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EUNAVFOR MED Operation
SOPHIA: An instrument of the
Common Foreign and Security
Policy of the European Union

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Abstract:

In the last few years the Central Mediterranean has been the main route used by irregular migrants to reach the European Union. The creation of EUNAVFOR MED Operation, within the Common Security and Defence Policy of the EU, has contributed significantly to a reduction in the smuggling business of irregular migrants in this area. The lack of consensus on the migration policy of the Member States makes it difficult for military operations. Adapting the mandate to the changing migratory flows could be made.

Keywords:

Central Mediterranean, migratory routes, territorial sea, smugglers.

***NOTE:** The ideas contained in the Opinion Papers shall be responsibility of their authors, without necessarily reflecting the thinking of the IEEE or the Ministry of Defense.

Migration to the European Union through the Central Mediterranean Route

The arrival of migrants to the European Union through the Mediterranean Sea has been massive during the past few years. According to data provided by the United Nations High Commissioner for Refugees (UNHCR), this situation peaked in 2015 when more than one million people reached European coasts or were rescued offshore.

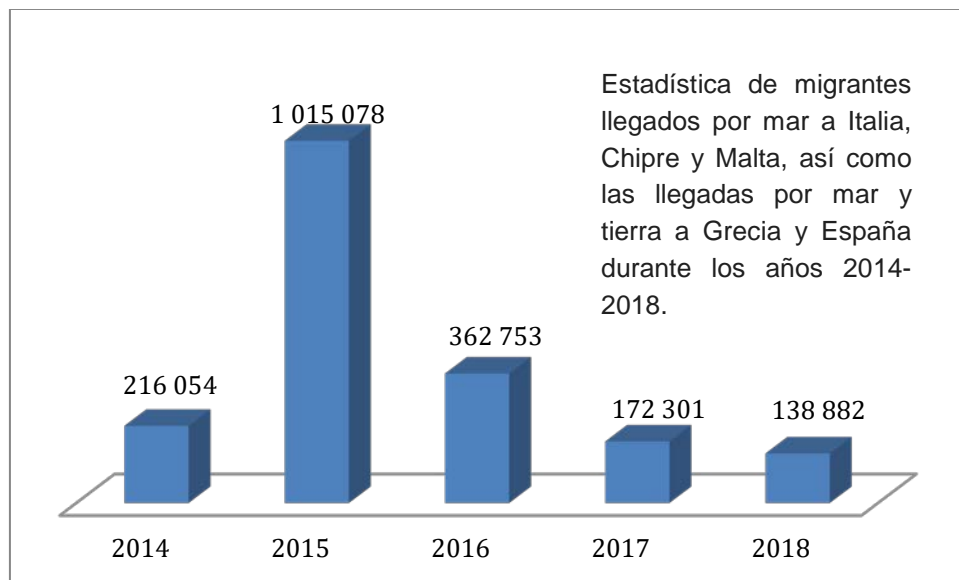


Figure 1: Migrants arrived by sea to Italy, Cyprus and Malta, as well as arrivals by sea and land to Greece and Spain during the years 2014-2018. Source: Data obtained from UNHCR¹

Although migration movements from Africa to the European continent are not something new, it can be asserted that the current trans-Mediterranean migration wave started in 2011 “when some coastal States, basically Tunisia and Libya, lost their capacity to control migration from their coasts due to the so called Arab springs”².

Amongst the main reasons for these migrations there are the internal civil wars and ethnic conflicts on one hand, and economical reasons on the other, favoured by the great economic difference between North and South areas in the Mediterranean Sea either in per capita income levels as well as in welfare state development. The combination of

¹ Available in:

https://data2.unhcr.org/es/situations/mediterranean#_ga=2.122700043.1289697800.1547204246-621559886.1547204246

² ARTEAGA, Félix, y GONZÁLEZ, Carmen, “La respuesta militar a la crisis migratoria del Mediterráneo”, ARI 40/2015, *Real Instituto Elcano*, 2015.

these two reasons makes even more difficult to determine which migrants should be protected by the refugee international agreements.

In any event, the most vulnerable population areas are suffering to a greater extent the violence of armed conflicts, which causes the migration to safer areas and leads to 'an important number of people leaving their countries with the status of refugees'³. This massive migration, in the African case, implies the move to third countries with economies unable to integrate these new migrants, which brings instability to the receiving parties and generates a diaspora of people searching for better opportunities and looking at the European Union as their final destination.

One of the main paths towards Europe has been the Central Mediterranean Route, mainly due to the fragile political situation in Libya after Gadhafi's fall. The great instability and lack of migration control have made of the Libyan coasts the main transit hub to the EU for people "running away from civil wars, sanguinary dictatorships and other violent conflicts in Syria, Eritrea, [...], Mali and other African or Middle East countries"⁴.

European Union political and military response

Increase of the migratory pressure has caused a EU response with the creation of a series of policies aimed to eradicate irregular migration flows from the origin and, therefore, action lines must be applied in origin, as well as in transit countries. Within these measures, the most remarkable are the European Agenda on Migration, the Global Approach to Migration and Mobility (GAMM) and the European Neighbourhood Policy (ENP).

Likewise, the EU Action Plan against migrant smuggling in 2015 highlighted the Central Mediterranean Route as one of the most active and fastest growing hub, and established a necessary cooperation between EU, migrants origin and transit countries, international organisations and civil society.

³ FUENTE COBO, Ignacio, *Las migraciones en el espacio euromediterráneo: causas y perspectivas de futuro*. Documento de Análisis IEEE 53/2017.

⁴ ARTEAGA, Félix, y GONZÁLEZ, Carmen, "La respuesta militar a la crisis migratoria del Mediterráneo", ARI 40/2015, *Real Instituto Elcano*, 2015.

In addition to these political initiatives, a military operation was implemented within the EU Common Security and Defence Policy due to the wrecking of a vessel with 800 migrants in April 2015, giving birth to the EUNAVFOR MED Operation (subsequently called EUNAVFORMED Operation SOPHIA).

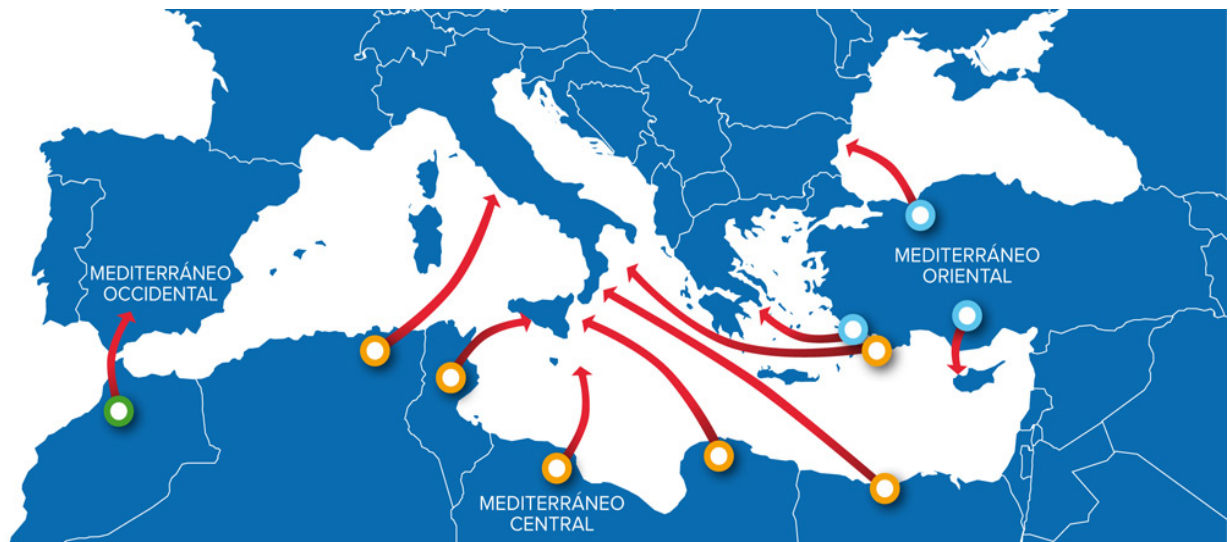


Figure 2: Main migration routes from the North of Africa. Source: UNHCR

Further than its definition as a military operation, there is an important aspect in the text giving birth to the EUNAVFOR MED Operation, which is the fact that there is a great need of a coherent response from the EU as a global agent. Therefore, the High Representative, assisted by the European External Action Service, must inform about the European position to the rest of international agents involved, such as United Nations, NATO, African Union, etc. It is also established the mission must be coordinated with other EU agencies, such as FRONTEX, EUROPOL or the European Asylum Support Office (EASO), all of them involved in the EU Action Plan against migrant smuggling. Hence, right from the creation of the Operation it was explicitly stated that it must be included in the set of implemented measures against smuggling.

Subsequent decisions of the European Council to this respect have expanded the mandate of Operation Sophia and increased its functions, including surveillance of oil illegal trafficking in the Mediterranean and, control of the implementation of UN arms embargo.

Also, Declarations related to external aspects of migration must be added. Dealing with Operation SOPHIA in particular, in February 2017⁵ the EU Heads of State discussed the operation's main weaknesses. This way, they pointed out the need to increase dialogue and cooperation with the Libyan authorities because, as the own document reads, “capacity building is key for the authorities to acquire control over the land and sea borders and to combat transit and smuggling activities”. Therefore, they committed to strengthen the EU cooperation to reinforce the Libyan, and neighbour countries, borders management capacity.

Within the most important measures, it can be outlined the training and support of the Libyan Navy and Coastguard, the search of a greater involvement of third agents with the aim of dismantling the smuggling business and, the support to the main organisations involved in the assistance to refugees and migrants.

Operation SOPHIA scopes

Operation SOPHIA main scope is “the contribution to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean”⁶, which is also considered a contribution to fight against instability in the region, with the aim of increasing safety to other populations in the area, as well as to EU citizens.

Following the European Council Decision 2015/778 to launch the Operation, there have been other Decisions that have added further tasks, such as contribution to the implementation of the UN arms embargo on the high seas off the Libyan coast, surveillance of illegal trafficking of oil exports from Libya, or the training of the Libyan Navy and Coastguard.

Operation SOPHIA is made of three phases that started with the gathering of data to detect and monitor the information networks in international waters. Final stage previous to withdrawal includes the implementation of all necessary measures in the subject State,

⁵ Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route (3rd February 2017)

⁶ COUNCIL DECISION (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED)

including removal or deactivation of all means used for illegal migrants trafficking. To complete this task it is mandatory to follow the corresponding resolution from the UN Security Council, or to have approval of the subject State.

Current phase (2A) started in October 2015 consisting of: “Conduct boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking, under the conditions provided for by applicable international law, including UNCLOS and the Protocol against the Smuggling of Migrants;”⁷.

Even though the Operation was created as a response to a very specific emergency situation, with the addition of new tasks EUNAVFOR MED has become one more element of the whole approach of the EU to face the irregular migration flow, taking into account legal, political, humanitarian and military aspects, among others. Thus, the presence of naval and air means from Operation SOPHIA in the Central Med has turned essential to persuade smugglers to quit their illegal activities in this route.

That is so, that migrants flow has been drastically reduced up to 80% during 2018. A relevant aspect to obtain this success has been training to the Libyan Navy and Coastguard within the Operation frame, which has allowed the Libyan authorities to progressively increase their responsibilities in internal safety, either controlling their territorial waters, as well as controlling migrants departing from their coast.

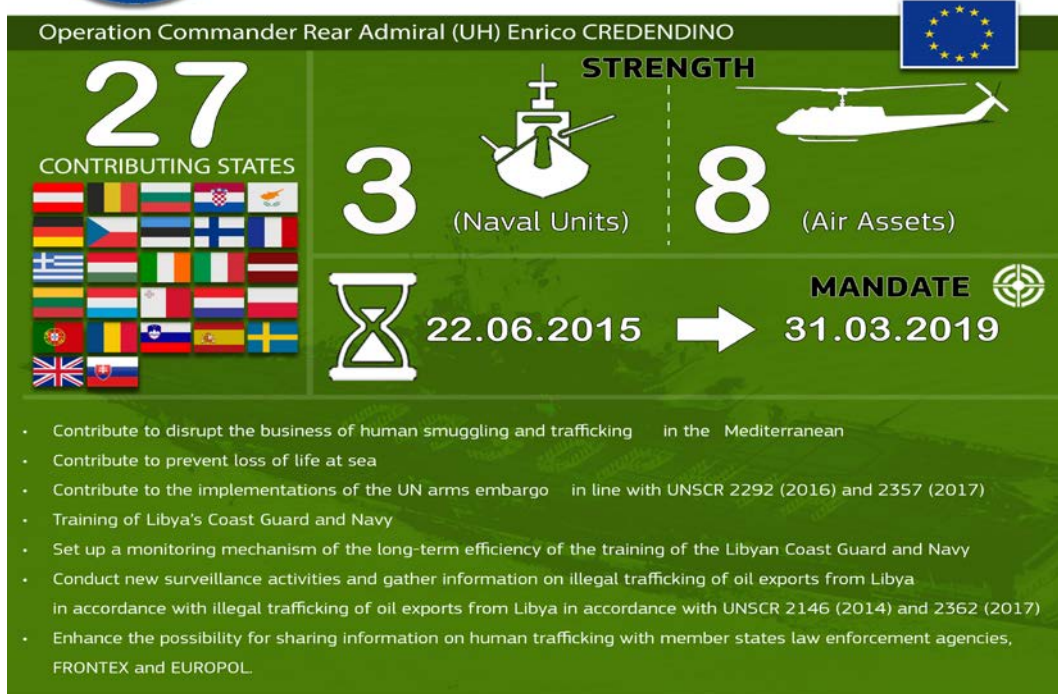
Spain's role in this whole process has been decisive with permanent support through a frigate deployed in the operations area, as well as a maritime surveillance aircraft. Spain has also taken part in the Libyan coastguards training programs and, provides military force in all the Operation Headquarters.

⁷ COUNCIL DECISION (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED)



EUNAVFOR Med

European Union Naval Force - Mediterranean Operation Sophia



Infographic created by the European External Action Service (EEAS)



This graphic and its contents are meant for illustrative purposes only

Figure 3: Participant countries and employed force.

Source: <https://www.operationsophia.eu/mission-at-a-glance/> (visited January 16th 2019)

Suspects' identification

At a military level, the aim of “contributing to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean”⁸ is accomplished jointly by the participating ships and aircrafts, who follow a process to identify suspects of collaboration in migrants trafficking that allows to collect enough evidence to judge them once arrested.

Ships and aircrafts work with high resolution photographic devices that are used to detect, identify and take evidence. These devices perform a facial identification of the suspect

⁸ COUNCIL DECISION (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED)

and, therefore, obtaining high quality air photographs contributes to arrest suspects of human smuggling and take them to Court.

Despite the last data showing a reduction of the number of migrants trying to reach Europe through the Central Med route, the permanence and stagnation in phase 2A, that allows actions in international waters only, makes difficult to obtain real success. The inability to work in Libyan territorial waters is a crucial obstacle because; it allows smugglers to act within the Libyan territorial sea. This way, they have adapted their procedures by staying onshore or towing big boats to the Libyan sea borders proximity and leaving them drifting because, they know Operation SOPHIA ships, as well as those belonging to other involved agents, will increase their chances to be rescued.

In this sense, training the Libyan coastguards as part of the Operation tasks has been decisive to restrain the exit of migrants out of Libyan ports and, has compensated the fact that Operation SOPHIA cannot work within Libyan waters.

On the other hand, the fact that the operating range is limited to international waters causes those leaders of the mafias working in the Central Med are not amongst the arrested and identified smugglers. On the contrary, they are usually migrants who travel in boats trying to reach the EU collaborating with the network of traffickers or, the so called *jackals* who ease the business working from nearby boats and help migrants to reach international waters where they can be rescued. Therefore, these identified or arrested smugglers do not have great decision powers within the criminal organizations. One additional problem is that the wide area to be controlled requires more means than those currently provided by the EU.

For all the above, it is necessary to go deeper into the business model of illegal migrant smuggling to reach the origin of the problem. In order to do so, a permanent and wider cooperation between the origin and transit countries of irregular migrants is required. However, another important fact resulting from the inability of Operation SOPHIA to function within the Libyan territory is that possibilities to obtain data are very limited reducing chances to disrupt this business model. This is one of the aspects to be distinguished at a political level to determine what course Operation SOPHIA must take from March 31st, as expiration date of the current technical extension, more than the need to reach agreements on asylum policies, or even considerations to change the Dublin system.

“In operational matters and the recognition of Eurojust as the centre of judicial and legal expertise in the European Union.”

In any case, there are positive aspects that show a progressive increase of the European implication to fight against migrant smugglers to a wider extent. For example, EUROPOL cooperation with other agencies, such as FRONTEX or EASO to establish how the mafias work, is a clear symptom of the conflict Europeanization in general because, it is about using the European resources beyond the EU borders. Specifically, from October 1st 2015 EUROJUST also works within the Operation SOPHIA frame as a result of signing an Agreement Letter 'to enhance support to prosecution offices affected by illegal immigrant smuggling, [...] or to improve the use of existing international and EU legal instruments in this context [...]’⁹, among others. Even if it does not deal with critical points, contact points have been established 'in operational matters and the recognition of Eurojust as the centre of judicial and legal expertise in the European Union'.

One of the last progresses in this sense has been the implementation of a monitoring cell within the FHQ of Operation SOPHIA, integrated by members of EUROPOL and FRONTEX, with the aim of enhancing investigation and prosecution of human trafficking. It is the Crime Information Cell (CIC) to promote the exchange of information related to criminal activity in the Central Mediterranean.

Migrants rescue and the importance of training Libyan coastguards

Despite the fact that migrants rescue is not the Operation's main goal, the truth is that is the aspect where a greater level of success has been achieved, as well as a greater media impact in public opinion.

Operation SOPHIA does not deal only with direct rescues but also, early detections of its aircrafts have favoured in many cases the activation of emergencies by the Maritime Rescue Coordination Centre (MRCC) of each corresponding area, coping this way with the rest of parties involved in rescue tasks.

The number of migrants has been considerably reduced since the Operation launching. One of the main reasons for this reduction has been the assistance of Libyan coastguards

⁹ EUROJUST: Annual Report 2016

within their territorial waters after having been trained by the EU member states troops, under EUNAVFOR MED guidelines. This fact has permitted that Libyan institutions have a greater control of their territory, although they advise they need support until they reach their final capacities.

Thus, the training goal is that the Libyan Coastguard is able to fight effectively on its own against the mafias operating in their coasts and, restrain the migrant flow trying to reach Europe through the Central Mediterranean Route. Coastguards' training is mainly performed by establishing improvement-training programs in naval bases of EU member states. The need of increasing the information flow to improve safety in the sea and fight against human smuggling is one of the main goals to achieve in the future. Also, it is necessary to enhance integrated maritime exercises to allow a greater empowerment of the Libyan Navy and Coastguard¹⁰.

The near future

Operation SOPHIA is currently going through and impasse stage due to the lack of political agreement within the EU related to the distribution of migrants rescued in the Mediterranean with the Operation resources. At present, the Operation has been extended for three months till March 31st, to allow time to find a solution in Brussels and reach a global agreement able to meet the requirements of all EU member states.

However, final destination of rescued migrants is not the only obstacle the Operation SOPHIA faces for the future. The wide range of agents acting in the area with different purposes, from maritime rescue to fight of illegal smuggling, could be another problem if cooperation between all of them is not achieved. Fragmentation and effort dispersion makes cooperation and coordination difficult and, blurs roles and responsibilities of each actor¹¹.

¹⁰ According to the conclusions of the Shared Awareness And Deconfliction In The Mediterranean (SHADE MED), (November 2017).

Source: https://www.operationsophia.eu/wp-content/uploads/2018/03/terms_of_reference-sm-2015.pdf

¹¹ CARRERA, Sergio, et al., "The European Border and Coastguard. Addressing migration and asylum challenges in the Mediterranean?" Brussels: Centre for European Political Studies, 2017.

In this same context, and according to a report provided by the Centre for European Political Studies (CEPS)¹², obstacles and offsetting of acting in Libyan territory might translate into an increase of violence from smugglers trying to actively protect their business model. Also, the fact that transition to phases 2B and 3 of the Operation needs approval of the Libyan government could be understood as direct involvement of the EU in internal affairs of a third party which, in this particular case, has a delicate political situation.

Russia and China were of that opinion during the discussions previous to approval by the UN Security Council of the Resolutions that legitimate EU actions and lead to the different phases of Operation SOPHIA. Also, the above mentioned report CEPS reveals the impact of mass media on the Operation success, based mainly on the rescue of migrants offshore, which moves to a second position the actions taken to achieve the key objective of disruption of the business model of human smugglers and traffickers in the Central Mediterranean through identification and detection of mere 'enablers'.

Therefore, the current situation is subject to different solutions going from the Operation closedown to a change of stage that allows the EU to act in the Libyan territory. It might also be possible to geographically expand the mandate to a wider area in the Mediterranean Sea to cover the alternative routes for smugglers to access the EU, which include Spain.

The political answer must not be delayed since, extension of the mandate expires March 31st and, the news provide data of thousands of migrants in the North of Libya waiting for their best chance to start their journey to Europe through the Central Mediterranean route.

¹² *Ibidem*.

Conclusions

EU migration policy has become one of the main action fields for the Common Foreign and Security Policy. In order to the prolix regulation, that includes aspects for the contribution to development and cooperation with third countries, as well as a set of political and legal measures, it is remarkable the implementation of Operation EUNAVFOR MED, within the Common Security and Defence Policy, to disrupt the business model of human smuggling and trafficking in the Central Mediterranean Route.

The number of irregular migrants trying to reach the UE through this route has decreased over the nearly four years of the Operation life. The presence of EUNAVFOR MED air and sea resources in international waters at the North of Libya, along with the training of the Libyan Navy and Coast Guard, are crucial to understand these results.

Proliferation of other sea routes to access the EU, in addition to discrepancies between the member states regarding disembarkation policies, are a great risk for the survival of Operation SOPHIA. Up to the time a decision is taken in Brussels, the current situation of technical extension allows phase 2A to go forward operating in international waters. The Operation could be dismantled in the near future or, it could also be encouraged to undertake a new phase with approval to operate in Libyan waters. There is also a possibility of enlarging the Operation's action range to cover a wider area of the Mediterranean Sea.

In any case, military operations represent one of the pillars for development of common foreign policy in coordination with the rest of the implemented programmes.

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Diplomado de Estado Mayor