



EuroMed Rights  
EuroMed Droits  
الأورو-متوسطية للحقوق

INPUT FOR

**The Special Rapporteur's report on  
human rights violations at international  
borders:**

*trends, prevention and accountability*

*EuroMed Rights  
February 2022*

Rue des Comédiens 22, 1000 Bruxelles, Belgium

T +32 (0) 2 513 37 97 – E [information@euromedrights.net](mailto:information@euromedrights.net) - [www.euromedrights.org](http://www.euromedrights.org)

# Table of Contents :

<b><u>I. THE HUMAN RIGHTS IMPACT OF BORDER MANAGEMENT MEASURES: THE CASE OF LIBYA .....</u></b>	<b><u>3</u></b>
A. THE SEA AND LAND BORDERS.....	3
B. ARBITRARY DETENTION .....	4
C. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS IN LIBYA.....	4
<b><u>II. THE HUMAN RIGHTS IMPACT OF BORDER MANAGEMENT MEASURES: THE CASE OF TUNISIA .....</u></b>	<b><u>5</u></b>
A. TUNISIA AS A MAJOR DEPARTURE POINT: THE SEA AND LAND BORDERS .....	5
B. INDEPENDENT BORDER MONITORING MECHANISM(S) AT THE NATIONAL LEVEL – ITALY/TUNISIA .....	6
<b><u>III. RECOMMENDATIONS .....</u></b>	<b><u>7</u></b>

This submission by EuroMed Rights analyses the human rights situation along the Central Mediterranean Route, with a specific focus on Libya and Tunisia. In 2021, this route saw an increasing number of arrivals<sup>1</sup>, deaths<sup>2</sup> and sea interceptions by Libyan<sup>3</sup> and Tunisian authorities<sup>4</sup>. Therefore, the Central Mediterranean Route remains the [most used migratory route](#) to reach the EU, despite the well-reported human rights abuses characterising it. This submission presents recent data on human rights violations against migrants in this route. In particular, it analyses how the worsening situation for migrants in Libya impacts the increasing departures from Tunisia. The submission ends with specific recommendations to relevant authorities.

## I. THE HUMAN RIGHTS IMPACT OF BORDER MANAGEMENT MEASURES: THE CASE OF LIBYA

### A. [The sea and land borders](#)

In the last five years since Italy and the EU signed the deal with the Libyan Government of National Accord to reduce the number of arrivals to Europe, [over 82,000 people](#) have been intercepted by the Libyan Coast Guard 32,425 in 2021 alone. Italy and the EU have assisted Libya in establishing a SAR zone in 2018 and have provided its Coast Guard with vessels, equipment and training to perform SAR operations in the new area of the sea under Libyan responsibility. Recently, the EU has financed the construction of a [new MRCC](#) in Tripoli for 15 million EUR, and [five new vessels](#) will be delivered to the Libyan Coast Guard in the first half of 2022, according to a representative of DG NEAR. **However, sea interceptions by the Libyan Coast Guard are often conducted with disregard of human rights and the protection of people in distress at sea.** As shown by a [leaked report](#) circulated in January 2022 by Stefano Turchetto, the head of the EU military mission Operation IRINI, EU officials have witnessed the excessive use of force by the Libyan Coast Guard on migrants. The report mentions the case of an interception at sea carried out on September 15<sup>th</sup>, 2021, where the Coast Guard used tactics *“never observed before and not in compliance with (EU) training ... as well as international regulation”*. In another recent example, on February 18<sup>th</sup>, 2022, Libyan forces [shot](#) live ammunitions at a boat carrying 80 people, killing one. Previously, on January 19<sup>th</sup>, 2022, the rescue NGO Louise Michel witnessed a [pushback](#) in which the Libyan Coast Guard shot at one person who had jumped in the water, while on November 24<sup>th</sup>, 2021, the Libyan Coast Guard was [shooting](#) at a migrants’ boat in distress in the Maltese SAR zone. Despite the evidence of repeated violations, the EU is still determined in continuing its support to Libyan authorities.

At the same time, **mass expulsions are taking place regularly at Libya’s southern border.** As reported by the OHCHR report [Unsafe and Undignified The forced expulsion of migrants from Libya](#), at least 7,500 migrants have been expelled at Libya’s land borders in 2019 and 2020. Recently, on January 15<sup>th</sup>, about [1,000 migrants](#) were captured and forcibly expelled to Niger. However, this number *“may represent a significant undercount as they do not systematically account for forced returns being carried out by de facto Libyan authorities, including from unofficial detention centres operated by the Libyan National Army (LNA), militias or non-State*

<sup>1</sup> [66,770](#) people disembarked in Italy in 2021, mainly coming from Tunisia, Egypt, Bangladesh, Iran, and Ivory Coast.

<sup>2</sup> [1,506](#) people went missing in this maritime route in 2021, the highest number of deaths since 2017.

<sup>3</sup> A record number of people, [32,425](#), were intercepted and pulled-back by the so-called Libya Coast Guard.

<sup>4</sup> In the first nine months of 2021, the Tunisian Coast Guard intercepted [19,500](#) people.

actors affiliated with the internationally recognised Government of National Unity (GNU)". Indeed, one of the most critical aspects concerning the southern Libyan border is the lack of access and knowledge of the full extent of the violations that take place there. The European Parliament recently brought up this issue during the AFET Committee Exchange of Views on February 2nd, 2022, and the DROI Committee Exchange of Views on January 27th, 2022.

## B. [Arbitrary detention](#)

If the situation at the borders is critical, migrants in Libya are also systematically subjected to human rights abuses. Libyan Law No. 6 of 1987 criminalises irregular entry, stay and exit in the country – without exceptions for applicants to international protection – which is punished by imprisonment or a fine. Arbitrary detention is hence widespread, and detention facilities for migrants are located across the whole country. These facilities are nominally under the DCIM<sup>5</sup>, but local militias de facto run most. Oxfam reported that in 2021, [over 20,000 migrants](#) who were returned to Libya by the Coast Guard have gone missing, probably after being sent to informal detention facilities. Recently, Mohammed Al-Khoja – a militia leader accused of trafficking and smuggling and owner of the Tarik Al-Sikka detention centre – was appointed as the new Head of the DCIM.

On January 10<sup>th</sup>, 2022, Libyan forces [raided](#) the informal settlements of about 1,000 refugees in Tripoli in front of the UNHCR office, where they had been protesting for over three months. The raid was [conducted](#) by the DCIM and militia groups like the Janzour group. **Violence was used against refugees, people were beaten and [shot](#), and tents were set on fire. More than [600 refugees](#) were arbitrarily detained in the Ain Zara detention centre, where some of them began a [hunger strike](#).** Previously, on October 1<sup>st</sup> 2021, Libyan security forces carried out raids against thousands of migrants in [Gargaresh](#) in Tripoli and detained between 4,000 and 5,000 people, including UNHCR registered refugees and asylum-seekers. At least one person died during the arrests, and 15 others were injured. Most of them were detained in various detention centres under DCIM, such as Al-Mabani and Share'al-Zawiya.

## C. [Accountability for human rights violations in Libya](#)

Generally, a key issue in the Libyan context is the widespread impunity and lack of accountability for crimes committed against migrants and refugees. Even if human rights violations are systematic in detention centres and recurring in sea interceptions, Libyan armed groups and state agencies like the DCIM and Libyan Coast Guard are never held accountable for these crimes. Even more complicated is to hold accountable Member States and the EU for the crucial support they provide in the execution of these crimes. Nonetheless, there have been various attempts to hold authorities accountable for these violations. Recently, a legal team from the associations UpRights, Adala For All, and StraLi filed a Communication to the International Criminal Court demanding the investigation of [war crimes](#) against migrants carried out by Libyan armed groups and officials with the complicity of Italian and Maltese authorities. The Independent Fact-Finding Mission on Libya also stated in its 2021 [report](#) that *“there are thus reasonable grounds to believe that acts of murder, torture, imprisonment, rape, and enforced disappearances committed in the above Libyan prisons are committed on such a scale, and with such a level of organisation, that they amount, in and of themselves, to a systematic and widespread attack against the civilian population. As such, these acts may amount to crimes against humanity”*. Also, there are still some pending cases at the [European Court for Human Rights on push backs by proxy](#) to Libya.

---

<sup>5</sup> Libyan Department Against Illegal Migration

## II. THE HUMAN RIGHTS IMPACT OF BORDER MANAGEMENT MEASURES: THE CASE OF TUNISIA

### A. Tunisia as a major departure point: the sea and land borders

The worsening situation in Libya impacts its neighbouring countries, including Tunisia. In 2019, Tunisia became the main country of departure<sup>6</sup> for people arriving in Italy. In the years after, the percentages of people leaving from Tunisia remained high, making Tunisia either the first<sup>7</sup> or second<sup>8</sup> most common point of departure. Increasing departures from Tunisia are the consequences of various factors, mainly the deteriorating socio-economic situation in the country, worsened by the Covid-19 pandemic.

Another factor is the increasing number of sub-Saharan Africans who choose to transit via Tunisia rather than Libya. Among the reasons are the high risks migrants face in Libya, the easier access to Tunisia, the sea passage from Tunisia to Italy being less dangerous, and the fact that it is easier to depart from Tunisia without going through smugglers because the smuggling networks in Tunisia are less structured compared to the Libyan ones.<sup>9</sup> **Thousands of migrants have arrived in Tunisia from Libya in recent years, and about 3,000 are estimated to be living in the Southern regions (Zarzis, Medenine)<sup>10</sup>. After having left Libya, many of them arrived in the country after being intercepted at sea by the Tunisian Coast Guard.** Indeed, Tunisian border management infrastructures have been strengthened in recent years after many people tried to reach Italy from there. Italy and the EU held high-level meetings with Tunisian authorities in 2021, and the EU pledged [11 million EUR](#) to curb migration flows, with the support of boats and interception boats provided by Italy and the EU. **Other migrants arrived in Tunisia by crossing the land border with Libya.** During EuroMed Rights' field mission in Tunisia in November 2021, [representatives of the Sub-Saharan community](#) stated that due to the horrible conditions in Libya, and after being intercepted multiple times by the Libyan Coast Guard, many migrants cross to Tunisia, mainly to the cities of Sfax, Medenine, and Zarzis.

Although Tunisia is increasingly becoming a major departure point, there are also some - more isolated - cases of migrants who, after crossing from Libya to Tunisia, decide to return to Libya as the price for crossing the sea from Libya is cheaper<sup>11</sup>, and in some cases, [Libyan traffickers do not charge the second crossing](#). There are also reports of expulsions carried out by Tunisian authorities after sea interceptions. For instance, at the end of [September 2021](#), seven boats – four with people from Sub-Saharan African countries and three with Tunisians on board – were intercepted by the Tunisian authorities and brought back to Tunisia. Tunisian citizens were released while around a hundred Sub-Saharan migrants were expelled to the Libyan border. UN experts also [condemned](#) Tunisian authorities for collective expulsions of Sub-Saharan migrants to Libya.

---

<sup>6</sup> <https://data2.unhcr.org/en/documents/details/73536>

<sup>7</sup> <https://data2.unhcr.org/en/documents/details/84531>

<sup>8</sup> <https://data2.unhcr.org/en/documents/details/90072>

<sup>9</sup> [https://globalinitiative.net/wp-content/uploads/2022/01/GI-TOC-Losing-Hope\\_Tunisia-Report-2021.pdf](https://globalinitiative.net/wp-content/uploads/2022/01/GI-TOC-Losing-Hope_Tunisia-Report-2021.pdf)

<sup>10</sup> According to the [National Survey on International Migration](#), 3216 migrants are estimated to be living in the Southern regions (Zarzis, Medenine) in 2020/2021, p. 57.

<sup>11</sup> <https://www.infomigrants.net/fr/post/36129/reportage--des-migrants-echoues-en-tunisie-et-pris-au-piege-dun-pays-qui-na-rien-a-leur-offrir-17>

Tunisia is therefore becoming an increasingly attractive country for Sub-Saharan migrants trying to reach Europe, who enter it from the land borders with Libya or arrive there after being intercepted at sea. The prospects for Sub-Saharan migrants in Tunisia are limited<sup>12</sup>: asylum-seekers do not have protection, the majority of migrants have no way to regularise their status, and unemployment is widespread<sup>13</sup>. All the more reasons that push people to take to the sea. Moreover, migrants who stay irregularly in the country (often overstaying their visas) receive a fine based on the length of their irregular stay. If they do not have a regular source of income, most of them will not be able to pay the fine and will likely resort to irregular ways of leaving the country, mainly by crossing the Mediterranean<sup>14</sup>. In this sense, **the border management policies of the EU and its Member States to curb arrivals mean that migrants are taking more dangerous routes, which increase the number of dead and missing at sea.**

## B. Independent border monitoring mechanism(s) at the national level – Italy/Tunisia

Since Tunisia became a major departure point to reach Italy, Italy has strengthened its engagement on border management and returns with Tunisia. After an agreement signed in August 2020 between Italy and Tunisia, 1,997 migrants were repatriated to Tunisia in 2020 and 1,872 in 2021. Tunisians are the first nationality of people forcibly returned from Italy to Tunisia. However, there is a general lack of information on the practices and measures taken by the Tunisian authorities after the arrivals of people intercepted at sea and Tunisians turned back or expelled by Italy.

On the Italian side, it is interesting to note the role of the National Guarantor of the Rights of Persons Deprived of Liberty, an independent state body, in monitoring forced return flights from Italy. As part of a project co-financed by the EU Asylum, Migration and Integration Fund (AMIF) to strengthen the protection of the rights of foreign citizens who are the subject of expulsion or refoulement decrees, the Guarantor is responsible for monitoring the implementation of forced returns, from the pre-return phase to the presence in return flights. Each follow-up mission is duly documented in a public report containing recommendations to the competent authorities<sup>15</sup>.

The role of the Italian National Guarantor of the Rights of Persons Deprived of Liberty, an independent state body, in monitoring forced return flights from Italy is a positive example. However, its monitoring capacity stops at the airport arrivals of the destination countries, making it thus impossible to know the returnees' fate and carry out proper post-return monitoring. It is recommended that monitoring activities could also be strengthened on Tunisian territory, as well as independent monitoring systems should be foreseen to avoid illegal pushbacks practices.

---

<sup>12</sup> The Sub-Saharan community in Tunisia has also been recently exposed to a surge in arbitrary arrests – mostly targeting students – that are merely based on the racial profiling of individuals, who are arrested even if they have papers to stay in the country.

<sup>13</sup> [https://euromedrights.org/wp-content/uploads/2021/04/EN\\_Chapter-4-Italy-Tunisia-1.pdf](https://euromedrights.org/wp-content/uploads/2021/04/EN_Chapter-4-Italy-Tunisia-1.pdf)

<sup>14</sup> [https://reliefweb.int/sites/reliefweb.int/files/resources/147\\_urban\\_case\\_study\\_Tunis\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/147_urban_case_study_Tunis_0.pdf)

<sup>15</sup> As of 31 January 2022, the Italian National Preventive Mechanism Against Torture monitored the return of 13 Tunisian citizens from Italy to Tunisia. See also: [https://euromedrights.org/wp-content/uploads/2021/04/EN\\_Chapter-4-Italy-Tunisia-1.pdf](https://euromedrights.org/wp-content/uploads/2021/04/EN_Chapter-4-Italy-Tunisia-1.pdf)

### III. RECOMMENDATIONS

The Libyan authorities should:

- Respect human rights and the principle of non-refoulement during sea interceptions
- Amend Libyan Law No. 6 of 1987 that criminalises irregular entry, stay and exit in the country to allow applications for international protection
- Release the people who were arbitrarily detained during the October 2021 and January 2022 raids
- Close all detention facilities in the Libyan territory
- Ensure transparency and access to the southern border and stop mass expulsions

The Tunisian authorities should:

- Ensure transparency of information and monitoring the situation of returnees and people intercepted at sea
- Put in place an appropriate mechanism to ensure the follow-up of persons forcibly returned to Tunisia and strengthen the collaboration with the Italian National Guarantor of the Rights of Persons Deprived of Liberty
- Stop collective expulsions at the border with Libya
- Adopt an asylum law and a legislative framework of protection for asylum seekers and refugees
- Allow regularisation and access to work for migrants and put an end to the system of fine based on the length of their irregular stay

The EU and its Member States should:

- Stop pressuring Libya's and Tunisia's capacity for border management as it deteriorates the rights of migrants and refugees in Tunisia, increases pushbacks at sea and violence against them.
- Increase accountability on the use of EU and Member States' budget for border management projects in Libya and Tunisia
- Focus Member States' and EU's foreign policy on supporting the peace and stability process in Libya and Tunisia, rather than fixating on border management
- Stress that Libya cannot be considered a Place of Safety for the disembarkation of migrants rescued at sea and put in place an EU SAR operation in the Central Med.
- Stop the reinforcement and militarisation of the Libyan SAR zone