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Statewatch coverage of the migrant crisis in the Mediterranean

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Key Analysis and Documents

1. Statewatch Analysis: [The EUs Planned War on Smugglers](#) (pdf) by Steve Peers, Professor of Law, University of Essex:

*"it is clear from the documents discussed in the EUs Political and Security Committee last week that (unless plans have changed radically in the meantime) **the High Representative is being economical with the truth**. The EU action clearly contemplates action by ground forces. Moreover, it anticipates the possible **loss of life** not only of smugglers but also of **Member States forces and refugees**. In effect, **the EU is planning to declare war on migrant smugglers** without thinking through the consequences."*

2. [Secret EU plan for a war on smugglers - document](#) (PSC, pdf)
3. Press Release: [Council establishes EU naval operation to disrupt human smugglers in the Mediterranean](#) (pdf) and [Comparison between Draft and Final Statements](#) (pdf)
4. European Commission: [A European Agenda on Migration](#) (COM 240-15, pdf)
5. Mission in the Med could call for financial support under the: [ATHENA Council Decision](#) (pdf)
6. European External Action Service: [Libya, a Political Framework for a Crisis Approach](#) (LIMITE doc no: 13829-14, pdf)
7. [Ongoing EU external operations](#) (European External Action service, pdf)

NEWS

1. EU: MORE MONEY for MED CRISIS: New budget: [Responding to migratory pressures](#) (pdf):

"additional appropriations EUR 75,8 million in commitment appropriations and EUR 69,7 million in payment appropriations to provide the additional funding to be authorised in the 2015 budget for the migration measures. These reinforcements are distributed across five budget lines" [see p7]

2. [The Guardian view on Mediterranean migrants: a rescue plan with many flaws - Editorial](#) (Guardian, link):

"Britain has taken the lead in trampling the solidarity principle on asylum. The EU migration plan is long on rhetoric but short on substance. The causes of African migration must be addressed ...

The military aspect of the plans is also problematic. Yes, force may be required to combat trafficking networks, particularly to take control of empty boats and put them beyond use. But talk of possible

onshore, commando-type operations, or infringement of Libyan sovereignty, has opened up a Pandora's box of uncertainties. Although Ms Mogherini is ruling out boots on the ground, mission creep is an obvious worry. Russia will not be inclined to cooperate in the UN with anything suggesting the use of force in Libya, given the 2011 Nato precedent. The military option sounds tough, but who knows how EU forces, once deployed, could react if attacked in the context of the Libyan tinderbox?"

3. [EU plan for migrant quotas hits rocks after France and Spain object - French president Francois Hollande says quotas are out of the question 24 hours after Spanish foreign minister flatly rejects proposal](#) (Guardian, link)

4. [European Agenda on Migration Missed Opportunity to Protect Rights and Save Lives](#) (EMHRN, link): "As the European Parliament is set to look at the Commission's bold Agenda on Migration, the European Mediterranean Human Rights Network (EMHRN) warns of its many pitfalls and shortcomings....By focusing on the consequences rather than the real root causes of irregular migration, the Commission has missed an opportunity for a meaningful alternative the EU can and should embrace." And see: European Commission: [A European Agenda on Migration](#) (COM 240-15, pdf)

5. [EU ministers back Mediterranean naval mission, reject migrant quotas](#) (euractiv, link): "European Union foreign and defence ministers agreed on a naval mission on Monday (18 May) to target gangs smuggling migrants from Libya. But parts of a broader plan to deal with the influx began to unravel in a row over national quotas for housing asylum seekers."

And see: [Italian coastguards: military action will not solve Mediterranean migrant crisis](#) (Guardian, link): "The Italian coastguards leading migrant rescue missions in the southern Mediterranean have voiced concern about the EU's migration strategy, arguing that military operations will not stop migration to Europe and calling instead for European navies to prioritise search-and-rescue missions. Speaking on Monday before EU defence and foreign ministers agreed to launch military operations against Libyan smugglers, coastguard captain Paolo Cafaro said a military campaign would not eradicate the root causes of the Mediterranean crisis...."

Cafaro also questioned whether European navies would be able to target smugglers' boats before they are used for migration missions, due to both the absence of a blessing from Libya's official government and the UN, as well as the complexities of the smuggling process. Smuggling boats are often simply fishing boats bought in the days prior to a trip, and kept in civilian harbours until the night of their departure."

6. DEVELOPING STORY (18.5.15): Council of the European Union: Press Release: [Council establishes EU naval operation to disrupt human smugglers in the Mediterranean](#) (pdf) See: [Mediterranean migrants crisis: Is military force the solution?](#) (BBC News, link) and [EU to launch Mediterranean naval mission to tackle migrant crisis](#) (Guardian, link): "The mission's rules of engagement have still to be thrashed out and one diplomat described the deployment of such forces as the next step in terms of operational details. **The level of collateral damage considered acceptable would also be discussed after the mission was up and running, he said.**" [emphasis added]

EU RESPONSE TO MED CRISIS: BOARDING AND DESTROYING BOATS-"BOOTS ON THE GROUND"- "COLLATERAL" EFFECTS? Today EU Defence and Foreign Affairs Council is meeting in Brussels - on Tuesday there will be a meeting of EU Defence Chiefs (with NATO in attendance). The EU is still waiting for UN approval of its Libya plan, which is being drafted by the UK to legitimate EU military operations in Libyan waters and coast. See: [Remarks by HR/Vice-President at the start of the meeting](#) (Council press release, pdf)

[UK to offer drones to help combat people-smugglers in Libya - Britain set to take leading role in Mediterranean military operation by supplying intelligence in response to migrant boat crisis](#) (Guardian, link), [Nato 'ready to help' EU anti-migrant smuggler operation](#) (euobserver, link) and [EU: boat-sinking Yes, migrant quotas No](#) (euobserver, link)

Among the responses will be [the report to the Political and Security Committee](#) of the Council last Tuesday (12 May 2015) which includes:

"Non-compliant boarding operations against smugglers in the presence of migrants has a high risk of collateral damage including the loss of life [page 8] ...Collateral effects of EU kinetic actions will need to be avoided but the risk remains. Any casualties as a result of EU action could trigger a negative response from the local population and the wider region, jeopardising support and follow-up." [page 16]

"The operation would require a broad range of air, maritime and land capabilities. These could include:

- **Intelligence, Surveillance and Reconnaissance;**
- **Boarding teams;**
- **Patrol units (air and maritime);**
- **Amphibious assets;**
- **Destruction air, land and sea, including Special Forces units"** [p18, emphasis added]

7. [Naval Force tipped to begin work in Mediterranean as soon as mid-June](#)

As a result of the tragic events unfolding in the Mediterranean Sea over the last few months, with over 1000 lives lost this year alone[1], the European Union Naval Force (EUNAVFOR) is said to be preparing for operations in European waters. According to news website *Bruxelles2* [2], the details of a Mediterranean operation have been tentatively planned, with some Member States providing 'means and resources'.

8. Joint Communication: European Commission and the High Representative of the EU for Foreign Affairs and Security Policy: [Capacity building in support of security and development - Enabling partners to prevent and manage crises](#) (pdf) Details EU external policies and begins with the statement that:

"Events in Africa, in Europe's neighbourhood and beyond point to a dramatic and deteriorating global security situation, with more than 1.5 billion people living in fragile and conflict affected regions worldwide. On current trends, this number is projected to grow to 2 billion by 2030."

9. [Libya to Europe: Please Dont Come to Our Rescue](#) (FP, link): *"Libya's U.N. envoy expresses skepticism over European plans to fight migrant smugglers in Libyan territory, saying it will cause more trouble than it's worth."*

And see: [Des Boots on the ground en Libye, le grand phantasme?](#) (Bruxelles2, link)

10. European Commission: [A European Agenda on Migration](#) (COM 240-15, pdf):

*"The criminal networks which exploit vulnerable migrants must be targeted. The High Representative/Vice President (HR/VP) has already presented options for possible **Common Security and Defence Policy (CSDP)** operations to systematically identify, capture and destroy vessels used by smugglers. Such action under international law will be a powerful demonstration of*

the EU's determination to act." [emphasis in original]

The Commission "Agenda" will thus be supplemented by a plan for a military-intelligence operation "on the ground" in Libya being prepared by the High Representative/Vice President (HR/VP) through the European External Action Service (EEAS) - see Guardian story below. See: Current: [Ongoing EU operations](#) (EEAS, pdf) and European External Action Service: [Libya, a Political Framework for a Crisis Approach](#) (LIMITE doc no: 13829-14, pdf)

See: [Military action underpins EU migration plan](#) (euobserver, link): *"Foreign and defence ministers, in Brussels on Monday will discuss a 19-page blueprint prepared by Mogherinis staff and leaked to British daily The Guardian... It notes that a [military] presence ashore might be envisaged if agreement was reached with relevant authorities. But it warns that the terrorist presence in the region constitutes a security threat. Action taken ashore could be undertaken in a hostile environment. and* [National concerns erode European migration strategy](#) (euractiv, link)

11. [Migrant crisis: EU plan to strike Libya networks could include ground forces - Exclusive: Strategy paper for the mission focuses on air and naval campaign, but adds that presence ashore might be needed to destroy smugglers assets](#) (Guardian, link)

"European plans for a military campaign to smash the migrant smuggling networks operating out of Libya include options for ground forces on Libyan territory.

The 19-page strategy paper for the mission, obtained by the Guardian, focuses on an air and naval campaign in the Mediterranean and in Libyan territorial waters, subject to United Nations blessing. But it adds that ground operations in Libya may also be needed to destroy the smugglers vessels and assets, such as fuel dumps...

The operation would require a broad range of air, maritime and land capabilities. These could include: intelligence, surveillance and reconnaissance; boarding teams; patrol units (air and maritime); amphibious assets; destruction air, land and sea, including special forces units.

12. UN-MED: [EU mission could endanger refugees, UN warns](#) (euobserver, link): *"A senior UN official has warned the EU that innocent refugees, including children, will be in the line of fire of any operation to sink migrant smugglers boats. Peter Sutherland, the UN special envoy on migration and a former EU commissioner, issued the warning at a meeting of the UN Security Council (UNSC) in New York on Monday (11 May).*

And see: [Mediterranean crisis demands intensive dialogue among UN and regional actors, Security Council told](#) (UN News Centre, link)

13. [Human Costs of Border Control - Deaths at the Borders of Southern Europe](#) (link)

"The Deaths at the Borders Database is the first collection of official, state-produced evidence on people who died while attempting to reach southern EU countries from the Balkans, the Middle East, and North & West Africa, and whose bodies were found in or brought to Europe."

14. UN RESOLUTION ON MED: Questions and answers: [High Representative/Vice President](#) (pdf):

"I'm afraid that what I can say now might not convince them to stop. Especially because the people that are leaving are coming from crisis areas, from conflict areas. And I'm afraid that there is nothing I can say to someone leaving from Syria, or from areas of conflict nowadays. What I can say to them is

we, as Europeans, I add personally, finally, understood that we have to take this seriously, and together as Europeans. On different elements - preventing and managing conflicts - the main point is Syria there, but not only. Majority of the people come from the Horn of Africa."

See also: Commission: Strategy Note on "[Legal Migration](#)" (pdf)

15. [European Commission: EU Migration Agenda](#) (pdf)

A leaked draft of the Commission communication on the EU migration agenda which is due to be published on Wednesday 13th May. It might be changed before publication and may also be missing some text.(First published on EU Law Analysis)

16. [EU moves ahead with military response to migration; pushes for Europe-wide migrant "quotas"](#)

The EU's proposal to try and deal with the crisis in the Mediterranean by destroying boats used to transport migrants is moving ahead, with foreign policy chief Federica Mogherini making the EU's case for military action to the UN Security Council today. The proposed military effort will feature in the Commission's forthcoming ['Agenda on Migration', to be published on Wednesday](#) (pdf), which will revolve around four themes: "a strong common asylum policy, the fight against trafficking and the prevention of irregular migration, managing external borders, and a new policy on legal migration."

17 [Tripling Triton's budget: how fast will the EU move?](#)

One of the European Council's recent proposals for dealing with the migration crisis in the Mediterranean was to "rapidly reinforce" the Triton border control mission, operated by EU agency Frontex. However, the speed of the decision-making process in the EU suggests that this reinforcement is not likely to be particularly rapid.

18. Global Detention Project (GDP): [The Detention of Asylum Seekers in the Mediterranean Region: April 2015](#) (pdf): *This Global Detention Project background paper is intended to highlight some of the vulnerabilities that people seeking international protection face when they are taken into custody in Mediterranean countries and to underscore the way that European Union-driven policies have impacted the migratory phenomenon in the region."*

19. EU-UK: [Royal Navy migrant rescue mission delayed by diplomatic wrangle - HMS Bulwark awaiting deployment 10 days after David Cameron first offered it for use in Mediterranean search operations](#) (Guardian, link):

"The Royal Navys flagship has been temporarily prevented from joining Mediterranean rescue operations while the British and Italian governments wrangle over whether migrants can disembark at Italian ports.... Britain wants guarantees that migrants rescued by HMS Bulwark can be taken to Italian ports."

20. [Thousands of migrants rescued in Mediterranean](#) (euobserver, link):

"Thousands of people in rickety boats and rubber dinghies in the Mediterranean were rescued over the weekend in one of the largest life-saving operations to date led by Italys coastguard. Italian officials say some 5,800 were plucked from the sea on Sunday (3 May) and Saturday. Around 10 were found dead off the Libyan coast with more 2,150 of them rescued on Sunday alone. The migrants were taken to southern Italian ports."

And see: [Italy says 10 migrants die, 4,500 rescued in ongoing mission | Reuters](#) (F.Politics, link)

21. [Europe Weighs Bombing Migrant Boats](#) (Defense News, link):

"Europe's leaders are carefully weighing the chances of pulling off an unusual military operation: Bombing small boats before they're loaded up with fishermen or illegal migrants. What sounds like a hypothetical war college exercise has instead become a pressing political problem..."

22. With details of exactly what the EU is going to do and on what legal basis still undecided it is perhaps useful to be reminded of similar ongoing operations the EU is undertaking: [Ongoing EU operations](#) (EEAS, pdf) This is full of acronyms, this is what they stand for:

EUAM (EU Administration of Mostar)

EUMM (EU Monitoring mission)

EUPOL (EU Police Mission)

EUMAM (Military Advisory Mission in the Central African Republic)

EUCAP ((EU capacity-building) NESTOR in the Horn of Africa, EUCAP SAHEL Niger EUAVSEC (aviation security) in South Sudan

EUTM (Mali)

EUFOR ALTHEA (Bosnia and Herzegovina)

EUBAM (EU Border Assistance Mission)

EUNAVFOR (EU Naval Force)

Background: A EU Mission in the Med could call for financial support under the: [ATHENA Council Decision](#) (pdf). As to the legal basis it could be under Article 44 of the TEU and this was discussed in the Council's Political and Security Committee: [PMG Recommendations on Article 44 TEU](#) (LIMITE doc no 6108-15, pdf) which notes that *"The Council Legal Service advised that use of an Article 44 mission must be in accordance with: Article 42(1) and Article 43(1)"* for a military-civil operation.

The Council Legal Service also concluded: that i) A Article 44 Mission has to be established by a Council Decision, **adopted by unanimity** ii) the actual implementation **can be undertaken by a group of Member States and iii) A Third State can take part.**

23. European Parliament: [Migration: Parliament calls for urgent measures to save lives](#) (pdf):

"The EU should do everything possible to prevent further loss of life at sea, e.g. by expanding the mandate of Triton operation in the Mediterranean to include "search and rescue operations at EU level", says a resolution voted by Parliament on Wednesday. MEPs also call for a binding quota for distributing asylum seekers among all EU countries, bigger contributions to resettlement programmes, better cooperation with third countries and tougher measures against people smugglers.

Parliament urges the EU and its member states to establish a clear mandate for Triton, "so as to expand its area of operation and increase its mandate for search and rescue operations at EU level" (Triton is coordinated by the EU border agency Frontex and currently extends only 30 nautical miles from the Italian coastline).

The EU and its member states should ensure that "search and rescue obligations are effectively fulfilled", stresses the resolution, which was approved by 449 votes to 130, with 93 abstentions."

24. [UN Security Council President on Mediterranean Migrant Crisis: Its Not About Protecting Europe; Its About Protecting the Refugees](#). (Migrants at Sea, link) *"diplomats are warning that United Nations backing for any European Union plan to address the growing Mediterranean migration*

crisis could take longer than anyone wants. Ambassador Kavar said I don't think we're anywhere close to having [support] now and that the effort is not about protecting Europe. It's about protecting the refugees."

25. Reportage:

" [Royal Navy to send drones to the Mediterranean to save migrants - Unarmed surveillance drones could be sent to search for dangerously overloaded boats packed with people making the perilous crossing from Libya to Europe](#) (Daily Telegraph, link)

" [If the EU Attacks Migrant Boats in Zuwara, Libya, How Will It Select from Among the 100s of Boats?](#) (Migrants at Sea, link): "There is no effective and safe (or legal) means by which a particular smuggling boat can be identified and destroyed without destroying multiple other boats."

" [EU rescue ships head for Libya, as migrants die also in Balkans](#) (Reuters, link): ""Yet hours after European Union leaders agreed in Brussels on Thursday to treble funding for EU maritime missions and pledged more ships and aircraft, 14 clandestine migrants were killed when a train ploughed into dozens of Somalis and Afghans making their way in darkness along a rail track in a Macedonian gorge."

" [Italian judge keeps migrant disaster ship skipper behind bars](#) (SUNDaily, link): "The Tunisian captain of a migrant boat in which at least 700 people drowned is to remain behind bars as an Italian judge continues his inquiry into the deadly disaster."

" ['Africa's gendarme' France to seek UN approval for new military battlefield - this time in the sea](#) (Mail & Guardian Africa, link): ""FRANCE and Britain agreed Thursday to seek United Nations approval for an EU military operation against people smugglers, in a bid to curb the soaring number of migrants dying as they seek a better life in Europe."

" [UN Security Council Working on Migrant Resolution](#) (ABC News, link): "France's ambassador to the U.N. says Security Council members are already working on a council resolution to address the spiraling migrant crisis."

" [The EUs disappointing response to the migration crisis](#) (IRIN, link): "A closer look at the list of commitments from Europe's leaders after their hastily-arranged migrant crisis summit in Brussels reveals no substantial change in response and few measures likely to have any major impact on the flows of migrants and asylum-seekers trying to reach Europe" and [Europe must stop exporting its migration fears or face the consequences](#) (link):

""Thirty years ago we knew that there was a demographic and economic crisis on the horizon. We knew, because the International Labour Organization and the UN Fund for Population Activities had done their homework and told us so. We knew just how many young people would be entering the work force in the developing world; we knew how many jobs would be required; we knew that regular migration to the developed world could provide only a small percentage of solutions, at best; and we knew, too, that conflict, turmoil, upheaval and displacement would likely still be with us.

"And what did we do? Essentially, we did nothing. We put our heads in the sand, crossed our fingers, and hoped that the inevitable would never happen. Well, it did, as the inevitable generally does. And the price is being paid today, in lives lost in flight and in transit from situations of utter desperation which we saw coming, and in the floundering ineffectiveness of regional and national policies."

26. [Draft list of Member State "pledges" of military and other "assets"](#) (pdf) Note so far Germany

has only given 2 ships and UK warships are not included.

27. [Dont Rock the Boat: EU leaders do as little as possible to address the migrant crisis](#) (EU Law Analysis, link)

"Yesterday the EU leaders, in the European Council, adopted a [policy](#) for addressing the recent crisis of large-scale migrant death tolls crossing the Mediterranean. It builds upon the recent 10-point plan adopted by ministers (discussed here), but builds upon it in some respects. There were also some interesting last-minute changes to the [earlier draft](#) of the text (all of which are shown in the annex below), indicating leaders real priorities...

there is a specific commitment to triple the funds for search and rescue as regards existing EU operations. However, this is only within the mandate of Frontex and the head of the EU border agency has [stated](#) that this agency does not really have a search and rescue role.

It should be noted that since these operations are coordinated by Frontex, detailed rules of EU law will apply (discussed here) will apply. These rules do allow, in some cases, for returns of migrants directly from their rescue to non-EU countries as long as those countries are safe. It is unlikely that in the current situation, Libya would qualify as safe."

See: [Comparison between Draft and Final Statements](#) (pdf)

Although the statement limits fingerprinting to those who apply for asylum see Statewatch on EU plan for "systematic identification": [Fingerprinting by force: secret discussions on "systematic identification" of migrants and asylum seekers](#)

28. EU MED CRISIS: Press coverage:

- European Parliament: [European Council: Civil Liberties Committee Chair regrets lack of commitment by EU leaders on the number of refugees to resettle](#) (pdf): *"Reacting to the final statement of the European Council held yesterday in Brussels, the Chair of the European Parliament's Civil Liberties, Justice and Home Affairs Committee responsible for dealing with migration, Claude Moraes (S&D, UK), welcomed the setting up of a voluntary resettlement scheme to those qualifying for protection, but regretted the lack of commitment by EU leaders on the number of refugees to resettle. "Bolder pledges should have been made" at the summit, he said."*

- [Open letter to David Cameron: Building the walls of fortress Europe has had deadly results - In this open letter, a coalition of 19 charities calls on the UK to ensure that a fully resourced search-and-rescue mission is re-established](#) (Independent, link)

- [EU to target migrant smugglers](#) (euobserver, link): *"EU leaders on Thursday (23 April) declared war on migrant smugglers and promised to triple the monthly budget of the EU's sea surveillance mission, Triton. But broader efforts to address politically sensitive issues on a better distribution of asylum seekers and refugees largely fell to the wayside as leaders instead placed emphasis on giving the EU's surveillance mission Triton more cash, more boats, and more planes.*

- [NGOs: Migration summit fell short of expectations](#) (euractiv, link): *"EU leaders have missed a real opportunity to make a serious difference in the lives and deaths of the people suffering daily in the Mediterranean, say NGOs."*

- [EU leaders will use military against refugees, warns leading MEP](#) (euractiv, link)

- [Coffin-carrying migrants march on European Council](#) (euractiv, link)

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