

# ROUTES CHANGE, MIGRATION PERSISTS: THE EFFECTS OF EU POLICY ON MIGRATORY ROUTES

March 2017 | **Antonios Alexandridis & Müge Dalkıran**





# **Routes Change, Migration Persists**

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The Effects of EU Policy  
on Migratory Routes

**Antonios Alexandridis & Müge Dalkıran**

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## Executive Summary

Since the late 1990s, there have been efforts by the European Union to create common policies in order to regulate migration and to provide effective external border surveillance. However, every year more people try to reach European soil for a number of reasons, such as fleeing armed conflicts, human rights abuses, starvation, and economic conditions. While some of them have the opportunity to use legal channels, the majority do not have this chance and must put their lives into danger to reach Europe. European Union states came to an agreement in October 1997, which came into force in May 1999 with the Treaty of Amsterdam, that they would more closely co-operate on migration, asylum, and visa issues. However, it was not before the early 2000s, when the mass irregular movement of people from Libya to Italy became more manifest, that the subject of migration became a major topic on the policy agendas of EU states. However, up until the Syrian Civil War the main concern was not the actual numbers of migrants irregularly traveling by boat to Europe. Until recently only about 10% of irregular migrants entered the EU by sea, whereas the rest would use regular means of transport, such as air travel using forged documents, cars, buses, trains, etc. This has changed since 2015, when more than one million people crossed using irregular means from Turkey to Greece. What has drawn the attention of the media is the spectacle of 'boat people' drowning in their hundreds in their efforts to reach Southern European states, while EU policymakers have been mainly concerned with how to secure their borders against this open transgression of nation-state sovereignty. It is estimated that 33,000 people have lost their lives in their efforts to reach Europe since 2000.

Despite news of boat migrants mostly concerning those between Greece–Turkey, and Italy–Libya in recent years, there are additional migratory routes into Europe

which have been used by irregular migrants for years. However, the popularity of these paths change from time by time for different reasons. The purpose of this paper is to analyse to what extent EU migration and border policies affect irregular migrants in terms of changing their routes into EU countries.

***Migration flows change their routes primarily in relation to the policies implemented by the EU. This changing of routes finally pushes migrants to use the harder-to-regulate Central Mediterranean Route, where the number of deaths is higher, partly due to geographical conditions but also due to the unwillingness of Frontex to conduct search and rescue operations.***

The migrant routes to Europe that so far have been identified by Frontex and other actors are:

- Western African Route
- Western Mediterranean Route
- Central Mediterranean Route
- Eastern Mediterranean Route
- Western Balkan Route
- Circular Route from Albania to Greece
- Eastern Borders Route

Migration flows and the shifting of the routes that migrants use are undeniably dependent on a number of external factors such as wars on the European periphery and the modus operandi of smuggling networks. However, in this article we argue that migration flows change their routes primarily in relation to the policies implemented by the EU. This changing of routes finally pushes migrants to use the harder-to-regulate Central Mediterranean Route, where the number of deaths is higher, partly due to geographical



conditions but also due to the unwillingness of Frontex to conduct search and rescue operations. At the same time, human smuggling networks have created new routes to Europe that entail higher risks for refugees and migrants. Frontex director Fabrice Leggeri, in an interview given to *Der Spiegel* in June 2016, said that “Egypt is becoming the new hotspot for human smugglers. The route is extremely dangerous, the journey often takes longer than ten days.”

In particular, we show how the Western Mediterranean route has remained stable in terms of number of crossings but that groups which have traditionally used this route to cross into the EU, such as West Africans, have shifted toward the Central Mediterranean Route. This happened after Spain made a number of bilateral agreements with third countries and also established stronger border controls in co-operation with Frontex joint forces. These stronger controls are used as a deterrent and have entailed a number of human rights abuses by the Spanish and Frontex, which have resulted in numerous deaths and illegal push-backs into Morocco without taking the non-refoulement principle, the 1951 Refugee Convention, or the human rights of migrants into account.

However, in the 2000s the Central Mediterranean Route began being used more often than the Western Mediterranean Route, and migrants who would have traditionally used the latter started to depart from the coast of Libya. The policies that have demotivated migrants from using the Western Mediterranean Route are to a large degree responsible for thousands of drowned African migrants. The Italian state’s Mare Nostrum search and rescue operation, which brought over 150 migrants to safety in one year proved to be too costly and was replaced with a much smaller one by Frontex. Furthermore, Frontex refuses to launch search and to rescue operations and instead

focuses on border controls. This reluctance of this EU agency to protect vulnerable migrants at sea is continuing to lead to higher-fatality shipwrecks that draw public attention.

Since 2014 we have seen a sharp increase in migrants using the Eastern Mediterranean Route as their entry point into the EU. The record year of 2015, where more than a million migrants crossed into the EU, is the result of a number of factors. The boat trip from Turkey to Greece is much safer than between Libya and Italy and the Libyan and Syrian civil wars, but also the refusal of Frontex to safely transfer migrants to the Italian coast are all determinants that have contributed to almost one million people coming to the EU through Turkey. The reaction of EU states has been to increase sea border controls with Frontex’s ‘Poseidon Rapid Intervention’ operation parallel with the militarization of the border and the patrolling of NATO vessels. However, these interventions were not enough to deter migrants from crossing and at the start of 2016 we saw the number of migrant crossings increasing sharply from 2015. Then EU states attempted to put a stop to this route with the co-operation of Turkey through the EU-Turkey agreement and that adoption of the hot-spot approach. These efforts to deactivate the Eastern Mediterranean route have been to a large degree successful. Over the course of 2016 we saw a sharp decrease in crossings from Turkey to Greece, but we observed an increase in crossings via the Central Mediterranean route. This shifting of these routes due to high demand for migration resulted in 2016 becoming the deadliest year for migrants ever recorded, with the death toll of migrants at sea reaching 5,079 people. Meanwhile, Syrian refugees intercepted while crossing to Greece following the agreement were put into closed camps called ‘hot-spots’, and although they were allowed to apply for the EU relocation program, they have become disenchanted at the slow pace of relocation. Additionally, other nationalities



are being illegally pushed back to Turkey, with asylum applications being fast-track rejected or migrants even being denied the right to apply for asylum. Due to the fast-track nature of the process, the possibility of harm in the case of return to Turkey is not being properly investigated. Finally, the monitoring of human rights abuses has been lacking after the departure of many large INGOs and NGOs in protest at the implementation of the hot-spots approach.

***After many decades of experience with irregular migration, it has become clear that the efforts of the EU cannot stop migrant flows towards Europe: they only force them to choose more dangerous pathways each time, hence causing more deaths.***

After the EU-Turkey agreement, the disincentivizing of the Eastern Mediterranean Route through the effectively closing the Greece's northern borders, and after the domino effect caused by the closing of the Slovenian and Croatian borders, the numbers of crossings has fallen drastically. At the same time, more than 60,000 Syrian refugees and migrants of different nationalities have become trapped in Greece against their will, unable to reach their destination countries. Since the EU asylum relocation program functions very slowly and is not accessible to anyone but Syrians, the Western Balkan Route has been reactivated. Refugees and migrants are crossing into their destinations in northern Europe with the use of smuggling networks, which leaves them vulnerable to physical violence, trafficking, exploitation, and in some cases death.

After the closing of the Greek sea border and the accompanying human rights abuses, refugees and migrants are increasingly again using the Central Mediterranean Route, which has proved to be the deadliest of all. Migrants, as has been shown by recent events, are once

again drowning in their hundreds in their efforts to find a better future in Europe. After many decades of experience with irregular migration, it has become clear that the efforts of the EU cannot stop migrant flows towards Europe: they only force them to choose more dangerous pathways each time, hence causing more deaths. It is therefore the responsibility of policymakers to make these crossings safe in respect to human rights conventions ratified by all EU states. Not to do so it is against the values of the EU and creates the image of a union whose theory and praxis are incompatible, resulting in a major blow to its international prestige. Therefore, we end this research paper by providing some policy recommendations for EU policymakers on how to move towards a more concrete and better organised migration and refugee policy.

## Introduction

On September 2, 2015, the body of a 3-year-old Syrian boy was found on the shores of Bodrum.<sup>1</sup> The shocking images of the young boy lying face-down on the beach were quickly distributed by media all around the world and brought the public's attention to the drama of refugees and migrants trying to cross with the assistance of smuggling networks into the European Union (EU). The pictures of the dead child on the coast of one of Turkey's most popular holiday resorts prompted the public's sympathy but also outrage due to the supposed lack of a common European migration and refugee policy. French President François Hollande responded to this outcry by saying that Europe needs "a common refugee policy on migration that is fair and humane".<sup>2</sup> But were not there actions towards a common refugee policy all along? Or is this an admittance by President Hollande that the already existing framework is not fair and humane, leading to thousands of dead migrants every year in the Mediterranean Sea?





In the early 1990s, Europe saw a shift in its migration patterns due to the collapse of the Eastern bloc, the Afghan War and the Gulf War. In order to map these maritime and overland flows around the periphery of Europe, migration scholars and policymakers coined the term ‘new migration’.<sup>3</sup> What was new about this migration was the ‘new geography’ of migration to Europe, in which the system that was until that time dominant—that of mobility between European countries and former colonies or ‘guest worker’ sending countries—changed with significant East-West migration.<sup>4</sup> Up until that time each EU member state had responded individually to this migration crisis. It was not until the late 1990s that the EU began creating common policies in order to regulate migration and to provide effective external border surveillance. However, every year more people try to reach European soil for many reasons, such as fleeing armed conflict, human rights abuses, starvation, and economic conditions. While some of them have the opportunity to use legal channels, the majority do not have this chance and put their lives into danger in order to access Europe. Today, one of the most important characteristics of migration towards Europe is the mixed flows of asylum seekers, refugees, economic migrants, etc. Regardless of their purpose, the International Organization of Migration (IOM) has adopted the term migrant to refer any person who is on the move.<sup>5</sup> In line with this, in this research paper, the term migrant is used for all people on the move who have yet to complete the legal process of claiming asylum.

Despite news about boat migrants mostly concerning Greece–Turkey and Italy–Libya migrants in recent years, there are additional migratory routes for Europe which have been used by irregular migrants for years. However, the popularity of these paths change from time by time depending on different reasons. The purpose of this paper is to analyse to what extent EU migration

and border policies affect irregular migrants in terms of changing their routes to reach EU countries. For this reason, after giving some basic information about the profiles of migrants and the characteristics of their migratory routes in the next section, this paper goes on to discuss the balance between state sovereignty for border control and the international protection of migrants. In this section, we present the essential principles of international law that all EU countries have to take into consideration in the preparation and implementation of their policies towards migrants. Following these two introductory sections, in the third part, we examine the relationship between migrant routes and the EU responses to irregular migration, which forms the heart of this research. At the end of this article, in place of a conclusion, we provide an analysis based on all aforementioned descriptive information, as well as policy recommendations intended for EU countries.

## Background

European Union states came to an agreement in October 1997, which came into force in May 1999 with the Treaty of Amsterdam, that they would more closely co-operate on migration, asylum, and visa issues. However, it was not before the early 2000s, when the mass irregular movement of people from Libya to Italy became more manifest, that the subject of migration became a major topic on the policy agendas of EU states. However, up until the Syrian Civil War the main concern was not the actual numbers of migrants irregularly traveling by boat to Europe. Until recently only about 10% of irregular migrants entered the EU by sea,<sup>6</sup> whereas the rest would use regular means of transport, such as air travel using forged documents, cars, buses, trains, etc.<sup>7</sup> This has changed since 2015, when more than one million people crossed using irregular means from Turkey to Greece. What has drawn the attention of the media is the spectacle of ‘boat people’ drowning in their



hundreds in their efforts to reach Southern European states, while EU policymakers have been mainly concerned with how to secure their borders against this open transgression of nation-state sovereignty. It is estimated that 33,000 people have lost their lives in their efforts to reach Europe since 2000.<sup>8,9</sup>

The migrant routes to Europe that so far have been identified by Frontex and other actors are:

- Western African Route
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### **Evolution of the EU Common Asylum Policy**

Since 1999, EU asylum and migration policy has been evolving towards a Common European Asylum System (CEAS). On the one hand, being a turning point on migration policy, the Treaty of Amsterdam (1999) has brought some competences to the EU and to individual member states for immigration and asylum. It has been followed by the Tampere milestones (1999–2004), the Hague Program (2004–2009) and the Stockholm Program (2009–2014). Thus, three major headings concerning the migration policy are determined by the Tampere milestones: (1) The management of migration flows; (2) The fair treatment of third country nationals; and (3) The partnership with countries of origin.<sup>10</sup> In the frame of CEAS, the Dublin System, which is formed of the Dublin Convention (1990), Dublin II Regulation (2003) and Dublin III Regulation (2013) has been called a milestone for the determination of the asylum applications.<sup>11</sup>

Meanwhile there have been other efforts by individual nation-states to tackle mass irregular migration to the EU. Such efforts include bilateral agreements and military border control operations between states such as Italy and Libya, Spain and Morocco, and Greece and Turkey. On the other hand, the Treaty of Lisbon (2010) established the basic principles for common asylum and migration policies (Article 67) with the aim of reinforcing fundamental rights within the EU Framework. However, operational actions at the EU level and the European Agency for the Management of Operational Cooperation at the External Borders of Member States of the European Union (Frontex) created through Council Regulation No. 2007/2004 of October 26, 2004, which is considered to be responsible for the security-related aspects of migration policy,<sup>12</sup> criticized for lacking human rights monitoring mechanisms and not mentioning the principle of non-refoulement.<sup>13</sup> This agency, which became operational a year later, came to supplement national border security control efforts by coordinating border management operations. Besides EU states, other Schengen countries also participate, including Iceland and Norway. Frontex is currently one of the most highly funded EU agencies, with a yearly budget of €142 million.<sup>14</sup>

The largest currently ongoing Frontex operations are:

Operation Poseidon (known as Poseidon Rapid Intervention since 2015) between the sea and land borders of Greece and Turkey. Operation Triton between the sea borders of Italy and Libya (since 2014).

### **State Sovereignty And International Protection**

The general principle in international law is that the State has the authority to grant entry to its territory to non-nationals. Although exercising border control is under the sovereignty of States, this sovereignty is



limited by human rights obligations. In this context, on the one hand the EU tries to establish a common asylum policy and law in order to manage migrant flows, on the other hand it is tied by international law and standards to respect the human rights of all migrants.

The IOM defines a migrant as “*any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is*”.<sup>15</sup> Despite of the use of the generic term “migrant” in many documents, there are important distinctions between the concepts in the legal framework. The first distinction is made between regular and irregular migrants based on whether the migration takes place in or outside of the regulatory norms of the origin, transit and destination countries.<sup>16</sup> Furthermore, today, the majority of the migration movements into the EU form mixed flows which include refugees, asylum seekers, economic migrants, and other migrants needing protection such as the victims of trafficking and unaccompanied minors. Each migration status requires different regulations and legal protections; however, this classification is not always easy to do. Moreover, depending on the conditions, the status of a migrant is changeable.<sup>17</sup> This is the reason why the States should respect the fundamental rights of all migrants regardless of their status.

Concerning international law, both international refugee law and international human rights law impose positive and negative obligations to the States concerned. In this context, the non-refoulement principle has emerged as a *jus cogens* which prohibits the return of an individual to a country in which s/he may be under the risk of persecution.<sup>18</sup> Furthermore, the international

law of the sea includes important regulations and responsibilities for States regarding the rescue of boat migrants. In addition to all these international systems, the EU is also bound by the regional human rights protection system. From this perspective, the EU’s migration policy should not only be carried out in accordance with international human rights law but also the regional treaties and jurisprudence of the European Court of Human Rights.

### The Principle of Non-Refoulement

The non-refoulement principle first emerged at an international level in international refugee law. The 1951 Refugee Convention and its 1967 protocol are the main instruments which codify the rights of the refugees. The 1951 Refugee Convention, which has been signed and ratified by all EU Member states, is not only important for determining refugee status but also for enshrining the non-refoulement principle (Art. 33) which UNHCR recently announced as non-derogable and customary.<sup>19</sup> According to Article 33:

“1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.  
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”

Even though the 1951 Refugee Convention limits the implementation of this principle to refugees,<sup>20</sup> over time this principle came to be considered as a central doctrine and *jus cogens* in international human rights law as



well as taking place in core treaties such as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). As a principle, it constitutes an impediment for States collectively expelling aliens. Additionally, the International Convention on Protection of the Rights of All Migrant Workers and Members of their Families (1990) grants explicit protection for irregular migrants. However, interestingly, none of the EU Member states has yet signed or ratified this convention.<sup>21</sup>

The non-refoulement principle is not only applied at the international level but also the regional level. While the European Convention on Human Rights (ECHR) does not mention the principle of non-refoulement explicitly, the European Court of Human Rights (ECtHR) has charged member states with enforcing it ever since the landmark case of *Soering*.<sup>22</sup> Moreover, the Court also highlights the violation of human rights in cases of the collective expulsion of aliens.<sup>23</sup> On the other hand, the EU Charter of Fundamental Rights explicitly gives place to the principle of non-refoulement and prohibits collective expulsion in Article 19.

In accordance with the principle of non-refoulement, all individuals have the right to seek international protection (refugee status or subsidiary protection) based on the fear of persecution, discrimination, aggression, conflict, threats to the right to life, etc. According to the UNHCR, “asylum seekers are individuals who have sought international protection and whose claims for refugee status have not yet been determined”.<sup>24</sup> Asylum seekers in these terms form the largest group among migrants to the EU. After the completion of their application, they may become refugees or economic migrants. Even though some of them do not fulfil the criteria for the status, they may hold subsidiary protection from the host country in case there is a risk they will be persecuted in

their country of origin. Subsidiary protection is regulated under EU law.<sup>25</sup> The EU Charter of Fundamental Rights regulates the right to asylum under Article 18, which is based on the 1951 Refugee Convention. According to customary law, the 1951 Refugee Convention and the EU Charter of Fundamental Rights, seeking asylum and receiving asylum are individual rights.<sup>26</sup>

### **The International Law of the Sea**

Alongside international refugee and human rights law, the international law of the sea is also binding for EU countries during sea operations. While the 1982 United Nations Convention on the Law of the Sea (UNCLOS) determines the rights and the responsibilities of States over the high seas, there are three other treaties which define the duties of the States for providing assistance at sea: the 1979 International Convention on Maritime Search and Rescue (SAR Convention), the 1974 Convention for the Safety of Life at Sea (SOLAS), and the 1989 International Convention on Salvage.<sup>27</sup>

According to the article 2 of the UNCLOS, territorial waters are part of the territory of a State, so in the case that migrants on a boat enter the territorial waters of an ECHR member state, they ought to be granted all the rights given by the ECHR. Moreover, in the event the migrants are taken onto a vessel belonging to the national authorities of an ECHR state, even though they are on the High Seas, the vessel is under jurisdiction of the flag state (Article 92 of the UNCLOS). This is the reason why migrants taken on board these vessel are under the responsibility of the flag state. However, if a vessel belonging to an ECHR member state accompanies a boat belonging to migrants to the state of departure, they are not considered under the effective control of the ECHR member state. Concerning rescue at the sea, all the relevant treaties—the SAR Convention, SOLAS and the International Convention on Salvage—oblige State Parties to provide assistance to any





person in distress at the sea. Furthermore, they should cooperate and coordinate to ensure the necessary process is undertaken for the rescue.

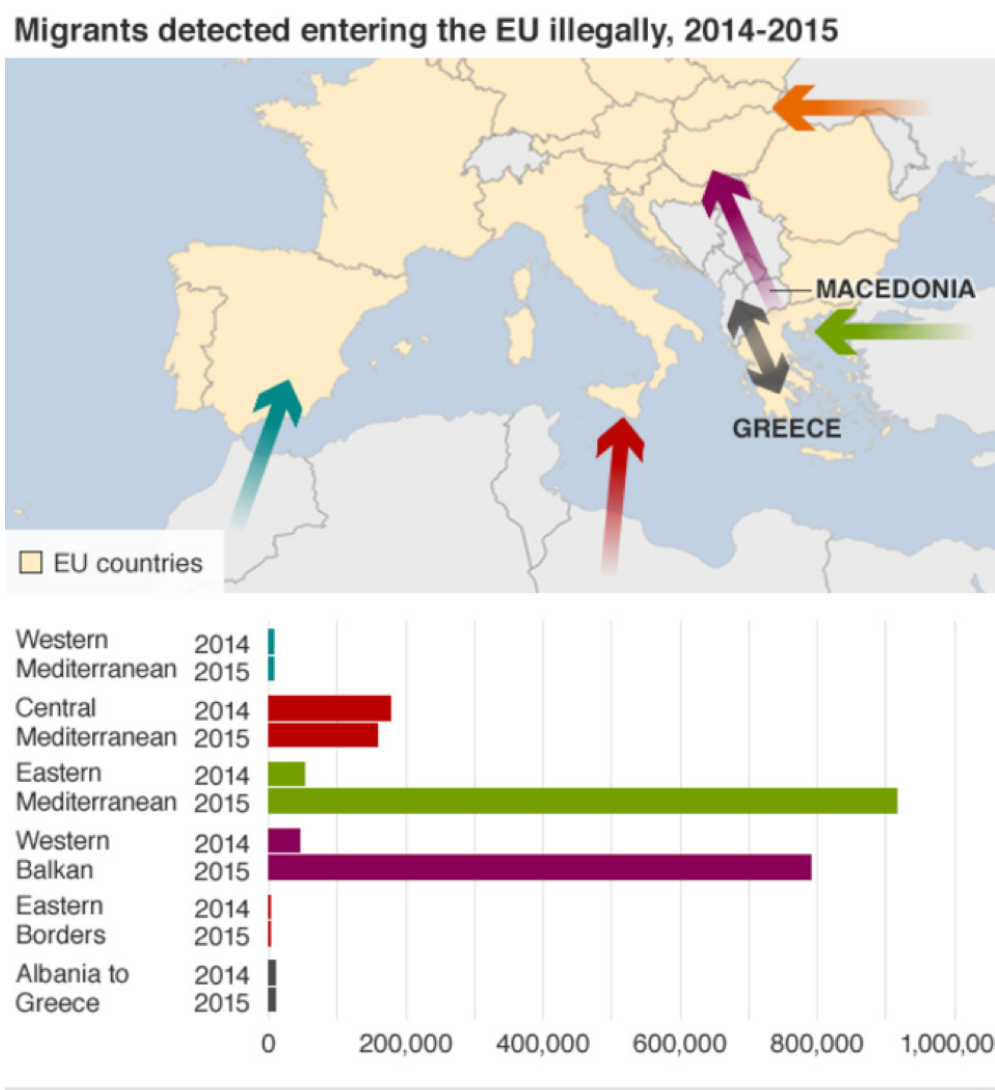
### Migrant Routes And Eu Responses

In this section, we look into the three main routes used by migrants in order to cross into Europe: the Western, the Central and Eastern Mediterranean routes. While these routes remain the most important channels for irregular migrants to access Europe, we observe changes in the frequency in which they are used. With the aim of identifying the reasons for these shifts in the use of these routes, we examine the general profile and numbers of migrants, the bilateral agreements and EU agreements with

third countries, and Frontex operations. Furthermore, not only EU policies but also the Syrian refugee crisis has had significant influence on creating a new route, the so-called Western Balkan Route. From this point of view, at the end of this section, we also elaborate on this new route in the context of changing routes.

**Concerning rescue at the sea, all the relevant treaties—the SAR Convention, SOLAS and the International Convention on Salvage—oblige State Parties to provide assistance to any person in distress at the sea. Furthermore, they should cooperate and coordinate to ensure the necessary process is undertaken for the rescue.**

Figure 1: Map of migrant routes in Mediterranean



Source: BBC, Why is EU struggling with migrants and asylums? Retrieved from <http://www.bbc.com/news/world-europe-24583286>

### Western Mediterranean Route

Starting from the migrant route between Morocco and Europe (in particular Spain and France), it should be highlighted that there has been a long history of migration here because of the colonial past, geography, and economic and political conditions. Moreover, it is important to note that this has always been reciprocal mobility. After Spain entered the EU in 1986 and made changes towards a common EU migration policy in the 1990s with the establishment of the Schengen system, irregular migration flows from Morocco to Spain began increasing.<sup>28</sup>

***These border enforcement tactics have reportedly included a number of human rights violations, such as extreme use of police violence by Morocco and Spain and even reports of Spanish police shooting at migrants trying to cross into Spanish territory. Although the push-back operations have been heavily criticised by Amnesty International because of these violations of human rights, it has been taken as an example by the other EU member states due to the “effective and productive” border control between Spain and Morocco.***

One of the most common routes for the irregular migration of Maghrebis and Western Africans to Europe is the Western Mediterranean route, which signifies the flow of people from Algeria and Morocco to Spain. Thus, the Spain-Morocco border has become problematic for the EU in terms of border surveillance. However, in 2015, due to the Syrian Civil War, Syrians accounted for the largest share of detections across this route out of a total of 7,164 recorded crossings.<sup>29</sup> Sub-Saharan African migrants use two different routes to reach Algeria or Morocco, either through the Sahara desert or along the West African coast. The latter is preferred due to the high risks entailed in crossing the Sahara. Since 2008, there have

been an average of 6,850 crossings per year, with 2011 seeing the highest number, with 8,450 crossings, and 2010 having the lowest number with 5,000.<sup>30</sup>

In order to regulate irregular migration, a cooperative relationship between Spain and Morocco has been evolving since the beginning of the 1990s. First of all, the Treaty of Good-Neighborliness and Friendly Cooperation was signed in 1991. Following this treaty, a bilateral readmission agreement was accepted by Spain and Morocco in 1992. With the establishment of the Frontex-led European Border Surveillance System EUROSUR, Moroccans together with Mauritians, Senegalese, citizens of Cape Verde and recently Syrians have practically been blocked from crossing the border to Spain.<sup>31</sup> Frontex has been conducting joint forces operations in the Western Mediterranean Route under the names ‘Hera’, ‘European Patrol Networks’, ‘Indalo’ and ‘Minerva’. These operations are led by Spain in cooperation with other EU member-states and Schengen members who have been giving their support in forms of ships and other assets. These operations have been taking place for ten years and in 2014, 4,114 migrants were intercepted. In the following year 3,817 irregular migrants were intercepted.<sup>32</sup> These operations are also used for drugs interceptions.<sup>33</sup>

According to the Frontex Risk Analysis Report for 2016<sup>34</sup> after more effective border enforcement measures in Morocco and Spain for sub-Saharan African migrants, who have traditionally chosen this route for their migration to Europe, they are now increasingly using the Central Mediterranean route instead. These border enforcement tactics have reportedly included a number of human rights violations, such as extreme use of police violence by Morocco and Spain and even reports of Spanish police shooting at migrants trying to cross into Spanish territory.<sup>35</sup> Although the push-back



operations have been heavily criticised by Amnesty International because of these violations of human rights,<sup>36</sup> it has been taken as an example by the other EU member states due to the “effective and productive” border control between Spain and Morocco.<sup>37</sup> On the same wavelength, a spokesperson of Germany’s interior ministry told the newspaper *Welt am Sonntag* on November 6, 2016 that Germany wants migrants stopped at sea and returned back to North Africa, from where they can apply for asylum.<sup>38</sup>

### Central Mediterranean Route

One of the most commonly used routes to Europe is this one, which starts in Egypt or more commonly Libya and ends in Malta or more often Italy. It is the route favored by Africans, mostly sub-Saharan, but in recent years it has also been used by Syrians escaping the country’s civil war. During 2008–10 it was less commonly used than the Eastern Mediterranean route, but this changed after the Arab Spring in 2011. In 2012 it became the second most popular by a small margin, only to witness a surge in 2013–14 due to the civil conflicts in Eritrea and Syria.<sup>39</sup> 2014 was a record year, with 170,660 crossings, and in 2015, 153,946 crossings. Due to the long distance between departure points and destination, this route is also the most dangerous, with 3,200 dead and missing in 2014 and 2,900 in 2015.<sup>40</sup> On November 3, 2016, 240 migrants drowned when two boats bound for Italy capsized in a year in which the death toll of migrants trying to cross into Europe reached a new record.<sup>41</sup>

Efforts to tackle irregular migration from Libya started only a couple of years after the activation of this route. However, there were no concrete steps taken by the Joint EU–Libya Action Plan in 2006.<sup>42</sup> Between 2006 and 2010, there were a number of protocols between Italy and Libya in order to “combat illegal migration” at the sea. While these agreements were suspended during

the beginning of the conflict in Libya, a memorandum was later signed between Italy and the Libyan National Transitional Council to confirm their cooperation on migration. Furthermore, in 2012, another agreement took place but was not released publicly.<sup>43</sup> The main criticism of this cooperation is based on human rights violations and the principle of non-refoulement. Firstly, Libya is not a signatory of the 1951 Refugee Convention and its 1967 Protocol, which means that Libya does not have a legal system for the protection of refugees and asylum seekers.<sup>44</sup> Moreover, according to the reports prepared by European Commission and Amnesty International, there are serious risks of ill-treatment and refoulement of refugees in Libya.<sup>45</sup> EU states have tried individually or co-operatively to intercept irregular migration through policy-making and border control management. The most relevant operations to strengthen the EU’s capacity to control its borders have been the following:

Operation Mare Nostrum was a naval and air operation launched by the Italian state in October 2013 after the deaths of 366 migrants off the coast of Lampedusa and executed by the Italian armed forces along with the Italian police and Italian Red Cross.<sup>46</sup> The aim of the operation was to tackle irregular migration in the Central Mediterranean route. Therefore, the mission of Mare Nostrum was twofold:

- Identify the boats at risk of capsizing, rescue migrants and bring them to Sicily.
- Bring human traffickers to justice.<sup>47</sup>

The operation lasted for a year and was mainly a search and rescue operation with ships operating close to the Libyan coast. It resulted in more than 150,000 migrants safely landing in Italian territory.<sup>48</sup> However, this operation proved very costly for the Italian state, which spent €9 million month on carrying it out.<sup>49</sup> For this reason the Italian



state applied for additional funds, but EU states did not offer the requested support. As a result, the operation ended on October 31, 2014. However, EU states have since launched coordinated efforts to block these irregular migration flows.

Frontex's border security operation Triton began on November 1, 2014. Even though it was not intended to replace Mare Nostrum, it essentially did. It is a more limited operation with fewer assets and a smaller budget. The monthly budget is three times smaller than that of Mare Nostrum, and is estimated at €2,9 million per month.<sup>50</sup> The operational area is reduced and focuses on the protection of Italy's sea borders. This development came after criticism from Frontex's executive director Gil Arias in September 2014 that the search and rescue objectives of Mare Nostrum increased the numbers of traffickers<sup>51</sup> and functioned as an unintentional "pull factor" for migrants.<sup>52</sup> For the same reason, the UK did not participate in the Triton operation.<sup>53</sup> In April 2015 after a public outcry that followed the deaths of 800 migrants in one weekend, an emergency EU summit on the immigration crisis was called. During this summit the head of Frontex, Fabrice Leggeri, dismissed the idea of turning Triton into a search and rescue mission, since this would "encourage desperate migrants to risk the passage". Moreover, he added that in this way Frontex would "fuel and support the business of traffickers".<sup>54</sup> As a result of this change of dogma, prioritizing tackling smuggling networks over saving lives, migrant deaths at sea in April 2015 were 30 times higher than the same period the year before.<sup>55</sup> In 2016, after the deactivation of the Eastern Mediterranean route with the EU-Turkey agreement, there was a resurgence of interest in this route, with 181,436 crossings in total. Unfortunately, this led to more than 5,000 deaths in 2016.<sup>56</sup> As we will show later, this increase is correlated with the signing of the EU-Turkey Agreement.

### Eastern Mediterranean Route

Generally, the Eastern Mediterranean Route has been the most commonly used pathway for irregular migration to the EU. However, in 2015 we witnessed an unprecedented situation. From 50,830 crossings in 2014, this route became by far the main one used by the approximately 1 million people who entered in the EU in 2015.<sup>57</sup> During that year, in what has been referred to as the migration or refugee crisis, more than 885,000 crossings were detected from Turkey to the Greek islands of the eastern Aegean:<sup>58</sup> a 17-fold increase from the year before. Since the completion of a fenced barrier in the main crossing on the Greek-Turkish land border on December 2012 and increased surveillance on both sides of the border, the vast majority of those crossings were made by sea. Of these crossings, 85 percent came from conflict zones such as Afghanistan, Iraq, and Syria. Due to the close proximity of the Turkish coast and the islands of the eastern Aegean, this route has not been as fatal as the Central Mediterranean Route; however, in 2015, 806 people lost their lives in their effort to go to Europe.

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Despite the fact that the recent readmission agreement with Turkey has become a hot topic in EU-Turkey relations, the background of this readmission agreement is based on the bilateral protocol signed between Turkey and Greece in 2002. Those not eligible for





international protection could return to Turkey if Turkey was the departure country. On March 8, 2016, this protocol was revised and became the EU–Turkey Readmission Agreement, allowing Greece to send irregular migrants back to Turkey immediately.<sup>59</sup>

***In February 2016 NATO Defence Ministers agreed to deploy a maritime force in the Aegean sea in support of Greek, Turkish, and Frontex forces in the monitoring and surveillance of migrant crossings.***

In accordance with these agreements, since 2006 Frontex has been carrying out border patrol operations on the Greek-Turkish and Bulgarian land borders under the name Operation Poseidon Land, and since 2007 in the sea border between Greece and Turkey under the name Operation Poseidon Sea. Between 2011 and 2013, Frontex spent €47 million on these two operations. Amnesty International has repeatedly asked for the suspension of parts of the Poseidon operation due to persistent reports of human rights violations and illegal push-backs without consideration of the non-refoulement principle.<sup>60</sup> After the agreement with Frontex to control the maritime borders between Greece and Turkey, the Greek government decided to build a fence on the most commonly used land path between the two countries. This path was on the only part of the Greek-Turkish border not separated by the Evros rivers, where 32,500 migrants were intercepted in 2010.<sup>61</sup> It was reportedly the safest place for passage between the two countries.<sup>62</sup> The fence was completed in 2012 and pushed migrants to use the much deadlier sea route.

In 2015, due to the unprecedented migrant flows across the sea borders from Greece to Turkey, Greece requested additional assistance for its external borders in the Aegean. The new operation, which is called “Poseidon

Rapid Intervention”, provides Greece with additional assistance to strengthen border surveillance, registration, and identification capacity. While participation in Frontex joint operations is voluntary, all member states are obliged to respond when a rapid intervention is called unless they face an exceptional situation on their external borders.<sup>63</sup> Finally, in February 2016 NATO Defence Ministers agreed to deploy a maritime force in the Aegean sea in support of Greek, Turkish, and Frontex forces in the monitoring and surveillance of migrant crossings.

After the signing of the EU-Turkey agreement to return new arrivals to Turkey in March 2016 and the closing of the Greek-Macedonian border the same month, migrant flows were reduced significantly, to an average of approximately just 1,900 people each month. Instead we witnessed an increase in crossings on the Central Mediterranean route.

### **Hot-Spot Approach**

In the first three months of 2016 more than 170,000 people reached the coasts of the EU, the vast majority of them using the Eastern Mediterranean Route. This signified a seven-fold increase compared to the first three months of the record year 2015. Consequently, EU states had to work towards a solution which would decrease incentives for migrants wanting to cross over to the other side of the Aegean in order to avoid an extension of the crisis. In order to enact this, along with the externalization of the border which resulted from the EU–Turkey agreement, EU states decided upon the creation of closed camps called “hot-spots” with five main functions:

- The registration and screening of irregular migrants
- Debriefing migrants to gather intelligence regarding smuggling networks
- Channelling asylum seekers into the appropriate asylum procedure



- Coordinating the swift return of migrants with no right to international protection
- Providing interpreters in order for the above functions to take place.<sup>64</sup>

***The purpose of the ‘hot-spots’ is to make a fast-track separation between those nationals that are eligible for international protection and are allowed to access asylum services and/or the asylum relocation program and those who will be deported back to Turkey. As a consequence of this practice, the individual right to seek and receive asylum is regularly violated.***

These tasks were to be executed by a joint force of three EU agencies—Frontex, Interpol and European Asylum Support Office (EASO) officers—in coordination with the local authorities. In this sense, these camps simultaneously function as reception and removal centres. The hot-spot approach had initially been used in Italy, where there are currently six such camps functioning. In Greece there are currently five ‘hot-spots’ located on border islands and coordinated by the EU Regional task force headquarters in Piraeus.

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Furthermore, the EU–Turkey readmission agreement and the ‘hot-spot’ approach have drawn reactions from NGOs such as Medecins Sans Frontieres (MSF) and Amnesty International, as well as UNHCR.<sup>65</sup>

While collective expulsion constitutes the main criticism, the geographical limitation<sup>66</sup> applied by Turkey is the other important discussion topic in terms of the protection of refugee rights. On the other hand, the violation of human rights in the ‘hot-spots’ have been heavily criticised by all actors working in the refugee aid sector; some, such as MSF and UNHCR, have ended their activities in Lesbos.<sup>67</sup>

### **EU Asylum Relocation Program**

To relieve the pressure from Italy and Greece, which have been the frontline EU countries for the unprecedented 2015 flows, the European Commission presented a plan for the relocation of asylum applicants to other EU countries. In May 2015 it presented a draft Council Decision for the relocation of 40,000 asylum seekers. Another draft was presented in September 2015 proposing the number to be relocated from Italy and Greece to be 106,000 applicants plus another 54,000 from an unspecified country, presumably Hungary, raising the total number to 160,000.<sup>68</sup> These two drafts were based on Article 78(3) of the Treaty of the Functioning of the European Union, which, after consultation with the European Parliament, allows for provisional measures to be taken for the benefit of “member states confronted with an emergency situation characterised by the sudden inflow of third country nationals”.<sup>69</sup> These decisions were adopted on September 14 and 22, 2015, respectively. The EU asylum relocation program is to be accessed only by those nationalities that have an asylum acceptance rate of over 75% in EU countries, at the time including Syrians, Iraqis and Eritreans. Currently it is accessible only to Syrian nationals. Nevertheless, since November 2015 and the relocation of 30 Syrians and Iraqis to Luxembourg<sup>70</sup> and as of July 2016 3,056 individuals from Greece and Italy in total have been relocated.<sup>71</sup> This heightens the uncertainty and despair of people living in camps whose conditions are

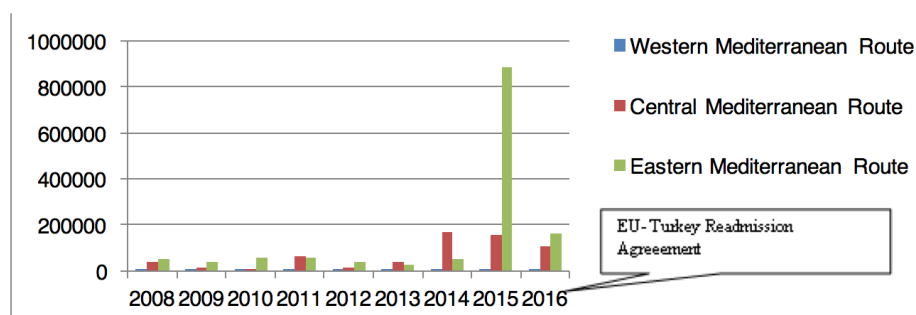
not suitable for dignified living for prolonged periods. This has increased mobility across the Western Balkan Route where migrants use the assistance of smuggling networks in order to get to northern Europe and apply for asylum there.

### Western Balkan Route

Throughout 2015, the majority of those who crossed to Greece from Turkey used an informal but state-regulated corridor which allowed migrants to move freely to their destinations in northern Europe to ask for asylum or live as irregular migrants. Thereafter, more than 885,000 people used this route.<sup>72</sup> After the closing of the Balkan corridor in March 2016, and the domino effect caused by the closing of the borders by Slovenia and Croatia, we have witnessed the reactivation of smuggling networks assisting

migrants to move to Northern Europe. Currently there are approximately 60,000 Syrians that have been trapped in Greece and are expected to apply for access to the Asylum Relocation Program managed by the EU, but have become disenchanted by the slow pace of the relocations. For this reason, they have decided to move with the assistance of smugglers along with other nationalities, such as Iraqis, Afghans, Pakistanis, Moroccans etc. who have not been allowed to access this EU program on the grounds of their nationality.

Figure 2: Detected Irregular Mediterranean Border Crossings by Route between 2008 and 2015



Frontex joint forces operations in the Western Mediterranean Route under the name 'Hera', 'European Patrol Networks', 'Indalo' and 'Minerva' (2004-)

Mare Nostrum (2013-2014)

Triton Operation (2014 – Present)

Poseidon Operations (Sea and Land) 2006 - Present

Sources: 2008 data from Frontex, "Central Mediterranean Route," available online; Frontex, "Eastern Mediterranean Route," available online; Frontex, "Western Mediterranean Route," available online. All other yearly data from Frontex. And for 2016 data from UNHCR Refugees/Migrants Emergency Response – Mediterranean, available online.

## Analysis & Recommendations

### Analysis

Migration flows and the shifting of the routes that migrants use are undeniably dependent on a number of external factors such as wars in the European periphery and the moduli of smuggling networks. However, we argue in this article that these migration flows are changing their routes primarily in relation to policies implemented by the EU. This changing of routes eventually pushes migrants to choose the harder-to-regulate Central Mediterranean Route, where the number of fatalities is higher, partly due to geographical conditions but also due to the unwillingness of Frontex to conduct search and rescue operations here. At the same time, human smuggling networks have created new routes to Europe that entail higher risks for refugees and migrants. Frontex director Fabrice Leggeri, in an interview with Der Spiegel in June 2016, said that “Egypt is becoming the new hotspot for human smugglers. The route is extremely dangerous, the journey often takes longer than ten days”.<sup>73</sup>

In particular, we have shown how the Western Mediterranean route has remained stable in numbers of crossings, but groups that have traditionally used this route to cross into the EU, such as West Africans, have shifted toward the Central Mediterranean Route. This happened after Spain made a number of bilateral agreements with third countries but also established stronger border controls in co-operation with Frontex joint forces. These stronger controls are used for their deterrent power and have entailed a number of human rights abuses by Spanish and Frontex, which have resulted into numerous deaths and illegal push-backs to Morocco, without taking into consideration the non-refoulement principle, the 1951 Refugee Convention, or the human rights of migrants.

However, as we mentioned above, in the 2000s the Central Mediterranean Route began to be used more often than the Western Mediterranean Route, and migrants who would traditionally have preferred the latter began to depart from the coast of Libya. The policies that have disincentivised migrants from using the Western Mediterranean Route are to a large degree responsible for thousands of drowned migrants. The Italian state’s Mare Nostrum search and rescue operation, which brought more than a hundred and fifty thousand migrants to safety in one year proved to be too costly and was replaced with a much smaller one by Frontex. Furthermore this EU agency refuses to launch search and rescue operations and instead focuses solely on border controls. This reluctance of this EU agency to protect vulnerable migrants at sea is continuing to lead to higher-fatality shipwrecks that draw public attention.

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Since 2014 we have seen a sharp increase in the migrants that use the Eastern Mediterranean Route as their entry point to the EU. The record year of 2015, in which more than a million migrants crossed into the EU, was the result of a number of factors. That the boat-trip from Turkey to Greece is much





safer than between Libya and Italy and both the Libyan and Syrian civil wars, but also the refusal of Frontex to safely transfer migrants to the Italian coast are all determinants that have contributed to almost one million people coming to the EU through Turkey. The reaction of EU states has been to increase sea border controls with Frontex's 'Poseidon Rapid Intervention' operation, parallel with the militarization of the border with the use of NATO vessels to patrol the sea. However, these interventions have not been sufficient to deter migrants from crossing, and at the beginning of 2016 we saw the number of migrant crossings increasing sharply in relation to those of 2015. At that time, EU states have tried to put a stop to this route with the co-operation of Turkey through the EU–Turkey agreement and the adoption of the 'hot-spot' approach. These efforts to deactivate the Eastern Mediterranean route have been to a large degree successful. While during the course of 2016 we saw a sharp decrease in crossings from Turkey to Greece, we observed an increase in crossings from the Central Mediterranean route. This shifting of routes in relation to the high demand for migration resulted in 2016 becoming the deadliest year for migrants ever recorded, with the death toll of migrants at sea reaching 5,079 people.<sup>74</sup> Meanwhile, Syrian refugees intercepted while crossing to Greece after the agreement was signed were put into closed camps called 'hot-spots', and even though they are allowed to apply for the EU relocation program they have become disenchanted with the slow pace of the relocations. Additionally, other nationalities are illegally being pushed back to Turkey, with their asylum applications being fast-track rejected or migrants even being denied the right to apply for asylum at all. Plus, due to the fast-track nature of the process, the possibility of harm in case of a return to Turkey is not being properly investigated. Finally, the monitoring of human rights abuses is lacking following the departure of

many large INGOs and NGOs in protest at the implementation of the 'hot-spots' approach.

***After many decades of experience with irregular migration, it has become clear that the efforts carried out by the EU cannot stop the migrant flows towards Europe; instead, they only force them to choose more dangerous paths each time, causing more deaths.***

Following the EU-Turkey agreement and disincentives for migrants to cross using the Eastern Mediterranean Route, as well as the effective closing of Greece's northern borders after the domino effect caused by the closing of the Slovenian and Croatian borders, the number of crossings has fallen drastically. At the same time, more than 60,000 Syrian refugees and migrants of different nationalities have become trapped in Greece against their will, unable to reach their destination countries due to the closed borders.<sup>75</sup> Since the EU asylum relocation program is functioning at a very slow pace and is not accessible to anyone but Syrians, the Western Balkan Route has been reactivated. Refugees and migrants are crossing to their destinations in Northern Europe with the use of smuggling networks, which leaves them vulnerable to physical violence, trafficking, exploitation, and in some cases death.

Following the closing of the Greek sea border and the accompanying human rights abuses, refugees and migrants are increasingly again using the Central Mediterranean Route, which has proven to be, as we showed above, the deadliest of all. Migrants, as has been shown by recent events, are once again drowning by their hundreds in their effort to find a better future in Europe. After many decades of experience with irregular migration, it has become clear that the efforts carried out by the EU cannot stop the migrant flows towards Europe; instead, they only force them to choose more dangerous



paths each time, causing more deaths. It is therefore the responsibility of policymakers to make these crossings safe with respect to the human rights conventions that have been ratified by all EU states. Not to do so is against the values of EU and creates the image of a union whose theory and praxis are incompatible, which would be a major blow to its international prestige.

### **Policy Recommendations**

#### **On creating safe routes and legal channels for refugees**

■ The EU should create safe routes for refugees and provide more legal channels to refugees in order to allow them access to protection and their rights;

#### **On the implementation of the human rights-based approach**

■ The EU should implement the human rights-based approach in its border and migration policies;

■ Frontex:

- should integrate human rights considerations in the preparation of its operations;
- should create transparent mechanisms for monitoring the implementation of human rights and reporting violations during rescue operations and the joint operations with the third countries;

■ Rights-based and independent NGOs should be included in reporting and monitoring human rights situations at border control operations and 'hot-spots';

■ The principle of non-refoulement should be strictly implemented and the right to seek asylum should not be prevented;

#### **On search and rescue on the sea**

■ All operations related to search and rescue should be carried out in accordance with the international law of the sea and international human rights law;

■ Private vessels should not be discouraged from giving assistance to the migrants in distress on the sea;

■ Boat migrants should not be transferred to third countries where there are risks of refoulement and human rights abuses such as the violation of the right to life and the prohibition of ill treatment;

A permanent humanitarian rescue operation should be created;

#### **On agreements with the third countries**

■ Readmission agreements should be suspended with third countries where basic human rights conditions cannot be fulfilled and where international protection cannot be provided for asylum seekers and refugees and;

■ During the negotiations and preparation for agreements with the third countries, the EU should consult with UNHCR and NGOs working in the field with migrants;

■ The EU should grant funding for monitoring the human rights implications of the third countries who work with the EU in joint operations.

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## APPENDIX I



PRESS RELEASE  
144/16  
18/03/2016

## EU-Turkey statement, 18 March 2016

Today the Members of the European Council met with their Turkish counterpart. This was the third meeting since November 2015 dedicated to deepening Turkey-EU relations as well as addressing the migration crisis.

The Members of the European Council expressed their deepest condolences to the people of Turkey following the bomb attack in Ankara on Sunday. They strongly condemned this heinous act and reiterated their continued support to fight terrorism in all its forms.

Turkey and the European Union reconfirmed their commitment to the implementation of their joint action plan activated on 29 November 2015. Much progress has been achieved already, including Turkey's opening of its labour market to Syrians under temporary protection, the introduction of new visa requirements for Syrians and other nationalities, stepped up security efforts by the Turkish coast guard and police and enhanced information sharing. Moreover, the European Union has begun disbursing the 3 billion euro of the Facility for Refugees in Turkey for concrete projects and work has advanced on visa liberalisation and in the accession talks, including the opening of Chapter 17 last December. On 7 March 2016, Turkey furthermore agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece and to take back all irregular migrants intercepted in Turkish waters. Turkey and the EU also agreed to continue stepping up measures against migrant smugglers and welcomed the establishment of the NATO activity on the Aegean Sea. At the same time Turkey and the EU recognise that further, swift and determined efforts are needed.

In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk, the EU and Turkey today decided to end the irregular migration from Turkey to the EU. In order to achieve this goal, they agreed on the following additional action points:

1) All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey. This will take place in full accordance with EU and international law, thus excluding any kind of collective expulsion. All migrants will be protected in accordance with the relevant international standards and in respect of the principle of non-refoulement. It will be a temporary and extraordinary measure which is necessary to end the human suffering and restore public order. Migrants arriving in the Greek islands will be duly registered and any application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR. Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey. Turkey and Greece, assisted by EU institutions and agencies, will take the necessary steps and agree any necessary bilateral arrangements, including the presence of Turkish officials on Greek islands and Greek officials in Turkey as from 20 March 2016, to ensure liaison and thereby facilitate the smooth functioning of these arrangements. The costs of the return operations of irregular migrants will be covered by the EU.

2) For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly. On the EU side, resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015, of which 18.000 places for resettlement remain. Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54.000 persons. The Members of the European Council welcome the Commission's intention to propose an amendment to the relocation decision of 22 September 2015 to allow for any resettlement commitment undertaken in the framework of this arrangement to be offset from non-allocated places under the decision. Should these arrangements not meet the objective of ending the irregular migration and the number of returns come close to the numbers provided for above, this mechanism will be reviewed. Should the number of returns exceed the numbers provided for above, this mechanism will be discontinued.

3) Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU, and will cooperate with neighbouring states as well as the EU to this effect.

4) Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced,



a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme.

5) The fulfilment of the visa liberalisation roadmap will be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met. To this end Turkey will take the necessary steps to fulfil the remaining requirements to allow the Commission to make, following the required assessment of compliance with the benchmarks, an appropriate proposal by the end of April on the basis of which the European Parliament and the Council can make a final decision.

6) The EU, in close cooperation with Turkey, will further speed up the disbursement of the initially allocated 3 billion euros under the Facility for Refugees in Turkey and ensure funding of further projects for persons under temporary protection identified with swift input from Turkey before the end of March. A first list of concrete projects for refugees, notably in the field of health, education, infrastructure, food and other living costs, that can be swiftly financed from the Facility, will be jointly identified within a week. Once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilise additional funding for the Facility of an additional 3 billion euro up to the end of 2018.

7) The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.

8) The EU and Turkey reconfirmed their commitment to re-energise the accession process as set out in their joint statement of 29 November 2015. They welcomed the opening of Chapter 17 on 14 December 2015 and decided, as a next step, to open Chapter 33 during the Netherlands presidency. They welcomed that the Commission will put forward a proposal to this effect in April. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States' positions in accordance with the existing rules.

9) The EU and its Member States will work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and refugees to live in areas which will be more safe.

All these elements will be taken forward in parallel and monitored jointly on a monthly basis.

The EU and Turkey decided to meet again as necessary in accordance with the joint statement of 29 November 2015.

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**APPENDIX II**

**No. 29862**

—

**SPAIN  
and  
MOROCCO**

**Treaty of friendship, good-neighbourliness and cooperation.  
Signed at Rabat on 4 July 1991**

*Authentic texts: Spanish and Arabic.*

*Registered by Spain on 24 March 1993.*

—

**ESPAGNE  
et  
MAROC**

**Traité d'amitié, de bon voisinage et de coopération. Signé à  
Rabat le 4 juillet 1991**

*Textes authentiques : espagnol et arabe.*

*Enregistré par l'Espagne le 24 mars 1993.*





## [TRANSLATION — TRADUCTION]

TREATY<sup>1</sup> OF FRIENDSHIP, GOOD-NEIGHBOURLINESS AND CO-OPERATION BETWEEN THE KINGDOM OF SPAIN AND THE KINGDOM OF MOROCCO

## PREAMBLE

The Kingdom of Spain and the Kingdom of Morocco, hereinafter referred to as the “High Contracting Parties”,

Aware of their close geographical proximity in the critical region to which they belong,

Mindful of the ties which history has gradually established between their peoples, through changes that have sometimes been contradictory but have always been meaningful, profound and enriched by fruitful *rapprochement*,

Determined to preserve the common cultural heritage created by the close interaction of their respective histories, which began almost 13 centuries ago and has left its clear mark on each country, as well as on universal culture,

Sensitive to the growing contact between Spaniards and Moroccans which current international circumstances have encouraged and which is bound to increase in the future,

Guided by a common determination to further strengthen their bilateral political relations and determined to usher in a new era of solidarity that better responds to the aspirations of their future generations by establishing a comprehensive, lasting framework for political coexistence based on peace, freedom and the prosperity of their respective peoples,

United in solidarity by the mission imposed on them by their privileged position at the meeting point of the Atlantic Ocean and the Mediterranean Sea, and taking into consideration the convergence of interests between their two countries,

Convinced that mutual understanding and cooperation between the two Kingdoms are an indispensable guarantee of peace, stability and security in the region and the best means of serving the objectives of the progress and development of their two peoples,

Conscious therefore of their responsibility as forerunners in the efforts to promote international cooperation in this geographical area,

Convinced of the economic and political importance of regional integration processes for the international situation, both countries being involved in the integration processes in their respective regions,

Aware of these challenges and determined to set in motion a process which endeavours to establish a system of dialogue and cooperation that will finally eliminate the tendency towards disputes and confrontation throughout the Mediterra-

<sup>1</sup> Came into force on 28 January 1993, the date on which the Parties informed each other of the completion of the required internal procedures, in accordance with article 14.



nean region, particularly the western Mediterranean, a border area which, because of its nature and specific character, requires priority attention and development,

Reaffirming their strict adherence to the principles of international law and the purposes and principles of the Charter of the United Nations,

Keeping in mind the treaties, agreements and protocols in force between the two countries,

Declaring their determination to maintain relations of friendship, good-neighbourliness and overall cooperation, expressing their intention that this Treaty shall constitute an appropriate framework for developing new areas of understanding and cooperation, and acting in the spirit of the joint declaration signed at Rabat on 21 December 1990, which expanded upon the joint communiqué signed on the occasion of the official visit of His Majesty King Hassan II to Spain on 27 September 1989,

Have agreed as follows:

#### GENERAL PRINCIPLES

##### 1. *Respect for international law*

The High Contracting Parties undertake to carry out in good faith the obligations which they have contracted under international law, whether those arising from the generally recognized principles and norms of international law or those deriving from treaties or other agreements under international law to which they are a party.

##### 2. *Sovereign equality*

The High Contracting Parties shall respect each other's sovereign equality and individuality and all the rights inherent and embodied in that sovereignty, in particular, the right to equality before the law, territorial integrity, freedom and political independence. They shall, moreover, respect the right of each Party freely to choose and develop its political, social, economic and cultural system.

##### 3. *Non-intervention in internal affairs*

The High Contracting Parties shall refrain from any direct or indirect, individual or collective intervention in internal or external affairs falling within the internal jurisdiction of the other Party.

They shall consequently refrain, under all circumstances, from any act of military, political, economic or other coercion designed to subordinate to their own interest the exercise of rights inherent in the sovereignty of the other Party and thereby to obtain advantages of any kind.

##### 4. *Non-recourse to the threat or use of force*

In their mutual relations, both Parties shall refrain from recourse to the threat or use of force against the territorial integrity or political independence of the other Party, and from any other action incompatible with the purposes of the United Nations. No consideration may be invoked that might serve to justify such recourse. Both Parties shall accordingly refrain from any act which might constitute a threat of force or a direct or indirect use of force.



### 5. *Peaceful settlement of disputes*

In a spirit consistent with the motives that have led to the conclusion of this Treaty of Friendship, Good-Neighbourliness and Cooperation, the High Contracting Parties shall settle any disputes which may arise between them by peaceful means, in such a way that international peace and security and justice are not jeopardized.

They will strive in good faith and in a spirit of cooperation to arrive in the most expeditious manner possible at a solution in conformity with international law in order to achieve a fair outcome.

### 6. *Development cooperation*

The two Parties shall endeavour to maximize their mutual economic potential in order to create a framework of prosperous, egalitarian and balanced cooperation. In this context, they shall always keep in mind their interest in reducing the differences in their levels of economic development by creating a new climate of economic and financial solidarity that underlines the positive aspects of the complementarity between their respective economies, thereby permitting the achievement of a level of growth and prosperity in the economic, scientific, technological, social, cultural and humanitarian fields.

### 7. *Respect for human rights and fundamental freedoms*

The High Contracting Parties shall respect human rights and fundamental freedoms, including freedom of thought, conscience, religion and belief, without distinction as to race, sex, language or religion.

In this context, they shall promote and strengthen the effective exercise of civil, political, economic, social, cultural and other rights and freedoms, all of which derive from the inherent dignity of the human person and are essential to his or her full and free development.

In this framework, both Parties shall act in conformity with their respective internal legislation, the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights. They shall also fulfil their obligations as defined in the relevant international agreements and declarations in this field, including the International Human Rights Covenants, by which they may be bound.

### 8. *Dialogue and understanding between cultures and civilizations*

The High Contracting Parties shall encourage all action designed to create a common cultural space, drawing inspiration from their traditional historical and human ties that, in the principles of tolerance, coexistence and mutual respect, will find the guidance which makes it possible to weave a solid and fruitful common heritage. In this context, the two Parties shall endeavour to promote greater and better knowledge of each other in order to eliminate old misunderstandings and collective apprehensions that are impeding the establishment of improved understanding between their societies and peoples.

Both Parties declare their resolve to ensure that these principles are respected and applied, with a view to developing a new philosophy in their relations of cooperation that is based on mutual trust, complementarity, comprehensiveness and the need to mobilize all the strength and creativity of their societies in the search for a new common language of cooperation.



organization of training and advanced training courses, the comparison of experiences with teaching materials and the conduct of joint exercises.

The objectives of this cooperation shall also include the organization of joint programmes for research into and the development and production of weapons systems and defence *matériel* and equipment designed to meet the needs of both Parties, through exchanges of technical, technological and industrial information.

(c) *Development cooperation*

*Article 6*

Aware of the need to stimulate such cooperation at both the bilateral and the multilateral level in order to promote the socio-economic development of their populations, the High Contracting Parties shall establish specific programmes and projects in the primary, secondary and tertiary sectors that may include joint activities in third countries.

The two Parties shall promote, *inter alia*:

- (a) Cooperation in the maritime fishing and related activities sector;
- (b) Cooperation in the agro-food and environmental protection sectors, with special emphasis on pollution and desertification control and water resources management;
- (c) Cooperation in the health field;
- (d) Cooperation in the tourism sector;
- (e) Cooperation in the rational use of energy and renewable energy sources;
- (f) Cooperation in the Strait of Gibraltar area, through the promotion of studies, activities and projects in the physiographical, oceanographical and meteorological fields, with a view to establishing a fixed link between Spain and Morocco across the Strait of Gibraltar;
- (g) Cooperation in the field of vocational training.

Both Parties undertake to include in the various sectors of cooperation exchanges of professional expertise, human resources training and technology transfers.

(d) *Cultural cooperation*

*Article 7*

The High Contracting Parties, aware of the important historical and cultural legacy which they share, undertake to promote their cooperation in the fields of education and teaching through exchanges of students, teachers and university researchers and exchanges of scientific and teaching documentation.

Relations between universities and the award of study and research grants shall also be encouraged.

*Article 8*

The two Parties shall work together to promote cooperation in the audio-visual field, particularly between their respective public radio and television corporations, and in the fields of cinematography, art and sports.





*Article 9*

The two Parties agree to accord particular attention to the teaching of the Arabic language and civilization in Spain and the Spanish language and civilization in Morocco, as well as to the establishment and operation of cultural centres in their respective territories.

*(e) Cooperation in the legal and consular field**Article 10*

In the legal field, the two Parties agree to:

(a) Promote legal cooperation in the commercial, civil, criminal and administrative spheres, as a means of strengthening cooperation between their respective judicial administrations and organs and guaranteeing their efficient functioning;

(b) Promote the study of their respective laws, particularly in the commercial and business fields, with the aim of facilitating cooperation between businesses and the integration of their respective economies;

(c) Pay particular attention to international efforts to combat terrorism, organized crime and drug trafficking.

*Article 11*

In the consular field, the two Parties agree to establish close cooperation between their consular services with a view to ensuring better integration of their respective nationals in the other country.

*Article 12*

Both Parties undertake to develop the various fields of cooperation mentioned with a view to ensuring the establishment of appropriate living and working conditions for the Moroccan and Spanish communities in their respective countries and better understanding between their peoples, in accordance with the ultimate objective of this Treaty.

*Article 13*

The specific cooperation programmes and projects negotiated under this Treaty shall be identified by both Parties through the joint commission competent for each sector.

## FINAL REQUIREMENTS

*Article 14*

This Treaty shall enter into force once both Parties have notified each other through the diplomatic channel that the requirements established by their internal legislation have been fulfilled, and shall remain in force until denounced by either Party through the same channel. Such denunciation shall take effect six months after receipt of notification by the other Party.



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DONE at Rabat on 4 July 1991, in two originals in the Spanish and Arabic languages, both texts being equally authentic.

For the Kingdom  
of Spain:

[Signed]

FELIPE GONZALEZ MARQUEZ  
President of the Government

For the Kingdom  
of Morocco:

[Signed]

AZEDDINE LARAKI  
Prime Minister



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### ABOUT ALSHARQ FORUM

The Sharq Forum is an independent international network whose mission is to undertake impartial research and develop long-term strategies to ensure the political development, social justice and economic prosperity of the people of Al-Sharq. The Forum does this through promoting the ideals of democratic participation, an informed citizenry, multi-stakeholder dialogue, social justice, and public-spirited research.

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# Routes Change, Migration Persists: The Effects of EU Policy on Migratory Routes

Since the late 1990s, there have been efforts by the European Union to create common policies in order to regulate migration and to provide effective external border surveillance. However, every year more people try to reach European soil for a number of reasons, such as fleeing armed conflicts, human rights abuses, starvation, and economic conditions. While some of them have the opportunity to use legal channels, the majority do not have this chance and must put their lives into danger to reach Europe.



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