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## Migration and Refugee Governance in the Mediterranean: Europe and International Organisations at a Crossroads

by Sarah Wolff



### ABSTRACT

The death of Aylan, a 3-year-old boy on a Turkish beach, prompted European leaders and public opinions to acknowledge that Europe is the deadliest migration destination in the world. In spite of this disturbing truth, there is little agreement on an EU solution to the Syrian refugee crisis. In September 2015, the EU Interior Ministers struggled to agree over the relocation of 120,000 refugees through a common compulsory mechanism, as Eastern European countries oppose the idea of "sharing the burden." Progress regarding other solutions such as a European rescue at-sea-mission, the delivery of humanitarian visas or the opening of legal means of migration have also met strong member state resistance. If Europe is not up to the task, can international organisations (IOs), often critical of European states for their inaction, impulse change? What influence do IOs have on EU and Mediterranean migration and refugee policies? This paper investigates how IOs have been trying to frame an alternative debate and the challenges they meet in promoting transregional governance.

*European Union | Migration | Refugees | Mediterranean | International organisations*



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### Introduction

Since the beginning of 2015, more than 644,000 people have crossed the Mediterranean: a number that includes 3,135 migrants and refugees who died at sea trying to reach Europe in hopes of a better life.<sup>1</sup> The numbers of people rescued at sea have been increasing dramatically on a daily basis, with around 6,771 people rescued within two days in May 2015.<sup>2</sup> The Greek Islands of Kos and Lesbos are on the verge of explosion, with rising tensions between refugees and their inhabitants.<sup>3</sup> Although European public opinion and leaders are starting to acknowledge the situation, this is happening quite late. Indeed, since the Arab uprisings, the Mediterranean region has been confronted with unprecedented refugee and migratory fluxes. Since March 2011, some 9 million people have fled Syria, going mostly to neighbouring countries, with 6.5 million in Turkey, Lebanon, Jordan and Iraq. Only 150,000 have claimed asylum in the EU, mostly in Germany and Sweden (66,845 and 57,390, respectively).<sup>4</sup> Migrants arriving from Libya are also on the surge, and the Central Mediterranean route identified by Frontex, the European border agency, has seen a sharp increase in migrants trying to reach Italy and Malta.

<sup>1</sup> UNHCR, *Refugees/Migrants Emergency Response – Mediterranean. Regional Overview*, updated 19 October 2015, <http://data.unhcr.org/mediterranean/regional.php>.

<sup>2</sup> Nikolaj Nielsen, "EU rescue mission yet to receive extra cash or boats", in *EUobserver*, 4 May 2015, <https://euobserver.com/justice/128566>.

<sup>3</sup> UNHCR, *Numbers of refugee arrivals to Greece increase dramatically*, 18 August 2015, <http://www.unhcr.org/55d3098d6.html>.

<sup>4</sup> Data from Eurostat and ECHO, updated 31 May 2015. See "Aid & Asylum map" in the website of the European University Institute and Migration Policy Centre: *Syrian Refugees. A snapshot of the crisis in the Middle East and Europe*, [http://syrianrefugees.eu/?page\\_id=199](http://syrianrefugees.eu/?page_id=199).

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This quantitative crisis should, however, be put into perspective, given that, by comparison, 50 million persons were forcibly displaced worldwide in 2014.<sup>5</sup> The problem is that, on their route to Europe, migrants die. Since 2000, over 22,000 migrants have lost their lives trying to reach Europe.<sup>6</sup> Faced with this humanitarian situation, global institutions and civil society have condemned the EU for its inaction and inability to implement an efficient common European migration and asylum policy.<sup>7</sup> What we are facing at present is a global crisis of responsibilities, as well as a European crisis of governance. So far though, the chain of responsibilities is being diluted amongst EU member states, third countries and Frontex, the European agency coordinating the operations of border guards in the Mediterranean which has come under the fire of civil society and EU member states. This convenient scapegoat, however, masks EU member states' reticence to expand further legal migration opportunities.

Europe is at a crossroads. Since 2011, the increased arrival of irregular migrants and refugees has only further highlighted the incoherencies of its migration and refugee politics. While initially, the "crisis" seemed to be limited to Italy, Greece and Malta, the death of 71 refugees in a truck in Austria in August 2015, as well as those trying to cross the Channel in July 2015 show that the rest of European countries cannot remain detached from the crisis. Most of the refugees and migrants are, in any case, eager to reach the UK, Germany and the Nordic countries. The Schengen System is at risk and Angela Merkel has already warned that, without a fair distribution of refugees throughout Europe, the free-passport area would need to be on the table. The Dublin Convention, which determines which EU member states are responsible for the processing of asylum-seekers applications, is also under strain, with southern European countries willing to renegotiate its core principle of first country of entry. It does not fit refugees' desires either, as 70 percent of migrants in Calais, for instance, do not wait for their application to be processed and prefer to try move elsewhere in Europe.<sup>8</sup> Variable geometry characterises EU member states' policy answers. While Germany has opened its door to refugees in September 2015, it has announced the reinstatement of border controls. Between July 2014 and June 2015, Germany received 59,605 applications from Syrians refugees, compared with the UK's 2,204.<sup>9</sup> At the same time, Hungary

<sup>5</sup> Amnesty International, *Global Refugee Crisis in Numbers*, 15 June 2015, <https://www.amnesty.org/en/latest/news/2015/06/global-refugee-crisis-in-numbers>.

<sup>6</sup> Tara Brian and Frank Laczko, "Counting Migrant Deaths: An International Overview", in Tara Brian and Frank Laczko (eds.), *Fatal Journeys. Tracking Lives Lost during Migration*, Geneva, IOM, 2014, p. 20, [http://publications.iom.int/bookstore/index.php?main\\_page=product\\_info&products\\_id=1393](http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=1393).

<sup>7</sup> Martin Geiger and Antoine Pécoud, "International Organisations and the Politics of Migration", in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 871.

<sup>8</sup> Camino Mortera-Martinez, "Storming the castle: Calais, or the failure of the EU's migration policies", in *CER Articles*, 3 August 2015, <http://www.cer.org.uk/node/4546>.

<sup>9</sup> George Arnett and Alberto Nardelli, "Germany gets 27 Syrian asylum applications for every one to the UK", in *The Guardian*, 27 August 2015, <http://gu.com/p/4bpbk7/stw>.

also announced it would deploy the military on its border, and several Eastern European countries and Cyprus claimed they would rather only accept Christian refugees, which adds an even more disturbing element to the crisis.

This paper argues that the current crisis is not only a European but a transregional governance crisis. What role and influence do international organisations (IOs) have on promoting an efficient and morally sound regional migration policy? To what extent can they influence the EU and their Mediterranean partners? This paper critically assesses the role of IOs and their influence over global migration politics, particularly in the Mediterranean. In section 1 it reviews two main challenges that IOs are facing. First, the current refugee and migration governance in the Mediterranean is EU-driven and risk-averse. Second, even though regional forums have been put in place, these are mainly state-driven. Coupled with a lack of comprehensive refugee and migration policies in the Middle East and North Africa (MENA), the challenges are enormous. Then, in section 3, it looks at the role of IOs involved in migration governance, and their ability to frame an alternative narrative on international protection and migration towards their EU partners. Some constraints are highlighted in section 4, as well as good practices via cooperation with Frontex in section 5. Finally, the paper formulates recommendations on the future role of IOs in the transregional migration governance of the Mediterranean.

## 1. An EU-driven and risk-averse migration and refugee governance

The Mediterranean “crisis” has revealed the incoherencies of Mediterranean transregional governance, which remains underdeveloped and maladjusted to the current international protection needs of refugees as well as of migrants. Over the past 15 years, Mediterranean migration and refugee governance has been mostly EU-driven and risk-averse, with the prioritisation of the fight against irregular migration and the externalisation of border controls. This mostly EU driven and risk averse agenda has driven transregional governance efforts in the region. Transregional governance refers to “sets of formal and informal institutions that cut across and connect different geographical regions.”<sup>10</sup> It can involve inclusive and exclusive practices of regulatory governance of migration via different regional, interregional or bilateral norms.<sup>11</sup> Until now though, it has been used mainly by receiving countries or regions such as the EU to externalise the EU’s border controls and co-opt sending and transit countries in the “management” of migration, instead of being thought as a coordinated and collective solution of European and MENA countries.

<sup>10</sup> Alexander Betts, “The Global Governance of Migration and the Role of Trans-Regionalism”, in Rahel Kunz, Sandra Lavenex, Marion Panizzon (eds.), *Multilayered Migration Governance. The Promise of Partnership*, London, Routledge, 2011, p. 25.

<sup>11</sup> Ibid.

One example of this Euro-centric approach to migration and refugee governance in the Mediterranean is the issue of offshoring the process of asylum applications. It has been regularly discussed by the EU and its member states since it was raised in the United Nations (UN) by Denmark at the end of the 1990s.<sup>12</sup> While Europeans claim to resist the Australian model that diverts migrants to offshore centres in the Papua New Guinea islands of Manus and Nauru, discussions to introduce offshore processing in countries like Niger, Egypt, Turkey or Lebanon are not completely off the table. Germany, Malta and France support this idea. A 2015 joint paper of the European Commission and the High Representative for Foreign Policy announced that an EU-funded International Organisation for Migration (IOM) project in the Nigerian transit hub of Agadez could become a “multipurpose centre” to “offer assistance and information to stranded migrants and support those who are willing to return or integrate in host communities.”<sup>13</sup> Many fear those that this could lead to organising the offshore processing of asylum applications.<sup>14</sup> Such an option would necessarily raise important questions as to its international and EU legal compliance and whether EU delegations would be in charge of such processing. There is also little evidence that this would stop the flow of refugees willing to risk their lives to come to Europe.

Instead, Professor Goodwin-Gill has suggested the creation of a European Migration and Protection Agency that would help implementing the Common European Asylum System.<sup>15</sup> Others have proposed it could become a “service” and be modelled as the European system of Central Banks, in order to grant it an EU-wide status.<sup>16</sup> This is a maximalist option, which would require more integration on asylum and which would provide an EU-wide asylum status. It would also present various legal challenges such as the ability of refugees to appeal against rejection of their application.<sup>17</sup> Such developments could then involve close cooperation with the UN Refugee Agency (UNHCR), for instance, and an evolution of the current European Asylum Support Office. A lesson from the creation of Frontex, however, is to be cautious as the lowest common denominator amongst various EU member states often impedes progress towards integrated European solutions.<sup>18</sup>

<sup>12</sup> Jane McAdam, “Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?”, in *Kaldor Centre Policy Briefs*, No. 1 (May 2015), p. 4, <http://www.kaldorcentre.unsw.edu.au/node/1111>.

<sup>13</sup> European Commission and High Representative of the Union for Foreign Affairs, *Addressing the Refugee Crisis in Europe: The Role of EU External Action* (JOIN/2015/40), 9 September 2015, p. 7-8, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52015JC0040>.

<sup>14</sup> Sebastian Elischer, “The EU’s Migration Diversion: Outsourcing the Refugee Crisis”, in *Foreign Affairs Snapshots*, 15 September 2015, <https://www.foreignaffairs.com/node/1115411>.

<sup>15</sup> Elspeth Guild et al., *Enhancing the Common European Asylum System and Alternatives to Dublin*, Brussels, European Parliament, July 2015, p. 58, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU%282015%29519234](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU%282015%29519234).

<sup>16</sup> Ibid.

<sup>17</sup> Ibid., p. 38.

<sup>18</sup> Sarah Wolff and Adriaan Schout, “Frontex as Agency: More of the Same?”, in *Perspectives on European Politics and Society*, Vol. 14, No. 3 (2013), p. 305-324.

Furthermore, the design of transregional migration and refugee governance is greatly influenced by the internal politics and legal competences of the EU. Even though migration legislation is today an issue jointly decided between the European Parliament and the Council of the EU, many issues still remain under the control of European states. Thus, EU member states retain a role of gatekeepers since they have the right to determine admission criteria for people coming from third countries to seek work (Article 79 TFEU). Also, the legal responsibility of EU external border control operations remains within EU member states. This is in addition to a multitude of bilateral activities and operations conducted by EU member states independently of the EU. Thus, Frontex operations represent in fact only a minority of the total number of border guard operations.<sup>19</sup>

Since 2005, EU external migration policy has mainly been dealt with under the Global Approach on Migration and Mobility (GAMM).<sup>20</sup> Bilateral and regional frameworks (such as the European Neighbourhood Policy) implement the GAMM, as well as legal instruments such as readmission and visa facilitation agreements, and provide operational support and capacity-building through cooperation with Frontex. EU development aid also contributes to implementing the GAMM.<sup>21</sup> Although the number of instruments has increased in the past decade, deficiencies remain in terms of fundamental rights, and the instruments also heavily EU-driven.<sup>22</sup> International protection has only been added in 2011 to the revised GAMM. Very often, third countries' priorities and needs have been overlooked, leading to a weakening of the EU's leverage in the negotiations. Thus, EU-Morocco and EU-Turkey readmission agreement negotiations have been considerably delayed by the lack of credible EU incentives, such as visa facilitation and/or liberalisation.<sup>23</sup> In the summer of 2014, Morocco suspended all negotiations, including on the EU readmission agreement, due to a strong disagreement over trade negotiations and the so-called "Tomato Affair."<sup>24</sup> The conclusion of mobility partnerships (MPs) is another instance of asymmetric negotiations, whereby the EU uses the MP to exert its soft power to negotiate on border management, but not necessarily improve legal mobility opportunities.<sup>25</sup> The 2014 GAMM evaluation acknowledges the need

<sup>19</sup> Interview C with EU official, Brussels, 2 March 2015.

<sup>20</sup> See the website of the European Commission DG Migration and Home Affairs, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration/index_en.htm) (updated 13 April 2015).

<sup>21</sup> European Commission, *Report on the implementation of the Global Approach to Migration and Mobility 2012-2013* (COM/2014/969), 21 February 2014, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52014DC0096>.

<sup>22</sup> Interview A with civil society official, Brussels, 2 March 2015.

<sup>23</sup> Sarah Wolff, "The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey", in *European Journal of Migration and Law*, Vol. 16, No. 1 (2014), p. 69-95, [https://sarahwolffeu.files.wordpress.com/2013/04/emil\\_016\\_01\\_69-96-euras-sw.pdf](https://sarahwolffeu.files.wordpress.com/2013/04/emil_016_01_69-96-euras-sw.pdf).

<sup>24</sup> Interview F with EU official, Rabat, 25 June 2013.

<sup>25</sup> Sandra Lavenex and Rachel Nellen-Stucky, "Partnering for Migration in EU External Relations", in Rahel Kunz, Sandra Lavenex, Marion Panizzon (eds.), *Multilayered Migration Governance. The Promise of Partnership*, London, Routledge, 2011, p. 116-142. See also on asymmetries Aderanti Adepoju, Femke Van Noorloos and Annelies Zoomers, "Europe's Migration Agreements with

for implementing MPs "in a balanced manner, i.e. better reflecting all four thematic priorities of the GAMM, including more actions with regard to legal migration, human rights and refugee protection."<sup>26</sup>

Following the Arab uprisings, the Justice and Home Affairs (JHA) Council set up a Task Force Mediterranean in October 2013. Bringing together all EU member states, the European External Action Service (EEAS) and several EU agencies,<sup>27</sup> it identified five main priorities to address: actions in cooperation with third countries; regional protection, resettlement and reinforced legal avenues to Europe; the fight against trafficking, smuggling and organised crime; reinforced border surveillance contributing to enhancing the maritime situational picture and saving the lives of migrants in the Mediterranean; and, finally, improving assistance and solidarity between member states dealing with the pressures of high migration.<sup>28</sup> For many, the Task Force has only "repackaged existing measures and policy instruments. It is a monitoring instrument for what is going on."<sup>29</sup> Behind the innovative title, there has been little risk-taking. Also, it is mostly driven by a law enforcement approach and lacks a long-term strategy.<sup>30</sup> Only a few concessions have been made in discussions of safe ways to arrive in the EU. The European Commission has, for instance, tried to put on the agenda protection entry and humanitarian visas, but "member states are opposed and the Council is not looking beyond resettlement."<sup>31</sup>

## 2. Mediterranean partners and state-driven regional initiatives

Next to the EU GAMM, bilateral relations between EU countries and Mediterranean partners, the Rabat Process and the Khartoum Process are two regional consultative processes (RCPs), which enable transgovernmental cooperation. They are informal policy networks helping governments to deal with irregular migration and have been actively promoted by IOM.<sup>32</sup> They are a typical example of transregionalism since most of those processes are highly dependent upon power struggles and financial resources.

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Migrant-Sending Countries in the Global South: A Critical Review", in *International Migration*, Vol. 48, No. 3 (June 2010), p. 42-75.

<sup>26</sup> European Commission, *Report on the implementation of the Global Approach to Migration and Mobility 2012-2013*, cit., p. 9.

<sup>27</sup> The European Asylum Support Office (EASO), Frontex, Fundamental Rights Agency (FRA), European Maritime Safety Agency (EMSA) and European Police Office (Europol).

<sup>28</sup> European Commission, *On the work of the Task Force Mediterranean* (COM/2013/869), 4 December 2013, par. 1, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52013DC0869>.

<sup>29</sup> Interview D with ECRE official, Brussels, 26 February 2015.

<sup>30</sup> Interview A, Brussels, 25 February 2015.

<sup>31</sup> Ibid.; Interview B with IO official, Brussels, 25 February 2015.

<sup>32</sup> Alexander Betts, "The Global Governance of Migration and the Role of Trans-Regionalism", cit., p. 33.

The Rabat Process, also called the Euro-African Dialogue on Migration and Development, gathers together 30 European countries, five North African countries and 23 West African and Central African countries. Launched in 2006 by France, Morocco and Spain, it fosters thematic meetings amongst experts, has enabled senior official meetings and has put in place several strategies, but remains mostly based on dialogue and exchange of information. International protection was not originally at the heart of the discussions, and has only been brought on the agenda since the adoption of the 2008 Dakar Strategy. The Rome Programme for 2015-2017 develops international protection more thoroughly as one of the four pillars of the process, next to the objectives of organising mobility and legal migration; improving border management and combating irregular migration; and strengthening the synergies between migration and development.<sup>33</sup> Also, the EU has begun to include an international protection element within the MPs with Morocco and Tunisia, although countries in these regions are still mostly interested in managing their own migrants.<sup>34</sup> Countries such as Jordan, for example, are still reticent to deliver permits to refugees.<sup>35</sup>

Confronted with the smuggling of migrants in the Sahel-Saharan "arc of crisis," the Khartoum Process, launched in 2014, similarly brings together EU countries with Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt and Tunisia to discuss issues regarding the EU-Horn of Africa migration route. Eritreans represent the second most common nationality of migrants arriving by sea to Europe after Syrians. The ambition is to establish a platform of dialogue amongst the countries but also to share knowledge and experience together with IOM, UNHCR and the United Nations Office on Drugs and Crime (UNODC), as well as to identify pilot projects.<sup>36</sup>

The 5+5 Dialogue is another regional framework for discussing migration issues. Created in 1990, it gathers together Algeria, France, Italy, Libya, Malta, Mauritania, Morocco, Portugal, Spain and Tunisia. After a decade of very unsuccessful talks, the forum regained some dynamism in 2001 and is today seen as "the forum for dialogue and cooperation that creates the highest level of consensus among the Southern Partners."<sup>37</sup> Since 2012 and its summit in Malta, however, this intergovernmental initiative has not been meeting and little is known about its position on the current situation in the Mediterranean. The Mediterranean Transit Migration Dialogue (MTM) includes 45 states in Europe and North Africa, Cape Verde, Egypt, Ethiopia,

<sup>33</sup> Rabat Process, *Rome Declaration and Rome Process*, 27 November 2014, [http://processusderabat.net/web/uploads/cms/EN-Rome\\_Declaration\\_&\\_Programme.pdf](http://processusderabat.net/web/uploads/cms/EN-Rome_Declaration_&_Programme.pdf).

<sup>34</sup> Interview with ECRE official, Brussels, 26 February 2015.

<sup>35</sup> Ibid.

<sup>36</sup> T. Craig Murphy, "The Khartoum Process: EU-AU Cooperate to Combat Human Trafficking in the Horn of Africa", in *IOM Blog*, 28 October 2014, <http://weblog.iom.int/node/960>.

<sup>37</sup> Gabriel Busquets, "Regional Integration in the Western Mediterranean: the AMU and 5+5", in *IEMed Mediterranean Yearbook 2014*, forthcoming 2015, p. 90, [http://www.iemed.org/observatori/arees-danalisi/arxiu-adjunts/anuari/anuari-2014/Busquest\\_5-5\\_Dialogue\\_Arab-Maghreb\\_Union\\_IEMed\\_yearbook\\_2014\\_EN.pdf](http://www.iemed.org/observatori/arees-danalisi/arxiu-adjunts/anuari/anuari-2014/Busquest_5-5_Dialogue_Arab-Maghreb_Union_IEMed_yearbook_2014_EN.pdf).

Ghana, Kenya, Lebanon, Mali, Niger, Nigeria, Norway, Senegal, Switzerland, Syria and Turkey. Launched in 2002, this intergovernmental framework is hosted by the International Centre for Migration Policy Development (ICMPD) Secretariat and is mostly consultative, set up to discuss issues of irregular migration and mixed migration as well as migration and development.

These state-driven forums are, however, often confronted with a lack of comprehensive migration and asylum policies in Mediterranean countries. Countries like Morocco or Tunisia have focused, until the turn of the millennium, on their own diaspora abroad, mostly in Europe. It is only recently that they have realised that they were countries of transit and of immigration. More and more African migrants have been settling in Morocco to study or to pursue careers.<sup>38</sup> As of January 2014, it was therefore high time for the country to launch an immigration reform. Even though civil society is still pointing to the problems regarding the dismantlement of migrant camps in Melilla in February 2015, so far 16,000 sub-Saharan migrants have been regularised.<sup>39</sup> Mashreq countries have also dealt with refugees for a long time. Jordan's unofficial population is thus 60 percent Palestinian refugees. After welcoming several waves of refugees from Iraq in the 1990s, and after the US-led 2003 invasion, Jordan was hosting, in January 2015, around 811,070 refugees. The biggest majority (around 747,360 of them) are Syrians, and they have been provided with access to health and education.<sup>40</sup> The government has, however, restrained access to its country to refugees, and restricts Syrian refugees' freedom of movement, notably in urban areas. The strain on native societies is huge, and even though the EU has provided some financial support, many warn against the "shrinking of the humanitarian space."<sup>41</sup> The EU has responded to this challenge by setting up a 40 million euros Regional Trust Fund, funded in great part by Italy, to support Jordan in delivering humanitarian aid.<sup>42</sup> The fund is, however, a modest emergency mechanism that does not necessarily address the more long-term challenges of hosting refugees in MENA societies.

### 3. UNHCR and IOM: framing an alternative debate on refugees and migration in the Mediterranean

In the Mediterranean, beyond their respective roles of a protection agency and of providing operational assistance, UNHCR and IOM are advocating for a more

<sup>38</sup> Hein de Haas, "Morocco: Setting the Stage for Becoming a Migration Transition Country?", in *MPI Country Profiles*, 19 March 2014, <http://www.migrationpolicy.org/node/5256>.

<sup>39</sup> Lova Rakotomalala, "Moroccan forces accused of abusing sub-Saharan migrants", in *GlobalVoices*, 17 February 2015, <http://globalvoicesonline.org/?p=509256>.

<sup>40</sup> UNHCR, *2015 UNHCR country operations profile - Jordan*, <http://www.unhcr.org/pages/49e486566.html>.

<sup>41</sup> Luigi Achilli, "Syrian refugees in Jordan: a Reality Check", in *MPI Policy Briefs*, No. 2015/02 (February 2015), p. 8, <http://dx.doi.org/10.2870/821248>.

<sup>42</sup> European Commission, *EU Regional Trust Fund in Response to the Syrian Crisis*, updated 22 July 2015, [http://ec.europa.eu/enlargement/neighbourhood/countries/syria/madad/index\\_en.htm](http://ec.europa.eu/enlargement/neighbourhood/countries/syria/madad/index_en.htm).

humane approach to the crisis. IOM contends that the current situation is not a migration crisis but rather a governance crisis. Thus, for the Director of IOM Europe, "the main migration challenge is not the number of arrivals. Rather, this is a crisis of memory and perspective, of balance and political will that if corrected will allow us to better see the contours of how migration can be managed more effectively in Europe and beyond."<sup>43</sup> By pointing at the failure of EU migration governance, IOs are legitimising their potential added value in order to improve migration governance. "Turning a blind eye isn't a solution: people will continue to cross and, because of Europe's inaction, to die,"<sup>44</sup> said UN Special Rapporteur on the human rights of migrants, François Crépeau. Instead he calls for "a new and concerted strategic approach by European states and the international community."<sup>45</sup> More specifically, IOs have been framing the debate on EU policy around three main themes: saving lives; improving safe ways into Europe; and finally opening the debate on mixed migration flows.<sup>46</sup>

**a. Saving lives.** Rescuing migrants at sea is an immediate measure that will stop people dying at sea. This international legal obligation is, however, not an EU competence. Each EU member state responds to obligations found in various international conventions, such as the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1982 UN Convention on the Law of the Sea (UNCLOS). Practically, these obligations fall upon shipmasters.<sup>47</sup> This can have adverse effects since some shipmasters prefer to avoid the Mediterranean.<sup>48</sup> In addition, the adoption of Guidelines at Sea has long been a point of contention amongst EU member states, in particular when it comes to the issue of disembarkation during joint operations coordinated by Frontex. Malta and Italy, as the main host countries, opposed the idea that the host country would have to be the point of disembarkation. A regulation establishing rules for the surveillance of external sea borders was eventually adopted in 2013,<sup>49</sup> in spite of strong opposition from EU southern member states. Yet much remains to be done, in particular regarding a possible revision of Frontex mandate.

<sup>43</sup> Eugenio Ambrosi, "Our Sea", in *New Europe*, 18 February 2015, <https://www.iom.int/oped/our-sea>.

<sup>44</sup> See UN, 'Turning blind eye not a solution' to Mediterranean migrant crisis – UN rights expert, 5 December 2014, <http://www.un.org/apps/news/story.asp?NewsID=49526>.

<sup>45</sup> Ibid.

<sup>46</sup> The UNHCR Central Mediterranean Sea Initiative (CMSI) offers 12 interlinked concrete steps, such as a comprehensive and strategic policy on rescue at sea within the EU, which involves addressing issue of disembarkation, reception facilities and asylum-seekers' procedure, but also cooperation with countries of transit and first asylum as well as with countries of origins.

<sup>47</sup> Martin Scheinin, "Rescue at Sea - Human Rights Obligations of States and Private Actors, with a Focus on the EU's External Borders", in *EUI RSCAS Policy Papers*, No. 2012/05 (June 2012), <http://hdl.handle.net/1814/22389>.

<sup>48</sup> Interview B with IO official, Brussels, 25 February 2015.

<sup>49</sup> Regulation (EU) No 656/2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 15 May 2014, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32014R0656>.

**b. Safe ways to Europe.** IOs have been particularly active in advocating for multiplying safe channels for refugees and migrants to reach Europe. First, they argue that more legal migration channels should be opened. In a joint statement, Peter Sutherland, Special Representative of the UN Secretary-General for International Migration and Development, António Guterres, the UN High Commissioner for Refugees, William L. Swing, Director-General of the IOM and Zeid Ra'ad Al Hussein, the UN High Commissioner for Human Rights, called for the need to create "sufficient channels for safe and regular migration, including for low-skilled migrant workers and individuals in need of family reunification, and access to protection where needed, as safe alternatives to resorting to smugglers," and for providing legal means to reach Europe safely.<sup>50</sup> This argument is shared by the EU FRA, which contends that increasing legal channels to Europe for refugees would avoid death at sea and, by the same token, diminish the proliferation of smuggling networks.<sup>51</sup> Carrier sanctions introduced by Directive 2001/51<sup>52</sup> – which penalise commercial airlines and shipping companies for carrying persons without the proper visas or travel documents to enter the EU – as well as EU visa requirements – are thought to contribute to the proliferation of smuggling. Refugees who have no means to reach Europe legally are therefore forced to undertake dangerous journeys and to pay smugglers astronomic amounts.<sup>53</sup> This problem is well known as, even as early as 2006, a study of the European Parliament was outlining that: "This filtering technique is all the more problematic as no legal alternative is offered to those who need to flee their country urgently but do not meet the conditions laid down [...] Penalties for carriers, who assume some of the control duties of the European police services, either block asylum-seekers far from Europe's borders or force them to pay more and take greater risks to travel illegally."<sup>54</sup>

Widening legal asylum access is therefore a key feature particularly advocated by UNHCR. Regarding Syrian refugees, UNHCR has been pleading for increased labour migration schemes and opportunities for student visas, and has done a lot to push for increased resettlement. Thus, in a note on resettlement and "other forms of admission for Syrian refugees," UNHCR lists countries who have agreed to proceed with resettlement, humanitarian admissions and programmes, private sponsorship and "emergency scholarships for higher education," such as Portugal.<sup>55</sup>

<sup>50</sup> António Guterres et al., *Joint statement on Mediterranean crossings*, 23 April 2015, <http://www.unhcr.org/5538d9079.html>.

<sup>51</sup> FRA, "Legal entry channels to the EU for persons in need of international protection: a toolbox", in *FRA Focus*, No. 2/2015 (March 2015), <http://dx.doi.org/10.2811/706733>.

<sup>52</sup> Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement ..., 28 June 2001, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32001L0051>.

<sup>53</sup> Elspeth Guild et al., "The 2015 Refugee Crisis in the European Union", in *CEPS Policy Briefs*, No. 332 (September 2015), <http://www.ceps.eu/node/10900>.

<sup>54</sup> Claire Rodier, *Analysis of the external dimension of the EU's asylum and immigration policies – summary and recommendations for the European Parliament*, Brussels, European Parliament, June 2006, p. 11, [http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/dt/619/619330/619330en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dt/619/619330/619330en.pdf).

<sup>55</sup> UNHCR, *Resettlement and Other Forms of Admission for Syrian Refugees*, 18 August 2015, <http://>

This follows a long-standing strategy of “resettlement expansionism” by the UNHCR in various OECD countries.<sup>56</sup> In the case of Syria, UNHCR has taken this discussion “at all levels possible”<sup>57</sup> and has been supportive of the Regional and Development Protection Programmes that the EU started in 2015. Even though the commitment of EU member states to resettlement is yet to be demonstrated, UNHCR expertise and knowledge have played a part in influencing the EU’s legal framework and the adoption of an EU Joint Resettlement Scheme.<sup>58</sup> Solidarity and “sharing the burden” is, however, a tough task amongst EU member states and even more with Mediterranean partners. While a country like Jordan, with 6.5 million inhabitants, is welcoming over 1 million refugees,<sup>59</sup> France, which initially was opposed to the relocation mechanism in spring 2015 has finally offered to welcome 24,000. Similarly, the UK announced it would resettle 20,000 refugees over the next five years. This is in stark contrast with Germany. The German government estimates that around 800,000 refugees could arrive this year, which is almost the double the number Germany accepted in 1992 after the fall of ex-Yugoslavia.<sup>60</sup> This, however, still only represents 1 percent of the German population, while for Jordan this is closer to 12.5 percent of the population. The stakes are, therefore, not comparable.

Finally, fighting human trafficking and human smuggling is central to both the EU and IOs in providing safe ways to Europe. There has been a lot of interest in these matters from member states and human smuggling is likely to become a key priority of the 2016 Dutch presidency.<sup>61</sup> IOs such as IOM have, in particular, advocated the case of vulnerable migrants. Partnership with third countries would also be key. In spite of a series of conventions and global initiatives on trafficking,<sup>62</sup> the MENA region is blighted by human trafficking, in particular in Gulf countries, with domestic and migrant workers from Southeast and East Asia.<sup>63</sup> Although trafficking happens everywhere, including in Europe and North America,<sup>64</sup> conflicts in the Asian region have increased trafficking as well as sexual exploitation of women there.

[www.unhcr.org/52b2febafc5.pdf](http://www.unhcr.org/52b2febafc5.pdf).

<sup>56</sup> Adele Garnier, “Migration Management and Humanitarian Protection: The UNHCR’s ‘Resettlement Expansionism’ and Its Impact on Policy-making in the EU and Australia”, in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 942-959.

<sup>57</sup> Interview B with IO official, Brussels, 25 February 2015.

<sup>58</sup> Adele Garnier, “Migration Management and Humanitarian Protection”, cit., p. 947.

<sup>59</sup> According to UNHCR 2015 data, the estimates for December 2015 include 937,830 Syrian refugees and 57,140 Iraqis. See UNHCR, *2015 UNHCR country operations profile - Jordan*, cit.

<sup>60</sup> In 1992 Germany accepted 438,191 refugees. See Erik Kirschbaum, “Germany expects refugee numbers to quadruple to record 800,000”, in *Reuters*, 19 August 2015, <http://reut.rs/1fp7R5M>.

<sup>61</sup> Interview E with IO officials, Brussels, 25 February 2015.

<sup>62</sup> 2000 UN Convention against Transnational Organised Crime and its Trafficking Protocol, the 2007 UN Global Initiative to Fight Human Trafficking or the OSCE Alliance against Trafficking in Persons.

<sup>63</sup> Sari Hanafi, “Forced Migration in the Middle East and North Africa”, in Elena Fiddian-Qasmiyeh et al. (eds.), *The Oxford Handbook of Refugee and Forced Migration Studies*, Oxford, Oxford University Press, 2004, p. 594.

<sup>64</sup> UNODC, *Global Report on Trafficking in Persons 2014*, New York, United Nations, November 2014, <https://www.unodc.org/unodc/en/data-and-analysis/glotip.html>.

Thus, following the 2003 Iraq war, “the number of trafficked women has reportedly increased significantly to Jordan and Syria, but also to Saudi Arabia and the United Arab Emirates (UAE).”<sup>65</sup> Today the key challenge is to fight human trafficking and smuggling at sea. The High Level Dialogue on Protection at Sea has put in place a two-year Global Initiative on Protection at Sea. This initiative has helped to limit the loss of life at sea as well as exploitation, abuse and violence. This Dialogue is jointly supported by several IOs. In their Joint Statement on Protection at Sea in the Twenty-First Century, UNHCR, IOM, International Maritime Organisation (IMO), UNODC and Office of the United Nations High Commissioner for Human Rights (OHCHR) stress the need to shift the narrative and to stop viewing, at a global scale, people travelling by sea as criminals.<sup>66</sup> The latest meeting though, that took place in December 2014, “had a limited European attendance, with no high-level attendees.”<sup>67</sup>

The discussions in the UN Security Council meeting over an EU-sponsored resolution to use military force to stop smugglers’ boats is, however, another step towards the securitisation of EU policy. In spite of the principle of *non-refoulement*, which forbids EU member states to return migrants from countries where their lives are at risk, the draft resolution would allow EU military operations in international waters and in Libya’s territorial waters and on its soil.<sup>68</sup> Not only is this morally problematic but also legally, since it would require the consent of members of the UN Security Council, in particular of Russia,<sup>69</sup> as well as of the Libyan government. This approach is in stark contrast with the framing of the debate by IOs so far.

**c. Addressing stranded migrants and mixed migratory flows.** The Syrian crisis and the instability in Libya have profoundly transformed migratory patterns, which has propelled IOs to frame new concepts.

First, there are numerous *stranded migrants* in transit countries such as North Africa, Yemen, Turkey and Greece.<sup>70</sup> Although there is no legal consensus on their status, they are often described as “vulnerable migrants” who are either in transit or at destination, but who do not have support from their government.<sup>71</sup> IOM categorises stranded migrants in three ways. First, their migration process is

<sup>65</sup> Sari Hanafi, “Forced Migration in the Middle East and North Africa”, cit., p. 594.

<sup>66</sup> UNHCR, IOM, IMO, UNODC and OHCHR Joint Statement on Protection at Sea in the Twenty-First Century, 10 December 2014, <http://www.unhcr.org/548825d59.html>.

<sup>67</sup> Interview B with IO official, Brussels, 25 February 2015.

<sup>68</sup> Somini Sengupta, “U.N. Wants to Let Europe Use Military Force to Stop Migrant Smuggling Boats”, in *The New York Times*, 6 May 2015, <http://nyti.ms/1Js8GV3>.

<sup>69</sup> Somini Sengupta, “Russia Resisting Europe Request for Tough U.N. Anti-Smuggling Step”, in *The New York Times*, 15 September 2015, <http://nyti.ms/1UToVPm>.

<sup>70</sup> Vincent Chetail and Matthias A. Braeunlich, “Stranded Migrants: Giving Structure to a Multifaceted Notion”, in *Global Migration Research Papers*, No. 5/2013 (December 2013), p. 4-5, <http://bit.ly/12Ksm3Q>.

<sup>71</sup> William Lacy Swing, *Stranded Migrants. A New Challenge for the International Community*, IOM Director presentation to the Migration Policy Institute, Washington, 9 May 2013, <http://www.migrationpolicy.org/node/726>.

interrupted due to a loss or absence of required documents and a lack of financial resources. Second, unaccompanied minors, victims of trafficking, those stranded at sea (regular or irregular) and rejected asylum seekers are also migrants in a precarious legal situation. Third, and this is the most common reason, they are victims of natural disasters and political crises such as in Syria and Libya.<sup>72</sup> This new phenomenon calls for emergency humanitarian action. Stranded migrants are therefore not necessarily irregular migrants. Their situation can change at any time of their migration process, even if they have initially been regular migrants.<sup>73</sup> For instance, when the Gaddafi regime was overthrown in Libya, there were three main categories of stranded migrants: "migrants stranded inside Libya and unable to reach the border; migrants stranded at the border of Libya waiting to be admitted to a neighbouring state; and migrants stranded inside neighbouring countries (third countries)."<sup>74</sup> At the time of the revolution many migrants from Vietnam, Thailand, Bangladesh and Ghana working for Turkish companies in Libya were left behind in Benghazi's port waiting for help to get back home.<sup>75</sup> In 2015, the IOM's EU-funded project START helped Senegalese migrants stranded in Libya to return safely home, through Tunisia.

Second, *mixed migration flows* refers to both forced migration and economic migration which follow similar migratory routes. As for the concept of stranded migrants, this framing by IOs stresses the fact that "more and more migrants fall outside the provisions of the available instruments."<sup>76</sup> Refugees and migrants do indeed use the same networks and routes to get to Europe. The framing of this concept has increased interagency cooperation between IOM and UNHCR globally and in the Mediterranean. The Organisation for Security and Co-operation in Europe (OSCE) Chief, who considers the Mediterranean to be a "collective asset,"<sup>77</sup> has argued that the interconnectedness of mixed migration demands a more sustained and collaborative approach to regional policy-making.<sup>78</sup>

<sup>72</sup> Ibid.

<sup>73</sup> Vincent Chetail and Matthias A. Braeunlich, "Stranded Migrants...", cit., p. 12.

<sup>74</sup> Ibid., p. 9.

<sup>75</sup> Kareem Fahim, "In Libyan Port, Stranded Migrants Watch Hope Depart", in *The New York Times*, 26 February 2011, <http://nyti.ms/1UIFwKS>.

<sup>76</sup> Roger Zetter, "Protection in Crisis. Forced Migration and Protection in a Global Era", in *MPI Reports*, March 2015, p. 18, <http://www.migrationpolicy.org/node/15242>.

<sup>77</sup> BBC Monitoring Europe, *OSCE chief says security in Mediterranean 'collective' asset*, 12 February 2013.

<sup>78</sup> "It calls for a comprehensive and multi-faceted approach, bringing together a wide array of actors at the international, regional and national level to manage irregular migration flows more effectively." Lamberto Zannier, *Opening Remarks at the 15th Alliance against Trafficking in Persons Conference "People at risk: combating human trafficking along migration routes"*, Vienna, 6 July 2015, <http://www.osce.org/secretariat/173546>.

#### 4. IOs' challenges regarding shaping and influencing EU and Mediterranean policies

Over the two past decades, IOs have been the great winners of the internationalisation and regionalisation of migration politics. They have become the key partners of states willing to find collective solutions to global mobility. The historical creation of the three major IOs in the field, starting with the International Labour Organisation (ILO), UNHCR and, later, on IOM have, in a way, contributed to shaping legal distinctions globally and competition across very different mandates that cover, respectively, labour migration, refugees and logistical services to governments.<sup>79</sup>

IOs are nonetheless trapped between their advocacy role for an alternative EU policy in the Mediterranean and a series of constraints. First, they are financially dependent on EU member states and other donors such as the United States. UN agencies have been calling for more money to be able to provide humanitarian assistance to refugees in the MENA, Africa and Europe. UNHCR has, for instance, been asking for more regular payments from member states to the main agencies in charge. In June 2015, the Regional Refugee and Resilience Plan (3RP), which brings together UN agencies and NGO partners, was still facing a shortfall of 3.47 billion dollars.<sup>80</sup>

Furthermore, IOM and UNHCR are often constrained by their donors when implementing policies that are not necessarily in line with their own normative discourse. This is illustrated by the role of IOs in EU-funded projects on the ground. For instance, the framing of a "mixed migration flows" discourse has provided a new entry door for UNHCR influence on the EU. But on the ground, in the case of UNHCR activities in Morocco, the concept of "mixed migration flows" has been used to legitimise "the perfection of border controls."<sup>81</sup> Indeed, if UNHCR has been prompt in criticising the EU for its externalisation of border control, the agency "is still unable to guarantee [refugees and asylum seekers] an effective protection against deportations to Algeria."<sup>82</sup> UNHCR finds itself trapped between its humanitarian discourse and identity, and its contribution to a "global police of populations."<sup>83</sup> Similarly, some argue that UNHCR operations in Turkey would have contributed to diffusing "an expansion of border and migration controls, but also provides for a legitimisation strategy by presenting restrictive controls as a

<sup>79</sup> Martin Geiger and Antoine Pécoud, "International Organisations and the Politics of Migration", cit., p. 868.

<sup>80</sup> UNHCR, *Funding shortage leaves Syrian refugees in danger of missing vital support*, 25 June 2015, <http://www.unhcr.org/558acbbc6.html>.

<sup>81</sup> Stephan Scheel and Philipp Ratfisch, "Refugee Protection Meets Migration Management: UNHCR as a Global Police of Populations", in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 933.

<sup>82</sup> Ibid., p. 934.

<sup>83</sup> Ibid., p. 938.

necessary prerequisite for effective refugee protection.”<sup>84</sup> Furthermore, one may question the independence of UNHCR and IOM from the EU with regard to the implementation of the Task Force Mediterranean. Both organisations are involved in two pilot projects regarding information campaigns on the eastern and the western African routes funded by the EU. Although IOM is not formally associated with the Task Force, its projects have been listed in the annex to the document, in particular one project in Niger, while UNHCR will implement another one in Ethiopia.<sup>85</sup> Other training courses on migration management have been developed together with UNHCR and IOM in Congo, Burundi, Niger, and in the Sahel.<sup>86</sup> Those types of information campaign have, however, in the past been seen as a promotion of information that supports migration control and encourages people to “stay home.”<sup>87</sup> Consequently, they have lost all credibility in the eyes of migrants ready to take the risk of travelling to Europe by any means possible.<sup>88</sup>

In spite of their alternative pro-migrants’ rights discourse, IOs are therefore trapped in the realities of their day-to-day operations. Beyond their role of advocates, UNHCR and IOM are also “migration managers.” Transregional migration governance, including in the Mediterranean, has indeed been marked by a trend to “manage migration,” whereby bureaucratic realities sometimes take precedence over policy objectives. The international migration management discourse and concepts are widely used by the EU, nation states and IOs. National and international bureaucracies have popularised this approach in order to justify their involvement in migration. This new public management approach, aimed at bringing a new order to international migration, has enabled administrative actors to justify their involvement in practices such as capacity-building, training, projects which focus on border control and irregular migration, voluntary and forced return, as well as diasporas and remittances.<sup>89</sup> Administrations and politicians willing to depoliticise an issue where progress is limited due to electoral concerns have encouraged this.

Cooperation across IOs and the development of a “joined-up approach” has also sometimes been difficult, including in the Mediterranean. Thus, partnership between IOM and UNHCR in North Africa only started as of 2006. This is largely because, with the exception of Mauritania where it has little stake, IOM has

<sup>84</sup> Ibid., p. 930.

<sup>85</sup> European Commission, *Implementation of the Communication on the Work of the Task Force Mediterranean. Part 2* (SWD/2014/173), 22 May 2014, [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/general/docs/sdw\\_implementation\\_of\\_the\\_communication\\_on\\_the\\_work\\_of\\_the\\_task\\_force\\_mediterranean\\_part\\_2\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/legal-migration/general/docs/sdw_implementation_of_the_communication_on_the_work_of_the_task_force_mediterranean_part_2_en.pdf).

<sup>86</sup> Ibid., p. 4.

<sup>87</sup> Antoine Pécoud, “Informing Migrants to Manage Migration? An Analysis of IOM’s Information Campaigns”, in Martin Geiger and Antoine Pécoud (eds.), *The Politics of International Migration Management*, London and New York, Palgrave Macmillan, 2010, p. 184-201.

<sup>88</sup> Vincent Cochetel, “Politique d’asile en Europe: comment répondre aux défis venant de la Méditerranée?”, in *Question d’Europe*, No. 365 (7 September 2015), p. 5, <http://www.robert-schuman.eu/fr/doc/questions-d-europe/qe-365-fr.pdf>.

<sup>89</sup> Martin Geiger and Antoine Pécoud (eds.), *The Politics of International Migration Management*, London and New York, Palgrave Macmillan, 2010, p. 8.

historically been far ahead in its level of cooperation with the Maghreb states and had a comparative advantage to UNHCR in the areas that are of greatest concern to those states, such as tackling economic migration, readmission and border control.<sup>90</sup>

Since then though, a few good practices have taken place. In Lampedusa, the Praesidium Project was identified as “one example of good cooperation between UNHCR, IOM, the Italian Red Cross and Save the Children to improve reception, identification, profiling and referral of mixed arrivals.”<sup>91</sup> Another interesting example of interagency cooperation was the establishment of a Yemen Mixed Migration Task Force (MMTF) in June 2008. This task force tackled interagency strategy in order to provide “effective humanitarian interventions” related to mixed migration flows in Yemen. This type of task force enables UN agencies as well as stakeholders such as the EU, the Danish Refugee Council or NGOs like the Red Cross or Save the Children to coordinate. Through joint planning and information sharing, it aims at raising awareness of a regional approach to mixed migration flows and advising the government of Yemen and other stakeholders.<sup>92</sup> The MMTF is chaired by UNHCR and IOM, and is funded by the Swiss Agency for Development and Cooperation (SDC), UNHCR and IOM.

IOM and UNHCR have also proved able to advance their interests through the implementation of EU projects. There are indeed knowledgeable and respected IOs in non-EU countries, which can rely on their local networks to bridge communication gaps with Brussels. Thus, in managing the implementation of EU-funded projects they are also able to shape policies and therefore have been seen as “brokers of Europeanization,” especially in the eastern and southern areas of the EU.<sup>93</sup> An interesting example in that respect is the case of Frontex, the EU border agency, which is discussed in section 5.

## 5. Frontex and IOs: an example of good practice?

Within Frontex, IOs have been increasingly associated with the work of the agency with civil society. First, Frontex has signed several working arrangements with the Democratic Control of Armed Forces (DCAF), the International Civil Aviation

<sup>90</sup> Alexander Betts, “Towards a Mediterranean Solution? Implications for the Region of Origin”, in *International Journal of Refugee Law*, Vol. 18, No. 3-4 (September/December 2006), p. 673.

<sup>91</sup> UNHCR, *Input to the Eleventh Coordination Meeting on Migration by the United Nations High Commissioner for Refugees* (UN/POP/MIG-11CM/2013/10), 15 February 2013, par. 9, [http://www.un.org/en/development/desa/population/migration/events/coordination/11/docs/UNHCR\\_Paper\\_11th\\_Coord\\_Meeting\\_on\\_Intl\\_Mig\\_15022013\\_final.pdf](http://www.un.org/en/development/desa/population/migration/events/coordination/11/docs/UNHCR_Paper_11th_Coord_Meeting_on_Intl_Mig_15022013_final.pdf).

<sup>92</sup> See the website of the Yemen Mixed Migration Task Force: [http://www.mmyemen.org/?page\\_id=17](http://www.mmyemen.org/?page_id=17).

<sup>93</sup> Daniel Wunderlich, “Europeanization through the Grapevine: Communication Gaps and the Role of International Organizations in Implementation Networks of EU External Migration Policy”, in *Journal of European Integration*, Vol. 34, No. 5 (2012), p. 500.

Organisation (ICAO), the International Centre for Migration Policy Development (ICMPD), the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), the ILO, Interpol, IOM, the OSCE, UNHCR and UNODC. Most of these organisations are associated with providing training on integrated border management; preventing trafficking in human beings; and cooperating with each other's projects. Some IOs have cooperated, although modestly, in selected joint operations as well as in risk analysis. Thus, during Joint Operation Agelaus that took place in 2010 as a one-month fact-finding exercise on the irregular migration of children conducted in 42 European airports, IOM and UNHCR "acted as observers at three airports, for one week each, and advised the project team during the planning and preparation phases."<sup>94</sup>

Another important and structural contribution is the involvement of UNHCR and IOM experts in the development of the Common Core Curriculum developed by Frontex to train EU border guards. Also, they contributed to the development of Frontex manual on anti-trafficking in human beings along with EU member states experts, Cepol and Eurojust, UNICEF and the OSCE.<sup>95</sup> However, one of the most significant developments is the involvement of the Council of Europe, the OSCE Office for Democratic Institutions and Human Rights, as well as the UNHCR and IOM, along NGOs and EU agencies<sup>96</sup> in the Consultative Forum of Frontex. Created after the 2011 revision of the Frontex mandate, the Consultative Forum contributes to the Frontex Fundamental Rights Strategy. Article 26a of the Frontex Regulation specifies that it shall assist the Executive Director and the Management Board in fundamental rights matters. It is also consulted regarding "the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula."<sup>97</sup> Frontex presents it as a body that provides "knowledge and expertise resource."<sup>98</sup>

## 6. Future prospects and recommendations for IOs

The previous analysis has shown that IOs have been instrumental in framing an alternative debate on migration, mobility and international protection in the

<sup>94</sup> Frontex, *Joint Operation Agelaus: Children in Irregular Migration*, 19 January 2011, <http://frontex.europa.eu/news/joint-operation-agelaus-children-in-irregular-migration-HgSDR5>.

<sup>95</sup> Frontex, *Anti-trafficking Training for Border Guards. Trainers' Manual*, September 2012.

<sup>96</sup> Amnesty International European Institutions Office, Caritas Europa, Churches' Commission for Migrants in Europe, European Asylum Support Office, European Council for Refugees and Exiles, EU FRA, International Catholic Migration Commission, International Commission of Jurists, Jesuit Refugee Service, Platform for International Cooperation on Undocumented Migrants, Red Cross EU Office.

<sup>97</sup> Article 26a(2) of the Regulation (EU) No 1168/2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 25 October 2011, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32011R1168>.

<sup>98</sup> See Frontex website: <http://frontex.europa.eu/partners/consultative-forum/general-information>.

Mediterranean. This work has been particularly geared towards the EU, and IOs can rely on their network and expertise to build communication bridges with Mediterranean partners.

The 2015 developments mark a new rupture between the open migration and humanitarian discourse of IOs and resistance from EU member states and the Council of the EU in particular. How can IOs influence the EU in order to provide efficient, effective migration and asylum policies that respect international law? How can they move from framing the debate to influencing policy on the ground?

- **Rely on IOs' expertise and knowledge.** IOs palliate the deficiencies of EU staff, for instance within the EEAS. Very few delegations have migration or asylum experts. Training EU officials at headquarter and country level could help spread that expertise more widely.
- **Multi-level advocacy strategy.** Since EU member states are the main gatekeepers, headquarter advocacy could extend more towards members of the European Parliament, a strategy that UNHCR, for instance, has already implemented. This should be accompanied in parallel by advocacy and the mainstreaming of IO ideas at country level, and in relation with beneficiary countries and regional forums.
- **Think outside the box and develop interagency cooperation.** The phenomenon of mixed migration flows demonstrates that IOs need to adapt rapidly and to think *outside the box*. Because flows are mixed and combine irregular and forced migration with economic migration, more interagency work is needed at headquarter and country level. Beyond joint statements and reports, UNHCR and IOM could, in particular, push the EU to set up a Libyan and Syrian MMTF.
- **Promote a transregional approach.** Namely, work on the relevance of adjacent regions to the Mediterranean, in particular the arc of crisis in the Sahel-Sahara. IOs and EU need to work together with Mediterranean partners to develop subregional strategies.
- **Capitalise on global membership.** The current crisis does not merely concern Europe and its MENA neighbours. IOs can capitalise on their wide membership to advocate different policies from the Gulf countries or even the United States. Potential impact on North Atlantic Treaty Organisation (NATO) or even the private sector and commercial ships could ensure the United States will stop seeing the situation as mostly a European problem.
- **Remain modest.** Institutional expansionism, if not designed properly, can increase IOs' dependence on funders such as the EU, but also dilute IOs' objectives and thus contribute to their irrelevance vis-à-vis EU and Mediterranean countries.
- **Widen cooperation with Frontex.** This should apply to border management, training and scrutinising guards' activities. This would foster a socialisation of EU border guards to international legal norms.
- **Ensure the EU and Mediterranean partners reform their migration and refugee policies.** This could be done via, for instance, specific task forces that could foster national dialogue with beneficiary countries.

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