



# EU Strategies against Irregular Migration and the Role of Balkan Countries

*Teresa Russo, Professor of International Organization and EU Migration Law, Department of Legal Sciences, EUWEB Leader Module, UNISA*

# Summary

- 1. Introduction**
- 2. The EU Global Approach to Migration**
- 3. The 2015 European Agenda on Migration**
- 4. The Balkan Migration Route**
- 5. Conclusions**

# 1. Introduction

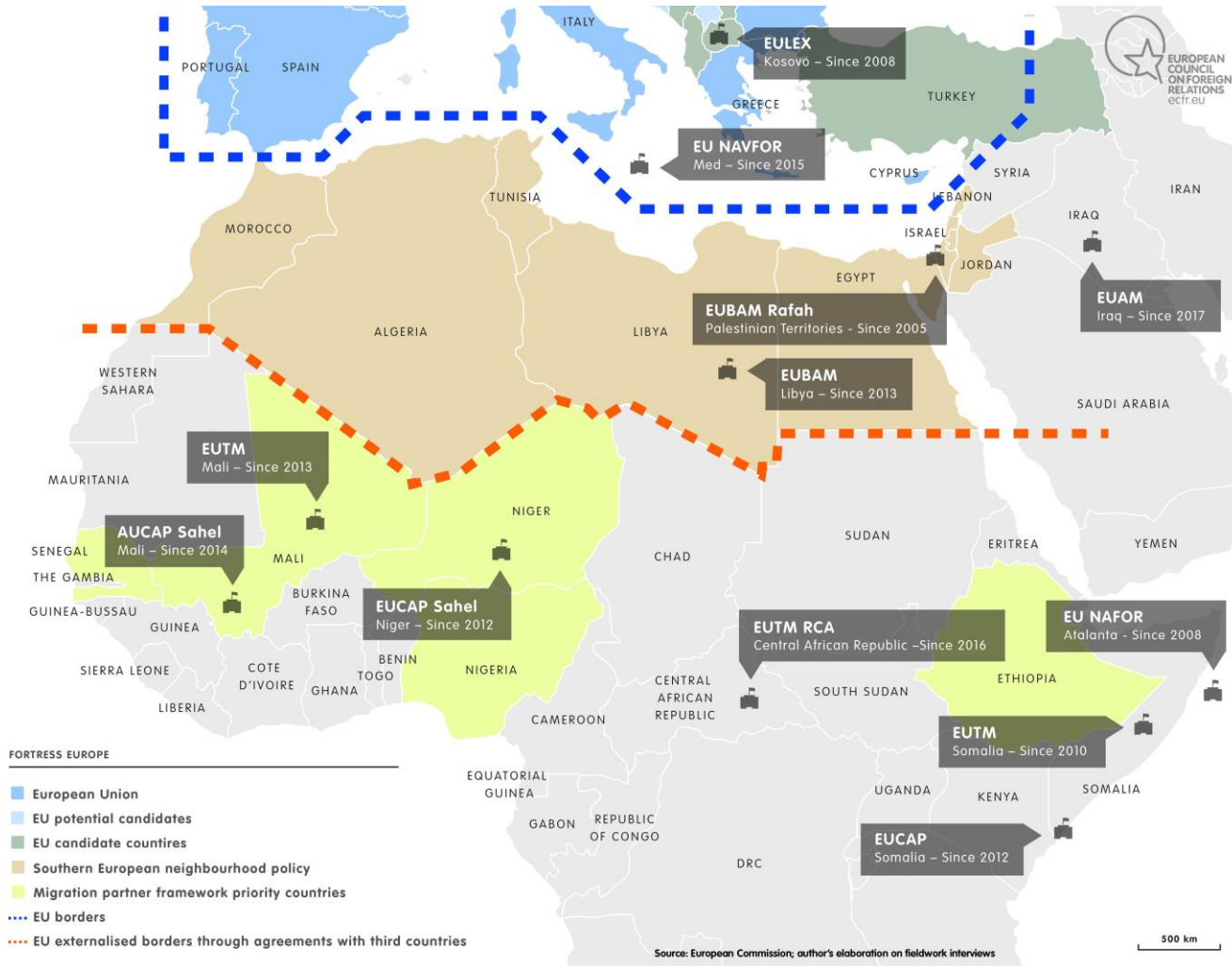
- the **external dimension of EU migration policy**
- the **externalization** of the European area of freedom, security and justice with the adoption of measures to combat illegal immigration
- the 1999 Tampere Programme: “**a comprehensive approach to migration** addressing political, human rights and development issues in **countries and regions of origin and transit**”
- it is only since 2005 that the so-called “**partnership approach**” begins to materialize thanks to the **2005 Global Approach to Migration (GAM)**

- partnership with third countries is based on “the belief that migration can be effectively managed **in a spirit of cooperation between all affected countries, including countries of origin and destination, as well as migrants**”
- subject of intergovernmental cooperation between **EU, Member States and Third States (mixed agreements)**
- the inclusion of migration issues in **the Union's external action**
- The **integration of cooperation issues with third countries in the field of migration in other policies**, such as in the **EU enlargement policy, the European neighborhood policy**, thanks, for example to migration and readmission clauses included in international agreements of association and cooperation

- **readmission agreements** provided for in Article 79.3 TFEU
- **visa agreements** based on Article 77 TFEU
- **“partnership and cooperation with third countries** for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection” (Article 78.2, let. g)

## 2. The EU Global Approach to Migration

- **Communication of the Commission on “*The Global Approach to Migration and Mobility*”, GAMB, COM/2011/0743 final. It established:**
- **an overarching framework of EU external migration policy, complementary to EU foreign policy and development cooperation**
- **Based on four pillars: legal immigration and mobility, illegal immigration and trafficking in human beings, international protection and asylum policy, and maximising the impact of migration and mobility on development)**
- **Mobility Partnership: the main strategic, comprehensive and long-term cooperation framework for migration management with third countries, adding value to existing bilateral frameworks'**



### 3. The 2015 European Agenda on Migration

- to address immediate challenges and equip the EU with the tools to better **manage migration in the medium and long term in the areas of irregular migration, borders, asylum and legal migration**
- “No Member State can effectively address migration alone. It is clear that we need a new, more European approach. This requires using all policies and tools at our disposal – **combining internal and external policies to best effect. All actors: Member States, EU institutions, International Organisations, civil society, local authorities and third countries need to work together to make a common European migration policy a reality**”



## The Agenda adopted immediate actions:

- Saving lives at sea
- Targeting criminal smuggling networks
- Responding to high-volumes of arrivals within the EU: **Relocation**
- A common approach to granting protection to displaced persons in need of protection: **Resettlement**
- Working in partnership with third countries to tackle migration upstream
- Using the EU's tools to help frontline Member States
  
- See **the Council Decision (EU) 2015/1601** of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80–94, no longer in force) establishing a **temporary relocation mechanism**
  
- Court of Justice of the EU (CJEU) recently stated that: "By refusing to comply with the temporary mechanism for the relocation of applicants for international protection, Poland, Hungary and the Czech Republic have failed to fulfil their obligations under European Union law (**Judgment 2 April 2020 in Joined Cases C-715/17, C-718/17 and C-719/17, Commission v Poland, Hungary and the Czech Republic**)"

## The Agenda aimed also at equipping the EU with new tools based on four pillars to manage migration better

### 1. Reducing the incentives for irregular migration

- Addressing the root causes of irregular and forced displacement in third countries
- The fight against smugglers and traffickers
- Return

### 2. Border management – saving lives and securing external borders

### 3. Europe's duty to protect: a strong common asylum policy

- A coherent implementation of the Common European Asylum System
- Dublin system – greater responsibility sharing across Member State

### 4. A new policy on legal migration

- Well managed regular migration and visa policy
- Effective integration
- Maximising the development benefits for countries of origin

# 4. The Balkan Migration Route

## Dynamics along the Western Balkan route

Figure 1 – The Western Balkan route



- The Western Balkans have been a **frontier region** where migration between Europe, Asia and Africa has taken place as a transit area and a point of origin for migration
- Migration management has been a prominent issue in EU-Western Balkans relations through the EU's use of **visa facilitation and readmission agreements**
- In May 2015 the Balkans migration route was the only viable pathway for the massive influx of migrants from the Middle East and Africa
- Displaced persons from Syria, Iraq and Afghanistan fled war or political prosecution and sought asylum in the EU (**asylum-seeker, refugee and beneficiary of subsidiary protection**)
- This underlined **the fundamental strategic importance of this geographic area for the EU's stability and security**

- The refugee crisis which interested the Western Balkans' countries underlined the need of **new legal measures and strategies to preserve the European perspective and the integration process of these countries**
- **There was a paradox: the Balkan countries facilitated transit along the route while EU member states pushed them to stop the incoming flows.** Consequently,
  1. Some migrants became trapped in Serbia and Macedonia, non-EU States;
  2. Other migrants travelled freely along the Balkan route;
  3. Other migrants reached Slovenia, Croatia and Hungary, where they were obliged to comply with the Dublin Regulation as stated by the CJEU in cases ***A.S. v Slovenia (C-490/16)*** and ***Jafari (C-646/16)***.







## The reduction of migrant pressure on the Balkan route

Some main factors have reduced the influx of migrants along the Balkan route:

1. **the decision of the Austrian and Hungary governments to close their borders** in September 2015;
2. The **EU-Turkey Statement**, signed in March 2016, according to which illegal migrants crossing the sea to Greece were to be returned to Turkey;
3. the **progressive strengthening of EU border controls neighbouring the Western Balkans.**



## What are the results?

- the main route **simply moved to Northern Albania, Montenegro and Bosnia and Herzegovina (ByH)**
- **the accumulation of migrants in certain territories**
- **an undue pressure on domestic systems in certain states.**

# Western Balkan Route from 2016



## 5. Conclusions

- **Control borders and pushback migrants were the primary objective**
- the adoption of measures aimed primarily at **externalizing border control and immigration management**, such as the agreement between the EU and Turkey
- the prevalence of a “**security approach**” of the EU institutions and the Member States

- **An open violation of human rights:**
  1. Emigrants and asylum seekers are pushed back to Europe's borders without **the opportunity to seek protection and to appeal the return decision.**
  2. The conditions and violence that migrants endure and the illegal pushbacks gave rise to **the violation of article 3 of the ECHR, taking the form of inhuman and degrading treatments or even as torture.**
  3. See ECtHR - *Ilias and Ahmed v. Hungary* (no. 47287/15) [Articles 3 and 5 §§ 1 and 4], 14 March 2017 and ECtHR - *S.F. and Others v. Bulgaria*, Application No. 8138/16, 7 December 2017