CRIMINALISATION OF SOLIDARITY: HOW CURRENT MIGRANT POLICIES IMPACT HUMANITARIAN WORK

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ABSTRACT:

This paper explores current policies of increasingly restrictive migration management in some countries, with examples from Serbia, Italy, Greece, and France, where through oppressive means, states attempt to regulate migration by making the provision of humanitarian work illegal. By analysing data collected from non-state actors, such as non-government organisations, activists, and humanitarian workers, it will examine in which ways policies can target those who work with migrants, and provide a look into inevitable changes in culture that will occur as a result of the criminalisation of providing aid. As policies such as securitisation of borders and criminalisation of providing humanitarian aid not only have drastic consequences regarding the lives of people involved, they can also reshape understanding of the rule of law, human rights, and dignity. With these developments in the broader political and cultural transformation of labour and migration governance, the paper argues that these criminalising policies undermine solidarity-based practices and contribute to changes in collective values in contemporary Europe. Finally, it examines how the suppression of humanitarian work reshapes cultural narratives around care, solidarity, and ethics in migration contexts.

Key words:
migration,
criminalisation,
humanitarian labour,
solidarity, border policy

Introduction

Altruism, philanthropy, and empathy toward others are among the highest human values. From an early age, children are taught through fairy tales and fables to help one another, to find strength in solidarity, and to seek support when in need. Immanuel Kant's categorical imperative: 'act only according to that maxim whereby you can, at the same time, will that it should become a universal law' (Kant, 2012, p. 37), reflects this moral foundation. However, what happens when states redirect their resources not toward fostering these values, but toward suppressing them?

The issue of criminalisation of solidarity, although highly topical due to the promotion of migration management practices and policies, is not entirely new. Nevertheless, the measures undertaken by communities such as the European Union

represent a qualitatively new phase of these processes. This paper, therefore, aims to examine the consequences of such policies and practices. In the first part of the paper, the paradigm shift in the understanding of migration will be explored, from a humanitarian approach to the policies of criminalising solidarity. The second part outlines the theoretical framework, clarifying key concepts discussed throughout the paper- criminalisation of solidarity, border securitisation, and externalisation of the asylum process. By employing a comparative methodological approach, the paper analyses these policies in Greece, Serbia, Italy, and France, selected as *migration hotspots* after the 2015 migration crisis.

Finally, the discussion section identifies common characteristics and national specificities of solidarity criminalisation within the political and migratory contexts of each country, with the aim of assessing its consequences for humanitarian organisations and raising questions regarding the future trajectories of these processes.

1. Paradigm shift

Migration has accompanied human history since its very beginnings. However, contemporary processes of globalisation and technological development have introduced new dimensions and challenges. Demographic changes, such as declining birth rates in developed countries, have created a growing demand for labour migration, primarily from less developed regions. At the same time, ongoing global conflicts continue to threaten the safety of millions, forcing them to seek protection in other states. Severe economic inequalities between countries further contribute to the movement of people in search of better living conditions.

Although migration is not a new phenomenon and has been studied for decades, scholarly and political interest in it has intensified significantly after the 2015 migration crisis. The so-called 'migration' or 'refugee crisis' of 2015 has been widely critiqued as a discursive construct that obscures the structural causes of displacement while legitimising emergency governance measures (Hameršak et al, 2018). The Balkan corridor, which emerged as a temporary humanitarian passage, simultaneously functioned as a space of intensified border control, demonstrating the coexistence of humanitarian facilitation and securitised governance. According to the most recent data, Europe currently hosts 87 million international migrants, representing a 16% increase compared to 2015 (IOM, 2024). This has placed considerable pressure on asylum systems, particularly in countries that, due to their geographical position, have been disproportionately affected. These include Greece and Italy as the main entry points to Europe and Serbia, whose role in the Balkan migration route became increasingly prominent during this period. France, on the other hand, holds a specific position as a transit 'bridge' between the continental part of the European Union and the United Kingdom.

Following the Arab Spring in 2011, Italy experienced a notable rise in the number of incoming migrants, prompting its political leaders to call upon the European Union to act in solidarity (Wallaschek, 2017). The issue of disproportionate responsibility in receiving migrants deepened further after 2015, sparking tensions among EU member states. While some advocated for a more equitable distribution of arrivals, others refused to share responsibility, arguing that only certain countries should bear the burden for promoting such policies. When the Emergency Relocation Mechanism, intended to redistribute asylum seekers across EU states, was introduced, many governments resisted. Given that solidarity, described as 'a foundational norm of the European Union's legal and political order' (Christodoulou et al., 2016, p. 2), came under strain, internal divisions within the Union became evident. Since many countries were not prepared for the large influx of people, the mandatory quota mechanism was rejected not only by the Visegrad Four but also by the United Kingdom, Ireland, Austria, and Denmark (Christodoulou et al., 2016, p. 2).

As a result, migration became a deeply polarising issue, contributing to significant political shifts across Europe. The following sections analyses how this turn from a humanitarian to a security-oriented and restrictive framework has shaped contemporary policies of the criminalisation of solidarity.

1.1. The question of migration and Brexit

The issue of migration played a central role in the British referendum on Brexit and, according to several authors, it was among the main arguments for leaving the European Union (Asderaki & Markozani, 2020; Dennison & Geddes, 2018). Within the European Union, the United Kingdom occupied a specific position, as it was not a signatory to the Schengen Agreement. Moreover, it 'participated selectively in parts of integration policies' (Asderaki & Markozani, 2020, p. 94), and the major EU enlargement in 2004 further fueled public discontent, since the 'growing impact of identity was closely linked to migration and social policies' (Asderaki & Markozani, 2020, p. 93).

As some scholars note, the United Kingdom's approach to EU migration policies was largely characterised by 'selectivism, flexibility, and a pick-and-choose attitude' (Asderaki & Markozani, 2020, p. 98). Consequently, the issue of mass migration became particularly influential with the onset of the migration crisis, as states struggled to cope with the large influx of people. The United Kingdom attracted migrants due to its 'high level of social protection, employment opportunities, and various welfare benefits' (Ohoshin, 2020, p. 510); however, because of its specific position outside the Schengen zone, the quota system did not apply to it.

Therefore, when the referendum on leaving the European Union was announced,

migration became the core of the public discourse that ultimately resulted in Brexit, illustrating the extent to which migration shaped European policy-making.

1.2. The EU Migration and Asylum Pact

In December 2023, the European Union proposed the Pact on Migration and Asylum, aimed at harmonising migration policies among EU member states (European Commission, 2023). The Pact consists of five legislative acts intended to improve migration management at all levels. Among other provisions, it introduces an upgraded system for recording digital fingerprints, enabling easier identification and preventing individuals from submitting asylum applications in multiple countries. It also regulates screening procedures designed to strengthen the EU's external borders by expediting the identification process and determining whether an individual should be returned to their country of origin or admitted into an asylum procedure.

The Dublin Regulation is to be replaced by the Regulation on Asylum and Migration Management (European Commission, 2023), which also introduces a new solidarity mechanism. Since only four countries currently receive 66% of all migrants arriving in the EU, the Pact seeks to alleviate the burden on these border states. Under the proposed mechanism, other member states may choose to contribute either financially or by accepting a certain number of migrants. The primary goal of the Pact is to prepare EU member states for a potential new migration crisis.

However, the Pact has faced significant criticism from international and humanitarian organisations working with migrants. According to their assessments, the proposal is unlikely to introduce substantial improvements or effectively reduce pressure on border states. Instead, it may increase the risk of inadequate decision-making with serious consequences for asylum seekers. The introduction of screening procedures could result in individuals being returned immediately to their countries of origin without the right to appeal. As these people would be considered as never having entered EU territory, the International Rescue Committee (IRC, 2024) warns that this could lead to mass detention at the borders and undermine the assessment of individuals' vulnerability and safety.

Another point of concern is the crisis mechanism, which allows member states to extend the initial asylum application process in crisis situations. This poses a particular risk to unregistered migrants, who are already a highly vulnerable group, as their irregular status increases the likelihood of deportations and pushbacks (IRC, 2024). Moreover, since states may impose stricter conditions for asylum protection during emergencies, the decisive factor may become the timing of the application, rather than the objective grounds for asylum.

Overall, the Pact illustrates the European Union's growing tendency to prioritise

border security over solidarity with migrants, illustrating the continued securitisation of migration, and the marginalisation of humanitarian considerations.

2. Conceptual framework

This section outlines the main concepts introduced earlier. Since the issue of criminalisation of solidarity is closely linked to the securitisation of migration and the externalisation of borders, a more detailed examination of these notions will be provided to ensure terminological clarity. Although these terms are not synonymous, their interrelation highlights the complexity of the migration phenomenon and the importance of multidisciplinary approaches, as each concept originates from different fields of study.

2.1. Criminalisation

The issue of criminalisation of solidarity has been present in the European Union since 2002, following the adoption of Directive 2002/90/EC and Framework Decision 2002/946/JHA, collectively known as the Facilitation Package. The stated aim of these instruments was to make the EU a 'zone of freedom, security and justice, implying an internal fight against illegal immigration' (Directive 2002/90/EC, para. 1). Accordingly, measures were to be taken against the facilitation of unauthorised entry, transit, and residence, including those networks that exploit human beings' (Directive 2002/90/EC, para. 2).

This formulation reveals an inherent ambiguity in defining smuggling (i.e., facilitation of border crossings), since it does not clearly distinguish between assistance and exploitation. As a result, it leaves room for member states to interpret what constitutes participation in an exploitative network. Article 1 of the Directive stipulates that each member state shall adopt appropriate sanctions against 'any person who intentionally assists a non-EU national to enter or transit across the territory of a member state, in breach of the laws of that state on the entry or transit of aliens' (Directive 2002/90/EC, Art. 1).

Because the text includes transit and makes no reference to financial gain, it creates a broad framework under which individuals may be prosecuted for smuggling even in the absence of profit. The second part of Article 1 specifies that 'any person who, for financial gain, intentionally assists a non-EU national to reside within the territory of a member state, in breach of the laws on the residence of aliens, shall also be punishable' (Directive 2002/90/EC, Art. 1). Although financial motivation is more clearly defined here, the notion of intentional assistance remains vague. The common element in both provisions is the individualisation of responsibility where assistance itself becomes a punishable act. This implies that individuals

should refrain from providing aid to migrants in order to avoid prosecution.

From this framework the concept of criminalisation of solidarity is derived, broadly understood as 'the attempt by states to prevent non-state actors from engaging in direct solidarity with migrants in need through the instrumentalisation of criminal law, with the ultimate aim of reducing uncontrolled arrivals to the territory of the European Union' (Duarte, 2020, p. 30). This definition, when deconstructed, reveals the essence of the phenomenon. It highlights the pressure exerted by states on humanitarian organisations that seek to assist vulnerable populations such as migrants. This pressure manifests through the instrumentalisation of criminal law, meaning that states mobilise their resources not only to restrict humanitarian activities but also to impose lasting consequences, such as judicial proceedings and criminal convictions, on those involved. According to Duarte, this is ultimately intended to reduce migration flows, implying that practices of criminalisation serve as a deterrent (Duarte, 2020).

The criminalisation of solidarity, which constitutes the foundation of this paper, is by no means a new phenomenon emerging solely after the 2015 migration crisis. The prosecution of humanitarian workers, despite being regulated under the Geneva Convention (Additional Protocol, Art. 71(2)), remains a controversial issue even within academia. While the criminalisation of migration refers to policies that frame irregular migrants as security threats or offenders (Gionco, 2021), the criminalisation of solidarity targets those who attempt to help them. The former term denotes 'policies that treat undocumented migrants as potential security threats and irregular migration as a criminal act' (Gionco, 2021, p. 2).

Recent critical scholarship emphasises the importance of distinguishing between institutionalised humanitarianism and grassroots practices of solidarity. While established humanitarian organisations often operate within state-regulated frameworks of care, grassroots initiatives frequently emerge in response to the perceived inadequacy or violence of official regimes (Brković, 2023). Brković terms this 'vernacular humanitarianism', which is defined as 'aid provided by various local actors in tune with their socio-historically specific ideas of humanness, as a response to an emerging need that cannot be adequately addressed through conventional channels of help' (Brković, 2020, p. 224). Even though Brković presents that 'term 'humanitarianism' usually marks vertical, patronising, hierarchical relationships that keep people who need help in the state of dependence, while 'solidarity' is understood as horizontal and reciprocal, as involving radical openness, collaboration and willingness to organise communities otherwise, beyond the state bureaucracy and capitalist economy' (Brković, 2023, p. 3). As Fassin (2023) argues, humanitarianism oscillates between a universalist moral claim and an interventionist logic that can be co-opted by state power. This tension becomes particularly visible in contexts where solidarity is criminalised, as grassroots actors are more likely to

be targeted for operating outside authorised humanitarian frameworks. Targets of criminalisation may include both organisations and their staff or volunteers, resulting in 'obstacles that prevent them from carrying out humanitarian assistance activities' (Border Violence Monitoring Network, 2021, p. 10). This involves the increased surveillance and harassment of people engaged in assistance, such as rescue missions, reception activities, and the distribution of food, shelter, and services (ReSoma, 2020).

This normative framework and its development provide the foundation for the comparative analysis of practices in Serbia, Italy, Greece, and France, through which the study examines how the criminalisation of solidarity shapes the work of humanitarian actors and its broader socio-cultural implications.

2.2. Securitisation

The concept of securitisation was introduced by the theorists of the Copenhagen School, who conceptualised it as a process in which a discourse (in this case, migration or people on the move) is constructed as an existential threat to the state (Buzan, Wæver, & De Wilde, 1998). However, for securitisation to occur, the threat narrative must be accepted by the audience, it cannot simply be imposed. Since the core element is existential threat, it legitimises the adoption of extraordinary measures to eliminate it. The authors identify three key components of securitisation: 'existential threat, emergency action, and the breaking of rules' (Buzan, Wæver, & De Wilde, 1998, p. 26). The breaking of established rules occurs when the urgency of action justifies bypassing normal procedures in the name of preserving existence.

When migration became a central political concern, especially after the political shifts following the 'War on Terror', the European Union intensified the securitisation of its borders. Migration increasingly took on a security-oriented tone, linked to what Bigo (2002, p. 63) describes as the 'production of a continuum of threats and insecurities, where various actors exchange fears and beliefs in processes that construct a risky and dangerous society'. In this context, migration is framed as both an external and internal threat (e.g., through the asylum process).

Bigo further conceptualises this dynamic as the 'convergence of security', which directly influences 'who is defined as a migrant' and relates to questions of the legitimacy of migration (Bigo, 2002, p. 63). Similarly, Huysmans (2006, p. 47) links the securitisation of migration and asylum to the production of political trust, loyalty, and identity through the distribution of fear and intensified alienation. According to him, the development of a political community requires the creation of a 'secure community and identity' through the construction of existential threats, where migrants become scapegoats, representing an external danger.

Thus, the securitisation of migration can be understood not only as the fram-

ing of migration as an existential threat to states, but also as the implementation of measures that restrict or criminalise humanitarian activities. Consequently, providing aid to migrants or showing solidarity becomes labelled as an act that undermines national security and endangers the community.

2.3. Externalisation

Externalisation refers to state practices aimed at 'preventing migrants, including asylum seekers, from entering the jurisdiction or territory of destination states, or rendering their claims legally inadmissible without an individual assessment of protection needs' (Frelick, Kysel, & Podkul, 2016, p. 193). In simpler terms, it encompasses measures taken by states to prevent migrants from even reaching their territory to apply for asylum.

These practices directly affect human rights by 'shifting migratory flows to third countries, influencing the scope and duration of state legal obligations, and determining which states are, under international law, responsible for protecting migrants' rights' (Frelick, Kysel, & Podkul, 2016, p. 196). In this way, states limit their formal legal obligations, including the right to asylum, by preventing migrants from entering their jurisdiction.

Externalisation practices have led to the concept of 'Fortress Continents', describing mechanisms used by Global North states to restrict legal entry routes with the aim of reducing migration (Lutz & Karstens, 2021). These mechanisms include interlinked identification systems, migration deterrence campaigns designed to decrease the 'appeal" of Europe as a destination, and sanctions against those facilitating irregular entry' (Lutz & Karstens, 2021). Such practices are particularly associated with Italy, which has signed bilateral agreements with Libya and Albania, to be discussed later in this paper.

The problematic nature of externalisation lies not only in restricting migrants' movement or confinement in camps, but also in its impact on asylum procedures and human rights protections. It undermines the fundamental principle of non-refoulement, which 'prohibits states from returning individuals to territories where their life or freedom would be threatened based on race, religion, nationality, membership of a particular social group, or political opinion' (Frelick, Kysel, & Podkul, 2016, p. 198). Moreover, the right to asylum remains guaranteed even in cases of irregular entry, a provision directly violated by externalisation practices.

An illustrative example is the closure of the Atlantic route to Spain, achieved through cooperation with African countries from which migrants departed by sea and to which they were rapidly returned (Heller & Pezzani, 2017, p. 60).

3. Methodological framework

This paper adopts a comparative overview approach, aimed at examining how the criminalisation of solidarity manifests across different national migration governance contexts. Rather than pursuing causal inference or policy evaluation, the study focuses on identifying patterns, mechanisms, and regulatory practices through which humanitarian assistance to migrants is restricted, discouraged, or penalised. This methodological exploratory and descriptive comparative approach is particularly suited to capturing variations across national contexts while highlighting shared tendencies in the governance of migration and humanitarian action.

The analysis begins with an overview of the migration context in each state, assessing their respective roles within European migration routes and the scale and characteristics of migrant flows. This is followed by an exploration of the political and discursive context, tracing the evolution of narratives and policy orientations on migration since 2015. Subsequently, the research analyses the legal and institutional frameworks related to the criminalisation of solidarity, focusing on the mechanisms through which these measures are operationalised and enforced in practice.

Through a comparative discussion, the paper identifies both shared features and the country-specific characteristics of criminalisation of solidarity. Particular attention is given to the examination of the role of national legislation and political contexts, with the aim of offering insights into the future trajectories and implications of these processes for humanitarian action within and beyond the European Union.

The selection of Greece, Italy, France, and Serbia is based on their structurally distinct yet politically interconnected roles within the European migration regime. Greece and Italy represent primary entry points at the European Union's external borders, while France represents both a destination and transit country within the Schengen area. Serbia, although not a member of the European Union, is included as a key transit country along the Balkan route and as an important site of the externalisation of European Union migration governance. Its inclusion allows for a critical examination of how practices related to border securitisation and the criminalisation of solidarity are reproduced beyond the Union's formal legal framework, often through informal, administrative, or extralegal means, despite the absence of explicit criminal provisions.

4. Results

This section presents the main findings of the comparative overview, highlighting how different legal frameworks, political discourses, and institutional practices contribute to the criminalisation of solidarity across the selected countries. While

the intensity and form of criminalisation vary, the results demonstrate a shared tendency toward restricting humanitarian action through legal, administrative, and informal mechanisms.

4.1. France

Although a member of the European Union, in context of this paper, France will be perceived as a *transit country* for migrants. However, in recent years, there has been a steady increase in asylum seekers. According to the 2024 data, approximately 158,000 new asylum applications were submitted, an 8% increase compared to the pre-COVID period (OECD, 2024). Since 1999, informal camps have existed in northern cities of Calais, Dunkerque, and Grande Synthe, serving as departure points for people attempting to reach the United Kingdom (EUROJUST, 2017). The best-known of these was the 'Jungle' camp in Calais, dismantled after a fire in 2016, which at the time hosted around 7,000 people (EUROJUST, 2017, p. 3). Following the eviction, President Emmanuel Macron declared that he 'did not want to see migrants on the streets by the end of the year' (Encaoua, 2017), signaling a shift in national migration policies.

Although no new camp of similar scale has since been formed, migrants continue to arrive in Calais and Dunkerque. French police have been reported to carry out violent evictions of informal camps, described as 'unnecessarily harsh' (European Parliament, 2018, p. 67; *Le Monde*, 2018). Regulations often require that 'the distribution of goods, food, or medical assistance must constantly change location, and in some municipalities such actions are entirely prohibited (…) with police regularly monitoring the work of volunteer organizations' (European Parliament, 2018, p. 67). This reflects a broader view that 'the assistance provided by volunteers is seen as interfering with police operations and with the political goal of combating irregular migration' (European Parliament, 2018, p. 67). A clear example is the ban on food distribution by NGOs in Calais, introduced in 2020 by local authorities and renewed monthly for the next two years (PICUM, 2023, p. 7). The stated justification was the 'need to prevent public disorder' (PICUM, 2023, p. 7).

Under French law, 'facilitating the entry, transit, or residence of irregular migrants is punishable by both fines and imprisonment' (EUROJUST, 2017, p. 7). Importantly, financial or material gain is *not* a prerequisite for prosecution. Providing accommodation to irregular migrants is criminalised unless it qualifies as humanitarian assistance, defined narrowly by law as:

1. 'Assistance provided by a descendants or relatives in the ascending line of the alien, their spouse, the brother and sisters of the alien or their spouse;
2. Assistance by the spouse of the alien, the person known to be in a marital situation with him/her, or descendants or relatives in ascending line, broth-

ers and sisters of the spouse of the alien or of the person known to be living in a marital situation with him/her;

3. Assistance by any legal or natural person, where the alleged act has been performed without any direct or indirect payment and has consisted of the provision of legal advice, food, housing services or medical care aimed at ensuring dignified and decent living conditions for the alien or any other assistance aiming at preserving his/her dignity and natural integrity' (EUROJUST, 2017, p. 8).

This framework illustrates the state's intention to preserve a certain degree of 'humanitarian immunity' (EUROJUST, 2017). Yet, practice tells a different story. The expression *délit de solidarité* ('crime of solidarity') emerged in the 1990s to describe the prosecution of humanitarian workers under laws targeting human smuggling. One of the most famous cases was that of Cédric Herrou, arrested in 2017 for sheltering migrants arriving from Italy. France's Constitutional Court later ruled that the prosecution violated the constitutional principle of *fraternité*, affirming that 'the state has the right to take measures against irregular migration, but these must be balanced with the freedom to act in solidarity with migrants and refugees' (European Parliament, 2018, p. 80). Furthermore, it implies 'freedom to help others, for a humanitarian purpose, without considering the legality of their residence on the national territory' (Boudou, 2018, p. 1).

Under the 2024 Migration Law, one of France's main strategic priorities remains the 'fight against irregular migration' (Ministère de l'Intérieur, 2024). Despite the Constitutional Court decision, the report shows that there are currently 17 cases of *délit de solidarité* in France (PICUM, 2024). This implies that these malpractices are still ongoing, regardless of prohibitions. These findings indicate that, despite formal legal protections and constitutional guarantees, practices of criminalisation persist through administrative restrictions and discretionary policing, revealing a gap between legal norms and their implementation.

4.2. Italy

Italy serves as the main entry point along the Central Mediterranean route, where most migrants arrive by sea. Though not a primary destination, it still records a high number of arrivals, with a 24.5% increase compared to pre-COVID levels (OECD, 2024). A distinctive feature of Italian migration is the role of humanitarian NGOs in search and rescue operations (*SAR*). In 2016 alone, NGOs rescued 46,796 migrants (26% of total rescues), while the majority were still carried out by Italian and European authorities (European Parliament, 2018, p. 68). Italian migration policy has therefore aimed to reduce arrivals by restricting rescue operations.

Following two major Mediterranean shipwrecks, Italy introduced the offence

of 'aiding and abetting irregular entry', which has become a tool for the criminalisation of humanitarian assistance (ARCI Porco Rosso, 2021, p. 7). The *reato di clandestinità* (concerning both irregular entry and stay) was only introduced in 2009 (Rosina, 2024). It states that 'once migrants are apprehended as irregularly entering or staying, a criminal process should start (in parallel to the administrative one leading to expulsion), potentially resulting in a fine of between EUR 5,000 and EUR 10,000 (Italian Parliament 2009, Art 10-bis)' (Rosina, 2024, p. 529). Since 2013, over 2,500 individuals have been prosecuted for allegedly piloting migrant boats, illustrating how the law is implemented in practice. This approach reflects what critics call 'the failure of Italian migration policy, which does not stop migration—as politicians claim—but rather criminalises it while increasing risks and fostering new forms of racism' (ARCI Porco Rosso, 2021, p. 8).

In August 2017, the government introduced a binding 'Code of Conduct' for NGOs operating in the Mediterranean, ostensibly to improve rescue efficiency. However, scholars argue that it instead restricts humanitarian space by weakening rescue capacities (Cusumano, 2019, p. 108). Among the controversial provisions are the requirements for NGOs 'to not make communications or send light signals to facilitate the departure and embarkation of vessels carrying migrants" (Cusumano, 2019, p. 109), to dock at the nearest port (often in Libya, which is not considered a 'safe third country'), to keep their geolocation devices active, and to inform flag states before any rescue operations, effectively creating bureaucratic delays and operational risks (Cusumano, 2019).

Contemporary Italian migration policy also heavily relies on externalisation practices, including agreements with 'safe third countries'. The bilateral agreement with Albania envisions processing asylum claims in centres located outside EU territory. The initiative has been widely criticised and brought before the constitutional courts of both countries. Critics argue it will not address systemic issues such as limited access to legal aid, instead further exposing migrants to risks of abuse (Sunderland, 2025). In alignment with the EU's plan to create a 'Common European Return System', the European Commission proposed the establishment of 'return hubs' outside EU borders (European Commission, 2025).

Overall, Italian criminalisation measures have not achieved their intended goals, given that 'as long as migrants are forced to rely on smugglers due to the lack of safe and legal pathways, proactive rescue missions at sea will remain a humanitarian necessity, whether carried out by states or NGOs' (Heller & Pezzani, 2017, p. 11). The Italian case illustrates how criminalisation is embedded within a broader strategy of migration deterrence, combining legal prosecution, bureaucratic constraints, and externalisation agreements.

4.3. Greece

Due to its geographical position, Greece serves as a primary entry point for migrants entering the European Union. During the 2015 migration crisis, the country came under extreme pressure due to number of migrants who had arrived. The Greek legislation imposes severe penalties for facilitating migration, and the first major precedent was set in January 2016, when the authorities arrested rescue workers from the organisations *Humanity* and *Proem-AID* operating in the Aegean Sea (Kouros, 2025, p. 15).

Administrative restrictions have also intensified through the 2020 NGO registration law, which requires all organisations working in the fields of migration, asylum, or integration, including their staff and volunteers, to register in a government-managed database (Kouros, 2025, p. 15; European Parliament, 2018). These measures have been widely interpreted as attempts to limit monitoring and reporting on human rights violations, further reinforced by legislation criminalising 'the spread of false information', feared to be used to target journalists and NGOs critical of government practices (BVMN, 2021, p. 10). This increasingly repressive legal environment directly affects smaller grassroots organisations, which are left 'in a state of legal uncertainty, under constant threat of closure due to incomplete documentation' (BVMN, 2021, p. 11). The current data shows that 'since the start of 2024, 228 people have been arrested under suspicion of being 'people smugglers', a 53% increase compared to 2023' (Aegean Boat Report, 2025). This is the second largest population in Greek jails, with 'the average prison sentence being 44 years, and some people have been jailed for more than 150 years" (Aegean Boat Report, 2025). In some cases, fines are deliberately spiked, so people could not pay them, going up to €400,000 (Aegean Boat Report, 2025)[1].

Small islands like Lesvos, with smaller, closed communities, are under a lot of pressure (Kouros, 2025). It results in attacks on volunteers and in vandalism of NGO property, and public hostility has been documented. In some cases, police inaction or refusal to prosecute such incidents has contributed to a climate of impunity (Kouros, 2025). These dynamics reflect a silent endorsement of anti-migrant sentiment and produce vigilante responses among humanitarian actors who continue their work despite legal risks. The case of Greece illustrates how criminalisation can function as a systemic deterrence mechanism rather than an exceptional response to smuggling.

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[1] The cited figures are derived from reporting and court-monitoring by Aegean Boat Report and other non-governmental sources, rather than from official statistics of Greek judicial or law-enforcement authorities. They are based on a limited and non-representative set of observed cases and should therefore be interpreted as indicative rather than as national aggregates. Reported prison terms often reflect cumulative statutory calculations, while actual time served is constrained by statutory maximums and may be reduced on appeal; the scale of financial penalties similarly varies by case and court.

4.4. Serbia

Since 2015, Serbia has been a key country along the Balkan route, through which over one million people are estimated to have passed. Initially, Serbia adopted a humanitarian discourse, emphasising the 'protection of migrants and their humane and dignified treatment' (Beznec, Speer & Stojić Mitrović, 2016, p. 55). Officials frequently stated that 'Serbia will not build walls and will always respect international law' (Beznec, Speer & Stojić Mitrović, 2016, p. 55).

However, by 2016, public rhetoric shifted toward securitisation, with media framing Serbia as a potential 'collective centre' or 'a parking lot for migrants' unwanted by the EU (Telegraf, 2016; *Blic*, 2016; Tanjug, 2016). As Beznec, Speer, and Stojić Mitrović argue, Serbia's humanitarian stance has always depended on its transit role - as long as migrants do not stay long-term. When the Hungarian border fence was put up, forcing migrants to remain longer, the discourse turned restrictive (Beznec et al., 2016, p. 66).

Although Serbia lacks formal laws criminalising assistance to migrants, numerous informal practices effectively restrict humanitarian work. Documented incidents include vandalism of NGO vehicles (e.g., "Leave!" messages painted on cars in 2021), harassment of volunteers by locals, and intimidation by police (BVMN, 2021, p. 25). Foreign volunteers have faced deportations and frequent ID checks, exploiting Serbia's visa requirements for foreigners (BVMN, 2021).

These practices have forced some organisations to withdraw from distribution sites due to rising pressure. In one case, a volunteer in Šid was detained, interrogated, and expelled from the town by special police forces who told him never to return (BVMN, 2021, p. 25). Such measures have a chilling effect, as organisations report growing fear of volunteer deportations and a reduced ability to document human rights violations or build trust with migrants (BVMN, 2021, p. 26). Though informal and legally ambiguous, these practices effectively contribute to the criminalisation of solidarity and the erosion of humanitarian space in Serbia.

Serbia was selected as part of the comparative framework not because it exhibits a formally institutionalised regime of criminalisation comparable to that of EU member states, but precisely because it represents a liminal and understudied case. As a non-EU country positioned along the Balkan migration route, Serbia operates within the externalised migration governance architecture of the European Union, while retaining formal legal autonomy. The Serbian case demonstrates how criminalisation of solidarity can occur in the absence of explicit legal prohibitions, relying instead on informal practices, discretionary policing, and political alignment with European Union's migration control objectives. In this sense, Serbia functions as a contrastive case within the comparative framework, illustrating how similar outcomes, that is to say, the restriction of humanitarian action, can be achieved through markedly different legal and institutional means.

The limited availability of systematic documentation on these practices reflects their informal and extralegal character, as well as the absence of court proceedings that would otherwise generate accessible legal records. As a result, civil society monitoring reports, such as those produced by the Border Violence Monitoring Network, constitute a crucial empirical source for analysing these dynamics, rather than a supplementary one.

5. Discussion

Taken together, the findings reveal that the criminalisation of solidarity manifests through diverse legal and political configurations, ranging from formal criminal law to administrative regulation and informal intimidation. Despite national specificities, all cases demonstrate a convergence toward restrictive migration governance, in which humanitarian action is increasingly framed as a security concern rather than a legitimate social practice. The comparative overview reveals that, despite different political contexts and legal frameworks, France, Italy, Greece, and Serbia share several structural similarities in how they approach migration control and the criminalisation of solidarity. These similarities are not coincidental but stem from broader European trends in migration governance, security discourse, and state sovereignty.

Across all four cases, a progressive shift from humanitarianism to securitisation can be observed. The transformation is most evident in the evolution of public discourse and legislation: from initial portrayals of migrants as victims of humanitarian crises to their subsequent framing as potential security threats, public order disruptors, or even criminal actors. This shift is deeply intertwined with political efforts to regain control over national borders, often framed as restoring 'sovereignty' in response to perceived failures of EU migration policy.

In France and Italy, both EU members bound by the Schengen and Dublin frameworks, criminalisation has been legalised through formal judicial mechanisms. The French example of the *'délit de solidarité'* and the Italian offence of *'aiding and abetting irregular entry'* show how humanitarian assistance can be reframed as a form of illegality. Even though both states introduced limited humanitarian exemptions, these are narrow and often inconsistently applied. The prosecutions of individuals such as Cédric Herrou in France or NGO crew members in Italy demonstrate how legal ambiguities are instrumentalised to deter civil engagement in migrant support.

In Greece, the criminalisation process is more administrative and regulatory in nature. Rather than direct criminal prosecution, the state restricts humanitarian work through bureaucratic instruments, such as mandatory NGO registration, restrictions on field access, and the threat of penalties for 'disseminating

false information'. These mechanisms produce a climate of legal uncertainty and self-censorship among NGOs and volunteers, achieving similar outcomes to overt criminalisation but through more subtle institutional means.

In Serbia, a non-EU transit country, criminalisation operates through informal and extralegal mechanisms. While the country does not have explicit legal provisions criminalising solidarity, the combination of police harassment, administrative pressure, and social hostility effectively discourages humanitarian engagement. This creates a hybrid model of control, one that relies less on formal law and more on performative repression to maintain social order and align with EU border management expectations.

Despite differences in form, the underlying logic of control is consistent across all four cases. The criminalisation of solidarity functions as a disciplinary tool - not primarily to punish individual acts of assistance, but to deter collective mobilisation and humanitarian presence in migration hotspots. It transforms humanitarianism from a moral or civic duty into a potentially criminal act, redefining the boundaries of legitimate compassion within securitised governance frameworks. Furthermore, these dynamics reinforce asymmetric power relations between the state and civil society. Criminalisation measures disproportionately affect grassroots initiatives and informal solidarity networks, while larger institutional actors often retain limited operational space by aligning with state-defined humanitarian frameworks (Ambrosini, 2024). By defining what counts as 'legitimate aid', states reclaim the monopoly over humanitarian discourse, integrating compassion into the architecture of control. As Fassin (2012) argues, humanitarian reason can be co-opted by the state to justify exclusionary practices under the guise of care. In that sense, Ambrosini shows how countries 'do not attack people who voice against borders, but people who support migrants in practice, helping them to cross borders and establish on the territory' (Ambrosini, 2024, p. 519). This process is evident in France's limited humanitarian exemptions, Italy's rescue restrictions, Greece's bureaucratic control of NGOs, and Serbia's informal repression of volunteers.

Finally, the findings suggest that the criminalisation of solidarity is not merely a byproduct of migration policy but a strategic governance mechanism. It simultaneously externalises borders, disciplines civil society, and shapes public narratives around 'deservingness' and 'illegality'. While the intensity of these practices varies, their function remains the same: to control mobility by delegitimising empathy. In this sense, the criminalisation of solidarity represents a crucial intersection between law, morality, and politics, revealing how humanitarian values are subordinated to the logic of border control. Understanding these dynamics requires not only legal or policy analysis, but also a sociopolitical lens that situates solidarity within broader struggles over authority, legitimacy, and moral order in contemporary Europe. Ultimately, the criminalisation of solidarity reveals how salient migration

governance redefines the moral boundaries of political community, determining not only who is allowed to move, but also who is permitted to care. In doing so, it exposes a fundamental tension at the heart of European democracies: between the normative commitment to human rights and solidarity, and the increasing reliance on exclusionary and securitised forms of border control.

Conclusion

The prosecution of individuals and organisations providing assistance during humanitarian crises can have detrimental consequences for the very fabric of social solidarity, discouraging acts of empathy and civic responsibility. Policies and practices that criminalise humanitarian work, under the pretext of reducing migration, have become a pressing concern in states situated at key points of migration routes.

The comparative overview conducted in this paper has revealed several shared features across different national contexts. In all four cases, the political transformation of discourse has played a crucial role in legitimising the criminalisation of solidarity. Public narratives that link migration to security, crime, or disorder serve as a precondition for translating moral suspicion into legal or administrative restrictions. Yet, the analysis also shows that formal legal frameworks are not a prerequisite for implementing such practices. Criminalisation occurs both in countries with explicit legal provisions and in those where it manifests through informal or administrative means.

Given that these measures are justified as tools for migration control, their effectiveness warrants scrutiny. Statistical data indicates that, despite the implementation of restrictive measures, the number of migrants has continued to rise in recent years (IOM, 2024). This suggests that such policies fail to achieve their stated goals while simultaneously constraining humanitarian actors and undermining fundamental rights. Instead of reducing migration, they narrow the space for solidarity, eroding the moral and civic foundations of democratic societies.

Another key finding concerns the ambivalence of criminalisation, which not only suppresses but also generates resistance. Humanitarian organisations develop strategies of resilience and adaptation, ranging from discreet acts of civil disobedience to organisational restructuring aimed at maintaining operational continuity. These practices of resistance highlight the persistence of moral agency within increasingly restrictive environments. However, they also underscore the widening gap between migrants' needs and the assistance available, a gap that states have neither the capacity nor the will to fill.

From a scientific standpoint, this paper contributes to the understanding of criminalisation as a multidimensional phenomenon, extending beyond legal frameworks to include social, political, and cultural dimensions. By adopting a com-

parative approach, the paper emphasises that the criminalisation of solidarity is not confined to EU policy frameworks such as the *Pact on Migration and Asylum*, but that it reflects a broader transnational trend of migration management. This trend transcends the EU itself, influencing neighbouring countries such as Serbia and shaping their alignment with European border governance norms. The social significance of this study lies in its potential practical implications. By mapping the mechanisms through which states suppress humanitarian action, it exposes the structural vulnerability of humanitarian sector and the precarious position of migrants as a particularly affected group. The identification of resilience mechanisms of the organisations could offer valuable insight into how solidarity can persist despite repression.

Finally, this paper raises new issues for future inquiry. One important issue concerns long-term consequences of the criminalisation of solidarity, particularly its potential to normalise repressive practices and to redefine the role of humanitarian organisations in European societies. A promising direction for future research lies in exploring transnational networks of solidarity, their modes of adaptation, and their capacity to counteract the criminalisation of humanitarian action.

In conclusion, the findings suggest that cases of criminalisation of solidarity are not isolated incidents, but rather part of a broader governance pattern rooted in the securitisation and externalisation of asylum processes. Although the specific forms of these practices differ among countries, the underlying objective remains the same: to reduce migration flows by disciplining compassion. Yet, as the evidence indicates, this objective remains unfulfilled. The true consequences are borne by humanitarian actors and migrants themselves, while the long-term effects may reshape the very notions of solidarity, justice, and human dignity in contemporary Europe.

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KRIMINALIZACIJA SOLIDARNOSTI: KAKO AKTUELNE MIGRACIONE POLITIKE UTIČU NA HUMANITARNI RAD

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APSTRAKT

U ovom radu se istražuju savremene politike restriktivnog upravljanja migracijama na primeru Srbije, Italije, Grčke i Francuske, gde putem represivnih mera, države pokušavaju da regulišu tok migracija pokušavajući da kriminalizuju pružanje humanitarne pomoći. Komparativnim pregledom prikupljenih podataka iz izveštaja humanitarnih organizacija, ispituje se način na koji politike targetiraju humanitarne radnike koji rade sa migrantima, i pruža se uvid u potencijalnu promenu kulture koja je rezultat ovih procesa kriminalizacije. Politike sekuritizacije granica i kriminalizacije pružanja pomoći ne ostavljaju samo posledice na živote ljudi protiv kojih se sprovode, već transformišu koncepte vladavine prava, ljudskih prava i dostojanstva. Sa konceptualizacijom ovih praksu u širem političkom i kulturalnom kontekstu transformacije, daje se argument da prakse kriminalizacije podiru prakse zasnovane na principima solidarnosti i doprinose promenama u društvenim vrednostima savremene Evrope. Konačno, ispituje kako suzbijanje humanitarnog rada transformiše kulturne narative oko nege, solidarnosti i etike u migracionom kontekstu.

Ključne riječi:
migracija,
kriminalizacija,
humanitarni rad,
solidarnosti, upravljanje
granicama