



EU: European Commission technical mission to Libya: exporting Fortress Europe

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On 4 April 2005, a report was published on the European Commission technical mission in Libya from 28 November to 6 December 2004 involving experts from 14 member states, the Commission and Europol, and aimed at developing cooperation with Libya on illegal immigration. The mission's stated goals involved obtaining an in-depth understanding of migration-related issues in Libya, identifying concrete measures for EU-Libyan cooperation in this field and to illustrate EU policy on this issue to the Libyan authorities.

Some key findings include the fact that Libya is not only a transit country towards the EU, but is predominantly a destination country, although the Libyan transit route to cross the Channel of Sicily to reach Italy (particularly the island of Lampedusa) or Malta is being used by increasing numbers of migrants. After a long period during which they applied an "open-door" policy in this field, Libyan authorities now perceive illegal immigration as a "growing threat with the dimension of a national crisis", while the EU is concerned about the relationship between the emergence of the Libyan transit route and increasing pressure on EU borders.

Libya has a population of around 5.5 million, with 660,000 legal foreign workers in the country and between 750,000 and 1,200,000 "illegal" immigrants, with between 75,000 and 100,000 illegal entries on a yearly basis. Italy has reported that 14,017 migrants arrived from North Africa in 2003 and 12,737 arrived after setting off from the Libyan coast and landing either in Lampedusa, Sicily or the Italian mainland after crossing the Strait of Sicily. Malta recorded 1,369 arrivals by boat in the first ten months of 2004. Almost 2,000 would-be migrants are recorded as having perished out of approximately 15,000 who attempted the sea-crossing.

Obstacles to effective border control include the length and characteristics of the Libyan border (4,400 km of land borders with 6 countries, much of which crosses the desert, and a 1,770 km coastline). The mission deemed that there is a need for a dramatic increase in the number of staff, improvement of training, the provision of appropriate equipment, the development of cooperation at an international level and between relevant services within Libya. The report highlights the lack of a refugee policy and Libya's failure to sign the 1951 Geneva Convention on refugees, although provisions on this Convention and forbidding the repatriation of refugees exist in the national Constitution and in the Organisation of African Unity Convention on this issue that has been ratified by Libya. The return policy and related repatriation operations that the Libyan authorities are carrying out have resulted in the repatriation of 54,000 illegal immigrants in 2004 (5,688 of whom were deported using a charter flight program funded by Italy), whose return appears to be decided "without due consideration to detailed examination at an individual level", and involves the use of reception camps whose conditions are described by the mission as varying "greatly, from relatively acceptable to extremely poor". Bilateral cooperation only exists with Italy, involving repatriation of illegal migrants (including non-Libyans) arriving in Italy

after transiting through Libya, training, permanent liaison for combating organised crime and illegal migration, supply of materials, the financing of a programme of charter flights to repatriate “illegal” migrants from Libya to their countries of origin, and of a camp for illegal migrants (two more have been planned), and Malta, with which a draft readmission agreement which includes third-country nationals has been reached.

The report stresses that although the absence of formal relations between the EU and Libya hinders cooperation on illegal immigration, available funding opportunities and instruments exist to develop initiatives (under the AENEAS, ARGO programmes and the Cotonou agreement for complementary actions in sub-Saharan countries bordering Libya). Libya is urged to grant an official status to the UNHCR as a first step towards the establishment of “a comprehensive long-term global approach... which should also include combating criminal networks as well as the protection of refugees”, and to “reconsider some aspects of her external policies having a direct effect on migration”.

The report calls for the establishment of a *“specific dialogue mechanism”* [emphasis in original] without delay and the development of a “coherent Action Plan on migration issues” between the EU and Libya. The areas identified for cooperation with Libya include : 1) reinforcing institution building; 2) training initiatives; 3) management of asylum; 4) increasing public awareness. With regards to countries of origin, the steps for cooperation would involve: 1) discussions to identify areas for cooperation; 2) a pilot initiative, in the form of a mission to Niger to explore possible areas of cooperation; 3) improving border management cooperation between Libya and bordering countries. An increased focus on migration is advocated for a number of fora, including the EU-African dialogue, African Union activities, discussions in the Mediterranean “5+5” setting and with the Arab Maghreb Union, with CEN-SAD (community of states bordering the Sahara and Sahel deserts), and the establishment of dialogue associating origin, transit and destination countries.

Shortcomings and remedies: building a repressive immigration infrastructure

The problem areas identified in the field of Libyan border management include the following: an insufficient number of personnel; superficial training for border guard activities (including the investigation of travel documents and border guard tactics); “inadequate” technical means for border surveillance; reaction capabilities of law enforcement bodies are insufficient; “very limited” maritime border control capabilities; lack of knowledge by immigration and border control officials of statutory international laws, “very poor” knowledge of document falsification, a lack of appropriate training, investigation equipment and documents for making comparisons for officers working at border points; “underdeveloped” cooperation between bodies responsible for national security, and international cooperation with bordering countries has only been established at a central level and is underestimated by officials at the regional level.

Libyan immigration policy and recent developments

Libya issues four types of travel documents: an individual passport, a collective passport, a temporary travel document and a travel document for Palestinians. Nationals from Arab states, Sudan, Ethiopia and Eritrea are allowed entry into Libya without a visa, although this policy has been recently revised to exclude Palestinian and Iraqi nationals, and may be introduced for Afghans. A visa regime is in force for nationals of other countries, although no centralised statistical data is available

concerning visas issued by the Libyan authorities. Two kinds of residence permits exist for foreign nationals: a red card for short-term residence is issued to those with illegal status (if they obtain an employment contract within three months they will receive a green card) and a green card for long-term residence is issued to those in a legal situation who are holders of an employment contract. Libya used to grant naturalisation “to nearly every Arab under the age of 50 residing in Libya” (not applicable to Palestinians) until 2000/2001 due to labour needs, although this policy was subsequently suspended and now applies exclusively to spouses of Libyan nationals and to “a small number of exceptional cases”. The perception of illegal immigration as a threat has resulted in the creation of a new department in the Libyan interior ministry to deal with immigration and naturalisation issues, with investigations conducted on traffickers, on detaining and deporting illegal immigrants, and inspecting companies and analysing data. A new law (2/2004) to introduce stricter penalties for illegal immigrants and people facilitating their stay (at least 1 year imprisonment and/or a €1,160 fine) is being implemented and has led to the creation of a new unit to enforce this law.

Under the heading “reinforcement of institution building”, the document sets out a path to be followed to enforce immigration controls in Libya which includes “enhancing the legal framework” (presumably to introduce stricter conditions) in the fields of visas, entry conditions, residence permits, asylum, trafficking in human beings and repatriation. Changes are envisaged for the administrative structure and legal status of bodies involved in combating illegal immigration, the establishment of cooperation mechanisms between these services is encouraged, as is the creation of a “permanent Libyan task force” for coordinating these activities.

Visits to border points

Field trips were conducted in the northern and southern border regions to assess the situation, hold discussions with local authorities, visit reception centres and Tripoli International Airport and conduct interviews with illegal immigrants and border control officials.

The mission’s experts noted that the current total staffing for border control (3,500) is “insufficient”, although there are plans for Libya to raise this figure to 42,000 and training, which is deemed to be superficial, is being improved through cooperation with Italy, most notably through training on falsified documents (although courses have also been undertaken in the fields of investigative techniques, Italian language, combating drug smuggling and terrorism, including through the use of dogs). Much of the southern Libyan border crosses the desert, and border control activities in this region are hindered by a lack of technical and communication means (vehicle patrols have no radio links), coordination and infrastructure. Lack of training and investigative equipment was also highlighted as a shortcoming on the Libyan-Algerian land border checkpoint. With regards to the northern coastal border, the mission highlighted that the Naval Coast Guard (which is part of the Navy) “is not equipped with enough patrol vessels and boats”, and Libya does not accept foreign vessels in its territorial waters to assist Libyan law enforcement authorities, as was offered by Italy. Furthermore, there is a lack of communication between the Navy and police patrolling the coast. As for Tripoli airport, the mission’s report notes that Libyan authorities do not accept the repatriation of refused non-Libyan persons who are returned, that visas can be issued on-the-spot for tourists in the airport and that “there is little or no knowledge in recognising false or counterfeit documents”.

They gathered information in conversations with staff of the Dutch airline KLM

indicating that €300-fines are imposed for transporting someone to Libya without a valid travel document, that there is no system for registering the names of people entering or leaving the country, and that no currency checks on people leaving for Amsterdam are carried out by the airport officials. In the framework of Italian-Libyan cooperation, Italy has been providing equipment (including humanitarian rescue material, 4x4 vehicles, forged document kits, binoculars, night-time viewers, fingerprint kits, underwater cameras and lamps, wetsuits, GPS systems, signalling rockets, Zodiac life-boats as well as, worryingly, “1,000 sacks for corpses transport”) and is set to provide material including dogs to locate drugs and explosives, and bullet-proof vests in 2005.

Detention centres, open camp-villages, repatriation centres

The technical mission also visited a variety of detention centres and camps, divided into four categories: short-stay detention centres, long-term detention centres, open camp-villages and repatriation centres. In the short-term detention centres, migrants are held under armed police guard. In Sulman, in the north of the country, 200 migrants were held in an isolated barn-like structure and sat on the ground: hygiene were described as being “at a minimum”, with an absence of kitchens, places to eat and places to sleep in beds. The centre was reportedly cleaned just prior to the visit, and several detainees claimed they were arrested arbitrarily (several had jobs) the day before the visit. In another centre, they met a group of 16 people who said they wanted to make the sea-crossing to Italy, although the mission later noted contradictions in their account, and some claimed they wanted to work in Libya, save up some money and return to their countries. Long-term detention centres can reportedly “be assimilated to prisons”, one of which was composed of rooms with a capacity of approximately 200 persons, with no divisions according to sex, age, race or other characteristics. Another one in Tripoli was described as a “brand-new prison” holding 1,100 persons, and a further one in Misratah held 250 persons (although detainees claimed 700 were registered in previous days), under police guard. The director of this centre claimed that detainees had the possibility to wash and eat well in the centre, although the detainees countered the claim by stating that “their normal food was limited to bread and water”, adding that they had washed the centre the day before the mission’s visit. The presence in the centres of persons who claimed they were refugees who had been unable to claim refugee status was also reported. Another kind of structure visited by the mission were open camp-villages established on land which is rented to Africans communities, where Africans reside divided by nationality and set up their own facilities and businesses and from where they travel to nearby cities to find work. Access to the centres is open and “without apparent police control”. The mission described these camps as “a form of social control” of illegal immigrants who do not have access to state housing, and as giving “the distinct impression of a ghetto-like atmosphere, a way for the authorities to keep undesirable foreigners away from the Libyan citizens”. A repatriation centre for carrying out voluntary returns was also visited, in which migrants “sit still with their luggage” awaiting to be interviewed by a Consular officer from their country, to be issued a Travel Certificate and to be flown home.

The significance of the document

The significance of this report by the technical mission in Libya is the attempt to export the EU’s immigration policy beyond its borders into Africa and, unlike in the case of cooperation with Morocco, it is planned for implementation in a country which acknowledges having immigration problems of its own (with concern expressed over possible consequences such as “criminal activities, a degradation of the overall health

situation..., economic disruption due to an excess availability of cheap labour, cultural difficulties resulting in tensions between Libyan and foreign communities, and the possible infiltration of terrorists") as a result of its privileged economic situation (in terms of per capita GNP) in comparison with its Maghreb and sub-Saharan neighbours. The mission's assessment of the inadequacy of Libyan border management activities and infrastructure helps to give an idea of what the Commission considers to be the requirements for border controls starting from a relatively clean slate, particularly in view of previous Libyan policies in this field aimed at encouraging the migration of a foreign labour force into the country that it required for its own economic development.

Clash of visions

A number of issues arising from underlying conceptual differences on immigration surface in the report which seemingly hinder the understanding of EU immigration policy, including the failure of Libyan authorities on the ground to acknowledge the need for a global approach to combating migration:

there seems to exist little understanding of the need for a strategic approach, except at the level of a few interlocutors at a high level

their reluctance to accept the argument that illegal immigration networks are in fact "organised crime" syndicates that "lure migrants to travel across the sea";

and the reluctance by Libyan authorities to establish a clear distinction between asylum seekers and economic migrants, which is reportedly due to fears that such a distinction may "push an important part of the economic illegal migrant population to claim for international protection" which, in turn, "would result in problems for processing a large number of unfounded applications". Within the EU, this approach has resulted in a concerted attack on asylum rights in several member states precisely because of the submission of unfounded applications by "economic" migrants.

The position of the government of Niger, whose opinion was sought in relation to the possibility of instigating wider regional dialogue in the region, highlights the beneficial effects of the migration of Niger nationals into Libya. It describes immigration flows as "a source of revenue" and its nationals who migrate as "economic and temporary migrants" who generally "do not intend to go to Europe" but rather, stay in Libya long enough to make some money before returning to their villages. With regards to the flow of non-Niger nationals through the country, it is stressed that the migrants are, in the main, from ECOWAS Region countries (the **Economic Community Of West African States** is a regional group of fifteen countries, founded in 1975). and consequently "authorised to cross the border of Niger without any formalities", and that Niger "does not want to be in conflict with its Southern neighbours" due to its need for "access to their port facilities". The flow of migrants through Niger is also deemed to benefit individuals, both through legal activities (like selling products to passengers) and illegal activities (corruption, smuggling networks), particularly in view of the poverty and steady trend of population growth in Niger. Nonetheless, possible areas of cooperation and understanding on immigration are identified: a) with regards to rebels in the north of Niger and international concern about terrorism; b) Niger may be prepared to help gathering information on flows; c) EU-Niger cooperation, due to the size and characteristics of its border, would involve the provision of equipment for the army, police, customs and other services; d) Niger is interested in "a stronger dialogue" with northern countries, and would benefit from "more formal trading... with

the North and indeed with Europe”; e) and it would be prepared to explore the possibility of a technical mission to Niger.

Also in the context of establishing wider regional dialogue, the mission aims to start discussions with CEN-SAD, an organisation established in 1998 which includes 21 African countries including every Libyan neighbour apart from Algeria. In relation to immigration, the mission noted that “CEN-SAD members seem to have no real policy in that area” and that the Commission should take part in the organisation’s meetings to “inform the CEN-SAD countries about its policies and possibly assist them in the definition of their own migration policies”. In fact, this kind of cooperation would run contrary to some of the organisation’s aims, most notably that of “ensuring the free movement of persons, capitals, goods, products and services” between these countries, and to its objective to “suppress entry and stay visas” between its member countries. Referring to plans to enhance Libya’s ability to contain immigration, most notably through the establishment of reception camps and repatriation operations, CEN-SAD country officials “expressed concerns about the consequences for migrants originating from their countries of a reinforcement of the Libyan immigration and security policy”.

Overall, the “dialogue” encouraged by the European Commission appears to be somewhat blinkered, and aimed at divulging its own “comprehensive long-term global approach in migration” (which is questionable although hardly questioned within the EU institutions) on countries and regions beyond its borders. While it shares some concerns over immigration with Libya (due to its being a pole of attraction for migrants, and for its geographic and economic situation), it is faced with a country whose need for foreign labour and whose regime’s pan-Arab and pan-African stance, until very recently resulted in policies that encouraged immigration into the country. Thus, the notion of establishing a clear distinction between refugees and “economic” migrants aimed at criminalising the latter group is not considered reasonable, particularly in view of the practical problems it would pose (see above). Likewise, its insistence that smuggling networks, and Libyans involved in providing shelter at local nexus points and in providing vessels to attempt the sea-crossing are to be considered organised crime syndicates appears not to be shared by Libyan authorities, which, while they acknowledge the existence of “limited regional networks” or “highly organised facilitation networks”, state that “there are simply no international criminal organisations that organise illegal immigration for sub-Saharan Africans”, an assertion that appears to dismay the technical mission. Moving to the subject of “wider regional dialogue”, examples of the dialogue with Niger and CEN-SAD highlight that countries of origin tend not to share the same view of immigration as a purely negative phenomenon that must be fought by any means necessary, and highlight its beneficial aspects, and the CEN-SAD goal of increasing freedom of movement as a way of encouraging economic development and prosperity in the region, in a way that is not dissimilar to the reasons for which the EU itself was set up, runs contrary to the Commission’s goals. The assertion by Niger that closing off its border would have negative implications for its access to its southern neighbour’s sea-ports illustrates the possibility that the extra-territorial implementation of EU policy on combating immigration may provoke highly disruptive effects on local and regional economic relations. Furthermore, the fact that the absence of a procedure for granting refugee status in Libya and its failure to grant an official status to the UNHCR office in Tripoli does not preclude cooperation with the EU on immigration is at least objectionable, and the signing and ratification by Libya of the 1951 Convention on refugees is not deemed to be a condition for cooperation. The perspective from which the mission was carried out even leads to social policies carried out by the Libyan authorities being viewed as negative in that they strengthen the economic “pull”

factors for immigrants: “the ‘distributive’ policy of the Libyan regime towards its own nationals generates a strong demand for foreign workers”.

Council of the European Union, NOTE from the General Secretariat to Permanent Representatives Committee, “Technical Mission to Libya on Illegal Immigration”, Brussels, 4 April 2005, 7753/05, LIMITE, ASIM 12, RELEX 143, LIBYE 1 - the full-text is on:

<http://www.statewatch.org/news/2005/may/eu-report-libya-ill-imm.pdf>