

CCBE statement following the shipwreck off Pylos regarding unacceptable practices at EU borders

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The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers.

Through the work of its Migration Committee, the CCBE monitors European and national developments on migration issues and focuses its work on the protection of migrants' and asylum seekers' fundamental rights, including the right to legal assistance.

The CCBE is deeply concerned about a series of recent developments that mark a new threshold in unacceptable practices at the EU external borders that are characterised by their non-conformity with the EU and international fundamental rights framework.

The sinking of the Adrianna ship on 14 June 2023 in international waters off the coast of Pylos is one of these developments that shocked the lawyers' community and the CCBE wishes to express its profound solidarity with the survivors and the families and friends of the deceased.¹

The boat was carrying hundreds of people on board - according to some sources, up to 750 people. Only 104 people could be rescued. At least 82 passengers were found dead and much more, up to 500 people, are still missing, including a big number of women and children trapped in the holds. This disaster was not prevented even though the Greek coast guard, the Italian coast guard and the European Border and Coast Guard Agency (Frontex) were aware of the situation and the ship being in distress, as early as 13 June.

The tragedy off Pylos followed another shocking shipwreck, off Crotona, Italy, in February, where at least 60 people died.²

Ten years after the two shipwrecks off Lampedusa, Italy, which killed around 600 people and caused a huge outcry, this human tragedy is a painful reminder that the Mediterranean has become the most dangerous route for many migrants, transforming it into a veritable watery grave. 2,564 people died in 2022 trying to reach Europe. Since 2014, the International Organization for Migration has recorded nearly 27,000 dead and missing on this route.³

The two recent tragedies - in the international waters inside the Greek search and rescue region and off the Italian coast - once again demonstrate the failure of current European Union policies, and the need to provide safe and legal routes to Europe.

¹ "Greece scours shipwreck site; hundreds feared drowned in boat's hold", 16.06.2023, available [here](#).

² Euronews, "Crotona shipwreck highlights EU inaction on migrant deaths at sea – NGO", 27.02.2023, available [here](#).

³ IOM, Missing migrants, available [here](#).

Instead, authorities seem to put in place practices that openly contravene their European law and international law obligations, of which the recent inquiry of the New York Times provides evidence⁴, with no proper explanation from the authorities until today. The CCBE is also aware of and concerned about reports on pushbacks received by lawyers of asylum seekers.

Against this background, the CCBE wishes to express its serious concern about the direction in which the practices employed at the EU external borders seem to be going and calls for the following steps to be taken.

The CCBE calls on the Member States to stop the dangerous tendency of developing practices at the EU external borders that lead to fundamental rights violations and put the lives of migrants at risk.

The CCBE urges Member States to respect the right to asylum and recalls that it is a fundamental right guaranteed under the Geneva Convention on the Status of Refugees of 1951, the EU Charter of Fundamental Rights and the Treaty on the Functioning of the European Union, as well as the relevant provisions of the Common European Asylum System, which can only be effectively ensured by providing adequate access to legal assistance to all people potentially in need of international protection.

Since there is uncertainty around the exact events in the case of the shipwreck off Pylos, **the CCBE calls for a thorough and transparent investigation into the circumstances of this disaster** in order to establish the facts and responsibilities. It should be carried out quickly and effectively in order to shed light on possible breaches of international law and should also be published. **In general, for such cases, the CCBE strongly welcomes the idea expressed by the European Parliament's LIBE Committee⁵ to establish an independent and transparent international investigation mechanism.** As the representative of the European legal profession, the CCBE remains ready to provide any assistance for the realisation of such a mechanism.

The CCBE urges Member States to respect their legal obligations to rescue people at sea, as recalled also by the UNHCR and IOM press release of 19th June⁶. The Geneva Convention on the High Seas of 29 April 1958, the United Nations Convention on the Law of the Sea of 10 December 1982 and the International Convention on Maritime Search and Rescue of 27 April 1979 impose the obligation to provide immediate assistance to persons in distress. Captains of ships and States have an obligation to render assistance to persons in distress at sea, whatever their nationality, status or circumstances, including when they are on board a ship which is not seaworthy, and whatever the intentions of those on board. Any search and rescue operation must be carried out in such a way as to respect the obligation to prevent loss of life at sea.

The CCBE notes the press releases from Frontex issued by the Agency after these shipwrecks and welcomes steps towards transparency in that the Agency saw the necessity to publicise the events immediately.⁷ **However, the CCBE calls on Frontex to also enact its internal procedures to duly investigate the incident and take steps to improve its operations and its cooperation with national authorities and make their respective and joint actions fundamental rights compliant beyond any doubt.**

The CCBE reiterates its wish to assist the work of Frontex through its participation in the Consultative Forum in devising improvements that will prevent such disasters and ensuring respect for the rules

⁴ NYT, "Video Shows Greece Abandoning Migrants at Sea", 19.05.2023, available [here](#).

⁵ LIBE letter to Commissioner Ylva Johansson, 28.06.2023, available [here](#).

⁶ "UNHCR and IOM call for decisive action following Mediterranean tragedy", available [here](#).

⁷ "Frontex statement following tragic shipwreck off Pylos", 16.06.2023, available [here](#), and "Frontex statement following tragic shipwreck off Crotone", 01.03.2023, available [here](#).

and fundamental principles of international maritime law and the fundamental rights of people on the move.

The CCBE calls for the creation of a long overdue state-led European rescue program. The CCBE also recalls that the Frontex Regulation provides⁸ that European integrated border management consists amongst other components of search and rescue operations. The CCBE sincerely regrets that no provision of the New Pact on Migration and Asylum, which has entered its final phase of negotiations, is dedicated to a better European coordination of rescues at sea and to the prevention of such disasters.

Finally, the CCBE calls on the European Commission to put pressure on the Member States and use the leverage it has, for example as a guardian of the treaties, to take measures to incentivise the Member States to comply with their obligations in EU and international law in this sphere. The rule of law in the EU, including at EU borders, must be preserved and respected. It must be emphasised that the right to life and human dignity secured by the EU Charter on Fundamental Rights require no less in these circumstances and times.

⁸ Article 3-1b) of Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard: "(b) search and rescue operations for persons in distress at sea initiated and conducted in accordance with Regulation (EU) No 656/2014 and international law, taking place in situations which may arise during border surveillance operations in sea."