

# Sahel-Saharan countries, Europe's new sentries

In order to fight against irregular immigration from sub-Saharan Africa -even though it is numerically insignificant on the scale of the two continents- Europe has engaged African countries that look onto the Mediterranean and, more recently, Sahel countries, to control or relentlessly stem the migration movements in the Sahara, often in contempt of basic human rights.

Since the resumption of the so-called "5+5" dialogue in Lisbon between representatives of countries on the Mediterranean's southern (Morocco, Tunisia, Algeria, Libya, with the addition of Mauritania) and northern shores (Spain, France, Italy, Malta, with the addition of Portugal), the "concerted" management of migration flows between Africa and Europe is dominated by the present Europeans security approach.

This translates, in particular, into the requirement that controls be strengthened further away in a southwards direction, and by the willingness to strike readmission agreements with most African countries. This type of externalization on the southern front of the European Union (EU) also aims to contain migrations arriving from the Middle East or Asia.

This intention to "reinforce and make the fight against irregular migrations more effective in countries of origin and transit countries", announced during the ministerial conference on migration in the western Mediterranean (Tunis, October 2002), that has been regularly reiterated since, has entailed the official and de facto hardening of north

African countries' migration policies, within which detention and removals are the daily lot reserved to migrants.

Attention was initially paid to Africa's Mediterranean and Atlantic coasts. At the time, the first large migration control programmes were established, in particular through the setting up of the "SIVE" electronic surveillance system for Spain's southern coasts since 1998, then through the creation of the Frontex agency to manage organizational cooperation by EU member states at the external borders in 2004. But this focus progressively shifted further south, towards Saharan spaces.

The Nigerien-Libyan border, just like the Malian borders with Mauritania and Algeria, have thus, step by step, become priority areas for the fight against "irregular immigration" coming from Africa towards the European Union.

# I – European interference in inter-African migrations – the case of Mauritania

Following the sadly famous events in Ceuta and Melilla in October 2005<sup>1</sup>, the strengthening of border surveillance has led migrants to adapt their routes. New migration routes towards Europe appeared, and the city of Nouadhibou in Mauritania became a privileged departure point in order to reach the Canary islands. Then, over a few months, the European Union (EU) and Spain enacted a combination of measures to prevent departures using dug-out wooden fishing boats. Four years later, their consequence was an actual decrease in arrivals on the Spanish islands, at the price of thousands of arrests and detentions which did not have any legal basis and of collective removals at borders, whose execution -under European pressure and with European funding- is a task entrusted to the southern countries.

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## The “crisis of the cayucos”

Since the end of 2005, the press carried reports of shipwrecks and of people who drowned, who increased the list of *the unnamed and uncounted*<sup>2</sup>. This extensive media coverage could have been an opportunity to focus on the real causes for these deaths a few months after the dramatic events in Ceuta and Melilla<sup>3</sup>, but it primarily served as an alibi for Spain and the EU to impose measures upon Mauritania to “assist” it in controlling its sea borders and in repatriating migrants, and serial repatriations followed at a frantic pace just a few months later.

### 1. Cooperation instigated by Europe

#### Returning, intercepting and displacing Europe's borders

Very quickly, the Spanish government organized the return to Mauritania of migrants who had reached the Canary islands by relying on a bilateral agreement from 2003<sup>4</sup> that contained a clause for the readmission of nationals and non-nationals who were in an irregular situation in Spain, in cases in which it was “assumed” that they had travelled through Mauritania.

**“Blocking” migrants: the example of the Marine I.** In January 2006, the ship *Marine 1*, carrying 369 people, was intercepted by the Spanish law enforcement forces in the high sea off the Canary islands, and was escorted close to the Mauritanian coast. Following a diplomatic conflict, the passengers, who had stayed on board for nearly 15 days, disembarked in Mauritania and were detained in a hangar for storing fish under the control of Spanish law enforcement forces. 25

2. *Ibid.*

3. Migreurop, *Atlas des migrants en Europe*, « Morts aux frontières : les routes changent mais les drames subsistent », p.116.

4. Madrid, 01/07 2003. [www.lexureditorial.com/boe/0308/15555.htm](http://www.lexureditorial.com/boe/0308/15555.htm)

1. Migreurop, *Guerre aux migrants, le livre noir de Ceuta et Melilla*, Syllepse, 2007.

people, including some asylum seekers, were transferred to the Canary islands before they were sent back to their home countries, as their applications were deemed inadmissible by Spain. Others were transferred to Cape Verde, then to Guinea, or they were returned to their countries after several weeks' detention. In this way, 23 people were sent back after more than three months' detention, and six were transferred to Melilla as a result of their psychological condition that was connected to their detention<sup>5</sup>.

In March 2006 in Nouadhibou, outside of any legal basis, a former school was converted into a detention centre with the participation of the Spanish army. Managed by the Mauritanian Red Crescent with support from the Spanish Red Cross, its goal was officially that of "receiving" migrants who were intercepted or sent away from Spain, while they awaited their return towards the borders of Senegal or Mali.

In May, Spain announced that it wished to enact "a global policy for sub-Saharan Africa that is ambitious and at the same time realistic and concrete"<sup>6</sup>. It launched a three-year "Plan Africa" that was later renewed, whose wide-ranging<sup>7</sup> measures primarily aimed to promote the reaching of readmission agreements and the strengthening of cooperation in policing.

In June, some African and European leaders met in Dakar in order to prepare an action plan "against illegal immigration" in preparation for the first Euro-African "migration and development" ministerial conference<sup>8</sup>. Undoubtedly for the purpose of allowing a better acceptance of a series of securitarian

measures, the plan also envisaged improving economic cooperation and the development of trade in countries of origin.

In July, the measures announced since the month of March after the visit of a Spanish delegation to Mauritania were implemented. The Frontex agency deployed some ships for rapid intervention as well as joint sea and air patrols for border surveillance. Operation Hera, envisaged to last for a few months (July to October 2006), was renewed (Hera II, from August to December 2006, and Hera III, from February to April 2007), and was later institutionalized (Hera 2007, 2008, 2009 and 2010). These operations, which were allocated a considerable budget<sup>9</sup> as well as quasi-military means (planes, helicopters, boats, radars), enabled the collection of information about travel routes, the identification of migrants, the surveillance of coasts and their return. Over two million euros were also released by the EU within the framework of the "rapid intervention mechanism" for the purpose of funding, among other activities, the operation of the boats made available by Spain and Mauritania and the coast surveillance patrols, equipment, training, detention and the return of migrants towards their home countries<sup>10</sup>.

This mechanism for the containment of migrants on the African continent continued later, while migration issues had become one of the unavoidable elements of European cooperation with west African countries including Mauritania and Mali.

## Sealing west African borders

The documents on EU cooperation with Mauritania concerning the awarding of European development funds (EDFs) speak volu-

5. APDHA, *Report on the southern borders*, 2007, CEAR, *Report on the situation of refugees*, 2008.

6. Plan Africa, <http://www.maec.es/SiteCollectionDocuments/Home/planafrica.pdf>

7. Increase in fishing, cooperation in the field of security and border controls, development aid, promotion of private investment in the energy and fishing sectors.

8. Euro-African ministerial conference on migration and development, 10-11/07/2006, Rabat.

9. Hera II (127 days): 3.5 million euros; Hera III (60 days): 2.7 millions; Hera 2007: 5.4 millions. <http://frontex.europa.eu>

10. Mauritania: new measures to fight illegal emigration towards the EU, Brussels, IP/06/967, 10/07/2006.



**The Nouakchott traditional fishing port (photo: Gwenaëlle de Jacquélet)**

mes. Migration, which had not featured until 2006, have become a key element.

Thus, within the framework of the 10th EDF (2008-2012), eight million euros have been allocated for “qualitative improvement of the work undertaken at border posts, support for the services entrusted with surveillance of the territory, the training of services responsible for managing migrations, raising awareness about the dangers of irregular immigration, the review of the legal framework and penal procedure, reflection concerning the regularization of migrants and the development of a regional partnership for the positive management of flows<sup>11</sup>”.

Mauritania’s capability to “manage migration flows” has now become an indicator of its “governance profile” at the same level as respect for human rights, the rule of law or economic policies. Hence, the Mauritanian government has committed to “drawing up

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11. Mauritania-European Community, *Country strategy paper and national indicative programme for the 2008-2013 period*.

and implementing a global strategy for the management of migration flows” that, in particular, envisages the punishment of illegal networks, the strengthening of border controls and the adaptation of legislative and regulatory procedures<sup>12</sup>.

The integration of these issues into the fields covered by European development aid is undoubtedly not a result of Mauritania’s interests, as the largest part of these funds were only meant for security aspects and for adapting national legislation, even though this country has always been on the receiving end of considerable immigration.

Nonetheless, this cooperation enables the EU to keep migrants further away from European borders. Thus, in its 2009 report, Frontex notes that Operation Hera is “the most successful” one undertaken by the agency, due to the “close cooperation with west African countries” and particularly as a result of the arrests carried out at departure points, without it being disturbed by the conditions

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12. Mauritania-European Community, *ibid*.

in which they occur or about their consequences.

These measures, which are portrayed as seeking to “save lives”, are in fact a long way away from protecting migrants. They have mainly enabled the removal of the violence that they endure from our view and to leave responsibility for their repression to the southern states.

## 2. Mauritania tramples on its own principles and conforms

In order to satisfy the external requirement to reduce “migratory pressure”, Mauritania arrests, detains and arbitrarily returns back people suspected of wishing to “illegally” migrate to Europe.

However, apart from immigration in transit through Mauritania, the history of this scantily populated country<sup>13</sup> is deeply linked to that of immigration because, since its independence, it has received a substantial foreign workforce to fill jobs that were left vacant by its nationals, such as in construction and fishing<sup>14</sup>.

### A legal framework that, a priori, favours free regional movement

Although Mauritania withdrew from ECOWAS in 1999, it kept legislation that complied with its tradition of receiving migrants and its need for foreign labour, as well as privileged ties with neighbouring countries. Thus, a 1963 bilateral convention with Mali governed the movement of their nationals between the two countries.

In general terms, the stance of legislative texts that regulate the entry and residence of

foreigners that date back to the 1960s favours the movement and settlement of foreigners. Mirroring the convention with Mali, numerous west African nationals could enter and travel around Mauritania with a simple identity card. Formalities concerning residence in the country were basic<sup>15</sup> and remained scarcely applied. Likewise, not having a work permit was not deemed illegal<sup>16</sup>.

### Violations of legislation on foreigners, at Europe’s service

#### *Stops without a legal basis*

Although Mauritanian legislation envisages penal sanctions in cases involving a foreigner’s irregular entry or residence, and prison terms of up to six months<sup>17</sup>, the reasons for migrants currently being stopped are not based on these texts.

The people arrested by Mauritanian security forces have been sent back by Spain or by Morocco, intercepted at sea, or even suspected of seeking to leave Mauritanian territory to head towards Europe. On the basis of this last reason, operations to check identity based on physical traits and of collective arrests that target sub-Saharan people are organized in dormitory-homes and in the port, where many foreigners work.

However, leaving or seeking to leave the territory irregularly towards Europe is neither a crime, nor even an offence. Foreigners who enjoy a special regime that is governed by a bilateral settlement convention “may freely leave the territory” and ordinary foreigners “must have their identity card stamped by the administrative authority of the place they

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13. A population of three million in 2007.

14. A. Choplin, « L’immigré, le migrant, l’autochtone : circulation migratoire et figure de l’étranger en Mauritanie », *Politique africaine*, n°. 109, p.73-90.

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15. Decree no. 64-169 of 15/12/1964 on the immigration regime.

16. OIM, *Migration en Mauritanie, profil migratoire 2009*, p. 48.

17. Law no. 65,046 of 23/02/1965 on penal measures concerning the immigration regime.



leave from<sup>18</sup>". No sanction is envisaged for cases in which this formality is not complied with. In 2008, Amnesty International was the first international organization that criticized the illegal nature of these checks, detentions and removals of migrants, and their connection with the pressure exercised by the EU on the Mauritanian government<sup>19</sup>.

In fact, this reason that is beyond debate is clearly recognized by both the EU -as Frontex expresses its satisfaction<sup>20</sup> for the decrease in departures from Mauritania due to arrests prior to departure- and Mauritanian authorities, which record it in their communication concerning the turning back of foreigners<sup>21</sup>:

– *Nouadhibou, on 29/09/09* [list of 19 people]: “intercepted following an attempt to undertake an illegal journey to Europe”;

– *Nouadhibou, on 07/08/06* [list of 21 people]: “intercepted in Thiarka during an illegal immigration attempt”.

### ***Detention without a legal basis***

At first, the detention of migrants takes place in police stations in Nouadhibou, where they are subjected to questioning to identify them, without legal assistance or help from an interpreter. No administrative procedure is enacted and they do not have any possibility to exercise a right of appeal. Only refugees recognized by the High Commissioner for Human Rights (UNHCR) in Mauritania can sometimes be freed, when the agency is informed of their arrest.

Most of them are subsequently transferred to the Nouadhibou detention centre that was set up with assistance from Spain (see above). There is no text to regulate its operation or even its existence, and this centre does not even appear to have an official name: it is referred to as a “reception centre for illegal immigrants” by the Mauritanian authorities, a “holding centre” or “detention centre” by Spain, “Red Cross centre” by the migrants, and it has also been nick-named “*Guantanamo*”<sup>22</sup>.

## **3. Subcontracting repression and endangering foreigners**

This repression gives rise to situations that are as tragic as they are absurd, and they reveal the lack of consideration that governments have for these people, who merely seem to be reduced to the status of “illegals”. The arrests in Nouadhibou lead to situations that are frightful; in just a few hours, a life can effectively collapse. In the name of the protection of European borders, because they are foreigners in a city that is accused of being a “revolving door for illegal immigration” and in which procedures for stopping presumed migrants are not based on any law, they become things that are moved, taken away, and whose existence can be ruined.

### **Multiplying arrests for financial opportunism**

The measures adopted by the EU and Mauritania in 2006 and 2007 contributed to dissuading migrants from embarking in Nouadhibou on their way to Europe. While 31,678 people were detained in the Canary islands in 2006, they were no more than

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18. Decree 64-169 of 15 December 1964 on the immigration regime.

19. Amnesty international, *Mauritanie, personne ne veut de nous*, 01/07/2008.

20. Frontex, *General report 2009*, p.43. [www.frontex.europa.eu](http://www.frontex.europa.eu)

21. Communication by the Regional Director for Security of Nouadhibou to the Director General for National Security. We were able to consult these documents, a copy of which is handed to Malian authorities when returned people arrive, in Gogui in February 2010.

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22. Lit. “little Guantanamo” [translator’s note], Amnesty International, *op cit*, p. 23.

9,181 in 2008 and 2,246 in 2009, according to the Spanish interior ministry<sup>23</sup>.

Although it is difficult to obtain figures concerning arrests and detentions in the centre in Nouadhibou, it appears that their decrease is far from being as spectacular. In 2008, unpublished sources claim that between 3,700 and 4,400 people were detained, that is, between 300 and 360 people per month. According to the figures that are very seldom published by the Spanish Red Cross, between October 2006 and June 2008, 6,745 people passed through the centre<sup>24</sup>, equivalent to 337 people per month. Hence, the monthly average of the number of people detained from late 2006 until 2008 appeared to have stayed relatively stable, even though arrivals in the Canary islands had fallen by 70%.

A majority of the people who are arrested at present are arrested on Mauritanian territory. These arrests, which are based on mere suspicion, increasingly entail excesses such as charges, the stigmatization of the black foreign population and arrests of people who are settled and have worked in Nouadhibou for some years already.

Following the example of other countries such as Morocco, Mauritania must show that it fights “illegal” immigration effectively in order to continue receiving credits from the EU. Moreover, as a result of the fact that lucrative local activities have developed around the “market” of the repression of migrants (that run from job creation through to the corruption of police officers), associations and migrants believe that, in practice, a policy of figures that seeks to prove to the Spanish that the detention centre is productive has been introduced. Hence, particularly since 2009, they report a multipli-

cation of arrests that are sometimes entirely unfounded, and every foreigner has become a potential “illegal migrant” who is liable to be stopped: “They [Mauritanian police officers] caught me twice in my room to send me to Mali. Whereas in fact, I was not an illegal, I worked. I worked as a cook<sup>25</sup>”.

## Detention conditions that undermine rights

During their arrest and/or detention, some migrants are victims of humiliating treatment and violence, and they are sometimes stripped of all their belongings<sup>26</sup>. They speak of the difficulties of having access to medical care and staff in the centre. There is almost no possibility of applying for asylum, even though after a few months an operational partner of UNHCR, whose role was to identify asylum seekers and refugees, was granted authorization to visit the centre.

“When I was arrested by the Mauritanian police officers in Nouadhibou, I was handcuffed like a criminal, I was taken to the police station’s prison and to the centre of the Red Cross. I stayed there for two days, and I was expelled on the third day. [...] In the centre, one can only leave to piss and you can only go to do it with a police officer, you piss and then you return. [...] Down there, the Mauritanian police officers, they beat people to death<sup>27</sup>”.

“In the detention centre, the Mauritanian police mistreated us. You had to pay for everything, even to go to piss<sup>28</sup>”.

In the absence of regulations, the length of detention is variable and unlimited. Accord-

23. Interior ministry, *Results of the fight against illegal immigration, 2008*. [www.mir.es/DGRIS/Balances/Balance\\_2008/pdf/bal\\_lucha\\_inmigracion\\_ilegal\\_2008.pdf](http://www.mir.es/DGRIS/Balances/Balance_2008/pdf/bal_lucha_inmigracion_ilegal_2008.pdf)

24. Le monde diplomatique, «Une ‘Guantanamo’ en Mauritanie», Zoé Lamazou, October 2008.

25. Testimony by C. collected in February 2010 in Gogui (Mali). AME-AMDH-AEC mission.

26. Amnesty International, *op cit*.

27. Testimony by T. collected in February 2010 in Gogui (Mali). AME-AMDH-AEC mission.

28. Testimonies by Amadou and Moussa, refouled to Mali from Mauritania, in APDHA-AME, *Une autre frontière de non-droit : Mali-Mauritanie*, p.59.



**Detention centre surrounding wall, Nouadhibou, Mauritania**  
(photo: Gwenaëlle de Jacquelot)

ding to the Red Cross, it varies between three hours and 15 days depending on the number of migrants who are detained and on the possibility of “filling up” the minibus that will take them to the border.

In a report sent to the Spanish and Mauritanian authorities in 2008<sup>29</sup>, the Comisión Española de Ayuda al Refugiado (CEAR, Spanish Commission for Assistance to Refugees) deemed that Mauritania should “proceed to close it immediately” and that “the Spanish government and the European Union [...] should also immediately suspend cooperation in migration matters for any operation that leads to migrants’ detention in Mauritania in the conditions that we have described”.

In January 2009, the Association mauritanienne des droits de l’homme (AMDH) complained about the persistence of this repressive

policy in spite of ceaseless recommendations in these words:

“This centre that the authorities refer to as of “reception” resembles a real prison because migrants are locked in closed cells there, on bunk beds, with up to 30 people in them, without adequate ventilation nor daylight entering. They cannot leave. Those who wish to go to the toilet must wait for several hours and sometimes have to relieve themselves in buckets that are placed inside. The police officers who provide surveillance often refuse to open the doors for them using the pretext of the risk of people escaping. The centre is not subject to any regulation that sets the length of detention, the reasons for removal and the possibility for NGOs to have access to them<sup>30</sup>”.

29. CEAR, *Evaluation report on the Nouadhibou detention centre for migrants (Mauritania)*, December 2008.

30. AMDH statement for a “right of access” to the Nouadhibou-Mauritania detention centre, 31/01/2009.



## Serial collective refoulements

In spite of the bilateral free movement agreements signed with neighbouring countries, without any readmission agreements, without notification of removal measures and in degrading conditions, hundreds of migrants are turned back every year by Mauritania towards Mali or Senegal. The decision to send someone to either of these countries is taken in the detention centre, based on their nationality and, at times, their choice. They are then loaded into a minibus that can hold up to 22 people, and they travel up to Nouakchott, where other arrested migrants sometimes join the convoy. According to the Mauritanian Directorate for Territorial Surveillance, 4,499 migrants were deported in 2006 and 4,148 were sent back in 2007.

Some had been returned previously from Morocco and Spain, with over 11,000 people sent back to Mauritania in this way in 2006, 6,634 in 2007 and 740 in the first two months of 2008, according to interior ministry data reported by the International Organization for Migration (IOM)<sup>31</sup>.

The widespread violence, fear and displacement<sup>32</sup> that these serial refoulements lead to often punctuate the migration journey. Some people have been intercepted at sea or returned by the Spanish from the Canary islands to Mauritania after a testing crossing that lasted several days, during which other passengers have often died:

“We went a bit far. There were some who were ill, there were even some who died in the cayuco [wooden dug-out fishing boat]. We have not brought the bodies with us. When they died, we put them in the water<sup>33</sup>”.

31. IOM, *Migration in Mauritania, migration profile, 2009*. p. 49.

32. Migreurop, «Errances aux frontières internes et externes de l'Europe», *Atlas des migrants en Europe*, p. 102.

33. C., testimony collected by AME and AMDH in Niore du Sahel, Mali, February 2010.

Others were deported by Morocco to a desert no man's land that is 55 km away from Nouadhibou and is nick-named “*Kandabar*” because of the mines that there are following the Western Sahara conflict. Since 2005, the NGO Médicos del Mundo España (MDM, Doctors of the World) has criticized the abandoning of groups of migrants in this area by the Moroccan authorities, and the death of two of them<sup>34</sup>.

### *Towards Senegal: the “small refoulement”*

Removals of people to Senegal take place in Rosso and generally happen quickly, as the city is only a few hundred kilometres away from Nouakchott on a high-quality major road.

As Senegal regularly refuses to readmit non-Senegalese nationals into its territory, the Mauritanian authorities often make migrants cross the border river at night, on makeshift canoes. On the other bank, the Senegalese Red Cross, funded by its Spanish counterpart, then takes charge of moving them on again by paying their bus ticket to Dakar or to the nearest large town to their home region. Removals to Senegal are supposedly more numerous than those to Mali due to their being easier to carry out for the Mauritanian authorities and the many migrants for whom this “small refoulement” will mean that they will be able to go back rather easily and quickly.

### *Deportation towards Mali: over 1,200 km to travel*

The route towards the Malian border is far longer and more exhausting. 1,200 km. separate Nouadhibou from the border with Mali, a journey that lasts between two and

34. MDM, *MDM a repéré 16 migrants subsahariens abandonnés dans le désert entre le Sahara occidental et la Mauritanie*, 9/09/2008; MDM denuncia el abandono de 53 inmigrantes en el desierto entre Sahara Occidental y Mauritania, 29/08/2006. Point chaud on line, *34 migrants clandestins portés disparus*, 17/11/2009.

four days without many stops and with nourishment that the migrants deem insufficient. Controlled by the Mauritanian police, they undergo this trip in degrading conditions that have been detailed by many accounts<sup>35</sup>.

“There were 84 of us in the detention centre. We were all removed by minibus. There were 18 people in each minibus. It took us three days. [...] I was expelled three times from Mauritania. When they [the police] remove us to Gogui, they hand us over to Malian police officers. We had to walk for 65 km. from Gogui to Nioro. The Malian police officers told us that they couldn't care less, that they do not have the money to transport us<sup>36</sup>”.

When the migrants, who are sometimes handcuffed, arrive in the small border village of Gogui, they are accompanied to the border post. The Malian authorities then sign a “discharge” document that includes the number of migrants, their nationality, names, the reason for which they were stopped (“attempt to illegally migrate to Europe”), but also the balance of the money that is meant to cover the costs of the journey, which they are given by the Mauritanian authorities but whose source remains a mystery<sup>37</sup>.

From the end of 2005 to January 2009, the Malian authorities in Cercle de Nioro<sup>38</sup> have recorded 4,215 returned people<sup>39</sup>. According to the findings of the AME representative in Nioro, at times the police also removes people to small villages along the border, without passing through the border post in Gogui. This post, like sixteen others on Malian territory, was created in 2008

within the framework of projects funded by Spain to “fight illegal immigration, terrorism and organized crime”, in which France takes part for training purposes<sup>40</sup>.

## Rudimentary and inappropriate medical care

In spite of the ordeal that a deportation or a crossing of the Atlantic can present, during their detention in Nouadhibou migrants do not have adequate access to health care and, even less, to psychological support. In its report, CEAR notes that despite there being minimal care, the distribution of certain medicines and the possibility of the most serious cases being admitted into hospital, “insofar as the protection of health is concerned, detention conditions in the centre constitute a threat for the well-being of people subjected to return procedures<sup>41</sup>”.

Upon their arrival in Mali, returned people are often in worrying physical and psychological conditions. On 8 July 2009, two of them died when they arrived in Nioro du Sahel, having lacked the medical care they needed before or during their removal.

Responsibility for the medical care of returned migrants depends entirely on solidarity from local people and the commitment as citizens of three doctors from the hospital in Nioro, who note that no provisions are made at the level of the health care system, and that only the most serious cases in which the hospital is seized are taken into its charge. There are no systematic check-ups upon arrival, and nor is there a real emergency care system, in spite of some volunteers from the local Red Crescent in Gogui having received training<sup>42</sup>. The people who require care, but whose health condition does not appear to be

35. AME-APDHA, *Another border without rights: Mali-Mauritania*, 2009.

36. Testimony by Ousmane (returned in April 2009), collected in February 2010 in Gogui. AME-AMDH-AEC mission.

37. APDHA-AME, *op cit*.

38. “Cercle”: Administrative division of a region.

39. Interview with the Prefect of Nioro, AME-AMDH-AEC, February 2010.

40. Franco-Malian committee on migrations, 7th session, decision statement, 14-15/12/2006.

41. CEAR, *Evaluation report on the Nouadhibou detention centre for migrants*, December 2008, p. 18 and p. 28.

42. AME-APDHA, *Une autre... op.cit*.

serious, are not taken to hospital. Well, they also immediately hesitate to go there as they lack the means to pay for their check-up and medicines.

## **Solidarity as a response by the “returned”: the example of Mali**

When they arrive in Mali, the returned are left to their own devices and can only rely on the solidarity of people like themselves, of the population and of local authorities that find themselves having to “manage” the reception of returned people, regardless of their will.

“When we arrive, they do not take us to Nioro, they leave us in Gogui. The Mauritanians, they say that they hand over some money, but in fact, the money that they hand over cannot get us to Nioro. When our group arrived, they handed over 8,000 Ouguiyas [around €22] for 37 people<sup>43</sup>”.

The discharge papers signed by Malian authorities upon the arrival of returned people confirm this claim. For example, they state:

– *Discharge of 29/06/2006, 23 people, 1,500 Ouguiyas* [around €4]

– *Discharge of 03/10/2006, 25 people, 6,000 Ouguiyas* [around €17].

### ***Goodwill and improvised means***

From then on, solidarity is what enables migrants to leave Gogui. Local carriers will accept to drive them to the capital of the Cercle, Nioro, around sixty kilometres away, as long as they pay for the fuel costs. If they lack any support, some returned people sell what they have:

“Then we sold the covers and added a little bit of money to be able to reach Nioro. The

police asked the driver to take those who were returned<sup>44</sup>”.

Since a few months ago, returned people are supposedly transported to the Nioro or the Kayes prefecture, thanks to a gendarmerie vehicle that was paid for by Spain or thanks to a local association, Human Help, that was set up in Gogui in August 2009. It was funded for a year by the Migration Information and Management Centre in Mali (CIGEM), a Mali-based institution that was started up in 2007 by the European Commission using European funding.

Local authorities and the population have been trying to organize since the first deportations in 2006, but the lack of means and political will at the national level mean that the few attempts that have been made to set up a reception mechanism amount to personal initiatives not to abandon these people. The first meals generally come from collections among families. Thanks to two tents that have been set up in Gogui by Human Help, the migrants are no longer forced to sleep in the open air while waiting to leave the border village.

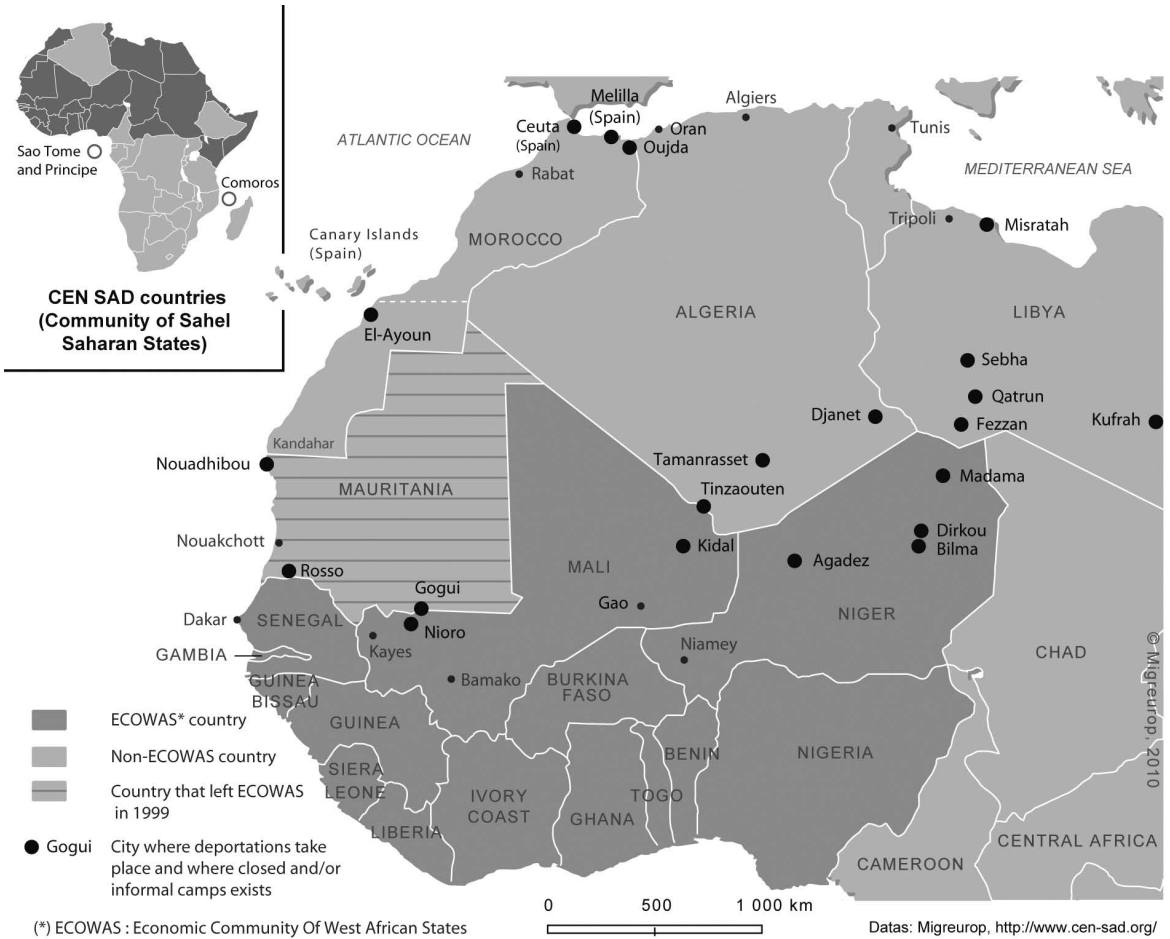
In Nioro, after the most massive waves of returns, a camp was improvised in the prefecture’s administrative offices. While the building comprising two cramped rooms that were not fitted out for this purpose and lacked hygienic conditions is no longer used, the town council has not been able to provide alternative accommodation. Yet again, it was as a result of a personal initiative that made it possible to rent a small house for the last seven months that is managed by former returnees which serves as a site for initial reception.

Moreover, some returnees have formed associations, like the Association des rapatriés d’Europe résidents à Nioro du Sahel (Arenes, Association of Nioro du Sahel residents repatriated from Europe), which was officially created in June 2008, and which has

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43. Testimony collected by AME, AMDH and AEC, Nioro du Sahel, February 2010.

44. *Ibid.*



## Zones of “free circulation” for people, now increasingly controlled

set itself the goal of assisting and supporting initiatives for the benefit of returnees. An AME volunteer who is in Nioro also seeks to coordinate and plead with the different actors that are necessary to take minimal charge of the returnees. The arrival of a branch of the Malian Red Cross in January 2010 has raised a degree of hope at the local level, in spite of some scepticism about the activities it will undertake.

## *Relations between Sahel countries at risk*

Despite the helplessness and feeling of abandonment felt by most of the people we spoke to -activists, migrants, the population or authorities-, and in spite of a general consensus that migrants should not be treated like criminals, the concern to maintain “good relations” with Mauritania is strongly felt. Only some returnees criticize the fate that they have suffered and sometimes sponta-

neously rebel upon arrival in Mali<sup>45</sup>, but very few representatives of Malian authority dare to condemn the treatment of migrants by the neighbouring country. Many appear to be aware of the devastating effect that migration policies could have on relations between the two countries, unlike the EU and its member states. The complete lack of reaction from Malian authorities, both in terms of condemning the deportations and of taking charge of returned people, may also stem from this interest in keeping things as they are with Mauritania.

European policies enacted towards Mali and Mauritania since 2006 and the excesses that derive from them have several consequences for the rights of foreigners. They entail risks insofar as diplomatic relations between different countries are concerned throughout the region. In particular, one could consider the specific context of Mauritania, which comprises *black and Moorish* communities, and which still bears the marks of the internal conflict of 1989-1991 that pitted the two populations against each other<sup>46</sup>. Now, by exerting pressure on this country to make it expel foreigners who are largely Senegalese and Malian, the EU seems to ignore the consequences that the stigmatization of black foreign populations may have on Mauritania's stability, and on that of the region.

In just a few months, through its interference, the EU has managed to disrupt the modes of movement and reception that these two countries have chosen and made official through a bilateral agreement<sup>47</sup>, without wei-

ghing up the history and the need for this inter-African mobility for both the Malian people who find work and hence the means for survival in the neighbouring country, and for Mauritania, which has a real need for foreign labour. As a local official stated, "European countries' policies cause many wrongs to candidates for emigration and to our different countries"<sup>48</sup>.

GdJ, A-SW

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45. Interview with the Mayor of Gogui and his assistants, February 2010. See also, AME-APDHA, *Ibid.*

46. This conflict had led to the expulsion of tens of thousands of black Mauritanian citizens towards Senegal and Mali. Cf. C. Becker and A. Lericollais, « Le problème frontalier dans le conflit sénégal-mauritanien », *Politique africaine*, no. 35, 1989, pp. 149-155.

47. Convention on the settlement and movement of people between Mali and the Islamic Republic of Mauritania, 25/07/1963.

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48. Interview with the Mayor of Nioro and his assistants, February 2010.



## Tinzaouaten, the “city of madness”

A joint mission Migreurop and the Comité contre la faim et pour le développement (CCFD-Terre solidaire) took place in October 2009 in Tinzaouaten, a town on the Algerian-Malian border. It allowed us to shed light on this region about which little is known, which is one of the revolving doors for migrations in the Sahel region. There, the deportation of migrants are carried out in the absence of any formal readmission agreements. Thus, hundred of migrants are transferred every month from Algeria to Mali, in conditions that are too often inhuman and degrading.

### Algeria: a new police for Europe

Located in a strategic geographical position, both for the departure of its own nationals (harragas) towards the European continent, and for the transit and settlement of sub-Saharan migrants, Algeria has been made, after Morocco, Turkey, etc., to play its role in the externalized control of borders as prescribed by the European Union (EU). The

adoption in 2007 of an immigration law that copies the French texts in this field, and which sanctions the round-ups and deportations that Algeria has been practising for several years, makes it easy to perceive its cooperation with the EU in terms of the “management” of migration flows.

As has already happened in neighbouring Morocco, for certain migrants, transit has grown longer in time up to the point where it has become a lengthier settlement, with the Algerian stage allowing them to save up some money for the purpose of continuing their migration route in Africa, or towards Europe. Thus, building sites in Algeria which require a workforce are brimming with underpaid sub-Saharan workers who are subjected to poor working conditions.

However, in collaboration with site managers, the authorities proceed to carry out arrests of migrant workers once the bulk of the work has finished, and this happens just before the date when, in theory, their wages will be paid. These round-ups take place in cities with a large concentration of foreigners like Algiers, Oran, Inshahla or Tamanrasset, but also around Djanet (on the Libyan border): to carry out



Rules of the Cameroonian ghetto in Tinzaouaten (photo: Sara Prestianni)



**Desert no-man's-land of Tinzaouaten (photo: Sara Prestianni)**

*the round-ups, the police patrol the roads and enter homes or workplaces.*

#### ***The spiral of deportation***

*These arrests automatically lead to police custody during which the migrants are brought before a court, without a lawyer and with interpreters (only for French and English). The ruling systematically results in detention, whether it is in a common law prison, cells that are reserved for migrants, or in some authentic detention camps for foreigners.*

*Migrants interviewed in Gao, Kidal and Tinzaouaten who had just been expelled from Algeria, criticize the detention conditions in Algerian camps. They tell of how they were forced to live in unhygienic cells, crammed within a few square metres, under-nourished (a piece of bread and a litre of milk for five people per day). Their account explains the veritable “spiral” in which they are caught once they are arrested: from detention to refoulement. Every ten or fifteen days, they are transferred to camps that are further south. Taken in lorries in groups of between 50 and 100 people from the respective places where they were arrested, they all converge towards the camp of Tamanrasset. This town, in the middle of the desert, is also a place of transit, of greater or lesser length, for migrants who have come from the south:*

*those who are not in the camp either live in the town or in hiding in some caves on the outskirts of town, sometimes in fear of the locals’ racism and especially of the possibility of experiencing problems with the police.*

*From Tamanrasset, Algerian police officers divide migrants up into groups of around one hundred people and organize convoys of “lorry prisons”, which cross southern Algeria, and then “unload” them in the no man’s land of Tinzaouaten (on the Algerian-Malian border). The testimonies describe very difficult travel conditions, with over ten hours spent crammed on top of each other without even being able to ask for the lorry to stop.*

#### ***Tinzaouaten, the trap for migrants***

*Tinzaouaten is a border town that is divided in two: one part is Algerian, and has houses that are inhabited; the other part is Malian, and is desert, with many abandoned houses. After having undergone the process of detention and deportation, once they arrive in Tinzaouaten, the migrants are “left” in the Algerian part of the town, and they walk to the Malian side where the houses have been turned into “ghettos”.*

*There is a ghetto for every nationality: that of the Nigerians, who form a majority of the*

population that is in transit in this region, those of the Senegalese, of the Liberians, of the Cameroonians and of people from Burkina Faso. The living conditions there are extremely hard. It is difficult to feed oneself or even to have access to medical care. The situation of women is particularly pitiful. At the time of our visit, 70 were living in the ghettos. Most of them were young Nigerians, around twenty of whom were pregnant and two had babies with them. The women are often an exchange currency to barter with the local military to obtain what some of them term the "tranquility of the ghetto".

Tinzaouaten is a genuine trap for migrants, who remain blocked in this buffer zone, around one hundred kilometres away from Tamanrasset to the north and Gao to the south. As a result of the Tuareg rebellion in this region, Tinzaouaten has been in the middle of a "curfew" area for a long time (particularly in 2008-2009): movement towards the north and the south was interrupted, and migrants remained blocked without being able to advance or to retreat. During a mission carried out in January 2008 in Kidal (Mali), people often employed the expression "city

of madness" when talking of Tinzaouaten, given the large number of migrants who, when they were trapped there, tended to go mad out of fear, rage and helplessness. This risk of becoming psychologically disturbed exists in circumstances in which migrants find themselves caught in a net, without being able to advance or to turn back.

Since September 2009, a Red Cross convoy sets migrants on their way towards the city of Gao (Mali), 700 km further south, in groups of 50. This has made it possible to partially unblock a situation of deadlock that had become unbearable. The priority mission is to evacuate vulnerable people -particularly women-, who will be received in Gao by the "Maison du migrant" (Home for migrants). There, they can rest before resuming their journey towards Niamey in Niger or Bamako in Mali.

As is highlighted in a brochure of the Comité contre la faim et pour le développement (CCFD, Committee against hunger and for development), "Gao, crossroad of migrations Crossroad of solidarity", while the Red Cross' activity allows the number of people blocked



Tinzaouaten : waiting for the Red Cross convoy to Gao (photo: Sara Prestianni)

*in the desert no man's land of Tinzaouaten to diminish, it also appears to have some problematic effects: the risk of discrimination in the choice of priority groups for evacuation, abusive police controls of travellers during the transfer (particularly in Kidal), travel frequency that is disproportionate and not tailored to the Maison du migrant's reception capacity.*

*The purpose of this place that was officially created on 21 March 2009, is to "receive, listen to, accompany and raise awareness among migrants from all nationalities about the dangers of irregular migration". The Home is a coming together of associations from Gao - Caritas Gao, Direy Ben- and from Bamako - Association des refoulés d'Afrique centrale au Mali (Aracem), Association malienne des expulsés (AME), Aide Mali-, that are linked to the Catholic mission. The Home simultaneously receives people from the Red Cross convoys and migrants who arrive individually using their own means. From February to September 2009, 858 people (822 men and 36 women) from all over west Africa have been received there.*

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## **II – Bargaining between Libya and Europe: migrants as an exchange currency – the case of Niger**

After the lifting of international sanctions against Libya in 1999, the European Union (EU) has turned this country on the edge of the Sahel-Maghreb space into a privileged partner of its externalized migration policy, which consists in subcontracting the control of its external borders to third countries, especially in the fight against "illegal" immigration. With the confidence resulting from its 5,000 km of borders, in exchange for substantial financial and material "aid", colonel Kadhafi has taken on the task of persecuting, imprisoning and deporting migrants arriving from the south and east, while it has accepted to take back irregular immigrants who are arrested in Italy or while they are heading towards that country, even in cases involving collective refolements.

Libya thus officially recognizes its role as a transit space for irregular African immigration heading towards the north. However, this adaptation of European law<sup>49</sup> to inter-African migrations appears to reflect the requirements of Euro-Mediterranean agreements<sup>50</sup> rather than Saharan realities. By raising doubts about regional cooperation, this "securitarian" concession to the EU entails harmful consequences for the rights of people

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49. Cf. D. Perrin, «L'étranger rendu visible au Maghreb. La voie ouverte à la transposition des politiques juridiques migratoires européennes», *Asylon(s)* (4) 2008, <http://www.reseau-terra.eu/article770.html>.

50. The EU reached association agreements with seven countries from the Mediterranean area between 1998 and 2005, which set the conditions for cooperation with each of them in the economic, social and cultural fields, between the EU and each partner country.



who are migrating<sup>51</sup> and on the geopolitical balance of an entire continent.

## 1. A reciprocal exploitation

While it sought to renew its respectability following the lifting of the UN embargo, Libyan diplomacy found a subject for negotiations of fundamental importance in the migration issue, which quickly became one of the central stakes in its relations with certain European countries and with the EU as such<sup>52</sup>.

### Migrants are alternately attracted and repressed

Caught between its need for foreign labour and its cooperation with the EU in the migration policy field, Libya uses the lever of the opening and closing of its southern borders as a mode of negotiation, playing upon European fears of an invasion while it preserves its own interests. It does so with a degree of success as -like some other countries- Libya has been allocated a national indicative programme worth 60 million euros for the 2011-2013 period, in order to enable it to “offer greater assistance in the field of health care and to fight illegal immigration”.

Nonetheless, Libya needs a substantial input by [foreign] workers to carry out the great projects that the regime in power has planned and to enable different sectors of its economy to function, including agriculture and construction. This is why the Libyan leader regularly encourages nationals of sub-

Saharan African countries to travel to his country, particularly within the Community of Sahel-Saharan Countries (CENSAD<sup>53</sup>), which he created himself.

However, by acting contrary to its own legislation<sup>54</sup> and to its commitments on free regional movement, Libya has appropriated repressive European migration policy without setting up the necessary railings for the protection of human and refugees' rights. By acting in this way, it captures, detains, mistreats and deports foreigners and asylum seekers who are in its territory, all of which is done in the name of the EU's fight against “illegal” immigration and to cash in its credits.

### “Cooperation for development” to protect the EU's borders

From the agreements with third countries such as Algeria, Morocco and Tunisia since the 1990s to the Cotonou agreements in June 2000 with ACP countries, the EU has quickly learned how to integrate an economic migratory dimension within its partnership and cooperation policy. Since the European Council in Seville in June 2002, any association agreement with any country must include a readmission clause for its own nationals and allow the possibility of expelling people who have travelled through it in transit.

Within the same outlook, the AENEAS project funded by the EU with 250 million euros for the 2004-2008 period and renewed for 2009-2013, thus aims to “aid third countries to ensure a better management of migration flows” and presents the “fight against illegal immigration” as one of its main objectives.

In March 2010, Italy -which, since 2003, had engaged in a fully-fledged programme of police and military assistance with Libya- was

51. Libya has not signed the 1951 Geneva Convention on refugees. See the European Parliament Resolution of 17 June 2010 on executions in Libya: [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0246+0+DOC+XML+V0//FR&language=FR](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0246+0+DOC+XML+V0//FR&language=FR)

52. Cf. C. Rodier, «UE-Libye: une alliance contre nature pour l'externalisation des frontières au sud de l'Europe», in A. Bensaad (dir.), *Le Maghreb à l'épreuve des migrations subsahariennes. Immigration sur émigration*, Karthala, 2009.

53. CENSAD was established in 1998 in Sirte, Kadhafi's birthplace, and currently includes 28 African states.

54. Art. 20 of law no. 5 of 1991.



entrusted the direction of the SAHAMED project, for which 10 million euros were allocated, whose exclusive goal is to fight irregular immigration in the Sahara and in the Mediterranean. In order to strengthen the concerned countries' capacities to control their borders, SAHAMED provides surveillance, IT and transport material to the famous "third countries", including Libya and Niger.

Through all these programmes that, among other purposes, envisage the forced return of people and the building of detention camps "*in compliance with respect for human rights*" in Libya, Italy and the Union's member states become accomplices of all the exactions carried out that violate international conventions, far away from public view and from their borders, in the name of their protection.

### **The case of Nigeriens in transit: extortion and inhuman treatment**

Migrants who are in transit between Niger and Libya are exposed to several dangers along their migration route, without any sort of protection<sup>55</sup>. The itinerary that connects the north of Niger from Agadez to the main cities of the Fezzan desert in Libya constitutes one of the main axes of trans-Saharan migrations. People of the Sahel from Niger, Burkina Faso, Mali and Chad who have taken this route for several decades to go to work in Libya were joined by migrants coming from all over west Africa and central Africa during the 1990s. The latter also went to Libya for some months or a few years, and only a small part of them continued on their way to Europe. At present, these migrations constitute an important source of income for carriers and some other private actors in these Saharan regions alike, as well as for some state agents who are deployed in these places, who

55. On the Nigerien example, cf. J. Brachet, (2009), *Migrations transsahariennes. Vers un désert cosmopolite et morcelé (Niger)*, Paris, Éditions du Croquant, 2009.

have set up a veritable illegal taxation system for migrants.

### ***Racketeering by the police***

The journey from Niger towards Libya does not take place in illegality as a result of the principle of free movement that is in force within CENSAD and ECOWAS<sup>56</sup>. Drivers even have to record their passengers, in order to enable the payment of the 1,000 CFA Francs (1.50 €) tax per passenger. But the law enforcement agencies often take far more than their share on the lucrative market of migrations.

**Serial taxation.** *The example of Dirkou, at the exit point of the Ténéré [desert], is significant. Upon arrival in this oasis, armed soldiers make the migrants get out of their vehicles and demand that they hand over a sum that must be paid collectively. Then, they are escorted to the gendarmerie post where they are taxed again, sometimes violently, and where their documents are seized... and must then be retrieved from the police station in exchange for a few further thousand francs.*

They will have to pay to leave Dirkou, and then again every time they cross a military post (cf. map). If they refuse or are unable to pay, the soldiers do not hesitate to use force. Many people tell of how they were lined up standing under the sun in the hot season, or assembled in a group at night in the wind and sprayed with water in the cold season, and left like this until the group collected a sum that was deemed sufficient. The migrants, who travel with over 30 of them crammed in the back of a pick-up truck or with 150 in the rear of large all-surface lorries, are thus controlled and taxed around ten times between Agadez and the Libyan border, that

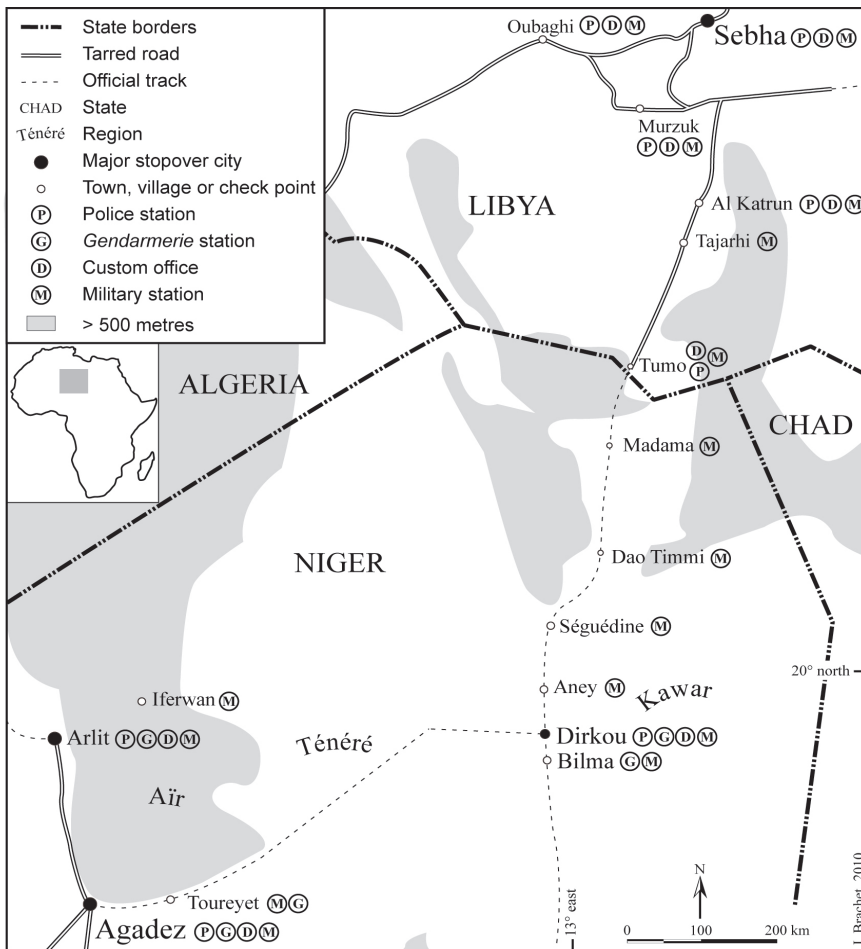
56. Created in 1975 by the Lagos Treaty to promote inter-regional economic integration, the Economic Community of West African States (ECOWAS) includes fifteen West African states. A protocol on the free movement of people (without visa) was signed and ratified by all the ECOWAS members in Dakar in 1979.

is, at each checkpoint. The sums that they have to hand over often reach several tens of thousands of CFA Francs, regardless of the regularity of their administrative situation (nationals from ECOWAS states, and sometimes Nigeriens as well, are made to pay just like the others).

These arbitrary taxes imposed by law enforcement agencies, which must be added to the high cost of transport, burden the migrants' budgets. Those who are less well off or are less prepared may find themselves blocked for some time, lacking sufficient means to continue along their route towards Libya.

Unable to advance or to return homeward, these migrants may stay where their journey has temporarily ended for several weeks, or even months.

*“There is a lot of desert to get through to reach Libya. [...] Me, when I reached Dirkou, they didn't even ask me for my card. Just for money. There is no need for the card. It's the same in Agadez. Someone may pay 2,000 CFA Francs, someone else might pay 5,000 CFA Francs, it depends. But English speakers, they might pay 10,000 CFA Francs, another one will pay 5,000. And if you're lucky you will pay 2,000. When you leave Agadez, you will pay 5,000.*



**Localization of the checkpoints along the Niger-Libya route  
(Design: Julien Brachet)**

[...] As for me, I got to to the Libyan border, up to Madama. There, my money finished. The soldiers put me in a vehicle that returned to Dirkou. Off you go. You don't pay and you go back to Dirkou." Moussa, a Malian, in Bilma<sup>57</sup>.

### ***Dangers during the crossing of the Sahara***

The crossing of the Sahara is long and dangerous. A transport problem, an ambush, extortion by state agents, getting lost or being abandoned: any mishap can have terrible physical and psychological consequences for migrants, all the way until death.

*"There is no shortage of accidents. Mahmud survived in the desert for six days. [...] There were two vehicles, but the first one had a breakdown. The drivers abandoned the vehicle and its 35 passengers in the desert. The driver's brother came to look for them only six days later. They survived by drinking water out of the radiator. And thanks to the covers that they had brought for the night. They used them to create some shade and protect themselves from the sun. Four Ghanaians died of dehydration. During the same journey, Mahmud saw the remains of three people near one of the wells. And twelve other corpses next to an abandoned 4x4 in the dunes. [...] Hundreds die every year<sup>58</sup>".*

In fact, there are many who never reach their destination:

*"The trans-Saharan routes are strewn with the skeletons of 'clandestines'. The Sahara is an obligatory passage. And it is a lot more dangerous than the sea. [You] cross the great desert in lorries and in 4x4s when you set off from Sudan, Chad and Niger. According to the international press review directed by Fortress Europe, at least*

*1,579 people have died during the crossing since 1996. But the figure could be far higher<sup>59</sup>".*

## **2. An increasingly repressive control of borders**

Among the migrants who succeed in crossing the border, some are turned back by the Libyan police which patrols the border zone. But a majority of those who "involuntarily return" from Libya are arrested inside the country and placed for periods that vary greatly (from a few days to several months) in detention camps in deplorable conditions, before they are sent back to Niger without even being able to recover their personal belongings, nor their money, if they have any.

### **At the EU's service: obstacles to freedom of movement in the Sahel-Saharan space**

Trapped between two models for the movement of people and goods (EU, ECO-WAS), Maghreb countries have sought to achieve territorial unity through open regional spaces between northern and sub-Saharan Africa, such as the Community of Sahel-Saharan States (CENSAD) or the African Union (AU).

The principle of free movement between northern African states, which would be in line with age-old practices and the aforementioned agreements, all too often remains in the field of official discourse rather than that of political reality, and it has never really been implemented between the two sides of the Sahara. Between 2003 and 2008, Morocco, Tunisia, Libya and Algeria have adopted new laws on foreigners, that increase sanctions for irregular migrants, and some of them have

57. Collected by J. Brachet, 25/10/2009.

58. G. del Grande, *Spécial Niger. Agadez, carrefour des trafics aux portes du Sahara*, Fortress Europe, 6 July 2009, <http://fortresseurope.blogspot.com/2006/01/special-niger-agadez-carrefour-des.html>

59. G. del Grande, *Escape from Tripoli. Report on the conditions of migrants in transit in Libya*, Fortress Europe, 2007.

signed readmission agreements with each other: in this way, they participate in the externalized management of the control of migration flows towards Europe. However, this U-turn is a long way away from satisfying the neighbouring countries' interests because, among other concerns, it threatens the legal security of their nationals whose travels are thus obstructed for the sake of the EU's externalized interests.

The evolution of the status of foreigners in the Maghreb and in sub-Saharan Africa must also be appraised in relation to international texts such as the 1966 International Covenant on Civil and Political Rights (which confirms the right to leave "any country including one's own") or the 2003 United Nations Convention on the Protection of Migrant Workers and Members of their Families, which lists their rights regardless of the regularity of their status.

### **Restrictive Libyan legislation threatens relations with neighbouring States**

Even while African immigration is tolerated –or even encouraged– in Libya, immigrants generally reside there without individual identification and without a legal administrative status. Their entry into the national territory is only rarely made official by the country's authorities, which do not issue a residence permit, giving rise to a flourishing black market of administrative documents.

In 2005, and then again in 2007, Libya has modified its legislation concerning foreigners<sup>60</sup>, while announcing, as a token of its cooperation with its European partners, its intention to restore entry visas for the totality of African and Arab nationals<sup>61</sup>, and established new state institutions for the purpose

of fighting irregular immigration<sup>62</sup>. Sanctions (confiscation, fines, prison) against irregular migrants and any person assisting their entry, residence or their exit from the territory, have been increased.

### ***The case of migrations from Niger***

Within the framework of the AENEAS project, two million euros have been allocated to fight irregular migrations just between Niger and Libya, and several millions to control migration movements within these countries. French police officials are currently trying to equip the border posts of Dirkou and Madama with IT material to enable them to record the people who cross the desert and to turn back those who have already undergone checks and were found to be in an irregular situation before they enter Libya.

This same European project also finances the International Organization for Migration (IOM) in Libya in order, among other tasks, to organize the "voluntary returns" of migrants in an irregular situation. However, in view of the extremely informal situation of migrants in this country, it appears that, rather, IOM has the goal of acting in association with the Libyan authorities to send as many black African migrants as possible back to the south of the Sahara.

Faced with this situation, the Nigerien authorities reply that their nationals are "*economic and temporary migrants*" who generally "*do not intend to go to Europe because they stay in Libya to earn some money that they bring back once they return home*". Niger deems that "*closing the borders would harm the country. [...] Nonetheless, cooperation between Libya and Italy (and the EU) continues, and provides more and more components to establish a system*

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60. Cf. D. Perrin, *op. cit.*

61. Before backing down in relation to Egyptian and Tunisian citizens, who were exempted from the requirement.

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62. Creation of the Agency for border security and the Department against illegal immigration within the interior ministry.





**The EU's propaganda against migration, Agadez 2009**  
(photo: Julien Brachet)

*of border controls and for the criminalization of sub-Saharan migrants in Libya*<sup>63</sup>”.

### **3. Arrests and detention in Libyan territory**

The disregard for the rights of migrants and refugees in Libya has been criticized by several international organizations that mention the physical violence, prison overcrowding and forced returns. The European Parliament has also expressed its concern for “the deplorable treatment and living condi-

tions of people detained in the camps in Libya”.

Since 2006, Human Rights Watch has criticised the consequences of negotiations between the EU and Libya to stem the flow of migrants, asylum seekers and refugees heading towards Europe, which undermined their fundamental rights. Its report revealed the arbitrary arrests of undocumented foreigners, ill-treatment during their detention and forced returns to countries where some of them risk persecution and torture, all of which was done under pressure from Europe<sup>64</sup>.

63. Extracts from an analysis by APDHA, «Relations dangereuses: le rapprochement italo-libyen et ses effets sur les migrants», *Droits de l'homme en frontière sud 2008* : <http://www.apdha.org/media/FrontiereSud2008.pdf>

64. Human Rights Watch, “Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees”, September 2006.



The ill-treatment suffered by foreigners when they are arrested constitutes a recurring problem: some are violently questioned before their departure by sea in the squats that are prepared by smugglers, others during identity checks, and others still, during the night-time round-ups that have multiplied. Finally, there are others who are stopped during their sea crossing en route to Italy. In all these cases, these foreigners are relieved of their belongings, thrashed, insulted and taken to detention camps where they are held in frightful conditions while they await their expulsion southwards.

*“Once they are arrested, illegals have four options. Those who have some money, they bribe the police and get themselves released. It is often the police itself which puts them in touch with some smugglers who lead them back to Tripoli. Those who don't have any money are returned back to their home countries by plane, or loaded into military lorries, with 70-80 people crammed in them and taken towards the southern border: to Kufra, in the southeast, or to Al Qatrun, in the southwest. From there, after a number of months' detention, the lorries carrying migrants leave towards the border, which is completely in the desert. Those who don't have any money are abandoned in the middle of the desert, those who can pay 100 or 200 dollars are brought back, illegally, to the police. The fourth possibility is kidnapping, which is practised mainly in Kufra. Some Libyan citizens buy the freedom of detained migrants by paying the police, and then keep them hostage in their own homes until they receive a ransom payment from their own pockets, or through a Western Union payment by their relatives from abroad<sup>65</sup>”.*

## The hell of camps: testimonies

*“Undocumented migrants in Libya are caught like dogs and taken into centres that are so overcrowded that police officers have to wear a mask over their mouths because of the nauseat-*

*ing smells<sup>66</sup>”. Foreigners who have spent some time in Libya all describe inhuman treatment in detention; they particularly mention overcrowding, degrading detention conditions, ill-treatment and sexual abuse inflicted by members of the law enforcement, as well as limited access to information about procedures and their rights. It is likewise impossible to consult a lawyer.*

There are currently at least 20 detention centres in Libya<sup>67</sup>. In 2007, these camps held around 60,000 migrants<sup>68</sup>, without legal basis or judicial oversight, nor legal assistance, nor the possibility of seeking asylum, in contempt of relevant Libyan and international texts alike, as highlighted by Fortress Europe<sup>69</sup> or Amnesty International:

*“Those whose rights have been violated have no possibility of seeking protection or remedy through the justice system<sup>70</sup>”.*

*“[None of the detained] has seen a judge or a lawyer. Their detention is not validated by a court, and it is not possible either to appeal or to request political asylum”.*

*These camps are often “old warehouses fitted out for the purpose of detention and guarded by the police. [...] The accounts talk of detentions that have lasted months and, in some cases, years, without any trial, in unbearable conditions with up to 60 or 70 people in cells measuring six metres by eight, with a single toilet. The*

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66. «Immigrati, allarme Sisde. Centri in Libia “disumani”», *La Repubblica*, 3 February 2006 (Mario Mori, former director of the Italian civilian information service appears before the Italian parliament), <http://www.meltingpot.org/articolo6613.html>.

67. JRS Malta, “Do they know?” Asylum seekers testify to life in Libya, 2009, <http://www.jrsmalta.org/Do%20They%20Know.pdf>

68. Figure provided by the Libyan authorities to the EU's technical mission, directed by Frontex, in May-June 2007.

69. G. del Grande, *ibid*.

70. Amnesty International, *Libya of tomorrow. What hope for human rights?*, June 2010, [www.amnesty.org/en/library/asset/MDE19/007/2010/en/65e2d9ca-3b76-4ea8-968f-5d76e1591b9c/mde190072010en.pdf](http://www.amnesty.org/en/library/asset/MDE19/007/2010/en/65e2d9ca-3b76-4ea8-968f-5d76e1591b9c/mde190072010en.pdf)

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65. G. del Grande, *Escape... op. cit.*

women are systematically victims of sexual violence by the police<sup>71</sup>”.

Reports are inevitably rare, but they are corroborated by the testimonies from numerous migrants who have passed through these camps<sup>72</sup>.

### ***Misratah detention centre, Libya***

*“We are 600 detainees in Misratah, all of us Eritreans. There are around a hundred women and fifty children. The first group of 450 people has been inside for a year and a half, the others were taken there four months ago [...] Before taking us to the centre they took everything from us. Some had refugee papers that the police ripped up. Some women were raped by officers. At least seven people have been admitted into hospital with nervous breakdowns. [...] We don’t have any medical care. We sleep on the floor in groups of 60. In the daytime, the heat is unbearable and makes the stench from the toilets rise back up the pipes. We are given three drums of water to drink, for 600 people. At night, it is cold and we don’t have any covers”.* Anonymous, Eritrea.

### ***Kufra detention centre, Libya***

*“There were 78 of us in a cell measuring six metres by eight. [...] We were so hungry. A plate of rice could be shared between eight people”.* [...] *There was one toilet for 60 people. [...] “There were lice and fleas everywhere, in the mattress, in the clothes, in your hair. [...] Sometimes, the police came into the room, they picked up a woman and raped her in front of us”<sup>73</sup>.* Anonymous.

### ***Sabha detention centre, Libya***

*“Right now, there are brothers there who are suffering. Some have gone mad. When I was in*

*Sabha, for example, I saw some Sudanese who had lost their minds”.* Elvis, Cameroon

### ***The European Commission’s kindness***

In 2004, a report by the European Commission<sup>74</sup> on a “technical mission” in Libya for the purpose of evaluating possibilities for future cooperation criticized the treatment of foreigners detained by the Jamahiriya for the first time. While the Commission deemed that asylum seekers and refugees were not guaranteed any protection and noted that there was ill-treatment, it nonetheless described detention conditions as “difficult” but “acceptable in view of the general context”.

The Commission then recommended that its relations with the Libyan institutions should be consolidated, in order to make them improve their reception mechanism. As for Italy, it financed the creation of two new detention centres in 2004 and 2005, in Sabha and Kufra.

In May 2007, after carrying out a visit to the centre in Kufra, the Frontex Agency delegation that represented it in Libya did not utter a word about the detention conditions, but said its members were able “to appreciate both the diversity and the vastness of the desert<sup>75</sup>”.

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71. G. del Grande, *ibid.*

72. G. del Grande, *ibid.*

73. G. Del Grande, *Border Sahara: the detention centres in the Libyan desert*, Fortress Europe, January 2009. <http://fortresseurope.blogspot.com/2006/01/border-sahara-detention-centres-in.html>

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74. [www.meltingpot.org/IMG/doc/Libye\\_commission.doc](http://www.meltingpot.org/IMG/doc/Libye_commission.doc)

75. G. Del Grande, *ibid.*

## Endangered asylum seekers and refugees, UNHCR dozes

*“Refugees, asylum seekers and migrants, particularly from sub-Saharan countries, live in constant fear in Libya: fear of being arrested and held indefinitely in overcrowded detention centres, fear of being exploited, beaten and abused; and fear of being forcibly returned to an uncertain future where they may face persecution and torture”<sup>76</sup>.*

The Jesuit Refugee Service in Malta<sup>77</sup> confirms this, while it speaks of the ill-treatment that is very close to torture that is suffered in the Libyan camps, and particularly of the lack of protection for asylum seekers, who permanently risk being returned to the countries they have fled.

While it even refuses the “global approach” advocated by the EU, which would force it to adopt a protection mechanism for those who request it, Libya considers the totality of foreigners on its territory as workers in transit, whom it does not hesitate to expel if it deems that their situation is not in order. Some of the country’s officials have even told Human Rights Watch that their country refuses to grant asylum because none of the foreigners who are in Libya needs protection, and also because they feared issuing a message that would “encourage” them: otherwise, foreigners “*would arrive like a swarm of grasshoppers*”<sup>78</sup>.

The United Nations High Commissioner for Refugees has warned against recurring violations of the right to seek asylum enacted by Libya, where it has had an office since 1991. According to UNHCR, 9,000 refugees -mainly Palestinians, Iraqis, Sudanese and Somalis- have been registered in Libya in 2009, of whom 3,700 are asylum seekers,

who prevalently come from Eritrea<sup>79</sup>. Well, they constantly risk being deported towards their home countries or those of transit and, hence, of being exposed to persecutions and death.

Yet the presence of UNHCR in a country that has not signed the 1951 Convention does not deceive anyone: in these conditions, it mainly allows the EU to justify its externalization and expulsion policy at an international level<sup>80</sup>. Moreover, confident as a result of their recent diplomatic achievements, the Libyan authorities ordered that the UNHCR office in Tripoli be shut down and for its phantom activities to cease on 8 June 2010<sup>81</sup>, thus highlighting the hypocrisy of various countries.

## 4. A deadly expulsion policy

According to official figures, the Libyan government repatriated 145,000 foreigners between 2003 and 2005.

From 2004, as a token of goodwill towards its European partner, Libya has proceeded to return 54,000 foreigners to the border. These indiscriminate expulsions largely affect people who have worked in Libya for some years, who were suddenly deemed “illegals”. The 2007 EU mission undertaken by Frontex observed a good sign in this: in 2006, 357 smugglers (including 284 Libyans) were arrested, and the authorities confiscated 51 vehicles, 17 boats and 36 telephones. The Frontex report does not mention the human rights violations without which these deportations could not have been carried out. In the same period, 360 dead bodies of migrants were recovered<sup>82</sup>.

79. Cf. European Parliament Resolution, *op. cit.*

80. Cf. Migreurop statement, “UNHCR-Libya: the bid is rising, migrants pay the price”, 11 June 2010.

81. «Tripoli ferme le Bureau du HCR», *Jeune Afrique*, 8 June 2010.

82. G. del Grande, *ibid.*

76. Amnesty International, *op. cit.*

77. JRS Malta, *op. cit.*, <http://www.jrsmalta.org/Do%20They%20Know.pdf>

78. Human Rights Watch, *op. cit.*



**Transport of migrants back from Libya in Ténéré, Niger (2009). On the left, a lorry of migrants expelled without being allowed to collect their belongings; on the right, a lorry of migrants returning “voluntarily”, who carry their possessions and plenty of goods with them (photo: Julien Brachet)**

## Inhuman and degrading deportations

Following a varying period spent in detention in a prison-camp, “irregular migrants” are sent back to the countries they came from or their home countries either by plane (when there are readmission or repatriation agreements with their home countries) or, more generally, by lorry to the borders with neighbouring countries.

### *Towards Niger: piled up and abandoned in the desert*

While Niger no longer agrees to receive anyone other than its own nationals on its territory, the Libyan authorities -in spite of past agreements- continue returning nationals from several other African countries to the Nigerien Sahara without considering their nationality, particularly English speakers from Nigeria and Ghana. They are transported in lorries to Madama, or Dirkou or even Agadez, with a few CFA Francs in their pockets,

without their belongings, nor even the money that they had earned in Libya.

The conditions in which these deportations are carried out are very hard, the migrants travel for hundreds of kilometres crammed into lorries, and sometime in container trucks.

*“We were crammed like animals inside the lorry, with no air and no space to move. I wondered how a child could be put in these conditions. Inside the container it was very hot. The journey lasted 21 hours, from 4 p.m. to 1 p.m. on the following day. We did not have anything to eat. People had to urinate in front of each other. When the drivers stopped to eat or to pray, we placed the child near the container’s narrow window. His name was Adam. We finally arrived in Kufra. When I got out, I stole some bread that was hanging outside the container. We had not eaten since the previous day. There were 110 of us. Including Adam, who was four years old, and his mother<sup>83</sup>”.*

83. G. Del Grande, *ibid.*





The migrants' ghetto in Tinzaouaten (photo: Sara Prestianni)

Moreover, organizations like Amnesty International and Fortress Europe report the abandoning of migrants and refugees in the deserts that are on the Libyan borders with Niger, Chad, Sudan and Egypt. Several among them died after they were abandoned in the desert. *“Many people were abandoned in the desert [...]. It was the period of “voluntary returns”, in 2004, when more than 18,000 migrants were loaded into lorries and left in the desert, and there were several accidents and dozens of victims<sup>84</sup>”*.

## Conclusion: the real face of Kadhafi's pan-Africanism

Hence, round-ups, arrests, imprisonment and collective expulsions are at the core of the “immigration management” process in Libya, in spite of the commitment to pan-Africanism that Kadhafi claims. If Libya, following the example of other north African states, accommodates the pressure exercised by its European neighbours, even if this tarnishes its national image as a beacon of resistance to imperialism, this is obviously the price to pay for the aid received from the EU to thank it for its cooperation.

After a lengthy period of *laisser-faire*, the new-style Libyan migration policy now corresponds with a “management” of foreign presence in its territory that, while it disregards numerous international conventions, often reflects a concern to comply with demands

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84. G. Del Grande, *ibid.*



expressed by its northern neighbours or to anticipate them, rather than to a genuine wish to stem the movement of people. As they are based far more on circumstances than on principles, the shifts in the Libyan discourse and practices depending on what period it is and on who the audience is, enable Europe to clear itself for a small price for the violation of principles and rights that it subcontracts in this way, so much so that it makes people forget the role that it plays in the current excesses by some of the actors that it engages with in “third countries”. Was it not precisely in Europe that the legal aberration “illegal emigration” was forged for the purposes of promoting a discourse of pre-emptive criminalization of foreigners based on presumed political, economic and cultural risks to the countries they seek to reach? By following this logic, Libya becomes an accomplice of its consequences, namely the degradation of an age-old and truly inter-African migration system.

JB, BE

## European borders

### Controls, detention and deportations



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Cover picture:

Demonstration in front of the open centre of Ceuta (picture: Benedettelli-Mastromatteo-Zerbetto)

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Based on evidences from field surveys as well as the 2009 edition, this second Migreurop annual report is a criticism towards the externalization of migration policies implemented by the now enlarged 27 member states European Union. In the framework of a containment strategy to keep migrants away from European borders, “externalization” by EU here signifies, on the one hand, the outsourcing to third states the responsibility for stopping by all means departures to Europe and, on the other hand, obliging them to take back all those considered as undesirable people. This twofold injunction is now exerted further and further on, away from EU. It is financially bargained and negotiated with third states, as it is proved in the case study on Sahelian and Saharan countries presented in this volume.

The externalization keeps weighing down heavily on the inner border countries of EU, which are challenged as first transit destinations, and requested by the Union to stop the so-called “illegal” migrants on their soil: thus Poland, Romania, Greece (for a long time) but also Ceuta, all countries located at the frontline of the war waged against migrants and are now in charge of dealing with asylum claims through rejection, detention or indefinite pending periods, as shown in the cover picture, where migrants trapped in Ceuta protest in placards such as: “2 years here. Too much time here. Why? Why do we are not free?”

It is also within Europe itself that, in accordance with legally dubious bilateral agreements or with the “Dublin II” regulation, migrants in exile end up in an endless wandering process with nowhere to go, like on the coasts along the sea that separates Italy and Greece. The situation in France and Belgium, where migrants are constantly chased at England’s gates, is not much different.

Before such a stream of distress, wandering, and too often deaths caused by European anti-migrant policies, Migreurop recalls that the first and foremost goal is to ensure the respect of the imprescriptible right of the people, such as recognized by international treaties, to leave one’s country and to seek protection elsewhere, even in Europe.

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