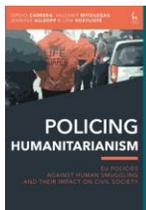


# Policing Humanitarianism

## *EU Policies Against Human Smuggling and their Impact on Civil Society*

The recently published book ["Policing Humanitarianism: EU Policies Against Human Smuggling and their Impact on Civil Society"](#) examines the ways in which European Union policies aimed at countering the phenomenon of migrant smuggling affects civil society actors' activities in the provision of humanitarian assistance, access to rights for irregular immigrants and asylum seekers. It explores the effects of EU policies, laws and agencies' operations in anti-migrant smuggling actions and their implementation in the following EU Member States: Italy, Greece, Hungary and the UK. The book critically studies policies designed and implemented since 2015, during the so called 'European refugee humanitarian crisis'. You can order book at Hart Publishing website [here](#), and please do not forget the discount code as indicated below:



**Policing Humanitarianism**  
Sergio Carrera, Valsamis Mitsilegas, Jennifer Allsopp, Lina Vosyliute

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### **Humanitarianism**

The 2015 'European humanitarian refugee crisis' prompted a wide-ranging response by civil society organisations and volunteers who were among the first responders to the humanitarian emergency both at the EU's external borders and within the EU. Diverse actors, ranging from activists, individual volunteers and citizen movements to well-established national and international non-governmental organisations (NGOs) addressed the visible gaps in search and rescue (SAR) in the Mediterranean Sea and provided shelter and assistance to those in need, irrespective of their immigration status. Local communities, citizens and individual volunteers were the first – and for a while the only – actors who received migrants and asylum-seekers and provided life-saving and reception services. Examples included the civil society actors involved in SAR close to Libyan territorial waters in the Central Mediterranean; those who saved lives in the Aegean Sea; those who assisted people transiting through Greece, Italy and Hungary, where they felt conditions to be unsafe and inhumane; or those who helped people trapped in the Calais 'Jungle' camp and attempting to enter the UK. Whereas our own research focuses on Italy, Greece, Hungary and the UK, there are many more instances documented across the EU. These instances of solidarity are the subject of an emerging European scholarship. A range of ethnographic studies of civil society groups have been published in recent years which document and analyse the dynamics of this assistance.

The relationship between these acts of humanitarian assistance on the one hand and anti-migrant-smuggling policies that govern and criminalise the facilitation of entry, transit and stay within the scope of EU and national policies on the other, has become increasingly tense and contested. A major controversy has been the extent to which actions by civil society groups and individuals involved in SAR at sea or delivering access to social services and access to human rights and justice (in hotspots, transit and destination) are exempted from criminalisation. Some EU Member States and EU agencies (such as the Frontex Agency) have criticised or expressed concerns about the work of civil society actors and NGOs. Among the accusations are that civil society may be assisting and even collaborating with smuggling

networks; and that their very existence and operations constitute a 'pull factor' for irregular immigration across the Mediterranean and across internal EU borders. Civil society actors have also faced increasing demands and pressures for registration, coordination and financial transparency, which have profound repercussions for their independence and impartiality from government interference.

## **Policing**

Countering migrant-smuggling has been framed as one of the top political priorities of the European Union in responding to the so-called European humanitarian refugee crisis which emerged in 2015. Significantly, this phenomenon is also known as the European migration *management* crisis (Carrera et al 2015), or crisis of the EU's values and solidarity (Allen et al 2018). As a consequence of conflict and violence in North Africa and the Middle East, the number of first asylum applications rose dramatically, from 563,000 in 2014 to roughly double (1.2 million) in 2015. The 2015 European Agenda on Migration identified as a key area of policy intervention the targeting of criminal networks of smugglers (European Commission 2015a). A wide range of EU policies, laws and agencies were consequently redesigned or tailored with the political aim of preventing, investigating and prosecuting migrant smugglers. The 2015 EU Action Plan against Migrant Smuggling (European Commission 2015b) acknowledged a challenge inherent to such policies: "the risk of criminalising those who provide humanitarian assistance and fundamental rights to migrants in distress, ie, civil society actors and non-governmental organisations".

Importantly, international and regional instruments designed to counter the smuggling of human beings – chiefly the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (UN Smuggling Protocol 2000) – stipulate that the facilitation of entry and stay for non-profit purposes, including therefore for humanitarian assistance, should be exempted from criminalisation. Nevertheless, EU Facilitators Package left it optional for EU Member States to exempt individuals or civil society groups which provide humanitarian assistance to irregular immigrants from criminal penalties. This has led to significant variation in how each EU Member State has incorporated or transposed the package into its national legislation and administrative practices (Carrera et al 2016; Fekete, Webber and Edmond-Pettitt 2017). It has also taken away the initial requirement for criminalization of financial or material gain in the case of facilitation of entry for the act to constitute a criminal offence.

Academic literature has shown how the progressive development of common EU migration and border policies since the mid-1980s has contributed to what has become known as the 'criminalisation of migration' (Guild 2010; Mitsilegas 2015; Parkin 2013; Provera 2015). This has taken the shape of an increasing use of substantive criminal law and traditional criminal law-like approaches in the management of migration; and the use of preventive policing instruments in addressing the phenomenon of irregular immigration. The obstacles and adverse consequences that these policies present to third-country nationals seeking to access their fundamental rights when irregularly entering or residing in the EU have been amply documented (Guild 2010; EU Agency for Fundamental Rights 2014; Baird and van Liempt 2016; Triandafyllidou 2017).

Previous scholarly research has illustrated that among these effects there are cases where civil society actors and individuals such as family members who are suspected of facilitating the entry or residence of irregular immigrants have been brought to criminal proceedings before relevant courts, leading to prosecutions and even criminal convictions (Aliverti 2012, 2013; Allsopp 2012; Carrera et al 2015; Fekete, Webber and Edmond-Pettitt 2017). Less attention has been given, however, to the actual effects that the implementation of these anti-smuggling policies have on civil society actors and whether these differ depending on their actual manifestations and roles, ie, formalised and non-formalised groups; service-providers or human rights organisations monitoring states' policies engaged in strategic litigation; and/or those engaged in political mobilisation or activism.

## Methods and structure

This [book](#) draws on primary research conducted with statutory and non-statutory actors operating in sites of entry, residence and transit in Italy, Greece, Hungary and the UK between 2015 and 2017. These countries have been chosen because of the presence of significant – and qualitatively different – public debates and legislation concerning the criminalisation of assistance to immigrants and asylum-seekers. In total, 89 persons were interviewed during field trips, online survey received 114 responses. In addition, two focus groups were organised with 25 civil society representatives and another one with 25 individuals, on behalf of the EU and national actors representing coastguards, law enforcement and judiciary.

Building upon the existing academic literature covering the ‘criminalisation of migration’ in the EU, the book examines the wider set of punitive, coercive or control-oriented dynamics affecting Civil Society Actors’ work and activities through the lens of the notion of ‘policing the mobility society’. This concept seeks to provide a framework of analysis that allows for an examination of a wider set of practices, mechanisms and tools driven by a logic of policing in the context of the EU Schengen border framework: those which affect not only people, who move (qualified as third-country nationals for the purposes of EU law), but also people who mobilise in a rights-claiming capacity on behalf of and with immigrants and asylum-seekers.

Part I considers the EU’s policy approach to countering migrant smuggling, including both legal and EU Home Affairs agencies based components. Chapter two begins by analysing the EU Facilitators Package and related critical perspectives. Chapter three considers the role of EU Home Affairs agencies and elaborates on the increasing employment of predictive policing approaches. It also highlights best practices in the field of co-operation.

Part II draws on new evidence to consider how the anti-smuggling framework laid out in Part I affects the work of those who move and those who mobilise to help migrants (what we call ‘the mobility society’). Chapter four begins with an outline of anti-smuggling laws in the national law of the four Member States of interest. Subsequently, chapters five to seven examine the evidence of how these laws and political pressures have played out in three settings. Chapter five examines the effects of countering the facilitation of entry on the work of CSOs involved at external EU sea and land borders, as well as at the Calais – UK Schengen border. Chapter six explores in detail how the new EU hotspots approach intersects with the provision of humanitarian assistance and policing CSOs. Chapter seven addresses the effects of anti-smuggling policies on the provision of services and access to rights for irregular migrants and asylum-seekers who reside in the four Member States in question.

Part III offers more detailed analysis of the state of play outlined in Parts I and II, proposing a theoretical framework to analyse the outlined phenomena and ways forward in terms of policy solutions. Chapter eight outlines the theoretical framework of policing the mobility society and its three modalities of (i) suspicion and intimidation, (ii) disciplining and (iii) formal criminalisation. The chapter evaluates the strengths and shortcomings of this approach as a means to understanding the dynamics at play. Chapter nine gives some examples of possible solutions to the issues identified in the text, including through an exploration of how the firewall principle has been applied in different contexts to protect humanitarian assistance for vulnerable migrants. The chapter concludes by pointing out the high stakes of policing the mobility society for all of us – for liberal democracy, social trust and Europe as a community of inclusion and exclusion.

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