

ESI newsletter 9/2017
21 July 2017

Deadly failure – Rome Plan – From Russia with Threats

"Every master is bound, so far as he can do so without serious danger to his vessel, her crew and passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost."

(Brussels Convention on assistance at sea, adopted in 1910)



Lampedusa in October 2013

Dear friends,

In October 2013, a boat filled with African migrants caught fire and sank off the coast of the island of Lampedusa. Hundreds of people drowned. Cecilia Malmstrom, at the time the European Commissioner for Home Affairs, **came to the island and told media:**

"I will never forget the sight of 280 coffins today. I will bear that with me for the rest of my life. We need to do everything we can, to prevent tragedies such as this one ... the restrictive approach has proven its limits. We need to move towards openness, solidarity, sharing of responsibility, and a true European response."

Malmstrom explained that she would push for partnerships with migrants' home countries, an increase in legal immigration quotas, as well as tougher measures to fight smugglers.



More than 800 die in one shipwreck - April 2015

Four years and more than 12,000 deaths by drowning in the Central Mediterranean later — four times the number of victims of the conflict in Northern Ireland — the EU is no closer to a workable strategy.

There are no partnerships with migrants' home countries that make sense or have an impact; there is no coherent system for legal migration to replace irregular migration; efforts to fight smugglers **appear helpless, even pathetic** at times. Desperation over this deadly policy failure fuels a desperate debate, with **increasingly desperate proposals**. How many thousands more will drown before a more effective approach is embraced?

The Rome Plan

In February 2017, we presented the outline of a concrete policy proposal, to address both the short-term humanitarian disaster and the medium-term challenge of replacing the dysfunctional Dublin with a workable European system. We called it **the Malta Plan**, hoping that the Maltese EU presidency would see a breakthrough along these lines. We argued for a common Mediterranean proposal on border and asylum policy by Italy, Greece and Malta.

Since then we presented these ideas to policy makers in **Rome** and **Athens**, **The Hague** and **Berlin**, Stockholm and Vienna. We renamed it **the Rome Plan**, since most will depend on decisions and debates in Italy, the country at the centre of the Mediterranean migration crisis today.

We argue for a **realistic approach to returns**, and for respect of four core principles:

Ø **no refoulement** (no push-backs);

Ø **no Nauru** (no discouragement of asylum requests by treating asylum seekers who arrive badly);

Ø **zero tolerance for people drowning** (no deterrence through limiting rescue operations); and

Ø **no fortress Europe**.

The richest continent in the world has an interest to support the refugee convention and the right to asylum, and to take a leading role in resettling those in need of protection. It is equally imperative, however, to discourage those without protection needs from embarking on the murderous Russian roulette in dinghies off the Libyan coast. The key is to reconcile the interests of those who defend the right to protection and those who insist on control: to bring together refugee and human rights groups with interior and justice ministers and show that one cannot work without the other. Discouraging irregular arrivals, while respecting core principles, is not only a response to the legitimate expectations of voters in European democracies. It is a moral, life-saving alternative to the current inaction.

So how can the EU reduce the number of arrivals – and deaths – in the Central Mediterranean? The basic idea, **summed up in a recent article in Refugees Deeply**, relies on efforts to process asylum applications quickly and fairly and on the ability to return those whose claims are rejected to their home countries without delay.

Day X for returns

No country in the EU is good at returning those whose asylum claims are rejected. Returning people to a third country is very hard. It is (rightly) legally demanding and countries of origin have little incentive to cooperate in taking back their citizens.

What is needed is fixing a "day X" – a date from which countries of origin commit to take back without delay all of their nationals who have arrived in Italy and do not get protection. The impact of such a policy would be a sharp fall in arrivals. Nigerians were the largest group of arrivals in Italy in 2016. The majority would be unlikely to risk their lives going through the Sahara, Libya and the Central Mediterranean – spending heavily on smugglers – if the probability of being returned to Nigeria within a few weeks of arrival in Italy were 80 percent.

Ensuring that Nigeria, Senegal and other countries take back their nationals who do not qualify for protection after an agreed date should be the chief priority in talks between the EU and African countries of origin – similar to the commitment Turkey made to take back without delay people who arrive in Greece after 20 March 2016.

This contrasts with present efforts to sign readmission agreements. African countries are wary of agreements under which they would have to take back an unlimited number of their citizens who arrived in the EU in the past. Specific "take-back" agreements are needed between the EU and African countries of origin that focus only on those who arrive in Italy *after* these agreements enter into force. These agreements must offer incentives, such as access to annual quotas for legal migration, including via scholarships and work visas. Such agreements would have no direct impact on current remittance flows.

Is this not what the EU already offers West African countries? No, alas, it is not. The **attention and resources of the EU are largely focused on transit countries**, to try to help authorities to catch and trap people in Libya or Niger. Countries of origin have not received meaningful offers from the EU. Vague promises of legal access were made at EU-Africa summits in recent years (see the **Valletta summit on migration in November 2015**) only to disappear again in the **Commission reports on cooperation in early 2017**. In March this year a **senior Nigerian official noted** that Nigeria is "committed to the fight against the smuggling of

migrants," but that Nigerian measures would not be enough without Europe assuming part of the responsibility:

"If you don't create the opportunity for regular migration, criminal groups will provide those opportunities."

The EU needs to apply central lessons from the Aegean in 2016: without incentives, countries will not cooperate. And incentives must be real, not notional.

Caribbean lessons – the US-Cuba statement



What is needed is a short, simple statement of mutual commitments with African countries of origin, similar to the two U.S.-Cuba statements of 1994 and 1995.

On 13 July 1994, a group of Cubans hijacked a 115-year old tugboat and headed to Florida. Cuban police rammed the boat and thirty-seven people drowned. More hijackings to get to the US followed. On 11 August 1994, Cuban president Fidel Castro announced that the Cuban police would no longer stop those attempting to leave the island unless they were hijackers. **He blamed US migration policy:** "the fewer visas [the US] granted for legal travel, the more illegal entries occurred." Within days, thousands of Cubans got on small boats, rafts, even cars outfitted with pontoons. The *balsero* crisis (*balsero* means raft) had started. The reaction in the US was panic. The governor of Florida urged the US government to deny the rafters entry. The US Coast Guard intercepted them at sea. It was not possible to push them back – the rafts were barely afloat. It was also impossible to return them without the consent of the Cuban government.

On 19 August 1994, U.S. president Bill Clinton **announced** that the goals of the US government were saving lives, reviewing asylum cases and detaining all migrants without asylum claims at the American naval base on the edge of Cuba, Guantanamo. Those rescued would be kept at Guantanamo until a third country accepted them. They would not be allowed to enter the US.

The policy was a complete failure. On 18 August, the day before Clinton's announcement, the U.S. Coast Guard rescued 535 rafters at sea. On 23 August, five days later, 3,253 were picked up. **Guantanamo filled up quickly. Tensions were rising.** No countries volunteered to help the US. Panama agreed to take a few people for a limited time. Spain volunteered to admit 72. It quickly became clear that without cooperation from Cuba the US could not solve this crisis.

On 22 August 1994, the US under-secretary of State announced that the American government was "prepared to discuss legal emigration with the Cuban government". Soon secret talks between the two governments began – mediated by Jimmy Carter, Mexican president Carlos Salinas de Gortari and the writer Gabriel Garcia Marquez. Cuba had clear ideas about what it wanted, and where it felt cheated. In 1984 US president Reagan had promised Cubans 20,000 immigrant visas per year. This was never implemented. Fidel Castro complained that the US "should have granted 160,000 visas [in the eight years since the agreement], but only granted 11,222."

On 9 September 1994, the two governments issued a one-page joint statement. The US committed to:

"ensure that total legal migration to the United States from Cuba will be a minimum of 20,000 Cubans each year, not including immediate relatives of United States citizens."

Cuba committed to:

"take effective measures in every way it possibly can to prevent unsafe departures using mainly persuasive methods"

Both agreed:

"...that the voluntary return of Cuban nationals who arrived in the United States or in safe havens outside the United States on or after August 19, 1994, will continue to be arranged through diplomatic channels."

A visa "lottery" was introduced to fill the annual quota. To be eligible for the lottery, the applicant had to be between 18 and 55 years old and meet "at least two of the three basic qualifications for this program (high school education, three or more years' work experience, relatives living in the United States)." Those awarded a visa through the lottery would be allowed to bring their families with them.

The number of people crossing the sea fell dramatically following the agreement. On 10 September the Coast Guard rescued 1,004. On 12 September 283. On 14 September 17. And on 18 September none.

US-Cuba: Joint Statement on Refugees – September 1994

However, the 1994 statement left the problem of Guantanamo unresolved, where few wished to return to Cuba. The U.S. naval base had become a detention centre holding 21,000 Cuban rafters. Commanders reported "mass frustration, violence, and even suicides." Some were "injecting diesel fuel into their veins ... in hopes of being transported to the United States for hospital care." Morton Halperin, the president's special assistant who had first come up with the detention policy in the National Security Council, argued that the only way to admit the Guantanamo rafters to the US was if there was a simultaneous announcement that "from now on we send people back to Cuba." (William LeoGrande and Peter Kornbluh, *Back channel to Cuba. The Hidden History of Negotiations between Washington and Havana*, University of North Carolina Press, 2015, p. 297.)

On 2 May 1995, a second US- Cuba Joint Statement was issued. The U.S. agreed to let all those detained in Guantanamo into the US. It also announced that *from then* on Cuban rafters

would be directly returned to Cuba, though asylum claims would be reviewed before anyone was returned:

"Cubans interdicted at sea would no longer be taken to safe haven at Guantanamo Bay but would be returned to Cuba where they could apply for entry into the United States through legal channels at the U.S. Interests Section. In discussing this announcement, the Attorney General stated that measures would be taken to ensure that persons who claimed a genuine need for protection, which they believed could not be satisfied by applying at the U.S. Interests Section, would be examined before their return to Cuba."

US-Cuba, Joint Statement on Migration – May 1995

The two statements worked. Both Cuba and the US complied with their commitments.

Cubans intercepted at sea by US Coast Guard

1994	38,560
1995	525
1996	411
1997	421
1998	903
1999	1,619
2000	1,000

US visas granted to Cubans

1991	1,376
1992	910
1993	964
1994	544
1995	26,453
1996	15,700
1997	15,899
1998	15,787
1999	24,149
2000	21,228

To reduce suffering and deaths in the Central Mediterranean and to restore a sense of control the EU needs similar agreements – Legal Access and Return Statements (LARS) – with African countries of origin as soon as possible. These have to be accompanied by a quick and fair status determination process in Italy, if necessary, with the deployment of asylum officials from other member states.

An EU Special Representative for the Mediterranean



In search of a European risk taker who gets things done

There has been a strong response in media across Europe to the ESI Rome Plan. An article in the [Frankfurter Allgemeine Sonntagszeitung](#) on 4 July, discussing the crisis off the coast of Africa, concluded that the Rome Plan would likely be controversial, but "that it could work." An [editorial in Süddeutsche Zeitung](#) on 12 July writes about our proposal:

"In the long run, this could be the only solution that would leave something of a basic right of which Europeans are very proud: the right to asylum."

A [front-page article in the weekly Die Zeit](#) argued on the same day (12 July):

"Better that acting in moral panic is coolly searching for a plan offering something of real interest to states like Nigeria and at the same time meeting Europe's interest in a reduction of refugee numbers, less deaths in the Mediterranean, and a decent asylum procedure. The think tank European Stability Initiative has put forward a proposal which is as clever as it is feasible: the 'Rome Plan'".

Think tanks, civil society, human rights groups and media have a role to play in public policy. In the end, however, it is only elected politicians and public institutions who decide and change policy, and assume the political risk – of working on solutions.

In early 2016 there were leaders in the EU who took this risk, and worked on a statement with Turkey for the Aegean: German Chancellor Angela Merkel, Dutch prime minister Mark Rutte and Dutch Labour Party leader Diederick Samsom. The statement on 18 March that resulted was controversial and unpopular. It also brought immediate results; in May and June 2017 no asylum seeker died in the Aegean.

This is why EU leaders should appoint a former prime minister as Special Representative for the Mediterranean refugee crisis, based in Rome with a small team, tasked to work on Legal Access and Return agreements with countries of origin, mobilising solidarity with Italy when it comes to reception, asylum processing and relocation.

These are political tasks, risky, certain to court controversy, and requires someone with courage. With stakes rising – for the future of asylum, Schengen, the refugee convention and pro-European politics – the EU Mediterranean policy must not be left to improvisation. It needs a person focused on nothing else for a few months, to save lives and rescue EU asylum policy.

From Russia with threats



It has been a dramatic first half of the year for the Council of Europe, foreshadowing an even more dramatic confrontation in the autumn. More on this in a new ESI briefing paper:

ESI Briefing Note: **From Russia with threats – The PACE summer session and a dramatic turn** (13 July 2017)

Background: www.esiweb.org/caviardiplomacy

The **summer session of the Parliamentary Assembly of the Council of Europe, held between 26 and 30 June in Strasbourg**, began with a focus on corruption allegations linked to Azerbaijan, and ended with an unexpected escalation on the part of Russia.

On the eve of the June session the Council of Europe's anti-corruption body, GRECO, published a devastating assessment of the assembly's current rules and procedures, which it noted, were weak, contradictory and until now not enforced. On the first day of the session, the assembly sent a powerful signal that it was determined to change this, approving the appointment of three respected judges to lead an independent external investigation into **the biggest corruption scandal in the history of the Council of Europe**. On the second day, the assembly adopted procedures that allow it to dismiss its president and other senior elected officials, including for violations of the assembly code of conduct. Following this, members of the assembly launched a motion to remove Pedro Agramunt, the current president. On the final day of the session 158 members tabled a motion to ensure that a vote on Agramunt's dismissal will be on the agenda at the October session.

Then the Russian government struck back. On Friday afternoon, after most members of PACE had left Strasbourg, **the Russian foreign ministry** announced that it would not pay its mandatory contribution to the 2017 budget of the Council of Europe. It **blamed** PACE, and the decisions taken during the June session:

"... The situation in PACE has only been deteriorating: a frenzied campaign is being run to persecute parliamentarians who wish to normalize interaction with Russia in the framework of the Council of Europe as early as possible."

Leonid Slutsky, Chairman of the International Affairs Committee of the Russian Duma, **presented the June PACE session as a succession of disasters:**

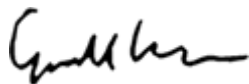
"The June PACE session turned into the triumph of antidemocrats and Russophobes. Each day was marked by double standards and decisions contrary to the common sense."

How will PACE respond? It cannot step back from its inquiry into corruption allegations. It will not revoke its new rules on votes of no-confidence. It cannot leave in place Pedro Agramunt, who has lost the confidence of all political groups, including his own European People's Party (EPP). And it cannot give in to open and blatant Russian blackmail to weaken its own rules. In all of these positions, PACE should be backed up by the Committee of Ministers (the member states) of the Council of Europe.

This latest escalation raises a fundamental question. Could it be that a Council of Europe that investigates corruption, restores its credibility and returns to its core mission of defending human rights is not an institution the Kremlin wants Russia to be a member of? Could the end of caviar diplomacy mark the end of the membership of European autocracies in a club of democracies? Could the most serious outcome of a serious corruption investigation be the exit of the Council of Europe's largest member state?

The curtain has been raised; the battle lines are clear. How it ends the second half of the year will show.

Many best regards,



Gerald Knaus

[@rumeliobserver](#)

Further reading

- ESI proposal: [A Rome Plan for the Mediterranean migration crisis](#) (19 June 2017)
- ESI newsletter: [The Malta Plan – a humane EU border and asylum policy is possible](#) (3 February 2017)

Selected recent media coverage: Rome Plan and refugees

- Der Spiegel, Christoph Pauly, ["Rücknahme ab dem Tag X"](#) - interview with Gerald Knaus - ("Take-back from day X") (22 July 2017)
- IRIN, ["Meet the Gambian migrants under pressure to leave Europe"](#) (20 July 2017)
- SRF, ["Fokus"](#) - interview - ("Focus") (19 July 2017)
- Ö1, ["Journal-Panorama"](#) - radio interview - ("Journal-Panorama") (19 July 2017)
- Salzburger Nachrichten, ["Kritik an Sobotka-Aussagen zu Rettungen im Mittelmeer"](#) ("Sobotka criticised over statement on rescues in the Mediterranean") (18 July 2017)
- Die Presse, ["Strafen für Seenotretter? Experte sieht 'absurde Debatte'"](#) ("Punishing sea rescuers? Expert speaks of an 'absurd debate'") (18 July 2017)
- Ö1, Mittagsjournal, ["EU muss gemeinsam vorgehen"](#) - interview with Gerald Knaus - ("EU has to act jointly") (18 July 2017)
- Tages-Anzeiger, Sandro Benini, ["Europa kann das bewältigen"](#) - interview with Gerald Knaus - ("Europe can manage this") (17 July 2017)
- Die Zeit, Mariam Lau, ["Moralische Panik"](#) ("Moral panic") (13 July 2017)
- Merkur, Sebastian Horsch, ["Flüchtlinge auf der Mittelmeerroute: 'Europa hat keine Strategie'"](#) ("Refugees on the Mediterranean route: 'Europe has no strategy'") (11 July 2017)
- Süddeutsche Zeitung, Thomas Kirchner, ["Libyen zum Bollwerk gegen Flüchtlinge zu machen, ist moralisch falsch"](#) ("Making Libya a bulwark against refugees is morally wrong") (9 July 2017)
- Kurier, ["Eine Schande, Menschen nach Libyen zu schicken"](#) ("Sending people to Libya is shameful") (7 July 2017)
- Focus, Joseph Hausner, ["Die EU macht gerade den gleichen Fehler wie im September 2015"](#) ("The EU is now making the same mistake as in September 2015") (7 July 2017)
- Tiroler Tageszeitung, Floo Weißmann, ["Gerald Knaus: 'Wir brauchen keine Scheindebatten'"](#) ("Gerald Knaus: 'We don't need fake debates'") (6 July 2017)
- Stern, Petra Gasslitter, ["Merks Flüchtlingsexperte hat einen Plan - doch den will niemand hören"](#) ("Merkel's refugee expert has a plan - but nobody wants to hear it") (5 July 2017)
- NOS (Sicilië zucht onder migrantenstroom, EU kijkt naar Libië), ["Sicilië zucht onder migrantenstroom, EU kijkt naar Libië"](#) ("Sicily struggling with the inflow of migrants, the EU looks at Libya") (5 July 2017)
- Frankfurter Allgemeine Zeitung, Ralph Bollmann, ["Die große Angst vor Afrika"](#) ("The great fear of Africa") (4 July 2017)
- Die Welt, Flora Wisdorff, ["Gefährliche Illusion"](#) ("Dangerous illusion") (28 June 2017)
- taz, Christian Jakob, ["Es gibt kein faires Angebot"](#) ("There's no fair offer") (28 June 2017)

Caviar Diplomacy and human rights protection

- El Mundo, "[Pedro Agramunt, el 'lobista' español en el corazón de Europa](#)" ("Pedro Agramunt, the Spanish 'lobbyist' at the heart of Europe") (3 July 2017)
- Deutschlandfunk, "[Der Europarat hat seine Seele an ein autokratisches Regime verkauft](#)" - Interview with Gerald Knaus ("The Council of Europe has sold its soul to an autocratic regime") (30 June 2017)
- Deutschlandfunk, Martin Durm, "[Die Baku-Connection im Visier](#)" ("The Baku connection in sight") (30 June 2017)
- Deutsche Welle, "['Икорная дипломатия' и коррупция в Совете Европы?'](#)" ("Caviar Diplomacy' and corruption in the Council of Europe?") (30 June 2017)
- Eenvandaag Politiek, "[Groeidend corruptieschandaal ondermijnt Raad van Europa](#)" ("Growing corruption scandal undermines the Council of Europe") (29 June 2017)
- Trouw, Arjen van der Ziel, "[Escalerend omkoopschandaal brengt Raad van Europa in diskrediet](#)" ("Widening bribery scandal discredits Council of Europe") (29 June 2017)
- El Pais, "[El Consejo de Europa inicia los trámites para destituir al español Agramunt](#)" ("The Council of Europe begins proceedings to remove the Spaniard Agramunt") (28 June 2017)
- Le Matin, "[Le Conseil de l'Europe veut virer son président](#)" ("The Council of Europe wants to oust its president") (27 June 2017)
- Elsevier, Elif Isitman, "[Politieke chaos rond corruptieonderzoek Raad van Europa](#)" ("Political chaos around corruption research on the Council of Europe") (27 June 2017)

ESI newsletters in the first half of 2017

- [The phoenix and the black knight in Strasbourg – three things to do now](#) (5 June 2017)
- [Death penalty in Turkey – Illusions in Europe](#) (16 May 2017)
- [Merchants of Doubt or investigating Corruption](#) (21 April 2017)
- [Open letter to PACE members: backing Sawicki – how to investigate corruption in Strasbourg](#) (27 March 2017)
- [The Malta Plan – a humane EU border and asylum policy is possible](#) (3 February 2017)
- [Three days that shook Strasbourg – human rights and corruption](#) (27 January 2017)
- [The FIFA of human rights – beyond lip-service on anti-corruption](#) (18 January 2017)