

ACTION FICHE

1. IDENTIFICATION

Title/Number	Support to the Libyan authorities to enhance the management of borders and migration flows		
Total cost	EUR 10 000 000		
Aid method / Management mode	Direct Centralised Management and Joint Management Approaches		
DAC-code	15210 13010	Sector	Security System management and reform Population policy and administration

2. RATIONALE

2.1. Sector context

Given its geographical position, at the crossroads of the Central and East Africa migration routes and close to Europe, its relatively high income and growing economy (rich in hydrocarbon resources), together with the vast extension of its borders, Libya is both a country of destination for migrants and a potential transit point for migration to Europe.

Most of the migrants come to Libya from Africa but, increasingly, migrants arrive also from the Middle East and Southern Asia. Most of the migrants are nationals of the neighbouring Tunisia and Egypt and come through normal road connections. Many of the migrants coming from Sub-Saharan Africa use the desert route to enter Libya, in particular by crossing the land borders it shares with Egypt, Sudan, Chad, Niger and Algeria. Migrants from Middle East and Asia come via air routes directly or by road after transiting through Egypt.

There is lack of data on the number of migrants who are present in the country; however the International Organization for Migration (IOM) estimates that there are between 1.5 and 2 million migrants living in Libya without authorisation. Libyan authorities say that the number is closer to 3 million.

Over the last decade, a substantial number of migrants, with the support of smugglers' organisations, have managed to depart from Libya and cross the Mediterranean to reach the Southern EU Member States. This phenomenon reached a peak in 2008, with around 40,000 migrants arriving in Italy and Malta from Libyan shores.

Following the entry into force of the Italian-Libyan agreement in May 2009, this phenomenon has drastically diminished. However, the reduced illegal migration flows across the Mediterranean have left other important issues unaddressed.

First, Libya continues to be exposed to irregular migration flows, which its authorities have great difficulty to prevent and to manage. This is due mainly to insufficient capacities to control the complex and vast borders and territory and to shortcomings in planning, coordination and information exchange among the responsible Libyan authorities.

Second, the legal and administrative system defining the modalities for the migrants to enter, register, reside, work and regularize their position in the country, as well as to defend their position in front of the administration, is not yet properly developed. Furthermore, irregular migrants apprehended by law enforcement agencies are placed in holding centres, in very poor legal and material conditions of detention. Vulnerable migrants, such as unaccompanied minors, women and victims of trafficking do not receive specific assistance.

Finally, although Libya is a party to the 1969 Addis Ababa Convention on the Specific aspects of Refugee problems in Africa and, thus, is bound to respect the principle of *non-refoulement* for refugees and migrants in need of international protection, it currently does not have a national asylum system in place. In the absence of such system, all asylum and refugees-related activities are normally carried out by UNHCR, whose activities in Libya are, however, extremely limited at the moment.

Since 2005, and in support of Libyan efforts to tackle the challenges of migration, the EU has financed a number of projects under the instruments AENEAS and DCI-Cooperation with Third Countries on Migration and Asylum (see under complementary actions).

While these projects have been financed on the basis of ad hoc decisions, the European Commission on 3 June 2005 was mandated by the EU Justice and Home Affairs Council, to persuade Libyan authorities to develop with the EU "a comprehensive framework of dialogue and cooperation encompassing all issues relevant to migration, border, asylum and mobility".

Subsequently, the European Council, in its conclusions of June and October 2009¹, underlined the need for a significant strengthening of cooperation with the main countries of origin and transit of irregular migrants, specifically mentioning Libya.

This objective was reached on 4 October 2010, when Commissioners Füle and Malmström co-signed with the Libyan Ministers of Foreign and Internal Affairs a "Joint Communiqué on Cooperation on borders, mobility, migration and asylum", listing a number of initiatives on migration that the two parties have agreed to address.

The action hereby proposed is deemed to contribute to the implementation of some of the actions identified in this cooperation agenda agreed on 4 October 2010, in particular in the areas of migration flows and border management.

¹ European Council Conclusions n° 15265/09 of 30/10/2009 and n°11225/09 19/06/2009.

2.2. Lessons learnt

EU cooperation activities with Libya began in 2005 with the gradual normalisation of Libya's foreign relations. The European Commission cooperation has focused on health and HIV/AIDS, through the Benghazi Action Plan, and on migration, via the Thematic Programme for Cooperation with Third countries in the Areas of Migration and Asylum and its predecessor AENEAS.

EU-funded projects in the area of migration in Libya have had positive outcomes. Through them, Libya has cooperated on border management and has overseen, and to a certain extent supported, the work of a number of international and civil society organisations, which assist migrants on health needs and voluntary return and repatriation (a list of these projects is contained in the next section).

Experience shows that building trust over the long term is crucial for the success of any project in Libya. It is also particularly important to strengthen and improve the administrative capacities of the Libyan institutions and to develop the quality and training of human resources.

2.3. Complementary actions

This special measure is funded under the European Neighbourhood and Partnership Instrument (ENPI). Its activities will be complementary to other EU initiatives identified in the EU-Libya "Joint Communiqué" signed on 4 October 2010. These initiatives will be financed under the National Indicative Programme for Libya for the period 2011-2013, the Instrument for Stability and other EU programmes.

Importantly, this project is also complementary to the actions implemented through the European Commission's DCI Thematic Programme on Migration and Asylum and its predecessor AENEAS. Among ongoing and closed actions, the most relevant are the following

- a) "SAHARA-MED: Prevention and management of irregular migration flows from the Sahara Desert to Mediterranean-Sea," implemented by the Italian Ministry of Interior, Greek immigration authorities, and the International Organisation for Migration (IOM). This project continues and expands the scope of the "Across Sahara I and II" initiatives, which strengthened border cooperation along the borders of Libya and Niger, by addressing all Southern borders in general, as well as the management of the apprehended irregular migrants along these borders.
- b) A project on the management of Mixed Migration Flows, implemented by UNHCR in partnership with the International Organisation for Peace, care and Relief (IOPCR), the Italian Council of Refugees (CIR) and the International Centre for Migration Policy Development (ICMPD).
- c) "The Regional Assisted Voluntary Return and Reintegration (AVRR) programme for Stranded Migrants in Libya and Morocco (LIMO)," which built on a previous "TRIM" project and ended in July 2010, implemented by IOM. A follow up project has been proposed by IOM and is currently being evaluated by AIDCO.

- d) "Strengthening the Criminal Justice System Response to Smuggling of Migrants in North Africa", implemented by the United Nations Office on Drugs and Crime (UNODC)
- e) "Interactive map on irregular migration routes and flows in Africa, the Middle East and Mediterranean Region (I-Map)" implemented by the ICMPD.
- f) "Strengthening the protection and life conditions of international migrants (rejected or in transit) in North Africa" implemented by the Red Cross.
- g) "Observing and Researching Migration for Enhancing its Governance in Southern and Eastern Mediterranean and sub-Saharan Countries" with the European University Institute.
- h) "The Eastern Migratory route" project, implemented by the UK Migration and Border Agency in partnership with the Italian Ministry of Interior as well as the Dutch and Maltese authorities, which aimed at collecting information on migrants' smuggling routes.

From 2010, the EU-funded TAIEX instrument has also been used in Libya for seminars and trainings, including on Human Trafficking and Border Control.

For what concerns complementary bilateral cooperation in this field, Italy has provided Libyan authorities and border police with important quantities of equipment, training and technical and financial assistance with the aim to enhance capacities to prevent and stop the smuggling of human beings across the Mediterranean and to develop a border surveillance system. Other Member States and organisations have carried out or financed initiatives in Libya. In particular, the United Kingdom promoted a comprehensive study of the migration and border legal and administrative system of Libya, which was carried out by ICMPD. Italy and the UK have also funded IOM to carry out AVR activities.

2.4. Donor coordination

The EU Delegation participates with other diplomatic missions to Libya, international organisations, UN agencies and Libyan authorities in the Donors Coordination Group on development issues chaired by UNDP. The EU's capacities for coordination will increase with the opening of a EU office in Tripoli in 2010.

In the field of migration, the EU Delegation in Tunis, accredited to Libya, holds regular meetings with Member States, IOM, UNHCR, other UN organisations and other stakeholders such as ICMPD, CIR, IOPCR and the Gaddafi Foundation.

As EU cooperation increases, further mechanisms will be identified in order to promote coordinated actions in support of the Libyan authorities in the field of migration.

3. DESCRIPTION

3.1. Objectives

The **overall objective** of the project is to reinforce the strategic approach and capacity of Libyan authorities to effectively manage borders and migration flows.

The **specific objectives** are:

- (1) To contribute to the prevention of irregular migration, by supporting the capacities of Libyan authorities to control the borders effectively, including: investigation and prosecution of the activities of migrants' smugglers and traffickers in human beings, patrolling, intelligence and communication, identification and registration of migrants.
- (2) To enhance the effective management of migratory flows in its various components: promoting the development of rules, administrative capacities and coordination; supporting the development in Libya of a more efficient system to manage labour migration; enhancing screening, identification and registration of mixed flows; improving to international standards the conditions of reception and custody; ensuring the assistance of migrants in need of international protection or belonging to vulnerable categories; supporting the voluntary return and reintegration of migrants.

3.2. Expected results and main activities

(1) The expected **results** of the first objective are:

- The Libyan authorities' capacity to collect information on migration routes and on the identities and networks of smugglers and traffickers, as well as on facilitators, is strengthened.
- Libyan border control authorities within the country are provided with equipment and training facilitating the detection and the disruption of attempts of irregular migration, as well as the identification and registration of the intercepted irregular migrants.
- The definition of a strategy for intercepting and disrupting irregular migration attempts is promoted and supported

(2) The expected **results** of the second objective are:

- Libyan authorities, border and immigration services as well as reception centres' personnel are trained in screening various types of migrants with a particular emphasis on the modalities to identify and on the specific assistance and treatment to be reserved to people in need of international protection, and migrants belonging to vulnerable categories such as unaccompanied minors, families with children, women, victims of trafficking, ill persons. Training will be also provided on the modalities enabling to coordinate and make use at best of the services provided by international organisations and NGOs in the provision of humanitarian assistance.

- Infrastructure and equipment in a reception centre (for example, in the region of Kufrah) is rehabilitated and improved in view of enhancing the treatment of irregular migrants placed there in custody up to international standards.
- Procedures for Assisted Voluntary Return (AVRR) are improved and this mechanism is effectively implemented, including social reintegration measures for stranded migrants. This support may also benefit persons identified as being in need of international protection, in view of their resettlement to a new hosting country.
- Effective coordination with countries of origin, consulates and embassies in Libya, and with community/diasporas organisation is set up in order to ensure easier identification of migrants and to channel integration actions.
- Procedures and conditions for the access and integration of labour migrants in the Libyan job market are developed, including labour market assessments and guaranteeing better levels of skills matching.
- Capacities of Libyan Health and Education systems to address specific needs of migrants are enhanced.

The activities foreseen for the implementation of this project are technical assistance, training, policy advice, exchange programmes, rehabilitation and purchase of equipment.

3.3. Risks and assumptions

Migration is a very sensitive issue for Libya. Therefore, a loss of political momentum and a change of position concerning cooperation on border surveillance and treatment and assistance to migrants should be acknowledged as a possible risk.

A risk for the implementation relates to the administrative capacities of the Libyan institutions in facilitating the implementation of this project, and to ensure coordination between the different authorities responsible for border management and immigration.

Another risk concerns the lack of experience of Libyan authorities in the implementation of cooperation programmes with the EU. In order to mitigate these risks the EU is committed to continue developing its cooperation with Libya, as planned in the National Indicative Programme for 2011-2013, and strengthen its presence on the field through the establishment of an EU office in Tripoli.

Effective coordination with all the involved stakeholders will be a key factor of success. The European Commission will foment partnerships and coordination with and between EU Agencies, EU Member States, international organisations and NGOs involved in the field of border surveillance, migration and asylum and which could have an added value and impact on the results of the project.

3.4. Crosscutting issues

The project addresses good governance and human rights issues. Good governance will be addressed through capacity building measures for the public administration

authorities in the given area. Human rights will be a central issue in all the activities undertaken by this action. There will be a special focus on vulnerable groups (unaccompanied minors, victims of trafficking, pregnant women, families with small children).

3.5. Stakeholders

The final beneficiaries of this project are the Libyan authorities and the migrants who enter Libya. The main stakeholders are the Libyan border and immigration authorities and the General People's Committee for Public Security.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

A Financing Agreement will be signed with the Libyan Government, containing the following implementation methods and arrangements.

The method of implementation for activities of the first objective on border management will be direct centralised management.

Activities related to the second objective on management of migratory flows will be implemented through joint management and the signature of a contribution agreement with one or more international organisations, specialised in the field of migration management. Although at this stage it is not possible to define this more precisely, the international organisations considered will only be IOM, UNHCR and ICMPD, all three of which have carried out a compliance assessment under article 53d of the Financial Regulation. Some activities related to the second objective might be implemented through direct centralised management.

Visibility, evaluation and audit activities, and other technical assistance activities will be managed centrally by Delegation of the European Union to Libya.

A Steering Committee, composed of the representatives of the Government of Libya, the implementing bodies and organisations of the project and the Delegation of the European Union, will be constituted to oversee the implementation of activities and the financial execution of the project.

4.2. Procurement and grant award procedures

(1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI regulation. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in *Articles 21(7) ENPI*

(2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EC external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget of the European Union.

Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the general budget.

For activities in joint management, all contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the international organisation concerned.

4.3. Budget and calendar

The Action will be financed by the European Union with a contribution of **EUR 10 million**. The operational duration of the Action is indicatively 48 months.

The indicative breakdown of the budget is as follows:

Component	Budget EUR
Objective 1 (Border management): Direct centralised (mainly services and grants)	3,000,000
Objective 2 (Management of Migration flows): Joint Management with international organisation and Direct Centralised (mainly services and grants)	6,000,000
Monitoring, Evaluation, Audit	300,000
Visibility	100,000
Contingencies	600,000
TOTAL	10,000,000

4.4. Performance monitoring

The project will be regularly monitored by the Delegation of the European Union to Libya. Result Oriented Monitoring (ROM) will be carried out by the European Commission. Monitoring indicators and sources of verification will be defined and applied throughout the implementation of the project. Monitoring reports will provide the base for corrective measures and will be followed upon by the team and a Steering Committee composed of the representatives of the Libyan government, the implementing bodies and organisations of the project and the Delegation of the European Union.

4.5. Evaluation and audit

A mid-term and external final evaluation will take place, and will be catered for under the project budget. Additional external evaluations and audits might also be carried out by independent consultants recruited directly by the Commission in accordance with EU rules and procedures and in line with specifically established terms of reference.

4.6. Communication and visibility

All visibility activities will be implemented in accordance with the "EU visibility Guidelines for External Actions".