



Libya Agreement's Impact on Italy's Migration Policy

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The migration agreement concluded in 2017 between Italy and Libya helped stem the refugee and mass-migration crisis. The agreement, with minor amendments, was extended on 4 November 2019 until the end of 2021. However, its implementation has resulted in human rights violations, which is contrary to EU values and law. Italy will not quit the deal because it views it as an effective instrument for reducing irregular migration.

Process and Rules. The first Italy-Libya agreement on combating terrorism, organised crime, drug trafficking, and illegal migration was signed in 2000 by the government of Giuliano Amato and Muammar Gaddafi. Through this arrangement, Libya expected the sanctions imposed by the UN in 1992–2003 over the former's previous support of terrorist organisations to be fully dropped, while Italy hoped to maintain stability in neighbouring countries. On migration, the deal only assumed the exchange of information about smuggling groups. The significant increase in migration from African countries to Italy at the beginning of the 21st century contributed to signing a "Treaty on Friendship, Partnership and Cooperation" in 2008 between the centre-right Italian government represented by Silvio Berlusconi and Libya. According to it, the Italian border guard would intercept migrant boats in the Mediterranean Sea and return them to Libyan waters. In exchange, Italy pledged to finance infrastructure contracts over 20 years in Libya worth \$5 billion. This cooperation was suspended in 2012 at the outbreak of the civil war in Libya and subsequent overthrow of the Gaddafi regime [by two factions](#), the armies of Fayez al-Sarraj, supported by Italy, and Gen. Khalifa Haftar. Additionally, in 2012, the European Court of Human Rights (ECtHR) ruled that returning migrants to Libya was a violation of Art. 3 of the "European Convention on Human Rights" and Art. 19 of the "EU Charter of Fundamental Rights". Libya, which is not a state party to the Geneva Convention of 1951 and the Protocol on the status of refugees of 1967, could not then and still cannot guarantee the full respect of migrants' rights, as stated in Human Rights Watch (HRW) reports published in 2005 and 2009.

The new migration agreement was concluded in 2017 between al-Sarraj and the Italian Democratic Party (PD) represented by Paolo Gentiloni and refers to the provisions of the 2008 treaty with one exception—vessels with migrants are taken over by the Libyan coast guard. Under the agreement, Italy trains Libyan border services, provides them with medical and border-protection equipment, and finances camps for migrants located in Libya. Both parties also agreed to support NGOs in the coordination of migrants' return to their countries of origin.

In 2019, the agreement was amended with Art. 3, which proposes the establishment of an Italian-Libyan joint commission for the improvement of contract implementation standards. The main goals are better conditions in camps, the prompt closure of older ones, and the creation of new ones managed by the International Organization for Migration (IOM) and UN High Commissioner for Refugees (UNHCR). The joint commission will also work on the creation of humanitarian corridors. This new system should ensure the safe transfer of refugees from the camps in Libya to Italy and improve the control of Libya's southern border as well as the distribution of first aid and sanitary materials in that country.

Agreement Controversies. The establishment of the joint commission was in response to allegations of human rights violations. However, the imprecise content of the migration agreement opened the door to abuse. For example, it does not specify the rules for intercepting migrants (such as the timing and method) by Libyan coast guards. The agreement also makes no distinction between asylum-seekers and economic migrants, nor does it indicate the institution responsible for distinguishing between refugees and other migrants detained in the camps in Libya. This country also does not have a national asylum-seekers system, so the task is carried out by UNHCR. According to the deal, Italy should provide measures to prevent boats with migrants leaving Libyan shores.

The Italian-Libyan cooperation raises concerns regarding compliance with international law and its application. According to the HRW report from 2019, the conditions in the Libyan camps are inconsistent with the “Convention against Torture” signed by Libya on 16 May 1989. Migrants are detained arbitrarily without the right to appeal and often become victims of physical and sexual violence. The Libyan government also restricts UNHCR’s access to foreigners detained in the camps to identify refugees among the migrants and provide them with humanitarian aid. The ECtHR is reviewing a claim submitted in 2019 by HRW and Amnesty International alleging that Italy violated the “European Convention on Human Rights” in its cooperation with Libya when it enabled its coast guard to intercept migrants at sea and return them to Libyan waters. Furthermore, with the UN-led treaty on state responsibility for acts contrary to international law coming into force, Italy will be co-responsible for violations of rights if it provides Libya with equipment that is used to bring back migrants.

Significance. For Italy, the migration agreement is the key element to prevent irregular immigration. It is credited with decreasing the number of migrants coming to the EU on the Central Mediterranean route from 181,400 in 2016 to about 13,000 in 2019. The majority—more than 470,000 people—who arrived to Italy via the route in 2015-2019 came from Africa, especially from Nigeria. Of the 400,000 applications for asylum in this period, only 7,000 resulted in the granting of refugee status.

The other tools to reduce migration to Italy are the missions conducted by the EU: the civilian EUBAM Libya, which supports the Libyan government with border control (since 2013) and the military-led *Sophia*, dedicated to, for example, countering human smuggling on the Mediterranean (since 2015). From May 2018 until recently, Italy conducted a policy of [closing ports to vessels with migrants](#). It abandoned it after [the change of government](#) in September 2019. Italy now cooperates with a [coalition of volunteer countries](#) over the relocation of migrants. Current Interior Minister Luciana Lamorgese also announced that the government would end her predecessor Matteo Salvini’s policy of penalising migrant-rescue vessels with high fines (even €1 million) for mooring in an Italian port without the permission of the authorities.

Maintaining the agreement has led to splits in the government coalition. The Five Star Movement and the majority of PD do not want changes to the agreement. The rest of PD and smaller centre-left parties that support the government are demanding the agreement be revoked over the human rights abuses. The establishment of the Italian-Libyan commission was the compromise between the sides. However, the agreement also is supported by opposition parties The League, Forza Italia, and Fratelli D’Italia. The League even proposes similar agreements be made with countries adjacent to Libya.

Conclusions. The Italy-Libya migration agreement has raised moral and legal concerns. The establishment of the joint commission is an attempt to resolve the issue. Its goals are compatible with [EU migration policy](#) as well, but the key condition to achieving them is political stabilisation in Libya. Without establishing a government supported by both main sides in the conflict, the creation of a national asylum system and the ratification of the Geneva Conventions will be almost impossible. Moreover, the joint commission’s work may simply be mocked if unsupervised by international organisations such as the UN Human Rights Council (HRC). In 2020, council members include Libya, Italy, Nigeria, Germany, Spain, and Poland. The HRC could appoint one of the experts recommended by The Office of the UN High Commissioner for Human Rights as a special rapporteur for Libya. This person could communicate directly with the states on alleged human rights violations by sending urgent appeals or letters of allegation, making recommendations to the states for preventing, ending, or remedying violations, and prepare reports for the HRC and the UN General Assembly.

If the ECtHR acknowledges the HRW-Amnesty International claim by recognizing the activities of Italy as breaking European law, EU institutions will have to commit to improving how the migration agreement in practice. Simply rejecting the deal could lead to another mass refugee-migration crisis and further increase Euroscepticism in the Member States. The real solution would be to strengthen cooperation with UNHCR on oversight of the camps and increase the participation of European countries in the resettlement programs. Moreover, the EU should work out a common position on ending the civil war in Libya.