

Maritime Migration in the Central Mediterranean 2011/12

The Impact of the 'Arab Spring'

Jürg Martin Gabriel
 Professor emeritus, ETH Zurich
 Swiss Federal Institute of Technology
gabriel@ethz.ch

INTRODUCTION

Thousands of migrants cross the Central Mediterranean every year – heading for Southern Italy and Malta. Most of them depart from Libya and Tunisia, although a growing number also arrive from the Eastern Mediterranean.¹ The purpose of this article is not to report specifics or to present an exhaustive account. Details about events and numbers are provided on a website that I began three years ago. Here the objective is to summarize the available data and to provide an overview.²

As the title of this article indicates, the focus is on 2011 and 2012. In North Africa, the year 2011 was extremely eventful. The political changes in Tunisia and Libya strongly affected migration dynamics. The number of people ready to undertake the risky voyage across the sea rose dramatically, and unfortunately, so did the number of accidents. In 2012, the situation improved, but there were still plenty of difficulties and some additional tragedies.

There are "green" (or land) borders, and there are "blue" (or maritime) borders. The two have some features and problems in common, but there are differences. It is the special aspects characterizing blue-border crossings that I focus on in this article and on my website. The article begins with a look at the number of migrants

¹ The Central Mediterranean, as defined on my website, includes (on the European side) Malta, Lampedusa, Sicily, Calabria and Apulia. Figures reported by FRONTEX, the EU agency in charge of border control, are based on a narrower definition that excludes Calabria and Apulia. It is impossible, of course, to neatly separate Central and Eastern Mediterranean. Boatpeople arriving from the 'East' cross both seas and usually end up in Apulia and Calabria. And there are Egyptians who travel along the Libyan coast and land in Sicily. FRONTEX figures on the Central Mediterranean exclude the former but include the latter. In this case the wider definition on which my figures are based is more useful. It also has the advantage of including all of the Ionian Sea – which is definitely part of the Central Mediterranean.

² Detailed data, as well as sources, are provided on my website (www.blue-borders.ch). In this article, references are limited to official documents of some importance.

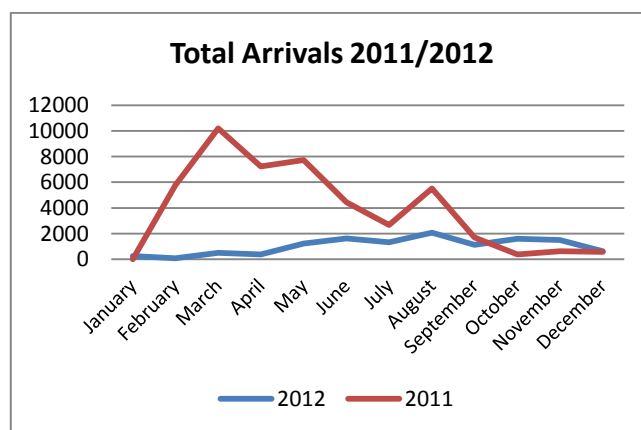
involved, then specifies arrival destinations and, third, identifies departure areas. The rest of the article addresses various problems and a number of possible solutions.

The problems that are typical of maritime migration, as is to be expected, result from crossing the sea. Accidents happen regularly, and Search and Rescue (SAR) efforts are often difficult. I begin by discussing the number of victims, then turn to topics such as distress at sea, SAR coordination, actual rescues and disembarkation. We then look at the problems faced by Lampedusa, an island that is particularly exposed to maritime migration. The situation in Italy, Malta, Tunisia and Libya is mentioned next. These four countries are regularly confronted with issues like migrant smuggling, repatriation and resettlement. The article ends with a glance at the involvement of the European Union and of the Council of Europe.

ARRIVALS

Figure 1 shows how special the year 2011 was. The number of arrivals was unusual, with 46,857 migrants crossing the Central Mediterranean that year. In 2012, the figure was down to 12,335 – four times fewer disembarkations.³ The reasons for the surge are political, as we know. The sharp increase in arrivals from January to

Figure 1



March reflects the impact of the Tunisian Revolution, which was accompanied by a major exodus of "harragas",

³ The figures mentioned emanate from publicly available sources, from Internet sites run by the media, governments and international organizations. Data quality varies greatly. Some of the most reliable information comes from Malta. Both the government and the media provide data that are useful and reliable. During the second half of 2012, the Armed Forces of Malta (AFM) re-did their website and now provide information on SAR operations in some detail. The figures on 2012 arrivals mentioned by PM Gonzi in Parliament square completely with those that I managed to obtain from the press. In Italy the situation is much less satisfactory. The media (and especially ANSA) cover blue-border events as reliably as they can. *La Repubblica* reports detailed stories about the fate of migrants and about SAR operations. But government news is scarce. The ministries in Rome transmit figures to FRONTEX in Warsaw – but do not seem to make them public. The Guardia Costiera and the Guardia di Finanza run extensive websites that, unfortunately, contain no information about actual operations. The flow of publicly available information from Tunisia and Libya has improved, but it is still irregular and imprecise. The problem is the governments and not the media. Officials are not (yet) in the habit of systematically reporting on irregular migration and blue border issues. I offer a more detailed discussion of data quality at www.blue-borders.ch

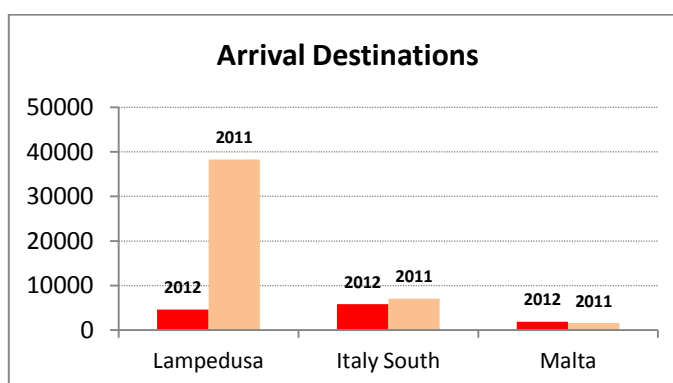
a term used by Tunisians to designate irregular migrants who "burn their papers". The outflow's timing was unusual, because in those months, meteorological conditions for traversing the Mediterranean are anything but ideal. Nevertheless, from February to the end of May, 15,000 Tunisians landed in Italy, more precisely at Lampedusa. In the months that followed, their numbers began to diminish – only to be replaced by arrivals from Libya, where the war to depose Gaddafi had meanwhile begun. The renewed increase in August was seasonal. Late summer is the least dangerous time of the year for crossing the Mediterranean.

The 2012 dynamics were very different. Not only are the total figures lower; the monthly flow was also more regular. There were only 1,213 arrivals during the first four months of 2012. With the improvement of weather conditions in May, arrivals rose to between 1,200 and 1,500 migrants per month, with another peak of 2,000 in August. Fortunately, the number of accidents and victims also diminished.

DESTINATIONS

As Figure 2 indicates, 2011 was also a special year in terms of arrival destinations. The overwhelming majority of migrants (38,254) landed at Lampedusa, and at times the impact on the small island was dramatic.⁴ Southern Italy saw 7,037 arrivals and Malta 1,566. For both places this was not unusual. The graph also shows that in 2012 there was a clear shift away from Lampedusa. In that year only 4,622 migrants reached Lampedusa, more

Figure 2



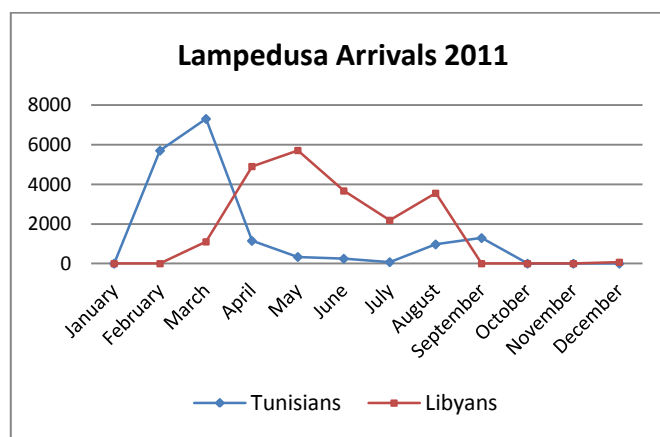
than eight times fewer. The changes for the other destinations again proved to be minor. There were two main reasons for the shift away from Lampedusa. First, the flow of Tunisians had practically stopped, and second, on 23 September 2011, the Italian government declared Lampedusa an "unsafe port".

⁴ As shown on my website, for the year 2011 it is possible to distinguish three Lampedusa arrival patterns: "isolated" arrivals of up to 300 persons on one or two days; arrival "waves", ranging from 300 to 5,000 persons and lasting up to ten days; arrival "cycles", covering several months.

One reason why Tunisians head for Lampedusa is the island's relative proximity. The distance from Sfax (or the Kerkennah Islands), where most embark, to Lampedusa is around 160 kilometers, or 100 nautical miles.⁵ Another reason is the high probability that migrants will be transferred from Lampedusa to Sicily and, with luck, end up in "mainland Europe". That, of course, is not the case when landing in Malta, which explains why practically no migrants, not even those leaving from Libya, head for Malta. Most of the migrants that do end up in Malta are sub-Saharan Africans in need of rescue.

Figure 3 shows that Lampedusa is the preferred destination for both Tunisians and sub-Saharan Africans coming from Libya. As mentioned above, in 2011 the majority of Tunisians left early in the year. The migrants from Libya arrived only when Gaddafi announced that he would "flood" Europe with African refugees. That was in

Figure 3



April, May and June. Many of them were simply "pushed" out to sea and travelled on poorly equipped rubber dinghies. Among them were West African workers, but as usual, many were also East Africans (from Somalia and Eritrea) using Libya as a transit country.⁶ The graph shows that as of September the flow came to a virtual stop. The reason, as mentioned above, was that Lampedusa was practically closed down.

DEPARTURE AREAS

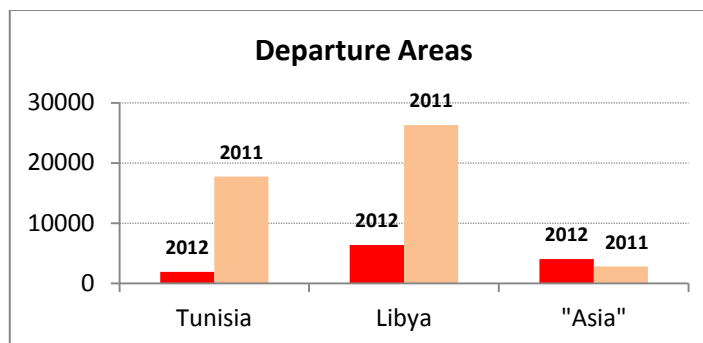
Migrants crossing the Central Mediterranean come from either the South or the East. Tunisians and sub-Saharan Africans arrive from the South. "Asians" arrive from the East, from countries as far away as Bangladesh, Afghanistan, Pakistan and Iraq. Graph 4 depicts the totals for each departure area and the difference be-

⁵ The distance from the northern tip of Tunisia to the Italian island of Pantelleria is much shorter, but the route is largely avoided. Possibly the government has more control over the north of Tunisia and is better able to deter organized migrant smuggling.

⁶ The Gaddafi government forcibly expelled thousands of sub-Saharan Africans. Others decided to flee from the ongoing civil war. It is hardly a surprise, therefore, that most of the 2011 victims were sub-Saharan Africans.

tween 2011 and 2012. In 2011, 17,736 migrants arrived from Tunisia, 26,317 from Libya and 2,804 from "Asia". It goes to show that Libya was the main departure area – the Tunisian Revolution notwithstanding.

Figure 4



In 2012, the figures for Tunisia and Libya are down; only 1,895 migrants arrived from Tunisia and only 6,403 from Libya. But there were 4,037 arrivals from the East – a not insignificant increase. Still, and as the graph shows, Libya remained the main area of departure and a major transit route in 2012.

It is difficult to say where "Asian" migrants embark, but we do know that some come from Greece (located within the EU!) and others arrive from Turkey. The East is now the second most important departure region, and the majority of landings are in Apulia and Calabria. The reason for the increase, once more, is political instability, not in North Africa but in countries like Afghanistan, Pakistan, Iraq and – more recently – Syria.

There is also a marked increase of Egyptians. Egypt is a country that in the past produced few refugees. Most Egyptians also arrive in Apulia and Calabria, but interestingly enough, some make it (perhaps via Libya) to Sicily. An effort to determine national affiliation is undertaken by FRONTEX, the EU agency involved in border control.⁷ Given the fact that migrants are usually undocumented (or "sans-papiers" and "irregulars"), determination of their nationality is complicated and at times next to impossible.

BLUE BORDER VICTIMS

The problems that migrants commonly encounter when arriving in the Schengen area have been studied by research institutes, International Organizations, NGOs and governments. These investigations address the "push and pull" factors driving modern migrants, the general difficulties encountered when crossing borders

⁷ See for instance FRAN Q1 (2012): http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q1_2012.pdf; FRAN Q2 (2012): http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q2_2012.pdf.

and the issues typical of "mixed migration".⁸ My focus is more specific, is on the troubles that migrants have when traversing the Central Mediterranean. Not all voyages are problematic, of course. At times, the sea is relatively easy to cross; thousands make it without running into major difficulties. But the journey can be dangerous, and tragedies are common.

In 2011, by my count, there were 1,182 victims. The number for 2012 is 309, a four-fold reduction paralleling the drop in arrivals. Of the 1,182 casualties, 988 were reported as missing and 194 as having died. For 2012, the figures are 230 missing and 80 dead. Numbers about dead (or fatalities) are relatively solid, because they usually rest on first-hand reports about bodies actually seen. Figures about missing persons are less reliable. They tend to be second-hand and refer to large groups (or entire boats) that simply disappear. In 2011, there were several accidents of that kind off the coast of Libya. Given the general turmoil, it was next to impossible to know what exactly transpired. One also gets the impression that some accidents were reported more than once.

Depending on the sources consulted, the 2011 figures show considerable variation. "Fortress Europe" is a website (or a blog) run by Gabriele del Grande that concentrates on casualties. For the year 2011, she mentions 1,822 victims, although a closer look at her figures shows 2,096 victims with 1,712 missing and 384 dead. Whatever the exact total, the difference between her and my figures is major. The gap of 800 to 900 casualties stems largely from the number of missing persons, which is not entirely surprising given the situation (and confusion) off the Libyan coast.⁹

It is therefore problematic to speak about victims without distinguishing between missing and dead. But that is what happens. The UN High Commissioner for Refugees (UNHCR), for example, speaks of victims only. In 2011, the organization mentioned 2,000 victims, a highly uncertain figure that – to this day – is cited by many media, governments and NGOs. There are even those who claim that 2,000 Tunisian "harragas" died, which is manifestly false.

ACCIDENTS

Accidents happen regularly, even in a year less dramatic than 2011. In 2012, four major accidents accounted for two-thirds of the victims, or 226 of 309. There was a first calamity on 28 January off the coast of Libya that

⁸ In 2011, the International Catholic Migration Commission (ICMC) did a particularly relevant report on boatpeople and on the post-arrival problems they encountered in Spain, Italy, Malta and Greece. The focus is on identification, status differentiation, legal counsel and protection. Special attention is paid to vulnerable persons like minors, victims of trafficking and of torture. The study also mentions possible solutions involving the European Union and the Council of Europe.

⁹ Gabriele del Grande also shows that the way from Libya is more dangerous than the Tunisian route: One in 75 migrants never makes it from Tunisia, but it is one in 17 that fails to arrive from Libya.

claimed the lives of 54 Somalis. Three more tragedies occurred during the second part of the year. One happened on 10 July off the coast of Tunisia with 54 Somali victims. Another took place on 27 August at the Libyan-Egyptian maritime border with 40 casualties, probably East Africans. The largest accident occurred on 6 September 10 NM off Lampedusa involving 79 Tunisians.

We know relatively little about the three North African incidents, but there is some information about the Lampedusa disaster. According to survivors, 130 migrants were packed onto an old 10 m vessel; an ambiguous distress message was received at Palermo in the early evening hours; the boat must have sunk rapidly because the 56 Tunisians rescued (by GC and NATO units) were adrift at sea; in the days that followed only a few bodies were recovered, and no traces of the distressed vessel could be found, which is rather uncommon – even mysterious. The Tunisian and Italian authorities started an investigation. So far no results have been published.

DISTRESS AT SEA

As the September 2012 accident off Lampedusa shows, overcrowding is a frequent reason for distress, especially in rough seas. The use of wooden fishing boats is common; some migrants arrive in private sailing boats, and an increasing number of sub-Saharan Africans departing from Libya travel in rubber dinghies. The size and the quality of boats can vary greatly. Many are small and in precarious condition. Engine failures, gas shortages, rudder problems and leaks are frequent. There are also cases of disorientation. Medical problems include dehydration, hyperthermia, asphyxiation and pregnancies. Actual distress can be difficult to identify. Is a request for gas a case of distress? Is a leak real or an excuse for getting help? Should these boats be intercepted and rescued or simply monitored and escorted?

Migrants tend to employ modern means of communication. The use of satellite phones has become more and more common. These gadgets can facilitate SAR operations, but they can also complicate matters, because ambiguous messages may arrive from different quarters. Some migrants contact SAR coordination centres directly, but many calls are indirect. SAR coordinators may receive the information from friends of migrants living in North Africa, Europe or detention facilities. They may also get calls from radio stations or commercial and military ships. Another information source is systematic SAR monitoring and air surveillance. Along the Italian coast, basic responsibility for SAR lies with the Guardia Costiera (GC). In many cases the Guardia di Finanza (GdF) also helps, but its main duty is policing, the search for drugs, weapons or contraband.

SAR ASSETS

The assets available for SAR operations are unevenly distributed. Italy, with its well-equipped Guardia Costiera and Guardia di Finanza, is in a position to muster a large number of boats and airplanes. Sometimes military

vessels are also involved. The Tunisians also possess a fair number of ships to engage in rescue operations. The situation in Libya is more uncertain, at least for the moment. Malta's assets are relatively modest – one off-shore patrol boat and only a handful of in-shore boats, airplanes and helicopters. However, that does not prevent the Armed Forces of Malta (AFM) from operating in their entire SAR region. The total number of assets existing in the Central Mediterranean is respectable, but actual availability can be a problem, especially when several rescues have to be conducted simultaneously.

RESCUE PROBLEMS

In rough seas rescues are particularly challenging. Vessels are often overloaded and poorly equipped. Shortages of gasoline, water and food are common. Migrants suffer physically and psychologically. Tensions and quarrels are frequent. Under these circumstances rescues are no simple matter. Panics and stampedes turn transfers into dangerous ventures. Capsizing must be avoided. To move people from vulnerable migrant vessels to large commercial ships is particularly demanding. When transfers are impossible life jackets and life boats may have to be dropped from the air. Helicopters are used to handle medical emergencies.

The following example shows how precarious things can be. The Maltese handled a difficult rescue in mid-August 2012, when 157 sub-Saharan Africans on two small dinghies were in distress. Sixty were taken aboard by a merchant vessel, the rest by the Maltese. Two migrants disappeared in transfer, two died on an AFM patrol boat and two after arrival. It goes to show that rescues can end tragically, even when handled professionally. But criminal behaviour may also be involved. On 31 December 2012, two Tunisians drowned off the coast of Sicily, and 30 made it ashore. Survivors told the Italian authorities that the "facilitators", who were trying to escape, had simply thrown them overboard!

There are unfortunately also reports of rescue refusals. SAR units are at times assisted by fishermen and merchant ships, but they rarely act on their own. The reason is simple: It is often unclear where migrants have to be unloaded, and worse, skippers may be accused of migrant smuggling. Military vessels, too, are reluctant to help. In 2011, the British *Guardian* blamed NATO for neglecting its rescue obligations off Libya at the end of March. To investigate the accusations a committee of the Parliamentary Assembly of the Council of Europe (PACE) appointed a special rapporteur. More about this later on.

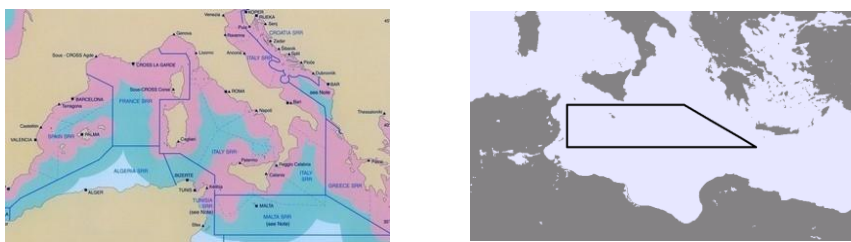
SAR REGIONS & COORDINATION

SAR operations need to be coordinated, and the obligation lies with the various Maritime Rescue Coordination Centres (MRCCs). They are constituent parts of Maritime Search and Rescue Regions (MSRR). Both centres and regions are regulated by international law, the SOLAS (or Safety of Life at Sea) Convention of 1974 and the SAR

(or Hamburg) Convention of 1979. It often happens that one state manages coordination and that a different state handles the actual rescue.

Malta, which is a relatively small island, has a huge SAR Region. Most boatpeople arriving in Southern Italy pass through the Maltese coordination zone and, to complicate matters, Lampedusa is located within the Maltese region. Malta is thus the Central Mediterranean's chief coordinator – but not its chief rescuer! The reason

Figure 5



is that most incidents occur closer to Italy (Lampedusa), Libya and Tunisia and that all three countries have more rescue assets than Malta. The interplay of coordination and of rescue can be complicated, particularly when units of the US 6th Fleet, NATO and FRONTEX are involved. Concerted action is called for, but it can also fail.

SAR COORDINATION DISPUTES

During the eventful year of 2011 Italy accused Malta with some regularity of "neglecting its obligations". Italy maintained that the Maltese, within their SAR Region, were responsible for both coordination and rescue, even in cases where boats are closer to Lampedusa than to Malta. The Maltese disagree. They argue that the "nearest" vessel (commercial and governmental) is responsible for rescue, and that persons rescued must be taken to the "nearest" place of safety (or port of call). Both states claim that their positions are grounded in international maritime law (i.e. the SOLAS and SAR Conventions). Disputes ultimately revolve around the issue of disembarkation.

Unfortunately, the SOLAS and the SAR Conventions do not mention disembarkation. They merely state that the persons rescued must be taken to a "place of safety". It is the 2004 amendments to the SAR Convention (including the relevant Guidelines and a 2009 Circular) that refer to disembarkation – but without settling the issue of responsibility. States are only urged "to cooperate" in determining an appropriate place of disembarkation. Italy accepts the 2004 amendments; Malta rejects them. Malta also rejects the FRONTEX guidelines which

stipulate that disembarkation is the responsibility of the state "hosting a mission". The legal gap remains: There is a sacrosanct duty to rescue, but there is no corresponding duty to receive the persons rescued.

SAR COORDINATION INCIDENTS

In 2011, the two legal positions, and the issue of disembarkation, were at the core of several incidents. Some cases, involving Italy and Malta directly, were limited to mutual accusations; other cases had political and dip-lomatic consequences. In two instances Italy retaliated by blocking the disembarkation of migrants rescued by Maltese SAR units. In two cases it was the UNHCR that accused Malta of neglecting its duties. At one point a Spanish NATO ship was caught in a complicated disembarkation tangle, at the end of which the migrants were taken to Tunisia.

Disembarkation disputes interfere with the proper functioning of SAR operations and ought to be eliminated. In the short run, an amicable arrangement between Italy and Malta has to be found. A permanent solution demands changes in international maritime law. But to alter the SOLAS Convention is no simple matter. It can take years to reach a consensus within the International Maritime Organization (IMO). A lasting solution of the disembarkation dispute is not in sight. In the meantime, other and more indirect measures can help.

SAR COOPERATION

Fortunately, in 2012 the situation improved; SAR disputes could largely be avoided. The improvement was partly the result of a new Italian government. Silvio Berlusconi, one gets the impression, had a tendency to dramatize the influx of migrants for domestic political reasons. That ended with the advent of the Monti government. Italian and Maltese politicians now emphasized the need for improved SAR cooperation. During the first six months of 2012 only one SAR dispute was reported; not a single one occurred in the rest of the year.

In fact, there were several instances of successful SAR cooperation. Two operations took place in Libyan waters, and in another the Libyan coast guard was involved as well. Cooperation is important, because some SAR situations are puzzling. In early July, six Somalis were rescued by the Maltese, but the remaining 60 refused rescue and headed for Sicily. Or, as happens regularly, some migrants pass through Maltese waters, ask the AFM for gasoline, and then insist on continuing on to Italy. As mentioned above, it is difficult to say whether these are instances of "distress at sea" in conformity with international law and whether obligations have been met or not. In September 2012, Italy and Malta signed an agreement to improve SAR cooperation. The thorny issue of disembarkation remains unsettled, one would assume.

LAMPEDUSA

As shown, in 2011 85% of all Central Mediterranean migrants – or 38,000 of roughly 45,000 – ended up in Lampedusa. The remaining Southern coasts of Italy accounted for 11%, Malta for around 4%. Lampedusa was clearly the most important destination. By late summer 2011, the situation on the small island became unbearable. The reception camp, built for 300 people, could not accommodate the thousands of migrants arriving. The local population and the migrants began to protest, and in early September the camp was set on fire.¹⁰ The Berlusconi government reacted by – finally – transferring large numbers of migrants to Sicily and to the mainland.

For the rest of 2011, arrivals were extremely low, and the same was true for the first part of the following year. The situation changed abruptly, however, when over 2,000 sub-Saharan Africans arrived during the last quarter of 2012. That once again strained the capacities of the reception centre. In November and early December over 800 had to be accommodated. Thanks to Giusi Nicolini, the new Lampedusa mayor, and Anna Maria Cancellieri, Prime Minister Monti's minister of justice, an emergency comparable to that of 2011 could be avoided.

Lampedusa, to this day, remains an "unsafe port" – but that is no solution. Italy cannot prevent immigrants from heading for the island. Constructive steps are called for. As a first step the reception centre was rebuilt, and regular ferry services guaranteed relocation. Recommendations about improvements are part of a report published on 30 September 2011 by a special subcommittee of the Council of Europe's Parliamentary Assembly (PACE).¹¹

ITALY & REPATRIATION

On 6 April 2011, Berlusconi signed an agreement with the new Tunisian government. Its contents have not been published, but it seems that wholesale air repatriation is part of the arrangement. Within a week Italy returned the first migrants, and as early as on 1 May, Rome announced that the scheme was working. After the September closing of Lampedusa almost 1,500 Tunisians were flown back. In Italy repatriation figures are (at times) made public; in Tunisia they are not. It is not uncommon for European governments to sign bilateral migration agreements regulating repatriation. In some cases the arrangement is publicized, but as mentioned, the details of the 6 April 2011 agreement are unknown.

¹⁰ There were half a dozen protests at Italian reception camps, and there was one at Malta. Some involved only a handful of people and were peaceful, but others were massive, as was the case when Tunisians practically burnt down the Lampedusa facilities in September. Tunisians tended to protest against repatriation, whereas others complained about detention conditions or the slow process of status determination.

¹¹ http://assembly.coe.int/CommitteeDocs/2011/amahlarg03_REV2_2011.pdf

Repatriation presupposes that boatpeople are taken ashore, whereas push-backs are a direct return without disembarkation. That policy was part of a "Friendship Agreement" Berlusconi and Gaddafi signed in 2008. The civil war in Libya meant the *de facto* end of push-back. The conflict ended in the fall of 2011, and as early as 17 June of that year, the Berlusconi government signed a new migration agreement with the National Transitional Council of Libya (NTC). No details were published. It remains unclear whether push-back was eliminated.

On 23 January 2012, the European Court of Human Rights, in *Hirsi v. Italy*, decided that push-back, as practiced by the Berlusconi and Gaddafi governments, amounted to "collective expulsion" and violated the European Human Rights Convention.¹² The Monti administration announced that it respected the decision of the court and that the practice had been discontinued. But, as various NGOs report, some forms of "collective expulsion" are still going on. On 29 June 2012, 53 Egyptians were "summarily" returned by air, only two days after their arrival at Catania.

MALTA & RESETTLEMENT

The population of Italy is 150 times larger than that of Malta (60 million vs. 400,000). If debarkations were proportional, the 1,500 arrivals for Malta would amount to 225,000 for Italy. In 2011, the Italian figure was around 45,000, five times lower! Small wonder that the Maltese feel that Italy should do more, and to alleviate their burden, they demand the introduction of resettlement schemes. It is all the more justified, because the majority are Somali and Eritrean refugees whose asylum application is likely to be approved.

Two resettlement (or relocation) programmes have begun to function. One is coordinated jointly by UNHCR and the International Organization for Migration (IOM). Since 2005, close to 1,500 migrants have been relocated, the large majority of whom went to the United States. As mentioned, those profiting are mainly migrants from war-torn countries in East Africa. In conformity with international conventions they are granted international protection (or asylum), because their security is endangered at home. Relocations help to ease Maltese worries about too many migrants arriving at their shores.

Another resettlement effort is European. In 2009, the EU Commission initiated a programme called European Relocation Malta (EUREMA). It has met with some success. By the end of 2011 (EUREMA I), 227 refugees had been resettled. At the pledging conference for EUREMA II, 13 EU countries (plus Norway and Switzerland) declared their readiness to participate. However, by the end of 2012 only 220 were actually relocated, 153 of which went to Germany. European solidarity is anything but overwhelming. EUREMA was started because the EU was unable to activate the Refugee Solidarity Mechanism under the Council's 2001 Temporary Protection

¹² [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{"dmdocnumber":\["901565"\],"itemid":\["001-109231"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?{)

Directive. Prompted by Maltese insistence, the Commission launched EUREMA as a voluntary pilot project, hoping it might become part of a more comprehensive scheme.¹³

In 2012, Malta's two resettlement projects continued to function. East African migrants departed regularly for the United States. Twenty-seven of them left in May, 19 in June and 20 followed in December, bringing the year's total to 307. Since 2008, when the US Refugee Admission Program (USRAP) was initiated, over 1,000 beneficiaries left for North America. Under EUREMA four relocations were reported: Two to Norway, and one each to Germany and to the Netherlands. So far, a total of 1,800 Africans have been relocated under the two schemes.

MALTA & LIBYA

Practically all migrants arriving in Malta depart from Libya, which is reason enough for the two governments to be in touch. In contrast to Italy, however, no formal agreement has been signed. But contacts do exist. In July 2012, a Libyan official arrived in Malta to discuss irregular migration and military assistance. In December, PM Gonzi visited Tripoli to talk about energy and migration. No details were published.

But military cooperation did get started. Toward the end of August, a contingent of 46 AFM personnel were in Libya to conduct a two-day exercise with local forces. In October, two training courses attended by Libyan officers were held in Malta: A Basic Boarding Course and a SAR Coordination Course. Malta is also beefing up its SAR capabilities – with EU funding. The AFM acquired two fixed-wing aircraft and four inshore patrol boats.

TUNISIA

Although it is involved in a difficult process of political transition, Tunisian society has become more open and pluralistic. Irregular migration and the fate of "harragas" are topics increasingly discussed by NGOs, the media and even by the government. Families demand information about missing migrants, and the Tunisian authorities have reacted by promising to cooperate with Italy. The results are not encouraging. The main reason, according to the Italian government, is the often poor quality of fingerprints needed for identification.

That was in 2011. The tragedy of early September 2012, once again, mobilized the public and the press. As in the year before, families of missing migrants protested the lack of information. PM Jebali announced the forming of an investigating committee and sent State Secretary Jaziri to Italy. Foreign Minister Abdessalem met with families, and his ministry published the names of 56 migrants that were rescued. A few days later, Tunisia and

¹³ <http://easo.europa.eu/wp-content/uploads/EUREMA-fact-finding-report-EASO1.pdf>

Italy agreed to form a joint commission of investigation. On 26 September, the authorities arrested a migrant smuggler accused of organizing the voyage. At the 5+5 Summit in Malta President Marzouki proposed the formation of a task force to review SAR cooperation and to propose improvements. So far there is no news about the results of these steps.

In 2012, the Tunisian authorities began to provide information on SAR operations conducted by local forces. There were also reports about the prevention of four irregular departures. If we are to believe the Ministry of the Interior, in September the National Guard thwarted 14 illegal migration attempts involving 459 persons, including 160 foreigners. Such statements are rare and unsystematic. There is no information at all from the coast guard unit attached to the Navy and the Department of Defence.

NEW BILATERAL MIGRATION AGREEMENTS

As mentioned, Tunisia and Italy signed an agreement on 6 April 2011 that, among other things, regulated repatriation. That was not all. A year later, in April 2012, a joint Italian-Tunisian Military Committee discussed "illegal migration as part of a comprehensive framework". The agreement that followed refers to a "strategic partnership covering economic and security issues". Terms like "framework" and "strategic partnership" suggest accords that are relatively broad and, presumably, cover matters like border management, the training of border personnel, the financing of operations – and repatriations. But the modalities governing repatriation, like many other details, remain unknown.

In June 2012, Switzerland signed a migration agreement with Tunisia. Confronted with the presence of 3,000 Tunisians unlikely to gain asylum, the Swiss decided to approach the government in Tunis and suggest the conclusion of a migration partnership. It is a give-and-take combining a number of arrangements. The Tunisians are ready to accept returnees and to facilitate the re-entry of undocumented migrants by issuing the necessary papers. In return the Swiss provide various types of assistance to voluntary returnees, issue 18-month visas for 150 professional trainees a year, are ready to train Tunisian border guards and promise generous handling of visa applications in general. The agreement, compared with those signed by Italy, is relatively transparent.

LIBYA & BORDER CONTROL

Libya is also in the midst of political transition, but in contrast to Tunisia, territorial control is a major problem. The government, as yet, is not in command of its extensive land and sea borders. Efforts to improve the situation are being undertaken, however. Around the middle of December 2012, Libya announced the temporary closure of its borders with Niger, Chad, Sudan and Algeria. On 23 December 2012, the government assumed control over the migrant detention centre in the southern town of Sebha, a region of frequent unrest. A week

later, the armed forces installed new check points along the Egyptian border. It is difficult to say what exactly the purpose of these measures is and how effective they are.

The European Union has also entered the scene. In July 2012, the Foreign Affairs Council declared its readiness to assist Libya in the area of border management. Toward the end of the year, there were reports about actual discussions and the signature of an EU-Libya memorandum of understanding (MOU) covering police and military matters. In December 2012, PM Zeidan discussed border security while he was visiting Algeria, Niger, Chad and Sudan. Tunisia was also approached. As usual, detailed information about these measures is unavailable.

MIGRANT SMUGGLING

The lack of territorial control enables Libyan migrant smugglers to operate without much risk. They do so inside the country and across its land and sea borders. It is with their help that migrants obtain rubber dinghies, outboard motors, satellite phones, navigating instruments, gasoline, food and water supplies. As interviews show, the price is at least € 1000 per person. Migrants report that they are regularly exploited, physically and financially. Newspaper stories tend to confirm this. The plight of migrants is also documented in an investigation conducted by Amnesty International. And, as a UN inspector reports, the situation in southern Libya seems to be particularly bad.

"Facilitators" have a more difficult time in Italy. According to media reports, during the second half of 2012 the authorities arrested migrant smugglers in at least a dozen cases. We also read that an Italian court sentenced two Greeks for involvement in the death of a migrant in July 2010. In July 2012 a Tunisian court sentenced a national to 15 years in prison for involvement in an April 2011 accident that caused the death of 19 "harragas". And in September 2012, the Tunisian government arrested 18 nationals accused of organized migrant trafficking. There are no similar reports from Malta, although it is fair to assume that some migrants try to reach Italy with the help of smugglers.

EUROPEAN UNION

Problems call for solutions. First and foremost, these have to involve the governments on both sides of the Mediterranean. National efforts are central, but multinational steps are necessary as well. The European Union, in particular, is called upon to act; blue-border management must be an all-European concern. So far, the Union's reaction is minimal and disappointing. Cecilia Malmström, the EU Commissioner for Home Affairs, is candid about this. In early 2012, she published an article in the *Times of Malta* summarizing the EU's refugee performance. Its title: "How Europe Failed"! The need for solidarity, she says, is on everyone's lips, but there is a minimum of corresponding action.

The EU was (and is) operative on two main fronts. There are, first, efforts to strengthen the Common European Asylum System (CEAS) and, second, to improve border surveillance. Let me begin with surveillance. As mentioned, FRONTEX is the agency involved in controlling the Schengen Area's outer borders. Its main function is to coordinate and support national efforts, but FRONTEX also runs its own programmes. As far as the Central Mediterranean is concerned, three activities are of some importance: maritime operations, repatriation flights and the development of high-tech border control systems.¹⁴

MARITIME OPERATIONS

In 2011 and 2012, FRONTEX organized Joint Operations with various Mediterranean countries to control the inflow of migrants and, if necessary, to help with Search and Rescue (SAR). Official information about these operations is minimal and imprecise. The FRONTEX website mentions JO Hermes (Central Mediterranean) and JO Aeneas (Ionian and Adriatic Sea) with only a few words and declares that both ended in March 2012. But in FRONTEX's own FRAN Q2 Report (April-June 2012) we read that from July to October of 2012 they were still in existence.¹⁵ The same uncertainty surrounds JO Poseidon. Meant to function between Greece and Turkey, the website lists this operation for the year 2009. But a report by the UN High Commissioner on Human Rights indicates that the mission was operative in 2012 and, furthermore, had expanded to cover the Greek-Italian border.¹⁶

Disembarkation rules remain unchanged. FRONTEX regulations still demand that rescued persons be disembarked in the country "hosting" a joint operation. For Malta, as mentioned, this is unacceptable. It did not host a FRONTEX mission in 2011, and its naval units did not participate in missions hosted by other countries. In early March of that year, FRONTEX director Ilkka Laitinen visited Malta for discussions – with no results. Changing the Dublin "first country" rule could be a useful measure. It would ease the burden on smaller countries located at the external Schengen border.

For the moment this is unlikely, but a first step has been taken. In July 2010, the European Parliament took the matter to the European Court of Justice, and it scored a partial success. In its ruling of 9 September 2012 the Court avoided to deal with specifics but demanded Parliamentary involvement in the shaping of the EU's External (or Schengen) Border Code. That could mean some positive changes in the future.

¹⁴ For comprehensive FRONTEX reports covering an entire year see http://migrantsatsea.files.wordpress.com/2012/05/frontex_annual_risk_analysis_2012.pdf; http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2013.pdf.

¹⁵ http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Fran_Q2_2012_.pdf.

¹⁶ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12858&LangID=E>

In 2011, the EU decided to strengthen FRONTEX. On 23 June, Council and Parliament agreed on a number of improvements in the areas of mission management, personnel recruitment, equipment, training, human rights protection and accountability. The intention is to make FRONTEX a more effective instrument to ease the burden of individual countries. Push-back practices will be abandoned, and to guarantee the respect for basic rights future FRONTEX missions will be monitored by a fundamental rights officer.

FRONTEX REPATRIATION

FRONTEX also manages multilateral return operations. These missions, from what we know, consist mainly of repatriation flights for migrants that fail to gain asylum in a Schengen country. The legal basis for such operations are "working arrangements" signed with a number of Balkan, African and North-African countries. In 2012, FRONTEX was in the process of negotiating such arrangements with Tunisia and Libya. FRONTEX does not mention the number of flights per operation. Its website merely indicates the country of destination and the "host" (or departure) country. According to this list there were 37 "operations" in 2010, 25 in 2011 and 24 in 2012.

Once again, the information available is minimal. A typical example is the organization's FRAN Q2 Report and its reference to repatriations.¹⁷ It is useful to hear that throughout the quarter "Italy and Tunisia cooperated efficiently to repatriate Tunisian nationals", but it is impossible to tell whether Italy did so on its own or whether FRONTEX was involved. It is this type of arrangement that we would like to know more about. But, as said, FRONTEX refuses to mention details about returns. Malta, on two occasions, is more open. In May 2012, the country repatriated 64 Nigerians on three flights organized and financed by FRONTEX. There was one flight to Ghana with 24 migrants.

EU MIGRATION PARTNERSHIP AGREEMENTS

At the inauguration of the European University Institute's new Migration Policy Centre (MPC) on 25 June 2012, Cecilia Malmström called for the conclusion of migration partnership agreements. She added that the Commission was in the process of negotiating such arrangements with Tunisia and Morocco. Partnerships, in her opinion, are two-way streets dealing with migration in the context of universal mobility. A first step, so Malmström, was taken when the EU decided to opt for a Global Approach to Migration and Mobility (GAMM) and, subsequently, entered into Dialogues (resulting in Partnerships) with a number of specific countries. Migration policy, she emphasized, is then no longer limited to issues of security, control and repatriation.

¹⁷ http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q2_2012_.pdf.

SCHENGEN'S HIGH-TECH BORDERS

In the fall of 2011, the Commission proposed the development of "smart borders". The concept refers mainly (but not exclusively) to a set of measures useful for the identification of persons crossing the outer Schengen borders. Some instruments already exist. Border control officers make regular use of the Schengen Information System (SIS), the Visa Information System (VIS) and EURODAC, a programme to register fingerprints. Two additional systems are in the making. To permit the tracing of "overstayers", the largest group of irregular migrants, the Commission proposes an Entry/Exit System (EES). And, to facilitate the movement of frequent (and regular) visitors, the Commission envisages a registered traveller programme (RTP).¹⁸

"Smart borders" must be seen as part of a wider program, of FRONTEX's European External Border Surveillance System (EUROSUR). The project was initiated in 2008, and its primary purpose is to coordinate national border control systems. The geographic focus is mainly on the Mediterranean and North Africa. EUROSUR is accompanied by a series of high-tech initiatives, of which "smart borders" is only one. It is difficult, however, to gain an exact overview. One effort mentioned by the press is the development of drones.

A particularly ambitious project is PERSEUS. Its goal is to integrate existing systems of maritime border control into one, to develop something like a system-of-systems. Finally, EUROSUR is investing heavily in research and development, some of which is financed via the EU's 7th Framework Program (FP7). Some of these projects are handled by defence contractors. Reason enough for some NGOs to speak about the growing "securitization" or "militarization" of Schengen borders. The parallels to US policy in this area are obvious.

EUROPEAN ASYLUM POLICY

As early as 1999, the Justice and Home Affairs (JHA) Council of the EU agreed to establish a Common European Asylum System (CEAS) based on the full application of the UNHCR 1951 Refugee Convention. Simply put, the objective is to harmonize 27 different asylum policies and to implement a general scheme of burden sharing. The arrangement is broadly conceived and ambitious. Over the years, the EU has created a number of legal and financial instruments. Much remains to be done, however. A joint resettlement scheme was planned for the year 2012. It is meant to alleviate the consequences arising from the Dublin "first country" rule. As mentioned, that may be difficult to realize.

The EU intended to strengthen CEAS by the end of 2012. Several steps were taken, but no final agreement was reached. The Civil Liberties, Justice and Home Affairs (LIBE) Committee of the European Parliament discussed a

¹⁸ http://ec.europa.eu/dgs/home-affairs/news/intro/docs/20111025/20111025-680_en.pdf

range of asylum-related matters on two occasions. Parliament as a whole debated CEAS, including the question of resettlement. The October 2012 JHA Council also dealt with asylum policy. On the agenda were issues like reception conditions, Dublin II and EURODAC. If Council and Parliament agree, results should be forthcoming in the spring of 2013.

A recently established component of the future asylum system is the European Asylum Support Office (EASO). The agency was set up in June 2011, with headquarters in Valletta, Malta. As its name indicates, its task is to support national governments in the implementation of common asylum standards, accompanied by training and related activities. The assistance provided should improve asylum procedures in general. The impact of the EASO on maritime migration and on disembarkation is at best indirect, of course.

COUNCIL OF EUROPE

The Council of Europe was also active in 2011 and 2012. The Parliamentary Assembly (PACE) adopted a resolution on 21 June 2011 dealing with important issues of blue-border migration. The main focus, as the resolution's title indicates, is on "Interception and Rescue at Sea of Asylum Seekers, Refugees and Irregular Migrants". A number of problem areas are addressed, in particular the rescue obligation, the non-refoulement principle, disembarkation rules and the need for solidarity. The resolution also formulates a handful of recommendations. As is to be expected, the latter are predominantly a reminder of the legal obligations that members have entered into.¹⁹ Much more the Council of Europe cannot do.

Also in June 2011, a special PACE committee appointed Tineke Strik as its rapporteur to investigate "lives lost in the Mediterranean since January 2011" and to determine legal responsibilities. On 30 November 2011, she held a hearing in Paris. From what the press reported, the Dutch politician was not investigating all of the "lives lost" during that turbulent period. Instead she concentrated on one major rescue failure off Libya in late March and early April, a case involving NATO ships. When Strik published her final report on 29 March 2012 she concluded that the main problem for that tragedy was a lack of coordination between Italy and NATO.²⁰ That is not surprising, unfortunately.

In an address delivered at Strasbourg on 31 May 2012, Strik launched an interesting idea. She urged the EU to strengthen existing international rules of the sea. More precisely, EU members should draft what she calls a

¹⁹ <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1821.htm>
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/EREC1974.htm>

²⁰ http://assembly.coe.int/CommitteeDocs/2012/20120329_mig_RPT.EN.pdf

"Protocol on the Mediterranean" covering such issues as rescue, repatriation and resettlement of migrants and refugees.²¹ Quite obviously, that would be a helpful step.

CONCLUSIONS

There is no doubt that during 2011, the political changes in Tunisia and Libya impacted on maritime migration. It is equally obvious that, in quantitative terms, the year 2012 was different. The number of crossings declined, and so did the number of accidents and victims. However, it is much less clear whether a qualitative change took place – whether some things improved. Unfortunately, the answer is ambiguous. There was some progress in some respects, but in many areas nothing changed.

We saw that the number of SAR coordination incidents declined; there was, in fact, an increase in SAR cooperation. Professional coast guard officers, when left on their own, appear to have fewer difficulties cooperating than politicians with a nationalist agenda. The two Maltese resettlement schemes functioned as well, although it is embarrassing to realize that the EU accepts fewer refugees than the United States. The situation at Lampedusa has seen some improvement, but to declare it an "unsafe port" is a step backward. Both Tunisia and Libya are in a process of political transition. In Tunisia most governmental institutions, including the two coast guard units, seem to function. In Libya that is less certain. Border control and internal security are still a problem.

In some areas there is no progress at all. Repatriations, whether handled by Italy or by FRONTEX, are still surrounded by an air of secrecy. Transparent migration partnership agreements could help to clarify the situation but are relatively rare. There is also no useful information on FRONTEX border control. We know very little about joint operations and the various high-tech initiatives. And, in 2012, the EU was unable to strengthen the Common European Asylum System.

²¹ http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=7733