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OANTA, G.A. and SÁNCHEZ RAMOS, B. (eds.), *Irregular Migrations in Europe: A Perspective from the Sea Basins*, Editoriale Scientifica, Naples, 2022, 362 pp.

The present book “Irregular Migrations in Europe: A Perspective from the Sea Basins” is edited by Gabriela A. Oanta, Associate Professor (*Profesora Titular*) of Public International Law at the University of Coruña, and by Belén Sánchez Ramos, Associate Professor (*Profesora Titular*) of Public International Law at the University of Vigo. It is the result of the international conference “Irregular Migrations in Europe: A Perspective from the Sea Basins”, which was organized by the University Institute of European Studies (IUEE) “Salvador de Madariaga” and took place at the University of Coruña on 22 October 2021. The conference formed part of the activities of the Jean Monnet Network “Migration and Asylum Policies Systems: Weaknesses, Shortcomings and Reform Proposals” (MAPS; 599856-EPP-1-2018-IT-EPPJMO-NETWORK), co-funded by the European Commission and led by the University of Naples “L’Orientale”, of which the IUEE is a member.

The book addresses the phenomenon of irregular migration by sea in Europe, presenting a perspective from the different European sea basins. More specifically, it focuses on four sea basins where irregular migration constitutes an ongoing challenge with important social, political and legal ramifications: the Eastern Mediterranean, the Central Mediterranean, the Western Mediterranean and the Atlantic Ocean. There is, however, also one chapter dedicated to the Black Sea. Accordingly, after a general introductory chapter by José Manuel Sobrino Heredia on the European Union’s (EU) Integrated Maritime Policy and how it addresses the security dimensions of irregular maritime migration flows, the book is organised into three parts. The first two parts are each devoted to two of the above-mentioned sea basins and the third deals with cross-cutting issues related to irregular migration by sea

that are relevant to all sea basins.

Dedicated to analysing the irregular migration situation in the Eastern and Central Mediterranean Sea basins (as well as in the Black Sea), the first part consists of six contributions, each addressing different thematic issues and geographical areas. First, Maja Savić-Bojanić opens with an assessment of the current situation of environmental migration in the Mediterranean region. In her analysis, she points out the major trends in the region and delves into the ongoing discussion on the necessity of adopting a specific definition for persons migrating in the context of climate change.

Savić-Bojanić's contribution is followed by two chapters dealing with the situation of migration by sea in the Central Mediterranean. In chapter three, Giovanni Zaccaroni analyses the international legal provisions for search and rescue (SAR) operations and their coordination with the EU's asylum and migration policies. Zaccaroni identifies a lack of coordination between both frameworks, which contributes to the dire state of the matter in the region. While acknowledging the difficulty of such a step, he concludes that the only way to overcome this situation might be a treaty revision that increases the competences of the European Commission and entrusts executive powers to the EU's asylum and migration agencies. The fourth chapter, by Giuseppe Cataldi, focuses on Italy. He examines the Italian responses to the growing migratory pressure on the country, in particular the so-called "closed ports" policy. While stressing that many of the measures implemented by the Italian government contravene its international obligations, he also points out that they are a reaction to the failings of the Common European Asylum System, which unduly attributes responsibility to the first state of entry.

In chapter five, Andrea Caligiuri compares the responses to irregular migration flows adopted by states bordering two sub-regional seas: the Adriatic and the Aegean. He analyses the different cooperation frameworks that have been adopted at the bilateral level, such as joint surveillance or readmission agreements, as well as at the regional scale, which is characterised by the active involvement of both the EU and NATO. In his analysis, Caligiuri also assesses the compatibility of these approaches with the principle of *non-refoulement*.

Turning the focus to the human rights situation in the Aegean Sea, Ioannis Stribis' chapter examines the inquiry into alleged human rights violations during operational activities of Frontex, the European Border and Coast

Guard Agency, which was carried out by a Working Group of the Agency from November 2020 to March 2021. In his thorough analysis, the author describes the establishment, legal basis and working methods of the Working Group, as well as the outcomes of the inquiry. He concludes that the work of the Working Group represents an important step towards the successful implementation of Frontex's mandate.

The first part of the book ends with a brief excursion beyond the Central and Eastern Mediterranean region. In the seventh chapter, Elena Lazăr addresses the challenges of migration in the Black Sea. In her contribution, she exposes how the adoption of common approaches to the migration phenomenon is impeded by geopolitical tensions in the area and by the conflict between Ukraine and Russia. Given the recent increase in the number of migrants crossing the Black Sea, the author argues that the EU and other regional actors should give higher priority to developing policies for cooperation on security and migration control in the area.

The second part of the book is dedicated to the Atlantic Ocean and the Western Mediterranean. It contains four contributions that each focus on different sub-regions. It begins with a chapter by Alejandro del Valle-Gálvez, who addresses migration in the Strait of Gibraltar. The author sets out the complex geopolitical circumstances that characterise the area and make the management of irregular migration a difficult challenge. In his analysis, he pays special attention to the political tensions between Morocco and Spain in 2021, which he qualifies as a “weaponizing of migrants” by the former. To remedy the complicated situation and improve the protection of migrants’ human rights in the area, he calls for a stronger involvement of the EU as a mediator.

From the Strait of Gibraltar, the next chapter – written by Pauline de Bilbao and Almodis Peyre – takes us to the English Channel and the United Kingdom’s border control policies. The chapter is divided into two sections. In the first, the authors outline the measures implemented based on the 2003 Touquet agreement between the UK and France; an agreement that, in the authors’ view, effectively constitutes an “externalisation of migration controls by the UK”. In the second section, they then discuss the “New Plan for Immigration” proposed in March 2021 by Priti Patel, the then British Home Secretary. They argue that this policy could be incompatible with the UK’s

international obligations concerning migration and the rescue of people in distress at sea.

In chapter ten, Artak Mkrtichyan analyses the impact of climate change on migration flows in the Atlantic area, especially in the Sahel region. After a brief description of the phenomenon of environmental migration in the Sahel, he focuses on the existing legal framework for this category of migrants. A framework that, as he points out, does not adequately address the issue, resulting in an incomplete protection of the victims of climate change.

In her contribution, which constitutes the eleventh chapter of the book, Gabriela A. Oanta addresses the current issues in irregular migration in the Canary Islands. As the author points out, after almost 15 years of low activity, the migratory route to the Spanish islands has been reactivated since 2019, with an increasing number of people attempting to reach its shores by boat. Against this background, Oanta's chapter analyses the institutional and legal responses of the EU and Spain to the growing migratory flows, as well as their cooperation in the matter, highlighting that they are conditioned by the distribution of competences established in the EU's primary law on migration.

The third and final part addresses several cross-cutting issues related to irregular migration by sea in Europe. Its four chapters begin with a contribution by Annina Cristina Bürgin on seaports as a point of entry into the EU. These ports are of great significance in relation to migration as, on the one hand, they are located within the maritime spaces over which the territorial state has full sovereignty, but, on the other hand, they are also part of the EU's external borders and thus play an important role for the functioning of the EU's Area of Freedom, Security and Justice. Against this background, Bürgin comprehensively analyses the legal framework for the implementation of border controls in seaports, also addressing the assisting role of Frontex and Europol. In her contribution, she also discusses the treatment of seaports as places of safety in the context of SAR operations.

The following chapter, authored by Xosé Manuel Carril Vázquez examines the labour and social security implications of the duty to rescue any person in distress at sea. As the author points out, this is an essential perspective because the impacts caused by such rescue operations on both the vessel's crew and the economic activity of the shipowner could have the effect of discouraging the fulfilment of the duty. In the chapter, Carril Vázquez analyses these possible

consequences and proposes measures aimed at incentivising compliance. Although the contribution is written from the point of view of Spanish labour and social security law, its fundamental insights are clearly relevant also beyond the Spanish context.

The last two chapters of the book address human rights issues in the context of irregular migration. Chapter fourteen, by Belén Sánchez Ramos, focuses on the human rights of a particularly vulnerable category of migrants: children. The author examines the international legal framework for the protection of the rights of migrant minors, in particular the UN Convention on the Rights of the Child, as well as its implementation in practice. She identifies a significant gap between theory and practice, where the rights granted to underage migrants are often denied, especially in the case of unaccompanied minors and adolescents. Chapter fifteen, by Laura Movilla Pateiro, places the spotlight, once again, on migration in the context of climate change. In her contribution, Pateiro assesses the response of international law to sea level rise and climate migrations, with a particular focus on recent developments in the field of international human rights law. To this end, she addresses the relevant practice of the UN human rights treaty bodies, most notably the landmark judgment of the Human Rights Committee in the 2019 case of *Teitiota v. New Zealand*, which – according to the author – although not providing a solution to the problem of climate migration, “does expand the legal remedies available for the protection of these migrants”.

Altogether, the underlying approach of the present book to analyse irregular migration by sea from the perspective of different sea basins is, undoubtedly, the main strength of this work. As one of the co-editors notes in her chapter, “irregular migration by sea is a complex, dynamic and fragmented phenomenon that, in many situations, is both driven and conditioned by the geographical area to be used for the crossing”. This assertion is clearly validated by the various contributions to this book, which insightfully outline the diverse geographical, political, socio-economic and environmental circumstances that shape migration flows, as well as the institutional and legal responses to them, in each of the geographical areas examined. At the same time, the book does not neglect more cross-cutting issues that are of important relevance to irregular migration on a European and even global scale, with chapters on environmental migration, sea level rise, children’s rights and the

EU's Integrated Maritime Policy. All in all, Oanta and Sánchez Ramos' book "Irregular Migrations in Europe: A Perspective from the Sea Basins" is thus a valuable and timely contribution to the quest for understanding the complex phenomenon of irregular migration to Europe. A quest that is indispensable to be able to adopt effective policies at national and regional level that deal with the different challenges posed by irregular migration while ensuring respect for the human rights of the people who, voluntarily or forcibly, attempt to reach European shores searching for a better life.

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11
2023

EUROMEDITERRANEAN JOURNAL OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

TABLE OF CONTENTS / January-December 2023 / No 11

IN MEMORIAM

César VILLEGAS DELGADO, Joaquín ALCAIDE-FERNÁNDEZ

In Memoriam Antônio Augusto Cançado Trindade (1947-2022), humanista y (re)humanizador del Derecho Internacional

EDITORIAL

Alejandro DEL VALLE GÁLVEZ

Ad Portas Europae. Singularity of Migrations in the Strait of Gibraltar Area. Southern External Borders, European Narratives and Values

Pablo MARTÍN RODRÍGUEZ

Apuntes críticos de la Conferencia sobre el Futuro de Europa de 2022, su seguimiento y efectos

STUDIES

Joana ABRISKETA URIARTE

The Activation of the Temporary Protection Directive 2001/55/CE for Ukrainian Refugees: A Demonstration of its Uniqueness

Murat SÜMER

Circumnavigating the Aegean question: Joint development of the Aegean Sea by Greece and Türkiye

Isabel LIROLA-DELGADO

Compliance with the International Gender Framework in Maritime Mixed Migration Interception and Rescue Operations: The Case of Spain in a European Context

Maria AVELLO MARTÍNEZ

EU Borders and Potential Conflicts between New Technologies and Human Rights

Francesco SEATZU, Paolo VARGIU

Is the UNSC Resolution No. 2664 (2022) on Humanitarian Exemption a Paradigm Shift for Sanction Regimes?

NOTES

Jesús VERDÚ BAEZA

Climate Refugees, Human Rights and the Principle of Non-Refoulement

Siham ZEBDA

How can the effective integration of immigrants in Spain be achieved?

DOCUMENTATION

Declaración Conjunta XII Reunión de Alto Nivel Marruecos-España (1-2 de febrero 2023) – Déclaration Conjointe XIIème Réunion de Haut Niveau Maroc-Espagne (1er et 2 Février 2023)

Resolución del Parlamento Europeo, de 19 de enero de 2023, sobre la situación de los periodistas marroquíes, en particular el caso de Omar Radi (español e inglés)

ANNOTATED BIBLIOGRAPHY

SOROETA LICERAS, J., La Corte Internacional de Justicia y la descolonización, 1949-2019, Madrid, Reus, 2022, 226 pp. Por J. D. TORREJÓN RODRÍGUEZ

OANTA, G.A. and SÁNCHEZ RAMOS, B. (eds.), Irregular Migrations in Europe: A Perspective from the Sea Basins, Editoriale Scientifica, Naples, 2022, 362 pp. By C. R. SCHREINMOSER

COLOM PIELLA, Guillem (ed.), La guerra de Ucrania. Los 100 días que cambiaron Europa, Madrid, Catarata, 2022, 172 pp. Por C. CASTILLA CID

BADÍA MARTÍ, A.M., HUICI SANCHO, L. (dirs.), El Brexit y sus consecuencias, Madrid, Marcial Pons, 2022, 167 pp. Por F. A. DOMÍNGUEZ DÍAZ



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