

EU Migration Policy towards Libya

The Memorandum of Understanding between
Italy and Libya, analysed from a Libyan Perspective

Policy Paper by
Zakariya El Zaidy

August 2017

EU Migration Policy towards Libya

**A Libyan Perspective on the Memorandum of Understanding
between Italy and Libya**

Policy Paper

by

Zakariya El Zaidy

August 2017

Abstract

The purpose of this paper, issued by the Libya office of Friedrich-Ebert-Stiftung, is to provide a brief analysis of the recently-signed memorandum of understanding between the Presidential Council of Libya, represented by Mr. Fayez Al-Sarraj as both president of the Council and Prime Minister of the Government of National Accord, and the Italian government, represented by Prime Minister Mr. Paolo Gentiloni, on February 2nd 2017. It seeks to illuminate some key difficulties and obstacles to implementing such an agreement from the Libyan point of view, as well as some enabling factors. It also contains a set of recommendations to enhance both EU policy relating to regulation of migration and Libya's approach to managing migration.

Introduction and Background

The issue of multiple migration flows through Africa and across the Mediterranean towards Europe is high on the agendas of many interested parties, from politicians to humanitarian organisations. The number of people who flee, migrate, immigrate or emigrate has increased over the past seven years, for various reasons. Some migrants seek international protection from political persecution, war, conflict and authoritarianism. Others seek a better life, away from poverty and other hardships.

Over the past seven years, thousands of migrants have lost their lives crossing the Mediterranean in attempts to reach Europe, smuggled from the shores of Libya in boats that are not equipped to carry large numbers of people. According to the International Organization for Migration (IOM) (as of September 2016 a UN Agency), the number of migrants dying or going missing on the central Mediterranean route during 2016 was higher than in 2015.¹

During 2016, the Libyan Coast Guard, operating under the command of the Libyan Navy (Ministry of Defence), rescued 18,904 migrants attempting to cross to Europe from Libyan waters.² Sadly, 4,576 people lost their lives, while 181,436 migrants managed to reach Italy via the Central Mediterranean route,³ saved by various Non-Governmental Organisations (NGOs) operating search and rescue (SAR) ships or EU ships working under the mandates of EU NAVFOR Med (Operation Sophia)⁴ and Frontex.⁵

From the Libyan point of view saving 18,904 lives can be considered a tremendous success, especially considering the very limited resources available to the Libyan Coast Guard for search and rescue operations. The impact of the Libyan Coast Guard would be even greater if they had access to better support. Their role in combating smuggling and saving lives at sea is vital, as they are the only entity in Libya officially tasked to undertake such operations.

Operation Sophia is the EU's main action to prevent illegal immigration via the Mediterranean. According to the operation's official factsheet posted on its website, in its first eighteen months of operation it captured 109 suspected smugglers, neutralised 422 boats and rescued 35,073 migrants at sea.⁶ Building on Operation Sophia and taking into account Libya's need for support, the EU has as a further step begun to provide the Libyan Coast Guard with training aimed at capacity building.

According to the European Union External Action Service (EEAS),⁷ this training began on October 26th 2016. A first cohort of 78 Libyan Coast Guard and Navy trainees embarked upon EU training vessels following

¹ <https://missingmigrants.iom.int/mediterranean>

² <https://www.iom.int/sites/default/files/country/docs/tanzania/Libya-Maritime-Incidents-Libyan-Coast-7-18-January-2017.pdf>

³ <https://missingmigrants.iom.int/mediterranean>

⁴ The core mandate of EU NAVFOR is to undertake systematic efforts to identify, capture and dispose of vessels and other enabling assets used or suspected of being used by migrant smugglers or traffickers, in order to contribute to wider EU efforts to disrupt the business model of human smuggling and trafficking networks in the South Central Mediterranean and prevent further loss of life at sea. Sophia is a baby who was born at 4.15 am on 24th August 2015 on board the German frigate Schleswig-Holstein, operating in the Central Mediterranean Sea as part of the EU NAVFOR Med Task Force. She was born to a Somali mother rescued along with 453 other migrants, and disembarked on the evening of the same day in the harbour of Taranto. Sophia was named after the German ship, which is dedicated to the Prussian princess Sophia of Schleswig-Holstein (8th April 1866 – 28th April 1952).

⁵ Operation Triton is a border security operation conducted by Frontex, the European Union's border security agency. The operation, under Italian control, began on November 1st 2014 and involves voluntary contributions from 15 other European nations (both EU member states and non-members).

⁶ https://eeas.europa.eu/sites/eeas/files/april_2017_-_factsheet_on_eunavfor_med_mission_english.pdf

⁷ https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/13195/eunavfor-med-operation-sophia-starts-training-libyan-navy-coast-guard-and-libyan-navy_en

the Council's decision to train Libyan personnel in coast guard operations. The overall objective of the first training package is to enhance Libyan capability to disrupt smuggling and trafficking and perform search and rescue activities, with the aim of saving lives and improving security in Libyan territorial waters.

The second package of the training provided by EU NAVFOR Med/Operation Sophia to the Libyan Coast Guard and Navy began on January 30th 2017 in a maritime training centre in Crete (Greece).⁸ Twenty Libyan Coast Guard and Navy trainees received training in areas including maritime law, human rights and gender awareness, as well as search and rescue operations. This builds on and supports application of the basic seamanship training provided in the first package.

Important context for these activities is a deal between the EU and Turkey to tackle the migrant crisis, which formally came into effect on March 20th 2016. Under the terms of this deal, migrants arriving in Greece from Turkey are to be sent back to Turkey if they do not apply for asylum or if their claim is rejected. Between January 2015 and March 2016, one million migrants and refugees entered the EU by boat from Turkey to Greece. According to the International Organization for Migration (IOM), more than 143,000 arrived within the first three months of 2017, with about 460 believed to have died while attempting the journey.⁹ The EU-Turkey agreement shifted the spotlight towards Libya, with many predicting the EU would seek to establish a similar arrangement. However, the situation with respect to Libya is very different.

A similar deal between the EU and Libya is not possible because Libya's situation is not the same as Turkey's. Libya is a fragile state in a period of democratic transition, and is experiencing a severe conflict whose resolution is proceeding very slowly. The current regime, the relatively new Government of National Accord (GNA),¹⁰ can do no more than attempt to solve domestic challenges and respond to the many requests and expectations of the Libyan public, especially given the problems arising from the ongoing political conflict. While a deal similar in nature to that with Turkey is simply impossible under current circumstances, this doesn't mean that Libya or the GNA should be left to tackle the issues of smuggling migrants and human trafficking unaided. Such neglect would cause even more damage: Libya does need the support of the EU and the international community. However, this support must be designed to comply with current Libyan needs and to fit the capacity of Libyan actors and institutions.

The governments of Libya and Italy signed a memorandum of understanding (MoU) on cooperation on migration on February 2nd 2017, with the Presidential Council of Libya represented by Mr. Fayez Al-Sarraj as both president of the Council and Prime Minister of the Government of National Accord, and the Italian government represented by Prime Minister Mr. Paolo Gentiloni. The MoU refers in its articles to previous agreements between Libya and Italy, whether signed under, prior to or since the previous Gaddafi regime. Bilateral agreements concerning migration, smuggling and human trafficking were also taken into consideration, as long as these agreements are binding in law. The MoU refers to the Treaty of Cooperation and Friendship between Libya and Italy signed in Benghazi (Libya) in 2008, and specifically to Article 19 of this treaty, along with the bilateral agreement of Tripoli signed in 2012.

⁸ https://eeas.europa.eu/headquarters/headquarters-homepage/19518/operation-sophia-package-2-libyan-navy-coast-guard-and-libyan-navy-training-launched-today_en

⁹ <http://www.bbc.com/news/world-europe-35854413>

¹⁰ The GNA took shape based on a UN-led political agreement following a year-long political dialogue between the competing Libyan factions. The GNA is tasked to operate under the Presidential Council, but must first be endorsed by the House of Representatives, which has not yet happened.

Strong or Weak?

The MoU aims to be a step towards addressing migration-related challenges in both Libya and Italy. While many observers might assume it to be an EU action presented by Italy, it is not. In fact, this MoU is founded upon previous agreements between Libya and Italy and influenced by many factors, including but not limited to the colonisation of Libya by Italy and compensation for damage caused during that time.

However, taking into consideration EU policy regarding Libya and continuous EU efforts to externalise border control to third countries, skepticism is an understandable reaction. The Libyan public fears that this MoU could impose responsibility for border control and migration management upon Libya and leave it to handle a huge burden alone.

To date the EU has not formulated any coherent policy responding to the issue of irregular migration in Libya. Instead, most EU countries still deal with Libya unilaterally, and the GNA receives funding mostly from individual countries rather than any EU package. In fact, the only EU funding allocated to Libya for this purpose is the Africa Fund, announced during the Valetta Summit that took place in November 2015. According to the EC website, Libya is to be assigned 90 million Euros from this fund to support its efforts in managing irregular migration.¹¹ However, as implied above, the MoU and the Africa Fund are entirely separate and unconnected initiatives.

Furthermore, in response to a lawsuit recently filed at the Department of Administrative Justice, the Tripoli Court of Appeal has ruled against the MoU and acted to stop its implementation.¹² The lawsuit was based on two main arguments. First, the Prime Minister of the GNA, Mr. Sarraj, did not secure support for the MoU from the House of Representatives (acting as the legitimate legislative body in Libya), and so had no mandate to execute the agreement. Second, according to the official text of the court ruling the agreement will overburden Libya as a state with responsibility for handling hundreds of thousands of migrants without concrete support from Italy or the EU, against the backdrop of the fragile transition period Libya is currently experiencing. This ruling poses a major challenge for implementation of the Libyan side of the MoU and will further extend the anticipated timeline for the actions proposed.

What is the MoU About?

The MoU contains 12 points that collectively emphasise collaboration between Libya and Italy to face all challenges with negative repercussions for peace, security and stability, both within the two countries and in the Mediterranean region in general. These challenges include the need to protect borders; combating the ongoing and growing smuggling business, which has become a venture with multi-million profits; and reaffirming the principles of Libya's sovereignty, independence, territorial integrity and national unity. At the same time, they ensure non-interference in Libya's internal affairs, and largely recognise that measures undertaken to address irregular migration in accordance with the MoU must not in any way damage the Libyan social fabric, nor threaten the demographic equilibrium of the country, the economic situation or the security of Libyan citizens. In addition to these twelve points, the MoU contains eight articles.

Article 1 mostly emphasises launching collaborative initiatives, as deemed appropriate by the GNA and Presidential Council (PA), on security, stability and development, and strengthening the capacity of the Libyan military and police to combat illegal migration. It places responsibility upon Italy to provide support in several sectors such as renewable energy, health and infrastructure in these most-affected areas in Libya. In addition, it commits Italy to providing technical and technological support to the Libyan institutions responsible for the fight against illegal immigration, namely the Coast Guard and Border Patrol working under the Ministry of Defence, along with the Ministry of Internal Affairs and its departments and directorates.

¹¹ <https://ec.europa.eu/europeaid/sites/devco/files/t05-eutf-noa-ly-03.pdf>

¹² <https://www.libyaherald.com/2017/03/22/tripoli-court-blocks-sarraj-migrant-deal-with-italy-effect-unclear/>

Article 2 cites progress towards completion of a previous target of a land border control system in southern Libya, referred to in Article 19 of the Treaty of Friendship.¹³ It also refers to detention (reception) centres, in relation to three main points:

1. Rehabilitation and/or reconstruction of these detention centres, equipping them to provide medical services and ensure the safety of both detained migrants and police officers staffing the centres, while aiming to comply with international law concerning the human rights of those detained inside and ensure provision of all services they might require.
2. Support for all international organisations working within detention centres to provide essential services for detained migrants or to facilitate such provision, especially organisations such as the IOM who provide assistance to migrants wishing to return to their countries of origin.
3. Capacity building for all police officers and other staff in the field of combating irregular (illegal) migration, including officers in the Ministry of Interior (MoI) and the Directorate for Combating Illegal Migration (DCIM). In addition, supporting any Libyan organisations, think tanks or institutions working in the field of mixed migration or irregular migration, especially those conducting research on the topic aimed at providing durable solutions to the situation in Libya, or to addressing root causes within countries of origin.

In each of these three areas, Italy is required to provide both support and funding, under the supervision of the GNA and Presidential Council. According to international NGOs (INGOs) in the field working in Libya, including the IOM and United Nations Refugee Agency (UNHCR), the total number of detention centres has increased to a total of 34 in 2017.¹⁴ Not all of these centres are operational, nor are they all under GNA control. Those under GNA control are managed by the DCIM, operating within the Ministry of Interior (MoI).

These centres have been struggling to cope with the large numbers of migrants detained and are in need of rehabilitation, reconstruction and support. They are sometimes called reception centres, but are by no means camps able to host migrants for indefinite durations. They currently operate as detention centres where migrants stay temporarily before being deported or returning home voluntarily.

Some centres are in very bad condition. The services they provide to detained migrants are very limited and basic. The main source of support for migrants detained in these centres is humanitarian aid from international organisations, along with limited efforts from some local Libyan civil society organisations and minimal basic services, such as catering, provided by DCIM. Progress towards improving this situation has to date been very limited.

Furthermore, Article 2 refers to both parties collaborating to form a vision, and within three months of signing the MoU presenting a proposal for wider Euro-African collaboration towards concrete solutions to problems arising from increased irregular migration. The period has already passed without producing clear results. It is clear that more time is required, particularly if the intended vision is to be as holistic, effective and broad as stated in the MoU and include bilateral dialogue with countries of origin. The MoU doesn't identify where funding for the mooted initiatives and projects would come from. It is also unclear how this vision would be implemented, and by whom.

Experts have consistently urged the EU to change policy towards dictatorships in Sub-Saharan countries, and to cease fueling wars and conflicts by selling small arms (see infographic of EU small arms exports in Annex 3).¹⁵ These demands are consistent with Article 2-a of the MoU, which calls for action to prevent smuggling, especially of weapons.

¹³ Article 19: "Still on the subject of illegal immigration, the two parts promote the realisation of a control system of Libyan land borders, to be entrusted to Italian companies holding the necessary technological skills. The Italian Government will fund 50% of the costs, and for the remaining 50% will ask the European Union to take charge ... "

¹⁴ https://www.humanitarianresponse.info/system/files/documents/files/unhcr_libya_detentioncentres_jan_2017.pdf

¹⁵ [http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/572805/EPRS_ATA\(2015\)572805_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/572805/EPRS_ATA(2015)572805_EN.pdf)

Articles 3 and 4 provide some details regarding implementation of the MoU. A shared committee is to be formed, dedicated to setting priorities and establishing suitable mechanisms for funding, implementation, supervision, and overall management of the MoU. It will also decide upon mechanisms for monitoring progress and evaluating outcomes, and upon allocation of responsibilities. Article 4 clearly states that Italy is responsible for the initiatives mentioned in the MoU and any future projects, plans or initiatives agreed by the committee, within the framework and respecting the laws of both countries, with the condition that funding does not exceed the budget allocated by the Italian government plus any external funding Italy may receive from the EU.

The committee referred to in Article 3 has been formed as required by the MoU. It held its first meeting in Rome on March 14th 2017.¹⁶ Its most recent meeting, held on June 1st, was said to be meeting number eight. Despite this, it is very difficult for the public to monitor the progress or outcomes of such meetings. The exception is one major step already taken: the provision by Italy of four boats to the Libyan Coast Guard in order to increase their capacity to combat smuggling.¹⁷

The **Articles 5 to 8** are administrative in nature, referring inter alia to the interpretation and application of the MoU in respect to international obligations and human rights agreements, the negotiation of possible disputes between the two parties regarding the interpretation of the agreement, as well as the options for modifications of the MoU.

Good but not Enough...

The MoU reflects some positive intentions and includes some good points:

- From a sound technical base, it sets out some clear remedial responses to current challenges.
- It promotes proactive steps towards addressing root causes and hence providing solutions that are sustainable in the long term.
- It emphasises the need for solutions and measures taken not to create side effects that could worsen the situation or lead to further complications.
- It emphasises the need to ensure Libya's resilience and future capacity to sustain migration management based on its own policies and resources, without coming into conflict with international law. This leads to greater independence and empowerment, strengthening Libya's sovereignty.

Weaknesses of the Libyan-Italian Deal

As the foregoing analysis indicates, the MoU has several weak points that need to be given serious consideration by both parties:

- It does not provide adequate details of the actions necessary for its implementation; it is thus **rather superficial**.
- It relies on references to documents that might not be easily available for public scrutiny of the type necessary to understand its intended objectives, and is therefore **not transparent**.
- It provides a timeline and sets a deadline only for one step and not for others, creating confusion and calling into question the possibility of effective implementation. It hence **reflects short-term thinking**.
- It was not followed by any press statement in Libya that would address public concerns; in addition it was signed outside Libya, in Rome, adding to negative expectations and inviting its portrayal as a deal that serves only Italy and the EU at the expense of Libya's resources **legitimacy**.

¹⁶ <https://twitter.com/ItalyinLibya/status/841668059601481728>

¹⁷ <http://www.onuitalia.com/2017/04/23/libya-italy-hand-libyas-coast-guard-first-10-boats-patrol-national-waters/>

- It includes no information about possible collaboration with the EU Border Assistance Mission in Libya (EUBAM).¹⁸ It is hence not clear to what extent and according to what plan EUBAM will coordinate with the GNA and Italy to support its implementation.
- The MoU doesn't clarify if numbers and/or capacity of existing detention centres will be increased or decreased: it indicates that services will be provided, but does not specify expected policy regarding detention of irregular migrants.
- It does not specify any strategy for collaboration with the UN Support Mission to Libya (UNSMIL). This leaves open many questions as how implementation of this MoU would not interfere with UN efforts to respond to the humanitarian crisis in Libya. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) representation in Libya, the 2017 Humanitarian Response Plan¹⁹ for Libya seeks USD 151 million to address life-threatening needs of internally displaced persons (IDPs), returnees, most vulnerable non-displaced Libyans, migrants, refugees and asylum seekers in urgent need of humanitarian assistance.
- The MoU does not set clear a strategy regarding compliance with the principle of non-refoulement (not returning migrants to a country where they would be in danger of persecution on ethnic, religious or political grounds), especially in relation to boats found outside Libyan territorial waters. According to a study published by the Policy Department in the European parliament, when Italy and Libya signed a Treaty on Friendship, Partnership and Cooperation in 2008 the two countries agreed to fight clandestine migration jointly.²⁰ From May 2009, Italy started push-back operations in order to return migrants to Libyan waters. When armed violence erupted in Libya in 2011, Italy ceased its push-back operations.

The various weaknesses of the deal imply that challenges are to be expected when it comes to its implementation:

- The ruling from Tripoli's Court of Appeal - Administrative Justice Department - is the most recent obstacle, and might put everything on hold, thus delaying any ongoing work. To ignore this ruling would send a message of defiance of basic democratic institutions such as the judicial body, represented by the law courts. To respect it would mean cancelling the MoU and hence creating another.
- Ongoing political opposition to the GNA and Presidential Council (PC) resulting from the political dialogue led by the UNSMIL and subsequent agreement could shift attention away from working towards responses to irregular migration and towards fending off disagreements and efforts to undermine steps taken by the GNA and PC.
- The growing influence of smugglers will create obstacles, as they employ ever-more sophisticated ways to increase their profits, market their business and exploit more migrants by forcing them to leave in high numbers on unsuitable boats.
- Increasing scepticism in Libya about the motives of the other side (meaning Italy), linked to rising fears that EU politicians (including Italy's) do not care about Libya or its struggle with irregular migration and perceptions that they only provide empty promises lacking substantial commitment. Signing a deal with Libyan politicians can in this light be seen as part of a conspiracy whereby the GNA and PC gain international recognition and in return are obliged to relieve migration pressures upon Europe. This can be considered a serious challenge: public perceptions must not

18 On May 22nd 2013, the Council of the European Union gave the green light for EUBAM Libya, a civilian mission under the Common Security and Defense Policy (CSDP), to support the Libyan authorities in improving and developing the security of the country's borders. On August 4th 2016 the Council extended the mandate of the planning mission EUBAM Libya until August 21st 2017. This civilian mission responds to an invitation by Libya and is part of the EU's comprehensive approach to supporting the transition to a democratic, stable and prosperous Libya. EUBAM Libya's initial mandate was for two years; it has been extended twice and now runs until August 21st 2017. The mission is currently located in Tunis and will redeploy to Libya as soon as the security mission allows. The budget of the mission from August 22nd 2016 to August 21st 2017 is €17 million.

19 https://www.humanitarianresponse.info/system/files/documents/files/2017_libya_hrp_final.pdf

20 [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/535005/EXPO_STU\(2015\)535005_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/535005/EXPO_STU(2015)535005_EN.pdf)

be underestimated and must be resolved in creative ways that reassure the public that these deals are neither legally binding nor unavoidable destiny, but are subject to revision and updating. In addition, the GNA and PC will need to demonstrate through their actions that the deal is beneficial for Libya.

- Possible use of smuggling as a political lever is another major challenge. The issue of migration management and humanitarian responses to migration must not be in any way politicised or exploited for political advantage. The GNA and PC must ensure that manipulating the response to mixed migration for political ends is not only impracticable but will also fail in the long run. To do this, they must ensure Italy's sincere intentions to tackle root causes and provide solutions in countries of origin, and avoid scenarios where either party can exploit short-term success to gain public trust and electoral support without making concrete progress towards long-term goals. This is especially important because reactive approaches will only deplete resources and exhaust capacity if they do not lead to concrete, durable and sustainable long-term outcomes.
- Public fears that Libya will be left alone to handle large numbers of migrants, beyond its capacity, will create de facto support for smuggling. In other words, people would unintentionally or perhaps even intentionally welcome the idea of letting migrants leave Libya for Europe in order to provoke Europe to take action and support Libya in managing irregular migration.
- The possibility of corruption and the support provided through the MoU falling into unsuitable hands could actually fuel smuggling behind the scenes. In such a scenario, all efforts would be ineffective, leading to increased public distrust, wastage of resources and uncertainty about future collaboration between the EU and Libya.
- Bilateral support is partly limited to locations directly affected by irregular migration. Another risk is hence that if some areas in Libya receive support and others do not, it will exacerbate existing marginalisation and could provoke new conflicts. Support should therefore be balanced and aid given to all cities in Libya regardless of their specific situation regarding migration.
- Finally, the overall challenges faced by the GNA in relation to the political situation, the economic situation and limited security control on the ground mean the current situation in Libya is delicate, creating tension and, increasingly, deteriorating faster than it can be remedied. All of this sometimes translates into impulsive, scattergun actions without any strategic aim, thus prolonging the current crisis. Obstacles such as tribalism, tribal conflicts, poverty and lack of infrastructure are considerable especially in southern Libya, where illicit smuggling not only of humans but also of goods, drugs and weapons is increasing.
- The recent Final Report of the Panel of Experts on Libya established pursuant to Resolution 1973 (2011) (S/2017/466) indicates the involvement of people from the Libyan Coast Guard in the business of smuggling.²¹ This raises a major challenge, especially given the EU's intention to continue training the Libyan Coast Guard and raises the question of whether the individuals involved in smuggling will be included in the training. Will they face trial and jail, or be able to proceed with impunity?

Enabling Factors

Various enabling factors are expected to support implementation of the MoU:

- International organisations: organisations such as the IOM, UNHCR, International Medical Corps (IMC) and Doctors Without Borders (MSF), already provide a system of services to migrants within Libya, existence of which will certainly help processes for implementing migration management strategies. Provision systems require development, but this is nonetheless easier than building something from scratch.

²¹ <http://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

- Local NGOs: The growing will of Libyans to participate in solving the ongoing national migration and displacement crisis is demonstrated by the increased presence of local NGOs and Civil Society Organisations (CSOs) either working independently or in partnership with INGOs. As more Libyans participate, their understanding will grow, helping raise awareness more generally. Domestic NGOs are more likely than INGOs to be able to work in Libya without needing to wait until conditions are safe for expats. In addition, this can help provide jobs for Libyan youth and reduce unemployment, and in doing so create a pull factor that gives hope and provides an alternative to joining criminal gangs or militias working beyond the control of the Libyan state.
- Increased understanding and capacity on the part of Libyan decision-makers regarding migration management, even on modest scales, resulting from the ongoing services implemented by INGOs in cooperation with the Libyan authorities under the GNA and PC, will improve negotiations and lead to more well-informed decisions, accelerating progress towards a better migration management response.
- Attempts specifically to hold Italy to historical responsibilities could be interpreted as a positive political manoeuvre on the part of the GNA. It could help the GNA increase its levels of public support, and to portray a positive image.
- Public rejection of smuggling is another enabling factor: in one city, joint efforts of public demonstrations prevented smugglers from continuing their operations.²² Many people in the southern cities of Libya express their devastation at witnessing corpses of migrants who die in the desert on their journey to the north. This can be an enabling factor for implementation of the MoU as long as it is used for the purpose of stopping smuggling as a crime, maintaining and respecting human dignity by reducing deaths at sea, and eventually protecting state sovereignty.
- The recent action of Italy in providing four boats to the Libyan Coast Guard, operating under the GNC, with the intention of increasing their capacity to conduct search and rescue operations and combat illicit smuggling in the Mediterranean.²³

Recommendations

In order to ensure better management of migration flows in Libya at the same time as respecting human rights and alleviating the suffering of vulnerable migrants, this report makes the following recommendations:

- That the GNA takes further steps to assure the public that its work on migration and the signing of the MoU do not mean that migration is its only priority or area of action. The GNA must show progress or at least intention towards development in other areas such as improved security, economic stabilisation and provision of basic public services.
- As the MoU is only an agreement between Libya and Italy, it is at best a partial and incomplete solution. The current situation requires both that Libya receives much wider support from the international community and that internal efforts among Libyans themselves to address the current political conflict reach some sort of consensus conducive to effective responses to the situation regarding migration.
- That EU countries reach a common position upon which to formulate a clear strategy on how to support Libya via direct collaboration between the EU and the GNA. This strategy should foster realistic results on the ground in all areas where action is necessary, not be limited to political rhetoric about conflict resolution.
- That the GNA negotiates more closely with the EU in order to reach a more realistic agreement for support to Libya with as few preconditions as possible, taking into account that imposing more

²² A group of crime-fighting residents called the Masked Men in Zuwara, Libya, are trying to stop the human -trafficking trade in their community.: (<https://www.wsj.com/articles/libyas-masked-men-hunt-human-smugglers-1444697206>)

²³ <http://www.onuitalia.com/2017/04/23/libya-italy-hand-libyas-coast-guard-first-10-boats-patrol-national-waters/>

responsibilities upon the GNA is simply ineffective and will lead to expectations not being fulfilled.

- That the GNA pushes for further discussions and greater responsibility on the part of the international community for tackling the root causes of displacement and irregular migration. Addressing these root causes obviously requires more parties to be involved: Libya and Italy cannot achieve this alone.
- That the EU ensures creation of a clear policy regarding detention of irregular migrants in Libya, especially women and children. It is vital to reach an agreement to the effect that these centres, being in need of rehabilitation and reformed service provision, are not fit to house vulnerable migrants such as women and children. Finding alternatives to detention of children and women is a vital step and should be followed by further action to ensure compliance with established consensus on human rights, without undermining Libyan sovereignty or its efforts to enact its own policies for managing migration.
- That the EU pushes for further African-African dialogue and builds on the current efforts of the African Union to respond to the increase in displacement of people within Africa. Regional dialogue and further initiatives similar to the Khartoum Process and Rabat Process are key to strengthening the capacities of both transit and origin states to tackle the root causes of displacement.
- That the EU avoids any future agreements that offer incentives to authoritarian or illegitimate governments in return for promises to reduce movement of migrants towards Europe. Externalisation of responsibilities for border control at the expense of respect for human rights principles is a strategy destined to fail, in similar fashion to militarisation in response to humanitarian crises. The recommended alternative consists of multifaceted approaches, starting with extensive research and needs assessment to identify long- and short-term needs and understand what solutions would work best. Parallel to this, it is important to remember that tough action is sometimes required and imposing sanctions can be a necessary step in the face of impunity on the part of states that continue to violate human rights and provoke people to flee their homelands.

Conclusion

Under current circumstances, the Libyan party to this MoU, the GNA, is facing many challenges and stands under enormous pressure. Politically, the GNA is not yet endorsed by the House of Representatives. This seriously limits the GNA's power to respond to the many current needs of the Libyan people.

Economically, Libya's fragile economy worsens by the day, in spite of various attempts by the GNA to remedy the situation. There seems to be no real progress and many Libyans continue to suffer from liquidity shortages, inability to access the money in their bank accounts and the declining value of the Libyan Dinar relative to the Euro and US Dollar.

The present situation seems to have shifted public demands upon the GNA from migration management and external relations to urgent response to the ongoing political conflict and collapsing economy. At the same time, deterioration in security conditions and porous borders, both northern and southern, are conducive to growth in the smuggling business.

Many other social, political, economic and security challenges remain. All of these factors conspire to place serious obstacles in the way of realistically applying this MoU.

This raises the question of what the priority of the GNA should then be. To respond to the immediate challenges affecting the Libyan public and their everyday lives? Or to push forward with implementation of this MoU, which in the view of many would be an unrealistic course of action, probably resulting from international pressure.

About the Author

Zakariya El Zaidy works as Protection Team Leader for the Danish Refugee Council in Libya. He is one of the founder members and former Chief Operations Officer of the Mercy Wings Organisation, a Libyan NGO established for the purpose of fighting human trafficking.

Mr. El Zaidy focuses primarily on the fast-changing situation concerning mixed migration in Libya. Together with practitioners and experts in the fields of mixed migration, humanitarian relief and aid, he has participated in various seminars and workshops on migration, counter-trafficking and protection, at local and international levels. He holds certified qualifications in leadership, organisational management and social entrepreneurship.

Mr. El-Zaidy is also a member of the Global Shapers Initiative, Tripoli Hub, and has worked as a web and graphic designer. Currently, he manages a website that aims to share information about mixed migration in Libya and provide other services such as research, online surveys and protection mainstreaming.

Mr. El Zaidy holds a BA in Geological Engineering and Petrophysics from Tripoli University (Libya).

Friedrich-Ebert-Stiftung is a non-profit organisation. It is the oldest political foundation in Germany, established in 1925 as the political legacy of Friedrich Ebert, the first democratically elected President. In more than 100 offices abroad, the foundation promotes social justice, democracy, economic and social sustainable development. It also supports independent trade unions, human rights and gender equality.



The views expressed in this publication are not necessarily those of the **Friedrich-Ebert-Stiftung**.

Commercial use of all media published by the **Friedrich-Ebert-Stiftung** (FES) is not permitted without the written consent of the FES.