



# THE EU'S EXTERNALISATION OF BORDERS IN LIBYA: HISTORICAL PATH AND MAIN CONSEQUENCES

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## **DOSSIER**

*Geography of the externalisation of the European Union's borders. Who are the border guards of the EU and what are the risks that this practice brings with it?*

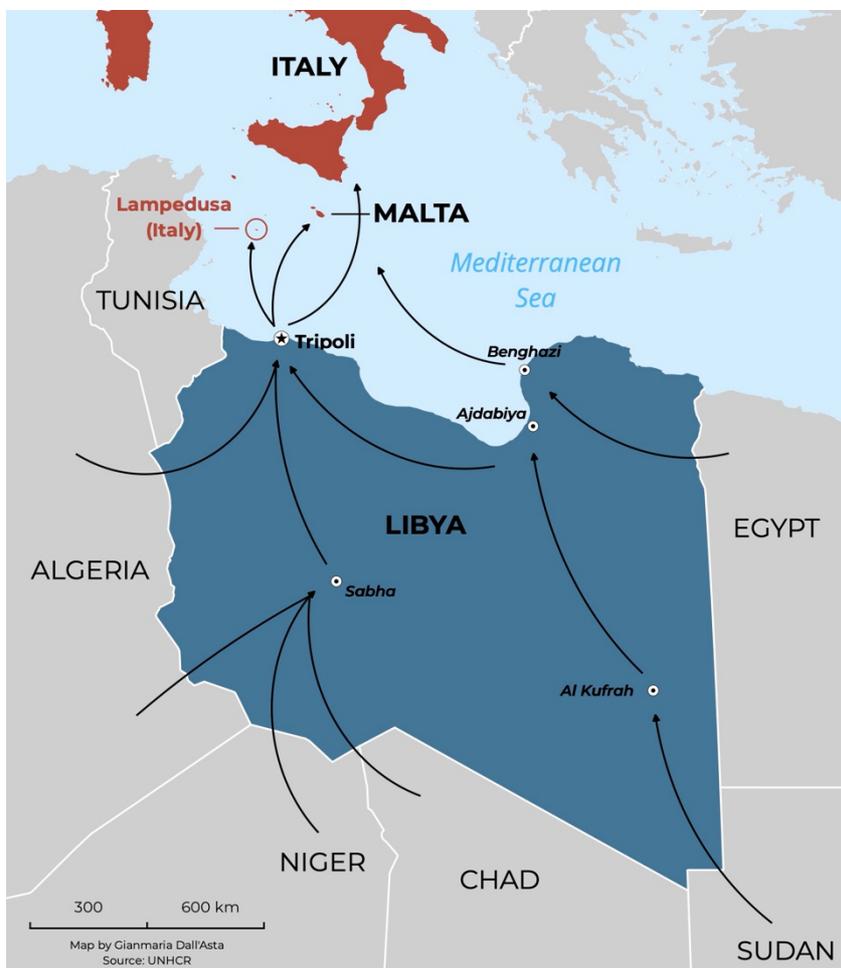
## **Introduction**

The present article aims at analysing the consequences of the externalisation of the European Union's borders in Libya from a humanitarian and a political perspective. In doing so, the authors will take into consideration the risks that this kind of policy creates to the health (and even the life) of migrant people that are stuck in or tries to leave Libya (humanitarian standpoint), as well as the



increasing economic and political bargaining of Libyan authorities, to the detriment of the European Union and its member states (political standpoint).

Therefore, the first section will focus on the historical path of the relations and of the agreements (in the migratory field) between the European Union (Italy in particular) and the Libyan government. Importantly, from the Italian side it will be highlighted how both right-wing governments and left-wing governments pushed for and signed arrangements, protocols and agreements with Libyan authorities (both Colonel Muammar Gaddafi and who came next). The second part will be dedicated firstly to the analysis of the funds allocated to Libya by Italy and the European Union, as well as to the rise of political bargaining of Libyan authorities. Subsequently, the negative effects of this practice on migrants' health and safety will be considered. In the end, alternatives to the actual management of this epochal issue will be suggested.





## **A historical insight on Italo-Libyan and EU-Libyan relationships**

According to Vassallo Paleologo (2020), the European Union began the policy of externalisation of its borders with the aim of outsourcing the management of migratory fluxes with the 1995 Barcelona Process, which led to the creation of the Union for the Mediterranean<sup>1</sup>. Anyway, the first readmission agreement negotiations started in 2000, while the first agreement was signed in 2002 (with Hong Kong) and entered into force in 2004 (European Commission, 2005). Importantly, beyond the agreements that the EU signed with third countries, single Member States stipulated bilateral treaties with the countries of origin and transit of the migrants that were directed to Europe, in some cases even in the 1980s and early 1990s, like Spain and Morocco (Marinoni, 2023). For this reason, in the next paragraph the historical path of the agreements between the European Union and Libya will be analysed taking into consideration the fact that Italy is the Member State which is the most concerned when we deal with migration from Libya to the EU.

Official contacts between Italy and Libya about migration in the so-called “Central Mediterranean route”<sup>2</sup>, started in 2000. But it is important to quickly step back into the history of the relationship between these two countries.

Prior to 2000, the relationships between the two countries were fluctuating. Considering only the period after the rise to power of Colonel Mu’ammar Gaddafi (1969), good ties were maintained until 1978, above all for economic purposes. After 1978, the US hostility towards Libya condemned Italy to be in the middle of this dispute, thus placing Italy into the geographical and political position of mediator between its main ally since the end of WWII and a crucial economic and energetic partner in the Mediterranean

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<sup>1</sup> <https://ufmsecretariat.org/>

<sup>2</sup> The one that stretches from Sub-Saharan Africa to Italy and Malta, passing through Libya and Tunisia (UNHCR, 2018)



region. Interestingly, this situation led to two diplomatic cases between Italy and the USA: the 1985 Sigonella crisis<sup>3</sup> and the 1986 Us attempt to kill Gaddafi, which allegedly failed because of a tip-off from Italian PM Bettino Craxi, that *de facto* saved Gaddafi's life<sup>4</sup>. In 1992, the United Nations established sanctions and an arms embargo on Libya<sup>5</sup>, in reaction to two aerial bomb attacks allegedly operated by Libyan citizens. In 1996, however, the relations between Italy and Libya started a process of normalisation, thanks to the meeting between Foreign Minister Lamberto Dini and his Libyan homologue El-Muntasser. In 1997, the Italo-Libyan Commission was re-established and it led to the 1998 Joint Statement<sup>6</sup> that determined the official resumption of the relations between Italy and Libya (Cemiss, 2001).

But it was only in the 2000 "Agreement for the cooperation on the fight to terrorism, organised crime, illegal trafficking of drugs and psychotropic substances and to illegal immigration", signed by Minister of Foreign Affairs Dini in the Amato II government (left wing), that the issue of migration became officially part of the discussions. In this agreement, the parties committed to exchange "information on the illegal migratory fluxes, as well as on the organisations that support them, on the *modus operandi* and on the pathways" (art. 1, comma D par. 1) and, "to mutual assistance and cooperation in the fight against illegal immigration" (*idem*, par. 3).

In the 2000-2007 period, the arrival to Italy of migrants through the central Mediterranean route was steady, with about 20.000 migrants per year<sup>7</sup> (see Table 1). Still, during this period, some

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<sup>3</sup><https://www.limesonline.com/particolari-inediti-del-sequestro-dellachille-lauro-e-del-caso-sigonella-in-due-video-di-limes/128631>

<sup>4</sup> <https://www.lastampa.it/esteri/2008/10/31/news/cosi-bettino-salvo-gheddafi-1.37091235/>

<sup>5</sup> [https://www.sipri.org/databases/embargoes/un\\_arms\\_embargoes/libya/libya-1992](https://www.sipri.org/databases/embargoes/un_arms_embargoes/libya/libya-1992)

<sup>6</sup> <https://www.airl.it/2014/06/25/comunicato-congiunto-roma-4-luglio-1998/>

<sup>7</sup> <https://www.openpolis.it/numeri/gli-arrivi-di-migranti-in-italia-dal-1997-al-2020/>



arrangements were stipulated between Italy and Libya - like the 2003 “Practical arrangements on the cooperation in the fight against illegal migration”<sup>8</sup>. The details of these kinds of agreements were kept secret<sup>9</sup>, but - as reported by the European Commission (2005) - Italy engaged itself in the following two years in:

- Providing Libya with training and equipment for border surveillance and management.
- Funding Libya for building one detention camp for illegal migrants in the Northern part of the country and two camps in the South.
- Readmitting migrants to Libya (Hamood, 2008).
- Readmitting migrants with Libyan charter flights to their countries of origin<sup>10</sup>.

As Hamood (2006) reports, starting from 2004, also the European Union itself engaged in a new period of relations with Libya, which had been previously nonexistent also because of the UN embargo placed on Libya in 1992, which was lifted in September 2003<sup>11</sup>. Gaddafi visited Bruxelles in 2004 and the two parties were now able to cooperate in an official way. In 2007 a EU-Libya Framework Agreement was set<sup>12</sup> and this paved the way for the 2010 Agreement for a Migration Cooperation agenda<sup>13</sup>.

For what concerns Italy, in December 2007, combating migration became again and more importantly the matter of the discussions in the “Protocol between Italian Republic and the Great Socialist People's Libyan Arab Jamahiriya” signed by the left-wing

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<sup>8</sup>[https://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala\\_stampa/notizie/immigrazione/notizia\\_18560.html](https://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_stampa/notizie/immigrazione/notizia_18560.html)

<sup>9</sup>

[https://www.corriere.it/Primo\\_Piano/Esteri/2003/07\\_Luglio/04/immigrazione.shtml?refresh\\_ce-cp](https://www.corriere.it/Primo_Piano/Esteri/2003/07_Luglio/04/immigrazione.shtml?refresh_ce-cp)

<sup>10</sup> For details, the full report of the Commission is available:

<https://www.statewatch.org/media/documents/news/2005/may/eu-report-libya-ill-imm.pdf> (p. 60 and 61 for the Annexes 1 and 2)

<sup>11</sup> [https://www.sipri.org/databases/embargoes/un\\_arms\\_embargoes/libya/libya-1992](https://www.sipri.org/databases/embargoes/un_arms_embargoes/libya/libya-1992)

<sup>12</sup> <https://carnegieendowment.org/sada/20681>

<sup>13</sup> [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_10\\_472](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_10_472)



government led by Romano Prodi. This Protocol was meant to “develop cooperation in order to fight illegal immigration”. The two countries committed to “organize [joint] maritime patrols” (art. 2), and Italy pledged to provide Libya with the instruments to better manage the control of the land borders and maritime borders (art. 3) with the support of European funds (art. 4 and 5). The details of the operations that Italy and Libya would jointly carry on are described in the “Technical-operationional Additional Protocol”, which lists the naval units to be assigned to Libya (art. 1 par. 1), the coordination and direction of the naval patrols (art. 2 par.1) and the details concerning the expenditures (art. 3 par. 4, 5 and 6).

In August 2008, the Italian government led by Silvio Berlusconi (right-wing) signed the most important international agreement of the recent era with Gaddafi’s Libya, with the aim of sealing the friendship between the two countries and the two leaders. Hence the name of the agreement: “Treaty on Friendship, Partnership and Cooperation between Italy and Libya”. Among the many themes treated by the Treaty, article 19 is about the “collaboration for the fight of terrorism, organised crime, drug trade and illegal migration”. In the first paragraph, the parties commit themselves to “intensify the cooperation”, as agreed in the December 2000 Agreement and the December 2007 Protocol (thus joint patrols, supply of instruments to Libya, etc.; v. *supra*). In the second paragraph, the Parties agree to implement a satellite system in order to control Libyan land borders; this system would be provided by Italian firms and paid by Italy (50%) and the European Union (50%).

From 2011 onwards, after the spark of the Arab Springs and the fall of Gaddafi, Libya changed its status in the migration context: from country of destination for many migrants, it became above all a



country of transit towards Europe (IOM, 2017<sup>14</sup>; Caritas-ISPI, 2020). Thus, the number of migrants using Libya as a point of departure for Italy increased in 2011, the first year of the revolution. It remained low in 2012 and 2013 while it skyrocketed in 2014 with the exacerbation and internationalisation of the Syrian conflict; in that year, according to the IOM, it is counted that more than 42,000 Syrians reached Italy by the Sea<sup>15</sup>.

In late 2013, Italian Navy enhanced the operation of patrolling the Sicilian Sea in the operation *Mare Nostrum*, and assisted more than 150,000 migrants at sea, before ending it in October 2014<sup>16</sup>. The two following Military Operations concerning migration from Libya were managed by the European Union itself - Operation *Sophia* (2015 - 2020)<sup>17</sup> and Operation *Irini* (2020 - 2023)<sup>18</sup>.

In 2015, at the Valletta Summit, in response to the “refugee crisis”, the European Union launched the “European Union Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa” (EUTF), with the intention of “contributing to safe, secure, legal and orderly migration from, to and within the region and support an effective management of migration flows that protects human rights”<sup>19</sup>. However, according to Pacciardi and Berndtsson (2022), this Fund “*de facto* represents one of the key tools with which the EU is

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[https://publications.iom.int/system/files/pdf/four\\_decades\\_of\\_cross\\_mediterranean.pdf](https://publications.iom.int/system/files/pdf/four_decades_of_cross_mediterranean.pdf)

<sup>15</sup> <https://www.iom.int/news/migrant-arrivals-sea-italy-top-170000-2014>

<sup>16</sup> <https://www.marina.difesa.it/cosa-facciamo/per-la-difesa-sicurezza/operazioni-conclude/Pagine/mare-nostrum.aspx>

<sup>17</sup> [https://www.marina.difesa.it/cosa-facciamo/per-la-difesa-sicurezza/operazioni-conclude/Pagine/approfondimenti\\_operazione\\_sophia.aspx](https://www.marina.difesa.it/cosa-facciamo/per-la-difesa-sicurezza/operazioni-conclude/Pagine/approfondimenti_operazione_sophia.aspx)

<sup>18</sup>

[https://www.difesa.it/OperazioniMilitari/op\\_intern\\_corso/EUNAVFOR\\_MED\\_Operazione\\_Irini/Pagine/default.aspx](https://www.difesa.it/OperazioniMilitari/op_intern_corso/EUNAVFOR_MED_Operazione_Irini/Pagine/default.aspx)

<sup>19</sup> [https://trust-fund-for-africa.europa.eu/index\\_en](https://trust-fund-for-africa.europa.eu/index_en); [https://trust-fund-for-africa.europa.eu/where-we-work/regions-countries/north-africa\\_en](https://trust-fund-for-africa.europa.eu/where-we-work/regions-countries/north-africa_en)



externalising its borders and enabling the creation of a European migration industry” (p. 4011).

In February 2017, as 90% of the migrants arriving in Italy by sea came from Libya in the period 2013-2017<sup>20</sup>, the Italian government led by Paolo Gentiloni (left-wing) and the the Libyan Government of National Accord led by Fayed Mustafa Serraj signed the “Memorandum of Understanding on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders” (hereinafter MoU), with the full endorsement of the European Union (Panebianco, 2020). The MoU implied:

- The “completion of the system of border control in Southern Libya”, as already envisaged in the 2008 agreement (v. *supra*) (art. 2 par. 1).
- The “adaptation and financing of [...] reception centres” (art. 2 par. 2), as already settled down in the previous agreements.
- The “training of the Libyan personnel within the above mentioned reception centres to face the illegal immigrants’ conditions” (art. 2 par. 3), as already established in the 2003 arrangements.
- That Italy “provides for the financing of the initiatives mentioned in this Memorandum [...] besides making use of available funds from the European Union (art. 4).

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<sup>20</sup> <https://www.ispionline.it/it/pubblicazione/migrazioni-nel-mediterraneo-tutti-i-numeri-24892>

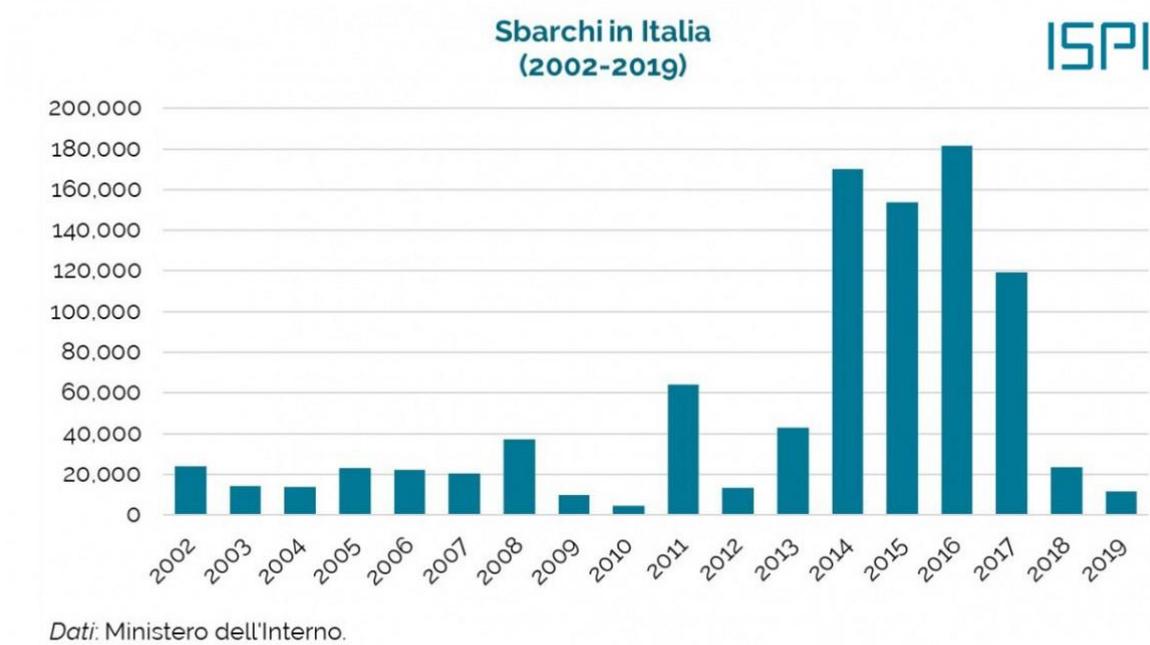


Table 1 - Arrivals in Italy by Sea (2002 - 2019): source ISPI

Moreover, in December 2017, Libyan Search & Rescue area (SAR)<sup>21</sup> was established, thus expanding the portion of Sea in which Libyan authorities are demanded to assist and rescue in case of emergency, according to the 1979 International Convention on maritime search and rescue. According to Statewatch this “fiction is convenient for the EU because it allows Italy and Malta to relinquish their duties to rescue and receive migrants who may be in danger during sea crossings”<sup>22</sup>.

Eventually, it is important to note that the MoU has been automatically renewed twice - in 2020 and in 2023 -, despite the

<sup>21</sup> <https://www.imo.org/en/ourwork/safety/pages/sarconvention.aspx>

<sup>22</sup> <https://www.statewatch.org/analyses/2020/mediterranean-as-the-fiction-of-a-libyan-search-and-rescue-zone-begins-to-crumble-eu-states-use-the-coronavirus-pandemic-to-declare-themselves-unsafe/>



protests of many institutions like international NGOs such as MSF<sup>23</sup>, Amnesty International<sup>24</sup>, Save The Children<sup>25</sup> and Statewatch<sup>26</sup>.

In the next two paragraphs, we will consider the perverse effects of these agreements from two perspectives: the economic and political one and the humanitarian one.

### **Economic and political effects**

The destination of the funds allocated to Libya is not transparent or totally traceable.<sup>27</sup> Different procurers are entitled to manage the funding and few of them give exhaustive accounts of the calls for tenders. In addition, since 2022 former Italian Minister of the Interior Luciana Lamorgese has limited the civic access to documents «relating to technical-operational arrangements for international police cooperation, including border and immigration management»<sup>28</sup>, making most of the information on Italian projects in Libya inaccessible.

In order to better understand the flow of money, it is relevant to notice that from 2017 to 2022 Italy has taken part in different projects, both European or bilateral, with the aim of creating an integrated sea and land border control system in Libya, such as:

- The international missions to support the Libyan Coastguard, instituted in 2017 after a direct request from the Government of National Accord (GNA, v. *infra*). As part of this agreement, Italy set

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<sup>23</sup> <https://www.medicisenzafrontiere.it/news-e-storie/news/accordi-libia-italia-rinnovo/#:~:text=Il%2020novembre%202022%2C%20,essere%20stati%20rintracciati%20in%20mare.>

<sup>24</sup> <https://www.amnesty.it/appelli/italia-libia-cancellare-il-memorandum-d-intesa/>

<sup>25</sup> <https://www.savethechildren.it/blog-notizie/memorandum-italia-libia-un-finanziamento-contro-i-diritti-umani>

<sup>26</sup> <https://www.statewatch.org/news/2022/february/appeal-to-the-italian-government-to-unhcr-and-iom-for-the-immediate-withdrawal-of-the-italy-libya-memorandum/>

<sup>27</sup> <https://www.thebigwall.org/wp-content/uploads/Spesa-Esterna-migrazioni-the-big-wall-ActionAid.pdf>

<sup>28</sup> [https://www.interno.gov.it/sites/default/files/2022-03/dm\\_atti\\_sottratti\\_accesso\\_16-03-2022.pdf](https://www.interno.gov.it/sites/default/files/2022-03/dm_atti_sottratti_accesso_16-03-2022.pdf)



aside €44.4 million, with €10.5 million allocated in 2021 and €11.8 million in 2022. Funding mainly concerns the provision of vehicles and vessels and training services to both the Italian and Libyan border police (thus including the *Lcgps*, Libyan coast guard and port security and the *Gacs*, General administration for coastal security).<sup>29</sup>

- Signed in 2018, the Bilateral mission of assistance and support in Libya is the result of the reconfiguration of Hippocrates Operation<sup>30</sup>, a previous mission of health and humanitarian support activities and some technical support tasks. Up to 2022, €4.3 million have been allocated in the framework of this mission.

- The Support to Integrated border and migration management in Libya (Sibmmil)<sup>31</sup>, funded with the Eutf (v. *supra*). For this project, the European resources are managed both by the Italian Ministry of Interior and the Ministry of Foreign affairs; the project is divided into two different phases: the first one with a €46.3 million budget, including 2 million directly allocated from Italy, and the second one with €15 million. About €8.3 million were used to provide vessels, €3.4 for land vehicles, €5.7 for spare parts and maintenance, 1 million in training services and another million for 14 containers. In her visit to Libya on January 28, 2023, prime minister Giorgia Meloni has declared that Italy will supply the Libyan Coast Guard with five more “fully equipped boats”<sup>32</sup>. In 2023, it is expected an implementation of €59 million destined to Libya in the framework of this project.<sup>33</sup>

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<sup>29</sup> <https://www.thebigwall.org/approfondimento/the-big-wall-2022/>

<sup>30</sup> <https://www.esercito.difesa.it/en/Operations/international-operations/Pagine/Libya-Hippocrates-Operation.aspx>

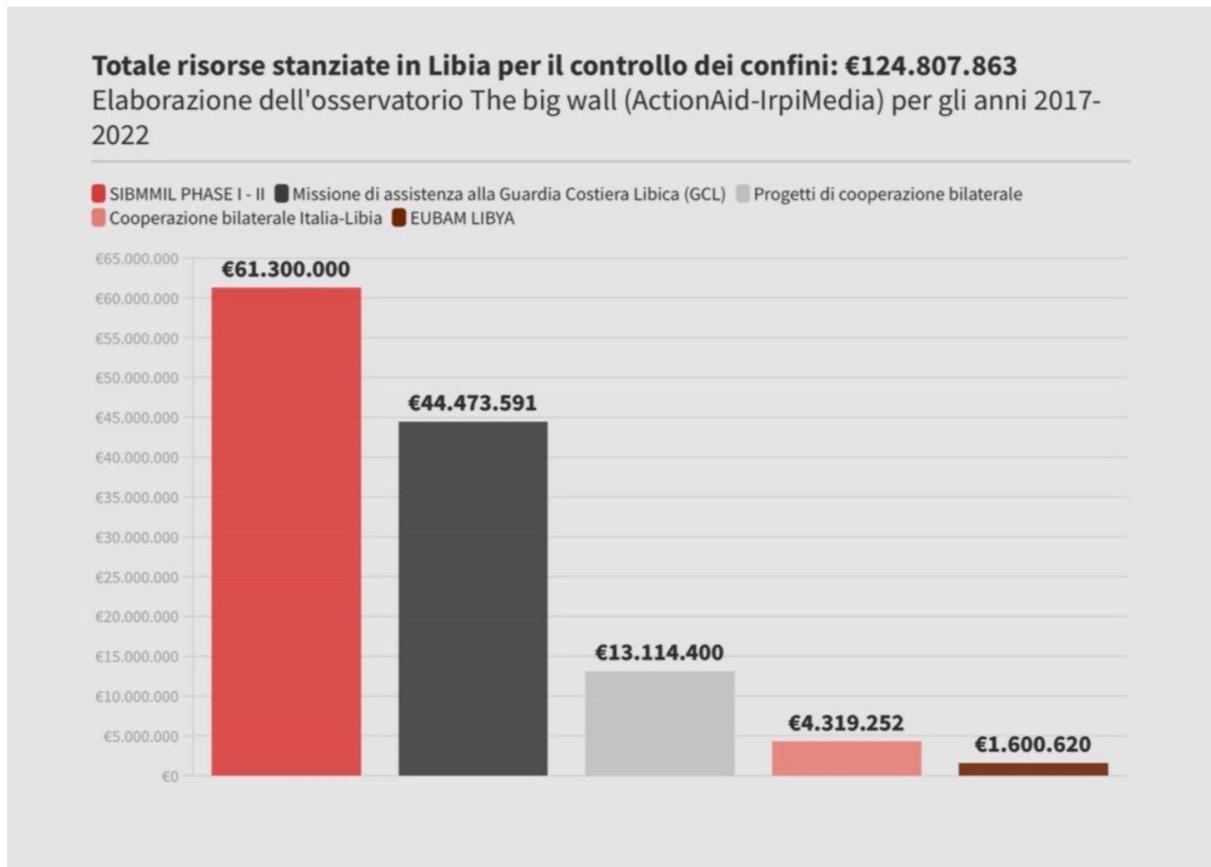
<sup>31</sup> [https://trust-fund-for-africa.europa.eu/our-programmes/support-integrated-border-and-migration-management-libya-first-phase\\_en](https://trust-fund-for-africa.europa.eu/our-programmes/support-integrated-border-and-migration-management-libya-first-phase_en)

<sup>32</sup> [https://www.ansa.it/sito/notizie/politica/2023/01/28/meloni-intesa-italia-libia-per-potenziare-guardia-costiera-\\_fc86d2f8-f92e-4c5e-b14d-d132752b17af.html](https://www.ansa.it/sito/notizie/politica/2023/01/28/meloni-intesa-italia-libia-per-potenziare-guardia-costiera-_fc86d2f8-f92e-4c5e-b14d-d132752b17af.html)

<sup>33</sup> <https://www.statewatch.org/media/3723/eu-council-libya-draft-action-file-wk-117-2023.pdf>



Thus, considering these and all the other missions in Libya and in the Mediterranean, the cost of border externalization practices in Libya from 2015 to 2020 reaches 210 million €, 44% of which is intended for border control.<sup>34</sup>



Funding allocated to Libya by Italy (2017-2022), source: ActionAid - IrpiMedia

The difficult traceability of these considerable resources is made even more complicated by the Libyan context. Libya is divided in different factions, the most relevant of which are: the Libyan National Army (LNA), set in Tobruk (in the eastern part of the country), formally under the prime minister Fathi Bashagha but controlled by General Khalifa Haftar, and the Government of National Accord (GNA) set in Tripoli in the west, guided by prime minister Abdul Hamid Dbeibah and recognized by the United

<sup>34</sup> <https://www.thebigwall.org/wp-content/uploads/Spesa-Esterna-migrazioni-the-big-wall-ActionAid.pdf>



Nations. The two contenders have no democratic legitimacy, since the last election in Libya took place in 2014, and they are supported by different militias (Firmian, 2022).<sup>35</sup> The lack of a unitary state-actor and the permanence of a violent conflict made it possible for auxiliary armed groups to participate in the official state system and to be involved in border protection as part of both the detention and coast guards. According to the Associated Press journalists Michael, Hinnant and Brito (2019)<sup>36</sup>, Italian and European funds are therefore directed to form, train and equip gangs and mercenaries that are in charge of intercepting and preventing boats departing from Libyan shores. The economic power granted to militias is one of the main causes of political instability and humanitarian crises in the country<sup>37</sup>.

Given the fragile political context, it is crucial to underline that these dynamics *de facto* fuel Libyan blackmail ability and threaten Italy and Europe, making them more and more dependent on Libyan authorities and militias in the management of their borders, according to journalist Nello Scavo.<sup>38</sup> On several occasions, the different opponents over the control of the country have exploited this dependency, blackmailing Italy by pushing migrants to reach its coasts in unsuitable vessels.<sup>39</sup> General Haftar's attempt has recently been successful: on May 4, 2023, Giorgia Meloni met him in Rome to talk about increasing migratory flow from Eastern Libya<sup>40</sup>.

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<sup>35</sup> <https://www.ispionline.it/it/pubblicazione/libia-un-governo-bicefalo-un-paese-diviso-37050>

<sup>36</sup> <https://apnews.com/article/united-nations-tripoli-ap-top-news-international-news-immigration-9d9e8d668ae4b73a336a636a86bdf27f>

<sup>37</sup> <https://apimagesblog.com/blog/2019/12/31/eu-funds-for-migrants-in-libya-enrich-their-abusers-instead>

<sup>38</sup> <https://www.avvenire.it/attualita/pagine/libia-viaggio-di-meloni-la-situazione-a-tripoli-e-nel-paese>

<sup>39</sup> <https://www.avvenire.it/attualita/pagine/il-ricatto-della-libia-messi-in-mare-10-barconi-in-pochi-giorni>

<sup>40</sup> <https://www.ilpost.it/2023/05/05/arrivi-migranti-cirenaica/>



In addition, and closely linked to that, it is important to stress the Italian dependency on Libyan gas, on which Italy has been making agreements through Eni since 1951; the supply of gas to Italy has been interrupted in various strategic moments, such as in 2020 by General Haftar, in the attempt to dominate the UN-recognised Libyan PM Fayez al Serraj. The Italian-Libyan negotiations about oil and gas have therefore seen the participation of people that are involved in migration and oil smuggling, with a high reputation risk for Italy. Yet on 28 January 2023, Giorgia Meloni and Abdel Hamid Dbeibah assisted in the stipulation of a new \$8 billion deal for the exploitation of two oilfields on the Libyan west coast, and strengthened the cooperation on immigration control.<sup>41</sup>

### **Humanitarian consequences**

Beyond the economic and political effects of the externalisation of EU borders in Libya, it is essential to remark the risks that migrants run both when stuck in Libya, as well as when trying to reach Italy by the Sea. Projects implemented through Italian and European funds or managed by Italian and European authorities, indeed, seem to be totally disinterested in their impact on human rights.

Among the many reports that have been completed<sup>42</sup>, the one made by Human Rights Watch<sup>43</sup> underlines that migrants are subject to terrific human rights abuses, like torture, kidnappings, harassment and death (Pacciardi and Bertndsson, *op. cit.*). According to the 2021 report made by some humanitarian NGOs<sup>44</sup>, migrants who arrive in Libya are arbitrarily kidnapped and

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<sup>41</sup> <https://www.ilpost.it/2023/01/29/accordo-italia-libia-gas-migranti/>

<sup>42</sup> Amnesty:

<https://d21zrvtkxtd6ae.cloudfront.net/public/uploads/2021/07/Libia-Nessuno-verr%C3%A0-a-cercarti.pdf>, Un human rights:

<https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>, Mfs: [https://www.medicisenzafrontiere.it/wp-content/uploads/2019/03/Libia\\_Rapporto-malnutrizione\\_MSF.pdf](https://www.medicisenzafrontiere.it/wp-content/uploads/2019/03/Libia_Rapporto-malnutrizione_MSF.pdf)

<sup>43</sup> <https://www.hrw.org/it/report/2019/01/21/326624>

<sup>44</sup>

[https://www.ecchr.eu/fileadmin/Publikationen/NO\\_WAY\\_OUT\\_Migrants\\_and\\_refugees\\_trapped\\_in\\_Libya\\_face\\_crimes\\_against\\_humanity\\_EN.pdf](https://www.ecchr.eu/fileadmin/Publikationen/NO_WAY_OUT_Migrants_and_refugees_trapped_in_Libya_face_crimes_against_humanity_EN.pdf)



detained by militias or other armed groups that control and profit from an organized network of human smuggling and trafficking. Prisoners are extorted large amounts of money for their freedom and often have to pay their own tormentors also to embark towards Italy. Also, we do not have to overlook the fact that this one is the deadliest migration route in the world, given that 21,072 people have died in the Mediterranean Sea since 2014, according to the IOM.<sup>45</sup>

Human Rights Watch researchers, that visited four detention centers in Tripoli, Misrata, and Zuwara in 2018, documented inhumane conditions, like severe overcrowding, unsanitary conditions, poor quality food and water, lack of adequate healthcare<sup>46</sup>. Violence by guards, including beatings, whippings, and use of electric shocks, are also elements in common to all centers. Several migrants interviewed by the UN Independent Fact-Finding Mission on Libya (FFM)<sup>47</sup> reported having been subjected to sexual violence at the hands of traffickers and smugglers, often to extort money from families. The risk of sexual violence in Libya is so well known that some migrant women and girls take contraceptives before leaving precisely to avoid unwanted pregnancies due to such violence (FFM). Researchers have revealed that migrant children are as much at risk as adults of being detained, as they witnessed numerous of them, including newborns, detained in Ain Zara, Tajoura and Misrata detention

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[https://missingmigrants.iom.int/region/mediterranean?region\\_incident=All&route=3861&month=All&incident\\_date%5Bmin%5D=&incident\\_date%5Bmax%5D=](https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D=)

<sup>46</sup> <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>

<sup>47</sup> <https://www.ohchr.org/en/hr-bodies/hrc/libya/index#:~:text=On%2022%20June%202020%2C%20the,a%20view%20to%20preventing%20further>



centers. They also are not exempt from abuses by guards and smugglers.

Other institutional interventions of the last years reported the risks in terms of health and safety of migrants detained in Libya; in 2020, the Commissioner for Human Rights of the Council of Europe stated a strong concern for the condition of refugees and migrants, not only in the clandestine prisons of traffickers, but also «in detention facilities under the control of the Ministry of the Interior», and urged member states to review their policies in Libya.<sup>48</sup> In November 2021, the UN fact-finding mission in Libya found these violations to be crimes against humanity.<sup>49</sup> In December 2021, in the framework of the Vos Thalassa case, the Italian Court of Cassation confirmed Libya an “unsafe place”, thus exonerating the migrants who opposed being refouled back to Libya<sup>50</sup>. Another report, drafted in 2022, stated that “The continuous, systematic and widespread nature of these practices by the Department of Combating Settlement and Illegal Immigration and other actors involved reflects the participation of middle-level officials and high level to the cycle of violence against migrants”.<sup>51</sup>

This indefinite and arbitrary detention is made possible by the absence of an adequate legal framework for the protection of refugees and asylum seekers. Libya, indeed, is not among signatory countries of the 1951 Geneva Conventions. In 2021, MSF

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<sup>48</sup> <https://www.coe.int/en/web/commissioner/-/ommissioner-calls-on-the-italian-government-to-suspend-the-co-operation-activities-in-place-with-the-libyan-coast-guard-that-impact-on-the-return-of-p>

<sup>49</sup>

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2F2021-11%2FA-HRC-48-83-AEV-EN.docx&wdOrigin=BROWSELINK>.

<sup>50</sup> <https://www.centrostudilivaitino.it/wp-content/uploads/2022/05/Corte-di-Cassazione-sentenza-Vos-Thalassa.pdf>

<sup>51</sup> <https://www.ohchr.org/en/documents/country-reports/ahrc5063-report-independent-fact-finding-mission-libya>



announced<sup>52</sup> the suspension of their operations of medical-humanitarian assistance in Libya, due to numerous episodes of violence that put their staff into excessive risks.

Although these documented violations, from 2023 the UN intervention framework will change: Libya will be now treated not as a “humanitarian” but as a “development” context, putting humanitarian space into risk.<sup>53</sup>

### **Alternatives to Memorandum of Understanding (MoU)**

As we mentioned, the reason that drives thousands of people every year to embark from Libya in such a dangerous route is the lack of legal access to Europe. Still, there are some alternatives to the agreements such as the MoU (v. *supra*), that endanger the health and the life of the migrants. According to Maurizio Ambrosini, ISPI Scientific Advisor and CNEL Advisor, if migrants' conditions in Libyan detention centres were correctly considered as an emergency, Italy should activate humanitarian corridors, since they are one of the few legal alternatives to smugglers. However, since 2017 Italy has accepted just over a thousand migrants from Libya. Other alternatives are to provide adequate assistance in transit sites on migration routes, where the international community invests insufficient resources, and to extend to all refugee rights that have been granted to Ukrainians after the Russian invasion. This kind of protection exists in legislation and social policies, and allowed millions of Ukrainian citizens to cross the border since the beginning of the war, to settle where they wanted and enter the services' system (D'Aleo, 2023).

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<sup>52</sup> <https://www.msf.org/violence-against-migrants-forces-msf-suspend-centre-activities-libya>

<sup>53</sup> <https://specialelibia.it/2022/12/14/le-nazioni-unite-in-libia-lanciano-il-programma-di-sviluppo-sostenibile-per-il-2023-2025/>



## **Conclusions**

In drawing conclusions about the issue of the externalisation of migration management in Libya, it is important to underline that this policy has had bipartisan support since late 1990s. Indeed, Italian governments, which have succeeded one another over the last two decades and a half, all opted for funding Libyan authorities in order to stop the arrivals. We argue that the protocols, *memorandum* and agreements have posed serious concerns both in a political and humanitarian perspective. Concerning the political perspective, since the early 2000s Libyan authorities have been the recipient of millions of euros in order to stop migrants' journey towards Europe. Beyond this increase in economic power, Libyan authorities find themselves in the position of threatening and blackmailing Italy and the whole European Union, just like Morocco and Turkey do, *de facto* using migrants as a weapon (Greenhill, 2010) or at least an instrument to obtain what they need. From the humanitarian standpoint, then, migrants trapped in Libya are detained in detention camps funded by the EU and Italy are constantly deprived of their human rights. Those who embark towards Italy *de facto* face the deadliest migration route in the world. Alternatives to these dangerous practices of border externalisation exist and are, for example, the human corridors, which are often non-applied by the member states, and the protection as granted to the Ukrainians after the Russian invasion.

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