

MIGRANT SMUGGLING ACROSS THE MEDITERRANEAN - THE EUROPEAN UNION'S (LACK OF) RESPONSE

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Abstract: The aim of this paper is to analyze the legal framework that the European Union (EU) has put in place to tackle the trafficking of migrants between the Northern shores of Africa and Europe's southern borders, with a special focus on the Central Mediterranean Route. Moreover, the concrete response of the Union will be considered and analyzed, based on figures regarding trafficking provided by Frontex and the United Nations (UN).

Additionally, the author will try to define possible future solutions that would accommodate both the requirements of the EU and its Member States, related especially to upholding the area of freedom, security and justice, but also to the mobility and migration policy of the Union, as well as the interests of people fleeing to Europe in search of better prospects, with focus on the respect of their fundamental rights.

The paper is split into three parts. The first one contains a general approach vis-à-vis the crime of migrant smuggling, its definition according to the United Nations Office of Drugs and Crime (UNODC), but also what differentiates it from human trafficking. The specifics include the profile of smugglers, of victims, area of operation, modi operandi, and profits.

The second part focuses on the EU and its acquis regarding the area of freedom security and justice, mobility and migration, as well as border control coordination. All these are viewed in their external dimension, as migrant smuggling is a crime with an inherent cross-border character. Using a top-down approach, the author has gone through the European primary law, policy actions, multiannual strategies, annual strategies, as well as specific projects.

Finally, the concrete measures taken in the above-mentioned framework have been evaluated, based on the EU's own internal figures regarding migration and the impact of migrant smuggling, as well as independent statistical data provided by the United Nations or civil society. Some directions on which the EU's 2015 response to migrant smuggling should focus have also been indicated.

Keywords: migration, European Union, migrant smuggling, border surveillance, cross-border crime.

1. Migrant smuggling in the Mediterranean - risk to Europe's borders:

The Arab Spring that started in December 2010 in Tunisia was a major game-changer in the North African region. By the end of 2012, regime changes occurred and strongmen were toppled in Tunisia, Egypt, Libya and Yemen, with civil unrests taking place in other countries.

Unfortunately, together with the fall of dictators in these countries, came total or partial disruption in the functioning of public institutions and economic actors. The situation in two of the countries affected by the wave of protests escalated into civil war some time ago, while recently Yemen seems to be following suit. Egypt has slowly, but steadily returned to its pre-revolution state, with only the name of the leader changing.

Consequently, a lot of people's hopes for democracy, respect for human rights or just for a normal life faded away, the destruction brought upon by war or unrest leaving little

choice but to flee the country in search for a better life, leading to the biggest humanitarian emergency seen by Europe since the break-up of Yugoslavia.

In its Annual Risk Analysis report in 2014¹, Frontex, the EU's external border agency cites an almost 300% increase in illegal border crossings using the so-called Central Mediterranean route. In 2013 alone, over 40 thousand people embarked on journeys over the Mediterranean Sea in order to reach mainland Europe, or at least one of the islands close to the African coast. This huge surge in the number of illegal migrants is caused not just by the unrest or extreme poverty, but also by individuals that are looking to profit from their distress.

In order to properly analyze this dangerous phenomenon, we should first look at what migrant smuggling really is. The UNODC² defines migrant smuggling as involving "the procurement for financial or other material benefit of illegal entry of a person into a State of which that person is not a national or resident". According to the same office³, migrant smuggling into Europe and the United States is an "industry" worth \$7 billion every year.

Often confused with human trafficking, some authors⁴ have decisively pointed out the differences that exist between these two crimes. Firstly, while human trafficking is done almost exclusively without the trafficked person's consent, smuggling relies on the migrant's approval to be transferred across internationally established borders in an illegal manner.

Second of all, the crossing of a border is always present: while smugglers always move people illegally over one, human trafficking can be also done inside a certain state. Finally, while migrant smuggling can be a victimless crime, human trafficking always has a person suffering off of it. As Sarah Pierce correctly points out⁵, migrants themselves are in breach of the law and they will never benefit from the same treatment as the victims of human trafficking.

The most comprehensive international legal framework regarding migrant smuggling is represented by the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The protocol, together with the convention, has been adopted by the UN General Assembly in 2001⁶ and entered into force in 2004. In 2015, there are 141 state parties, including the European Union, its member states, North African countries like Algeria, Libya, Egypt, and Tunisia, but also Turkey.

¹ Frontex, "Annual Risk Analysis 2014", http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2014.pdf (accessed on April 10th, 2015), 33

² United Nations Office for Drugs and Crime, "UNODC on human trafficking and migrant smuggling", <http://www.unodc.org/unodc/human-trafficking/> (accessed on April 10th, 2015)

³ "UN Conference focuses on migrant smuggling", *Telesur*, October 7th, 2014, <http://www.telesurtv.net/english/news/UN-Conference-Focuses-on-Migrant-Smuggling-20141007-0026.html> (accessed on April 13th, 2015)

⁴ Pierce Sarah, "The vital difference between human trafficking and migrant smuggling", *Open Democracy*, November 12th, 2014, <https://www.opendemocracy.net/beyondslavery/sarah-pierce/vital-difference-between-human-trafficking-and-migrant-smuggling> (accessed on April 13th, 2015)

⁵ *Ibid.*

⁶ United Nations General Assembly Resolution A/RES/55/25, http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf (accessed on April 10th, 2015)

The Protocol sets out clear provisions regarding the criminal liability of smugglers (migrants that cross borders illegally are targeted by this Protocol, pursuant to art 5). This category not only includes human traffickers, but also people who engage in activities of falsifying identification or residence documents, or in aiding migrants to stay illegally in a host country (art 6 of the Protocol). Moreover, there are clear and consistent provisions regarding the smuggling of migrants by sea.

While intentionally positive, the Protocol, unfortunately, focuses heavily on cooperation between states, providing for a swift exchange of information between countries regarding the registration of ships, the obligation of states to create modern and verifiable travel and identification documents, to ensure a serious and thorough border check, among others.

The situation on the ground is, of course, different. The turmoil that has engulfed some states in North Africa has created the ideal ground for the appearance of smuggling rings. The Syrian and Libyan civil wars have led to an almost complete collapse of state institutions in these countries, making it very hard for these states to fulfill their international legal obligations. Even before these events, some of the states never fully abided by the Protocol. For e.g., a low number of state parties have designated their competent authority to provide information on the registration of vessels, under art 8(6) of the Protocol.

The profile of people that engage in migrant smuggling varies extensively, according to the UNODC⁷. They range from full time criminals, organized in small or large groups, to opportunistic business-owners that want to make extra money. Testimonies⁸ have mentioned the clan-based method of organization of smugglers, pointing out that they are high-level members of society (former intelligence agents, local politicians, businessmen), but also ex-convicts. Sometimes, the smugglers are migrants themselves⁹. Corruption plays a large role in the industry, with police or state officials aiding smugglers for a small cut of the revenues.

The "services" offered are: transport from the source country to the EU, falsifying travel documents or visas, providing legitimate travel documents obtained through stealing or forgery. For the "full package" of services, from Niger to Europe for e.g., migrants allegedly pay between \$2000 and \$3000¹⁰. For most of these people, sums like this account to their entire life savings, the trip consequently becoming a "once in a lifetime" opportunity.

The risks that the trip entails are high. Numerous people die every year trying to cross the Sahara desert or the Mediterranean Sea, in overcrowded means of transport, sometimes going days without fresh water or food. Additional risks include becoming stranded in a country along the way, the lack of money or knowledge of the local language leaving them

⁷ UNODC, "Smuggling of migrants: the harsh search for a better life", <http://www.unodc.org/toc/en/crimes/migrant-smuggling.html> (accessed on April 13th, 2015)

⁸ UNODC, "Smuggling of migrants in, through and from North Africa", May 2010, New York, http://www.unodc.org/documents/human-trafficking/Migrant_smuggling_in_North_Africa_June_2010_ebook_E_09-87293.pdf (accessed on April 14th, 2015), 23

⁹ UNODC, "The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union", January 2011, Vienna, http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Report_SOM_West_Africa_EU.pdf (accessed on April 14th, 2015), 2

¹⁰ UNODC, "Smuggling of migrants: the harsh search for a better life"

vulnerable to abuse. Moreover, migrants are blackmailed by traffickers into giving more money through threats that the families left behind in the country of origin would suffer.

The UNODC cites¹¹ Libya as the country where most migrants start their journey over the sea, with Italy as the main destination. Libya - Italy/Malta is commonly known as the "Central Mediterranean Route". The boat ride from Libya to Lampedusa takes approximately 10 hours in a dingy, while using a fishing boat to get to Sicily will take up to 3 days¹². Smugglers pack these boats in order to boost their profits, sometimes not even supplying enough fuel for them to reach Italy (they rely on the fact that the Coast Guard will pick up these migrant vessels, at some point).

Andrea di Nicola, a researcher that has spent time with migrant smugglers in Egypt, Tunisia and Morocco, said in a recent interview¹³ that they rely on the uncoordinated response of the European Union, on the fact that the Italian Navy organizes frequent rescue missions and on the general instability in North Africa to earn up to several billions of dollars from this illegal business.

2. The EU's response:

Considering the fact that migrant smuggling in the Mediterranean has a strong cross border component, the EU has taken both to internal and external measures in order to tackle the issue. The legal framework in which the EU can act against this threat is key to the success of concrete operations and projects. A top-down analysis of primary and secondary legislation, as well as individual projects is necessary in order to better understand what the EU can do and who should take initiative in the wake of this important humanitarian crisis fuelled by migrant smuggling.

Exponential for the importance that the European Union puts on the combatting of human trafficking in member states is art 83(1) TFEU, which mentions human trafficking as one of the "particularly serious" offences "with a cross-border dimension". Thus the EU is competent to adopt "minimum rules" concerning human trafficking, by means of the ordinary legislative procedure.

Despite this, there is no EU legislation specifically tackling migrant smuggling. Human trafficking has for long been in the focus of Brussels, but the specificities of smuggling people over borders do not allow the application of the human trafficking legislation to smuggling.

Among others, art 67(2) of the TFEU mentions immigration and external border control as areas included in the freedom, security and justice competences of the Union. Pursuant to this provision, a common policy is set up in these two fields of action. Art 79 TFEU details this rule. Accordingly, by means of the ordinary legislative procedure, the conditions for residence and work in the Union for third country nationals, the rights that they

¹¹ UNODC, "Smuggling of migrants in, through and from North Africa", 11

¹²*Ibid.*

¹³ Shiulie Ghosh, "Has Europe's migration policy capsized?", *Al Jazeera*, April 17th 2015, <http://www.aljazeera.com/programmes/insidestory/2015/04/europes-migration-policy-capsized-150417191746037.html> (accessed on April 19th, 2015)

have, but also measures for combatting illegal immigration and human trafficking, are established. Art 79 also considers the conclusion of repatriation agreements with third states and aiding member states to better integrate migrants.

In order to have a comprehensive external policy on migration, the Global Approach to Mobility and Migration (GAMM)¹⁴ was set up in 2005, in order to function as the basis for dialogue on migration and mobility issues with third states. Among the main priorities of the GAMM, eradicating human trafficking occupies an important spot. Respect for human rights is the overall condition (and objective) for all actions pursued under the GAMM.

On the basis of this document, the Africa-EU Partnership on Migration, Mobility, and Employment has been established. It has served as framework for several projects in this field. Enhanced legal and political instruments between the EU and third states also include Mobility Partnerships and Common Agendas for Mobility and Migration.

The Africa-EU Partnership and its Action Plan¹⁵ for 2011-2013 refer to an initiative for the combating of human trafficking in Africa, mostly through advocacy, information exchange and awareness-raising work. The Africa-EU Summit in April 2014 again reiterated¹⁶ the two parties' commitment to fighting human trafficking, including migrant smuggling, in Africa.

During the Summit, a new MME Action Plan for 2014-2017¹⁷ was agreed upon, with combatting human trafficking as its top priority. Among the key directions for achieving this objective there are: the 4 P's (Prevention, Protection, Prosecution and Partnership), exchange of information, involving civil society and addressing demand dynamics related to human trafficking.

Mobility Partnerships (MP) are international agreements concluded between the EU and selected countries in order to provide the legal basis for an efficient and safe management of migration flows¹⁸. They are concluded in the framework of the Structured Dialogue on Mobility, Migration and Employment. Regarding the Southern Mediterranean region, Mobility Partnerships have been concluded with Tunisia, Morocco and Jordan.

Among the objectives of the MP's¹⁹, combating human trafficking and migrant smuggling is mentioned in combination with the effective readmission of migrants in their home countries. MP's rely on the support of projects managed by the member states, EU

¹⁴ European Commission, "The Global Approach to Mobility and Migration", November 18th, 2011, COM(2011) 743 final

¹⁵ Thematic Partnership on Mobility, Migration and Employment, "Action Plan 2011-2013", June 14th 2013, http://www.africa-eu-partnership.org/sites/default/files/documents/130614_mme_action_plan_fiches_-_update_clean_2.pdf

¹⁶ Forth EU-Africa Summit, "Declaration", April 3rd 2014, Brussels, 9

¹⁷ Africa-EU Strategic Partnership, "Action Plan 2014-2017", April 3rd 2014, http://www.africa-eu-partnership.org/sites/default/files/documents/action_plan_mmd.pdf, 2

¹⁸ European Commission, DG Migration and Home Affairs, "Southern Mediterranean", April 13th 2015, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/southern-mediterranean/index_en.htm (accessed on April 18th, 2015)

¹⁹ Take for e.g. Council of the European Union, "Joint declaration establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States", June 3rd 2013, Brussels, 6139/19 ADD 1 REV 3, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf, 4

agencies or civil society. Concrete measures take the form of support and capacity building at the legislative, institutional and operational levels (trainings provided by Frontex and by the Dutch authorities, for e.g.), exchange of information (study visits, joint operations), cooperation in conducting awareness-raising campaigns on the risks of illegal immigration and in enhancing procedures regarding travel and identity documents (study visits, trainings).

In 2014, the European Council defined the strategic guidelines in the area of freedom, security and justice over the upcoming years²⁰. The conclusions cite the need for "coherent policy measures" in the areas of immigration, borders, asylum and police cooperation, as well as for full respect of fundamental rights. Another focus point was on the need to coordinate the Union's internal and external policies in this area, for a more efficient response to the dynamic issues that arise in the area of freedom, security and justice, including the threat of migrant smuggling.

Irregular migration, which is facilitated by migrant smuggling, is to be tackled through enhanced cooperation with origin or transit countries, especially by means of capacity building in the areas of border management and control. One of the focus areas mentioned in the guidelines refers to combating migrant smuggling "more forcefully"²¹.

Similarly, the Justice and Home Affairs Council of March 2015 conclusions stressed the importance of fighting international networks of smugglers, for the better protection of migrants rights. The Council also made clear that enhanced cooperation with third countries is needed²².

With the European Council establishing the general guidelines, the Union set about to produce some concrete measures in combatting migrant smuggling. The response has focused on the return of illegal migrants to their home countries, on the basis of the return directive²³, supplemented by readmission agreements with third states. The increasing numbers of deaths at sea, caused by overcrowded migrant vessels, prompted the European Union to take action and set up the Task Force Mediterranean. It is led by the European Commission (EC) and includes several EU agencies and the European External Action Service.

In its first communication regarding the Task Force²⁴, the Commission presented 37 concrete measures that must be taken in order to tackle the risks posed by illegal immigration in the Mediterranean, both to migrants themselves and to the Union. Among the five action areas, alongside cooperation with third countries, reinforced legal avenues to Europe,

²⁰ European Council, Conclusions, 26-27 June 2014, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2079%202014%20INIT#page=2>, 3-4

²¹ *Ibid.*, 3

²² Council of the European Union, Justice and Home Affairs, March 12th and 13th 2015, Brussels, Outcome No 7178/15

²³ Council of the European Union and European Parliament, Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, December 24th 2008, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

²⁴ European Commission, "Communication on the Work of the Task Force Mediterranean", December 4th, 2013, Brussels, COM (2013)819, <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2017398%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst17%2Fst17398.en13.pdf>

solidarity between member states, there is also the fight against trafficking, smuggling and organized crime.

Combating the smuggling of migrants implies, in the view of the EU, cooperation between member states, third countries, Europol, Frontex, Interpol, and the European Asylum Support Office (EASO). The communication provides for several measures: the creation of two EMPACT (European Multidisciplinary Platform against Criminal Threats) action plans (one on the Facilitation of Illegal Immigration and one on the Trafficking in Human Beings), in order to tackle these threats, the setting up of an EU plan, with a powerful human rights component, to foster exchange of information and cooperation, boosting Europol-Frontex ties, especially relations involving exchange of data, and reviewing EU legislation that facilitates illegal immigration.

Cooperation with third states, especially those in the European Neighborhood area, constitutes the most comprehensive action area in the communication. The Commission proposes the continuation and further engagement in Mobility Partnerships with third states and a strong political dialogue with selected countries (Egypt, Tunisia, Sudan and Nigeria, among others). Libya is treated as a separate issue because it necessitates effective stabilization, enhancing governance and security efforts. The EUBAM Mission to Libya and the "SaharaMed" project are quoted as initiatives that ought to be supported.

The EUBAM Libyais a CSDP mission set up during the European Council of May 22nd 2013²⁵, in order to provide assistance for the development of an integrated border management system in Libya. The personnel of the mission moved their offices to Tunis and Brussels, due to the deterioration in the security situation in Libya, in July 2014²⁶.

The "SaharaMed"²⁷ project, with an 11 million euros financing, was jointly run by the Commission, Italy and Greece. Activities under this project included training and capacity-building activities for Libyan police officials. According to the International Organization for Migration (IOM), the project was suspended in 2011 due to security risks²⁸.

Additionally, the Commission has mentioned the need for political action in African origin countries, focused on the general economic and social development of those societies, as well as the treatment and care for migrants and promotion of legal migration to and opportunities in the EU²⁹.

Other measures include: information campaigns on the risks of illegal immigration, a Seahorse Mediterranean project, projects on border surveillance activities, diplomatic

²⁵ European Commission, "Report on the implementation of the Global Approach to Mobility and Migration 2012-2013", February 21st 2014, COM(2014) 96 final, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/gamm_implementation_report_2012_2013_en.pdf, 6

²⁶ European External Action Service, "EU-Libya Relations", http://www.eeas.europa.eu/libya/index_en.htm (accessed on April 17th, 2015)

²⁷ European Commission, "Implementation of the Communication on the Work of the Task Force Mediterranean", May 22nd, 2014, Brussels, SWD(2014) 173 final, Part 2/2, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010067%202014%20ADD%201,13>

²⁸ International Organization for Migration (IOM), "Libya", August 2014, <https://www.iom.int/cms/libya> (accessed on April 18th, 2015)

²⁹ European Commission, "Communication on the Work of the Task Force Mediterranean", 8

dialogue, comprehensive debates, establishing an AFRIPOL to enhance police cooperation in Africa, and a Voluntary Assisted Return of illegal migrants, completed with reintegration measures.

3. Between Brussels and the reality on the ground - more to be done:

Having regard to all these laws, projects and actions, one might think that the Union and its Member States are on top of things. The situation is not quite so: Frontex figures³⁰ show that over 170 thousand people have illegally crossed the Union's border through the Central Mediterranean Route, in 2014 alone. These numbers have almost quadrupled compared to 2013. Moreover, the IOM estimates³¹ that almost 3200 migrants have drowned attempting to make the cross in 2014. This year, in only one week, 400 presumed fatalities occurred off the coasts of Italy.

Numbers of this sort cannot be reached without a well-organized, structured migrant smuggling operation. The logistical effort of providing enough vessels, erasing their registration and flag, providing fuel, ensuring that boats are loaded at full capacity, and knowing where to steer them to is clearly proof that smuggling rings have continued to operate and, most worrying, improved the efficiency of their activities.

In this context, it appears that the bureaucratic response from Brussels has not been successful. The Commission itself acknowledges³² that few tangible results have come out of this dense network of political and legal instruments. There are several reasons that led to this outcome.

Firstly, the initial response from the EU and Member States was not at all focused on combating migrant smuggling. Actions targeted mostly border security, visa and travel documents safety features, and involved a lot of *demarchés*, talks, debates and other political and PR instruments that simply ignored the source of the problem. Believing that targeting the result of the process and not the cause would solve this issue is nothing but wishful thinking.

In its report³³ on the implementation of the GAMM for 2012-2013, the Commission noted the *debut* of Structured Dialogues on Mobility, Migration and Employment with Tunisia, Morocco and Jordan, but not with Libya and Egypt. This leaves a huge gap in bilateral talks with two priority countries that harbor a high number of both migrant smugglers. Criminal organizations of this type are known to be flexible, cooperating with each other in order to change routes very easily. Having very few options for dialogue with Libya and Egypt provides these organizations with a "safe heaven". It is hard to believe that consistent measures in combatting migrant smuggling can be taken until the situation in these two countries settles and dialogue with the EU resumes.

³⁰ Frontex, "Central Mediterranean Route", <http://frontex.europa.eu/trends-and-routes/central-mediterranean-route/> (accessed on April 19th, 2015)

³¹ Flavio di Giacomo, "Migrant Deaths Soar in Mediterranean", *IOM*, April 17th, 2015, <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2015/pbn-listing/migrant-deaths-soar-in-mediterra.html> (accessed on April 19th, 2015)

³² European Commission, "A Dialogue for migration, mobility and security with the Southern Mediterranean countries", 14

³³ European Commission, "Report on the implementation of the Global Approach to Mobility and Migration 2012-2013"

Of course, there are projects theoretically open to Libya, but the final involvement of the country depends on the political will of its representatives, who, currently, seem to have other things to worry about³⁴.

Additionally, what one can see in the GAMM report, but also in the evaluation on the implementation of the Task Force Mediterranean³⁵ is that there are no specific measures on tackling migrant smuggling. The focus is still on ensuring border security and political action.

With regard to Libya, the EU seems to be relying on the support of partner (UN, IOM etc.) programs related to combatting illegal trafficking of migrants, with virtually no project of their own running at the time. The EUBAM mission to the North African country moved shop to Tunis and Brussels because of the security situation and the "Sahara-Med" project was stopped for similar reasons. These account for only two of the Union's failed attempts to engage consistently against migrant smuggling in the country.

Another major motif that accommodated migrant smuggling at the Southern borders of the Union is the lack of solidarity between Member States. The problem was constantly raised by Italy and Greece, in particular, but also by the IOM. Member States don't seem to want to get involved in the regional dialogues on migration, assist pressured Member States in dealing with migratory flows or even commit law enforcement officers and trainers for individual projects. In the report on the evaluation of the Task Force Mediterranean³⁶, the EC, EU or EEAS are managing approximately 70 projects, with the Netherlands and Belgium seconding them in the number of projects. The UK, Germany, Spain or Eastern European Member States appear only sporadically. The perfect example of lack of cooperation between Member States is the current operation "Triton", run by Frontex. The mission replaced "Mare Nostrum", which was funded exclusively by the Italian government³⁷. Because of the high costs, Italy decided to shut it down and replace it with a weaker, less well-equipped mission run by a EU agency, but not supported by Member States in a consistent manner.

This tendency is contrary to art 80 TFEU, which cites the principle of solidarity between member states as the fundamental basis for cooperation in migration policy. Even the communication of the Commission on the Task Force Mediterranean mentions solidarity as one of the key fields of action³⁸. The EC has sanctioned this individuality, pointing out that it cannot do everything alone³⁹. Despite the fact that all EU external actions promote information exchange and cooperation between relevant actors, the same thing does not work apparently inside the EU.

Thirdly, the weak involvement and lack of consistency in the foreign policy towards key states has not helped the fighting effort at all. There has been no clear and coordinated

³⁴ Ulf Laessing, "Heavy clashes in central district, suburb of Tripoli", *Reuters*, April 18th, 2015, <http://www.reuters.com/article/2015/04/18/us-libya-security-idUSKBN0N90AN20150418> (accessed on April 19th, 2015)

³⁵ European Commission, "Implementation of the Communication on the Work of the Task Force Mediterranean", May 22nd, 2014, Brussels, SWD(2014) 173 final, Part 1/2

³⁶ European Commission, "Implementation of the Communication on the Work of the Task Force Mediterranean", Part 2/2

³⁷ Shiulie Ghosh, "Has Europe's migration policy capsized?"

³⁸ European Commission, "Communication on the Work of the Task Force Mediterranean", 19

³⁹ Shiulie Ghosh, "Has Europe's migration policy capsized?"

effort by the EU or Member States (especially) for the rebuilding of post-war Libya. The Syrian conflict continues still, providing desperate clients for the services of traffickers. Countries like Eritrea (almost 23 thousand Eritreans entered the EU illegally by sea in 2014, according to Frontex⁴⁰), Djibouti, Niger, Chad, and Mali have never been in the focus of the EU's external action.

Despite all these, one can foresee several solutions to this organized illegal migration process. Some of them have also been mentioned in EU official documents and positions, but the lack of leadership in Brussels impedes their efficient implementation.

A sine qua non condition for any successful effort in combating migrant smuggling is the stabilization of North African countries that slid into chaos after the Arab Spring. Participating actively in international efforts to ensure that Libya has a working government and that local administration is put back in place is key for the EU. Additionally, both the Union and its Member States need to engage with the Libyan authorities in a coordinated diplomatic exercise.

No law-enforcement or CSDP missions of the EU will be successful without stable and cooperative partner countries (the failure of EUBAM Libya is proof to that). Until Libya stabilizes, the fight against migrant smuggling should focus on cutting "demand" for their services. For this to happen, a better cooperation with third states is required. The fact that so-called "inn-keepers" that house migrants still exist, in countries like Niger or Libya, or that the town of Agadez still hosts migrant "travel agencies"⁴¹ is a pity when just a few hundred kilometers up North, the Italian Navy struggles to keep up with the number of boats coming in.

Projects aimed at assisting third states in keeping a better evidence of property and housing, more trainings and capacity-building activities for local police, as well as targeted awareness-raising campaigns on the risks illegal migration and collaboration with smugglers entail are useful instruments. Again, these require active involvement by Member States, but also civil society.

Migrant smugglers convince migrants of the fact that they either have a good chance of receiving asylum in Europe (Libyans, Syrians) or their repatriation is too expensive or risky (Eritreans, Ivoirians, Sudanese) Better information on these issues should be transmitted, in the same manner in which smugglers promote their activities (signs, posters, leaflets).

Likewise, promoting legal migration avenues, a tactic adopted both by the EU and recommended by the UNODC and IOM, can help migrants better understand what legal alternatives they have to paying a smuggler. Better procedures and reducing corruption in awarding Schengen visas can attract people to pursue legal ways of travelling to Europe. A visa lottery, shaped after the one organized by the US⁴², can also be of help in raising awareness.

⁴⁰ Frontex, "FRAN Quarterly. Quarter 4 - 2014", April 2015, Warsaw, http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q4_2014.pdf (accessed on April 19th, 2015)

⁴¹ UNODC, "The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union", 29

⁴² US Department of State, "Instructions for the 2016 Diversity Immigrant Visa Program", http://travel.state.gov/content/dam/visas/Diversity-Visa/DV-Instructions-Translations/DV-2016-Instructions-Translations/DV_2016_Instructions_English.pdf (accessed on April 19th, 2015)

When the situation will allow, appropriate operations and actions should be sought in capturing and prosecuting migrant smugglers. Common border guarding operations, between Frontex and national border guards (like the ones already taking place in Morocco, for e.g.) should be planned. Encouraging the dismantling of smuggling rings by national police forces in North African states can be achieved by means of international agreements, in combination with trade or travel facilities, using the More for More approach that the EU is very fond of.

Operations may rely on information obtained directly from the source: migrants. Raising awareness on the fact that third-country nationals who are victims of human trafficking (including some migrants) enjoy a reflection period, entitling them to a residence permit in the EU, in which they can recover "from the influence of the perpetrators" and, afterwards, if conditions are met (they have useful information, they are willing to collaborate with prosecution and have severed all ties with the smugglers), they can have their residence permit prolonged for at least six months⁴³.

Finally, although never mentioned in official documents or statements by the EU, a common immigration policy is needed. Probably the hardest measure to agree upon in these times when anti-European sentiment is on the rise, it is for the EC to assume leadership and encourage Member States to discuss this sensitive issue, that could leave smugglers clientless forever.

To conclude, while yet another day with 650 migrants dead⁴⁴ in the Mediterranean passes, the EC has set May 2015 as the deadline for a new and comprehensive on migration to be put in place. On smuggling, it will focus on prevention through cooperation and dismantling networks by means of intelligence sharing, investigation and prosecution⁴⁵. In the meantime, smugglers allegedly laugh at the EU and researchers compare the dimension of the smuggling business to the tiny funding approved for search and rescue operations in the Mediterranean⁴⁶. There is obviously a huge difference between the two.

The risks that the continuation of this situation poses go way beyond deaths by drowning: these smuggling rings can build on the fortunes they make, becoming more and more powerful and organized, expanding business to drug or women trafficking, creating increasing threats for both their host states and neighboring countries.

Unless the EU and national governments in Europe realize the clear danger that exists at Europe's Southern border, there will be no strong and concrete answer. Confidence still exists, though, and, as Angela Merkel once said, "Europe only succeeds if we work together". In the same way, smuggling of migrants into the Old Continent will stop only if we work together.

⁴³ European Commission, Directive 2004/81/EC

⁴⁴ Euronews, "Over 650 migrants feared drowned"

⁴⁵ European Commission, DG Migration and Home Affairs, "Stopping those who organize irregular migration", April 2nd 2015, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm (accessed on April 17th, 2015)

⁴⁶ Shiulie Ghosh, "Has Europe's migration policy capsized?"

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