

EN  
E-001857/2019  
Answer given by Mr Avramopoulos  
on behalf of the European Commission  
(10.7.2019)

1. The Commission has repeatedly stated that providing assistance to persons and vessels in distress at sea is an obligation under international law<sup>1</sup> and should not be criminalised.

Under EU law, namely Directive 2002/90/EC<sup>2</sup>, the facilitation of unauthorised entry, transit and residence is prohibited, and Member States should provide for sanctions in their national law against such behaviour. However, where the aim is to provide humanitarian assistance, Directive 2002/90/EC enables Member States to exempt that behaviour from sanctions under national law.

2. Whereas, the duty to rescue is clear, under international law there is no obligation for a particular country to accept disembarkation on its territory. Therefore, to ensure a degree of predictability in search and rescue events, and until the reform of the Dublin Regulation is in place, the Commission is working with Member States to establish temporary arrangements following disembarkation.

3. The evaluation<sup>3</sup> of Directive 2002/90/EC showed that there is coherence with the United Nations (UN) Protocol against the Smuggling of Migrants by land, sea and air and it did not provide sufficient evidence to support the need of a legislative review for the time being. The Commission remains committed to foster dialogue on the implementation of the existing rules. It has since followed-up on the conclusions of the evaluation of the Directive and is engaging with civil society representatives and the Fundamental Rights Agency (FRA) on this matter.

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<sup>1</sup> The UN Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea and the International Convention on Maritime Search and Rescue, the International Maritime Organization (IMO) Guidelines on the Treatment of Persons rescued at sea and IMO Principles Relating to Administrative Procedures for Disembarking Persons at Sea.

<sup>2</sup> Directive 2002/90/EC and Framework Decision 2002/946/JHA against facilitation of unauthorised entry, transit and residence.

<sup>3</sup> SWD(2017) 117 final.