



Legal Complaint against EU Financial Complicity in Illegal Push-Backs to Libya

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(Brussels – 27 April 2020) The EU should suspend funding for its program to stem migration from Libya because the program breaches EU budgetary laws and international human rights law, the [Global Legal Action Network \(GLAN\)](#), the [Association for Juridical Studies on Immigration \(ASGI\)](#) and the [Italian Recreational and Cultural Association \(ARCI\)](#) argued in a legal complaint filed today to the European Court of Auditors.

The complaint argues that the European Commission provides financial support for projects that result in the return of people to Libya, where they face abuse, breaching its obligations not to contribute to serious human rights violations. The Court of Auditors, the body responsible for auditing the EU budget, should accordingly initiate a special review of the 'Integrated Border Management programme' (IBM) run through the European Trust Fund for Africa that supports Libyan authorities, and recommend that the EU Commission suspend the programme pending necessary revisions as required in EU law.

The complaint is based on an opinion provided by EU budget and development law experts Prof. Dr. Phillip Dann and Dr. Michael Riegner of Humboldt University and Ms. Lena Zagst of Hamburg University.

The EU has allocated €90 million for the IBM programme to reduce migration from Libya by expanding the Libyan coast guard authorities' ability to stop migrant boats, providing training and equipment. The money used by the European Trust Fund for Africa comes primarily from development funds, which may only support development, and violates EU law by funding security and border control.

EU development funds are subject to rules on sound financial management. These include the requirement that projects must have a system to assess, mitigate, and monitor their impact on human rights. However, the Trust Fund for Africa has no human rights mitigation measures or monitoring procedures. Instead, the trust fund relies on the recipients of its funds, "implementing partners", to conduct human rights impact assessments and monitoring. The trust fund's reliance is inappropriate in the case of Italy, the implementing partner for EU funding on Libya. Italy's cooperation with Libya, as the UN Committee Against Torture has held, facilitates torture by Libyan actors. Italy has faced multiple legal challenges to its Libya programmes on human rights and other grounds before both domestic and international bodies.

The IBM programme is now in its second phase and is set to last until late 2021. It currently advances no human rights conditions or restrictions on the use of funding, and no system for the continuous assessment and monitoring of its human rights impacts. Through this programme, the EU is facilitating and perpetuating the abuse of refugees and migrants trapped in Libya. The Italian Ministry of Interior, which is in charge of implementing many of the planned actions and has repeatedly refused to disclose information or discuss related concerns.

EU and international law, the complaint argues, require the EU and its Member States to condition funding on concrete and verifiable steps including Libya's closure of detention centres and enactment of asylum laws.

Despite repeated requests, the EU institutions refused to provide information to the complainants about funding to reduce migration from Libya. Stonewalling and arbitrarily denying requests for information breach the EU's duties of financial transparency.

The complaint adds to efforts to bring the rule of law to bear on the EU's support for pushbacks to Libya. Following multiple cases in human rights tribunals, it breaks new grounds by taking on the EU's material support to Libya. The lack of rights monitoring programmes and the risk that development funds will be diverted for security programmes, as seen in the Trust Fund for Africa, are glaring concerns that EU institutions and Member States should seek to redress. The recent proposal by the Maltese government to increase funding including to the Libyan coast guard in response to COVID-19 to €100 million shows that disregard for the lack of accountability for EU spending in Libya persists.

"EU budget laws mandate the EU to ensure proper use of European development funds, including by continuously monitoring and evaluating their human rights impacts. Without human rights safeguards the EU programme in Libya is in flagrant violation of EU and international laws and is complicit in the human suffering caused by the return of migrants to Libya." **Dr Valentina Azarova, Legal Advisor, GLAN.**

"To guarantee transparency on the use of public funds and accountability for actions leading to grave violation of human rights and restrictions on access to asylum for foreign nationals trapped in Libya, ASGI considers it crucial to turn to new avenues and control mechanisms for strategic litigation to expose and seek redress and accountability for this situation." **Attorney Giulia Crescini, ASGI.**

"A Europe which contributes to serious human rights abuses and international law violations through the mismanagement of development funds is a Europe that undermines its own commitments and foundations. While civil society on both sides of the Mediterranean demands the emptying of Libyan detention centres, Italy's cooperation with Libya, supported and encouraged by the European Union, refoules men, women and children to Libya's hell, instead of providing them with safety and shelter." **Filippo Miraglia, ARCI Immigration.**

Global Legal Action Network (GLAN) is a non-profit organisation made up of legal practitioners, academics and investigative journalists that pursues innovative legal actions across borders, challenging states and other powerful actors involved with human rights violations. GLAN's has offices in the UK (London) and Ireland (Galway). **Contact:** Dr Valentina Azarova (Legal Advisor) | vazarova@glanlaw.org | +306983146076 (also on Whatsapp/Signal)

Association for Juridical Studies on Immigration (ASGI) is a membership-based association focusing on all legal aspects of immigration. Its "Sciabaca" project aims to respond to policies that in the recent at the national, European and international levels restricting freedom of movement and the right to asylum. The main goal is to provide highly specialized tools, useful for the proposition of strategic litigation before domestic, European and International courts. **Contact:** Giulia Crescini, Attorney | crescini.g@gmail.com

Italian Recreational and Cultural Association (ARCI) is membership based association that promote culture, human rights, solidarity, participation and democracy. Its 'Externalization Policies Watch' Project aims at strengthening the advocacy, awareness raising and information activities on economic

and political accountability related to European and Italian externalization policies and practices in the countries of origin and transit of migration, especially Tunisia, Niger, Egypt and Libya. **Contact:** Giorgia Jana Pintus, programme officer | giorgiajana.pintus@gmail.com