



EuroMed Rights

EU-Egypt migration cooperation: at the expense of human rights



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الأورو-متوسطية لحقوق

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Executive Summary

This study aims to provide a mapping of the cooperation between Egypt and the EU/Member States in migration and border management and its impact on the rights of migrants and refugees in Egypt in order to provide concrete recommendations for action to the EU and its Member States.

Background

In 2014 and 2015 the ill-labelled 'migration crisis', in reality a crisis of EU asylum and reception policies, intensified, along with the externalisation of the EU's migration and border management in its South Mediterranean neighbourhood, ongoing since the early 2000s.

In 2016, Egyptian authorities adopted the 'anti-human smuggling law'. In October 2017, the European Union proudly announced it had come to an agreement with Egypt. Subsequently a programme called 'Enhancing the Response to Migration Challenges in Egypt' was financed via the EU Emergency Trust Fund for Africa (EUTF). At a time when the follow-up of the March 2016 EU-Turkey declaration commanded everyone's attention, the announcement shed light on EU-Egypt migration cooperation, hitherto largely unknown. Although cooperation with Egypt was not new (see the 2014-2017 EU-African Union Joint Action Plan on Migration & Mobility, and the April 2015 EU-Horn of Africa border management programme, known as 'the Khartoum Process'), the magnitude of cooperation on migration issues, albeit smaller than that with Turkey, was unprecedented.

While many observers began to wonder if this agreement was indeed similar to the (in)famous EU-Turkey deal, a closer look indicated a substantially different dynamic for two reasons. Although Egypt leverages migration management as a pillar of its cooperation with its European partners, including the implied threat of uncontrolled migration movements reaching EU shores, statistically Egypt has not been a major country of departure for people arriving unauthorised in Europe, as acknowledged by Frontex - the European Border Guard and Coast Guard Agency. Furthermore, Egypt had so far not needed support from its European partners to deal with irregular migration and border management issues. Why then is migration, especially the fight against irregular migration, suddenly front and centre on the EU-Egypt cooperation agenda?

Main findings

Talks with Egypt do not seem to correspond to the classic ‘externalisation’ pattern which applies to other countries and where the EU tries to use conditionality on border management and return. This works in a context where the power balance is more favourable to the European Commission and EU Member States than to their non-EU counterparts. The situation is quite different with Egypt and this research argues that the terms of cooperation are largely determined by Egypt’s interest in: seeking regional leadership at a time of increased criticism of the authoritarian rule imposed in Egypt, obtaining financial support for domestic development plans it cannot self-fund and institutional capacity-building as part of a state thirsty for powerful police and surveillance capacities to address border management challenges in the Sinai peninsula and in the south of the country.

Drawing on an overview of Egyptian legislation and migration management practices, especially recent developments in relation to the 2016 anti-human smuggling law, this report aims to provide an understanding as to why Egypt is seeking EU-cooperation on migration. The main findings of the study are as follows:

- EU-Egypt relations have intensified since late 2016 with the signing of a deal worth 60 million euros. This coincided with a great emphasis on fighting what is called ‘irregular migration’. However, the slow pace of legislative reforms (no asylum law passed in Egypt, no mobility facilitation schemes for Egyptians travelling to the EU) as well as delays in the implementation of agreed projects seems to suggest that the Dialogue on Migration & Mobility mostly serves as a diplomatic channel rather than a means to engage in practical cooperation with tangible outcomes.
- The Egyptian authorities leverage cooperation with the EU and some of its Member States to reinforce their institutional capacity and development challenges, and to improve the international legitimacy of an increasingly authoritarian regime. Egypt is also using European cooperation to support its counter-terrorism policy.
- The stalling of EU-led cooperation programmes in Egypt has not stopped some EU Member States from engaging in bilateral cooperation with

Egypt, sometimes even using EU funding, as is the case with Italy and Germany. In both countries deportations of Egyptians have increased in 2017 and 2018. For instance, in 2017, soon after the signing of the 2017 Egypt-Germany security cooperation agreement, Frontex return flights to Egypt started operating from Germany for the first time.

- EU-Egypt cooperation negatively impacts the human rights of migrants and refugees in Egypt, and arguably those of Egyptians as well. Over the past two years deportations of Egyptians from EU countries have increased. In Germany for instance, a growing number of Egyptians have been denied international protection. Meanwhile, they face increasing authoritarianism and severe human rights violations in their home country. Upgrades to Egypt’s border management capacities have served to legitimise the criminalisation of unauthorised exits and ‘irregular migration’; preventing emigration is a breach of the right to leave any country, including one’s own, as stipulated by article 12 of the International Covenant on Civil and Political Rights, which has binding force). The EU cooperation with Egypt on migration strengthens Egypt’s policing capacities, e.g. via trainings on border management or funding for the national coordinating committee for combating and preventing illegal migration (NCCPIM) that reports directly to the Ministry of Interior. It also provides Egypt with much sought-after political legitimacy, regionally and internationally, while most of the involved institutional bodies are part of Egypt’s oppressive state apparatus known for perpetrating human rights abuses.

In this context, the absence of a systematic and comprehensive human rights mechanism to monitor these cooperation channels is extremely disconcerting. EuroMed Rights’ main recommendations are the following:

- Any monitoring and evaluation of cooperation between the EU or its individual Member States with Egypt in the field of migration and asylum should be based, inter alia, on the consultation of evant European and Egyptian independent civil society organisations;
- The EU Emergency Trust Fund for Africa (EUTF) must be equipped with an official human rights monitoring mechanism. It should include a mid-

review assessing the impact of the EUTF's spending on the rights of migrants and refugees. The Committee on Foreign Affairs (AFET), the Subcommittee on Human Rights (DROI) as well as the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament should elaborate a joint evaluation report to assess the human rights impact of cooperation with Egypt in the field of migration and security;

- In light of the very concerning developments in Egypt both at policy and practice level with a severe impact on human rights, and in the absence of any systematic post-deportation monitoring mechanism applicable to forced and 'voluntary' return from EU Member States, no readmission agreement should be concluded with Egypt, whether at EU or Member State level;
- Cooperation of Frontex with Egyptian authorities, especially exchange of intelligence, should be thoroughly reported on to the European Parliament; in the absence of any binding oversight of the EU Parliament over Frontex's external cooperation and its fundamental rights impact, this cooperation should be suspended when violations of human rights are documented in Egypt.

For all of our recommendations, please see pages 26-27

Methodology and aim

This study provides a mapping of the cooperation between Egypt and the EU/Member States in migration and border management and its impact on the rights of migrants and refugees in Egypt in order to provide concrete recommendations for action to the EU and its Member States.

The study was compiled through desk research of existing documentation and interviews with key stakeholders, including migrants on both sides of the Mediterranean, EU and Egyptian officials and human rights defenders (HRDs) working on Egypt, between November and December 2018.

The study aims to enable an understanding of the current context, shed light on human rights concerns and question the EU's role and the impact of its cooperation with Egypt, and to provide recommendations for civil society.

EU-Egypt migration cooperation: at the expense of human rights

Introduction

In line with the Global Approach to Migration and Mobility (2005) and the Valletta Action Plan (2015) migration is a pillar of the external cooperation of the European Union (EU) and its Member States with its Mediterranean neighbours. 20 years after the adoption of the Integrated Border Management approach at the EU Summit in Tampere in 1999, the role of so-called “third countries” forms the core of the border management strategy of the EU and its Member States. An increasing number of political instruments are being harnessed to limit the presence of unwanted migrants and refugees inside the EU (inter alia readmission agreements, reinforcement of reception capacities in non-EU members states).

In the years following the 2011 uprisings, and subsequently the announcement by the European Commission in 2011¹ and the adoption of the EU Agenda on Migration in 2015, unprecedented financial and technical means have been made available by the EU and its Member States to enact this strategy, particularly in the Mediterranean neighbourhood.² The EU promotes border management cooperation as a mutually beneficial process opening the door to visa facilitation procedures or greater mobility channels to the EU, although so far it never translated in practice for South Mediterranean countries. The same logic applies to development aid and cooperation which are in fact closely conditioned upon EU terms as regards border management goals. These incentives, with their many conditions, still remain attractive to the EU's neighbours which are eager to maintain good relations with a political and economic regional power.

As a result, South Mediterranean neighbouring countries participate in the externalisation of border management and migration policies. This cooperation has also constituted an important capacity building tool for South Mediterranean countries to reinforce their border control apparatus and, arguably, legitimise their often-restrictive approach to migrant and refugee rights by passing domestic legislation in line with the EU agenda (sanctions against smugglers, tighter border controls and cooperation agreements with readmission clauses).

Having increased its cooperation with Morocco, Turkey and Tunisia, the EU has shifted its attention to Egypt, which it sees as a strategic regional partner on migration and border management. Cooperation on migration issues has intensified, increasingly intertwined with anti-terrorism and security-related policies. Human Rights organisations have raised deep concerns as to the consequences of this cooperation on human rights, including the rights of migrants and refugees.

Egypt has long been a transit, destination and departure country. Departures by boat towards Europe, have taken place since at least the late 1980s. In addition to being an important destination and crossing point, the country itself is a significant source of migrants. According to official statistics, around 10 million Egyptian nationals (more than 10% of the total population) were living abroad in 2011.³

The EU's interest in Egypt has grown over the past few years, coinciding with Egypt's greater interest in engaging with Brussels, which leverages migration to gain funding, political legitimacy and regional leadership. The central role played by Egypt in the regional cooperation framework launched in November 2014, called the “Khartoum Process”, is illustrative of Cairo's eagerness to connect its security-based approach on irregular migration with its interest in development cooperation, abiding by the EU's own terms, which conditions cooperation and aid on effective migration management. The recent strengthening of **their bilateral relations, including** through the EU-Egypt Partnership Priorities 2017-2020, has shown the increasing role that migration and security cooperation play in shaping the EU's relations with Egypt.

1. Egypt's migration profile

Since the late 1990s, poor social, political and economic conditions in Egypt kick-started a wave of departures by boat to Europe. Before then, economic opportunities were widely available in the Gulf region, Iraq, Libya, and various European countries. The Gulf war and the resulting volatile aftermath diminished job opportunities. At the time, the Emirates and Saudi Arabia did not yet offer the vast labour market attracting migrant manpower in place today. Many Egyptians left for Europe where, despite stricter visa access, economic opportunities were more attractive, with better access to economic, social and civil rights (e.g. freedom of speech). Irregular migration channels were used to overcome visa restrictions and tight controls of regular travel routes.

Due to the high number of Egyptians trying to escape the situation in Egypt by crossing the Mediterranean, smuggling routes developed exponentially, along with an increasing number of criminal organisations seeking profit out of it. A number of Egyptian governorates recorded elevated numbers of irregular migration, a large part opting for Italy, chiefly Al-Fayoum, Al-Gharbia, Kafr El-Sheikh, Al-Sharkia, Al-Dakahlia, Qalioubia, Menoufia, and Al-Beheira, according to a field study conducted by Qena, South Valley University on motives of Egyptian youth in irregular migration.⁴

Egypt has been an asylum destination country since the beginning of the last century, and possibly before. The first refugee community to arrive in Egypt in the 20th century were Armenians fleeing the Ottoman Empire in the wake of the 1915 genocide. Egypt received Palestinian refugees following the war of 1948 and Sudanese refugees after the second civil war in 1983. In the 1990s most refugees came from the Horn of Africa, i.e. Ethiopia, Eritrea and Somalia. Subsequently, many people from these communities have joined the increasing number of Egyptians migrating and entering the EU irregularly, especially after the installation of the current military dictatorship in 2013. In 2018, the Egyptian population was estimated at 97,006,920 inhabitants,⁵ including the foreign population, estimated at around 13,469,000⁶ in addition to 228,941 refugees and asylum-seekers of 58 different nationalities registered with the Office of the United Nations High Commissioner for Refugees (UNHCR) in Egypt. More than half of them are from Syria.⁷

2. Egyptian Migration Policies and Law

2.1. *International law*

Egypt has ratified the 1951 Geneva Refugee Convention, the 1967 African Union Protocol and the 1969 African Union Convention, all of which guarantee refugee rights. However, it has expressed reservations on five clauses of the 1951 Convention, rendering access to these rights ineffective in practice.⁸ These reservations contradict Egypt's commitments as signatory to the UN Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The detrimental impact on the rights of children is mitigated by laws and decrees that allow exemptions for some refugee categories, namely decision no. 24 (article 5) issued by the Minister of Education in 1992, which gives Sudanese, Jordanian and Libyan children the right to access primary education in public schools, as well as presidential decision no. 138, announced on 5 September 2012, during the opening session of the Council of Arab Foreign Ministers.⁹

2.2 *Overall situation of migrants and refugees in Egypt*

In Egypt, UNHCR implements registration, documentation and refugee status procedures under the Memorandum of Understanding signed with the Egyptian government in 1954.

The number of UNHCR persons of concern in 2019 is estimated at 280,000 refugees and asylum seekers from Iraq, Eritrea, Ethiopia, Southern Sudan, Sudan and Yemen. Refugees and asylum-seekers live in urban areas as well as rural communities.¹⁰ According to UNHCR in 2015, 59.65% of Syrian refugees surveyed (61,683 people, or 70% of the total registered population) were classified as "very vulnerable" and 27.72% (22,879 persons) were classified as "highly exposed". This means that nearly 90% of Syrians surveyed live on or below the poverty line set by UNHCR. The agency estimates that Syrians living in Egypt need 592.40 Egyptian pounds (about \$75) per person per month to meet their basic needs.¹¹

For years, the situation of Sudanese refugees in Egypt was dismal. Thousands attempted to cross the border to Israel through the Sinai Peninsula and succeeded, despite Egyptian security forces adopting a “shoot to kill” policy. Many migrants were shot dead by security forces as they approached the barbed wire fence that demarcates the border with Israel.¹²

2.3 Ban on unauthorised exits

Egyptian Law forbids unauthorised exits of the country: special permission is required, while crossing is mandated at officially designated border-crossing points pursuant to Law 97 of 1959. Military orders from the 1970s also forbid crossing the Libyan border outside of the Al-Sallum gate and establish prison sentences and/or fines. The Egyptian Attorney General interprets irregular migration as an offence, not a crime. This does not mean however that the country does not use criminal law for migration management purposes. For example, like in many countries in the Middle East North Africa (MENA) region, Law 64 of 2010 criminalising human trafficking is often interpreted broadly by the courts, sometimes against the victims of human trafficking themselves.

2.4 Migration, human trafficking and human smuggling

Law 64 of 2010 on combating human trafficking portrays migrants as victims and criminalises those who are complicit in the trade in people with coercion and for the purpose of exploitation. This law foresees prison sentences of up to 15 years or in some cases life, and a fine between 50,000 and 200,000 Egyptian pounds or the amount of the profit of the crime, whichever is greater.

The law links the fight against human trafficking with controls on migration, even though human trafficking, as defined in the Palermo Protocol of 2001,¹³ does not necessarily involve migrants or the crossing of an international border. The law was clearly designed to be used as a tool to control migration, not to counter human-trafficking. Besides, although trafficking victims cannot be held criminally responsible for trafficking-related violations, they can still be punished for other reasons by means of this law. For example, a Cairo-based migration lawyer interviewed for this study explained that the law foresees that trafficking victims who do not hold permanent residency permits in Egypt shall be returned to their country safely and

swiftly. However, there is no such thing as a permanent residency permit in Egypt. Therefore, trafficking victims who travel to Cairo are often apprehended en route and placed in detention centres.

The long-overdue law on ‘combating illegal migration and the smuggling of migrants’ was finally passed in November 2016 after two years of preparation in the wake of what is known as the ‘Rashid scandal shipwreck’ of September 2016 (see below on p.14).¹⁴ The adoption of law 2016/82, often referred to as the ‘anti-smuggling law’, is a step up in the set of criminal law provisions applying to nationals and foreign nationals in Egypt. People found guilty of ‘establishing, organising, or managing an organised criminal group for the purpose of smuggling migrants, assuming any leading role in such groups, or being a member of such groups or associated thereto’ [unofficial translation from the original version in Arabic], risk a fine between 200,000 and 500,000 Egyptian Pounds and prison sentences ranging up to life imprisonment in smuggling cases where, at least 20 people were smuggled, or when weapons or coercion was used, or when the offence is committed by an organised criminal group (pursuant to the definition of organised crime as involving at least three people committing a crime including smuggling for the purpose of direct or indirect financial or moral gain). At least one year of imprisonment is foreseen for whoever conceals evidence or provides a false statement to the court during the enquiry. International cooperation, including agreements for the purpose of exchange of information, is provided for under Chapter 3. The law explicitly states that smuggled people cannot be associated with criminals and should be protected.

This trend whereby criminal law and security-based policies are given further prominence in migration management is also illustrated by the establishment of the national coordinating committee for combating and preventing illegal migration (NCCPIM) pursuant to Article 28 of law 2016/82. The NCCPIM is an inter-ministerial committee comprising 19 government bodies originally established by former prime minister Ibrahim Mehleb in 2014. Since its foundation, the NCCPIM-TIP has committed to drafting a migration law, and also to preparing a ‘National Strategy on Combating Illegal Migration’ for 2016-2026.¹⁵ This strategy is difficult to monitor because no official document has been published. Many activities and projects simply end up subsumed under the ‘National Strategy’ without any publicly available document that can be referred to.

In November 2016, a decision by the Prime Minister led to the official replacement of the coordinating committee against human trafficking established by Law no. 64 of 2010 on combating human trafficking by the NCCPIM. Its functions and obligations remain unchanged, as it is the competent authority in charge of combating human trafficking and migrant smuggling. By establishing this committee that addresses both irregular migration and human trafficking, Egyptian authorities have institutionalised the overlap between the two, as if both were crimes.

As per its Article 4, Law 2016/82 shall enter into force upon its publication; still, as of today, the executive decree needed for the law to be fully enacted has yet to be passed. However, this did not stop the conviction of defendants involved in the Rashid ship sinking as well as the arrest of two maritime officials accused of being involved in a smuggling ring. What remains at stake is the lack of procedural safeguards and the right to a fair trial.

3. Detention of migrants and refugees

3.1 Categories of detainees

Egypt has long been a destination and transit country for large numbers of asylum seekers and irregular migrants, including Sudanese, Iraqis, Ethiopians, Somalis, and Eritreans, as well as more recently people fleeing violence in Syria and Gaza.

Against a backdrop of crackdowns against civil society in Egypt, ongoing political turmoil in the wider Middle East, and severe poverty and repression in nearby African countries like Eritrea, refugees, asylum seekers, and irregular migrants in Egypt face enormous challenges and an unsure future, are routinely subjected to violence, arbitrary arrest, and other abuses.

According to unofficial sources (NGOs and migrant communities), thousands of Africans have been trafficked and disappeared in the Sinai by Bedouin tribes. Some of them are later found in Egyptian jails. Syrians, initially welcomed by Egypt, now find themselves frequently detained in police stations. From early 2013 to September 2014, Egyptian police reportedly detained more than 6,800 persons fleeing Syria.¹⁶ Moreover, Palestinians fleeing the devastation wrought by Israeli bombs¹⁷ have reportedly been shot and arrested by police during attempts to leave Egyptian

shores in smuggling boats heading to Europe.¹⁸

In order to accommodate these detainees, authorities in Alexandria have reportedly begun using a youth centre in Alexandria, expanding a sizable network of regional police stations recently used to detain migrants.¹⁹

3.2. Immigration detention policy

Migrants and asylum seekers in Egypt are particularly vulnerable to detention and deportation. The legal status of detainees is often unclear as they shift between criminal and administrative custody. The Egyptian Initiative for Personal Rights estimates that nearly 60 detention facilities, mostly prisons or police cells, have been used in recent years for immigration-related detention.²⁰

Several legal instruments are relevant to immigration-related detention: the 2014 Egyptian Constitution, the 1960 Law on entry and residency, the criminal code, and various presidential decrees. Application of the law can vary considerably from case to case, depending on where a person is detained, the nationality of the detainee, and the detaining authority in charge of the case.

Under a presidential decree regarding the security of Egypt's eastern border, anyone convicted of entering or exiting the country illegally can face imprisonment and a fine of up to 5,000 Egyptian pounds.²¹

The Law of Entry and Residence prohibits migrants from entering and exiting the country at any points other than those designated as official border crossing points. Article 2 of this law prohibits entry and exit without a valid legal document/passport. Foreign nationals who violate Articles 2 and 3 can face criminal charges including imprisonment for up to six months and/or a fine of up to 1,000 Egyptian pounds and are subject to criminal trial or deportation. These penalties also apply to asylum seekers, despite protections against such measures provided in the 1951 Refugee Convention.

Non-citizens who do not comply with a deportation order or a ban on entry and residence, or fail to reside at a designated residence, or provide false statements or knowingly submit false documentation to Egyptian authorities can be sentenced to up to two years imprisonment and/or fined up to 2,000 pounds (Law of Entry and Residence Articles 38 and 40).

Most breaches of immigration law appear to carry prison sentences. Criminal sanctions, however, are rarely applied. In fact, according to our research, unauthorised migrants are often charged with criminal violations stemming from their alleged irregular status and then incarcerated in prison facilities, which are notorious for being overcrowded and lacking basic detention conditions.^{22,23} Practices of detention of migrants, refugees and asylum-seekers seem to vary greatly according to nationality and individual situations. Charges pressed for irregular stay rarely result in serving sentences. In most cases, suspended sentences are pronounced with the judge leaving it at the national security's discretion to release the detainee or not. In some cases, foreign nationals may end up detained at the discretion of national security for months or years, only to be released by the national security services if they sign a voluntary return document or are released under some conditions to be decided arbitrarily on a case-by-case basis.

However, while it appears that migrants are frequently prosecuted for status-related violations, authorities reportedly avoid imposing criminal sanctions. Instead, they keep migrants in a kind of informal administrative detention until they can be deported. Human rights observers have criticised Egypt for arbitrary detention and for trying foreign civilian nationals in military courts for illegal entry into the country.²⁴ The arbitrary decisions have been particularly striking in the case of Syrians, with entire groups arrested and detained for unauthorised entry, kept in detention for months, released, or forced to leave the country, either to Syria or any other country that would accept them. However, there is no certainty as to the whereabouts of these people after leaving Egypt.

The Egyptian Police have the power to arrest/detain people on immigration-related grounds. Moreover, the army may apprehend individuals for unauthorised entry at border points and in military zones, as in southern and western Egypt the military is deployed as border-monitoring agency.

The criminalisation of irregular migration is considered a disproportionate sanction leading to human rights violations, as stated for instance by the UN Human Rights Commissioner.²⁵ This is of particular concern in Egypt, where the UN and human rights groups have documented widespread and systematic²⁶ torture in prison and foreign nationals are frequently denied access to procedural safeguards as well as adequate legal representation.

In 2013 and 2014, several cases of soldiers shooting migrants, including potential asylum seekers, attempting to leave the Egyptian coast by boat, were reported. According to the Refugee Solidarity Movement, on 17 September 2013, the Egyptian Navy fired on a boat leaving Alexandria carrying at least 200 people, mostly refugees from Syria, heading to Italy. The boat was intercepted and pulled back to shore. Some of the refugees described how, as they saw the Egyptian Navy ship approaching their boat, people started pleading with the Navy not to shoot, telling them that there were children on board. The Navy approached the boat and, according to witnesses, fired several shots into the hull of the boat, narrowly missing children. The incident resulted in the death of two people. All of the refugees were detained by police. In October 2014, soldiers allegedly fired on Palestinians at Abo Qeer Beach near Alexandria, as they attempted to board a smuggling boat, leaving one girl dead.²⁷

3.3. Egyptian immigration detention

As discussed in a recent report by Global Detention Project²⁸, various sites are used to detain foreigners, migrants and refugees alike who are apprehended at the border: police stations, prisons and military camps. Detention sites in Egypt are regularly criticised for being overcrowded, lacking independent monitoring mechanisms, for instance International Committee of the Red Cross (ICRC) monitoring, in addition to the breach of a number of procedural safeguards that detainees should have access to.²⁹

According to the UNHCR, the use of detention against foreigners crossing borders irregularly, including asylum seekers, has increased in recent years.³⁰ This increase is reportedly adding to the workload of UNHCR staff conducting protection assessment interviews and putting a strain on financial resources for the provision of legal aid. The UN Refugee Agency reported in 2013:

After intensive multilateral efforts, more than 170 Syrian and Palestinian refugees were released in December from detention centres in Alexandria, Beheira and Port Said governorates.³¹

3.4. Deportation practices

Egypt has been heavily criticised for forcibly returning migrants and asylum seekers to places where they may be subject to persecution and possibly torture.

Since 2017, Egypt has launched numerous mass-raids and arrests against the Sudanese refugee community, especially in Cairo. There is evidence of an Egyptian-Sudanese secret security agreement to extradite Sudanese activists living in Cairo, with Khartoum reportedly handing over a list of wanted deportees. This resulted in the arrest of Sudanese activist Mohammed al-Boshi in Cairo and his disappearance before appearing in detention in Khartoum. There are numerous testimonies and accounts from Sudanese refugees about the security harassment they were subjected to.³²

Egypt has also been criticised for its treatment of people fleeing the conflict in Syria. While it initially maintained an open-door policy for these refugees, it adopted stricter entry requirements in 2013 for Syrian nationals, which led to more than 200 Syrians being deported in a single day in July 2013.³³

According to the Refugee Solidarity Movement (RSM) in Alexandria, Egyptian authorities ask foreigners who will be deported to pay for their flight ticket. Most nationals from sub-Saharan African countries detained in Egypt for illegal entry or exit cannot afford this. Hundreds remain stranded in Egyptian prisons to this day, sometimes for years.

4. 2014/2016: Closing the escape gate

Over the past few years, and particularly since the closure of the route to Israel,³⁴ Egypt has become a regional hub for refugees fleeing neighbouring countries seeking protection in Europe via the Mediterranean. Egypt increasingly responds with quasi-systematic arrest raids, arbitrary detention and deportation, seemingly on par with the strengthening of its relations with the EU with regards to migration and border management.

4.1 Refugees from Syria and their pivotal role in activating the migration movement

According to Human Rights Watch (HRW) approximately 1,500 refugees from Syria, including at least 400 Palestinian refugees and 250 children, were detained during the second half of 2013.³⁵ Up to 1,200 of these detainees were sent to Turkey, Lebanon, Sudan, Malaysia, Yemen or Syria, where they could face arrest and torture.

As reported by HRW, the Egyptian government denied that Syrian refugees were forced to leave and stated that 'no Syrian refugee is made to depart from Egypt unless they have been proven to have entered the country through illegal immigration, an action contrary to Egyptian law'. As of November 2013, approximately 300 Syrian refugees remained detained in overcrowded police stations, most of them Palestinians from Syria. The worsening conditions have led many Syrians to attempt to flee Egypt by sea.

4.2 Detention and deportation on the rise

From 2013 on, the use of detention and deportation intensified as the arrival of refugees from the region increased. In April 2014, the number of refugees from East African countries started to rise significantly. That same month, 213 refugees were detained. About 55 of them, mostly from Sudan, Eritrea, Ethiopia, and Somalia, were deported to their country of origin while the rest, i.e. Syrians and Palestinians from Syria, were deported by way of so-called 'voluntary return procedure' to Lebanon, Turkey, Sudan, Malaysia, Yemen and Syria.

In May 2014, at the Edko coast, 16 refugees were arrested by the coast guard and the police force, while the rest of the group managed to embark on a boat to Europe, leading to the separation of two families. A father tried to swim to catch his daughter who was on the boat, but security forces stopped him by shooting in the air.

In June 2014, two Jordanians were deported to their country: this was the first time in many years a national from an Arab country other than Syria, Sudan or Palestine was deported from Egypt for attempting a sea crossing. In 2014, a record number of Egyptian migrants, about 70 persons, and many Palestinians escaping the war in Gaza, attempted to cross the sea to Europe.

On 6 September 2014, the worst disaster involving refugees trying to cross from Egypt to Italy resulted in the deaths of more than 600 Syrian and Palestinian refugees. This did not stop smuggling activities. In November 2014 the coast guard arrested a group of refugees who had been abandoned by their smuggler while embarking to Italy from Nilson Island. The refugees were brought to a military intelligence unit where they were interrogated for two days. The group, which included 79 Syrians and Palestinians from Syria, as well as one Somali refugee, was later moved to Karmoz police station and became known as the 'Karmoz refugees'.

They spent around nine months in detention before being resettled to Germany (45 people) in July 2015, to Sweden (19 people) in August/September 2015 and to France (15) in September 2015. Among the group, a young man – a Palestinian from Syria – was deported back to Syria after Sweden did not accept to resettle him. Subsequently, RSM documented his disappearance in the Yarmouk camp in Syria through a family member.

According to an Egyptian Military spokesperson, in 2015 the total number of stopped and arrested migrants was 22,026.³⁶ The departure of boats crossing the Mediterranean started early in the year (March). Arrests and detention by authorities followed. In May of the same year, the Turkey–Greece migration route became popular. Migrants arrived in large numbers in Europe through the Balkans. Many Syrians living in Egypt decided to flee to Turkey, where they did not need a visa, to reach Europe. During this year, the Egypt–Italy sea route remained active amongst refugees from Africa, mostly Sudanese, followed by Somalis, Eritreans and Ethiopians.

The restrictive measures limiting access to Egypt to refugees from Syria has resulted in an increase in the number of Syrians entering Egypt irregularly via Sudan through the desert to join family members already established in Egypt. Significant efforts to clamp down on irregular migrants and refugees who are unable to obtain legal status in Egypt has resulted in a record number of detained refugees (5,230 in 2015 compared to 4,300 in 2014).

4.3. Rashid, a revealing incident

A new threshold was crossed in 2016 following the so-called EU-Turkey deal. The Egyptian coast guard appeared to be more in control of the coastline with less violence until the Rashid incident, exposing the state's unwillingness to rescue migrants. A boat carrying at least 400 migrants sank off the coast of Egypt on 21 September 2016, killing over 200 people. While those on the boat were of a mixture of nationalities — Eritreans, Somalis, and Sudanese, it should be highlighted that the majority were Egyptians, many of them from local towns near Rashid. Death at sea suddenly became a domestic issue. According to a nineteen-year-old survivor interviewed in the wake of the shipwreck:

The boat started to sink at around 4 a.m. No one came to help until around 10 am, and even then it was a local fisherman and not state forces that arrived, which arrived later in the afternoon.³⁷

He claims that he borrowed the phone from another passenger and called the government's emergency number, informing the person who answered that the boat was sinking. Survivors and witnesses interviewed in the media as well as for the purpose of this study all point out the fact that the state's response to the tragedy was almost non-existent.³⁸

However, in the context of unprecedented sea crossings and shipwrecks in the Mediterranean claiming the lives of thousands, the Egyptian authorities could not turn a blind eye to a case, which they reportedly seemed willing to ignore. Media attention for the deaths at sea resulted in many journalists interviewing families of the disappeared, as well as survivors, who denounced the Egyptian authorities' inaction and pressuring journalists to desist from covering the case (e.g. BBC's report on the "Forgotten Shipwreck"³⁹). Added to this was pressure from UNHCR, the International Organization for Migration (IOM), and Europol who were in turn deeply involved in promoting an institutional response to the so-called "migration crisis".

This tragic shipwreck marked a turn in Cairo's strategy. The Rashid case was the first to which the Egyptian state reacted using the 'anti-smuggling law,' leading to the jailing of 56 people in March 2017⁴⁰ after months of investigations. No information was shared regarding the fate of the survivors, nor the rehabilitation and support mechanisms provided by law 2016/82. Sudden raids by security forces on the fishing community, accused of cooperating with smugglers, went almost unnoticed. They however were the ones who rescued over 300 people during the Rashid disaster and many more in similar cases of vessels in distress where the Egyptian authorities did not seem to have respected their search-and-rescue obligations.

The conducted research suggests that search-and-rescue operations by fishermen were tolerated by the Egyptian coast guard until early 2017, after which informal cooperation is believed to have ceased, in line with the new official stand on presumed smugglers.

In the context of much institutional effort and resources being focused on anti-smuggling as an (alleged) response to deaths at sea, Cairo suddenly presented itself as

strategic actor playing tough against smugglers. Until then they had not interfered with people leaving its territory on unseaworthy vessels, let alone halted human trafficking rings abusing people attempting to cross the Mediterranean (despite the anti-trafficking law adopted in 2010).

5. EU-Egypt cooperation on migration & border management

Although cooperation is not new, there has been a significant increase in communication and meetings since 2014. Cairo is facing important economic challenges. The country is in need of development aid and support, and is seeking political legitimacy for its increasingly authoritarian policies. The Egyptian state has been keen to maximise financial support, but a difficult partner in terms of agreeing on terms of cooperation and shared resources.

5.1 Aligning with the EU's expectations

The Association Agreement in force since 2004 forms the basis of EU-Egypt relations. On the basis of the Association Agreement mutually agreed Partnership Priorities have been adopted. The current Partnership Priorities cover the period 2017-2020.⁴¹ Justice and Home Affairs, i.e. the external dimension of EU policies on migration and asylum, is part of that dialogue, although judging by official country reports,⁴² it has not produced any major output so far, largely due to Cairo's reluctance to discuss border management issues. Over the years regular meetings have been held in the framework of the subcommittees on Migration, Social and Consular Affairs and Justice and Security. According to the European Commission, the adoption of the revised European Neighbourhood Policy in 2015 provided an opportunity to "revive" talks regarding the formal EU-Egypt dialogue on migration.

Egypt is also part of regional cooperation frameworks, such as the EU-Africa Migration & Mobility Dialogue. However, these discussions have not brought about tangible results, especially in terms of Egypt-EU cooperation, except in the case of Egypt-Italy cooperation used as a facilitator of regional cooperation between 22 African countries by establishing an international training centre for senior border guards and immigration and law enforcement officers of African countries at the Egypt Police Academy (see below) judging by the 2018 Khartoum Process report published in May 2019.⁴³

This dialogue has since turned into a sub-regional forum covering EU-North/East Africa cooperation as part of the EU-Africa Partnership.⁴⁴ We also note the 'Addressing Migration Flows in Eastern Africa' project launched in December 2016, funded via the Global Public Goods and Challenges Migration and Asylum component of the EU Development and Cooperation Instrument, and implemented by Expertise France in cooperation with the IOM, the Danish Refugee Council (DRC) and the Regional Mixed Migration Secretariat (RMMS). This programme covers 10 countries including Egypt.⁴⁵ The project aims to collect information on 'migrant smuggling and human trafficking networks in Egypt and assess areas of potential cooperation with Egypt to support data collection, analysis and sharing in order to combat these networks'.⁴⁶

Intelligence gathering is also facilitated via the Africa Frontex Intelligence Community (AFIC), an information exchange and risk analysis network coordinated by the European Border and Coast Guard Agency (Frontex) with 25 participant and 3 observing African states, established in 2010 in which Egypt is taking part. The 2017 annual AFIC report published in October 2018 states that 'Frontex, supported by the European Commission, is launching a three-year capacity-building project with the overall objective of contributing to the reduction in illegal immigration attributable to migrant smuggling, and strengthening regional cooperation between AFIC partner countries'.⁴⁷

In the field of asylum, Egypt, along with Libya and Tunisia, is a target of the EU-funded Regional Protection Programme in North Africa launched in 2011, renamed Regional Protection and Development Programme in 2012. Starting in 2012 Egypt has also received funds dedicated to refugees from Syria as part of the EU Trust Fund for Syria (MADAD Fund) and later on as part of the 2015 established EU Trust Fund for Africa (EUTF) comprising an international protection component.

Although several tools have been put in place, to date it remains unclear how these programmes have contributed to facilitating the respect of the rights of migrants, refugees and asylum-seekers and the promotion of mobility for Egyptians, as no publicly available progress report seems to contain such information.⁴⁸ Egypt's increased interest in cooperation starting from 2014 is illustrated by the establishment of the NCCPIM. The Committee's work on reinforcing Egypt's migration management capacities resulted in the conduct of a field study⁴⁹ on Egyptian youth opting for irregular migration (aged 18 to 35 years). A strategy was developed to address the phenomenon based on its findings and in cooperation with the EU.

As a result of this cooperation, Egypt hosted the first steering committee meeting of the Khartoum Process (officially the “European Union’s Migration Initiative in the Horn of Africa”) in April 2015, after the forum was launched in November 2014 and which Egypt co-chaired throughout 2015. Egypt has also bought border control devices from EU Member States to prevent what is deemed “illegal” land border infiltration into Libya as well as maritime equipment to control the coastal and sea borders.^{50,51,52}

The reinforced cooperation with the EU since the launch of the Khartoum Process was illustrated by the number of initiatives from international organisations, mostly beneficiaries of significant EU funding in relation to migration and border management. This was for instance the case for the International Centre for Migration Policy Development (ICMPD)⁵³ and the IOM. The latter saw its ‘staff grow by 55% in 2016 compared to 2015’ and ‘plays a key role in supporting the EU-Horn of Africa Initiative (Khartoum Process), and acts as the secretariat for the AU-Horn of Africa Initiative together with UNHCR and the African Union’⁵⁴ both of which are EU-funded initiatives. The German development and cooperation agency (GIZ) also received money to implement a project called ‘Enhancing the response to Migration Challenges in Egypt (ERMCE)’ to strengthen migration governance and management in Egypt (EUR 35 million). So did the French CIVIPOL which, as reported in a 2018 report by the Transnational Institute, is ‘one of the executive partners in the controversial Better Migration Management project in the Horn of Africa.’ CIVIPOL is also involved in supporting regional cooperation between Sahel G5 Countries, with EUR 7 million funding by the European Commission for technical assistance in border management, and the Euromed Police IV (EU funding: EUR 4.8 million) on security cooperation between southern EU and other Mediterranean countries, including Libya, Egypt and Israel.⁵⁵

In October 2015, the Operation Commander of EUNAVFOR MED-Sophia, Rear Admiral (Upper Half) Enrico Credendino visited high-level officials from the Navy, the Ministry of Interior, the Ministry of Foreign Affairs and of the League of Arab States in Cairo to ‘underline the EU’s willingness to cooperate and intention to tackle the root causes of human smuggling’.⁵⁶

As the EU’s interest towards Egypt has grown, Cairo seems to have opted for a stronger stance towards smugglers – as developed in section 4.3- by sending the message that such a crime would no longer go unpunished, as opposed to the relative tolerance exhibited in the previous years. In December 2016, the Administrative Prosecution

referred two of the maritime inspectors in Damietta to a disciplinary trial in the Rashid boat accident.⁵⁷

In January 2017, the Egyptian military spokesman announced in an official statement that 12,192 irregular migrants had been arrested and held in custody.⁵⁸ People of different nationalities were arrested, and 434 cases of irregular infiltration and migration were filed.⁵⁹

At that time Europe was concerned that Egypt was turning into a launching point for irregular immigration.⁶⁰ In February 2017, the European Political Strategy Centre announced the intention of the EU to enhance talks with Egypt as a strategic and urgent option for controlling irregular migration departing from the Mediterranean’s southern shores.⁶¹ In March 2017, the European Commission announced that ‘the EU now has an agreement to launch a formal EU-Egypt dialogue on migration, fully embedding migration in our overall relations and existing frameworks such as the [European Neighbourhood Policy] ENP, Khartoum and Valletta’.⁶²

In February 2018, Egypt announced that no ‘illegal’ immigration vessel had left its territorial waters since the end of 2016, following the announcement by the Frontex of the reduction of irregular crossings of EU borders by 60% in 2017, compared to 2016. On 21 February, the Egyptian Minister of Local Development announced the end of irregular migration in Egypt, because ‘Egypt has adopted a comprehensive strategy to address illegal immigration’.⁶³

During the meetings of the 9th session of the Euro-Mediterranean Association the minister confirmed that ‘no illegal immigration boat left for Europe from Egypt since 2016.’ His statement echoed Egyptian President Abdel Fattah al-Sisi’s speech of 17 January 2018.⁶⁴

The same confirmation came from Egyptian Foreign Minister Sameh Shoukry during his visit to Germany in July 2018. He confirmed that Egypt has prevented the only boat for refugees, which tried leaving its shores to Europe since September 2016.⁶⁵

Following months of discussions and proposals by both parties (the Egyptian government brought forward an Egypt Framework Paper on Cooperation with EU on Migration), the EU-Egypt Migration Dialogue was launched on 16 December 2017 in the framework of the EU-Egypt Partnership Priorities.

This meant to signal a greater deployment of EU cooperation. The European External Action Service (EEAS) reports that 'on the following day, a large number of institutional bodies, services and agencies from both sides attended a Senior Officials Meeting⁶⁶ with a view to strengthening cooperation, including with EU Agencies. On the occasion of Commissioner Hahn's visit to Egypt on 29-30 October 2017, a EUR 60 million programme under the EUTF was signed, aimed at supporting 'Egypt's migration management, addressing the root causes of irregular migration into and from the country, and supporting Egyptian communities hosting migrants'. In March 2018, the European Commission reported that 'cooperation with the European Border and Coast Guard Agency [Frontex] is being explored'.⁶⁷

5.2 Befitting EU interests?

The EU is aware of Egypt's interest in dealing with migration issues; an interest which the EU sees as playing in favour of its relentless efforts and ultimate goal of ensuring a higher rate of return of irregular migrants, as reiterated in the EU Action Plan on Return unveiled in September 2015.⁶⁸

A non-paper on Egypt issued by the EEAS in 2016 stresses that:

Over the period January-August 2016, the top three nationalities of unaccompanied minors arriving to Italy were Eritreans, Egyptians and Gambians. Unaccompanied minors represent over 59% of all Egyptians arriving by sea to Italy in the period January-August 2016.⁶⁹

It goes on:

The EU has a strategic interest in addressing departures and irregular flows from Egypt, which have shown a rising pattern in recent months, as well as in a stronger engagement on smuggling and trafficking of human beings and protection of vulnerable migrants on the move along the East African route.

However, the EEAS clarifies that 'it is important not to exaggerate the risk of a growing flow of migrants direct from Egypt. The distance is too great and the costs too high for it to match the flow from Libya.'

Reinforcing asylum and migration policies in Egypt is also promoted as a means to limit irregular migration to Europe, with a view to turn Egypt – as well as all countries

targeted by the EU's Integrated Border Management strategy - into a destination country instead of a country of transit.

In December 2017, the Egyptian Foreign Minister Sameh Shoukry and the EU Commissioner for Migration, Citizenship and Home Affairs Dimitris Avramopoulos launched a dialogue between Egypt and the EU on migration. The meeting was followed up by a senior official meeting on 17 December 2017.

Coincidentally, Egypt's communication on the arrest and deportation of migrants suddenly rose. In May 2017, the newspaper Al Ahram reported that 351 migrants had been arrested in April and May in Egypt's western and southern border regions. A clear connection was made between the arrests and the country's willingness to stop irregular migration to Europe:

Egyptian President Abdel-Fattah al-Sisi approved in November 2016 a law aimed at curbing irregular immigration and cracking down on human smuggling amid a hike in the number of migrants, many from sub-Saharan Africa, departing from the country to Europe.⁷⁰

The migration dialogue dealt with all issues related to border management and immigration control: from preventing human smuggling and trafficking to promoting legal channels for migration and mobility, and from preventing irregular migration to the protection of refugees and asylum seekers through the promotion of a 'comprehensive and balanced approach'. Through exchanges of information, best practices and experiences, as well as capacity-building, this dialogue is an illustration that 'Egypt is a strategic partner of the EU on many levels and we share a common interest in ensuring sustainable stability and security in Egypt and the surrounding region, as well as managing migration better together' to the benefit of nationals on both sides, and 'the migrants themselves' as stressed in the final declaration.⁷¹

The dialogue provides close strategic cooperation and partnership between the two sides on migration and ensures that migration issues are mainstreamed within the overall framework of bilateral relations between Egypt and the EU in line with priorities in the fields of economic reform and social and economic development. The dialogue takes into account existing processes on migration, including the Khartoum Process and the follow-up to the Valletta Summit held in November 2015 through the implementation of the Summit Political Declaration and the related Action Plan.⁷²

The first meeting of the Egypt-EU Dialogue on Migration focused on the following main aspects: the development benefits of migration, addressing the main causes of irregular migration, combating smuggling and trafficking, and supporting the capacity of refugees, migrants, and host communities in Egypt, providing greater legal migration pathways to the EU especially via labour migration and circular migration schemes at bilateral and regional levels.⁷³ The need to mobilise efforts to provide international protection to those in need in accordance with international standards, either by reinforcing Egypt's capacity or by increasing resettlement to Europe. Last but not least, enhancing cooperation between Egyptian authorities and the EU on anti-terrorism, as well as on return and readmission including by supporting plans for sustainable voluntary return and reintegration.

This package reflects the EU's "joint ownership and shared responsibility" approach as re-defined since the adoption of the revised ENP⁷⁴ as well as its clear ambition to provide incentives that can attract partner countries in cooperating on border management and return (strategy particularly developed in the Global Approach for Migration, and then the Global Approach for Migration & Mobility⁷⁵).

According to the President of the European Council:

We have started a dialogue with the Egyptian president and now we can say that there is backing from the European Council for this and similar dialogues.⁷⁶

In this context, EU leaders also agreed to organise an EU-League of Arab States summit in February 2019 in Sharm el-Sheikh, stressing that Egypt has managed to control its borders and plays a serious role in "fighting migration".

Some observers have interpreted the European statements about Egypt's role in controlling irregular immigration as a clear sign of Cairo's plan to reach good results in a political space where migration issues are haunting the EU and many Western countries and, as such, seems to be ready to use it as a tool for political and economic blackmail. The recurrent flagging in public statements by the Egyptian president of the presence of five million refugees in Egypt⁷⁷ is a clear warning to the EU of the possibility that Cairo could suddenly stop its tight border control policy.

5.3 Piggy-backing on bilateral cooperation: the key role of Germany and Italy

The implementation of the EUR 60 million project funding is proving more complicated than expected on the EU side. Cairo did not accept the granting of the money until the end of 2018, thus putting on hold seven initially planned projects, including where implementing partners had agreed on their project proposal (e.g. Plan International). However, as often seen in the case of European external cooperation, bilateral cooperation from the side of particular EU Member States proves a rather useful channel to achieve the goals agreed on by Member States in the EU Council, in this case those that were reaffirmed at the informal EU Summit held in Salzburg in September 2018. In the case of Egypt, the bilateral cooperation is predominantly channelled through Germany and Italy.

Italy has been involved with Egypt on cooperation on border management for years, with the signing of a police cooperation agreement in 2000 and the latest readmission agreement in place dating back to October 2007.

This readmission agreement is used extensively, as shown by official data provided by the Italian Ombudsperson on the Rights of Detainees (Garante nazionale dei Diritti dei Detenuti)

- In 2018, 294 Egyptian citizens were repatriated over a total of 6,398 expelled.
- Italy organized 3 charter repatriation flights to Cairo for a total of 60 expulsions. The remaining 230 were carried out using regular flights.
- Of the 150 Egyptians detained in the Italian pre-removal centres (CPRs), 94 were repatriated.⁷⁸

In fact, cooperation in the field of what is euphemistically called ‘repatriation’ is believed to have ‘intensified’ as stated by the Italian Ombudsperson on the Rights of Detainees in its 2018 report to the Italian parliament, despite strong reservations as regards the potential human rights violations deportees may face in Egypt.⁷⁹

Expulsion to Egypt would be in violation of Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance whereby ‘no State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance’.

Over the past years, Italy and Germany have also received EU funds earmarked for external cooperation on border and migration management with Egypt.

From late 2017, the EU Internal Security Fund available to Italy as part of the Khartoum Process cooperation has been used for the Egypt-Italy security training programme of the Egyptian Police Academy⁸⁰ (the first training by the Italian police was conducted in Cairo in March 2018).

Germany also counts as one of the most proactive Member States in North Africa, as shown by numerous visits by Angela Merkel in each country of the region with a view to furthering cooperation in the field of border management and migration.

A migration dialogue was agreed in August 2017, following the adoption of a security service cooperation agreement between both countries aimed at cooperation on irregular migration. As reported by researcher Matthias Monroy, ‘improved cooperation in the deportation and voluntary repatriation of Egyptians in Germany who are obliged to leave the country has also been agreed’.⁸¹

		Recognition rate			Rejection rate		
YEAR	Number of asylum claims lodged by Egyptians in Germany	Asylum claims by Egyptians (all type of protection status incl. family reunification)	Average recognition rate (all nationalities at federal level)	Difference EG compared to average rate (in points)	Egyptians’ asylum claims	Average rejection rate (all nationalities at federal level)	Difference EG compared to average rate (in points)
2013	2,147	26,9%	24,9%	+ 2	47,1%	38,5%	+ 8,6
2014	1,069	16,2%	31,5%	- 15,4	30%	33,4%	- 3,4
2015	1,077	42,2%	49,8%	- 7,6	26,2%	32,4%	- 6,2
2016	1,784	17,5%	64,2%	- 46,7	64,5%	25%	+ 39,5
2017	1,075	17,7%	43,4%	- 25,7	38,8%	38,5%	+ 0,3
2018	807	12,6%	35%	- 22,4	54,1%	35,8%	+ 18,3

This is particularly striking when referring to official statistics provided by German authorities in response to a parliamentary request for information on deportations as well as asylum requests in the country.⁸² Looking at the available statistics between 2013 and 2018, 2016 is a turning point, i.e. the year when Germany started discussions with North African states, including Egypt, on the need to facilitate the return of their nationals who are not allowed to stay in Germany. Although the number of Egyptians arriving to file an asylum claim did not vary much throughout these years, the granting of international protection has decreased sharply for Egyptians compared to the average recognition rate, while rejection rates of asylum claims from Egyptians rose sharply.

Official statistics available on deportations also indicate that the number of deportations to Egypt rose since 2013 (9 in 2013; none in 2014; 7 in 2015; 19 in 2016; 35 in 2017; 63 in 2018).⁸³ This suggests that Berlin had more efficient means at its disposal to deport Egyptians to their country of origin once they were denied permission to remain in Germany, i.e. greater cooperation from Egyptian authorities to identify its nationals and authorise returns.

Also, quite significantly, Frontex return flights started operating for the first time in 2017 from Germany to Egypt (once from Stuttgart in May 2017 and once from Berlin Schönefeld in February 2018). Arguably the number of people targeted by these deportation measures remains small compared to other nationalities facing deportation from Germany. It does indicate however the extent to which bilateral cooperation is used as a means to close the gates of Europe, with significant negative human rights consequences.

It is extremely important to note that the number of deportations increases while the human rights situation in Egypt has sharply deteriorated over the past few years. The number of asylum claims lodged by Egyptians in Germany however remains stable (small decrease between 2017 and 2018 by a couple of hundreds).

Germany stands out as one of the most active EU Member States using external cooperation as a tool for migration management purposes. For instance, the Better Manage Migration programme, which covers a number of Eastern and Horn of Africa countries in addition to Tunisia and Egypt, jointly funded by the European Commission and the German Federal Ministry for Economic Cooperation and Development (BMZ), and implemented by the German development and cooperation agency (GIZ),

is one of many examples of the use of bilateral channels by the EU to implement its Integrated Border Management strategy.

A 2015 agreement between Egypt, Greece and Cyprus on security also covers the fight against irregular migration.

Overall, while bilateral cooperation is a useful channel for the EU to achieve its goals via its Member States, the latter also benefit financially from EU funding.

5.4 Migration management as a leverage rather than an ultimate goal

In 2018, EU leaders regularly travelled to Egypt. Their talks focused on ways to secure the southern border of the Schengen area. Austrian Chancellor Sebastian Kurz recently confirmed that ‘Egypt is the first country in North Africa that is ready to intensify talks with the European Union’, and that ‘Egypt has proved that it can be efficient’ stating that Europe needs a strong and firm partner like Egypt.⁸⁴ But are these talks really the result of the EU’s implementation of its “return roadmap”, bearing the fruits of efforts launched many years ago?

A closer look at the actual state of play of cooperation actually shows no real progress on two of the major fronts that are a prerequisite of the EU achieving its strategic goal: the return of nationals and non-nationals and lowering the number of migrants arriving on its territory including those in need of international protection and the passing of an asylum law and the adoption of an EU-Egypt readmission agreement. This goal was somewhat achieved with Turkey, though mainly because of the decrease in the number of arrivals in Turkey than in the effectiveness of returns to Turkey which is usually not considered safe by Greek courts, even though the infamous EU-Turkey deal of 2016 was arguably problematic in terms of human rights law and EU law standards.⁸⁵

Moreover, despite the negotiations and meetings, the implementation of the EUR 60 million fund is on hold, with no implementation project pending approval by Egyptian authorities. No real progress seems to have been made on the opening of legal pathways to the EU for Egyptians. As reported by the Delors Institute:

The founding declaration and subsequent documents of the Khartoum Process do not refer to legal migration channels. The Egyptian Government

and other participating third countries have not been shy about highlighting this shortcoming during the relevant negotiations. However, their calls have not been addressed.⁸⁶

However, it is striking in this respect that no reference is made to commitments towards greater regular migration channels in the objectives set forth in the Partnership Priorities. Why would Cairo agree on cooperation terms if such an element, which it stresses was an important outcome expected from cooperation with the EU, remains absent?

6. The security grip at its peak: the real bargaining away of human rights

It is hard to believe that Egypt is seriously considering the EU offer on migration and border management, simply because it does not need its European partners to deal with these issues. Instead, Egyptian authorities make the most of this cooperation to reinforce their institutional capacities, address the development challenges and gain international legitimacy for a regime that grows more authoritarian every day. Egypt also uses European cooperation to support its counter-terrorism policies. What is striking however, is the very slow pace of reforms and actions in line with the Dialogue on Migration which clearly indicate that nothing tangible will come of it, a reality which EU officials interviewed for the purpose of this research are aware of.

6.1. Egypt's security interests first

Egypt has a long experience of addressing border management from an anti-terrorism and security perspective.⁸⁷ In Cairo's understanding, there is a direct correlation between the large influx of people through its land and sea borders, and the increase in terrorist attacks on its territory.^{88,89,90}

The decision to develop an immigration policy from the angle of tackling unauthorised – and hence illegalised - emigration seems to coincide with Egypt's readiness to publicly address the issue of terrorism, which is mostly understood as being perpetrated by foreigners and impacting on domestic security and stability. In recent years, the presence of foreigners is increasingly associated with instability, connecting human smuggling, human trafficking and terrorism. Concerns about domestic security are

certainly what prompted Cairo to refuse the establishment of EU-sponsored refugee camps on its territory.

Although these three phenomena - human smuggling, human trafficking and terrorism - are different in nature, it is clear today that counter-terrorism is used as a tool to address human smuggling and human trafficking. In fact, through an interview with an official Egyptian security source the researcher learned that implementation of immigration policy had been assigned to military bodies. In 2018, Egypt launched the Sinai Comprehensive Operation. This strategic plan aims to 'purge terrorism from Sinai and Egypt' as stressed by the Egyptian Ministry of Foreign Affairs.⁹¹ One of the priorities of the comprehensive Sinai plan to eliminate terrorism was, according to this official, to close all doors to immigration.

Egypt shares a long history of border management cooperation with its neighbours.⁹² A number of operations were also led on the Western border with Libya (1,400 km long) ranging from long established informal cooperation with tribesmen living on the border between the two countries,⁹³ to official defence cooperation with the Eastern and Western-based authorities in power over the course of 2013, with explicit references to border-guard capacity building in relation to irregular migration made in official statements regarding cooperation with Tripoli.⁹⁴ This cooperation resulted in a number of court proceedings against presumed terrorists, and led to the closure of irregular migration routes. The significant decrease in the number of irregular crossings to Europe from Egypt in 2016 is claimed by Cairo to be directly connected with efforts made to counter this phenomenon,⁹⁵ leading European officials – notably Frontex⁹⁶ - to praise the efficiency of the 'Egyptian plan'.

Migrants and refugees are directly impacted by counter-terrorism policies as a result of conscious decisions that have very severe consequences regarding their rights. It is all the more disturbing that, to our knowledge, none of the legal provisions meant to ensure protection and redress for victims of trafficking and human smuggling are effectively used.

As a consequence, not only are the risks of abuse against migrants or refugees greater because of the use of anti-terrorism measures to address migration management, but migrants or refugees who may be victims of trafficking or victims of smuggling are unlikely to be protected, increasing their vulnerability.

6.2. Linking terrorism and migration: the end of the human rights approach

An Egyptian diplomatic source interviewed for this study suggests that many European countries are reluctant to address terrorism and irregular migration jointly. The diplomat seemed to complain about the fact that Egypt had not received sufficient support from its allies in Europe to work on a comprehensive plan to combat terrorism and irregular immigration together.

Although in contradiction with what most HRDs have warned against in many countries, including in Europe, over the past few years (namely the gradual connection, as part of a security-gearred agenda, between migration management and anti-terrorism⁹⁷), this position is illustrative of a key element in Egypt's conception of migration management policies and its expectations of international cooperation in this field.

Cairo is trying to exploit the migration file to give priority to the fight against terrorism in all its forms without international partners intervening in its strategy. It seems that this goal is not considered seriously by the EU, or that the EU agrees with this understanding that migration and terrorism may be connected. For instance, an EEAS official confirmed during a meeting in March 2015 that Egypt succeeded to include the fight against terrorism as one of the priority axes in the Khartoum process.

Nevertheless, should such mapping be confirmed, it is obvious that the rights of migrants and refugees, who are the first concerned by such a cooperation framework, will be negatively impacted. Similarly, as documented by EuroMed Rights, the use of anti-terrorism legislation and tools has lately proved extremely detrimental to the respect of fundamental rights and civil liberties in Egypt.⁹⁸

In this context, the prospect of an agreement between the EU and Egypt allowing the exchange of personal data between Europol and Egypt for the purpose of counter-terrorism and cross-border crime management (including human smuggling and trafficking) is extremely disconcerting.⁹⁹

Not only does it raise very serious concerns in relation to the rights of data subjects and possible human rights violations that may result, but it may reinforce the tools that the Egyptian government uses to arrest, deport and abuse migrants and refugees on the pretext of counter-terrorism measures.

As stressed by the European Data Protection Supervisor (EDPS) in 2018:

The EDPS observed in the recent years an increasing trend of addressing security and migration management purposes jointly. (...) As already stressed in his reflection paper, the EDPS is concerned that repeatedly referring to migration, internal security and fight against terrorism almost interchangeably brings the risk of blurring the boundaries between migration management and fight against crime and terrorism. It may even contribute to creating assimilation between terrorists, criminals and foreigners.¹⁰⁰

The risk of human rights violations adds to an already precarious situation of migrants and refugees in Egypt as developed in Chapter 1. European cooperation does not seem to help improve it.

6.3. European cooperation: A very risky game for human rights

Despite this concerning context, Cairo is praised by its European counterparts for its successful border management and as a partner for increased cooperation.

On 15 September 2018, it was reported that Austrian Chancellor Kurz congratulated President Abdel Fattah al-Sisi for combating terrorism and achieving stability and security, particularly countering illegal migration to Europe. He stressed that Austria, as the current president of the European Union, regards Egypt as a pivotal partner, due to its effective role in stabilising the Middle East and spreading peace in the region.¹⁰¹ Austrian Chancellor's praise to the Egyptian leader was reiterated in December 2018 during a bilateral meeting held ahead of the EU Summit in Vienna.

It is clear that Egypt is viewed by the EU as a regional power whose stability is essential for the region and for Europe. As one EU official stated in a closed meeting in early 2017: 'We do not want Egypt to turn into another Syria'. President al-Sisi seems well aware of that and is using European cooperation to reinforce Egypt's institutional capacities, playing the migration card as a means to reinforce its diplomatic and geopolitical credibility, like other leaders of the region did in the past.

Cooperation on migration and border management is extremely useful to reinforce Cairo's role as a regional leader in Africa, as illustrated by its leadership role in the Khartoum Process, and the hosting of the EU-Arab League summit in Sharm el-Sheikh on 24-25 February 2019, where cooperation on migration issues featured prominently

on the agenda. European cooperation is also used as a platform to broaden Egypt's regional influence on border management. Reinforcement of institutional capacity is proving very disconcerting in particular when providing tools and political credibility to institutions notorious for infringing on human rights in Egypt such as the Ministry of Interior and the police force.¹⁰²

The EUTF for Africa includes a project called 'Enhancing Response to Migration Challenges in Egypt' (EUR 60 million), which involves institutional capacity building by reinforcing the technical and political capacities of the NCCPIM-TIP. Human rights organisations have warned the EEAS, the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and the Directorate-General for Migration and Home Affairs (DG HOME), who run and monitor it, that the project will reinforce the Ministry of Interior, which is part of this inter-ministerial committee. The same concerns regarding capacity building apply to the use by Italy of the EU Internal Security Funds to provide training to the Egyptian police academy and to several police force representatives from across the African continent.

This cooperation is all the more concerning given that the Foreign Affairs Council – and therefore EU Member States unanimously – 'agreed to suspend export licences to Egypt for any equipment which might be used for internal repression and to reassess export licences for equipment covered by Common Position 2008/944/CFSP, and to review their security assistance with Egypt,¹⁰³ in direct response to the massacres committed by Egyptian security forces at Nahda and Rabaa squares in Cairo in August 2013.

Quoting the EU Council conclusions from August 2013:

The prosperous future of Egypt can only be based on a democratic solution with fully functioning democratic institutions that protect all citizens of Egypt, including persons belonging to minorities and women, and their rights, including the right to peaceful protest, in which the rule of law and human rights and fundamental freedoms, in particular of assembly and expression, religion or belief, as well as the right of fair trial are fully respected. These rights should be guaranteed by the rule of law and protected by a fully empowered civilian government.¹⁰⁴

Conclusion and recommendations

Since 2014, irregular migration has been one of the major cooperation axes between Egypt and its European counterparts, whether at EU or bilateral level. Europe's policy towards Egypt focuses strongly on the arrival of irregular migrants on its territory, which can take precedence over other issues. This is being exploited by the Egyptian regime to gain international recognition and support.¹⁰⁵

Mixed messages are found in official reports. Official documents acknowledge that Egypt is not a major country of origin for migrants coming to Europe. However, many raise doubts as to the "risk" of seeing this country becoming one. The tenuous assumption that "Egypt is believed to be used" as the new channel to Europe, as Expertise France reports put it,¹⁰⁶ seems to be the sole basis on which the EU deploys efforts to tackle "migration risks" from Egypt.

Egypt has always been very conscious of its influence over the EU when it comes to immigration, and is not afraid of using it. According to a senior EU official, Egyptian officials have repeatedly warned their European counterparts that "a crisis may occur, but we protect you from it".¹⁰⁷ In fact, although the EU may stress in official documents that "it is important not to exaggerate the risk of a growing influx of migrants from Egypt",¹⁰⁸ migration from Egypt ranks high up on the political agenda, particularly since 2016.

Irregular emigration from Egypt is not new, and has so far been dealt with quite "efficiently", leaning on bilateral cooperation when necessary (e.g. 2006 readmission agreement between Egypt and Italy). Egypt's sudden willingness to show leadership on migration issues should be understood in the context of other diplomatic and financial interests. It comes at a time when the link between migration management and anti-terrorism – which has long been established in Egypt – is sadly gaining strength in both the narrative and the policies designed at EU level.

However, talks with Egypt do not seem to correspond to the classic 'externalisation' pattern which applies to other countries and where the EU tries to use conditionality on border management and return. This works in a context where the power balance is more favourable to the European Commission and EU Member States than to their non-EU counterparts. The situation is quite different with Egypt and this research argues that the terms of cooperation are largely determined by Egypt's interest in: seeking regional leadership at a time of increased criticism of the authoritarian rule imposed in Egypt, obtaining financial support for domestic development plans it cannot self-fund and institutional capacity-building as part of a state thirsty for powerful police and surveillance capacities to address border management challenges in the Sinai peninsula and in the south of the country.

As of May 2019, Egypt still falls short of its obligations before international law: increasingly restrictive laws result in serious human rights violations targeting Egyptian nationals, and those enshrined in the 1951 Convention on the Status of Refugees and the 1990 International Convention on the Rights of All Migrant Workers and Members of their Families, let alone the ban of unauthorised exit enshrined in domestic law. No asylum law is being discussed, let alone adopted, while evidence piles up demonstrating the disconcerting human rights situation for people under Egyptian jurisdiction, be they national or foreign communities.

In this context, and in the absence of any tangible sign of serious human rights monitoring mechanisms in place to assess the way EU's money is being used by partner countries, it is quite surprising to read the Khartoum Process report praising the fact that:

Progress has been made during 2017-18 in the setting up of the Regional

Operational Centre (ROCK) in support of the Khartoum Process and AU Horn of Africa Initiative, which started operating in the first half of 2018 and is establishing links with the national and regional police organisations, always in full respect of human rights [emphasis added].¹⁰⁹

Similarly, it is rather disturbing to read the European Commission's official documents labelling Egypt a "destination country along the central Mediterranean refugee route", which suggests that Egypt is now considered a final destination only and not a transit country anymore. This is all the more concerning when some EU Member States are eager to establish disembarkation platforms for asylum-seekers in North Africa.¹¹⁰

The EU and its Member States should re-assess the political and human cost that reinforcing the institutional capacity of an authoritarian state may have in the short and in the long run, in particular the impact on the rights of migrants and refugees in Egypt, in a wider context of crackdowns against civil society organisations and arrests of dissidents.

This is in line with the 2017 European Parliament resolution that urged "the [High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission] VP/HR and the Member States to ensure that human rights are not undermined by migration management or counter-terrorism actions under the EU-Egypt Partnership Priorities."

Recommendations to the EU:

- Any monitoring and evaluation of cooperation between the EU or its individual Member States with Egypt in the field of migration and asylum should be based, inter alia, on the consultation of relevant European and Egyptian independent civil society organisations;
- The EU Emergency Trust Fund for Africa (EUTF) must be equipped with an official human rights monitoring mechanism. It should include a mid-term review assessing the impact of the EUTF's spending on the rights of migrants and refugees. The Committee on Foreign Affairs (AFET), the Subcommittee on Human Rights (DROI) as well as the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament should elaborate a joint evaluation report to assess the human rights impact of

cooperation with Egypt in the field of migration and security;

- A monitoring report on the cooperation with Egypt on migration, asylum and security should be presented by the European Commission to the European Commission, especially DG NEAR, Directorate-General for International Cooperation and Development (DG DEVCO) and DG HOME, assessing the compliance of both the EU and Egypt with international human rights law. The result of this review should be presented to the European Parliament as well as to the European Ombudsman. Any agreement appearing to have had a negative impact on the human rights of migrants, refugees and Egyptian nationals should be suspended.
- In full alignment with the EU's external obligations under international human rights and EU law, in particular the extra-territoriality of Article 3 of the European Convention of Human Rights, any cooperation programme considered as impacting negatively on the human rights of migrants, refugees or Egyptian nationals, should be suspended or annulled;
- In the current context, no readmission agreement should be concluded with Egypt, whether at EU or Member State level;
- Cooperation of Frontex with Egyptian authorities, especially exchange of intelligence, should be thoroughly reported on to the European Parliament; in the absence of any binding oversight of the EU Parliament over Frontex's external cooperation and its fundamental rights impact, this cooperation should be suspended when violations of human rights are documented in Egypt;
- Any data-sharing agreement between Europol and Egypt should be approved by the European Data Protection Supervisor due to the risk it entails for the safety of asylum seekers, HRDs and peaceful activists who are at risk of persecution and serious human rights abuses.

To EU Member States involved in bilateral cooperation with Egypt, in particular Italy and Germany:

- Post-deportation monitoring mechanisms should be adopted and implemented urgently to assess the situation of people deported to Egypt over the past years. This assessment should be presented to the national Parliament of Member States involved and to their national human rights mechanisms;
- Italy should suspend the enforcement of the 2007 readmission agreement, in light of the latest conclusions and warnings of the Italian Ombudsperson on the Rights of Detainees;
- Germany should suspend the enforcement of the 2018 security agreement with Egypt that contains repatriation clauses;
- In the absence of any asylum law in Egypt and considering the numerous violations that asylum-seekers and refugees face in Egypt, EU Member States should increase the resettlement quotas for UNHCR registered refugees in Egypt.

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