KaMUN

The Black Forest Summit

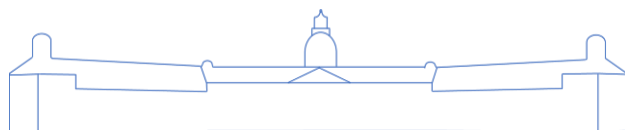"Shaping Tomorrow Today"

November 15th to 17th
Karlsruhe, Germany

Study Guide

United Nations High Commissioner for Refugees Executive Committee

Maritime Search and Rescue

Dear Delegates,

Welcome all to the United Nations High Commissioner for Refugees (UNHCR) at KaMUN - The Black Forrest Summit 2019! We are Maria Krasnova and Rami Ben Ammar and are more than honored to be your chairs for the next exciting days. Together, we will guide you through the debate, answer all your questions, and do our best to make sure that you will all have a great time debating.

The topic we will be discussing - Maritime Search and Rescue - is highly relevant. A lot of people everywhere in the world came up with different approaches to the topics, every country has its own strategies. Now it is your job to bring all those views together and to add your own ideas in a fruitful debate. In order to be able to do so we want to encourage you all to research thoroughly!

This study guide is designed to be the starting point of your research. It gives you an introduction to the topic, but it does not include specific countries' positions. The internet should offer enough facts and advise on your countries' political strategies, but if you feel like you do not know what to do or where to start do not hesitate to contact us! You will find us both on Facebook and via UNHCR@KaMUN.org.

For most of you, this MUN will be the first one, so always keep in mind: You are not the only first-timer here, nobody is perfect. Just be courageous! MUN is all about coming up with creative new ideas and having fun. Do not hesitate to share even the most curious possible solutions with the committee, do not be afraid of making mistakes or worry about speaking English fluently.
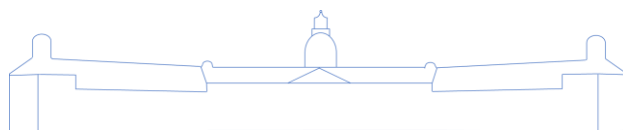
The importance of the expression of your countries' opinion, principally in the realms of foreign policy and global diplomacy carries immense value, irrespective of the level of diversity and the number of individuals that may be present to witness your opinion. Model United Nations is not just a platform limited to representing countries, developing your rhetoric skills, and socializing. The objective is to step forward and comprehend the complexities of decision-making and multilateral policy structures. The success of this conference will not be defined by how much voice an individual raised, but the extent of knowledge and the level of understanding one has gathered.

We are looking forward to meeting you all in November, to debate with you, and to get to know you during the socials at KaMUN - The Black Forrest Summit 2019!

Let us congregate to make KaMUN - The Black Forrest Summit 2019 experience worthwhile.

Yours,

Maria and Rami

The UNHCR

The office of the United Nations High Commissioner for Refugees (UNHCR) was created in 1950, during the aftermath of the Second World War. The purpose of the Commission was to help those millions of Europeans who had fled or lost their homes. What started only as a temporary office that should have ended after three years, today, over 69 years later, became the world's most prominent actor in the protection and assistance of refugee crises across the world.[1]

UNHCR serves as the 'guardian' of the 1951 Refugee Convention and its 1967 Protocol. According to legislation, States are expected to cooperate with the UNHCR in ensuring that the rights of refugees are respected and protected.[2] These documents lay out the definition of what qualifies as a 'refugee' and the kind of legal protection, assistance and social rights a refugee is entitled to. It also defines the obligations that refugees owe to host countries and specifies certain categories of people, such as war criminals, who do not qualify for refugee status.
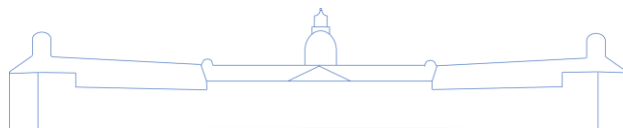
Initially, the 1951 Convention was limited to the protection of European refugees in the aftermath of World War II. However, the 1967 Protocol expanded its scope as the issue of displacement spread throughout the globe. The Convention is currently ratified by 145 State parties with the core principle of non-refoulement – the idea that a refugee should not be returned to a country where they face serious threats to their life or freedom. This is now also considered as a rule under customary international law.

In 1954, the UNHCR received its first Nobel Peace Prize for its groundbreaking work in Europe. Less than three decades later in 1981, the Commission received its second Nobel Peace Prize as a leader in assisting and managing refugee crises. As a principal humanitarian agent with more than 10 966 members of staff and present in a total of 130 countries, the UNHCR plays a vital role in protecting world peace.

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[1] http://www.unhcr.org/history-of-unhcr.html

[2] http://www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html

Intro

In mid-September 2019, the Mediterranean migration crisis was clearly receding. Since the beginning of the year, "only" 54,224 migrants had been recorded at arrival by sea with no visa in Italy, Greece, Spain, Malta, and Cyprus. Though 2019 is still not finished, the total annual number of cross Mediterranean migrants would most probably not reach the peaks recorded in previous years: 368,080 in 2016, 908,558 in 2015 and 209,662 in 2014. [3]
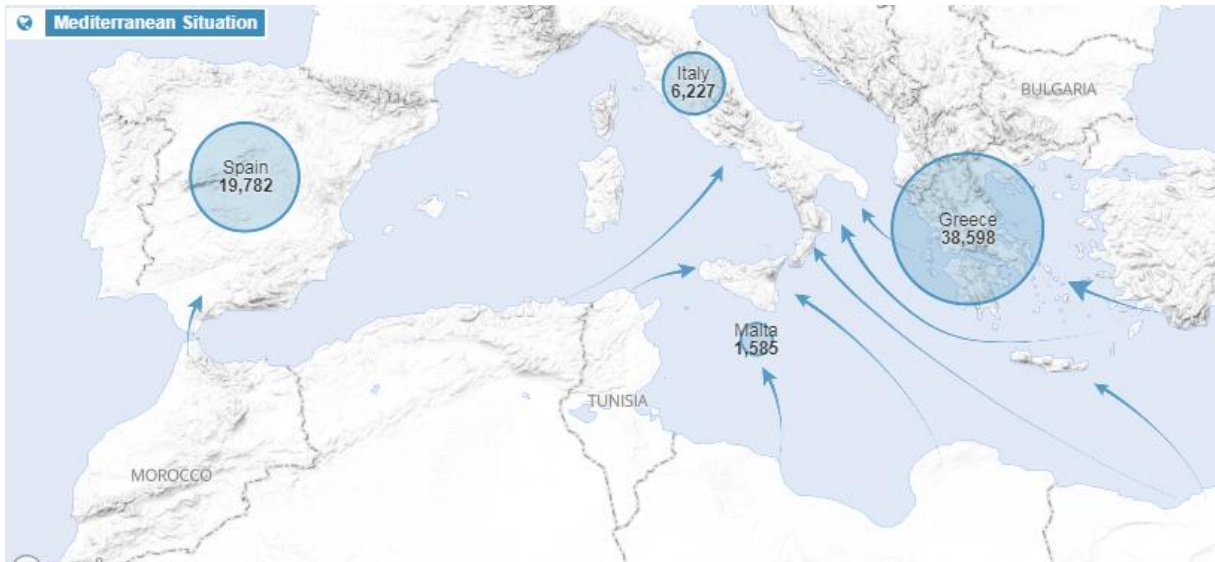

Figure 1 Refugee Routes across the Mediterranean Sea

The end of the "crisis", a term to be understood as the sudden deterioration of a chronic situation, does not mean the end of irregular migration and its causes, nor of the circumstances that made migratory pressures paroxysmal. But subsiding numbers open a window for reflecting on what happened. What did cause such a crisis? How did political circumstances that generate movements of refugees interplay with demographic and economic factors that represent a long-term structural shift? How did political responses along migratory routes impact the problems? How did the crisis call into question the governance of migration and refugee movements at local, national, and global levels? How can democratic States reconcile two of their founding duties, protecting their citizens and defending universal values? Moreover, a reflection is needed on why the crisis receded. Is it because migrants were stopped before departure, whether by virtue of official agreements (Turkey–European Union) or as a result of unofficial deals (Libya–Italy)? Would it instead be that candidates became fewer, in countries of origin or transit? Would it then be a shift in the circumstances that generate refugee movements in European Union's vicinity, with no corresponding change in the structural factors of economic migration? Time has arrived

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[3] Unless stated otherwise, numbers of arrivals at sea are those provided by the International Organization for Migration (IOM): see
http://iom.maps.arcgis.com/apps/MapAndAppGallery/index.html?appid=3af3e9630ab849e99e6970a29aa25ff5

to reflect on what could happen next. What are the deep movements below the surface? While recent flows of unauthorized migration across the Mediterranean are in direct continuation of an old trend, they are unprecedented in several regards:

(a) their magnitude;

(b) the media coverage they receive;

(c) the attention they draw from international organizations and non-governmental organizations;

(d) the way they put in question international law on refugees and migrants; and

(e) the inability of the European Union to control its external sea border and its reliance on States from where migrants boarded.

Finally, three remarks must be made, one on the geographic area covered by the study guide and two on the terminology it uses.

• **Geographic coverage:** The committee concentrates on the Mediterranean Sea. It does not look at the whole journey of migrants, neither between their place of origin and the spot from where they embark, nor between their point of disembarkation and the place they will eventually reach further away in Europe.

• **Refugees versus migrants:** The distinction commonly found in official or media reports between migrants and refugees is a wrong dichotomy. Indeed, refugees are migrants. International migration is defined by border crossing (followed by an effective, or intended, duration of stay of at least one year according to the official UN definition).[4] In any country, international migrants are therefore born-abroad persons, and foreign citizens unless they are granted the nationality of their destination country. Defined as persons "outside the country of their nationality", most from the 1951 Convention, or the Office of the United Nations High Commissioner for Refugees, refugees were born in their country of nationality and are international migrants in their country of asylum.[5] The true distinction referring to the motives behind the cross-border movement is between migrant workers (and their family dependents), also commonly referred to as "economic migrants", and refugees. And even that distinction is in practice very difficult to make, given that the same individual needs – at the

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[4] A migrant is defined "as any person who changes his or her country of usual residence. A person's country of usual residence is that in which the person (…) normally spends the daily period of rest" (United Nations (1998), Recommendations on Statistics of International Migration, Revision 1, p.17).

[5] But some of them are not (e.g. those sons and daughters of refugees born in exile; youngest age groups of populations in protracted refugee situations and others).

same time – international protection and to earn a livelihood. Most cross-Mediterranean migrants have indeed mixed reasons for migrating.

• **Irregular is the act of migration, not the migrant:** Media stories and political statements often refer to "irregular migrants", "unauthorized migrants" or "illegal migrants". One should not miss their implicit meaning, which is that migrants whose entry or stay breaches a host country's laws are negated as persons. Persons cannot be irregular, unauthorized or illegal. Only their action and their situation can. This study guide will therefore use the following terms: irregular migration/entry or unauthorized migration/entry but refer to migrants as "undocumented" or "in an irregular situation".

Background:

Migrants are normally counted at entry by border police in charge of controlling passports. The problem with counting undocumented migrants – defined as migrants with no passport or with no entry visa on their passport – is that they precisely try to escape police control for fear of being arrested and sent back to their place of departure. They are recorded by the police only if they are apprehended, which can happen either as soon as they arrive, later during their stay or never. By nature, numbers of recorded undocumented migrants are an underestimate of total flows of undocumented migrants. Moreover, underestimation varies according to place and time. Differences across countries hamper international comparisons. Variation according to time is a source of bias when it comes to assessing trends. An observed increase (or decrease) in flows of recorded irregular migration can reflect a real trend in migration, but also a change in public authorities' ability to control borders. The more efficient the shore and sea control by the police and navy, the higher the probability for undocumented migrants to be apprehended and therefore counted. In this regard, the systematic search and rescue at high sea launched in October 2013 by Italy and never discontinued since then may well have introduced a breaking point in the statistics. While Mare Nostrum and subsequent operations in the Mediterranean were decided in response to alarming increases in the numbers of migrants entering Italy and Greece by sea or drowning during the crossing, one cannot rule out that they further impacted the numbers themselves. Not only because operations at high sea would have (as alleged by many though never established) incited more migrants to risk the journey in the hope they would be rescued and safely brought to Europe, but also because they have extended the administrative coverage of undocumented migration.

Deaths at sea

Deaths at sea are not directly recorded unless bodies are found. No mechanism of systematic, direct recording can be put in place for counting drowned persons as individual identities and numbers of people boarding the boat were not registered at departure. Statistical series of dead and missing migrants can be drawn from reports compiled separately by Italian blogger Gabriele

Del Grande (back to 1988),[6] the European network UNITED for Intercultural Action (back to 1993)[7], and the International Organization for Migration (IOM) since 2014, which are the three numbers of migrants drowned in the course of a sinking. Moreover, when there are no survivors and the sinking has remained unnoticed, all the involved deaths will most likely remain ignored.[8] most reliable and consistent sources.[9] In all three sources, most reports are those of survivors when apprehended by the police, and/ or interviewed by the media or humanitarian workers.[10] The probability for a death to be reported therefore grows with the probability for a surviving migrant to be apprehended and counted. The higher the sea is patrolled, the more likely are survivors to be interviewed about dead and missing persons among fellow travelers. Reports, in general, do not provide individual cases of well-identified deaths but rounded estimates of numbers of migrants drowned in the course of a sinking. Moreover, when there are no survivors and the sinking has remained unnoticed, all the involved deaths will most likely remain ignored.

Current Situation:

The Mediterranean Sea

At the moment, the migration situation talked about the most is the one in the Mediterranean Sea. People risk their lives whilst crossing the Mediterranean Sea. Since 2017, a number of estimated 2.700 people have died.[11] People who decide to take the risk of crossing the Mediterranean Sea seek the chance to set foot on the border of the European Union. If the journey ends as planned, the migrants are faced with following procedure. The International Maritime Organization (IMO) agreed upon if people have been saved on the water, they will have to fill out a follow-up to clarify paperwork.[12] Only after his they can continue seeking asylum. This has been established to ensure that rescued people will not have to face other difficulties on land.

A recent example shows the problem with sea rescue. The "Ocean Viking" is a boat to rescue undocumented migrants upon the sea. The "Ocean Viking" is operated by the non-governmental organizations (NGOs) Médecins Sans Frontières/Doctors Without Borders (MSF). The "Ocean

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[6] Fortress Europe, available from http://fortresseurope.blogspot.it/

[7] See www.unitedagainstracism.org

[8] For a detailed analysis, see T. Last and T. Spijkerboer, "Tracking deaths in the Mediterranean" in: T. Brian and F. Laczko (eds.), Fatal Journeys: Tracking Lives Lost during Migration (IOM, Geneva, 2014), pp. 85–107, available from https://publications.iom.int/system/ files/pdf/fataljourneys_countingtheuncounted.pdf. See also S. Grant, "Identification and tracing" in: T. Brian and F. Laczko (eds.), Fatal Journeys volume 2: Identification and Tracing of Dead and Missing Migrants (IOM, Geneva, 2016), pp. 31–73, available from http:// publications.iom.int/books/fatal-journeys-volume-2-identification-and-tracing-dead-and-missing-migrants

[9] Missing Migrants Project, available from https://missingmigrants.iom.int

[10] Most dead and missing data in the Central Mediterranean comes from IOM Italy's interviews with survivors and reports from the Libyan Red Crescent.

[11] https://www.unhcr.org/europe-emergency.html

[12] https://www.unhcr.org/publications/brochures/450037d34/rescue-sea-guide-principles-practice-applied-migrants-refugees.html

Viking" has spent several days on the open sea. The "Ocean Viking" could not strand at a shore. MSF urges member states of the European Union to agree on a solution for every rescue ship, as at the moment the decision whether a ship can enter safe haven is newly decided every time.[13]. They urge to stop returning the rescued, and to invest more resources into rescuing. People leaving the boat will be assigned to six different countries, Italy is not among those.[14]

In the past weeks, Italy which coasts are located around the Mediterranean Sea and which faces most of the rescue ships docking on land landed several headlines due to governmental decisions concerning the handling of rescuer and their ships. In July 2019, Italy detained Carola Rackete the German Sea Watch captain. Sea Watch is a non-governmental organization which organizes sea rescue in the Mediterranean Sea with the help of volunteers.[15]. Italy has held her for entering Italian borders without permission and in this act to drive against an Italian military ship.[16] This led to criticism towards Italy from the international community.[17] The spokesperson of Secretary General of the United Nations António Guterres raised concern about the steps taken by Italy. These steps show a degree of criminalization of sea rescuer. This was especially condemned by the German Foreign Ministry and Germany's European Commissioner. Such acts
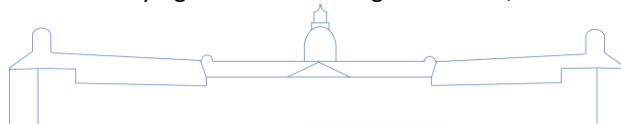
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[13] https://reliefweb.int/report/italy/mediterranean-ocean-viking-survivors-disembark-lampedusa-six-days-after-first-sea

[14] https://www.euronews.com/2019/08/23/six-eu-states-agree-to-take-in-350-migrants-from-stranded-ocean-viking-ship

[15] https://sea-watch.org/en/project/about

[16] https://www.theguardian.com/world/2019/jul/05/captain-who-rescued-42-migrants-id-do-it-again-despite-jail-threat

[17] https://www.dw.com/en/un-warns-italy-against-criminalizing-sea-rescue/a-49437003
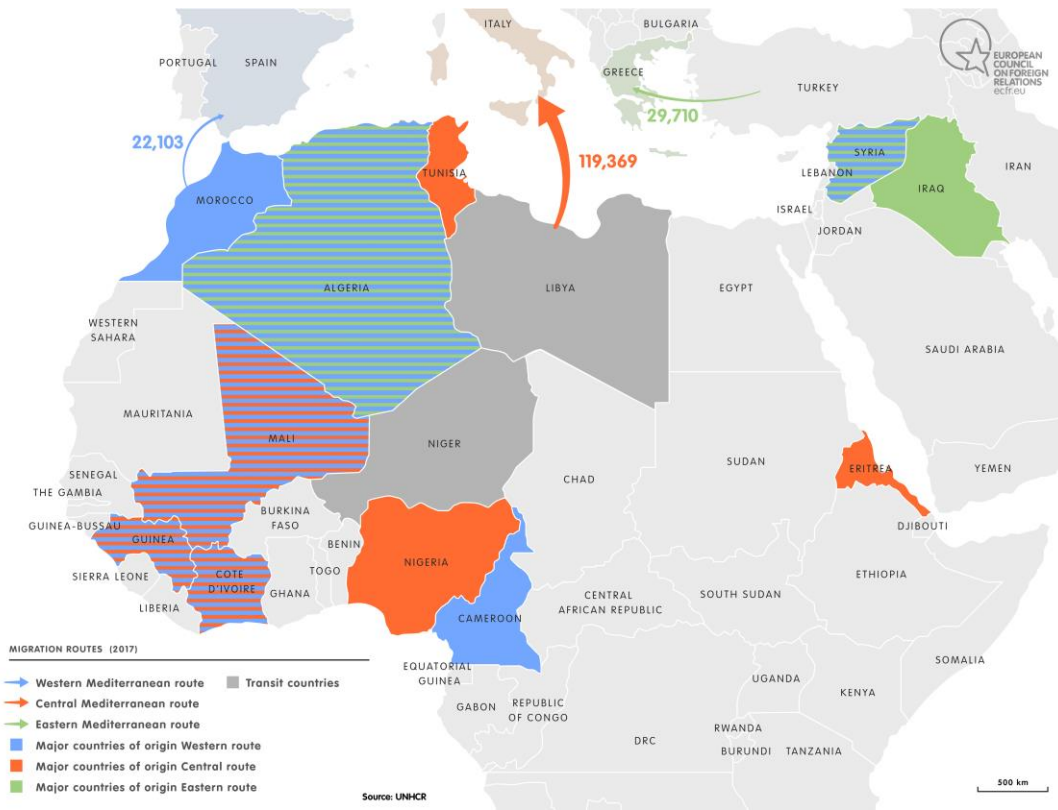
Figure 2 Routes and origins of migration directed at Europe[19]

display the urgency to find a common agreement. After four days, an Italian judge released Rackete from her house arrest.[18] Still, this incident has shaken the global community.

Picture 2: The routes of illegal migration 2017.[19]

A possible option for the undocumented migrant would be to be sent back to their place of departure. This place is in many cases Libya. The UNHCR works in Libya to help migrants which are placed upon inhumanely conditions[20]. Torture, rape, and death seem to be daily companion in these camps[21]. Sending back migrants is highly criticized by many. Libya is seen as a failed state and the UNHCR is criticized for working with parts of this regime[22]. The UNHCRs' work is limited, the centers are still run by the Libyan government. Tragic cases shocked the world. Lately a
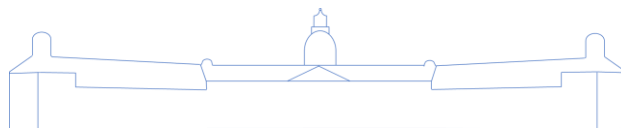
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[18] https://www.euronews.com/2019/07/02/sea-watch-captain-carola-rackete-released-by-italian-judge

[19] https://www.ecfr.eu/specials/mapping_migration

[20] https://www.unhcr.ca/where-we-work/libya/

[21] https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588

[22] https://www.euronews.com/2019/10/02/unhcr-in-libya-part-1-from-standing-withrefugees-to-standing-withstates

refugee has been shot dead on an attempted escape[23]. Shortly before that, an airstrike on a migration center hit Tripoli leaving 40 migrants dead[24]. If a migrant has reached Libya or has been sent back to Libya which further destinations can they go to. The European Union is at far-fetched shore, another country in Africa might be a solution. 500 people have been sent to Rwanda. The migrants there will have a permission to stay in the country until further decision are made regarding their future[25].

Main Measures Already Adopted (Resolutions and further documents)

SC-RES 2393/2017 - https://undocs.org/S/RES/2393 (2017) - stating the duty of all the parties to comply with their obligation under International law, International Humanitarian law and International Human Rights law and calling upon the implementation of the previous resolutions (listed in the present link).

SC-RES 2449/2018 - https://undocs.org/S/RES/2449 (2018) stating the concern about the insufficient implementation of the previous resolutions (listed in the present link) and calling upon the international community to increase the humanitarian aid in warzones like Syria;

SC-RES 2401/2018 - https://undocs.org/S/RES/2401 (2018) - ordering a cessation of hostilities without delay (except for the military operations against ISIL for example in Syria) and asking the Parties to allow the access to humanitarian convoys;

(It is recommended to gather further information from previous resolutions)

Possible Measures to be Adopted

After different reforms of the Dublin Regulation (until its incumbent form, the Dublin Regulation III) it reasonably possible to believe that the asylum policy in Europe will be subject to evolutions in order to implement a faster and fairer scheme in distributing the refugees among the Member States without neglecting their needs, such as the familiar unity (also stated in Art. 7 Charter of fundamental rights of the European Union - 2000/ C 364/01 - and Art. 8 European Convention on Human Rights and Fundamental Freedoms). A reform in these terms remains however in the domain of the European Union legislative organs' competence.[26] It is also possible to shape up a strengthening of the NGOs activities providing asylum seekers with humanitarian aid through bilateral agreements between States and such NGOs.
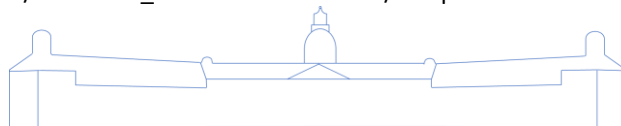
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[23] https://www.euronews.com/2019/09/20/sudanese-migrant-shot-dead-after-being-returned-to-libya

[24] https://www.euronews.com/2019/07/03/dozens-killed-in-libya-after-air-strike-hits-migrant-centre-outside-of-tripoli

[25] https://www.theguardian.com/global-development/2019/sep/10/hundreds-refugees-evacuated-libya-to-rwanda

[26] Further information concerning possible reforms of the Dublin Regulation III: DIRECTORATE GENERAL FOR INTERNAL POLICIES, The reform of the Dublin III Regulation - Study for the LIBE Committee, 2016 - https://serval.unil.ch/resource/serval:BIB_4270B596AA2A.P001/REF.pdf

Questions a Resolution Should Answer:

A resolution should address following issues:

➡ Is there the possible of safe migration through the Mediterranean sea as called for by NGOs?

➡ How should the UNHCR guarantee safety within the refugee camps in Libya?

➡ Can illegal migration be stopped in its routes?

Further Readings:

In order to prepare for your time at KaMUN – The Black Forest Summit 2019 you can take a look at the cited literature in this Study Guide. Here, we would like to give our advices for interesting readings.

➡ Statista offers you to get an overview with looking a graphics: https://www.statista.com/topics/4046/migration-in-europe/

➡ A guide written by the UNHCR about rescue at sea: https://www.unhcr.org/publications/brochures/450037d34/rescue-sea-guide-principles-practice-applied-migrants-refugees. html