

THE IMPACT OF COVID-19 ON EU MEDITERRANEAN MIGRATION POLICIES THE CASE OF LIBYA

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ABOUT THIS REPORT

This report was commissioned and financed by the Friedrich-Ebert-Foundation (FES) as part of a collaboration with the Mixed Migration Centre (MMC). MMC was responsible for collecting and analysing the data, as well as authoring this report. The UK Foreign, Commonwealth and Development Office (FCDO) supported the collection of part of the data on which this study relies. This report is a contribution to MMC's vision that migration policies, responses and public debate are based on credible evidence and a nuanced understanding of mixed migration, placing human rights and protection of all people on the move at the centre. More specifically, it contributes to the second strategic objective of MMC, which is to contribute to evidence-based and better-informed migration policies and debates.

This report explores contemporary migration policies in Europe and Libya, particularly as a response to COVID-19, and analyses the impact these policies have had on the lives, experiences, and journeys of those crossing the sea to Europe and on refugees and migrants in Libya.

The information and views set out in this report are those of MMC and do not necessarily reflect the official opinion of the Danish Refugee Council (DRC) or any of the donors supporting the work of MMC or this report. Responsibility for the content of this report lies entirely with the MMC.

ABOUT MMC

The Mixed Migration Centre (MMC) is a global network consisting of six regional hubs (Asia, East Africa and Yemen, Europe, Latin America and the Caribbean, North Africa and West Africa) and a central unit in Geneva. The MMC is a leading source of independent and high-quality data, research, analysis and expertise on mixed migration. The MMC aims to increase understanding of mixed migration, to positively impact global and regional migration policies, to inform evidence-based protection responses for people on the move and to stimulate forward thinking in public and policy debates on mixed migration. The MMC's overarching focus is on human rights and protection for all people on the move. The MMC is part of, and governed by, the Danish Refugee Council (DRC). While its institutional link to DRC ensures MMC's work is grounded in operational reality, it acts as an independent source of data, research, analysis and policy development on mixed migration for policy makers, practitioners, journalists, and the broader humanitarian sector. The position of the MMC does not necessarily reflect the position of DRC.

For more information on MMC:

www.mixedmigration.org

ABOUT FES

Friedrich-Ebert-Stiftung (FES) is a non-profit German foundation funded by the Government of the Federal Republic of Germany, and headquartered in Bonn and Berlin. It was founded in 1925 and is named after Germany's first democratically elected President, Friedrich Ebert. FES is committed to the advancement of both socio-political and economic development in the spirit of social democracy, through civic education, research, and international cooperation. Friedrich-Ebert-Stiftung is the oldest political foundation in Germany.

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Acronyms

- AI** Amnesty International
- CDC** Community Day Centre
- COVID-19** Novel Coronavirus Disease 2019
- DC** Detention Centre
- DCIM** Directorate/Department for Combatting Illegal Migration
- DRC** Danish Refugee Council
- ECHR** European Court of Human Rights
- EEC** European Economic Community
- EMP** Euro-Mediterranean Partnership
- ENP** European Neighbourhood Policy
- EU** European Union
- EU NAVFOR MED** European Union Naval Force Mediterranean
- EUBAM** European Union Border Assistance Mission Libya
- EUTF** EU Trust Fund
- FES** Friedrich-Ebert-Stiftung
- GAMM** EU Global Approach to Migration and Mobility
- GNA** Government of National Accord
- INGO/NGO** International Non-governmental Organization
- IOM** International Organization for Migration
- LCG** Libyan Coast Guards
- LNA** Libya National Army
- LYD** Libyan Dinar
- MMC** Mixed Migration Centre
- MoU** Memorandum of Understanding
- MS** Member States
- MSF** Médecins Sans Frontières/ Doctors Without Borders
- PPE** Personal Protective Equipment
- SAR** Search and Rescue
- UN** United Nations
- UNHCR** United Nations High Commissioner for Refugees
- UNOCHA** United Nations Office for the Coordination of Humanitarian Affairs
- UNODC** United Nations Office on Drugs and Crime
- USD** United States Dollar
- VHR** Voluntary Humanitarian Return
- WHO** World Health Organization

Executive Summary

Given Libya's geographical position along the Central Mediterranean, it has had a long history of collaboration with Europe on migration management. Under Gaddafi's rule, Libya used migration as a political bargaining chip, and has since worked with Europe, and particularly Italy, to influence the national approach to migration management and to decrease irregular crossings of the Mediterranean.

As of 2020, and in an effort to contain the spread of COVID-19, some European Member States (MS) strengthened their attempts to reduce the arrivals of refugees and migrants departing from North African shores. Human rights groups expressed concern that the European Union (EU) and its MS were using the pandemic to deter migration and circumvent their international responsibilities to protect and uphold the rights of refugees and migrants.

This report examines how COVID-19 impacted EU migration policies and procedures in addition to MS operations around the Mediterranean (Objective 1). It further explores the role of Libyan migration actors and how they are implementing and supporting European migration policies and procedures, namely those enacted in the wake of the pandemic (Objective 2). It also assesses the impact that these policies and procedures have on the conditions and experiences of refugees and migrants in Libya, with a special focus on their migration planning and journeys (Objective 3).

The aim of this study's findings is to provide policy-makers in Europe and key stakeholders in Libya with evidence to inform their migration policies and procedures in the Mediterranean, while accounting for the impact that they have on the lives of refugees and migrants in Libya.

Key Findings

- **Europe continued to collaborate with Libya** on the management of migration by supporting and training the Libyan Coast Guards (LCG), **despite concerns raised by the European Court of Human Rights (ECHR) over continuing such support**, given the LCG's involvement in pushbacks and the violation of the principle of non-refoulement.
- At the time of data collection for this study, IOM data highlighted that the number of refugees and migrants returned to Libya by the LCG increased from 9,225 in 2019 to 11,891 in 2020 ¹. Such an increase further reflects the above-mentioned

¹ IOM (December 2020) [IOM Libya Monthly Update](#).

cooperation between the EU and Libyan authorities to prevent refugee and migrant crossings to Europe.

- **It is unlikely that COVID-19 impacted migration policies in the Mediterranean, but it has rather altered their implementation on the ground.** Examples reported in Europe include countries such as Malta and Italy using the pandemic as a justification to prevent arrivals as they denied entry to INGO rescue ships carrying refugees and migrants.
- **At the onset of the pandemic, Libyan authorities,** with the support of European actors, **put in efforts to close some detention centres** and enforce protocols to reduce the spread of the virus within refugee and migrant communities.
- **Refugees and migrants were highly impacted by the pandemic and the deteriorating security situation in the country.** Data collected for this report from 200 refugees and migrants show that 57.5% of surveyed respondents (n=115) agreed or strongly agreed that there has been an increased risk of arbitrary arrests and detentions since the outbreak of COVID-19. In addition, apart from the isolation of detainees suspected of having COVID-19, many detention centres remained over-crowded, thus unable to ensure physical distancing, and lacked appropriate hygiene and PPE throughout the pandemic crisis.
- **Measures to contain the spread of the virus in the country impacted the planning and journeys of refugees and migrants, as they limited their ability to move onward, potentially causing them to be stranded in Libya.** Additionally, data show that COVID-19 restrictions extended the time spent to reach the coast, as respondents cited tightened security along the Mediterranean and increased patrols, and reported a consequent increase in the cost of the journey to Europe, which rose from 1,500 LYD (1,095 USD) per person to between 3,000 and 5,000 LYD (2,190 to 3,649 USD).
- **Despite their awareness of migration policies and practices in Libya, and of the increased risk resulting from COVID-19 related measures, many surveyed refugees and migrants still plan to cross the sea to Europe.** Data show that 40% of respondents (n=80) decided to attempt to cross the sea in the following six months, which reflects their need to seek out protection and desire to improve their livelihoods despite the risks.

Recommendations

By contributing to existing knowledge about the situation of refugees and migrants amid the COVID-19 pandemic, the recommendations of this report aim to influence policy-makers and authorities with a view to improving national and regional migration management policies and agreements as well as their implementation.

For Libyan Authorities:

- Implement coherent policies and procedures that align with human rights standards and international law, including the compliance with the limits of each state's Search and Rescue (SAR) zone at sea.
- Provide alternatives to detention and ultimately revise the Libyan laws² that uses detention as a policy to counter irregular migration and decrease crossings to Europe.
- Engage wider groups of stakeholders in discussions on migration management and foster an environment of dialogue between local actors and the EU.
- Reinforce engagement and coordination among all relevant ministries, municipalities, and local authorities, and ensure information dissemination to all actors working on migration.
- Create a mechanism for local authorities to comply with human rights standards and international laws, and enforce accountability measures for violators through the national law.

For EU and EU MS:

- Support the Libyan authorities to better respond to COVID-19, with a particular focus on vulnerable groups, namely refugees and migrants.
- Provide funding to support humanitarian programmes based on actual needs, as opposed to conditionally funding programmes supporting migration policies.
- Require assistance to comply with human rights standards and international laws, and cease any assistance contributing to interceptions and returns to Libya, given that it is not a safe place.

² Namely, law No. (6) of 1987 on organising the entry, residence, and exit of foreigners in Libya, law No. (20) of 1991 on the promotion of freedom, law No. (19) of 2010 on combatting illegal immigration and law No. (10) of 2013 on the criminalisation of torture, forced disappearance and discrimination

For INGOs and UN agencies:

- Provide humanitarian assistance to refugees and migrants based on their identified needs, regardless of potential migration plans to move onward or return home.
- Improve advocacy efforts to ensure meeting minimum human rights standards.
- Strengthen communication and regular follow-up on policies and procedures between INGO staff working on migration and Libyan authorities.

Introduction and Rationale

Europe has long been considered as a refuge for people fleeing conflict and seeking better lives, which is why many crossed the Mediterranean Sea³ and sought protection following the geopolitical unrest in the Middle East and North Africa since 2011. This has led to an increase in the arrivals of refugees and irregular migrants to Europe.

Amnesty International (AI) argues that individual European MS and the EU are constructing a “Fortress Europe” to keep refugees and migrants from arriving, by protecting their borders in collaboration with countries of transit and origin⁴. Following the recent COVID-19 outbreak, human rights groups were concerned that the EU and its MS are using the pandemic as an excuse to deter migration and circumvent their international responsibilities to protect and uphold the rights of refugees and migrants⁵.

A report by the United Nations Office on Drugs and Crime (UNODC) finds that “COVID-19 measures will likely lead to an increase in migrant smuggling and human trafficking in the longer term”. This is not only because movement restrictions and border closures increase the need for smugglers to facilitate movement, but also because economic crises lead some to negative coping mechanisms to have livelihoods, thus increasing their vulnerability to being trafficked⁶. Indeed, a 2020 MMC report indicates an increased overall dependency on smugglers due to COVID-19, which is likely to increase people’s vulnerability to violence⁷. Another 2020 MMC report on the impact of COVID-19 on refugees and migrants revealed that many respondents lost their sources of income during the pandemic because they were reliant on daily work which was curtailed by COVID-19 movement restrictions⁸.

Political instability, insecurity, and the weak health system in Libya put it at a higher risk of the spread of COVID-19⁹. Refugees and migrants in detention centres as well as urban areas, where they often must live in overcrowded accommodations, are particularly vulnerable because conditions make implementing protective

3 IOM GMDAC (October 2020) Migration Data Portal.

4 Amnesty International (2014) The Human Cost of Fortress Europe.

5 Human Rights Watch (April 2020) EU/Italy: Port Closures Cut Migrant and Refugee Lifeline.

6 UNODC (May 2020) COVID19- measures likely to lead to an increase in migrant smuggling and human trafficking in longer term.

7 MMC (September 2020) COVID19- Global Thematic Update – Impact on of COVID19- on migrant smuggling.

8 MMC (October 2020) Impact of COVID19- on protection risks for refugees.

9 Health Sector Libya (March 2020) Coronavirus disease 2019 (COVID19-) preparedness and response plan for Libya.

measures extremely challenging¹⁰. For some, the perceived need to continue their journey to improve their livelihoods and seek out protection outweighs the risks involved in undertaking the dangerous sea crossing to Europe, now made even more difficult by movement restrictions imposed to halt the spread of COVID-19¹¹.

This report examines the impacts of COVID-19 on EU migration policies and procedures in the Mediterranean and investigates how the latter affected the conditions and experiences of refugees and migrants in Libya, focusing particularly on those attempting to cross the Mediterranean from Libya during the outbreak of COVID-19. The period in question runs from April up until December 2020, when data collection for this study was completed. Special attention will be paid to the EU and MS policies, measures, and procedures enacted to halt the spread of coronavirus, as well as the roles of Libyan migration and security actors in supporting them.

The findings herein seek to provide European policy-makers with evidence to inform their migration policies and procedures in the Mediterranean, while taking into consideration the impact that international policies have on the lives and mobility of refugees and migrants.

Objective 1: To understand how COVID-19 impacted the migration policies and procedures of the EU and MS with operations around the Mediterranean.

Objective 2: To examine how migration actors in Libya are managing migration and implementing EU migration policies and procedures, particularly those enacted following the COVID-19 outbreak.

Objective 3: To understand how refugees and migrants in Libya are being impacted by migration policies and procedures enacted in the wake of the pandemic, with particular reference to their migration planning and journeys.

2. Methodology

2.1 Data Collection and Analysis

This study uses a combination of qualitative and quantitative research methods to attain its objectives. First, it carries out an academic, policy, and programmatic lit-

¹⁰ UN OCHA (June 2020) Libya: COVID19- - Situation Report.

¹¹ UNHCR (May 2020) Conflict and pandemic drive more people to risk deadly sea route from Libya.

erature review on mixed migration in Libya and at sea to understand the migration, asylum, and security policy context around the Mediterranean. It then draws upon qualitative data from 15 key informant interviews with European and Libyan authorities, INGO workers in Libya and Europe, and refugee and migrant community leaders in Libya. These in-depth interviews, interpreted using thematic analysis, provide insight into policy processes, policy implementation in Libya, and human rights reporting mechanisms. Lastly, this study relies on quantitative data from the MMC’s data collection project, 4Mi¹², which includes a specific module for this research (see Annex for survey questions). The module looks at how refugees and migrants experience and perceive migration policies in general and migration policies enacted since the COVID-19 outbreak in particular, as well as how policies impacted the livelihoods and mobility of refugees and migrants. These data were collected via surveys with refugees and migrants in Libya between October and November 2020, and analysed using descriptive statistics, owing to the sample size.

Data	Description
200 surveys with refugees and migrants	<p>Respondents based in more than 20 cities in Libya, but primarily in Tripoli (n=71; 36%), Sebha (n=45; 23%), Ejdabiya (n=26; 13%), and Benghazi (n= 18; 9%), with other locations including Ghadames, Misrata, Alkhoms, and Bani Walid.</p> <p>Within the sample, women and men both accounted for 50% of respondents (n=100). The age group ranged from 19 to 50, with a median age of 30.</p> <p>Refugees and migrants surveyed were from 25 nationalities, with the primary nationalities including Nigerian (n=37; 19%), followed by Sudanese (n=27; 14%), Eritrean (n=20; 10%), Cameroonian (n=14; 7%), and Chadian (n=10; 5%).</p>
15 key informant interviews with migration stakeholders ¹³	<p>European officials (3), Libyan officials (2), INGO and UN staff in Libya (4), NGO staff in Europe (1), and refugee and migrant community leaders in Libya (5).</p> <p>Community leaders comprise 3 men and 2 women from Nigeria, Cameroon, Eritrea and Ghana.</p>

2.2 Limitations

The 4Mi survey samples refugees and migrants who are 18 years-old and above and who have been in Libya for less than two years. This is to capture the journeys and experiences of people who are actively on the move, rather than settled refugee and migrant populations, to whom the findings related to Objective 3 -on how

¹² 4Mi started in Libya in 2017, collecting primary quantitative data on mixed migration dynamics, including individual profiles; mixed migration drivers, intentions and aspirations; conditions and means of travel; interactions with smugglers; and protection abuses. In April 2020, the 4Mi survey was adapted to include a focus on the COVID19-pandemic, with questions on livelihoods, protection situation and journeys.

¹³ See annex for full list. Please note, 11 out of 15 informants wished to remain anonymous in contributing to this study.

refugees and migrants understand migration policies- cannot be extended. More importantly, the findings from this study should be treated with caution and cannot be generalized to all refugees and migrants within Libya, given the moderate sample sizes, the hidden nature of refugee and migrant populations in Libya, and the non-randomised nature of sampling.

2.3 Ethics

All surveys were recorded anonymously; no data was collected on respondents' names and other personally identifying information. All participants were informed verbally by monitors about the aim of the study as well as the research ethics prior to participating, including confidentiality and the right to withdraw. Due to safety measures put in place as a result of the COVID-19 pandemic and the importance of not using monitors, all recruitment and interviews of respondents took place over the phone or online. Moreover, the latest information from the World Health Organisation on measures to keep safe during the pandemic were shared with respondents in addition to information on the Protection Hotline in Libya.

3. Migration Policy Landscape in the Mediterranean

To understand how the migration policies and procedures of the EU and MS with operations around the Mediterranean were impacted by COVID-19, it is important to first analyse the migration policy landscape in the Mediterranean with a focus on North Africa pre-COVID-19, and then to understand the history of EU-Libya cooperation in relation to migration. This section therefore analyses the EU's approach in North Africa by looking at the various forms of cooperation and how they have evolved.

3.1 A Continuing Trend Towards Partnerships in Europe's Migration Policy Domain

Some researchers argue that the history of policy cooperation between the EU and North African countries may be divided into four stages starting from 1969, when ad hoc relations began with Morocco and Tunisia signing trade agreements with the EU. A second stage from late 1972 saw the emergence of "the Mediterranean" as a strategic policy region for economic purposes, through the European Economic Community (EEC) that included the strengthening of relations with North African countries and the introduction of the Global Mediterranean Policy

in 1972¹⁴. The third stage¹⁵ was marked by the signing of economic, technical, and financial cooperation agreements in 1976¹⁶, and the fourth stage emerged at the end of the Cold War, with the formulation of the Euro-Mediterranean Partnership (EMP) in 1995 -formerly known as the Barcelona process- which extended cooperation to issues of migration¹⁷. During the fourth stage of the 1990s, European countries introduced readmission agreements with third countries, including North African countries, and integrated the concept of "safe third country"¹⁸. The latter is defined as the return of asylum seekers to countries in which they previously found protection¹⁹, with respect to their liberty, safety, and the principle of non-refoulement, as well as the possibility to request refugee status²⁰.

These stages paved the way for the European Neighbourhood Policy (ENP) created in 2004, with 16 partners from the Southern Mediterranean and the Middle East²¹, and for an increasing trend towards EU transnational border controls and externalisation, by providing financial incentives to partners in exchange for reform and adherence to EU policies and procedures.

Under the framework of this trend, the EU Global Approach to Migration and Mobility (GAMM) was introduced in 2005, seeking to directly engage North African and other African countries in their migration policies. Yet, the approach was met with scepticism from EU MS and North African countries alike, as most had already entered into readmission agreements serving their interests. For instance, Morocco refused to sign with the EU for several years, as it was bilaterally cooperating with many EU member states, including Italy, France, Spain, and Germany²².

This trend continued throughout 2020 in Libya and the broader North African region. An EU official interviewed for this study maintained that since "EU MS could not reach an agreement to build a migration and asylum system based on solidarity and fair sharing of responsibilities", the EU sought to "leave to them [Libyan authorities] part of the responsibility for managing migration flows and borders". This implies that Libya does not only support EU interests in the country, but also implements EU policies and procedures on behalf of it and assumes responsibility of the externalisation approach in North Africa when the EU is unable to do so on its own.

14 Federica Bicchì (2010) *The Impact of the ENP on EU-North Africa Relations: The Good, the Bad and the Ugly*.

15 Ibid.

16 Europe Information Development (1982) *Cooperation Agreements between the EEC and the Maghreb Countries*.

17 Federica Bicchì (2010) *The Impact of the ENP on EU-North Africa Relations: The Good, the Bad and the Ugly*.

18 Paolo Gaibazzi et al. (2017) *EurAfrican Borders and Migration Management*.

19 UNHCR (2015) *The Sage Third Countries Concept in International Agreements and Refugee Protection*.

20 EU Commission - Glossary.

21 Partner countries are Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied, Palestinian Territory, Syria, Tunisia and Ukraine, according to Will James, Civitas (2006) *European Neighbourhood Policy*.

22 Statewatch (2012) *The Global Approach to Migration and Mobility: the state of play*.

3.2 The Emergence of Libya as the “Gateway” to Europe

Libya under Gaddafi’s regime rose in prominence in the 1970s as a destination country for Arab and Sub-Saharan migrants due to relatively open migration policies seeking to attract migrant workers. In the early 2000s, however, Gaddafi began increasingly using migration as a political bargaining tool with the EU. Some researchers argue that Gaddafi’s shift in approach in the 2000s was one of “coercive migration diplomacy”, which pressured Italy to convince the EU to remove economic sanctions against Libya in exchange for reducing irregular crossings to Italy²³. In a key informant interview, a researcher from Statewatch pointed to this timing as pivotal for the EU’s thinking in the region, as they saw Libya’s “open-door policy” towards its neighbours as a threat to their borders. Consequently, the first EU mission to Libya took place in 2004, and the European Council undertook various intergovernmental attempts on external border management between 2001 and 2003. There was a clear need to have a shared migration policy, which led to the establishment of a joint agency in 2004; the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)²⁴.

The agency has been highly criticised by human rights groups for its activities revolving around enforcing border controls, with some suggesting that “the activities of the agency may be playing a significant role in the securitisation of asylum”²⁵. Securitisation of asylum is defined as “constructing refugees as a societal threat”, which leads to stricter migration policies that are less aligned with international refugee law²⁶. In March 2020, Alarm Phone reported that Frontex aircrafts were informing Libyan authorities about the precise locations of refugee and migrant boats in distress in Maltese waters, which facilitated their return to Libya.

The average number of migrant crossings from Libya to Europe between 2003 to 2012 was about 23,000 a year, with the vast majority arriving to Italy and some to Malta²⁷. As a result, Italy started bilateral discussions with Libya, leading to an informal agreement on charter flights to return “undocumented migrants” who arrived in Italian islands back to Libya. More than 3,000 migrants are estimated to have been returned between 2006 and 2008²⁸.

23 Gerasimos Tsourapas (March 2017) Migration diplomacy in the Global South.

24 Frontex Website – Frontex Origin and Tasks.

25 Sarah Léonard (2010) EU border security and migration into the European.

26 Dylan O’Driscoll (2017) Managing risks in securitisation of refugees.

27 BBC (July 2018) How Libya holds the key to solving Europe’s migration crisis.

28 Emanuela Paoletti and Ferruccio Pastore (December 2010) Sharing the dirty job on the southern front? Italian–Libyan relations on migration and their impact on the European Union.

Consequently, in late 2008, Italy signed a friendship pact with Libya with a focus on border controls and migration²⁹. The implications of the pact included providing training and supplies to the Libyan government during Gaddafi's time and the creation of detention centres, while having the Italian Coast Guard present at sea to return migrants crossing the Mediterranean³⁰. This was reflected in a court case for the ECHR, which showed that Italy conducted nine operations during 2009 to intercept more than 471 migrants at sea and return them back to Libya, as part of the bilateral agreement between both countries³¹.

The pact was later criticized for violating the principle of non-refoulement and leading to "mass expulsions and an increase in detentions". International organisations argued that the EU helped create "one of the most damaging detention systems in the world" in furthering its externalisation approach³². In the same key informant interview, this point was underscored by stating that in the 2000s, before the 2011 uprising, "they [the EU] were insisting on places of detention being set up, even though they got worse since there are all kinds of different criminal organisations taking over some informal camps in Libya", thus, "the EU's role cannot be underplayed" in relation to shaping Libyan migration procedures.

In sum, since the early 2000s, the EU and particularly Italy have had a role in shaping Libya's migration system into one that treats migration as a matter of security and considers that Libya plays a key role in disrupting irregular migration from sub-Saharan Africa towards Southern Europe. Libya, for its part, has displayed a willingness to play this role and an alignment with Europe's position, seeing opportunities within issues of migration for political positioning and foreign investment³³.

3.3 Consolidation of EU-Libya Cooperation on Migration and the Growth of Libyan Migration Policies Criminalising Migration

2011 was marked by popular uprisings across North Africa. In Libya, these uprisings started in February and resulted in intensified conflict and the ousting of Gaddafi from power in October. The conflict heavily impacted migration dynamics in Libya, as the International Organisation for Migration (IOM) estimated that a

29 DCAF (2009) Law No (2) of 1377 FDP/2009 AD on ratifying the Treaty of Friendship, Partnership, and Cooperation between the Great.

30 Moustafa O. Attir (September 2018) North African Regular and Irregular Migration: The Case of Libya.

31 ECHR (February 2012) Case of Hiri Jamaa and others v. Italy.

32 Global Detention Project (February 2015). Immigration Detention in Libya

33 For instance, under the 2008 treaty with Italy, ENI (the Italian energy company) was to pay 15bn euros to build a superhighway crossing the north African desert coastline, linking Libya with its neighbours Tunisia and Egypt.

See Natalino Ronzitti (2011) The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: New Prospects for Cooperation in the Mediterranean?

total of 790,000 migrant workers left Libya to escape the war, 3.9% (27,465) of whom arrived by boat to Italy and Malta³⁴.

Out of concern about the conflict's impact on departures from Libya and the upholding of migration agreements signed under Gaddafi, Italy signed a new deal with The Libyan Transitional Government in April 2012³⁵. This was despite the ECHR raising concerns over continuing such migration agreements given their implications for pushbacks and the violation of non-refoulement³⁶. Again, Italy signed a new Memorandum of Understanding (MoU) in 2017 on border controls with the UN-backed Government of National Accord (GNA) of Libya³⁷. However, despite its international recognition as the main government of the country, the GNA did not have control over all territory and institutions³⁸.

On the other hand, the Libyan National Army (LNA), under the command of General Khalifa Haftar, allied with the Interim Government and Libya's legislative body, the House of Representatives, and took over control of the East and South of Libya³⁹. This was in opposition not only to the GNA, but also to the deal on migration with Italy, with the LNA stating that they would repel "any naval vessel that enters national waters without permission from the army"⁴⁰.

The deal between Italy and Libya was in line with a new programmatic document that the EU introduced to the GAMM, which encouraged mobility partnerships with North African countries as an instrument for implementation⁴¹. This reflects the agreement of both Libya and the EU to continue with the same approach that was adopted by Gaddafi and Italy in 2008 to reduce irregular crossings to Europe, without any consideration for the impact of the conflict on local authorities in Libya and on their ability to manage migration with respect to human rights and international laws.

In February 2020, the Libya-Italy MoU was renewed for three more years, which contributed to the interception and return of almost 40,000 people at sea back to Libya since its signing in 2017⁴². Efforts to change the terms of the agreement continued by international organisations and the UN Secretary-General, and included declaring Libya's port as unsafe for the disembarkation and return of migrants⁴³. In addition, the Council of Europe Commissioner for Human Rights has

34 IOM (2012) Migrants Caught in Crisis: The IOM Experience in Libya.

35 Ibid.

36 Amnesty International (June 2012) Italy must sink agreements with Libya on migration control.

37 Istituto Affari Internazionali (October 2017) The Italy-Libya Memorandum of Understanding.

38 Human Rights Watch (2017) Libya Event of 2016.

39 Human Rights Watch (2018) Libya Events of 2017.

40 BBC (2017) Migrant crisis: Libya strongman Haftar warns Italy over ships.

41 A. Geddes & L. Hadj-Abdou (2017) Changing the path? EU migration governance after the 'Arab spring'.

42 Human Rights Watch (February 2020) Italy: Halt Abusive Migration Cooperation with Libya.

43 UN Security Council (January 2020) Report of the Secretary General.

called on Italy to suspend their cooperation with the LCG until a guarantee of human rights compliance be in place⁴⁴. The LCG is part of the Libyan Navy and is under the ministry of defence, and because it mostly consists of former militias, there are many reported incidents and accusations against their work with refugees and migrants which include human rights violations⁴⁵.

An interviewed Libyan official highlighted the perception that since 2013, “[EU officials] were only dealing with Libya as police, only for arrests, rescues, detention and repatriation”. Moreover, they spoke of the perception by Libyan authorities that the EU support to protection and livelihoods programming for refugees and migrants in Libya is part of a larger aim to settle these populations in the country. This suggests that while Libya’s migration policies and procedures in relation to decreasing irregular Mediterranean crossings are in alignment with and supported by the EU, there exists some points of divergence around the situation of refugees and migrants in Libya.

In 2017, a joint task force by the African Union, EU, and the UN was created, and as part of its activities, the EU worked towards supporting the Libyan authorities within the Directorate/Department for Combatting Illegal Migration (DCIM), -under the Ministry of Interior of the GNA⁴⁶- to ensure the unimpeded access of NGOs and international organisations to detention centres. Additionally, and despite continued support to detention centres, the EU has also worked towards the longer-term objective to end the systematic detention of refugees and migrants⁴⁷. Moreover, as the Libya conflict intensified in 2019, the EU also worked with UN agencies and INGOs to repeatedly call for Libyan authorities to close detention centres⁴⁸, even though it has supported migrant and refugee interceptions and returns to Libya.

As such, contemporary EU migration policies and procedures towards Libya can be seen as contradictory and both aligned and misaligned with Libya’s approach to migration management based on criminalising irregular migration and using detention as a policy to manage refugees and migrants in the country. Within this complex picture, it is not clear where the direction of influence lies or whether migration policies and procedures are intentionally complex and opaque.

To sum up, the EU and MS have a strong history of collaboration around migration policies with North Africa and Libya in particular. Since the early 2000s, the EU

44 Commissioner for Human Rights (January 2020) Commissioner calls on the Italian government to suspend the co-operation activities in place. with the Libyan Coast Guard that impact on the return of persons intercepted at sea to Libya.

45 InfoMigrants (2019) When helping hurts. Libya’s controversial coast guard, Europe’s go-to partner to stem migration.

46 DCAF - LBY Security Legislation (2014) Decree on establishing the Anti-Illegal Immigration Agency.

47 African Union (December 2017) Joint AU-EU-UN Taskforce Meeting to Address the Migrant Situation in Libya.

48 Middle East Eye (July 2019) EU says refugee detention centres in Libya should be closed.

and MS have worked together with Libya as an extension of their own regional and national approach to migration management, with both sides seeing Libya as a “frontline” for migration and considering migration as an issue of regional security since Libya is supported to police the Mediterranean and prevent arrivals to Europe. In the 2010s, Libya enacted policies criminalising irregular migration, namely law No. 19 of 2010 on combatting illegal immigration, which subjects migrants to penalties and detention if they do not legalise their stay⁴⁹.

Moreover, EU policies and procedures around issues of detention are contradictory since they call for the end of detention while at the same time supporting detention centres and returns to Libya where refugees and migrants are detained upon disembarkation. This reveals the limits of the EU’s policy influence.

4. Mediterranean Migration Policies and Procedures since the Outbreak of COVID-19

This chapter examines the migration policies and procedures of the EU and EU MS as well as their Libyan counterparts since the outbreak of COVID-19 and until the end of 2020. This is to understand the extent to which the pandemic may have affected them (Objectives 1 and 2). In so doing, it considers whether the pandemic paved the way for a policy shift –and its nature and direction– or a policy entrenchment, or whether it had no apparent effect on the migration policy domain.

4.1 Continuation of Migration Policies and Procedures Aimed at Reducing Mediterranean Crossings

In March 2020, operation IRINI started after the expiry of Sophia –formerly known as the European Union Naval Force Mediterranean (EU NAVFOR Med). The latter founded in 2015 as a naval mission to disrupt the business model of migrant smuggling in the area and thus reduce irregular migration from North Africa to Europe. However, as the mission evolved, it was also taking part in search and rescue operations that saved the lives of thousands of refugees and migrants stranded at sea⁵⁰. This was criticised as a “pull factor” for migration by some member states⁵¹, although no evidence exists to support such a claim⁵². IRINI, the successor, is a

49 DCAF (2010) Law No. (19) of 2010 on combatting illegal immigration.

50 ECRE (March 2020) Last Breath of Operation Sophia Should Push Coalition of the Willing.

51 Modern Diplomacy (February 2020) The ending of Operation Sophia: The EU sway from its Human Security approach.

52 Eugenio Cusumano & Matteo Villa (September 2020) From “Angels” to “Vice Smugglers”: the Criminalization of Sea Rescue NGOs in Italy.

military mission to primarily monitor the United Nation's arms embargo in Libya, but also to train LCG to disrupt human smuggling and trafficking networks⁵³. This training by the EU has been criticised for not including enough material on human rights protection but instead focussing on addressing human trafficking, interrogation, and documentation techniques⁵⁴.

Although IRINI's vessels are obliged by international law to rescue refugees and migrants stranded at sea, the operation does not mention sea rescues as part of its mandate. Additionally, some MS have once more stressed the "pull-factor" generated by such missions at sea, stating that if IRINI appears to have any impact on migration, then ships would be withdrawn from the Mediterranean⁵⁵.

IRINI represents a heavier-handed approach to reducing irregular migration, but it was in development long before the spread of COVID-19. Nonetheless, there is evidence that the pandemic had an impact on its implementation. Malta, for instance, stated that it "will veto decisions on Operation IRINI that concern the expenses of procedures for disembarkation of migrants" because it wants to keep refugees and migrants from disembarking at its ports owing to the pandemic, and because of a lack of responsibility-sharing in the relocation of refugees and migrants after disembarkation⁵⁶. The Maltese government thus used its concerns around the spread of COVID-19 to bolster its existing grievances related to the lack of European solidarity and close its territory off to arrivals.

April 2020 saw the continuation of securitised approaches to migration management in Libya, with IOM and the European Union Border Assistance Mission to Libya (EUBAM) signing a new MoU to support the Libyan government with security reform, border management, and law enforcement, as per EUBAM's mandate since its creation in 2013 as a civilian mission in Libya⁵⁷. Likewise, in September 2020, the European Commission launched a proposal for the New Pact on Migration and Asylum, which reiterates the need to partner with key third countries of origin and transit to counter irregular migration and the smuggling business⁵⁸. The impact of this pact is not yet evident, yet, in a key informant interview, EU Member of Parliament Clare Daly maintained that:

53 European Council (March 2020) EU launches Operation IRINI to enforce Libya arms embargo.

54 Access Info (November 2017) Disclosed documents reveal that EU training of Libyan Coast Guard makes negligible reference to human rights protection.

55 Human Rights Watch (February 2020) EU Turns Its Back on Migrants in Distress

56 Malta Today (May 2020) Malta vetoes Irini spending after withdrawing from EU naval mission

57 EU Council (April 2020) Libya: European Union Border Assistance Mission and International Organization for Migration deepen cooperation

58 European Commission (September 2020) EU New Pact on Migration and Asylum

“ The unspoken but foundational policy of ‘keeping migrants out of Europe at any cost’ without question has the greatest impact on the migration dynamics in the Med and in Libya today. This policy will be codified and given further energy by the new Migration Pact, with its heavy emphasis on border externalisation. Border externalisation is the reason migrants are trapped in Libya, it’s the reason for pushbacks...in the Mediterranean, and the reason for the abandonment of SAR ”

These brief examples show that since the outbreak of COVID-19 in early 2020, security approaches to migration management in the Mediterranean have continued unabated. While the pandemic is unlikely to have had an impact on the content of policies, which are a result of longer-term political processes and trends, there is evidence to suggest that it has affected the implementation of these policies. The example of Malta shows COVID-19 being used to strengthen positions against greater acceptance of refugees and migrants and to prevent arrivals.

4.2 European Port Closures and Returns to Halt the Spread of COVID-19

European migration restrictions to halt the spread of COVID-19 have also had an impact on mixed migration through Libya, with increased constraints on those still attempting the sea crossing. Such procedures started with Italy and Malta declaring their ports unsafe for disembarkation due to the pandemic, followed by Germany calling on humanitarian rescue vessels to halt their operations at sea⁵⁹, and then Greece refusing a boat carrying 175 refugees and citing a ban on entry due to COVID-19. At the same time, NGO rescue ships were detained by Italian authorities five times between May and September 2020, which disrupted their ability to respond to boats in distress⁶⁰. Rescue operations were conducted by private commercial vessels to make up for this gap and for the absence of state-led SAR capacity. Yet, these were also refused disembarkation when they rescued migrants. A case in August marked a record for keeping a group of refugees and migrants for 40 days at sea until the humanitarian situation deteriorated and Italy allowed them to disembark⁶¹.

An Amnesty International report recounts an incident upon which Malta did not rescue refugees and migrants at sea and instead used “illegal tactics” to return them to Libyan shores. AI adds that Maltese authorities are using COVID-19 as a “pretext” to declare their ports unsafe for disembarkation, going so far as to contract a commercial boat to return a group of 51 people stuck at sea to Libya. AI argues that “the

59 The New Humanitarian (April 2020) How COVID19- halted NGO migrant rescues in the Mediterranean.

60 MSF (September 2020) Detainment of fifth search and rescue ship in five months condemns people to die at sea.

61 BBC (September 2020) Migrants allowed off Maersk tanker after 40 days at sea.

abusive practices by Malta are part and parcel of wider efforts by EU member states and institutions to outsource the control of the central Mediterranean to Libya⁶². A humanitarian worker interviewed for this study also highlighted a case that took place in May, when a group of 135 Sudanese migrants were returned by the LCG from Maltese waters to Libyan shores where they would enter Libya's detention system. This key informant maintained that "this is one of the hypocrisies in their policies, maybe their excuse is that they don't want to let them in because of COVID-19, but this was a dirty political deal".

At the time of data collection for this study, IOM estimated that 11,891 refugees and migrants were returned to Libya in 2020⁶³. This marks a considerable increase from the 9,225 returns in 2019⁶⁴. The increase reflects the continued cooperation between the EU and Libyan authorities to prevent refugee and migrant crossings to Europe, and may also suggest that the pandemic has provided EU MS with greater means to refuse entry. In addition to the closing of ports and the absence of state-led SAR, "COVID-19 has served as a pretext to further entrench and normalise detention as a migration policy", an interviewed EU Member of parliament stated.

4.3 Perception of Policy Shifts in Libya and Europe

Eight interviewed key informants, including Libyan and European officials, humanitarian workers, and one researcher, noted that COVID-19 had not prompted policy change around Libyan borders (both maritime and land). Instead, a researcher at Statewatch explained that Europe continues to prevent refugee and migrant crossings from Libya and is using COVID-19 as a justification for such actions. The key informant added that this discourse that "migrants are carrying infections" has been used by the far right to support denying access to Europe for refugees and migrants.

While migration policies may not have changed, an interviewed EU official did note that MS changed procedures to comply with their health rules during the pandemic, which in some cases failed "to guarantee both health security and the respect of the rights of migrants". This aligns with one example provided by the aforementioned researcher from Statewatch, who said that the EU had used ships for quarantine, which put refugees and migrants at greater risk of exposure. This

62 Amnesty International (September 2020) Malta: Illegal tactics mar another year of suffering in central Mediterranean.

63 At the time of publication in August 2021, the number of returns to Libya in 2021 have reached 21,639, according to UNHCR.

64 IOM (December 2020) IOM Libya Monthly Update.

researcher maintained that refugees and migrants who tested positive on the European mainland were brought onto the quarantine ships, and that one migrant under 18 years old lost his life because he was made to wait for 10 days before he was disembarked, due to the insufficient medical facilities on the ship. In such manner, COVID-19 health procedures had, at times, significant consequences on the lives and human rights conditions of refugees and migrants undertaking the journey across the Mediterranean.

4.4 Migration Management by Libyan Authorities since the Outbreak: Interceptions and Detention

Since April 2020, Libya's governing of migration has changed, including the appointment of a new Minister of Interior and a new Head of DCIM. An interviewed Libyan official explained that the Ministry of Interior is making strides in their migration management by following the recommendations of the newly-formed Human Rights and Freedoms Committee. The latter sits at the level of the House of Representatives in Tripoli and is tasked with formulating migration strategies, including on committing to operating SAR strictly within Libyan waters and not in European waters. Similarly, a humanitarian worker highlighted in an interview the improved coordination between the LCG and the General Administration for Coastal Security (GACS), which increased efforts to dismantle smuggling networks.

While there is no evidence that Libya's actions are its own, they do represent a continuation and strengthening of objectives shared with the EU to reduce irregular sea crossings.

In terms of Libya's detention policies, the interviewed humanitarian workers noted that following the COVID-19 outbreak, some official detention centres were closed, and refugees and migrants were released due to fears of an outbreak amongst detainees. However, they emphasised that these measures were taken by individual managers of detention centres who utilized their jurisdiction. On the other hand, there is evidence to suggest that discussions are indeed taking place with high-level officials in Libya, which shows engagement between ministries despite the instability within the Libyan government.

A Libyan official from the Ministry of Justice explained in an interview for this paper that the ministry had taken certain coordinated measures in response to the pandemic. These included a decree by the Supreme Judicial Council to release vulnerable migrants from detention centres during the outbreak and intensified

conflict in Tripoli, resulting in the release of 245 refugees and migrants who were older than 60 years or had a health condition. This was done in coordination with the embassies of refugees and migrants, namely Tunisia, Somalia, Ethiopia, Ghana, Niger and Senegal, and with IOM to plan their return. An interviewed Libyan official stated that the Ministry of Justice and Ministry of Interior managed to close three detention centres during the conflict, which coincided with the COVID-19 outbreak, claiming that these were state-led initiatives, while an EU official on the other hand reported this as an achievement led by EU engagement efforts. As of November 2020, around 2,024 refugees, asylum seekers, and migrants were reported to be in official detention centres⁶⁵.

Authorities at some centres limited outside visits to detainees as a COVID-19 prevention measure, in addition to providing regular testing and specific rooms in detention centres for suspected cases. It must again be stressed that these measures were not systematically rolled out at all detention centres, and many centres remained over-crowded, lacked the ability to impose physical distancing, and lacked appropriate hygiene and PPE throughout the pandemic.

Considerable variations exist in key informant interviews on detention policies. They are related to the fragmented nature of Libyan detention procedures and to the domestic and international actors engaged in agenda setting. Nevertheless, there appears to be agreement by some Libyan and European actors that the detention of refugees and migrants as a strategy to stop the spread of COVID-19 is decreasing. This means that detention is less of a key risk factor for the spread of COVID-19.

Nonetheless, it is not clear to what extent agreement by higher-level decision-makers can be streamlined from ministries down to actors involved in the implementation of Libya's migration policies. For instance, and due to the general state of insecurity in Libya, it is uncertain that agreements are effective in influencing the existence of unofficial detention centres and in monitoring the conditions inside them.

65 UNHCR (November 2020) Libya Update.

5. Impacts on the Lives of Refugees and Migrants in Libya

According to IOM, as of December 2020⁶⁶, there were 574,146 refugees and migrants in Libya⁶⁷, including 44,725 refugees and asylum seekers registered with UNHCR⁶⁸. From early 2020 and up until June 2020, the conflict in Libya escalated and the humanitarian situation became more complex, both for Libyan civilians and refugees and migrants, due to the COVID-19 outbreak. Medical facilities, schools, and migrant detention centres were continuously targeted and bombed⁶⁹. Refugees and migrants in the urban community were particularly vulnerable because they are largely reliant on daily/casual work which has been impeded by movement restrictions to halt the spread of the virus. This is in addition to the pre-existing risks they experience in relation to detention and protection violations⁷⁰. Nevertheless, refugees and migrants still embark on the journey to Europe by crossing the Mediterranean Sea.

In November 2020, the Italian Ministry of Interior reported that 15,136 refugees and migrants had reached Italy and Malta from Libya in 2020⁷¹, though many were from North Africa and parts of Asia and the Middle East. There were 729 recorded deaths across the route to Europe⁷².

The following sections examine the impact of COVID-19 and associated movement restrictions and measures implemented by Libyan authorities on refugees and migrants across various themes, drawing upon 4Mi surveys with refugees and migrants conducted between October and November 2020, as well as key informant interviews with migration stakeholders. The first sub-section examines the impact on refugee and migrant protection, and more specifically detention. The second examines the impact on migration journeys and planning, while the last seeks to better understand where and from whom do refugees and migrants in Libya obtain information on migration policies.

66 At the time of publication, the most recent reports by IOM and UNHCR indicate that there are 597,611 refugees and migrants in Libya, including 42,210 refugees and asylum seekers registered with UNHCR, as of August 2021.

67 IOM DTM (December 2020) Libya Migrant Report.

68 UNHCR (December 2020) Libya Fact Sheet.

69 UN OCHA (April 2020) Libya Situation Report.

70 MMC (October 2020) Impact of COVID19- on protection risks for refugees.

71 At the time of publication in August 2021, IOM report indicates that 20,810 refugees and migrants have reached Italy and Malta from Libya in the first half of 2021.

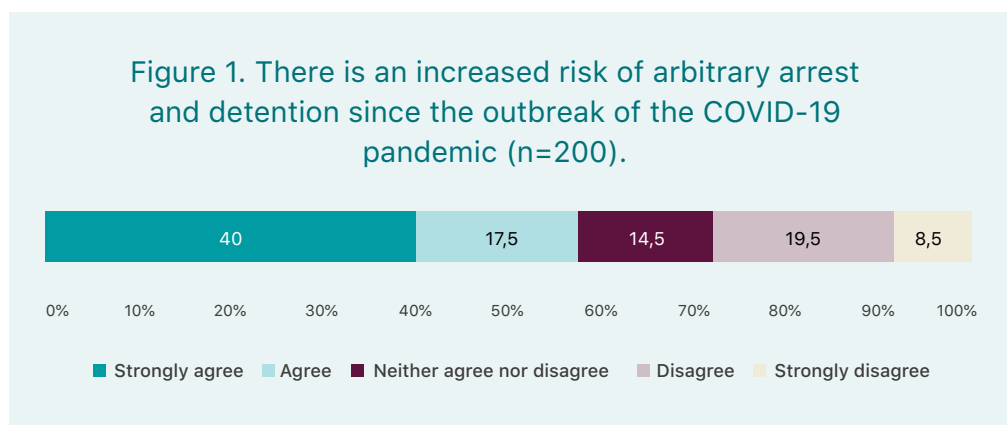
72 IOM (November 2020) IOM Libya Monthly Update.

5.1 Impact on Protection

Arbitrary arrest and detention

Despite the aforementioned efforts by Libyan authorities and the EU at the onset of the pandemic, namely, the closing of some detention centres and the release of some detainees, IOM called 2020 “the worst year” for refugees and migrants in Libya. They added “we [IOM] are losing track of people, because there are disappearances because of the continued conflict” and the absence of European SAR operations at sea⁷³. An interviewed migrant community leader in Tripoli noted that the COVID-19 situation for refugees and migrants is particularly risky, given that if a refugee or migrant tests positive, he or she will be taken to a detention centre either in solitary confinement or with others who have tested positive. This was corroborated by a Libyan official as a new measure in response to the pandemic.

When surveyed refugees and migrants were asked if they thought there had been an increase in arbitrary arrest and detention since the outbreak of the COVID-19 pandemic, 57.5% of respondents (n=115) agreed or strongly agreed (Figure 1).



Along with the increasing risk of being detained, reports suggest no improvement inside the centres to protect against COVID-19 exposure⁷⁴. In a key informant interview, a humanitarian worker noted that “the over-crowding is still there...also, there’s no respect for the privacy, humanity, and dignity of the person. There’s no privacy at all. To use the bathroom, you have to wait in lines and so on”.

⁷³ Independent (September 2020) ‘Left to rot’: Inside Libya’s squalid detention centres where migrants and refugees suffer a ‘slow death’.

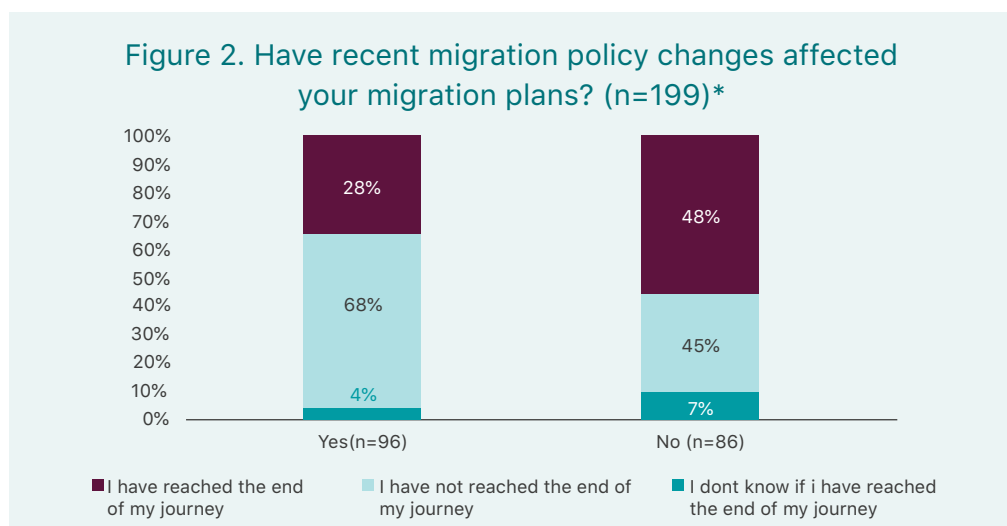
⁷⁴ Independent (September 2020) ‘Left to rot’: Inside Libya’s squalid detention centres where migrants and refugees suffer a ‘slow death’.

5.2 Impact on Migration Journeys and Planning

Internal and external border closing in Libya have impacted migration journeys and planning, as they have constrained the ability of refugees and migrants to return or move onward. Interviewed refugees and migrants highlighted that only those who have legal documentations have the ability to move freely: “It makes life very difficult for undocumented migrants because we don’t always have rest of mind, most especially when we want to go to a very far place, we are always afraid” reported a man from Nigeria in Tripoli.

With regards to the migration routes within Libya, some surveyed refugees and migrants stated that the tightened security situation inside the country is affecting the number of days spent to reach the Libyan coast, where they plan to depart to Europe. Others spoke of the UNHCR’s suspension of their resettlement and evacuation programmes and IOM’s suspension of their Voluntary Humanitarian Return (VHR) programmes⁷⁵ because of the pandemic while they have both resumed their operations since August 2020⁷⁶.

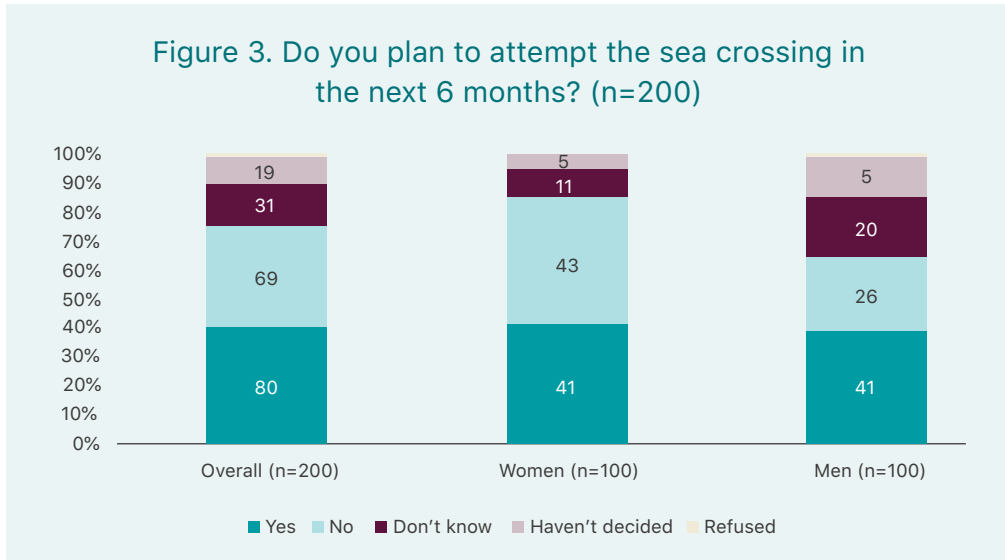
Nearly half of the surveyed refugees and migrants (48%; n=96) noted that recent migration policies and procedural changes influenced their migration planning. When asked if they have reached the end of their journey, slightly more than half of respondents noted that they have not yet reached the end of their journey (Figure 2), which means that they aspired to move onward and not stay in Libya. Furthermore, when respondents were asked about their onward journey to better understand the impact of procedural changes on their migration planning, 40% (n=80) noted that they decided to attempt the sea crossing in the next 6 months (Figure 3).



75 IOM (March 2020) IOM, UNHCR announce temporary suspension of resettlement travel for refugees.

76 IOM (August 2020) IOM Libya August Update.

*14 respondents did not know if recent migration procedural changes have affected their migration plans, while 3 other respondents refused to answer this question.



There was gender parity between those who had decided to cross the sea. Among those who were undecided about their migration planning in terms of crossing the sea, undecided men (n=20; 20% of men surveyed) outnumbered women (11%; n=11).

Key informant interviews with humanitarian workers suggest that migration planning decisions vary from one community to another. For example, they find that East Africans, and Eritreans in particular, are more determined to make the sea crossing to Europe. “Since the COVID-19 situation, I find it very hard to work, eat, and pay house rent, that’s why I decided to go to Europe” an Eritrean man in Tripoli reported. This was corroborated in the quantitative data, although they should be taken with caution given the low sample size. Eritreans (11/20) were among the nationalities that most often responded “Yes” to the question “Do you plan to attempt the sea crossing in the next 6 months?”. Other top nationalities included Nigerians (10/37), and Cameroonians (7/14).

Key informants also suggested that COVID-19 may have impacted the cost of the sea crossing from the Libyan coast to Europe, which rose from 1,500 LYD (1,095 USD) per person to between 3,000 and 5,000 LYD (2,190 to 3,649 USD)⁷⁷. Some reported that such an increase is linked to tightened security along the Mediterranean with active sea patrols, likely on the part of the LCG. It should be noted that most surveyed refugees and migrants cannot differentiate between the various

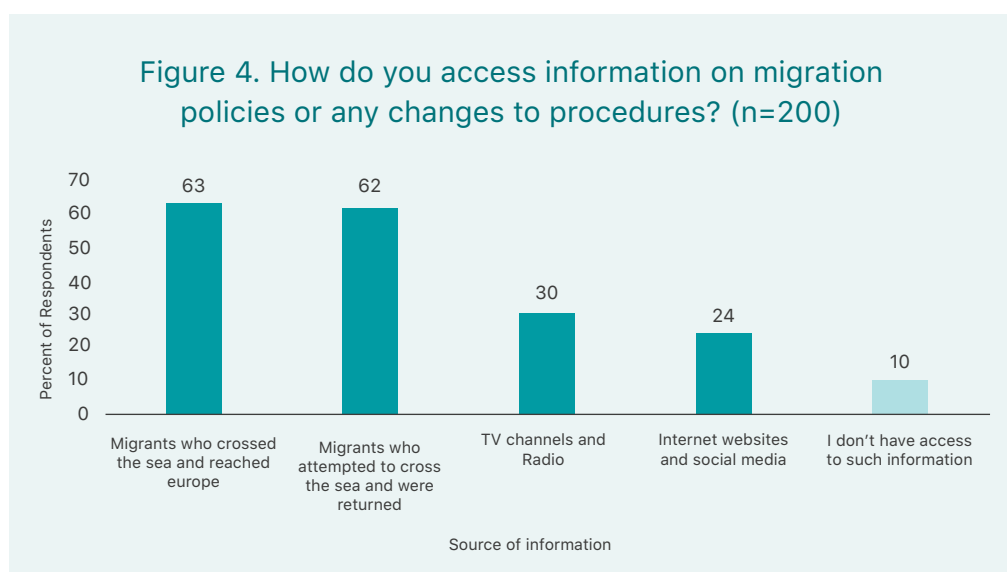
⁷⁷ The USD-LYD exchange rate used is the official rate by the Central Bank of Libya at the time of writing the report, between 1.3 to 1.5.

actors at sea, their affiliation, and whether they were operating in Libyan or European waters.

5.3 Understanding of the Role of Policy in Migration Journeys and Planning

Many of the surveyed refugees and migrants were generally aware of migration policies and practices in Libya, including interceptions and returns at sea, detention, and deportations. When asked about the impact of COVID-19 on migration policies in Libya and at sea, a limited number of respondents (44%; n=87) noted related changes to policies and procedures. A Burkinabe man in Sebha stated “I also heard migrants who are about to cross say that European Union has given the Libya authority money to stop migrants from entering Europe” (Burkinabe, Sebha). However, when asked if migration policies in Libya and the Mediterranean Sea impacted their migration journey to Libya, 62% of respondents (n=124) agreed or strongly agreed that they had an impact.

In terms of access to information, surveyed refugees and migrants highlighted that they most often received information on migration policies and changes in procedures from peers who had successfully arrived in Europe via a Mediterranean crossing (Figure 5). Ten percent of surveyed refugees and migrants noted not having access to information on migration policies or changes in procedures. For information about detention centres, interviewed community leaders noted receiving information from their embassies or from detainees who have phones. They in turn share the information with their community through designated WhatsApp groups, face-to-face meetings, and phone calls. A few others reported accessing information through smugglers.



In sum, surveys and interviews with refugees and migrants reveal a perceived increase in the risk of deportation, detention, and arrest, which in turn has constrained their mobility and ability to seek livelihoods. Nonetheless, the majority of refugees and migrants remain aware of migration restrictions, including those related to COVID-19, and many still plan to attempt to cross the sea. This suggests that their need to seek protection and better opportunities in Europe outweighs the risks involved in crossing the sea and in potentially getting exposed to the virus.

Conclusion

This report examined how migration policies and procedures of the EU and EU MS with operations around the Central Mediterranean have been impacted by COVID-19 (Objective 1), in addition to exploring the role of Libyan migration actors in supporting these migration policies and procedures (Objective 2). Further, it assessed the impact that EU and Libyan policies have had on the conditions and experiences of refugees and migrants in Libya, with a special focus on their migration planning and journeys (Objective 3).

The study found that the EU and its MS have a strong history of collaboration around migration policies with North Africa and particularly with Libya, due to its active role in the region since the 1990s. As it became a key country of destination for many migrant workers at that time, it began criminalising irregular migration and created the system of detention. Supported by European counterparts, Libya policed the Central Mediterranean.

Securitized approaches to migration management in the Mediterranean have continued unabated throughout the pandemic. While COVID-19 is unlikely to have had an impact on the content of policies -as they are part of longer-term political processes-, there is evidence to suggest that it has instead affected the management of migration on the ground. This evidence shows that COVID-19 is being used to hinder greater acceptance of refugees and migrants and to prevent arrivals to Europe. This is done by continuing pushbacks through various means, thus violating legal obligations and international law.

Nonetheless, this study observed that there is agreement from the part of some Libyan and European actors on the need to decrease the detention of refugees and migrants as a strategy to stop the spread of COVID-19. By extension, this means agreement that detention is a key risk factor for the spread of the virus.

However, it is not clear to which extent ministerial agreements by higher-level decision-makers could trickle down to actors involved in the implementation of Libya's migration policies.

As such, it can be concluded that migration restrictions, particularly those related to COVID-19 health procedures, have had an effect on the lives and human rights conditions of refugees and migrants in Libya, and particularly on those undertaking the journey across the Mediterranean. For this reason, the need of some to seek protection and better opportunities outweighs the risks involved in dealing with smugglers and human traffickers to reach Europe.

Recommendations

Based on these findings, this study puts forward the following recommendations for authorities, policy makers, and programming:

For Libyan Authorities:

- Implement coherent policies and procedures that align with human rights standards and international law, including the compliance with the limits of each state's SAR zone at sea.
- Provide alternatives to detention and ultimately revise the Libyan laws⁷⁸ that uses detention as a policy to counter irregular migration and decrease crossings to Europe.
- Engage wider groups of stakeholders, including civil society and refugees and migrants, in discussions on migration management, so as to keep them informed and get their feedback and recommendations.
- Foster an environment of dialogue between EU officials, community members, and civil society organisations, to exchange views on migration management and leverage their recommendations to inform the reformulation of policies and procedures.
- Reinforce engagement and coordination among all relevant ministries, municipalities, and local authorities working on migration to ensure a coherent approach to migration management.

⁷⁸ Namely, law No. (6) of 1987 on organising the entry, residence, and exit of foreigners in Libya, law No. (20) of 1991 on the promotion of freedom, law No. (19) of 2010 on combatting illegal immigration and law No. (10) of 2013 on the criminalisation of torture, forced disappearance and discrimination

- Ensure information on new laws and procedures is disseminated to and followed by authorities and local actors, in addition to INGOs and UN agencies.
- Create a mechanism for local authorities to comply with human rights standards and international laws, and enforce accountability measures for violators through the national law.

For EU and EU MS :

- Support Libyan local institutions to better respond to COVID-19, with particular focus on the most vulnerable groups, namely refugees and migrants.
- Support humanitarian programmes that respond to the needs of the people, as opposed to conditionally providing funding to support donor migration policies.
- Cease providing any assistance or support that contribute to interception, disembarkation, and often detention of refugees and migrants in Libya, which is not a safe place. Also, require the provided assistance to meet human rights and international law standards and obligations.

For INGOs and UN agencies

- Provide humanitarian assistance to refugees and migrants based on identified needs, regardless of their potential migration plans to move onward, return home, or remain in Libya.
- Improve advocacy efforts to ensure minimum human rights standards are met for refugees and migrants in Libya.
- Strengthen communication and regular follow-up on policies and procedures between INGO staff working on migration and Libyan authorities.

Annex

Table 1 – Key Informants Interviewed

#	Group	Name	Organisation
1	Officials	Clare Daly	Member of EU Parliament
2		Anonymous	EU Official in Libya
3		Anonymous	EU Official in Europe
4		Rabia Aburas	Member of the House of Representatives – Tripoli
5		Mohamed Hammouda	Consultant at the Ministry of Justice in Libya
6	INGOs	Anonymous	INGO in Libya
7		Anonymous	INGO in Libya
8		Anonymous	INGO in Libya
9		Anonymous	INGO in Libya
10		Yasha Maccanico	Statewatch Organisation in Europe
11	Refugee and migrant Community Leaders	Anonymous	Nigerian Community Leader
12		Anonymous	Nigerian Community Leader
13		Anonymous	Ghanaian Community Leader
14		Anonymous	Cameroonian Community Leader
15		Anonymous	Eritrean Community Leader

Table 2 - Refugee and Migrant Survey Questions

#	Questions
1	Have you considered crossing the sea to Europe?
2	Do you plan to attempt to cross the sea in the next 6 months?
a.2	What are the main factors impacting this decision?
3	Since the COVID-19 outbreak, are smugglers/migrants taking new routes to cross the sea to Europe?
a.3	Please describe these new routes and how they are different from the previous routes.
b.3	What are the risks associated with the new routes?
c.3	Why are smugglers and migrants taking these new routes?
4	What are the current risks people face when crossing the sea?
5	What do you know about the migration policies or procedures here in Libya?
6	To what extent do you agree with the following statement: "Migration policies have impacted my migration journey to Libya"?
7	What do you know about the migration policies or procedures in Europe?
8	To what extent do you agree with the following statement: "Migration policies have impacted my migration journey to Europe."
9	Have you ever made decisions about your migration journey or future migration plans based on the aforementioned migration policies?
a.9	Please describe how policies have impacted your past or future decision-making about your migration journey (open text box).
10	Have you noticed any major changes in migration policies or procedures either here in Libya or in Europe since the outbreak of COVID-19 in March?
a.10	What are these migration policy changes?
b.10	Have these recent migration policy changes affected your migration plans?
11	How do you access information on migration policies or any changes to procedures?
12	Could you tell us about any other ways in which migration policies and procedures have impacted your life in Libya? (open ended).