

## **The Troubled Waters of the Mediterranean**

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Securing the EU's external borders has always been a precondition for enjoying freedom of movement inside the EU. Controlling who enters any of the Member States within the Schengen zone was meant to enable the establishment of what came to be known as the internal area of freedom, security and justice. That was relatively easy before the turmoil in the Middle East unleashed the unprecedented movement of refugees and migrants. Since 2011, the arrival of warmer weather has seen the gradual increase of boat crossings from the North African coastline. Since the beginning of 2017, according to the International Organisation for Migration, more than 36,000 migrants and refugees have arrived at the shores of Italy – a 45 % increase compared with last year. Thousands have already perished on their route, with more than 300 deaths recorded this year alone. Calmer seas over the next few months will certainly cause this trend to continue. In the upcoming summer a new record is to be expected.

People smugglers and human traffickers in the central Mediterranean taking advantage of the despair of migrants to reach Europe where they hope to build a better life are increasingly taking more risks. When they overload inflatable boats and rickety wooden fishing vessels with twice as many people as these vessels can carry, they know that rescue ships are likely to come to their rescue. And they wager on a more than probable outcome, because the obligation to render assistance of persons in distress at sea is enshrined in international conventions (UN Convention on the Law of the Sea, Maritime Search and Rescue Convention), signed by all EU Member States. Aside from Frontex Joint Operations, help is increasingly provided by NGO vessels in the Mediterranean. By rescuing migrants at sea NGOs are now facing criticism of providing a pull factor for traffickers and encouraging future migrants to attempt perilous crossings. NGOs have pointed to the absence of safe corridor options for migrants and asylum seekers and their humanitarian obligation to come to aid when people's lives are in danger. They point to wars, civil strife and oppressive regimes as the real push factors, adding that the increase in fences erected on the Balkan route has only shifted the problem, contributing to the rising number of sea journeys. Moreover, honouring international and European legislation requires the respect of the fundamental human right principle of non-refoulement – the obligation not to send back migrants (potential refugees) to the countries where they risk persecution. Returning vessels overcrowded with migrants to the point of departure in 'push-back' operations may be qualified as violation of several human rights principles, including the principle of non-refoulement.

Striking a balance between protecting lives and stemming migration streams amid a politically charged debate is a daunting task policy makers in the EU and the Member States are facing each time when boats full of people reach Italian shores. The tensions between political imperatives and human rights obligations are putting the resolve of politicians eager to prove their ability to manage the migration crisis to a test. It is therefore not surprising that proposals for reinforcing national border controls are finding ready takers.

Surveillance and external border control, especially at sea, is a highly challenging enterprise, despite gradual improvements in technical capabilities such as the EU Eurosur IT network set up to swap surveillance and satellite data. The aim of breaking the smugglers' business model remains one of the most important objectives, but because of the smugglers' dexterity and shifting operation models, tracing smugglers and traffickers has always been an intractable



challenge. The [EU Naval Operation Sophia](#) which was launched in 2015 has been designed to capture traffickers by immobilising ships carrying migrants before they reach international waters. The mission which includes training of local border guards is clearly a security operation aimed at preventing vessels packed with migrants from leaving the territorial waters of a third country.

But for Libya – the main beneficiary of Operation Sophia, and a privileged point of departure for migrants coming from as far as Sub Sahara, West Africa and the Horn of Africa (2016 saw the highest number of migrants from these countries ever recorded) – the task requires considerable effort, given the challenges posed by political instability, rampant corruption and appalling conditions of government run detention centres. Despite tailored EU technical support, including equipment, capacity building and Libya’s coastal guard training as part of the €200 Million EU action plan allocated to the UN backed government by the European Commission, effective solutions might prove to be the elusive target – at least in the short run. The struggle to stabilise the situation in Libya is dotted with controversies and may take years if not decades to yield results.

Both the EU and the Member States are paying the price for foreign policy decisions hastily undertaken in the past. This is particularly true for the military intervention in Libya the result of which was political chaos – a paradise for smugglers and traffickers and a source of funding for Libya’s warring factions. After years of uncoordinated actions and waist of funds the EU has only recently initiated a comprehensive foreign and defence policy, by including migration management into the policy equation.

Measures such as the [Emergency Trust Fund for Africa](#) and the [Migration Partnership Framework](#) which will help training the Libyan Coastal Guards to intercept vessels suspected of people smuggling in their territorial waters, will perhaps not considerably reduce the migrant flows in the short term but can pave the way for better migration management in the future. However, without international assistance including peace building coupled with long term development aid and investment in this deeply divided country, the images of human suffering in the middle of the Mediterranean will continue to stir up public consciousness.