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The Challenge of Illegal Immigration in the Mediterranean

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Abstract :

The issue of migration is causing turmoil in the domestic policies of the European Union's Member States. Protest movements have taken hold of it, challenging both government action and the European institutions. Simplistic ideas are flourishing, criticising the Schengen Agreements, the inefficacy of national and European policies. Reality however is very different: Europe is facing a significant challenge that it will only be able to overcome with time. It requires constant effort, courage, imagination and certainly the reject of slogans. This paper to necessary thought is an updated version of a study that was published in December 2014 in the review "Etudes marines" from the CESM [1].

The number of displaced persons in the world is constantly rising [2]. Violence and conflict are the leading causes of this. Europe, which is neighbour to many war zones takes in more than 1.5 million legal migrants [3] yearly but in the third quarter of 2014 there were 128,725 illegal immigrants on its territory. [4] The number of asylum seekers could surge to 700,000 (+28%). The number of illegal entries into Europe could rise beyond the 276,113 in 2014 [5] (60,000 of whom via the sea). The detected flow of illegal immigrants has never been as high as in 2014, up by 170% in comparison with 2013. It is due to surge again in 2015 in which the first two months recorded an increase of over 200% in comparison with 2014.

According to NGO's since 1988 nearly 20,000 people have died on the external borders of the European Union. In 2014 the number of victims rose beyond 3,500 [6].

90% of illegal migrants have taken the maritime route across the Mediterranean. Identified illegal immigration has grown eight-fold in Italy, it has doubled in Greece and is up by 50% on the Spanish borders [7]. In 2011, which was already an exceptional year, the migratory phenomenon found its explanation mainly in the economic situation in certain countries bordering the shores of Southern Europe. Now it is conflict and political instability that is pushing populations from Central Asia, the Middle East, from Maghreb and Africa to try their luck in Europe. The Mediterranean is at the heart of this new problem.

This pressure of a greater dimension has led the Union and its Member States to introduce joint or specific response which has not succeeded in halting the flow and in making

safe our maritime routes of access. A more effective policy is required.

ILLEGAL IMMIGRATION – FROM LAND TO SEA

Whilst the land borders have been the privileged location for illegal immigration since the 2000's, notably regarding the border countries like Hungary, Bulgaria Greece and Italy – it is now the maritime area which is the focus of a new type of immigration. The strengthening of land borders and checks on specific crossing-points, notably with the Union's aid and that of Frontex, has led illegal immigrants to try and cross the Mediterranean delivering themselves into the hands of traffickers, who are more often than not working for structured, powerful criminal organisations. Nearly 220,000 illegal maritime immigrants were estimated in 2014.

There are three main routes:

- The eastern route (Greece, Cyprus, Bulgaria, Romania). Until 2012 this was the main illegal immigration route counting for nearly half of migrants. Today it is now the second most important. Since 2000 nearly 3 million immigrants have entered Europe illegally via Greece. After the building of an 18 km wall along the river Evros – the Aegean Sea is now the crossing point for illegal immigrants. The number of migrants intercepted along this route has tripled over one year: there were 2,863 in the first quarter of 2014, more than 10,445 in the first quarter of 2015. In March 2015 6,493 migrants passed via the various

1. <http://fr.calameo.com/read/000151499c91a03fd4aa1>
2. 51.2 million in 2014 of whom 33.3 million were displaced internally (<http://www.international-displacement.org/>)
3. 1,693,900 in 2012, EU27
4. Eurostat, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=mir_ejpre&lang=fr
5. DG migration, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm
6. i.e. 75% of deaths recorded on borders in the world. Source : the UN International Migration Office
7. Frontex Risk Analysis Network (FRAN) 2ème Quarter 2014

island, mainly those of eastern Greece which lie close to the Turkish coast and the main point of embarkation onto the smugglers' ships. The number of accidents has risen dramatically by 56% from one year to the next and the number of shipwrecks lay at nearly 700 in 2014. The islands in the north (Lesbos, Chios and Samos) are the ones mainly affected with the new "go fast" technique, and the use of small, fast boats. But all of the Greek islands in the Aegean now seem to be concerned. In 2012 the country was successful in some instances in countering the criminal networks of Turkish and Greek traffickers. In 2014 more than 1000 people were intercepted monthly which marked a sharp rise in their activities. Boats departing from Turkey now cross Greek waters to reach Italy directly. The appearance of "phantom cargo ships", purchased as scrap in Turkey for around 300,000€ and abandoned crewless off the Italian coast has exacerbated this phenomenon. The Syrian crisis has "boosted" the number of this type of trafficking which is difficult to prevent especially in a country that is prey to real economic problems.

The readmission agreements between Greece and Turkey (2002) as well as the one signed between the EU and Turkey do not able to solve the problem since their implementation remains minimal. Police cooperation has been established in Turkey and now specific action is being taken to monitor "old wrecks" that might be used by increasingly audacious traffickers who do not hesitate to shoot at the police, as seen for the first time recently.

- Since 2013 the central Mediterranean (Libya, Italy, Malta, Tunisia) has become the main path by which illegal immigrants set off towards Europe.

Figures mainly from Italy are spiralling. The number of castaways rescued in 2014 rose to over 170,000, 30,000 of whom were aided by coast guards as well as merchant ships and 70,000 by the Mare Nostrum operation, launched by the Italian government on 18th October 2013 after the drama of Lampedusa. The number of illegal border crossings observed totalled 134, 272 between January and September 2014, in other words six times the 2013 figure and twice that during the Arab Spring. Migrants still come from Sahel, mainly from Libya (90%), now a transit country and also, from Syria via Egypt (5%) where the refugee situation is precarious [8]. Many Eritreans are also established in Libya, as they try to flee the instability and violence that has erupted in their country.

In the second quarter of 2014 alone 51,000 castaways were rescued in 274 emergency operations managed by the Italian authorities and coordinated by Frontex and which involved nearby merchant ships. We might also note that new pressure is being brought to bear on Apulia and Calabria (10,000 were intercepted in 2014) where Italian Mafia networks, which take advantage of a faltering rule of law, seem to be organising what is almost trafficking in a labour force from the Western Balkans in the direction of northern Italy and Central Europe.

- The western route (Spain, Portugal, Morocco, Senegal, Sahara). New pressure is emerging from struggling African countries, notably from Mali. But the general trend is towards stabilisation thanks to the agreements made between Spain, Morocco and Senegal and the work of the Moroccan and Algerians authorities to counter the trafficking networks. It remains however that there has been a further rise in immigration bids via the sea (6,131 interceptions between January and September 2014), since the narrow Gibraltar Strait makes it easy to use boats of any size. "Group" crossing on borders of the Spanish enclaves of Ceuta and Melilla in Morocco are increasingly spectacular.

In 2014 the Mediterranean area and the expanses of open sea have therefore become the main routes for illegal immigration to Europe. It is mainly controlled by criminal gangs which adapt themselves to the measures deployed making them fail, using all the laws of the seas to carry out their dirty work in disregard of human life. Most of the 2,641 arrests of smugglers made in the second quarter of 2014 on the Union's external borders took place in the Mediterranean where interceptions increased by 50% over one year. Nearly 112,000 illegal entries were observed at the end of 2014 of which 98,000 came by sea.

The migrants being pushed towards Europe are fleeing violence and conflict. From Syria to Mali, Eritrea, Afghanistan, Libya – it is not the poorest who take the risk of illegal immigration, but often whole families from the middle classes who have no access to asylum or who encounter restrictive migratory policies.

These developments are therefore a wakeup call for the European Union. Many moral authorities like the Pope, the UN, ONGs and political leaders have been moved by the

8. Frontex FRAN already quoted

number of victims on the external borders of Europe, who are now in the majority (10 times the number of deaths witnessed on the American/Mexican border). Merchant navy professionals, ship-owners and ships' crews have issued an SOS to the heads of State and government for the to take action in view of the explosion in the number of shipwrecks carrying illegal immigrants which led to the rescue of over 40,000 in 2014 [9]. In 2014 in the Mediterranean there were over 15,000 rescue operations at sea. Others are protesting against the increase in immigration driven along by populist movements that are against immigrants but who also want to introduce a more effective border control system. However if it is difficult to build walls and land border controls, it is almost impossible to close off maritime areas completely. The answers provided by the European Union and its Member States to date have not proven effective in stabilising this rise in migration.

EUROPEAN WORK: RESCUE OR BORDER CONTROL?

No fewer than nine operations have been launched by the European agency Frontex, created in 2004, in a bid to come to the aid to countries facing this new maritime immigration. From the Greek coasts to the shores of Spain, Frontex has developed the European Patrol Network which enables operational cooperation and better communication between national authorities. It is quick to palliate any failings by subsidising the acquisition of equipment (Maltese patrollers, maritime patrol planes) which are then occasionally made available to the agency. Frontex is not therefore a European coastguard service and this function is not part of the legal framework of the EU's missions. The agency which has a budget of 120 million € and its HQ in Warsaw, intervenes alongside the Member States which, according to the treaties, are the only ones responsible for the control of the Union's borders.

The Union's law is set out like this as is international law. The SOLAS (Safety of Life At Sea- 1960) and SAR (Search And Rescue) conventions set imperative sea rescue obligations and organise coordination between States the world over under the MRCC (Maritime Rescue Coordination Center), which reconciles State sovereignty and maritime safety. These agreements have been revised many times and also improved in order to take on board new migratory maritime phenomenon. They are now part

of traditional maritime law codified by the UN Convention on the Law of the Sea and the protocols there attached. All ships must provide assistance to any other ship/boat in difficulty. The fight to counter the trafficking of immigrants is acknowledged as legitimate but it has to respect the flag State on the high sea. Police powers at sea and therefore the control of immigration via the maritime route can only be undertaken by the States.

Work that has aimed to pool European resources in this area are therefore in conflict with international law and so States can only be called up to coordinate, and intervene at sea. Other more vital legal issues impede the exercise of rigorous controls. Hence for example an illegal immigrant can only be qualified as such if he sets foot on land. At sea he is not in an illegal situation. Indeed in spite of some recent developments the idea of a maritime border does not exist in international law. The sea is a free area where the right to peaceful passage has to be respected including in territorial waters. And although it is legally possible to counter trafficking, and therefore that of migrants, in territorial waters, this has to be evident and proven. The law of the sea does not facilitate the fight to counter illegal immigration via the maritime route.

The tragic events of Lampedusa in October 2013, in the Strait of Sicily in June 2014 and the abandoned cargo ships in the winter of 2014-2015 increased European pressure in support of rescue operations designed to avoid the repetition of shipwrecks that unscrupulous smugglers do not hesitate to organise as soon as western ships come into sight. Trapped between the legitimate emotion that these dramas cause and the need for border control recalled by the States, the European institutions have tried to respond in two ways mobilising the means they have at their disposal. A mainly unjust impression of inefficacy has resulted from this –a victim for its part of European concern about the increase in migratory pressure.

The Member States have undertaken commendable work to take control of their maritime space. Spain has concluded agreements with third countries in the Mediterranean and in Africa, in 2012 Greece followed by Italy in 2013 with operation *Mare Nostrum*, which mobilised the Italian National Navy. The latter showed the limits of what is possible on the sea in terms of illegal immigration. It led to the rescue of nearly 90,000 people who adrift on makeshift

9. Letter dated 31.3.2015 from the European Community Shipowners' Association, the European Transport Workers' Federation, International Chamber of Shipping and the International Transport Workers' Federation

vessels, but undeniably it helped the work of organised criminal networks and fostered an increase in illegal immigration from North Africa. This was foreseeable in the absence of any other European coordinated measures [10], which, from a moral point of view, cannot be condemned. The cost of Mare Nostrum, estimated at 9 million € per month by the Italian authorities, ended on 31st October 2014. The European operation Triton benefiting from a budget of 1.9 million € per month took over from to some extent. It is limited to patrols within 30 nautical miles of the coast and will mobilise further means of surveillance developed by the Union. To date it has not slowed the immigration flow.

The European border surveillance system EUROSUR was launched in December 2013. It is part of the CISE programme (Common information and Sharing Environment) and aims to facilitate information sharing of all types (satellites, drones, semaphores, etc.) to the benefit of the various authorities responsible for controlling the borders. In this area there are various European models. Few Member States have the French system, "Action de l'Etat en Mer" (AEM) which according to an inter-ministerial method, mobilises all civilian and military means (Navy, customs, Maritime Affairs, Police etc) – under the single aegis of the Prime Minister and the Maritime Prefects. Some give this mission to their coast guards, others to their police forces and others to their navy. But there is a trend toward pooling means under the aegis of single authorities responsible for a "Coast Guard" service now acknowledged by the EU's maritime strategy (June 2014) and the plan of action that defines it.

WHAT MEANS ARE THERE TO COUNTER ILLEGAL IMMIGRATION?

The European Union has become the first continent in terms of immigration. The conflicts on its borders and in more distant lands, where it has strategic interests, will make the issue an increasingly difficult one to settle.

Traditional methods are already being used even though they could be strengthened. Exceptional means are necessary.

It is necessary to help the countries from which sea-travelling illegal immigrants originate. The European Union

is well established there often in a leading role as in the Maghreb. Police cooperation is there developing and has been successful to some extent as in Algeria, Morocco and in some African States. Settling populations via economic aid, supporting States that are rebuilding political democracy are systematic European endeavours that need to be encouraged but which will not be enough. The conclusion of readmission agreements is vital and one of Frontex's missions is precisely to help their implementation. But the Turkish example shows that are not always applied, either voluntarily or under the pressure of the sheer number of refugees fleeing from neighbouring conflicts. Turkey has now become the leading country in the world for the hosting of refugees estimated at 1.6 million.

Should we go as far as conditioning aid according to better cooperation in countering criminal trafficking networks which are often linked to those involved in organised crime in other areas, even with terrorism? This is an idea that the Union is looking into even though it is contrary to its rules of Soft Power.

Many political leaders, starting with the European Parliament and the new European Commission advocate a strengthening of Frontex and a campaigning for the creation of a European coast guard service long term. Although the strengthening of Frontex – that is already underway – is necessary, the creation of a specific European administration would lead to a confusion of the means with the end. The former are limited for the time being by international law and the law of the sea which are consecrated by the authority of the UN's. The aim of a migratory policy shared by the EU's Member States is however the priority – recalled by Jean-Claude Juncker as he appointed Greek Dimitris Avramopoulos Commissioner for Migration in the new European Commission. It would only help towards limiting illegal immigration if the prospects of legal, organised and accepted immigration were to be opened up. Europe, a continent that is to lose 50 million inhabitants by 2050 according to demographic forecasts can and must have an organised immigration policy. The counterbalance to this entails further measures against illegal immigration.

It cannot take the shape of a European body at the moment since there is no democratic political authority responsible for effective coercive means and especially there is no clearly defined policy that is unanimously

10. See the author's article « Contre l'immigration clandestine, il faut conditionner les aides au Maghreb », published in *Le Monde* on 23rd October 2013.

approved in the Union. Does it first entail saving the lives of illegal immigrants or would its mission be to control access via the maritime route more strictly? There is no definite European consensus over the goals to be set for an organisation like this. Increasing the means available to Frontex which will certainly be decided under the pressure of emotion will enable it to step up its rescue missions and in all likelihood also help the Member States with to acquire the means to control their maritime areas. This is already a step forward and other can be undertaken in the same direction.

But it will be via greater coordination between Member States, supported and backed by the Union that new solutions will be put forward to improve the fight to counter illegal immigration in the Mediterranean. More resolute action might be launched with States that lie on the shores of the Mediterranean to encourage them, even oblige them to take their full share in fighting illegal immigration. It has to be admitted that they are already doing a great deal of work in this area.

Then there is the question of failing States like Libya.

The Union and its Member States might therefore call on the UN for it to ascertain the unique extent of the human catastrophes that occur at sea, the incapacity of failing States to cooperate effectively to limit them, and to be given a mandate to help them act effectively or in their stead. Patrolling the Libyan waters under a UN mandate might prove to be the best way of preventing the departure of vessels that endanger human life. Organising the reception and return of illegal immigrants, not necessarily in Europe, is also a hypothesis which should draw the attention of the international community. But this will not

solve the root of the problem which requires necessarily long term stabilisation of the States that lie on the shores of the Mediterranean and beyond, in Sahel and the Middle East. Again this would require means far beyond those of a simple police mission, which is and will always be a part of the fight to counter illegal immigration in the Mediterranean.

The challenge is significant.

How can Europe mobilise with the international community to prevent the dramatic events that are forcing whole families to try everything in their power to guarantee survival?

How can the Union be a political and financial relay to make even greater improvements to what has already been done?

How should the Member States act and cooperate to prevent these transfers of population?

How do we explain at home that this immigration cannot be prevented short term, that it requires determined action long term, and how can we take on the political responsibility for it in a time when populism is gaining ground and when there are economic difficulties without challenging the notion of free movement and the Schengen Agreements, which, contrary to political discourse, are functioning correctly?

We can expect the migratory issue to become increasingly political. Let us hope that Europe can respond intelligently by rejecting generalisations and simplistic discourse by being true to its values, notably in terms of asylum and yet be more effective.

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Chairman of the Robert Schuman Foundation

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