

Derek Lutterbeck

### Coping with Europe's Boat People. Trends and Policy Dilemmas in Controlling the EU's Mediterranean Borders

Since the beginning of the 1990s, irregular migration across the Mediterranean has become an issue of growing concern for EU countries. According to one estimate, between 100,000 and 120,000 "boat people" try to cross the Mediterranean each year<sup>1</sup>. Not only these numbers as such, however, but also the often-made association between illegal immigration and various social ills, such as overburdened social welfare systems, rising crime rates, or even international terrorism, have led migration from the south to emerge as an ever more important policy challenge in European countries. Moreover, irregular migration across the Mediterranean has also become an increasingly pressing humanitarian issue. Often the would-be immigrants travel in unseaworthy and overloaded vessels across the Mediterranean, and as a consequence the death toll among the clandestine migrants trying to reach the EU from the south has been steadily rising. It is estimated that several thousand migrants drown in the Mediterranean each year.

While the EU, and individual EU countries, have been advocating a broad range of policy

measures aimed at reducing the flow of irregular immigrants from the south, ranging from development assistance to the source countries of migration, to the opening up of channels for legal immigration, one main policy focus thus far has been on more security-oriented policies, and in particular the strengthening of border controls along the EU's southern borders. Over recent years, EU countries have been spending significant sums of money on upgrading their Mediterranean frontiers, and have been deploying a growing number of personnel and material along their southern maritime borders. Indeed, a number of critics have pointed to EU countries' bias towards such security-focused measures, despite the EU's official commitment to a "comprehensive" or "global" approach to migration, which should not be limited to strengthening border controls<sup>2</sup>.

This emphasis on border security measures is also evident, for example, in the allocation of financial resources for the different items of the EU's migration policy, where the External Border Fund has received by far the largest

<sup>1</sup> International Centre for Migration Policy Development, *Irregular Transit Migration in the Mediterranean - Some facts, futures and insights*, Vienna, 2004.

<sup>2</sup> See e.g., CeSPI - SID, *European Migration Policy on Africa - Trends, Effects and Prospects*, 2006, <http://www.sidint.org/migration/html/publications.html>.

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### Abstract

Irregular boat migration across the Mediterranean has emerged as an increasingly important policy challenge to European countries. It has come to be viewed both as a "security risk" as well as a humanitarian issue, given the steadily rising death toll among the would-be immigrants seeking to cross the Mediterranean from the south.

In response to the "migration crisis" in the Mediterranean, EU countries have, over recent years, devoted considerable resources to strengthening their southern maritime borders. This has involved the increasing militarization of the EU's Mediterranean borders, as well as an intensification of collaboration in border control between the EU and at least some southern Mediterranean countries.

The main effect of these border and immigration control efforts in the Mediterranean thus far seems to have been a diversion of the migratory flows towards longer and thus also more dangerous routes across the Mediterranean, thus directly contributing to increasing the risks for the undocumented immigrants seeking to reach the EU by boat.

share<sup>3</sup>. The aim of this paper is to describe the main developments in EU countries' border control policies in the Mediterranean over recent years, and to discuss some of the key policy dilemmas which have arisen in this context.

### The Militarisation of the EU's Mediterranean Borders

Three main trends in EU countries' efforts to strengthen their Mediterranean borders can be distinguished<sup>4</sup>. First, and as is often denounced by human rights and immigrant support organizations, the EU's southern maritime borders have been increasingly militarized over recent years. This process of border militarization has involved in particular the deployment and expansion of paramilitary or gendarmerie-type security agencies (i.e. police forces with a military status) along southern European countries' Mediterranean borders. In Italy, for example, the paramilitary Guardia di Finanza has been increasingly mobilized in the fight against illegal immigration into Italy. Between 1989 and 2000, it saw its budget almost triple, and in particular the Guardia Finanza's naval and air components, the most important sections in the fight against irregular migration via sea, have been upgraded massively from the early 1990s

onwards<sup>5</sup>. Similarly, in Spain, it is in particular the Guardia Civil – it too a paramilitary security force – which has become increasingly involved in immigration control along Spain's southern coast<sup>6</sup>.

A particularly contested measure in this regard has been the growing involvement of European Navies, and thus of military security forces, in the prevention of migration across the Mediterranean. In both Italy and Spain, for example, the respective Navies have been deployed in a growing number of anti-immigration operations, although the actual role such forces do or should play in this context seems to remain somewhat contested<sup>7</sup>. Critics have in particular pointed to the unsuitability, and indeed dangerousness, of using warships for immigration control purposes. The to date most serious accident involving a warship of the Italian Navy deployed on an anti-immigration mission occurred in March 1997, during the (second) Albanian refugee crisis. The Italian warship, whose task was to prevent departures from the Albanian coast towards Italy, collided with a boat transporting Albanian migrants, resulting in

the death of some 100 Albanians.

Finally, the militarization of the EU's Mediterranean borders has also been evident in the use of a growing amount of military-style hardware and equipment for border and immigration control purposes, such as night vision devices, radar systems and related technology. In Spain, for example, a vast coast control system composed of various military-type technology has been built up since the late 1990s (so-called SIVE-Sistema integrado de vigilancia exterior). The 200 million Euro-worth system is composed of fixed and mobile radars, infrared sensors as well as boats, helicopters and airplanes which are being deployed along the country's Mediterranean coast<sup>8</sup>.

### Bi- and Multilateralisation of Border Control

Another significant trend in EU countries' efforts to more effectively control their southern maritime borders has been the bi- and multilateralisation of border control, i.e. the increasing cooperation both between EU countries, as well as between EU and at least some southern Mediterranean states. Collaboration between EU countries in this area began with rather ad hoc and limited joint operations, such as Operation Ulysses, which was carried in January 2003, and involved the Navies of France, UK, Spain, Portugal and Italy. The main objective of the operation was to prevent undocumented migration and

<sup>5</sup> See the official website of the Guardia di Finanza <http://www.gdf.it/Home/>.

<sup>6</sup> See the official website of the Guardia Civil <http://www.guardiacivil.org/index.jsp>.

<sup>7</sup> On the role of the Italian Navy in preventing irregular migration via sea, see F. CAFFIO, *L'Italia di fronte all'immigrazione clandestina via mare*, Rome, 2005. Since May 2006, the Spanish Navy has been carrying out Operacion Noble Sentinela between the Canary Islands, Cape Verde, Senegal and Mauritania.

<sup>8</sup> The system is described on the website of the Spanish Guardia Civil: <http://www.guardiacivil.org/prensa/actividades/sive03/index.jsp>.

<sup>3</sup> For an overview of the different items of the EU's migration policy, see:

<http://www.europaworld.org/week289/europeanmigration151206.html>.

<sup>4</sup> For a more in-depth discussion, see D. LUTTERBECK, *Policing Migration in the Mediterranean*, Mediterranean Politics, 2006, vol. 11(1), pp. 59-82.

people smuggling across the Straits of Gibraltar as well as from the west Sahara towards the Canary Islands. More recently, in 2005, cooperation between EU countries in the field of border and immigration control has to some extent been institutionalized in the form of the EU border control agency Frontex, which is discussed below.

It is generally agreed that effective border controls in the Mediterranean require close collaboration not only between EU but also – and even more so – between EU and the southern Mediterranean countries. The arguably thus far most significant example in this regard has been the cooperation between Italy and Albania, which was initiated in the aftermath of the Albanian refugee crisis of 1997. From 1997 onwards, Italy (as well as the EU) established a number of police assistance missions in Albania – most of them along the country's Adriatic coast – with the aim of supporting the Albanian police in combating migration and human trafficking from its shores towards Italy. These missions have involved activities such as joint patrols along the Albanian coast, training, the provision of technical equipment, and intelligence sharing<sup>9</sup>. An important element of this collaboration has also been the repatriation of undocumented migrants who have been caught by Italian authorities from Italy back to Albania<sup>10</sup>. Arguably as a result

of this close collaboration between Italy and Albania, the “Adriatic route”, which throughout the 1990s was one of the main entry gates for undocumented immigrants seeking to enter the EU, has become largely obsolete.

Spain, as well, has been enlisting its southern neighbors in its immigration control efforts in the Mediterranean (and Atlantic). For example, since 2004 Spain and Morocco, despite the traditionally difficult relationship between the two countries, have been carrying out joint patrols along Morocco's northern and western coast, and Morocco has also been showing a greater willingness to collaborate with Spain in the field of readmission of unaccompanied migrants intercepted in Spain. Morocco, as well, received considerable financial and technical assistance from both Spain and the EU in return for its participation in these border and immigration control activities. More recently, Spain has also been expanding such joint operations to countries further south such as Mauritania and Senegal<sup>11</sup>.

From an EU perspective, the most “problematic” country in this regard has been Libya. Even though since about 2002, Libya has become one of the main transit countries for irregular immigrants seeking to enter the EU from the south, it has thus far not been willing to participate in activities such as joint maritime patrols with EU countries. Over recent years, there has been a certain

degree of cooperation between Italy and Libya in the field of migration control. For example, the two countries have signed a secret – and often criticized – agreement on joint measures to combat irregular immigration from Libya, and have undertaken a number of joint activities such as exchange of liaison officers, training courses for Libyan border police officers, or the provision of technical equipment to strengthen Libyan border controls. To date, however, Libya has refused to formally take part in EU countries' border control operations in the Mediterranean, its main argument being that the EU has thus far not provided sufficient support to Libya in policing its vast southern borders<sup>12</sup>.

### Border Externalization

A further important, and related, trend in EU countries' border control policies, has been the increasing externalization of border control, i.e. the moving of border and immigration controls outward from the external borderline of EU countries towards the transit and source countries of

<sup>9</sup> In the late 1990s, some 300 Italian police and coastguard officers were deployed in Albania in the framework of these police assistance programs.

<sup>10</sup> In 1999 alone, some 18,000 irregular migrants, including third country nationals, were repatriated from Italy to Albania.

<sup>11</sup> The Spanish Guardia Civil has been carrying out Operation Sea Horse in cooperation with these countries:

<http://www.guardiacivil.es/prensa/notas/noticia.jsp?idnoticia=1889>.

<sup>12</sup> However, in December 2007, an agreement was signed between Italy and Libya providing for joint operations between the two countries, as well as for the provision of technical assistance to Libya.

[http://www.interno.it/mininterno/exp/ort/sites/default/it/sezioni/sala\\_stampa/comunicati/0868\\_2007\\_12\\_29\\_Accordo\\_con\\_governo\\_libico\\_per\\_il\\_pattugliamento\\_delle\\_coste.html?back=%2Ftools%2Fsearch%2Findex.html%3Faction%3Dsearch%26matchesPerPage%3D10%26displayPages%3D10%26index%3DPr oggetto+Online%26sort%3D%26category%3D%26searchRoots%3D%252Fit%252F%26text%3DLibia%26start%3D%26end%3D%26type%3Dgeneric](http://www.interno.it/mininterno/exp/ort/sites/default/it/sezioni/sala_stampa/comunicati/0868_2007_12_29_Accordo_con_governo_libico_per_il_pattugliamento_delle_coste.html?back=%2Ftools%2Fsearch%2Findex.html%3Faction%3Dsearch%26matchesPerPage%3D10%26displayPages%3D10%26index%3DPr oggetto+Online%26sort%3D%26category%3D%26searchRoots%3D%252Fit%252F%26text%3DLibia%26start%3D%26end%3D%26type%3Dgeneric).

migration. The collaborative efforts between EU and southern Mediterranean countries, as described above, can be seen as one example of such border externalization. Other forms have also become increasingly important over recent years. For example, instead of merely patrolling their coastline and territorial waters, countries such as Italy and Spain have increasingly been carrying out immigration control operations in international waters, in particular through the deployment of their Navies, even in the territorial waters of southern Mediterranean countries as described above. The strategy of externalizing border and immigration controls has also been evident in measures such as the provision of technical equipment for border management to transit countries of migration, the deployment of immigration liaison officers, the conclusion of readmission agreements and related policies.

Critics often point to the (highly) problematic nature of this strategy of outsourcing border and immigration controls, in particular from a human rights or refugee protection perspective. With regard to cooperation with the countries of the southern Mediterranean in this area, it can be noted that most of them do not have adequately functioning systems of asylum and refugee protection<sup>13</sup>. In some countries of the region, human rights organizations such as Amnesty International, have also reported rather widespread human rights abuses of immigrants. Enlisting these countries as gatekeepers in the

<sup>13</sup> Libya, for example, has not signed the Geneva Refugee Convention.

EU's anti-immigration efforts, while often considered essential for effective border controls, thus also raises serious human rights concerns, and is often seen as incompatible with the Geneva Refugee Convention.

There are also other immigration control measures of EU countries which have increasingly come under criticism from human rights organizations, such as the increasingly common practice of collective and summary expulsions towards southern Mediterranean countries, or so-called "push-backs" of would-be immigrants intercepted on the high seas towards the countries of departure. These measures, as well, are often considered to be in violation of the Geneva Refugee Convention, and in particular the principle of non-refoulement enshrined therein<sup>14</sup>.

### Frontex

At the EU level, as already mentioned previously, border controls are increasingly being "communitarised" in the form of the EU border control agency

<sup>14</sup> On all of these issues see, e.g., Amnesty Internacional, *Frontera Sur. El Estado da la espalda a los derechos humanos de los refugiados e inmigrantes*, 2006:

<http://www.amnesty.org/es/report/info/EUR41/008/2005>.

Asociación Pro Derechos Humanos de Andalucía, *Derechos humanos en la Frontera Sur 2006. Informe sobre la inmigración clandestina durante el año 2005*, 2006:

[http://www.apdha.org/index.php?option=com\\_content&task=view&id=175&Itemid=32](http://www.apdha.org/index.php?option=com_content&task=view&id=175&Itemid=32).

Human Rights Watch, *Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees*, 2006:

<http://www.hrw.org/reports/2006/libya0906/>.

Frontex based in Warsaw<sup>15</sup>. The principal task of Frontex is to coordinate the activities of the border control forces of EU member countries, which continue to bear the main responsibility for controlling their borders. While Frontex has its own budget and staff, it does not have its own assets and operative personnel for carrying out border control operations. For joint EU operations, Frontex thus relies entirely on the assets and personnel provided by EU countries. As a consequence, it is also heavily dependent on the (political) will of the members states to contribute to any given operation.

In 2006, Frontex launched its first operations in the Mediterranean and Atlantic, which were continued throughout 2007. Thus far, Frontex has concentrated its activities in three sectors of the Mediterranean/Atlantic Sea: off the Canary Islands, Frontex has carried out Operation Hera under Spanish leadership; in the central Mediterranean, Operation Nautilus has been conducted under the auspices of Malta, and in the eastern Mediterranean, Greece has been running Operation Poseidon. In 2007, so-called Rapid Border Intervention Teams (RABIT) were created within the framework of Frontex. These teams are drawn from a pool of experts from the member states, which are trained by Frontex, and which can be deployed in situations of emergency. The first RABIT exercise was carried out in late 2007.

The growing importance attributed to Frontex can be seen in the rather dramatic

<sup>15</sup> See the official Frontex website <http://www.frontex.europa.eu/>.

budget increases it has witnessed over recent years. While the initial budget allocated to Frontex in 2005 was 5 million euros, this was increased to 70 million for 2008. Moreover, it is planned that from 2008 onward Frontex' operations in the Mediterranean are to be carried out on a permanent basis, and no longer as up until now for limited periods of time.

On the other hand, however, the assets actually put at Frontex' disposal are currently still a far cry from what was originally pledged by the member states. Thus while on paper EU member countries committed 21 airplanes, 27 helicopters and 116 patrol boats to Frontex' operations in the Mediterranean, the assets actually deployed in its operations thus far have amounted to only a small fraction of this. In Operation Nautilus, for example, 1 airplane, 2 helicopters and 2 (Maltese) patrol boats were put at Frontex' disposal. Noteworthy in this context is also the reluctance of the member states to provide – the usually most needed – patrol boats, as this of course entails the “risk” that the country providing the boats will remain responsible for migrants rescued or intercepted at sea.

Critics of Frontex often also highlight that the agency's main focus is on deterring and preventing illegal immigration as opposed to rescuing would-be immigrants in situations of distress at sea. Indeed, Frontex' director, Ilkka Laitinen, has himself emphasized that Frontex' main task is to protect the external borders of the EU and not to carry out search-

and-rescue missions in the Mediterranean<sup>16</sup>.

### Effects of border control measures

What have been the effects of EU countries' border control measures as described above? European policy makers usually argue that these efforts should achieve two main objectives: on the one hand to curb the flow of irregular migrants across the Mediterranean towards the EU, and on the other to reduce the death toll of would-be immigrants seeking to reach the EU from the African continent. However, with regard to neither of these two objectives, can the balance sheet thus far said to be clearly positive.

Starting with the first objective of reducing irregular migration across the Mediterranean, it can be noted at least up until 2007 the number of clandestine migrants seeking to reach the EU by boat from the south seems to have been growing steadily. At least this is the conclusion which can be drawn if the number of interceptions is taken as an indicator of the actual volume of irregular immigration<sup>17</sup>: between 1993 and 2006, the total number of interceptions in Italy and Spain has increased continuously from about 5,000 to almost 70,000. The year of 2007 is at least by some policy makers seen as a kind of turning point, as in both Italy and Spain the numbers of interceptions have indeed declined considerably:

<sup>16</sup> The Sunday Times (Malta), 8 July 2007.

<sup>17</sup> This can, of course, be contested: increases in interceptions might merely reflect an increase in patrol activities without an increase in the actual volume of irregular immigration.

in Italy by about 35% and in Spain by as much as 50% compared to 2006. European policy makers often view this as a sign that EU countries' border control activities in the Mediterranean are indeed proving effective. However, it remains to be seen whether this is merely a temporary decline in irregular migration across the Mediterranean (which might be due to other reasons), or a real downwards trend that will continue in the longer term.

What can be said for sure, however, is that the reinforced controls as described above have led to a diversion of the migratory flows towards longer and thus also more dangerous routes across the Mediterranean. Thus, while Italy has been largely successful in preventing undocumented migration across the Adriatic, over recent years, a constantly growing number of irregular migrants has been attempting reach Italy via Sicily and Lampedusa, with Libya becoming the main point of departure. Similarly, one main effect of Spain's efforts to strengthen its southern borders along the Straits of Gibraltar and around Ceuta and Melilla, has been to divert the migratory flows towards the Canary Islands. The points of departure along this route have also continuously moved further south: from central to southern Morocco, and from there to Mauritania and Senegal.

These displacement effects have come at a considerable human cost, as both of these routes are much longer and much more dangerous than the original entry gates used by the would-be migrants. Along Spain's southern borders, for example, the number of reported deaths of clandestine migrants rose from 66 in 1999

to more than 1,000 in 2006, with the actual death toll most likely being much higher<sup>18</sup>. A similar increase in the number of migrants having drowned in the Mediterranean has been reported in Italy. In both of these cases, this has at least in part been a consequence of the shift from shorter towards longer and more hazardous routes across the Mediterranean.

Also other perverse side-effects of EU countries' enhanced border control activities have been highlighted by human rights and other organizations. For example, one consequence of the increasingly severe punishment of persons (allegedly) involved in human trafficking or smuggling has been that nowadays practically none of the boats carrying irregular immigrants across the Mediterranean are driven by experienced pilots but rather by one of the migrants themselves. Needless to say that this too has increased the risks for the would-be immigrants seeking to cross the Mediterranean by boat.

While it cannot be denied that, thanks to EU countries' border control operations in the Mediterranean, at least some migrants have been rescued, and that such operations thus also have had certain positive effects, their negative impact on the human rights and security of the would-be immigrants as described above has arguably been much more significant. This highlights the general dilemma of EU countries' border control efforts in the Mediterranean: while the objective to secure their borders might to some extent be considered legitimate, the

question remains how this can be achieved without unduly putting at risk the rights and lives of the immigrants seeking to reach the EU from the south.

*Derek Lutterbeck is the Deputy Director and Holder of the Swiss Chair of the Mediterranean Academy of Diplomatic Studies in Malta.*

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<sup>18</sup> Asociación Pro Derechos Humanos de Andalucía, cit.