

**United Nations Human Rights Council  
23<sup>rd</sup> Regular Session, 27 May to 14 June 2013  
Agenda Item 3**

**ICJ Oral Statement in the Interactive Dialogue with the Special Rapporteur  
on the human rights of migrants, François Crépeau**

**MIGRANTS' RIGHTS AT EU BORDERS**

28 May 2013

*Check against delivery*

Mr. Special Rapporteur on the human rights of migrants,

The International Commission of Jurists (ICJ) commends your regional study and mission reports. Their observations and recommendations will constitute essential guidance to ensure the full respect of migrants' rights in Europe's Southern borders and in Northern Africa. We appreciate the holistic approach you have taken in your missions, which has allowed an assessment of the human rights situation of migrants in light of the arrangements devised amongst individual States, and between States and the European Union (EU).

The ICJ fully supports the recommendations of these reports. In particular, the ICJ entirely agrees with the conclusion that "migration policies based on deterrence are fundamentally at odds with human rights obligations". The ICJ also commends the conclusion that sealing the external borders of the EU is impossible and that more repressive border control policies would only have the effect of increasing the peril of migrants' journeys, with substantial risk of impairment to their right to life.

The ICJ concurs that, within the European Union, harmonization to ensure the protection of the rights of migrants in an irregular situation has been insufficient. Indeed, the harmonization of EU standards on the rights of persons in need of international protection has been such that exceptions and points of discretionary application still exist. The current EU harmonized standards therefore fail to ensure a uniform protection of asylum seekers' human rights across EU Member States.

The ICJ calls your attention to the recently released proposal for an EU Regulation for Frontex sea operations. While reflecting certain aspects of international human rights law, this initiative risks institutionalizing "pushback operations" and applies an understanding of the principle of *non-refoulement* that is not in line with international human rights law.

The ICJ shares your concerns regarding the tendency of EU policies to favour externalization of border controls to non-EU Member States in order to make likely that migrants and asylum seekers never reach the shores of EU Member States. This tendency, coupled with readmission agreements, would have the effect of divesting the EU and its Member States of their responsibility for migration control and of their obligations to protect and respect the human rights of migrants.

Might you therefore consider, Mr. Special Rapporteur, exploring the legal question of whether such policies can constitute a form of complicity in human rights violations under the laws on State and international organisations' responsibility?

Finally, the ICJ invites you to continue to monitor the situation of migration and asylum in the EU and the borders of its Southern States and the implementation of your recommendations. The ICJ stands ready to support you in this task.

I thank you.

Statement delivered by:  
Ms Silvia Caterini, ICJ UN Programme  
Further contacts:  
Roisin Pillay ([roisin.pillay@icj.org](mailto:roisin.pillay@icj.org)) and Massimo Frigo ([massimo.frigo@icj.org](mailto:massimo.frigo@icj.org)),  
ICJ Europe Regional Programme