

# BRUSSELS MONITOR

## The European Agenda on Migration: missing pieces towards a common migration policy

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### Introduction

The European Agenda on Migration (EAM) was delivered by the European Commission (EC) in May 2015 with the aim of putting an end to the loss of lives in the Mediterranean. Number of deaths increased between 2014 and 2015, reaching a total number of 6.787 of missing migrants<sup>1</sup> in the Mediterranean. The EU experienced an unprecedented influx of refugees and migrants: between 2015 and 2016, more than 1 million people arrived in the European Union, most of them fleeing from conflicts and terror.<sup>2</sup>

The aim of the EAM was to facilitate the construction of a common migration policy within the EU: the proposal from the EC was to treat migration with a comprehensive approach on the short and long term.

In September 2017, the mid-term review of the European Commission showed a positive impact of the EU migration management: reducing incentives for irregular migration, strengthening the protection of the European

external borders, upholding EU's duty to assist refugees and enhancing legal pathways to Europe.

However, the work done until today does not seem to be enough: many aspects of the EAM are still far from being implemented such as the creation of legal pathways, resettlement and relocations among the EU, current efforts have to be maintained and the EU and its Member States (MS) should put more effort to create stable and structural solutions mainly to manage incoming flows of economic migrants and refugees.

Within the process of creating a common migration policy, undertaken by the EU, are three main aspects, which are extremely relevant. First, while managing the Central Mediterranean route, awareness was raised by IOs and NGOs on the approach used by the EU with Libya; secondly, the reform of the Dublin regulation, which was lacking efficiency when the refugee crisis started in 2015, and finally the creation of legal pathways to the EU, which remain arguably the most efficient way to destroy

<sup>1</sup> Missing Migrants database, <https://missingmigrants.iom.int/region/mediterranean>

<sup>2</sup> The EU and the Migration Crisis, European Commission, July 2017 <http://publications.europa.eu/webpub/com/factsheets/migration-crisis/en/#top>

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smugglers networks by providing an alternative and safer solution to migrants.

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The first part of the Agenda aimed to respond to the crisis of 2015 and to assist Member States under exceptional migratory pressure: under this, the creation of **Hotspots**<sup>3</sup> in Italy and Greece and the EU humanitarian aid in the Western Balkans brought support to member states under high pressure. Of the total 1 million people reaching the EU between 2015 and 2016, many incidents took places leading to 8415<sup>4</sup> fatalities in the Mediterranean. This number of fatalities was distributed in two main routes of the Mediterranean: the Eastern route and the Central route. The first mentioned, as mainly involving migration from Turkey to Greek islands creating a high number of casualties. As a response, the EU member states concluded an agreement with Turkey to tackle irregular migration.

The EU-Turkey agreement<sup>5</sup> was widely criticised for its core principles: irregular migrants or asylum seekers crossing the sea to reach Greece had to be returned after an individual assessment of their claims, in addition for every Syrian being returned to Turkey, another would have been resettled to the EU.

Even though the number of arrivals decreased in the Eastern route, the second main route is the Central Mediterrean which remained under high migratory pressure and with a great number of accidents. Since June 2017, particularly during the *high-level conference on migration*<sup>6</sup>,

the support to the Libyan Coast Guard and the cooperation with the Libyan government has raised many questions on human conditions of migrants in the country.

According to the report on Libya of HRW<sup>7</sup> published in January 2017, the situation was already critical: the Libyan Coast Guard or Navy intercepts watercrafts and returns migrants to Libya in detention centres. The conditions of migrants in detention centres are very poor and they are subject to physical violence, forced labour and sexual violence by armed groups and guards of the centres. NGOs and IOs has continuously and increasingly condemned the worsening of the situation: UN human rights chief Zeid Ra'ad Al Hussein declared that: "The detention system for migrants in Libya is broken beyond repair [...] and only alternatives to detention can save migrants' lives and physical security, preserve their dignity and protect them from further atrocities<sup>8</sup>."

The purpose of the cooperation with the Libyan authorities, under the SOPHIA operation<sup>9</sup>, is to strengthen their capacity to disrupt the business model of human smuggling and trafficking in the Central Mediterranean. The outcome turned out to be a pushback system for which migrants are directly intercepted before reaching Italian shores with atrocities happening in the Libyan soil: the international community has been trying advocate among the EU to enlighten human rights violations in detention centres<sup>10</sup>. During the African Union- European Union

<sup>3</sup> Hotspots

<sup>4</sup> Missing Migrants, IOM, <https://missingmigrants.iom.int/region/mediterranean>

<sup>5</sup> EU-Turkey Statement (One year on), European Commission, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu\\_turkey\\_statement\\_17032017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf)

<sup>6</sup> *High-level conference on migration*: "The European Parliament hosted the conference on migration management ahead of the EU summit to launch a platform for regular dialogue between all actors involved. It will address responsibility sharing among Member States, ensuring a stable and secure environment both in and at the external borders of the EU, and tackling the root causes of migration through cooperation with third countries" This conference hosted many representatives of the EU working on migration such as HR/VC Mogherini and Commissioner Avramopoulos as well as representatives of the civil societies and experts on the field of migration. ([https://europa.eu/newsroom/events/high-level-conference-migration-management\\_en](https://europa.eu/newsroom/events/high-level-conference-migration-management_en)).

<sup>7</sup> Events of 2016 Libya, Human Right Watch, <https://www.hrw.org/world-report/2017/country-chapters/libya>

<sup>8</sup> UN human rights chief: Suffering of migrants in Libya outrage to conscience of humanity, OHCHR, 14.11.2017 (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22393&LangID=E>).

<sup>9</sup> Sophia Operation: Shared Awareness and De-confliction in the Mediterranean (SHADE MED) is a forum where representatives from nations and organizations interested in or impacted by the migratory phenomenon in the Mediterranean basin can meet to deconflict and coordinate their Maritime Security Operations (MSO) by sharing situational awareness, assessment of the evolution of trends and best practices. (EEAS, [https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/12349/shared-awareness-and-de-confliction-mediterranean\\_en](https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/12349/shared-awareness-and-de-confliction-mediterranean_en))

<sup>10</sup> EU's policy of helping Libya intercept migrants is 'inhuman', says UN, The Guardian (<https://www.theguardian.com/world/2017/nov/14/eu-libya-coastguard-detention-centres-migration-mediterranean-un-zeid-raad-al-hussein>).

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Summit,<sup>11</sup> that took place the 29<sup>th</sup>-30<sup>th</sup> of November 2017 in Abidjan, leaders of both Unions condemned inhuman treatments of African migrants by criminal groups in Libya and encouraged international cooperation to support Libya. After denouncing the situation, the focus remained on voluntary returns and voluntary resettlement for “those in need”, stressing once again to address root causes.

This strategy of the EU is focused in the so-called externalization of European borders, which has dangerous consequences: third countries do not always have migration management mechanisms to ensure respect for human rights. The obsession with border control and tackling illegal migration has had a life-endangering impact on migrants trying to reach the Italian shores.

When the crisis of 2015 started, the lack of an efficient Common European Asylum System (CEAS) led to many consequences, chief of them the pressure of migratory flows on frontline states in the EU.

As the refugee crisis started, the system showed its weaknesses and led to questioning of solidarity mechanisms within the EU. Clearly, a crucial step toward a stable mechanism to manage migration flows is the review of the Dublin Regulation<sup>12</sup>. The first country rule<sup>13</sup> was the mechanism for which many migrants were trapped in frontlines member states creating disproportionate burdens on member states due to screening requests of asylum seekers.

The Commission proposed, within the EAM, to evaluate Dublin regulation and proposed to review it in 2016.

In May 2016, the EC published its proposal for the reform of the Dublin III Regulation: in the European Parliament, this proposal was assigned to the LIBE Committee with Cecilia Wikström (ALDE, Sweden) as a rapporteur. In October 2017, the Committee passed the proposal with 214 amendments in comparison with the text proposed by the Commission. The text proposed by the LIBE Committee was voted on in the European Parliament, where a large majority of 390 voted in favour.<sup>14</sup> Representatives of the EP now have a broad mandate to start negotiation with the European Commission and the European Council. The triologue<sup>15</sup> procedure should start soon, although the Council still has not yet reached an agreement to enter negotiation.

On the 19<sup>th</sup> October 2017, the European Council meeting’s conclusions referred to the reform of the Common European Asylum System: some steps forward have been achieved, and the European Council will to discuss the reform this December hoping to reach consensus by the first half of 2018.<sup>16</sup> In this specific area, the Council does not follow the unanimity rule, only a qualified majority is needed to have the mandate.

However, the negotiation will probably be long: the proposal of the EP differs with 214 amendments to the European Commission’s proposal and surely the toughest interlocutor will be the European Council.

The Parliament proposes to share responsibilities among the MS when receiving asylum seekers in the EU, applicants will not have a free choice on which country will conduct the procedure to seek asylum. Main elements of the proposal of the LIBE Committee are:

<sup>11</sup> “Joint statement on the Migration Situation in Libya”, African Union-European Union Summit, <http://www.consilium.europa.eu/media/31871/33437-pr-libya20statement20283020nov2010.pdf>

<sup>12</sup> Dublin Regulation: “Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person” (EUR-LEX)

<sup>13</sup> Art. 35, SECTION II, REGULATION (EU) No 603/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013

<sup>14</sup> Decision to enter into negotiations of the Dublin asylum reform, EP, 16<sup>th</sup> November 2017

<sup>15</sup> Triologue meetings are Interinstitutional negotiations for the adoption of EU legislation, these are the form of tripartite meetings involving the European Parliament, the European Commission and the European Council to reach a provisional agreement. (<http://www.europarl.europa.eu/ordinary-legislative-procedure/en/interinstitutional-negotiations.html>)

<sup>16</sup> European Council meeting- Conclusions, European Council, 19/10/2017 <http://www.consilium.europa.eu/media/21620/19-euco-final-conclusions-en.pdf>

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- A permanent and automatic relocation mechanism, if the applicant has a prior residence or has studied in one of the countries then the relocation will be to these MS.
- Appropriate procedures in the first Member States of arrival, procedures need to be fast and ensure relocation when needed considering mechanisms of family reunification.
- The calculation of the fair responsibility, this is calculated on the GDP and population.
- Giving member states a chance to succeed with the new Asylum System, three-year timing to ensure that all member states have the capacity to implement a fair common European Asylum System with the support of the EU Agency of Asylum.
- Tacking secondary movements to swift responsibilities from one member state to another will not be possible, there will be only one country to ensure international protection.
- A filter in order not to relocate applicants with very small chances of receiving international protection, this “filter” will be carefully calibrated and these applications will be held in the first country of arrivals.
- Incentivise applicants to remain within the official system, supporting legally applicants with the help of authorities.
- Ensuring full participation of all member states, in cases where MS will refuse to accept relocations limits will be applied to access their EU-funds.

The permanent and automatic relocation mechanisms have been criticized by some MS who are unwilling to apply this rule. Sharing responsibilities among Member states also involves a proportionate distribution of refugees to prevent discrepancy and chaos which only enhance populism and nationalism trends.

The main cause of illegal migration is the absence of legal access to the EU - migrants have been choosing the only possible way to reach the European territory. Building legal pathways remains the best strategy to stop illegal migration, yet this area has been left unexplored.

The only aspect of legal pathways that have been implemented has been the relocation scheme to prevent dangerous movements of those who need protection. Many refugees placed in other countries such as Turkey or Lebanon have been able to reach the EU after being granted asylum in third countries. For instance, Germany has been collaborating with IOM Lebanon<sup>17</sup> to facilitate Syrian family reunification.

The summit of Valletta in 2015 concluded with promises on implementation of a EU resettlement framework, the will to change the directive EU Blue Card<sup>18</sup>, and also to establish other legal avenues, and that EU and African leaders should work to promote legal channels for mobility and migration<sup>19</sup>.

The Commission has set aside 500 million to support MS’ resettlement efforts to enlarge resettlement also from North Africa and the Horn of Africa. On legal pathways for migrants, especially those not seeking international protection but rather trying to reach the EU to improve their living conditions, pilot projects<sup>20</sup> will be financed and coordinated by the EC with third countries.

After two and a half years from the introduction of the EAM and also from the Valletta Summit, migrants are still

<sup>17</sup> Programme to Facilitate Syrian Family Reunification, IOM 29<sup>th</sup> July 2016, <https://www.iom.int/news/germany-iom-launch-programme-facilitate-syrian-family-reunification>

<sup>18</sup> EU Blue Card- entry and residence of highly qualified workers: “It sets out the entry and residence conditions for highly-qualified non-EU nationals wishing to work in a highly-qualified job in an EU country (other than Denmark, Ireland and the United Kingdom), and for their families and

it creates an EU Blue Card system”. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A114573>

<sup>19</sup> Action Plan, Valletta Summit, 11<sup>th</sup> and 12<sup>th</sup> November 2015 [https://www.consilium.europa.eu/media/21839/action\\_plan\\_en.pdf](https://www.consilium.europa.eu/media/21839/action_plan_en.pdf)

<sup>20</sup> The Delivery of the European Agenda on Migration, EC, 27<sup>th</sup> September 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170927\\_communication\\_on\\_the\\_delivery\\_of\\_the\\_eam\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170927_communication_on_the_delivery_of_the_eam_en.pdf)

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trying to cross the Mediterranean through illegal pathways: in the best scenario, they reach the European territory and they remain stuck in a limbo. Worst case scenario, they are trapped on the other side in Libya or lose their lives while crossing. An important part of those arriving to the EU do not fall under the regime of international protection: in 2016, the total number of arrivals was 181.436<sup>21</sup> and there were 123.600<sup>22</sup> asylum requests in Italy.

Migrants who do not apply for asylum and those who are not granted international protection are being difficulty returned to their country. This creates a high number of people stuck in one country with many connected problems on their management: yet almost nothing has been done on legal migration for people willing to better their lives conditions beside resettlements policies. If legal pathways are opened only for highly skilled workers, falling under the EU Blue Card, the destiny of all others will still be risking their lives with smuggling networks.

### Conclusion

Even though many challenges raised during the 2015 refugee crisis have been addressed, the EU is still far from a comprehensive and efficient European migration policy. The EU has been working on addressing root causes with the Turkey Facility for Refugee<sup>23</sup>, located in the EU-Turkey deal, and the EU Trust Fund for Africa.<sup>24</sup> Furthermore, humanitarian assistance have been provided to those countries under high pressure. The numbers of missing migrants in the Central route has decreased, but that does not mean that it is a positive achievement for human rights conditions: migrants are blocked in Libya in terrible conditions, and those who reach the Italian coast are still

putting their lives at high risk. The fact that 2.993 deaths were registered in the Mediterranean in 2017 is ample evidence hereof. To reduce incentives for illegal migration and to stop migrants to take a risk of crossing, the EU should put in established quotas for legal migration even for those who are not highly qualified.

On December 7<sup>th</sup> 2017, the European Commission published a roadmap to underline what has been achieved so far, and what will be further implemented by June 2018. The European institutions will intensify their work on the reform of the common European Asylum, complete an effective external border management system, ensure sufficient legal pathways, reach an agreement on the "Blue Card" directive and also reinforce the EU External Investment Plan on the strategic partnership with Africa. If the aim is only stopping incoming flows and ceasing the problem to neighbouring states then the EU should stop collaborating with third states as with Libya: the European Union should ensure, together with the UN, the African Union, and other actors that migrants are not subjected to violations of human rights.

All those achievements are extremely important to avoid further crises, but the EU and its Member States, considering all past mistakes, should accept that managing migration flows does not mean stopping migration flows. The idea that migration flows will now or then cease is an illusion that wrongly deceive EU policymakers. Current challenges deriving from conflicts, poverty and climate change will continue to push people to move. Accepting this phenomenon as normal is the prerequisite to put in place a comprehensive and efficient common migration policy that will be long-term sustainable and limit both the loss of innocent lives and sense of insecurity within the EU.



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<sup>21</sup> Mediterranean Situation: Italy 2016, UNHCR, (<https://data2.unhcr.org/en/situations/mediterranean/location/5205>).

<sup>22</sup> Dati asilo 2015 - 2016, Ministero dell'Interno, ([http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/all-egati/riepilogo\\_dati\\_2015\\_2016\\_0.pdf](http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/all-egati/riepilogo_dati_2015_2016_0.pdf)).

<sup>23</sup> **The EU Facility for Refugees in Turkey:** This EU facility is aimed to help Turkey currently hosting more than 3 million registered Syrian. This facility focuses on humanitarian assistance, education, migration management, health and so on with a total of 3 billion euros for 2016 and

2017. [https://ec.europa.eu/neighbourhood-enlargement/news\\_corner/migration\\_en](https://ec.europa.eu/neighbourhood-enlargement/news_corner/migration_en)

<sup>24</sup> **EU Emergency Trust Fund for Africa:** Launched on November 12<sup>th</sup> 2015 at the Valletta Summit on Migration by the EU and African partners this trust fund aims at developing tools to respond to the unprecedented levels of irregular migration. This fund is mainly focused on helping foster stability in the regions and support most fragile and affected countries. [https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa\\_en](https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en)