

Externalization of migration management - the Libyan case

By Marko Tapio Kananen / Newropeans Magazine (2009)

According to EU sources, around half a million immigrants enter the European Union illegally every year. In order to control this movement, the EU has increased its cooperation with sending and transit countries of migration. Through financial and technical aid the EU helps them to establish infrastructures and practices that should stem the flow of immigrants and thus create 'buffer zones' around the EU. But are we aware of all the consequences of this 'external dimension' of migration management?

Libya is one of the most important unofficial gateways to Europe. Especially after increased border patrol and coastal radar have made it more difficult to enter Europe from Morocco, the importance of Libya as a transit country has increased. This change of migration routes has been particularly visible on Lampedusa, the small island south of Sicily, which is the first point of arrival for migrants coming from Libya. Increasing amount of people risking their lives in shabby boats getting across the Mediterranean and massively overcrowded facilities at Lampedusa have made the situation unbearable.

In order to counter this immigration by sea, the European Union has intensified its cooperation with Libya, which following the UN sanctions had been isolated from the international community for a long period of time. In 2003 Italy and Libya signed an agreement to counter illegal immigration, and as part of the deal Rome provided Tripoli with rubber dinghies, off-road vehicles and satellite navigation systems, and took part in financing deportation flights and construction of detention centres. The EU started its cooperation with Libya one year later, and since then there have been two EU-funded projects in the field of immigration : one concerning the control of the borders with Niger and the other one on assistance to voluntary return of migrants.

In order to increase Libya's role in patrolling the European southern border, the European Commission has invited Libya to join its Frontex (the European agency for the control of external borders) patrols in the central Mediterranean. According to the Commissioner Franco Frattini, Frontex would be in an ideal case allowed to enter the Libyan territorial waters to carry out patrols and to turn back boats of illegal immigrants leaving from Libyan ports. Although for the last four years Libya has refused to participate, it has recently reached an agreement with Italy to carry out joint maritime patrols in Libyan waters. This agreement can be seen to clear the path for the Frontex operations and for the further externalisation of EU's border control.

On February 2009 Libya also received a major financial boost from the EU to help combat illegal immigration. At a meeting in Tripoli, the EU's external relations commissioner, Benita Ferrero-Waldner, announced a package worth of 20 million euros to help strengthen Libya's border controls. According to the Commissioner, this aid was offered to set up management projects on Libya's southern frontier which include the supply of know-how, training and the necessary equipment.

EU's cooperation with Libya has, however, raised also lot of criticism. Several NGO's and human rights organisations have more than once expressed their worries regarding Libya's notorious human rights violations. For example, Human Rights Watch and Fortress Europe have both released reports documenting Libyan authorities arbitrarily arresting undocumented foreigners, mistreating them in detention centres, and forcibly returning them to countries where

they could face persecution or torture, such as Eritrea and Somalia.

According to human rights organisations, an overarching problem is Libya's refusal to introduce an asylum law or procedures. Libya has not signed the 1951 Refugee Convention, and the government's attempts to identify refugees or others in need of international protection have been either limited or non-existent. In the absence of an asylum policy and a legal protection framework, there is effectively no guarantee of refugee rights in Libya. Due to these problems Bill Frelic, director of refugee policy for Human Rights Watch, has stated Libya to be an unsafe country for migrants, asylum seekers and refugees.

Frelic is also criticizing the EU for working with Libya to block immigrants from reaching Europe rather than helping them to get the protection they need. This concern is especially adequate in connection to the joint patrol in Libyan waters, aiming at turning back boats of illegal immigrants. According to Sara Hamood, the route through Libya to Italy is characterized by mixed migratory flows, whereby refugees, asylum-seekers and migrants use the same routes and methods. However, when boats are deported back to Libya, where there is no screening for asylum-seekers, there is a severe risk that the EU is turning back people who would actually have every right for an asylum.

Despite the criticism the EU is determined to advance in developing its relations with Libya. For this end, the European Union and Libya have signed a memorandum of understanding reflecting a new era between them and started negotiations for an EU-Libya Framework Agreement. Libya's integration into the international community and its cooperation with the EU presents – without a doubt – a potential for positive change in its human rights situation. But this potential needs to be put into practice and for that end the role of the European Union is crucially important. The situation of refugees, asylum-seekers and migrants in Libya will largely depend on the direction of EU policy and the emphasis it places on human rights principles.

But does the European Union have enough political weight and political will to influence Libya ? It is clear that Libya feels no inclination – not to mention obligation – to play by EU's rules. In this case the European Neighbourhood Policy could perhaps provide the necessary incentive for Libya's cooperation. It should not be forgotten that the EU is an important trade partner for Libya : around 70 percent of its foreign trade is already done with EU member states. Therefore, the possibility of ENP partnership, with its promise of tariff-free access to some or even all EU markets could strengthen Libya's situation significantly.

The European Neighbourhood Policy would also provide the EU with genuine tools for influencing the human rights situation in Libya. Participation in the ENP is conditioned by the acceptance and employment of certain principles, such as democracy, the rule of law and respect of human rights. Hence, as a condition for the partnership the EU could set clear benchmarks, such as development of national asylum legislation in compliance with human rights standards, abolition of physical abuse and maltreatment and full screening process for asylum-seekers. Through the ENP the EU could also support the emergence of Libyan civil society, provide assistance to NGO's, human rights organisations and independent media, as well as co-arrange campaigns concerning the human rights violations.

Hence, there would be tools – But is the EU ready to use them ? It should not be forgotten that the EU's interests on cooperating with Libya are not motivated only by humanitarian reasons or an interest of securing its external border. In addition, there are also significant economic interests on stage. The EU is largely dependent on foreign oil and natural gas – both of which are Libya's most important natural re-sources. Future will show much human rights are worth next to the increasing struggle on energy sources.

In general, the European Union has to provide more transparency around its project of externalising the migration control. The European people will have to be informed on what is taking place behind our borders, with whom the European Union is cooperating and what are the methods used for stemming illegal immigration. Further, the cooperation in the field of immigration can not be guided primarily by a desire to prevent the flow of people into the EU. Rather, more effort has to be put in to tackling the root causes causing people to migrate from their homes.

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