



BRIEFING PAPER

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Mediterranean boat people

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Inside:

1. Migrants
2. Recent EU action and proposals



Contents

1. Migrants	3
1.1 Where from?	3
1.2 Why through Libya?	4
1.3 Prospects	5
2. Recent EU action and proposals	6
2.1 New European Agenda on Migration	6
2.2 The UK Government's response to the proposals	9
2.3 Military action in the Mediterranean	10
Reaction	11

Summary

Huge numbers of people are dying trying to cross the Mediterranean to Southern Europe from Libya. Lawlessness in Libya means that there is little authority to control the flow; some of the militias controlling the country are profiting from the trade. The numbers safely reaching their destination are creating problems for the recipient countries.

The EU is seeking to take emergency action to deal with the migrant flows. It has strengthened its search and rescue operations Triton and Poseidon and will continue to do so in the rest of 2015.

The EU is also considering ways of dispersing those granted asylum to other member states, but this plan has hit opposition from some of them, including the UK.

The EU has also launched a military operation called EUNAVFOR MED, to disrupt the smuggling business that would include destroying boats used by the smugglers. The UK has contributed HMS Enterprise to the operation. There are, however, significant legal and practical problems with this approach.

1. Migrants

Fabrice Leggeri, director of Frontex, the EU's border agency, said in March 2015 that anywhere between 500,000 and 1 million people were waiting in Libya to cross the Mediterranean.¹ The numbers reaching Italy have been about the same this year as for the corresponding period in 2014. The UNHCR says that at least 218,000 crossed the Mediterranean in 2014, of whom about 3,500 lost their lives. Between January and mid-April 2015, 23,556 people entered Italy irregularly by sea.²

Although the number of people successfully entering Italy was much the same as for the same period in the previous year, the death toll was 30 times higher. Analysts attribute this increase to the suspension of the Italian *Mare Nostrum* search and rescue operation and its replacement with the *Triton* operation, which only patrols 30 miles from the Italian and Maltese coasts, rather than in Libyan waters. The increase has also been blamed on a shortage of boats, which has led to ever-increasing numbers of migrants being crammed onto each vessel.

30 times more deaths

The number of migrants drowned appeared to be reducing in May 2015, with less than 100 dying in that month, compared with 329 in the same month in 2014. Even more migrants had undertaken the journey, however; it was the increased search and rescue that reduced the deaths.³

While there are some involuntary migrants, subject to people trafficking rather than smuggling, this is the exception. There is an increasing prevalence of unaccompanied minors among migrants, whose average age is also decreasing.⁴

There is a general lack of information about the identity of migrants, their motivations and decision-making processes.⁵ The price may be as much as \$6,000 dollars per migrant and often, when the migrants do not have enough money, they may be forced to work along the way or to enter bonded labour when they reach their destination.⁶

1.1 Where from?

Most of the migrants trying to cross from Libya to Europe are not Libyans. Syria is an important source of migrants. Frontex, the EU border

¹ 'The worst yet?', *Economist*, 19 April 2015

² *Ibid.*

³ '[Mediterranean migrant death rate slows after search-and-rescue boost](#)', *Guardian*, 1 June 2015

⁴ [Mixed migration: Libya at a Crossroads: Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya](#), Altai Consulting for the UNHCR, November 2013

⁵ Jacob Townsend and Christel Oomen, [Before the Boat: Understanding the Migrant Journey](#), Migration Policy Institute, May 2015

⁶ [Mixed migration: Libya at a Crossroads: Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya](#), Altai Consulting for the UNHCR, November 2013

agency, reports that in 2014 23% of migrants using the Central Mediterranean route, including from Libya, were Syrians.⁷

They also come from East Africa, particularly Eritrea but also Somalia, Somaliland, Ethiopia, Sudan and South Sudan. West African nationalities usually travel through Niger from countries such as Gambia, Niger, Guinea, Ivory Coast, Chad and Guinea Bissau. These countries all suffer from poverty and some, such as Sudan, from armed conflicts. There are environmental problems – particularly in the Sahel countries bordering the Sahara, such as Niger and Chad – that are destroying precarious livelihoods in the region.

1.2 Why through Libya?

Libya has been in the news as the main departure point for the boat people. This is not because Libyans themselves want to cross the sea. Despite the chaos and violence in Libya, the number of migrants who are themselves Libyan seems to be small; Libya remains a relatively rich country for now.

The political chaos in Libya since the fall of Muammar Qaddafi has led to a resurgence in Libya's traditional role as transit point for smuggling networks. Libyan institutions may have been hollowed out during the dictatorship, but they were capable of imposing order on the country, often with notorious brutality. The Qaddafi government used to control migrants passing through the country trying to reach Europe, under a 2010 agreement with the EU,⁸ which saw a sharp decline in the number of migrants, some suggested in return for aid.

Now that there is no single recognised government in Libya, there is little to stop the smuggling from Libya's coast. Indeed, some of the armed groups who hold sway in different areas of the country may be profiting from it.

People smuggling is not the only trade that is booming in these circumstances. Smuggling of drugs, illegal and legal, arms and any other merchandise is booming, so much so that Libya is now becoming the main centre for organised crime in the central Mediterranean, according to one report.⁹ Weapons smuggled out of Libya (where the Qaddafi regime had amassed huge quantities) are thought to have contributed to recent conflicts in Mali, Niger and Chad.¹⁰

Smuggling is booming

Libya has for many years itself been a destination for migrant workers, attracted by Libya's oil wealth to do generally menial jobs in the country. Arab migrants (such as Egyptians) are more likely to find stable work and to stay in Libya. Migrants from south of the Sahara tend to be subject to exploitation, abuse and vulnerability, as xenophobia rises in

⁷ [Annual risk analysis 2015](#), Frontex, p20

⁸ ['European Commission and Libya agree a Migration Cooperation agenda during high level visit to boost EU-Libya relations'](#), European Commission press release, 5 October 2010

⁹ ['Libya's criminals are undermining the attempts to prop up a collapsing state'](#), *Independent*, 22 April 2015

¹⁰ ['Spiking Arms Proliferation, Organized Crime, Terrorism Part of Fallout from Libyan Crisis Afflicting Sahel, Security Council Told'](#), UN press release, 26 January 2012

the country. This is forcing more people to attempt the Mediterranean crossing, according to a recent report by Amnesty International.¹¹

1.3 Prospects

The UN has been facilitating talks in Algiers, aimed at getting the two sides to form a unity government. The last round was held in April 2015, mediated by the Special Representative for Libya, Bernardino León. On 19 April, he said that the talks were moving forwards, and that an agreement was 80% complete.¹² These talks have come in for some criticism, however, and a separate strand of talks, also mediated by the UN, is taking place in Morocco.¹³ Bernardino León reported after the end of the last round of Morocco talks that the accord remained a work in progress.¹⁴ The Tripoli-based General National Congress rejected the third draft prepared for the talks, but said that it would participate in further talks.

The prospects for successful reconciliation are undermined by the fact that armed militias are profiting from the various smuggling operations taking place, operations that would be curtailed if compromise lead to the installation of an effective government that would control organised crime.

Militias profiting from smuggling

Meanwhile militants proclaiming their loyalty to Islamic State in Iraq and the Levant (ISIS) have consolidated their hold on most of the town of Sirte and surrounding countryside. One hope is that the rise of radical groups affiliated with ISIS may serve to bring together more moderate warring factions.¹⁵ Nevertheless, suicide bombings and gun attacks have proliferated in recent months, some of them against foreign delegations such as the South Korean Embassy.

The environment in Libya is likely to remain permissive for people smugglers and dangerous for any international presence for the foreseeable future.

¹¹ *'Libya is full of cruelty': Stories of abduction, sexual violence and abuse from migrants and refugees*, Amnesty International,

¹² ['UN says Libya peace talks 'very close' to final accord'](#), *Al-Jazeera*, 19 April 2015

¹³ ['Morocco, Algeria compete over Libya'](#), *Al-Monitor*, 19 April 2015

¹⁴ ['Leon Says Draft Agreement Remains Work in Progress. to Consult with Parties on Resumption of Dialogue'](#), UNSMIL press release, 29 April 2015

¹⁵ ['Fighting Flares up in Sirte, Will Libya Dawn Crumble under Misratan Pressures for Cooperation?'](#), *Libya Analysis*, 25 May 2015

2. Recent EU action and proposals

2.1 New European Agenda on Migration

On 13 May the European Commission published a '[European Agenda on Migration](#)'. The Agenda develops proposals which were initially endorsed by EU leaders in April at special European Council meetings and in a European Parliament [resolution approved](#) on 26 April.¹⁶

The Agenda contains some immediate measures to respond to the crisis in the Mediterranean, as well as some medium and long-term measures to "better manage migration in all its aspects".¹⁷

The anticipated benefits of the new Agenda are summarised on the Commission's website:

Migration management is a shared responsibility, not only among EU Member States, but also vis-à-vis non-EU countries of transit and origin of migrants. By combining both internal and external policies, the Agenda provides a new, comprehensive approach grounded in mutual trust and solidarity among EU Member States and institutions.¹⁸

The immediate actions proposed to prevent more deaths in the Mediterranean centred around:

- Extending the remit and resourcing of Frontex's operations in the Mediterranean ('Triton' and 'Poseidon') for 2015 and 2016
- Developing an emergency relocation mechanism to help Member States faced with a sudden influx of migrants – specifically, to develop temporary proposals for a relocation mechanism by the end of May, and proposals for a permanent relocation mechanism in emergency situations by the end of 2015
- Developing proposals for an EU-wide refugee resettlement scheme to offer 20,000 places to people currently outside the EU's borders and in need of international protection
- Working on a Common Security and Defence Policy operation in the Mediterranean, to break up trafficking networks, in accordance with international law.

The proposals have received a mixed response from EU leaders, with proposals to redistribute refugees between Member States proving particularly controversial. According to media reports, Germany, Italy and Greece (who receive high numbers of asylum applicants/new arrivals) are in favour of such a mechanism, whereas some other Member States, including the UK, France, and Hungary, are strongly

UK strongly opposed

¹⁶ European Commission, *press release*, '[Joint Foreign and Home Affairs Council: Ten point action plan on migration](#)', 20 April 2015; European Council, [Special meeting of the European Council](#), 23 April 2015; European Parliament, Texts adopted, 29 April 2015 resolution on the latest tragedies in the Mediterranean and EU migration and asylum policies ([2015/2660\(RSP\)](#))

¹⁷ European Commission, *press release*, '[Managing migration better in all aspects: A European Agenda on Migration](#)', 13 May 2015

¹⁸ European Commission, DHs/Home Affairs/Policies, '[European Agenda on Migration](#)', 18 May 2015

7 Mediterranean boat people

opposed.¹⁹ As discussed further below, the UK would only be bound by the mechanism if it chose to 'opt-in'.

On 27 May 2015, the European Commission presented [more detailed proposals for these immediate measures](#), which would be taken forward in the first implementation phase for the Agenda.²⁰ These included:

- Plans to establish an [emergency relocation scheme](#), in respect of Syrian and Eritrean nationals who arrive in Italy or Greece and are in need of international protection. The scheme aims to relocate 40,000 people to other Member States over the next two years.
- A recommendation that over the next two years, Member States resettle 20,000 people from outside the EU who are recognised by UNHCR as being in need of international protection.
- An ['action plan' against smuggling](#), which includes strengthening legislation to tackle migrant smuggling, measures to identify, capture and destroy smugglers' vessels, and measures to raise awareness of the risks associated with smuggling.
- Guidelines for Member States on fingerprinting newly arrived asylum applicants, to support the efficient functioning of the EU's common asylum system.

Extending search and rescue missions

The remits and resourcing of Frontex's missions 'Operation Triton' and 'Operation Poseidon Sea' are being extended.

Triton's area of operations is being enlarged, in order to include the area where the Italian search and rescue mission ('Mare Nostrum') previously operated. It is being given more assets, human resources and funding, and a new regional base in Sicily. A press release from Frontex gives further details:

Triton

The operational area will be extended to 138 NM south of Sicily. During the peak summer season, Triton will deploy 3 airplanes, 6 Offshore Patrol Vessels, 12 patrol boats, 2 helicopters, 9 debriefing and 6 screening teams.

(...)

The European Commission will soon provide Frontex with additional EUR 26.25 million to strengthen Operation Triton in Italy and Poseidon Sea in Greece from June 2015 until the end of the year. The budget for Triton for this year will stand at EUR 38 million and EUR 18 million for Poseidon Sea.

Next year, the European Commission will provide Frontex with additional EUR 45 million for the two operations.²¹

Although the UK cannot formally participate in Frontex missions, it does provide support on an informal basis. In April 2014 it increased its support to Triton (discussed further in section below).

Refugee resettlement ('refugee quotas')

¹⁹ EUObserver.com, ['EU to propose 'binding' quotas for migrant relocation'](#), 11 May 2015; BBC News, ['Will EU Commission's quota plan for migrants work?'](#), 13 May 2015; Politico.eu, ['France puts Juncker's migration agenda at risk'](#), 19 May 2015

²⁰ European Commission, *press release*, ['European Commission makes progress on Agenda on Migration'](#), IP/15/5039, 27 May 2015

²¹ FRONTEX, *news*, ['FRONTEX expands its joint Operation Triton'](#), 26 May 2015

The Commission is proposing two separate measures:

- **Emergency relocation scheme to assist Italy and Greece**

A scheme to relocate 40,000 Syrian and Eritrean asylum seekers from Italy and Greece to other Member States over the next two years would be established, by using an emergency clause (Article 78(3)) in the TFEU.²²

Responsibility for deciding the asylum claim would rest with the Member State that accepts the relocated asylum seeker. 'Vulnerable' Syrian and Eritrean applicants would be prioritised for relocation. A distribution formula, which is intended to reflect states' "absorption and integration" capacities, would inform decisions about how many asylum seekers each Member State could relocate. The formula would largely reflect population and GDP size (with larger states and economies being considered able to absorb more migrants), but would also take into account the number of asylum applications and refugees resettled in the past five years, and the unemployment rate in the Member State. The EU's Asylum, Migration and Integration Fund would provide Member States with funding equivalent to 6,000 Euros per relocated person.

The relocation scheme is intended to operate alongside the 'Dublin' system for determining which state is responsible for processing an asylum claim. Although the Dublin criteria would not apply in respect of Eritreans and Syrians identified for relocation, all other asylum applicants across the EU would remain subject to the Dublin system.

Dublin criteria

The Commission's proposal for a relocation scheme must be approved by a qualified majority vote of the European Council, after consultation with the European Parliament. The UK and Ireland would only participate if they decided to exercise their right to opt-in to the measure. Denmark has a pre-existing opt-out, so would not participate. The UK Government has already indicated that it does not intend to opt-in to the proposal (discussed further in section below).

- **Extending refugee resettlement**

The Commission is also recommending that, by September 2015, Member States commit to resettle 20,000 people from outside the EU who have been identified by the UNHCR as in need of international protection, over the next two years.²³

The distribution of resettled refugees between Member States would be informed by the same considerations as the emergency relocation measure (GDP, size of population, unemployment rate, and previous numbers of asylum seekers and resettled refugees).

The EU would provide 50 million euros in funding to support participating Member States.

²² European Commission, *Proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece*, 27 May 2015, [COM\(2015\) 286 final](#); European Commission, *fact sheet, 'First measures under the European Agenda on Migration: Questions and Answers'*, 27 May 2015

²³ European Commission, *fact sheet, 'First measures under the European Agenda on Migration: Questions and Answers'*, 27 May 2015

A fact sheet issued by the Commission noted that participation in resettlement schemes is voluntary. 15 Member States currently participate in resettlement schemes (including the UK), and a further 3 Member States participate on an ad hoc basis.

The UK does not participate in UNHCR's resettlement scheme for Syrian refugees. Instead, it operates its own [resettlement scheme for vulnerable Syrian refugees](#). 143 Syrians came to the UK under the scheme in 2014.

The UK also offers resettlement to up to 750 refugees of other nationalities each year, under a [separate resettlement scheme](#) operated in conjunction with UNHCR. The UK Government has indicated that it does not intend to sign up to a mandatory EU-wide refugee resettlement scheme (see below).

2.2 The UK Government's response to the proposals

The UK's 'opt-in' arrangements mean that it is able to decide on a case by case basis whether or not to participate in new EU legislative measures on asylum and migration.

The Home Secretary said on 13 May, in an article published in *The Times*, that the UK would not participate in mandatory relocation or resettlement schemes.²⁴ In the Government's view, the schemes would create "pull factors" for further migration, strengthen the incentives for people smugglers' activities, and reduce the incentives on individual Member States to ensure effective asylum systems of their own.

Pull factors

The Coalition Government cited similar concerns in October 2014, to explain why it supported the ending of Italy's search and rescue mission in the Mediterranean Sea.²⁵ However, the Government has recently given support to extending Frontex's Operation Triton mission (which effectively replaced the Italian mission). At the emergency European Council meetings in April 2015, the Prime Minister offered the UK's warship HMS Bulwark, two patrol boats, and three helicopters to assist with search and rescue operations in the Mediterranean. He emphasised that rescued migrants would be taken to Italy or other nearby countries, rather than to the UK.²⁶

The UK Government's preferred response to the current crisis in the Mediterranean, as set out in the *Times* article of 13 May, is for action which:

- maintains a distinction between search and rescue activities and the process for gaining permission to stay in the EU (such as establishing "safe landing sites" in North Africa, and an active programme of returns);

²⁴ *The Times*, 'Britain will resist calls for mandatory resettlement across Europe', 13 May 2015

²⁵ [Written Question HL 2468](#), answered on 28 October 2014; see also [HL 2595](#), answered on 18 November 2014

²⁶ BBC News [online], "[Cameron demands plan to tackle Med migrant crisis](#)", 23 April 2015

- deters economic migrants from attempting to cross the EU's borders, by providing support in source and transit countries; and
- identifies and takes action against the criminal gangs and networks who organise the migrants' journeys.

2.3 Military action in the Mediterranean

The military action to destroy boats and other smuggling infrastructure has proved particularly controversial. An instruction was issued at the April summit to the EU External Action Service to begin preparing for a military action to destroy the boats of traffickers and 'disrupt the smugglers' business model'. The plan was to base the action on the successful anti-piracy operation of Somalia – *Operation Atalanta*. In that operation boats were also destroyed onshore. The operation, to operate under the EU's Common Foreign and Security Policy (CFSP), has been named EUNAVFOR MED.

EUNAVFOR MED

The Prime Minister's Office confirmed in May that the UK would contribute drones to help with intelligence-gathering for the operation.²⁷

The EU Military Council prepared an advice note on the feasibility of such a plan, which was subsequently leaked. The plan underlined the military's concern that the operation should have a 'robust legal framework and rules of engagement'. The note also warned that the military operation risked the EU's image, and could encourage more migration if migrants believed that the presence of warships made the crossing safer.²⁸ It also suggested that a military presence might be necessary on land, if it was agreed by the relevant authorities, although it has been repeatedly denied in public that this was the policy.

Robust legal
framework

UK Foreign Secretary Philip Hammond attended a meeting of the European Council on 18 May at which EUNAVFOR MED was discussed. In a statement to Parliament, Europe Minister David Lidington said that Mr Hammond said that he and the Defence Secretary spoke in favour, with some cautions:

The Foreign Secretary and Defence Secretary spoke in support of the establishment of the operation, but, noted that prior to its launch, clarity would be required on the handling of migrants rescued, smugglers apprehended, and the necessary legal base for the operation would need to be established. All four phases (surveillance/intelligence; seizure of vessels on the high seas; seizure and potentially destruction in Libyan waters/ashore; and withdrawal) needed to be enactable.²⁹

On 22 June, EUNAVFOR MED was formally launched,³⁰ and this was reported to the House of Commons in a statement by David Lidington

²⁷ ['Britain to deploy drones in fight against Mediterranean migrant traffickers'](#), *Daily Telegraph*, 18 May 2015

²⁸ ['Boat-sinking operation poses 'risk' to EU image'](#), *EUObserver*, 26 May 2015

²⁹ [HC Deb 1 June 2015, c7WS](#). Conclusions are available on the Council website: [Foreign Affairs Council, 18/05/2015](#)

³⁰ [COUNCIL DECISION \(CFSP\) 2015/972 of 22 June 2015 launching the European Union military operation in the southern Central Mediterranean \(EUNAVFOR MED\)](#)

on 1 July.³¹ The operation should last for a year after it becomes fully operational, and consist of the following phases:

- The first phase focuses on surveillance and assessment of human smuggling and trafficking networks in the Southern Central Mediterranean.
- The second stage of the operation provides for the search and, if necessary, diversion of suspicious vessels.
- The third phase would allow the disposal of vessels and related assets, preferably before use, and to apprehend traffickers and smugglers.³²

Running costs of the military assets will be met by the member states contributing them, but there will be a common budget of €11.82 million, to last for one year.

The UK is contributing a ship to EUNAVFOR MED – HMS Enterprise – and a Merlin helicopter. HMS Enterprise joined the force on 4 July 2015.

Reaction

Some commentators have questioned the EUNAVFOR policy, given the violence in Libya, saying that more migrants' lives could be put at risk and that the policy could be difficult to justify legally, even if the Security Council were to vote for it. The European Council on Refugees and Exiles said that it might result in more deaths:

An unintended consequence of this mission is that it may even lead to more deaths. If there is a shortage of vessels, even more people will be packed into them. There is even a possibility, given the desperate situation these people face, that they might try to construct their own boats.³³

Both of the Libyan 'governments' have expressed their opposition to such a plan, meaning that Chapter VII of the UN Charter, which provides for mandatory action, would be necessary. Russia has made clear that it will oppose any United Nations Security Council resolution that would authorise destruction of Libya boats in port and in May, Secretary General Ban Ki Moon said that 'there is no military solution to migrants crossing the Mediterranean'.³⁴

Russia opposed

Commentators have also expressed concern that the destruction of boats could lead to migrants using smaller, even more dangerous boats or using other routes than Libya; as long as the underlying reasons for migration are not tackled, the flow of migrants would be unlikely to be reduced.

³¹ [Foreign Affairs Council and General Affairs Council: 22 – 23 June: Written statement - HCWS77](#)

³² European Union Naval Force – Mediterranean, [Factsheet](#), June 2015

³³ ['EU to launch Mediterranean naval mission to tackle migrant crisis'](#), *Guardian*, 18 May 2015

³⁴ ['No military solution to boat migrant crisis - U.N. chief to paper'](#), *Reuters*, 26 April 2015

RUSI has also questioned the availability of enough military hardware to conduct the operation, when there are other pressing security demands on European navies.³⁵

There is also the question of what to do with the migrants intercepted as sea; the EU has indicated that there would be no forced repatriations.³⁶

The European Parliament's rapporteur on the Common Security and Defence Policy (Arnaud Danjean, European People's Party) has criticised EUNAVFOR MED, saying that its legality is not assured, it may not have enough intelligence to be able to operate effectively, and destroying boats on the ground is practically difficult and might lead to 'collateral damage', that is, the death or injury of civilians and damage to civilian buildings.³⁷

³⁵ ['Five Reasons Why Militarising the EU Migration Plan Will Not Work'](#), RUSI Analysis, 14 May 2015

³⁶ ['EU's Mogherini: No Forcible Repatriation for Migrants'](#), *VOA News*, 11 May 2015

³⁷ ['Will EUNAVFOR Med be ineffective?'](#), *Euronews*, 1 June 2015 [subscription needed]

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