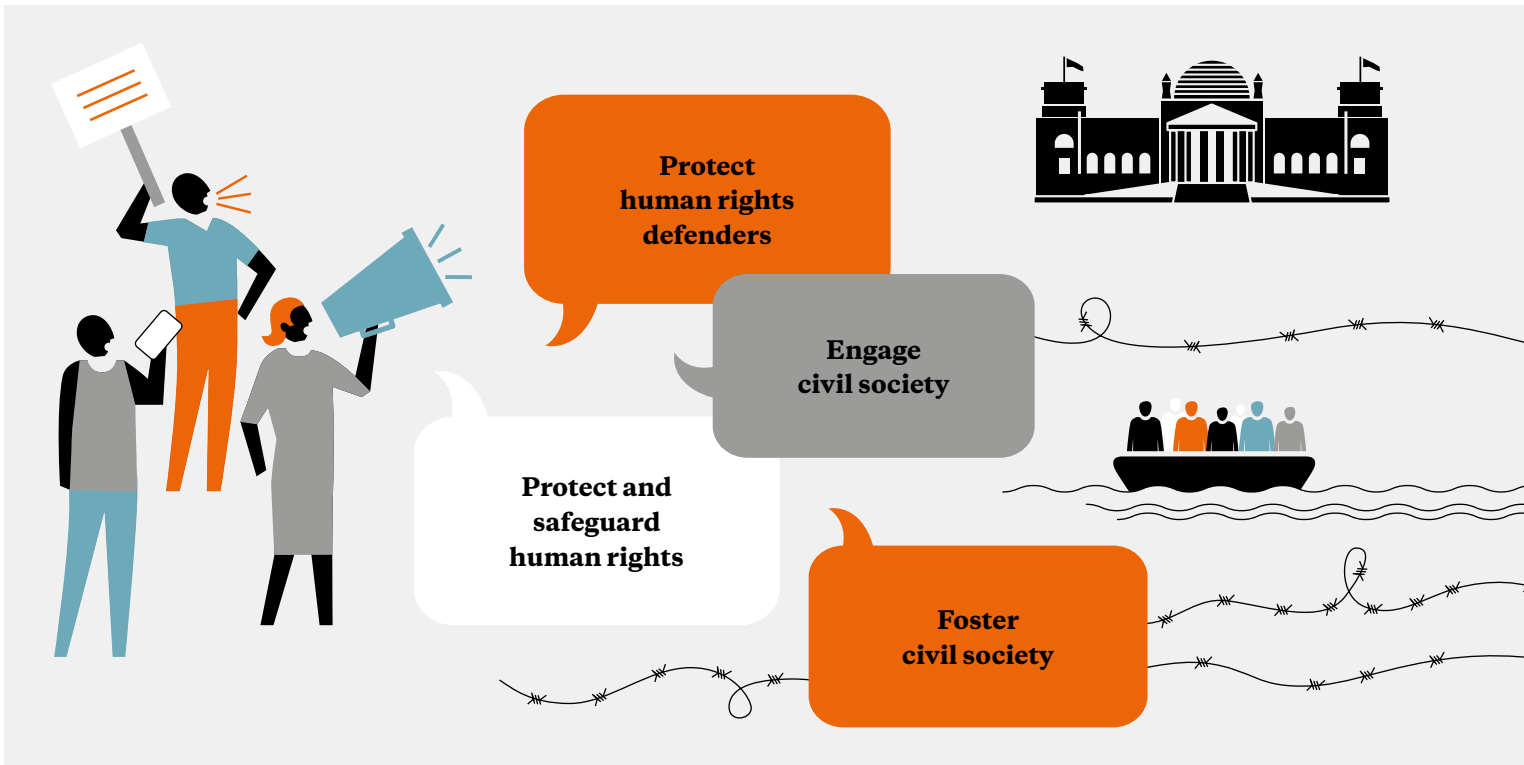
Project area: Sahel-Saharan region

Focus: APS educates migrants about the conditions and dangers of migration in the Sahel-Saharan zone, documents human rights violations and crimes along migration routes, and initiates search and rescue missions.

More info: <https://alarmphonesahara.info/en>

| Tales of distress: Every day, countless people make their way through the Sahara in search of a better and safer life. Many of them never reach their destination – Libya, Algeria or Europe.





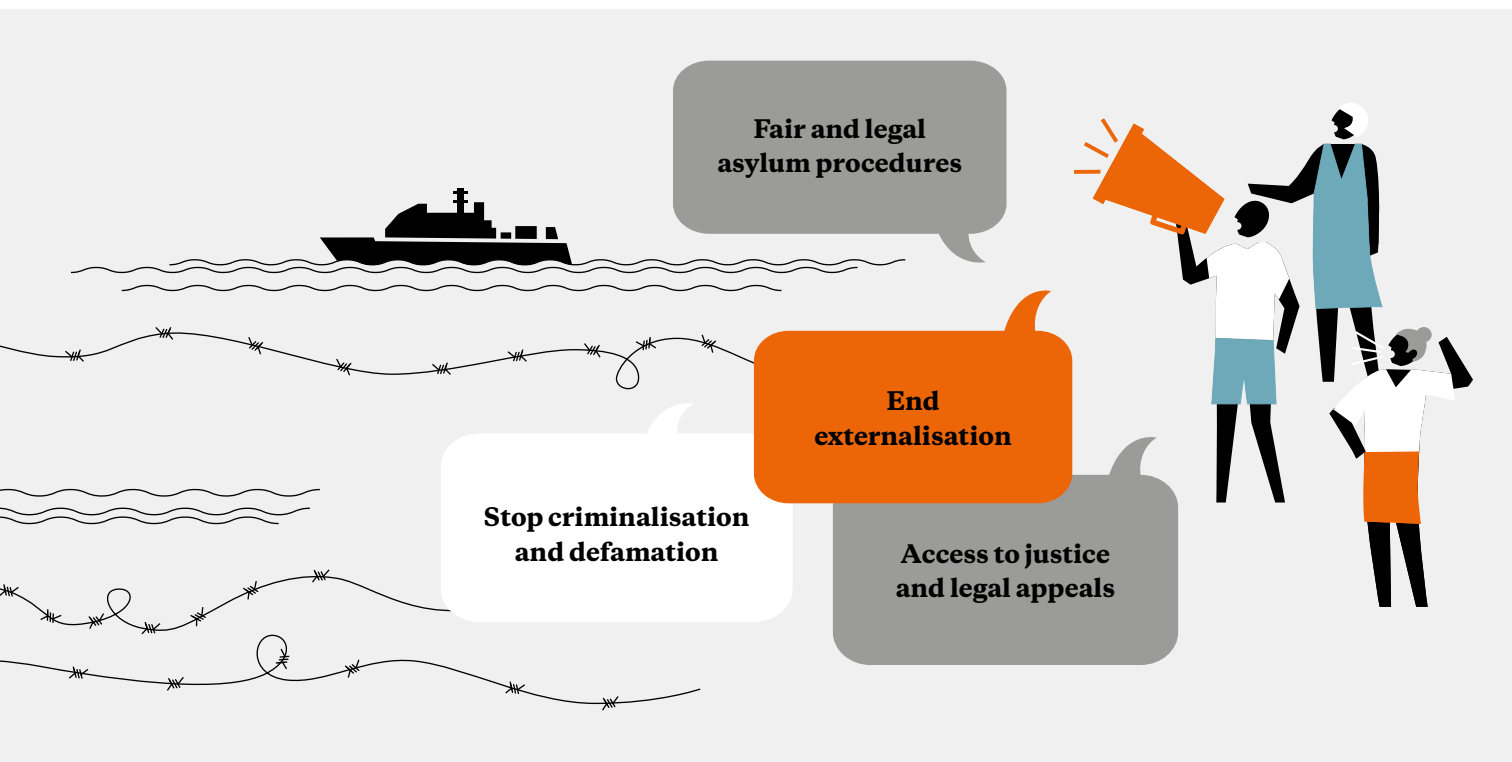
Our demands

The Federal Government of Germany and the parliament should ensure that ...

- civil society actors are promoted and enabled worldwide to stand up for just and sustainable development **without fear** of persecution and repression.
- civil society and vulnerable and **disadvantaged** groups can participate effectively in political, social, environmental and economic decision-making.
- all associations in Germany that work on general political issues, human rights and for the common good are recognised as **non-profits** – and create an appropriate legal framework for this.
- German **embassies** strengthen their efforts to promote human rights, human rights defenders and the scope for action of civil society.
- German **international** migration and foreign policy decisions do not violate human rights.
- civil society actions in support of migration and refugees are **not criminalised**.

EU Member States should ensure that ...

- the EU Commission, together with the EU Agency for Fundamental Rights and civil society, develops a **guideline** for the protection of human rights defenders, which applies within the EU member states.
- the EU action plan against migrant smuggling also **protects** and decriminalises those who defend them.
- the EU amends its Directive 2002/90/EC on the facilitation of unauthorised entry, transit and residence so that states can only sanction those individuals and entities whose **purpose is profit-seeking**.
- the **EU funds** made available for border protection and combating the root causes of migration do not encourage and/or contribute to human rights violations.
- no state hinders **civilian** rescue operations at sea and on land.
- an EU search and **rescue mission** is established.
- civil society has **free access** to anyone seeking protection at borders, in detention and intake facilities, in restricted zones and at sea.



The Federal Government should step up its efforts to ensure that internationally ...

- other governments **release** human rights defenders who have been imprisoned for their work.
- civil society and vulnerable and disadvantaged groups, including those in other countries, can **participate** effectively in political, social and economic decision-making.
- laws that protect public safety and order or combat corruption, money laundering, terrorism and human trafficking are **not abused** to target civil society organisations.
- registration requirements and **NGO laws** do not restrict funding for NGOs, thereby hindering or preventing their work.
- governments protect human rights defenders from violence, threats, persecution and intimidation by state and non-state actors, and that they investigate, prosecute and publicly condemn such repression, including in the **digital** sphere.
- no one is criminalised for exercising the right to **freedom** of expression, association and assembly.
- all states explicitly and specifically **combat** and publicly condemn verbal and physical attacks, racism, xenophobia and intolerance.
- governments separate their migration policy from national security policy and establish a migration policy based on **human rights**.
- *migrant defenders* are not seen as a threat to states, but that their work is recognised as fundamentally legal and **legitimate**.
- human rights defenders, refugees, asylum seekers and migrants have access to justice and legal remedies **regardless** of their immigration status.
- asylum procedures are fair, expeditious and **legal**.
- states establish **legal** and **safe** migration routes and end unlawful border control practices such as pushbacks, mass deportation and unlawful repatriation.
- the **externalisation** of migration control to third countries is ended.
- engage governments and civil society in a **dialogue** to find solutions to the challenges of migration.

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