



# A NO-WIN SITUATION

## DECONSTRUCTING THE EFFICACY OF EU EXTERNALISATION POLICIES FROM AN AFRICAN PERSPECTIVE

### ABSTRACT

Migration policy discourses within the European Union have favoured a trend towards the so-called externalisation of migration policies, aimed, at least theoretically, to mitigate 'irregular migration'. African countries have been a key target of this approach. EU narratives around externalisation are centred on the large and 'dangerous' flows of African migrants arriving by sea, and ignore the stories of the thousands of asylum seekers stuck in border countries in inhumane conditions or of the millions of Africans who prefer to migrate within their continent for trade and work purposes. This policy brief highlights the political, economic and social transformations caused by European externalisation policies within African states. The EU and its member states – using their political and economic leverage – are making deals with African states, urging them to replace their existing free movement protocols with the EU's requirement to stop migration flows. The emphasis on restricting migration to Europe combined with the shortage of legal migratory pathways is contributing to prolonged displacement in border towns and camps where asylum seekers and refugees suffer deprivation and fall prey to smugglers and traffickers. The funds from externalisation deals are being channeled towards the militarisation of borders and are bolstering the capacity of both state and non-state actors – especially in Libya and Tunisia – to perpetrate human rights abuses against African migrants. This policy brief surmises that externalisation perpetuates immobility amongst historically mobile African groups, results in the loss of livelihoods, introduces new forms of displacement, creates a surge in human smuggling and trafficking, and leads to unprecedented human rights abuses.



### AUTHOR

**FELICITY OKOTH**

Coordinator of the International  
Migration and Ethnic Relations  
(IMER) research network  
in Bergen, Norway

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## **THE FOUNDATION FOR EUROPEAN PROGRESSIVE STUDIES (FEPS)**

European Political Foundation - N° 4 BE 896.230.213  
Avenue des Arts 46 1000 Brussels (Belgium)  
[www.feps-europe.eu](http://www.feps-europe.eu)  
@FEPS\_Europe

### **IN PARTNERSHIP WITH:**



## **FRIEDRICH-EBERT-STIFTUNG FLIGHT & MIGRATION COMPETENCE CENTER (FMCC)**

Arada Kifleketema  
Queen Elizabeth II street  
P.O. Box 8786 Addis Ababa (Ethiopia)  
@fes\_fmcc



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## TABLE OF CONTENTS

1. Introduction .....	4
2. Externalisation as a disruptor of free movement within Africa .....	5
3. New forms of displacement and new migration routes .....	6
4. Conclusion .....	8
Endnotes .....	9
About the author .....	11
About FEPS .....	12
About Friedrich-Ebert-Stiftung .....	12

## 1. Introduction

Debates on who is a refugee, an economic migrant or an 'illegal' migrant dominate European migration discourses, translating into reductionist policies that fail to capture the complete picture of African migration dynamics. The continent boasts of diverse migration experiences, including, but not limited to, regular cross-border trade, labour migration, forced migration, seasonal migration and migration for educational purposes. These happen at the domestic, regional and international levels and can be documented or undocumented. The above migration dynamics are driven by cultures of migration and varied factors related to economic well-being, conflicts, climate change and globalisation.<sup>1</sup> An estimated 85% of mobility, however, occurs within the continent and comprises routine cross-border trade and travel.<sup>2</sup> This long-established migration pattern has tangibly contributed to filling labour gaps and facilitating the socioeconomic well-being of sending and destination countries in Africa.<sup>3</sup> From a cooperation standpoint, leveraging the benefits of labour migration and intra-regional trade are priority agendas for African Regional Economic Communities (RECs) and the African Union (AU). Economic gains from migration will further be realised as the Africa Continental Free Trade Agreement<sup>4</sup> and the AU's free-movement protocol<sup>5</sup> – enshrined in the 2018-2030 Migration Policy Framework for Africa and its Plan for Action – gain momentum. These progressive frameworks have accelerated discussions on new guiding principles on migrants' rights in Africa.<sup>6</sup>

Conflicts and repressive governments, however, remain major sources of displacement in African countries. There are now an estimated 40.4 million forcibly displaced Africans (internally displaced persons, refugees and asylum seekers) in the continent because of recent coups and conflicts in Sudan, Burkina Faso, Mali, Chad, Niger and the Central African Republic and the protracted conflicts in Somalia, Eritrea, Ethiopia and the Democratic Republic

of Congo.<sup>7</sup> Of those who leave their country of origin, an estimated 96% stay in Africa.<sup>8</sup> Those who migrate from the East and Horn of Africa to leave the continent do so via the northern and eastern routes.<sup>9</sup> Those who do so from West Africa use the Western African and Western Mediterranean routes, while the Central Mediterranean route is most popular amongst North African nationals.<sup>10</sup> The situation has changed over the last 12 months, with Cote d'Ivoire and Guinea being the two top departure countries for arrivals in Italy, and this is likely related to the internal situation in Tunisia.<sup>11</sup>



*Over the years, externalisation has become a dominant border-management strategy for the EU and its member states, with the securitisation of migration being a key characteristic of this trend.*



Despite comparative data<sup>12</sup> showing that only a handful of Africans migrate to Europe via the five major routes, EU externalisation efforts have seen increased funding of third countries (mainly transit countries) to prevent further movement to European countries.<sup>13</sup> Migration scholars, policymakers and the media use varied definitions of externalisation, but agree that it is the outsourcing of migration management to countries outside Europe with the involvement of several governmental and non-governmental actors to contain migration. Over the years, externalisation has become a dominant border-management strategy for the EU and its member states, with the securitisation of migration being a key characteristic of this trend. The securitisation of migration is where certain types of mobility are conceptualised as a security threat to the nation state using criminal (terrorism, organised crime), economic (jobs, services), identity and cultural (values and norms) arguments. These threats are consequently met with "defensive" policies and the militarisation of borders.<sup>14</sup> The militarisation



of borders is characterised by the deployment of both state and non-state (para)military personnel and/or equipment for border security, as evidenced in the arming of foreign and local security actors, exchange of information, and mixing of anti-terror and anti-smuggling initiatives to prevent migration into the EU.<sup>15</sup>

Populist radical right parties in European politics – fuelled by the 'migration crisis' in 2015 and dating back to the 2008 economic crisis – have also seen the EU Parliament favour externalisation policies.<sup>16</sup> EU border states like Italy have further entered into bilateral agreements with African states like Libya because of uneven responsibility sharing between the Schengen states and with the backdrop of the Dublin Regulation.<sup>17</sup> The political, economic and social transformations caused by externalisation policies within African states (particularly border countries) have been ignored, despite studies and reports indicating that they have perpetuated immobility amongst historically mobile African groups and resulted in the loss of livelihoods,<sup>18</sup> introduced new forms of displacement,<sup>19</sup> created a surge in the smuggling of migrants and trafficking of persons, and led to unprecedented human rights abuses.<sup>20</sup> This policy brief focuses on these four relatively ignored facets from an African standpoint, with the aim of exposing the shortcomings of current externalisation narratives, which have long been defined predominantly using a European lens.

## **2. Externalisation as a disruptor of free movement within Africa**

Free movement has been the backbone of cooperation within Africa's different RECs. The Economic Community of West African States (ECOWAS) and the East African Community have particularly robust free-movement protocols that have eased movement within these regions. However, the EU and its member states' externalisation agreements, such as with Niger (regarding the city of Agadez), have been found to greatly contradict ECOWAS' free-

movement protocols by hampering regular migration not only in Niger but throughout the greater Sahel region.<sup>21</sup> In 2015, the Nigerien government passed Law 2015-36 under considerable pressure from the EU. The law, as applied since 2016, criminalises migration movements starting from the north of Agadez and does not differentiate between the country's varied historical forms of migration.<sup>22</sup> Some migrants, despite having documents necessary for regular border crossing, have opted to use clandestine means of transportation because of disinformation and lack of adequate information concerning the law. Law enforcement agencies, too, have capitalised on the strictness of the law to extort huge bribes from regular traders and migrants using the major travelling routes, consequently resulting in some preferring covert, non-monitored roads with the aid of smugglers.<sup>23</sup>

To put this in context, Agadez has been a historical transit zone for the wider Sahel region, extending from Senegal to Sudan and the Sahara Desert. Movements in the region have been seasonal, depending on weather patterns. Reports and longitudinal studies indicate that 80% of migrants travelling through and out of Niger do not intend to make their way to Europe, as migration is essential to local economies, since many people's livelihoods depend on this free movement.<sup>24</sup> An estimated 84% of the West African migrant population does, in fact, move within the ECOWAS for livelihood purposes.<sup>25</sup> Despite undergoing reform, the law has curtailed the free movement of persons in the region in various forms, regardless of whether they are regular or irregular, standing in direct contradiction to the ECOWAS' protocol on free movement and people's historical way of living in the region. ECOWAS has unfortunately been unable to fully assume its role as guarantor of this right for the nationals of its area due to the EU and its member states' interference. In recent developments, Cote d'Ivoire and Tunisia have started procedures to restore entry visas for Ivorians, following their mass repatriation from Tunisia due to externalisation and xenophobic rhetoric in Tunisia.<sup>26</sup>

EU-driven restrictive policies have further interrupted historical circular migration patterns within the African continent and prolonged migration periods in destination and transit countries. Irregular migrants are less willing or likely to return home voluntarily if they feel they cannot do so safely and easily and could lose their ability to return.<sup>27</sup> Feelings of embarrassment because of the failed migration project and the perception of bringing shame on the family upon return also contribute to delayed returns. Restrictive policies and legislative frameworks in Africa pushed by the EU have, therefore, encouraged more permanent migration that includes more family members.<sup>28</sup> It can be said that the EU, rather than solving the so-called 'migration crisis', has simply moved it abroad, as thousands of migrants, refugees and asylum seekers are currently stranded in Niger, Libya and Tunisia in deplorable conditions. The number of refugees within ECOWAS countries has, in fact, increased over the years.<sup>29</sup> Tensions between local communities – forced to share already limited resources with migrants and refugees – have also increased in African countries that have entered into externalisation agreements with the EU.<sup>30</sup>

### 3. New forms of displacement and new migration routes

While EU externalisation initiatives in Niger, as with other frontier countries like Libya and Tunisia, have led to a reduction in the number of registered migrants travelling within the West, Sahel and North of Africa, it has increased the level of irregular migration, migrants' vulnerability, overall corruption and state instability in these countries.<sup>31</sup> It has been alluded to that discontent with EU-promoted migration control policies partly contributed to the unpopularity of the toppled Nigerien president, Mohamed Bazoum, who was ousted in a military coup in July 2023.<sup>32</sup> Although the coup cannot be directly attributed to this, the excessive emphasis on securitisation and militarisation in the region, as part of counterterrorism and migration-control

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efforts solicited by the EU – rather than state-building efforts and ensuring the economic welfare of the communities – is a contributing factor.<sup>33</sup>

In Libya, EU externalisation projects have led to a vicious cycle, where the influx of arms and funds to state and non-state actors (private security firms) willing to enact the European containment agenda has granted these actors political legitimisation that has been used to undermine migrant rights (interception from sea, forcible return, torture, unlawful killings, sexual violence and forced labour).<sup>34</sup> The Libyan government and militia have further limited access to humanitarian actors, and many organisations have had problems in getting visas (including the UN).<sup>35</sup> The political legitimisation through EU collaboration has further given the Libyan government capabilities to repress domestic opposition and dissent, consequently destabilising internal democratisation processes.<sup>36</sup> The short-term European goal of preventing migrant flows through externalisation thereby risks compromising the stated long-term goal of tackling the causes of displacement within the continent. The efficacy of the recent EU deal<sup>37</sup> with the Tunisian regime also continues to spark intense debate, despite the deal being on the brink of collapse.<sup>38</sup> Civil rights defenders in Tunisia point out that the violent crackdown on sub-Saharan migrants following the deal has resulted in a record surge of clandestine boats to Italy.<sup>39</sup> In July 2023, during the height of the crackdown, nearly 14,000 migrants, the vast majority sub-Saharan, reached Italy via Tunisia, a record for this Mediterranean route,<sup>40</sup> but nothing near the hundreds of thousands of migrants in transit countries, as earlier illustrated.

Increased securitisation and militarisation, especially along the popular migration corridors in Africa, have also increased the overall cost of migration. This is perhaps the least-effective battle ever mounted, in terms of smuggling, going by the new clandestine routes that emerge from these efforts. The more restrictions Europe puts in place, the more money smugglers make – and the more violent, organised and sinister the criminal groups attracted to the business get.<sup>41</sup> Behind externalisation, transnational-organised crimes thrive, and most of these go unpunished in countries of origin, transit and destination. The Horn of Africa has also not been spared in this regard, especially for migrants from Ethiopia, Eritrea, Somalia, Sudan and South Sudan who attempt to reach Europe via the treacherous northern and central Mediterranean routes.<sup>42</sup>

In furtherance of the above challenges, the EU's externalisation-driven approach to migration is exacerbating the abuse incidents (forced labour, verbal and physical violence, sexual abuse, electrocution, torture, starvation and/or other forms of human rights violations), since the countries funded to process migrants from their territories have weak capacities and or weak legal regimes to enforce such legislations.<sup>43</sup> The EU is in reality exonerated from the obligation to safeguard migrants' rights in these foreign countries. For instance, no steps have been taken by EU institutions or member states to open criminal investigations into the UN claims that the Libyan Government of National Accord had deep ties to smuggling networks that captured, exploited, and smuggled migrants.<sup>44</sup> Some have described this nonchalant approach to African migrant abuses as an attempt to force asylum seekers and migrants to "find a quieter place to die".<sup>45</sup>

While much funding has been directed towards eliminating the smuggling of migrants and trafficking of persons, there is only anecdotal data on the number of migrants who have fallen victim to the abuses perpetrated by traffickers, with little follow-up on the latter by the EU. The EU's approach to migration cooperation with

African states is often mired in informality and negotiated in a non-transparent way – a trend that has gained popularity with externalisation. Despite being political, these agreements are often non-binding and specifically designed to be non-justiciable, as they operate outside recognised legal frameworks. The UN Special Rapporteur on Torture acknowledges that "[t]he primary cause for the massive abuse suffered by migrants [...] is neither migration itself nor organised crime [...], but the growing tendency of states to base their official migration policies and practices on deterrence, criminalisation and [discrimination]".<sup>46</sup> Such abuses would be significantly reduced if migrants had options for legal migration pathways.



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Narratives matter because they influence policy. For instance, contrary to popular narratives, 90% of migrants entered Europe regularly and only 10% irregularly in 2022.<sup>47</sup> Furthermore, most African migrants remain on the African continent (80%), and those that move off the continent do so via legal channels, necessitating the need to change the narrative on skills too. Recognition of skills will facilitate more regular migration and benefit the EU and AU economically.

## 4. Conclusion

The emphasis on stopping northward migration through various externalisation policies negatively affects free movement in the African continent, which is necessary for supporting livelihoods. It further contributes to human rights abuses and prolonged displacement within transit countries, where migrants, including refugees, continue to suffer deprivation. Fixating on externalisation removes focus from establishing legal migration pathways that could benefit Europe and the EU. This policy brief thus recommends the following:

1. Migration cooperation between African states, the EU and its member states should be foregrounded by AU migration and development frameworks to fully realise the benefits of migration for all parties.
2. To ensure accountability and transparency, migration cooperation with African states must be transparent and include the relevant RECs and relevant stakeholders like civil society.
3. Migration agreements between African states, the EU and its member states must be made public and enable a broad spectrum of consultation, scrutiny and accountability in their implementation to ensure democratic norms are respected in migration cooperation.
4. EU funding aimed at improving migration governance within African states should not only focus on border security but strategically target the different drivers of migration existing in the continent.
5. There is a need to fund civil society, non-governmental organisations and other protection actors to ensure that those facing human rights abuses get proper care and justice. The EU should also work with all other national, regional and international

players to provide mutual legal assistance in addressing the human rights abuses of migrants.

6. Funding specifically targeting smuggling and countertrafficking programmes should extend their focus beyond building the capacity of law enforcement agencies and equip the justice system with mechanisms for addressing the vices contextually and comprehensively.
7. There is a need to open legal pathways for migration within the EU bloc, according to different legal and policy frameworks. This will be in line with the EU's aspiration of addressing labour shortages, while, at the same time, safeguarding the rights of those migrants in vulnerable situations.



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## About the author



### Felicity Okoth

Felicity Okoth has a background in migration research with a focus on Sub-Saharan African migrants. She coordinates the International Migration and Ethnic Relations (IMER) research network in Bergen Norway. She is also pursuing a PhD at the Department of Social Anthropology at the University of Bergen. Her research looks at the situated and trans-local practices of Sub-Saharan African migrants in Nairobi and how these influence their migration aspirations (return or move to third countries).

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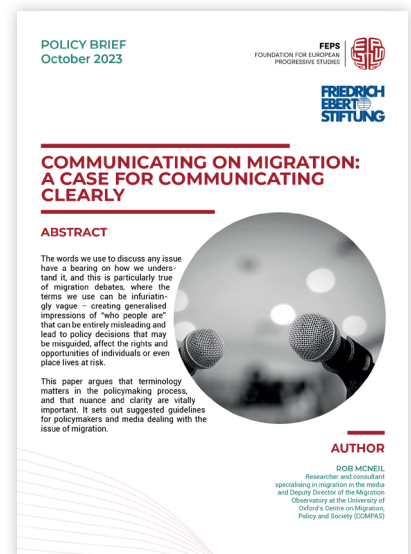
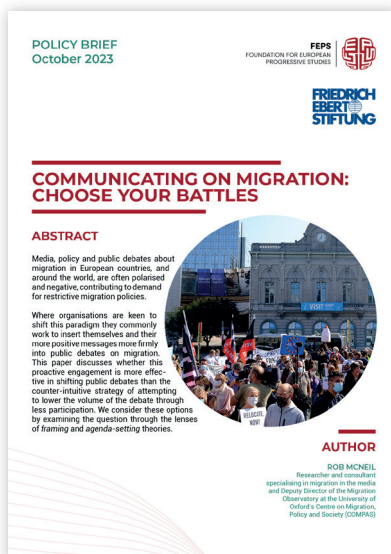
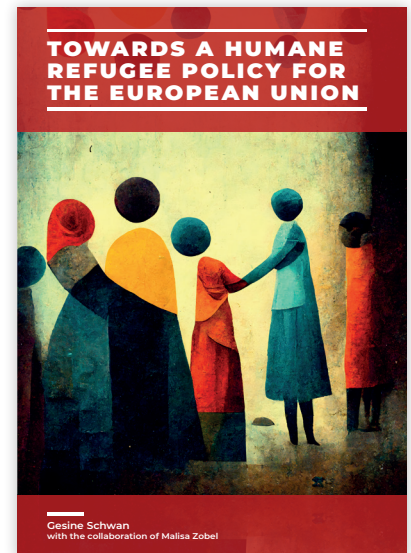
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**A no-win situation: Deconstructing the efficacy of EU externalisation policies from an African perspective**