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EUBAM-LIBYA INITIAL MAPPING REPORT
EXECUTIVE SUMMARY

EUBAM-Libya produced an Initial Mapping Report on interim findings in accordance with its mandate to map the different Libyan actors that have a stake in the following priority areas: border security, counter-terrorism, organised crime and migration, as well as the wider law enforcement area and the criminal justice chain. The objective is to provide Member States with an update on the state of play prior to the upcoming Six-Monthly Report and the EUBAM-Libya Strategic Review in the spring of 2017.

The mapping exercise is proving to be challenging as these sectors, to a large extent to date, are driven by individual actors instead of legitimate state institutions. Due to the absence of a functioning national Government, genuine and legitimate state structures are difficult to identify, in particular, given the dynamic and ever changing landscape of loyalties. The mission operates alongside the full array of EU and International Community instruments, within the "art of the possible".

The prohibitive security situation in Libya and limited access to Tripoli/Libya have not allowed the Mission to complete the collection of all necessary information to date. Thus this report is the outcome of EUBAM-Libya's engagement with Libyan individuals and existing institutions where and when possible. The interim findings presented in this report, regarding Libyan institutions and actors involved in EUBAM-Libya's mandated areas, are an important intermediary step to begin 2017.

Thus, the Mission will continue monitoring the complex Libyan situation and constantly update the mapped areas to keep the relevant EU planning actors informed. EUBAM-Libya managed to establish an independent EU tool (besides the existing UN tool) to enter Tripoli for short-term missions. This positive development will also enable EUBAM to increase interaction with Libyan interlocutors and legitimate institutions in Tripoli and thus further enhance its mapping efforts. However, we expect that the majority of meetings with Libyans will still be conducted in Tunis until the security situation in Tripoli becomes more permissive. EUBAM-Libya is now focusing on the establishment of a light presence of EUBAM-Libya in Tripoli in fulfilment of its mandate.

Interim considerations and trends for a possible way forward

The interim findings cover the areas of Governance, Law Enforcement and Criminal Justice Sector, Border Management and migrations, Organised Crime and Counter terrorism.

In addressing counter-terrorism and irregular migration, EUBAM-Libya has been able to make progress in the mapping of border management actors (due to its previous mandate) and to a lesser extent on law enforcement. On criminal justice, access to Libyan actors has been more limited. Additionally, the Border Management Working Group (BMWG) was re-established under the leadership of EUBAM-Libya. By the PC/GNA decree of 25 October 2016, a new National Team of Border Security and Management (NTBSM) with 17 participants was set up to represent all relevant Libyan Border Management actors in the BMWG. Notably, the NTBSM also includes representatives from the east, south and west of Libya in addition to the relevant Ministries. Furthermore, a Ministerial High Committee for Border Affairs is being established to support the

BMWG. If appropriate, some emerging priorities (e.g. advising, mentoring and coordinating of training opportunities) could be considered during the current mandate.

On law enforcement cooperation, UNSMIL in its SSR coordination role, entrusted EUBAM-Libya with taking the lead of the Police Technical Working Group (PTWG), which is an adequate platform to coordinate international efforts and support on capacity building in the law-enforcement sector, in coordination with the work of the Security Sector Working Group.

At this moment, particular attention should be paid to the nascent Presidential Guard (PG) for its likely implications on counter-terrorism and border management.

Regarding Law Enforcement, Border Management and the Criminal Justice chain as the key focus of EUBAM-Libya's mapping exercise: through a phased approach and starting in Tripoli, "areas of legality" could begin to be established, as conditions allow, expanding from selected areas in Tripoli to greater Tripoli and in due course across Libya, combining all entities in the Criminal Justice Chain:

- ☐ Model Police Stations (MoI) and Model Border Crossing Points (MoI/MoD and MoF);
- ☐ Model public order (MoI) and border control (MoD) units;
- ☐ Central Security Forces as Support Units (MoI);
- ☐ Prosecution Offices (SJC/);
- ☐ Public Defenders Offices (SJC)
- ☐ Local Courts (SJC);
- ☐ Prisons (MoJ/Judicial Police, MoI and MoD).

Regarding Counter-terrorism (CT), as part of EU's law enforcement and criminal justice approach, a Counter Terrorism Coordination Capacity could be conceptually developed and established as a joint format for all CT related Law Enforcement Agencies: the General Investigation Department (GID); the Libyan Intelligence Service (LIS); the Criminal Investigation Service (CIS), the Presidential Guard (PG, being formed); Border Management agencies, including Libyan Customs Administration (LCA) and other financial control and anti-corruption institutions. This Capacity could:

- ☐ Inform the development of a National Counter Terrorism Strategy, aligned with the National Security Strategy;
- ☐ Be linked to the Organised Crime Coordination Platform (see below);
- ☐ Design and implement a CT Database (policy, infrastructure and processes), and be the administrating body of such a system;
- ☐ Act as national focal point for bilateral, regional and multilateral CT cooperation.

Regarding other forms of Organised Crime (OC) related to irregular migration, an Anti-Organised Crime Coordination Capacity could be conceptually developed and established as a joint format to disrupt criminal networks. This Capacity could:

☐ Inform the development of a National Strategy to Fight Organised Crime, aligned with the National Security Strategy;

☐ Be linked to the Counter-terrorism Coordination Capacity (see above);

☐ Design and implement a Criminal Intelligence Database (policy, infrastructure and processes), and be the administrating body of such a system;

☐ Be the national focal point for bi/multilateral cooperation within the international network to fight OC;

☐ Facilitate tailor-made projects on forensic equipment training with EU MS donors ;

☐ Facilitate tailor-made projects on advanced criminal investigation training (in particular the Train the Trainer approach) with EU MS donors, based on the CIS Training Plan for 2017.

Regarding International cooperation, in supporting UNSMIL's mandate to coordinate SSR efforts, EUBAM-Libya could assist donors and Libyan coordination efforts on training requirements in particular in law enforcement (including counter-terrorism, organised crime) and border management.

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EUBAM-LIBYA INITIAL MAPPING REPORT

Table of Contents

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INTRODUCTION

Following the momentum triggered by the Libya Political Agreement (LPA) of December 2015, EUBAM-Libya (at the time being maintained on stand-by with 2 members) was further extended for 6 months as from February 2016, and reinforced by 4 additional experts with the specific task to support EU planning (but became fully operational only during the last 3 months).

The Mission continued operating from Tunis during this extended period, UNSMIL had one civilian police advisor and the Temporary Security Committee (TSC) was the only Libyan interlocutor. The latter had tight security concerns and was military orientated to ensure the establishment of the Presidential Council (PC) in Tripoli, which occurred on 30 March 2016.

While Libyans could not agree on a Government of National Accord (GNA), FAC (in April 2016) and PSC (in May 2016) conclusions on Libya manifested the EU's willingness to keep sustaining stabilisation efforts in the country, and in the region, by declaring the EU's readiness to support the legitimate Libyan authorities on both internal and border security matters, thus widening the scope (vis-à-vis the first EUBAM-Libya's mandate) for a possible future civilian CSDP engagement, as conditions would allow. In May 2016, the Council also extended ENFM-Operation Sophia, with the additional task to start training the Libyan Naval Coast Guard.

The EUBAM-Libya CONOPS Plus/Annex 14 was agreed by the PSC on 9 June 2016, additionally tasking the Mission to "progressively engage and assist the legitimate Libyan authorities, as they establish and at their request".

Indeed, alongside the UN-led efforts to deal with the difficult political and security situation in Libya, in August 2016, the mandate of EUBAM-Libya was further extended for one year (until 21 August 2017). It was decided that the Mission would be reinforced with additional planning expertise (10 elements, 4 of whom confirmed from the previous period) organised into 2 Teams respectively dealing with Law Enforcement/Criminal Justice and Border Management/Migration. After having been inducted in Brussels, the new Mission finalised its deployment at the beginning of October 2016.

While the CSDP strategic objective, expressed by the Council, aims at contributing to the Libya-owned development of the necessary Security Sector Reforms, it specifically underpins the fight against organised crime with particular emphasis on countering serious threats such as terrorism, the smuggling of migrants and the trafficking of human beings.

The EUBAM-Libya Mapping Exercise aims to keep the EU planning actors informed. This intermediate report intends to show the progress made to date to the Member States as an opportunity for mid-mandate reflection, in view of the upcoming Six-Monthly Report, and in preparation of the Mission Strategic Review of spring 2017 to inform about a possible way forward.

The Libya Mapping Exercise, conducted to date, shows the dramatic fragmentation of the Libyan internal and border security sectors in the absence of an agreed political settlement, exacerbated by internal violent power struggles and a series of economic crises, while still combating the remnants

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of Da'esh both in the east and west as well as the fact that Libya continues to be the major route, at present, for irregular migration towards Europe.

As in most countries, Law Enforcement in Libya (internally and at the borders) is not the prerogative of one single entity. In addition, as a product of post-revolutionary decisions and based on their political affiliations, different State and non-State security actors have assumed policing functions (military, governmental forces and armed groups, in the East and West) which has led to an inconsistent and unsustainable security landscape, that is extremely fragmented and full of gaps and overlaps.

Despite wide international support, the Government of National Accord (GNA) has not yet been agreed and the Presidency Council (PC) has not yet been able to assert its control over Libyan territory and the various armed groups. Indeed, hastily made political decisions have integrated huge numbers of such groups into the security institutions which it cannot control itself. Under such circumstances, criminal activities are flourishing.

Against this background, UNSMIL has entrusted EUBAM-Libya with the lead in the Police Technical Working Group (PTWG). Originating from an initial Libyan request on training support, the PTWG holds promise, (in coordination with the works of the Security Sector Working Group), to be an adequate platform to coordinate international efforts on capacity building in the law-enforcement sector. The PTWG will pursue the setup of a solid Libyan-led process and a sustainable approach for internal security sector reform in Libya.

Additionally, the Border Management Working Group (BMWG) has been re-established. In this context, a new National Team of Border Security and Management (NTBSM) with 17 participants was created on 25 October 2016 by PC decree to represent all relevant border management authorities in the BMWG. Notably, the NTBSM also includes a representative from the East and South of the country. Furthermore, a Ministerial High Committee for Border Affairs is being established to support the BMWG.

Finally, the Mission was recently also invited by the UN and EU Liaison and Planning Cell (EULPC) to support the law enforcement aspects of the foreseen Presidential Guard.

Methodology

The mission began in March 2016 by developing first priorities and needs. The methodology contained:

☐ Desk review and literature research to define international stakeholders;

☐ Bilateral meetings to explore the intentions of the international community and to inquire as to their contact with Libyan authorities;

☐ Participation in the multilateral meetings of UNSMIL and other organisations, eventually leading to contacts with the Temporary Security Council (TSC) and as a result to contact representatives of different ministries (i.e. MoI, MoFA, MoJ);

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☐ Using these contacts the mission progressively identified counterparts in the police and other organisations, focussing on Border Management during the CRT-phase;

☐ Establishing formal contacts with Libyan governmental entities (MoI, MoJ) through diplomatic channels / note verbale;

☐ Formally inviting Libyan interlocutors / representatives to meetings in Tunis,

☐ Re-vitalizing the Border Management Working Group from 2014 and updating the "White Paper";

☐ Being entrusted by UNSMIL with police coordination, developing the Police Working Group with International and Libyan participation and a panel on training with counterparts from the MoI training department;

☐ Developing the Criminal Investigation Roundtable with International and Libyan representation;

☐ Interviews with Libyan representatives to explore the make-up of organisations and ministries, using interview guidelines based on DPKO/UNODC guidelines.

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1. GOVERNANCE

Libya has been the scene of conflict between rival parliaments since mid-2014. The issue of legitimacy is a core matter within the political process. All sides are claiming to have sole legitimacy, which they are trying to use to consolidate their position in the overall power struggle.

Following the signature of the LPA, we are still in a situation of transition:

☐ Born out of the LPA in December 2015 and indicated by the UN as the sole legitimate governmental authority, the **Presidential Council (PC)**, led by **Fayed al-Serraj**, is responsible for proposing a Government of National Accord (GNA) that will be the new executive body in the future. A third attempt is being made to form a Cabinet, which still needs to be defined and is likely to be based in Tripoli. Finally, the role played by the Temporary Security Committee (TSC) conducted the security negotiations for the PC to move peacefully to Tripoli on 30 March 2016. Eventually the TSC, according to the LPA, should be replaced by a proper National Security Council.

☐ The **House of Representatives (HoR)**, led by **Ageela Saleh**, is the legislative body intended to take over from the General National Congress after the elections of June 2014 (temporarily relocated in Tobruk). The HoR Interim Government is in Al Bayda and its President is **Al Thinni**. **General Khalifa Haftar**, head of the Libya National Army (LNA) has very strong links with the HoR and its interim Government. According to the LPA, the HoR exercises the legislative power and endorses the GNA.

☐ After the elections of July 2012, the **General National Congress (GNC)** replaced the National Transitional Council on 8 August 2012. They initially represented the Libya Dawn Coalition which involves Islamists, the 'city-state' of Misratah, and several other western cities (including parts of the Amazigh minority). It is led by **Nouri Abusahmain** (from the city of Zwara, of the Amazigh tribe). The GNC is the parliamentary assembly of the **National Salvation Government (NSG)**, and the president is **Khalifa al-Ghawil** (from the city of Misratah). According to the LPA, the GNC has become the High State Council.

After the 2014 elections for the House of Representatives (HoR), an Islamist political bloc, which originates in the north-western 'city-state' of Misratah, launched a rebellion to overthrow the newly elected legislative assembly. The uprising resulted in a country divided between two competing Governments: the GNC in Tripoli and the internationally recognised Government of the HoR in the north-eastern city of Tobruk.

After the LPA, both Ghwell and Abusahmain have also been hostile to the GNA and have been subjected to sanctions by the EU because of this.

However, after having "disappeared", the GNC recently resurfaced, staged a failed coup and is now occupying the Rixos Palace in Tripoli.

1.1. Ministry of Interior (MoI)

1.1.1. General Administration

The Ministry of Interior is legally based on Decrees 145/2012 and 982/2012. However, many indicators have shown that the factual organisation of the Ministry is not in conformity with the mentioned decrees. As the HoR has not endorsed the Government of National Accord (GNA), Al Aref Al Khoja has not yet been appointed as Minister of Interior and works as designee. Consequently, two out of the three foreseen Deputy Ministers' Offices are not functioning, which means that each relevant department and organisation reports directly to the Minister Designee. According to current information, it is rather unclear if any of the Deputy Ministers have been nominated and are performing their duties. Sources indicate that all affiliated directorates report directly to the Minister.
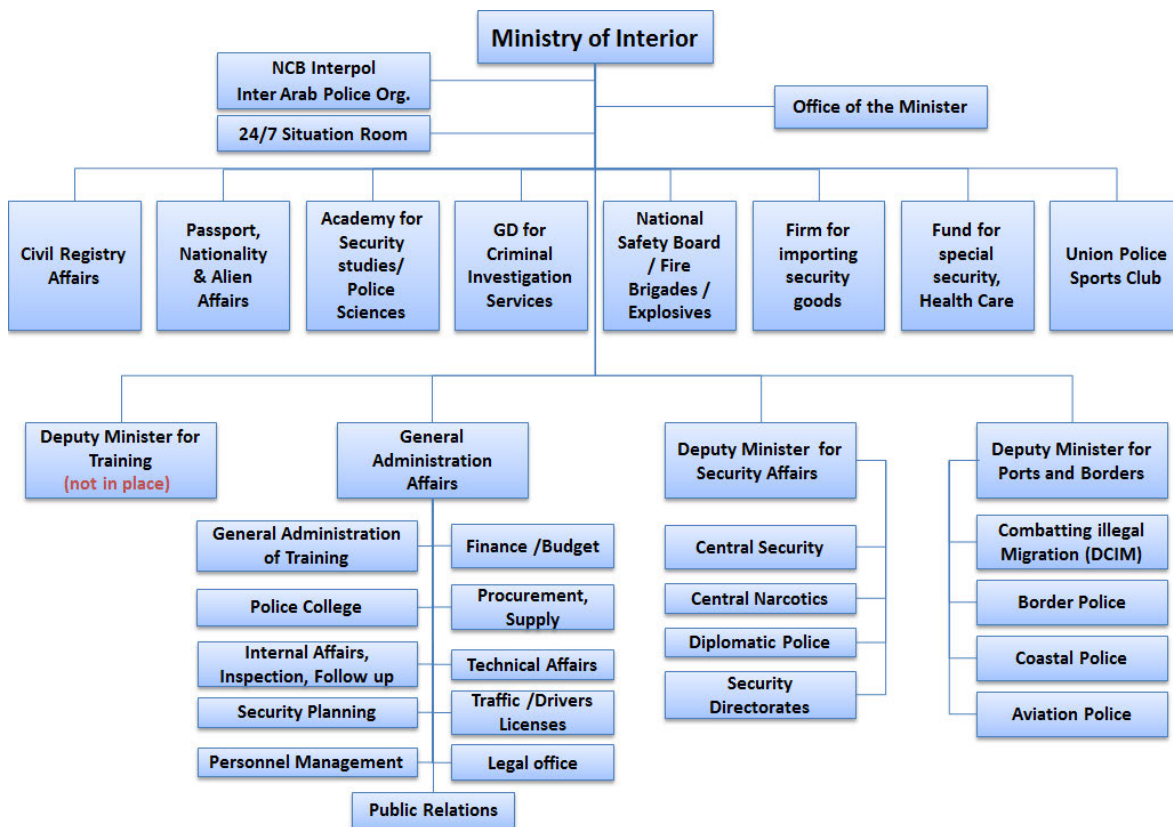
1.1.2. Arab Police Organisation (APO) and National Central Bureau of Interpol

The Arab Police Organisation is an Interpol-like organisation involving Arab countries. The national office of the APO was set up in 1952 under the Minister of Interior. 12 officers are presently deployed who remain in place from the Gadhafi regime (although 50 are at this time included on the payroll). Necessary training is provided by Interpol. Relations with Interpol have been re-established, including training support, and a visit by the Minister to Interpol HQ in Lyon is

expected shortly. According to the Interpol Libyan representative, plans are ready to resume the RELINC-project[1] and to begin its phase 2. However, the current status of this matter is rather unclear as 1.7M Euros need to be provided by the MoI to begin phase 2.

1.1.3. MoI Training Institutions

MoI Training assets are located in different locations. The Civil Service Academy supposedly reports directly to the Minister. The Police College and the Central Administration Training Centre are nominally under the Assistant Deputy of the Minister for General Affairs.

However, large directorates such as the Criminal Investigation Service (CIS) or the Directorate of Central Security (DCS) have their own means for developing and conducting specialised training.

1.1.4. MoI Civil Service Academy

The academy is meant to be a high-level one for security studies and police science dedicated to masters and PhD students. No more information is available on this entity, at present, thus it is currently unknown whether the Academy is actually operating in practice.

1.1.5. MoI Police College

Cadets of the Police College are required to have completed high school in order to enter and graduate as commissioned police officers after a 4-year course. No further information is available on this entity, at present, thus it is currently unknown whether the police college is actually operating in practice.

1.1.6. MoI Central Administration Training Centre

The MoI Central Administration Training Centre, headed by Col. Rizza Ghilli and deputised by Col. Suleiman El Barouni, provides specialised training and management training for the Libyan National Police. In addition, it develops curricula for basic and specialised training to be used at the 18 training centres nationwide, including a secondary school for females, the Female Police School and the Music School. Currently there are 22 training curricula being developed. The Central Administration Training Centre, including the centres in the provinces, have about 800 trainers but only 18 of them are qualified to train trainers. In practice, 60 more trainers of trainers are roughly estimated to be needed. The preparation of trainers to teach trainers dealing with foot patrolling and related techniques is one of the priorities for the training administration. The training administration aims at reinforcing the police, especially in Tripoli, with 1200 trained officers for foot patrols, which would raise the sense of security of the general public. Basic needs are the refurbishment of classrooms as well as training equipment (whiteboards, projectors, markers etc.).

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[1] Rebuilding Libya's Investigative Capability (equipment for information exchange etc. to be given to border security organisations and Criminal Investigation Service)

1.1.7. <u>Assessment of the MoI</u>

The line of reporting goes directly to the Minister due to the absence of appointed and effectively performing Deputy Ministers. Thus the command span is unusually wide, which leads to delays and lacks effectiveness as well as efficiency. Hence, the decision-making has mainly become decentralised with Departments and Directorates relying on individual initiatives to fill gaps in planning, strategy and funding. Thus, a lack of strategic planning capacity has weakened the chain of command, caused overlaps in terms of remit and jurisdiction, as well as led to uncontrolled recruitment and financial management problems.

The infiltration of the MoI by militias and religiously motivated stakeholders hinders an effective approach to institutional development. An integration programme stalled in 2012 due to the lack of a strategic vision, training facilities and resources. The MoI´s administrative departments have been adapted by seconding officers and administrators into the militia groups attached to Directorates, or by requesting transfers of militia members into their departments.

Directorates and MoI-registered militia entities are resorting to private funding and donations-in-kind to support routine operations which further weaken the MoI´s authority and independence.

Training and equipment needs are required throughout all MoI departments and respective branches. Support, by means of training and equipment, could be considered in the short term especially for criminal investigation agencies. On the other hand, support for organisational and institutional reform will require more information and analysis. The Mission still has very limited access to the Ministry and needs to communicate through EUDEL and MoFA, which is time consuming.

1.2.   Ministry of Justice (MoJ)

Decree 50/2012 is regulating the Ministry's organisational structure and enlisting the Ministry's competencies which are supposed to draft and implement the 'general justice policy of the State', in coordination with the Supreme Judicial Council (see 3.3.3).
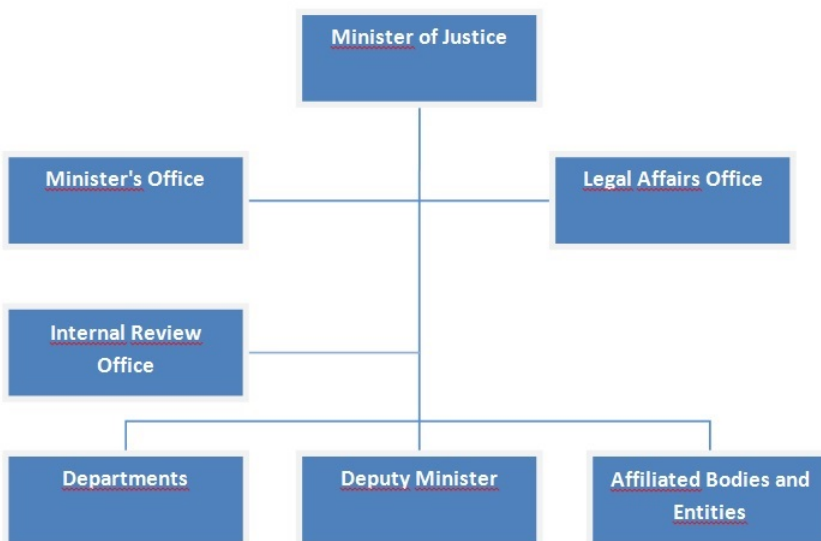
The MoJ Departments are the:

- Administrative and Financial Affairs Department;
- Training Department;
- Planning Department;
- Public Relations and Cooperation Department;
- Legal Affairs Office.

Affiliated Bodies and entities are the:

- Judicial Expertise and Research Centre;
- Supreme Judicial Council;
- Information and Documentations Centre
- Judicial Police;
- Governmental Cases.

According to Decree 50/2012, the Judicial Police (see below 3.3.2), the Judicial Expertise and Research Centre, and the High Judicial Institute report to the MoJ.

A *Note Verbale* was addressed to the MoJ in September, requesting the nomination of a panel of experts to act as counterparts for a joint assessment. No official reply has yet been received to date.

Based on the Mission´s findings, after conducting a desk review and consulting with UNSMIL and other related international organisations, there is a need to review the laws of judicial organisations and proceedings to achieve a consistent legal framework compliant with Libya's regional and international treaty obligations (e.g. Libya signed the UN Convention against Transnational Crime and its Protocols, but the national legislation was never adapted accordingly).

Coordination and cooperation among the institutions of the criminal justice system needs improvement. Special focus should be given to aspects such as performance, integrity, transparency and accountability, the treatment of members of vulnerable groups, and the overall capacity to deliver quality judicial services.

Political and security developments in Libya greatly affect the efficiency and effectiveness of the criminal justice chain. After four decades of dictatorship, the establishment of the Rule of Law, including the respect for human rights, represents a serious challenge for successful Security Sector Reform.

1.3.   Ministry of Defence (MoD)

No specific mapping of the MoD´s governance has been carried out. In general terms, it could be said that the Ministry, as a central institution, has little or no control of the Armed Forces.

The MoD has two bodies which are tasked with border control. The Libyan Coast Guard and the Port Security (LCGPS), which also maintain a functional relationship with other ministries through the execution of tasks such as search and rescue, border surveillance, fishery and environment inspections, inspections of commercial marine traffic etc. The Border Guard (BG) is the other directorate in the MoD, which is responsible for the surveillance of Libya´s land borders.

1.4.   Ministry of Finance (MoF)

Pending further research, this area will be addressed at a later stage.

The Customs Administration of the MoF is also mandated to participate in border management and has expressed interest in taking a more active role in this area. Its competencies include duties related to the "control of passengers, goods and means of transportation, and detecting smuggling, drugs and weapons trafficking".

1.5.   Prime Minister´s Office (PMO)

The internal security landscape in Libya also has a number of law enforcement agencies which fall under the responsibility of Ministries other than the traditional security ones (i.e. MoI and MoD). For example, the two intelligence and security services, dealing with counter-terrorism and organised crime and carrying out the full intelligence cycle to inform the Libyan authorities, depend directly on the Prime Minister's Office (PMO). This office was created very recently with the arrival of the PC to Tripoli and the Mission does not yet possess enough elements to assess its operational capability, especially in terms of inter-ministerial coordination.

A number of other law enforcements agencies (such as the General Directorate to Control Illegal Migration) have the aspiration to achieve greater autonomy from their respective Ministries, mainly for budgetary reasons.

2.   LAW ENFORCEMENT

It is estimated that the organisations described below, to some extent, take part in the fight against terrorism, organised crime and corruption. Due to limited opportunities for EUBAM-Libya to meet with their representatives in Tripoli or Tunis, information available differs widely with regard to these organisations. An overview on staffing, performance, training needs as well as equipment cannot yet be provided. In addition, information exchanges seem not to be available between these organisations and their coordination with each other, mutual support and ability to perform joint investigations.

2.1.   Tripoli & National Security Directorates

The Libyan National Police (LNP) finds its legal basis in Law 10 /1992 and several related decrees. The LNP is affiliated to the Ministry of Interior (MoI) and subordinated to the Deputy Minister for Security Affairs. Within the MoI there is a General Security Directorate (the equivalent to a national police HQ) that supervises the National Security Directorates

(NSD) at Municipality level. NSDs are organised in different departments such as Patrol Units, Traffic Police and Criminal Investigations.

However, the reality does not reflect the structure established by law:

☐ NSDs report directly to the Deputy Minister for Security Affairs;
☐ The number of NSDs has increased to 57, in parallel with the growing number of municipalities;
☐ The Tripoli Security Directorate has 16 subordinated police stations;
☐ The number of operation rooms in the provinces is unknown.

The increased number of NSDs has also had an impact by overstretching the limited and under skilled resources described below.

According to the former Libyan Minister of the Interior, the overall number of police personnel in September 2015 was around 130.000. Almost half of this number were officials/civil servants deployed in the ministerial departments and the other half were officers deployed in NSDs. Of these, approximately 5,000 were Commissioned officers, 51,000 were non-commissioned officers and 13,000 were civilian staff.

The police in Libya continue to suffer from a decimated force as many police officers did not return to work after the uprising. The State has undertaken attempts, without much success, to strengthen the LNP, with "*Thuwwars*" (members of armed militias), mainly from the Supreme Security Committee and the Libya Shield Force.

According to the MoI's senior officials, the current force ratio is 30% experienced officers and 70% *Thuwwars*. Furthermore, during the conflict many police stations were looted and their equipment was burnt. In the absence of a well-structured training capacity, police officers have ended up learning by "trial & error", in the context of multiple tribal loyalties. Formerly "legalised" armed groups, which had been integrated into the MoI's police structure ("Central Security" or "Special Deterrence Force" in Tripoli), are now acting as the main forces in Tripoli, while struggling against other militias for power.

Overall, the LNP is dysfunctional, understaffed and underequipped which means that armed groups can fill the void and have no accountability to the central authorities. The public perceives the police as being unable to exercise their mandate and this is particularly felt in the capital. Militia, themselves, see the police as being corrupt and bearing the legacy of Gadhafi's regime.

Detention centres are also under the control of militias with serious human rights violations being frequently reported.

However, the exact status of the police in Libya is unclear and the police operational capacity evidently differs throughout the country.

According to the MoI's senior officials, the police directorates and their police stations, carry out criminal investigations on minor crimes and forward the initial reports on serious crimes

to the NSD/CIS-section, or to the State CIS. The Security Directorate plays an important role to address cases to the competent prosecution office.

Although a *de facto* community self-policing model shows some signs of success, it contributes to the increased disintegration of the security sector. This becomes even more evident at a local level, where security actors limit operations to "their own territory". In the case of the Tebu tribe, their representatives reported a close cooperation between local police stations and the municipalities, but not in accordance with the formal chain of command.

2.2. MoI – General Directorate for Central Security (GDCS)

This entity was established in 2012 by Decrees 145 and 982 as "Police Operations", and renamed as MoI-General Directorate for Central Security by Decree 2994/ 2013.

The Directorate is organised centrally into specialised departments and nationwide in branches (300-1800 staff each), teams (200 - 300 staff each) and offices (up to 120 staff each). The total strength is around 23,000, including 2 % of the number being civilian administrators.

The number of staff drastically increased after 2011 due to the integration programme run by the Supreme Security Council (SSC) until it was dissolved in 2012. Currently, only 30 % of staff are sufficiently trained police officers. The Tripoli HQ (3,000 staff) is organised into 4 branches, 24 teams and 2 offices. An Operations Room in Tripoli has been mandated to control subordinate units nationwide.

The Directorate is a supporting organisation which has units for crowd control, mobile and special surveillance, intervention, demining, etc but does not have responsibility over detention centres.

A number of selected trainers are available for specialised training, but the capacity to train trainers for specialised trainings is missing and existing curricula require revision. Basic crowd control equipment is missing (e.g. helmets, body armour, arm and shin protection, batons and shields, etc.).

It is considered important to rebuild the capacity of the Central Security Forces to support the State regaining control of public order. The Training Department has a very weak capacity to do so at present. More information and analysis are required for a detailed needs assessment.

2.3. MoI - Criminal Investigation Service (CIS)

The legal bases of the CIS are the Cabinet Decrees 145/2012 and 92/2013. The CIS Is part of the MoI's organigramme and its head reports to the Minister directly. CIS enjoys a high level of autonomy and has its own budget. Its mandate is to investigate serious and organised crimes.

Currently, they allegedly have 5,000 staff nationwide. According to the Head of the CIS, there are four branches in the East under the Service's control (Benghazi, Tobruk, Marj, Albayda)

and in addition to western Sebha. He stressed that the CIS and its branches are avoiding any involvement in political confrontations.

The CIS has a department for Combatting Organised Crime, which also specialises in combatting illegal immigration, human smuggling, drugs trafficking, weapons smuggling, financial/economic crimes, money laundering, abductions, murder and extortion.

Several CIS officials have assessed that the situation is very difficult. They have stressed the need for adequate human, material and financial resources to enhance the quality of the service they are mandated to provide. In particular, training is needed on advanced criminal investigation techniques and relevant equipment, including laboratories for criminal investigation. Another major concern is the issue of the criminal archives in Tripoli and their digitalisation, as well as the connection of police stations to the digital archives.

Additionally, beyond their goodwill and limited capacity, CIS' work is severely hindered by the pressure forced on them by armed groups.

2.4.   Temporary Joint Task Force (TJTF)

Based on the Presidential Council Resolution 437 of 13 Nov. 2016, a joint task force was formed to detect and combat organised crime and terrorism. It is established under the authority of the Minister of Interior and includes the General Investigation Department (GID) as well as the NSDs.

Although the members of the Task Force have not yet been appointed, the Minister has already sent a request to UNSMIL to provide support and forensic equipment. This request was then forwarded to EUBAM-Libya through the Police Working Group (PWG) which coordinates international donors.

2.5.   MoI - Counter Narcotics Directorate (CND)

The MoI Counter Narcotics Directorate is also one of the institutions which take part in fighting Organised Crime (OC). Currently, more information is required to assess the set-up and capacity of this directorate and potential overlap with the competencies of the CIS.

2.6.   General Investigation Department (GID)

All personnel of the former Internal Security Service, which were previously transferred to security directorates in local councils, were later relocated to the GID by Cabinet Decree 325/2013. The GID established this new service with a broad mandate including the task of fighting terrorism and organised crime. It also deals with issues related to Libya's industrial and oil sectors.

Religious values are mentioned several times in Decree 325 which may imply "religious" law enforcement. Article 3 describes GID duties more as a training and planning entity rather than an executive one. The GID also has established a General Department for Information Security.

The Head of the GID has the rank of a Minister and both he/she and his/her deputy are appointed by Cabinet Decree following a proposal from the Prime Minister. The GID's personnel are composed of commissioned and non-commissioned officers as well as civilian administrators.

The total strength of the organisation is estimated at between 4-6,000 (20-25% of which were incorporated after the revolution). Currently, only around 20% of its personnel are on the payroll and many of them are not able to work due to lack of equipment. The GID is internally divided between those incorporated after the revolution and the "Gadhafists" who have a specific police background. Some militias have been affiliated to the GID and support it (in particular, the Salah Burki Brigade the Fursan Janzour Brigade and the Janzour Knights).

The agency is currently involved in an internal political struggle. On the one hand, they support the PC, while on the other hand they are seeking independence from the MoI and clarification about the division of labour with the Libyan Intelligence Service.

The GID HQ is located in Tripoli's third circle road with offices in Mitiga Airport and Ras Adjir border crossing point (BCP). Its presence is limited to the Tripolitanian coast and the Nafusa Mountains. The GID does not have any kind of control in the South like most of Libya's central administration.

GID's organisation was a security service in charge of controlling the Libyan population to protect Gadhafi. GID has not yet been transformed into a democratic law enforcement agency. GID still keeps detachments controlling access points in hotels, public buildings, airports, BCPs, as well as in private factories and companies. These detachments inform the GID HQ about any potential risk against the Libyan State and its citizens.

The GID has an investigation branch which deals with a wide range of crimes; terrorism being the main one. Its investigation capacity has to be further assessed on the ground, although the lack of technical means and trained personnel indicates that their operational capacity is limited. It does not engage in any significant coordination with other agencies, including the MoI departments and armed groups involved in combating crime. The investigation branch has an office which is responsible for liaising with the Prosecutor's Office to preserve the secret identity of investigators.

The GID is the internal security service supposedly in the lead with regard to fighting organised crime and terrorism, but it does not have the organisation, legal framework, capacity and coordination required to deal with these serious crimes.

The defeat of Da'esh in Sirte will more than likely result in the establishment of clandestine cells and the subsequent increase in the terrorist threat. This will require a well-equipped, skilled and coordinated counter-terrorism structure.

The GID Director has been active in meeting international stakeholders to seek equipment as well as support in capacity building. There are no known international initiatives or projects to tackle these matters at present.

2.7. Libyan Intelligence Service (LIS)

The LIS has its main legal framework in Law 7/2012. The head of the service has the rank of a Minister and its members can be granted the status of judicial police while working under the Prosecutor's authority.

The LIS is the main successor of the former *Moukhabarat* service. Its main tasks are counter-intelligence, protection of the State against foreign parties, information protection, communications security, foreign intelligence as well as fighting terrorist networks and organised crime organisations.

The LIS acts as the intelligence service and law enforcement agency for transnational crimes affecting Libya. The border management actors, such as the Libyan Coast Guards, transfer all the information which they gather to the LIS. For this reason the LIS is represented in the Border Management Working Group as a member of the National Team for Security and Border Management.

The LIS has shown sensitivity to the political battles in the capital. It was controlled by an Islamist faction from Misratah which did not satisfy some of Tripoli's most important militias, such as the Tripoli Revolutionaries Brigade (TRB). At the moment, the service is led by the Deputy Head of Service, who is an experienced figure from the Gadhafi regime but does not seem to have any political affiliations.

The LIS is supposed to be a nationwide organisation with representatives in the most important Libyan embassies. In 2014 the LIS was divided, with its eastern part completely isolated from the one in Tripolitania. Both of them have very limited operational capacity in the South.

The LIS is one of the main CT actors which fights the transnational threat and liaises with the border management agencies. The coordination and exchange of information with internal security services, such as both the GID and the CIS is absent and there is a need to conceive and implement coordination mechanisms.

Contact has been made with the LIS' management on several occasions and they have shown interest in future cooperation. Travelling to Tripoli is paramount to build confidence in this regard. However, an accurate assessment of its operational capacity and performance cannot yet be given.

2.8. MoF - Libyan Customs' General Directorate for Anti-Smuggling and Enforcement

The organisation is the law enforcement body of the Libyan Customs system under the Ministry of Finance, based on Customs Law 10/2010, the Drug Law 7/1990 in addition to other laws. The office is organised as a General Directorate of Libyan Customs and divided into Central Departments for Statistics, Planning and Information, Operational Departments (Beach and Coastline, Land BCP Inspection, Transit Service), Field Departments and Units. It was reported to us, that the total number of staff is 4115 (including 341 civilians).

The organisation is barely functioning due to the security situation. There is very limited information available from the General Directorate about its operational and training capacities as well as international supporting initiatives. It is worth mentioning that this General Directorate received robust support from Italian Customs in the past, in particular, with regard to the Risk Analysis Unit. France recently dispatched a senior Customs advisor to the Libyan MoF.

This Organisation has an important function in the fight against Trans-border Organised Crime and Terrorism.

2.9.   Administrative Control Authority (ACA)

The ACA is an independent authority with its legal basis in Law 20/2013. The ACA reports to the Prime Minister and it is based in Tripoli, with offices in the East.

The ACA investigates crimes which have been committed by public officials (e.g. corruption and organised crime). No information was available, to date, on infrastructure, equipment, operational and training capacity.

2.10. Financial Audit Bureau (FAB)

The FAB is an independent authority based on Law 19/2013, located in Tripoli, with offices in Benghazi.

The FAB is tasked to investigate suspicious financial transactions in Libya as well as examining and auditing the State accounts, organisations and public agencies.
There is currently no information available on infrastructure, equipment, operational and training capacity.

2.11. Financial "Information" Unit (FIU)

Libya is a member of the Middle East North Africa Financial Action Task Force "MENAFATF". This regional organisation requires members to establish FIUs to be able to receive, analyse, assess and share financial information. FIUs are expected to support law enforcement efforts to investigate money laundering in the context of organised crime and financing of terrorism.

Based on Law 2/2005 for combatting money laundering, Libya has established its FIU within the Central Bank which is a centralised and independent administrative authority. However, this unit is barely functioning according to information received from the World Bank.

The same law provides for the installation of an "Anti-Money Laundering sub-unit" in every Bank. These sub-units are supposed to report any relevant information to the FIU at the Central Bank. There is currently no information available about how these sub-units are established and functioning.

2.12. Presidential Guard (PG)

After the signing of the Skirat agreement, the PC and the International Community's (IC) main concern was to provide a safe and secure environment to facilitate the arrival of the PC in Tripoli. The lack of a reliable security provider brought the necessity to establish a force that could grant sufficient protection for the PC and its facilities to start operating in the capital.

With this requirement in mind, UNSMIL started working with the Temporary Security Committee (TSC), in developing the concept of a hybrid force, with capacity provided from both the military and police.

The PC moved to Tripoli in March 2016 because of security arrangements agreed with several armed groups and therefore the PG project was postponed.

However, the PC and its MoD and MoI designees were not successful in providing any security services to the population in Tripoli as well as the rest of Libya. Hence, the PC re-considered the old PG project, and widened the competences of this new force initially limited to the protection of the PC and GNA members and premises.

The PC Decree 3/2016 of 9 May 2016 established the PG under the authority of the PC. The PG is tasked to secure PC premises and members, sovereign and public institutions of the State, official guests of the Government and vital installations (including land, air and sea BCPs).

The PG capacity should initially be limited to Tripoli and formed only of army and police units which are selected and reassigned to the PG from all over the provinces of Libya.

The PC recently appointed Brig. Gen. Kheir AL-NAKHUA as the PG Commander and Col Mohamed Abu Bakr LAQRI and Ibrahim Ahmed Abdullah BILAD as his two deputies.

Brig.AL-NAKHUA presented an ambitious proposal to the PC on the composition, organisation, equipment, weapons and budget of the PG. His view of the new force includes, besides the required static and dynamic protection units, the command and control structures and the support units, an intelligence office and a counter-terrorism unit. In his concept, the PG will be a professional force for all of Libya, with a police component, but not a prominent one, which will serve loyally under the recognised leadership of the PC.

To date, the PC has not yet adopted the structure of the PG, and the funds requested by AL-NAKHUA (initially 10 Million LD later increased to 25 Million LD) have not yet been transferred.

The PG commander and his close staff continue to plan. Vetting has already started for the first 1500 troops and there are plans to take over bases in Watiyah and Jufra for western and eastern areas. Nevertheless, the exemption from the arms embargo remains a top priority to equip the PG.

A PG conference in Tunis is being supported by UNSMIL to gain international interest and potential assistance for this force. Italy is the main player, but also the USA and France, have shown interest in training and equipping the PG in areas such as light infantry, training on Puma vehicles, engineer training, VIP protection (France), SWAT training (France) as well as special forces and counter-terrorism training (USA).

The appointments of two senior police officers as commanders of the PG police components are still pending. After having been appointed, they will both start the recruitment process for police officers.

The IC, led by UNSMIL has strongly encouraged the formation of the PG and continues to do so. On the Libyan side, the PC is not univocally supportive of the new force, which has caused delays in the nomination of the Commander (Cdr) and the approval of its concept. These disputes are thought likely to continue and hinder the swift implementation of the PG.

The commitment of the IC to the PG concept has led to bilateral engagements by some Member States and third countries. This model is also preferred by the Libyans since they see bilateral cooperation as a more effective means to meet their security needs at present.

Although the PG is still not yet operational, it is still in the planning and recruiting phase. If the EU wants to participate in the development of the PG, it has to act at a political level to offer, at the very least, a coordinating role to guarantee the consistency of the formation of the force (especially its police component) with the rest of the law enforcement capacity across the country.

3. CRIMINAL JUSTICE

The justice system has been significantly compromised by the security situation and its structural weaknesses. UNSMIL/UNCHR evaluate the criminal justice system as having collapsed. To understand the pre-existing challenges within the justice sector, it is necessary to take into account the four decades of Ghadaffi's dictatorship.

Civil criminal proceedings in Libya are regulated by the Penal Code from 1954 (latest amendment by Law 5/2014) and the Code of Criminal Procedure from 1953 (latest amendment by Law 7/2014) and in the Law on the Justice System (Law 6/2006, amended by Law 4/2011 and 14/2013).

The Libyan Penal Code divides crime into three categories:

Infractions	Misdemeanours	Felonies
- Detention, max 1 month - Fine not exceeding 10 Libyan pounds	- Detention, over 1 month - Fine, more than 10 Libyan pounds	- Death - Life imprisonment. - imprisonment.
Art. 55 Penal Code (defining infractions) Art. 20 and 23 Penal Code (defining types of detention)	**Art. 54 Penal Code** (defining misdemeanours) Art. 20 and 23 Penal Code (defining types of detention)	**Art. 53 Penal Code** Art. 19-21 defining death penality and types of imprisonment.

The Code of Criminal Procedure provides for four phases of criminal proceedings:

Investigation → Accusation → Trial → Appeal

Access to justice has become difficult following events in 2011, because of a judicial system which has, in essence collapsed, where few courts are operational because both court premises have been bombed and judicial actors (prosecutors, judges and defence lawyers) encounter threats and dangers in the line of their duties. Attacks targeting the judiciary directly impact the administration of justice and the Rule of Law.

The Criminal Code prohibits arbitrary arrest and detention but, in general, the various arresting parties do not uphold the provision. Many of the armed groups in Libya have been involved in unlawful arrests on a regular basis, which were not followed up by proper documentation and legal affirmation of the interventions.

3.1. Prosecution Service

The Prosecution services operate under the legal basis of Law 6/2012 on the Justice System (amended by Law 4/2011 and Law 14/2013). The Prosecutor General heads up the prosecution service for the State. At present, the Chief Prosecutor from Sabha covers this position *ad interim*.

At least in the most populated cities, Prosecutors are assigned to specific police stations. For example, the Tripoli South Court has five major police stations and the Prosecutors are divided into five groups, one being assigned to each police station.

The Prosecutors at each station are divided into shifts to provide 24-hour coverage. At the beginning of each judicial year, the Prosecutors develop a work plan to equally divide this workload. In all criminal matters, Prosecutors are responsible for filing criminal cases, investigating criminal complaints, pursuing cases before the Court, and implementing the final decisions. According to one source in the Tripoli Courts, roughly 90% of the cases begin when an investigating police officer contacts a Prosecutor. According to the existing law, police officers can be delegated to carry out investigations on behalf of the public Prosecutor in cases of misdemeanours and infractions.

[...] certain police officers may be appointed to carry out investigation and bring conduct to a public case in respect to misdemeanors and infractions. Art. 2 CPC

Judicial police officers shall be subordinate to the Public Prosecution as relates to the duties of their positions. Art. 41 Law 6/2006.

INVESTIGATION

PUBLIC PROSECUTION

[...] the Public Prosecution shall oversee reform and rehabilitation institutions and other places in which judicial orders and rulings are executed. Art. 42 Law 6/ 2006.

The Public Prosecution will have exclusive responsibility for bringing and conducting criminal cases [...]. Art. 1 CPC

Supervision of Detention Facilities

PROSECUTION

The remaining 10% of the cases are complaints filed directly with the Prosecutor's office by citizens. The relevant Chief Prosecutor will review the complaints and normally assigns it to a police service. The Prosecutor's office, only occasionally, directly pursues a case. There is no specialisation among Prosecutors (e.g. murder, sex crimes) and they all handle all types of cases. According to the law, cases are assigned on a numerical basis, i.e. a case number is assigned when a case is opened and the case is, in turn, allocated to a Prosecutor. However, some Chief Prosecutors may reassign a complex case to a more senior Prosecutor.

Prosecution offices reflect the structure of courts. In principle, the Prosecution service is also in charge of administering and supervising detention facilities.

Practical influence in the East exists on paper but, in reality, the system is separate in all but name and seems to be moving towards actual separation. UNSMIL describes the legal basis as

not a perfect fit for underpinning prosecution services but serviceable at present. It appears that cooperation between the Criminal Investigation Department (CID) and the prosecution service is good, but the ability to prosecute any militia members is non-existent. Prosecutors and their staff have been the target of threats and killings across Libya. Whilst prosecution services are said to be functional in Tripoli and Misratah, the situation is unclear in the rest of the country. Recent information also shows attempts to impose severe Sharia punishments, such as flogging and amputation in Misratah.

The international involvement in the prosecution service is, to a large extent, unknown at present, but both UNSMIL and UNDP have shown interest in the area.

UNDP plans to send a contracted consultant to Tripoli in January 2017 to conduct an assessment of the judiciary sector, focussing on the MoJ in Tripoli and affiliated bodies. EUBAM-Libya and UNDP have an agreement on cooperation to facilitate the survey and benefit from the consultant´s report.

3.2. Courts

The Court system also operates under the legal basis of Law 6/2012 for the Justice System. According to Article 11, the four levels of Libya's courts are as follows:

☐ Summary Court/ District Court: Basic court with limited jurisdiction for less serious crimes.

☐ Primary Court /Court of First Instance: In its capacity as a court of first instance, the Primary Court does not deal with criminal cases but hears cases in the first instance for all civil and personal status matters falling outside the jurisdiction of the district court. It functions as an Appeal Court for criminal cases dealt with by the District Courts. Primary Courts can be found in each city or district in Libya.

☐ Appeal Court: It generally constitutes the second layer of judicial proceedings, but it is also a court of first instance for certain (major) criminal cases, as well as administrative cases. The most serious criminal cases related to felonies (major crimes) are heard by the Appeal Court in its criminal division, the 'Assize Court'. There are seven Appeal Courts in Libya.

☐ Supreme Court: The Supreme Court is based in Tripoli and is Libya's highest court. It has appellate jurisdiction over all lower courts with the task to ensure that laws are applied and interpreted in a uniform manner throughout the country. A five-judge panel hears cases. It is the court of cassation in criminal cases.

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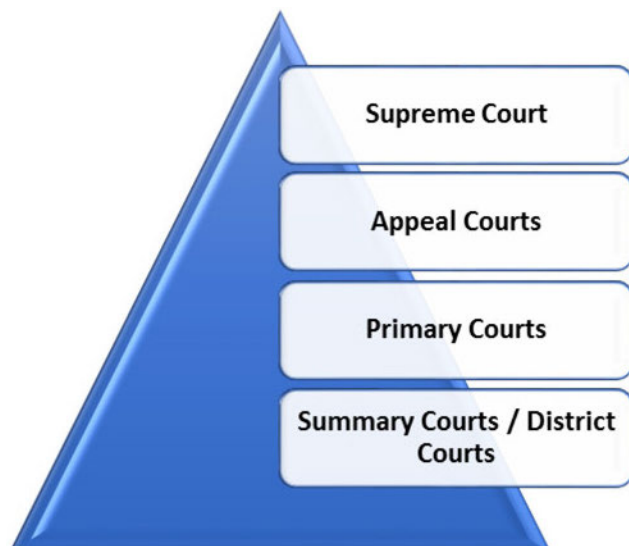
While courts have continued functioning across the country, they mainly deal with commercial disputes and family law cases in most provinces. Criminal cases have ground to a halt across much of Libya, based on threats and attacks on both judicial personal and premises, leading to a weak security situation resulting in an increase in prison populations. Many suspects are being held for months and years, with no prospect of trials being undertaken, and even when trials do take place suspects are being released due to trial delays.

There are many professional judges with a good legal background and standing, but the security situation on the ground makes it extremely difficult for them to carry out their duties. UNSMIL and UNDP continue to monitor the judicial system. Also, a number of NGOs work heavily in the area (most notably the International Commission of Jurists (ICJ)).

The issue of the Defence bar is intrinsically linked with the Court system and it will have to be evaluated in depth. The American Bar Association (ABA) has been working in this area, as well as the International Institute for Justice and the Rule of Law. UNDP also plans to be involved in this area.

3.3. Penitentiary

3.3.1. Prisons

According to an UNCHR report (A/HRC/31/CRP.3 of 23 February 2016), there are four general categories of detention facilities operating in Libya. The first three categories are all ostensibly operated by separate State ministries, namely the Ministry of Justice, the Ministry of Defence and the Ministry of the Interior, though armed groups remain involved in many of the facilities. The fourth category consists of informal facilities in which persons are deprived of liberty, and held in facilities controlled by a range of entities, including armed groups, local community or tribal councils, criminals, and smugglers.

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After the separation of the MoJ from the MoI in 2004, prisons under the responsibility of the MoJ are operated by the Judicial Police (JP) reporting to the MoJ. Law 5/2005 on the Correctional and Rehabilitation Institutions regulates objectives and types of correctional and rehabilitation institutions, division, accommodation and treatment of inmates (especially females); labour, education, health and welfare of inmates as well as disciplinary regulations. Law 5/2005 contains procedure rules on e.g record management, and responsibilities of the JD. Mentioned law is further sub regulated by Decree 168/2005 on the Executive Regulation of the Law 5/2005 on Correctional and Rehabilitation Institutions.

Ain Zara prison, however, remains under the responsibility of the MoI, where prisoners of conscience and political prisoners are detained.

Prior to the revolution on 17 February 2011, there were about 13,000 prisoners under the responsibility of seven branches of the JP.

In an attempt to integrate armed groups into the security apparatus in 2012-2014, many armed groups were incorporated into the MoD, MoI and JD (under authority of the MoJ). They were then officially mandated to carry out security and detention functions receiving salaries from the State with payments administered by the Central Bank, with minimal State oversight or control.

At present, the number of prisons and detention centres is uncertain. In some, the JP ensures the internal security, while the perimeter is guarded by armed groups; other jails are completely run by armed groups only nominally under the JP. At least 41 official and unofficial detention centres have been reported in Tripoli, Benghazi and Tobruk.

The prisons and detention centres which are controlled by State authorities, are mostly located in the East of Libya, where members of the JP joined the uprising from its outset. In general, the command over prisons and detention facilities can be divided into the following categories:

▪ Facilities under the authority of the Ministry of Justice and under the control of the JP which include formal prisons and correctional institutions; some of which have mandates for specific types of prisoners, such as women;

▪ Facilities under the authority of the Ministry of Defence and the control of the Military Police (MP) for the detention of military and security personnel (however, cases involving civilians held in those facilities, including deaths in custody, had been reported to the UNCHR);

▪ Facilities under the authority of Ministry of Interior, most precisely the Department for Combatting Illegal Migrants, which is running 24 detention centres but not all are functional;

▪ Facilities which are ostensibly State facilities but are fully or partly under the control of armed groups, such as Abu Salim in Tripoli (fully controlled by armed groups) and the detention facilities at Migita military base. In Al-Birsis detention facility, the head of the armed group, in control of the facility, has been appointed to a position in the MoI;

▪ The fourth category of facilities comprises numerous and less well-known makeshift informal facilities spread throughout the country where persons are deprived of liberty. They are operated by many diverse groupings such as armed groups, local communities or tribal councils, smugglers, criminals, and vigilantes (up to 100 in number). In 2015, the Deputy Minister of Justice stated that the matter of "illegitimate facilities" had to be referred to the Chief Public Prosecutor for investigation.

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- The precise number of persons in detention is unknown. However, according to a UNCHR report of 23 February 2016 (A/HRC/31/CRP.3) it is estimated that more than 9,000 persons are currently detained in facilities operated by the Ministry of Justice and the Department for Combatting Illegal Migration of the Ministry of the Interior alone. This number does not include the significant number of persons held elsewhere, such as in facilities operated by the Ministry of the Interior, those under the control of the Ministry of Defence, and/or those operated by armed groups, and private actors including smugglers.

3.3.2. Judicial Police (JP)

According to Decree 50/2012, the JP falls under the MoJ, although they appear to be reporting to different Ministries of Justice in the East and West of Libya. JP is officially responsible for the security of courts and state prisons, transportation of detained persons from prison to the court, the personal security of judicial officials, and the enforcement of judicial decisions.

There are eight regional offices for prisons in Libya (a separate network of detention centres for illegal immigrants is overseen by the Ministry of Interior).

Less than a quarter of the nominally 10.000 officers reported to work after the uprising in February 2011. Many JP officers, who are currently serving, are former revolutionaries. They were transferred between 2011-2014 from integrated armed groups into central security forces. The JP are on the State's payroll. JP is *de facto* unable to control some militia personnel. Many have been trained on human rights issues under UNSMIL supervision. Some 6,000 former revolutionaries were slated for incorporation into the JP through this training programme. Unconfirmed information indicated that an additional 4,000 might be joining by the time this programme has been finalised.

A major issue, facing the JP, is the overcrowding of prisons due to the current backlog in processing 'conflict-related' detention cases. The JP's representatives acknowledged that this backlog resulted, in part, from the inability of the JP to address the security concerns of judges and prosecutors dealing with this caseload.

Presently, the status of the JP is unclear regarding personnel strength, training and equipment.

3.3.3. Supreme Judicial Council (SJC)

The establishment of the SJC is based on the Law 4/2011 (further amended by Law 14/ 2013) amending some provisions of the Justice System Law 6/ 2006, authorising the SJC with overseeing judicial affairs and replacing certain regulations in Law 6/2006. The SJC is composed of:

1)   A counsellor from the Supreme Court;
2)   Head of Judicial Body Inspection Department;
3)   A counsellor from every Court of Appeal;
4)   The Prosecutor General;
5)   A member representing the State of Lawsuits Authority, Department of People's Legal Defence, and the Law Department; and has the sole responsibility for (final) decisions on requests submitted by the judicial body members (Judicial Inspection

Department, Courts, Public Prosecution, Lawsuit Authority, Law Department, Public Attorney Department) with regard to:
– Revocation of final administrative decisions concerning any professional affair of judicial body members which originally falls under the jurisdiction of the judiciary and any compensation claim entailed thereby;
– Disputes related to salaries, pensions, and bonuses of judicial body members.

Based on a recommendation of the Prosecutor General, the Supreme Judicial Council determines the location where members of the Public Prosecution are assigned, as well as their transfers, including the delegation to work in any other entity other than the first instance prosecution to which they belong.

Hence the SJC is meant to be the Libyan (legal) entry point for formal communication with the prosecution, courts/judges and defence lawyers. The Mission intends to establish formally contact with the SJC via a *Note Verbale*.

3.3.4. Informal Justice System/Traditional Mediation Systems and Customary Law

Besides the formal justice system, Libya has two other systems; the informal justice system (mainly tribal) and the traditional (based on traditional law). Libyan tribal mechanisms have long been the most common structures used for the protection of people and justice. Traditional dispute resolutions and conflict mitigation mechanisms have their own dynamics in Libya and operate almost independently from the official judicial system. They address conflicts within tribes but also between tribes, which are often settled by councils of elders (*shuras*, or consultative councils).

During the early phases of the Gadhafi era, the mechanisms of tribal conflict resolution were repressed, but began to be used again during the 1990s.

During the uprising in 2011, and in the course of the transitional period afterwards, the role of the tribes and the reliance on clans and families were largely reinstated. To a large extent, Libyans view tribal leaders as more trustworthy than official institutions, such as the police and army, with regard to the prevention of violence and crime. Official judicial institutions have until now not made serious attempts to integrate traditional mechanisms into the formal judicial structures. This is because judicial institutions in Libya at the moment cannot cope with justice demands.

Female victims seeking justice avoid using the formal justice system, as this makes the crime public and exposes the female victim to the risk of being publicly shamed or blamed for the crime. Due to this fear, which is rooted in the social sensitivity towards violence against women, it is most common that women seek justice outside both formal and informal justice sectors within their families. If choosing to make contact with local power, it is most common to do this via informal channels, ie predominantly the tribal structure.

3.4. Human Rights

3.4.1. Fair Trial

Three treaties, to which Libya is a signatory party, set out the basic obligations required for the right to a fair trial. Article 14 of the International Covenant on Civil and Political Rights (ICCPR) provides for the right to a fair trial by a competent, independent and impartial tribunal established by law. This provision is applicable both to civilian and military tribunals. The right is also contained in article 7 of the African Charter on Human and Peoples' Rights as well as in articles 12 and 13 of the Arab Charter on Human Rights. International standards pertaining to fair trial need to be both (re-)established in terms of practical implication by the judiciary actors and revised/reformed in terms of the respective legal framework, mainly the Libyan Criminal Procedure Code and Penal Code including below listed international and regional treaty obligations.

3.4.2. International and regional treaty obligations

Libya is a party to eleven of the eighteen human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol; the International Covenant on Economic Social and Cultural Rights (ICESCR); the International Convention on the Elimination of all Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC) and its Optional Protocols on the Involvement of Children in Armed Conflict (OP-CRC-SC); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. (ICRMW). In addition, Libya has signed, but not ratified the Convention on the Rights of Persons with Disabilities (CRPD).

Libya is also a party to the African Charter on Human and Peoples' Rights and ratified the Protocol establishing the African Court for Human and Peoples' Rights and the Arab Charter on Human Rights.

The main concerns, within the justice chain in light of International Human Rights Standards and Libya's Treaty obligations under International Law in relation to Criminal Justice, are described in the following paragraphs.

3.4.3. Extrajudicial Executions, Arbitrary Detention, Abductions and Disappearances

UNSMIL/OHCHR and other organisations have reported, to a certain extent, on unlawful killings, in particular the execution of individuals taken captive or detained/abducted, and assassinations of those voicing disagreement are reported in all conflict areas and by most major groupings of armed actors in Libya committed either by government forces or armed groups and tolerated by the Government. Human Rights defenders, journalists, judges and prosecutors have also been the target of assassinations. The Human Rights Council expressed significant concern in relation to the unlawful killing of individuals in Libya in its resolution 28/30 (2015).

In the mentioned report, the Human Rights Council also expressed serious concern at the rise in the number of conflict related detainees, including children and called upon the Libyan government to urgently establish full and effective control over all detention centres, so that it could ensure that detainees are treated in accordance with international treaty obligations including fair trial and humane treatment. The current reality proves the difficulties in the implementation by the Libyan government.

3.4.4. <u>Mistreatment and Torture</u>

Libya is a State party to several treaties related to the prevention of torture, including, among others, UNCAT, ICCPR (and its Optional Protocol on individual complaints), CEDAW, and the African Charter on Human and Peoples' Rights and the Protocol establishing the African Court on Human and Peoples' Rights. Although Libya has not ratified the Rome Statute establishing the International Criminal Court (ICC), it remains, by virtue of Security Council Resolution 1970, under the obligation to cooperate fully with the ICC in its consideration of the situation in Libya since 15 February 2011, including acts of torture or other ill-treatment that may amount to war crimes or crimes against humanity under the ICC jurisdiction.

The Libyan legal framework provides for certain guarantees that if properly implemented should contribute to the prevention of torture and other ill-treatment: Article 435 of the Libyan Penal Code provides for a prison sentence for public officials ordering or committing torture against defendants. Law 10/2013 on the Criminalisation of Torture, Forced Disappearance and Discrimination. Although being a corner stone in preventing torture, Law 10/2013 does not mirror the requirements of UNCAT and, therefore, should be reformed.

According to UNSMIL and UNCHR's report of 2016 (see 3.3.1), examples of torture and other forms of cruel, inhuman or degrading treatment or punishment have been frequently reported by detainees as having been perpetrated at the time of arrest. During apprehension or questioning during interrogations, or during detention in facilities (the UNCHR report lists 22 facilities) operated by the State and/or armed groups, as well as in makeshift facilities. Torture has resulted in the death of detainees in various facilities. OHCHR observed a lack of redress for alleged cases of torture and other ill-treatment.

3.4.5. <u>Corruption</u>

Corruption is widespread in Libya and there is a significant popular distrust of the judiciary, therefore informal justice mechanisms are often preferred. Lawyers and practitioners also lack confidence in the ability of Libya's judges to withstand pressure from the executive power. There is also the perception that prosecutors tend to downplay corruption and integrity issues. On the other hand, currently serving prosecutors (virtually all from the old system) assert that they do not succumb to external pressure even though they did even under the old regime.

3.4.6. <u>Death Penalty</u>

According to Libyan law, death sentences can be given and carried out. Capital punishment is laid down in at least 30 articles of the Libyan Penal Code. Death sentences are predominantly given for crimes against public interest, public administration, and public safety as well as for

crimes against individuals which were committed in relation to the uprising in 2011, eg to former Gadhafi loyalists or for murder.

Although the death penalty is not prohibited under ICCPR, where Libya is signatory party to, the Art. 2 ICCPR states that the death sentence may be only imposed for the most serious crimes and not contrary to the provisions of the ICCPR (especially fair trial).

In contradiction to fair trial standards, a number of these sentences have been issued *in absentia*. Since Gadhafi's fall in October 2011, military and civil courts have imposed at least 28 death sentences. In October 2013, the Supreme Court suspended the death sentences of a former Gadhafi official and a pro-Gadhafi fighter, because of concerns that they had not received a fair trial. Both were sentenced to death by firing squad for crimes committed during the 2011 uprising, including murder and kidnapping. As far as it is known, no death sentences have been carried out to date.

3.4.7. Sharia Law

According to Article 14 of the Penal Code, the Code shall in no manner affect the individual rights provided for by *Sharia* law. In Libya, the curricula at the various law faculties are apparently standard throughout the country and the students must take prescribed courses in the five departments of the law faculty: general law, private law, public law, *Sharia* and criminal law.

3.4.8. Gender-based violence and discrimination against women

According to UNCHR's report of 2016 (see 3.3.1), the armed conflict in Libya has increased violence and discrimination against women in the country. Women and girls face multiple layers of discrimination and continue to suffer violations and abuses in addition to those encountered by the rest of the population. The assassinations, assaults, harassment and threats against women carried out by armed groups appear designed to send a broader message that women should not be vocal in the public sphere. Women and girls (and boys) remain at risk of sexual and gender-based violence, particularly by armed groups. In several parts of Libya, the ability of women to exercise their fundamental rights and freedoms such as freedom of movement or the right to work, has been restricted not only as a result of the conflict, but as a result of requirements for accompaniment by "male guardians". Women have reported difficulties in accessing basic services from the Government and face specific barriers in relation to access to justice and, therefore, use the non-formal justice mechanisms instead (see 3.3.4). Women are afraid to approach a police station or other law enforcement facility as they could not be sure whether officials or armed groups were in charge, and that if they approached the facility they could be murdered or raped by armed group members. One of the biggest concerns articulated by women was that there would be continuing impunity for perpetrators of human rights violations and abuses. Here, Libya's treaty obligations under CEDAW and its Optional Protocol should be implemented.

3.4.9. Children

According to UNCHR's report of 2016 (see 3.3.1), children have been recruited into armed groups pledging allegiance to ISIL and used in hostilities and/or subjected to sexual abuse. Here, the government faces obligations under the CRC and its Optional Protocols on the Involvement of Children in Armed Conflict.

4. BORDER MANAGEMENT AND MIGRATION

Several Libyan ministries have tasks related to border management and migration: the MoI, the MoD and the MoF are among those more directly involved in border management, with a total of approximately 49.000 personnel. However, no more than one third of these individuals can be considered as trained professionals. In addition, the Libyan Intelligence Service (LIS) and General Investigation Department (GID) are also involved in border management. The Ministry of Transport (MoT) also takes part in border management for the administration of infrastructure, services and legal framework at sea, air and the land borders.
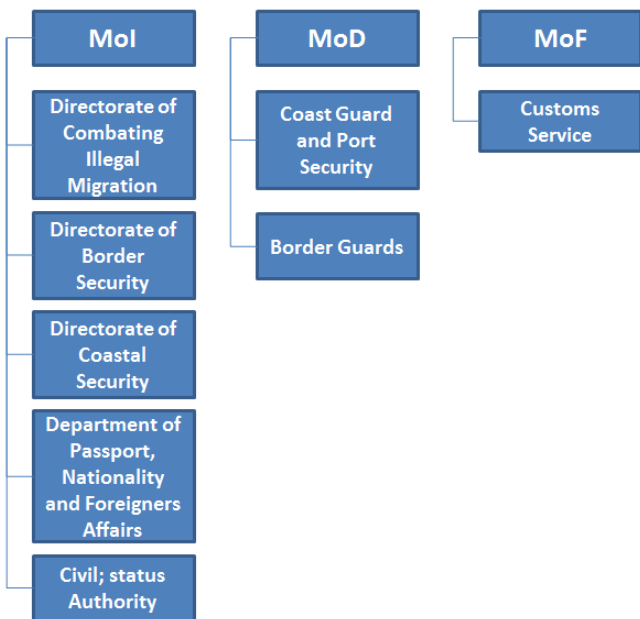
Libyan border security and management as well as migration management is a very complex issue with much overlap between various organs of the state and it is in complete disarray at present. It is in a dire need of institutional and legal reforms. Existing entities need a rapid overhaul to reach a functional threshold. If any form of border management is exercised at the Libyan land borders, particularly in the South, it is on the initiative from the local communities.

4.1. Border Management Actors

Three different MoI General Directorates[2] bear Border Management (BM) responsibilities: the General Directorate for Border Security (DBS), the General Directorate for Coastal Security (DCS) and the General Directorate for Combating Illegal Migration (DCIM).

The DBS is responsible for border checks (travellers' examination and document inspection) at land, sea and air Border Crossing Points (BCP). Surveillance of the sea shores and the open sea is allocated to the DCS, which at sea is in competition and overlaps with the Libyan Naval Coast Guard. The DCIM is a double hatted institution tasked to combat illegal migration and at the same time managing the Libyan detention centres for illegal migrants, acting both as a law enforcement entity and partly as a Migration Service.

The Civil Status Authority (CSA) and Passport, Nationality and Foreigner Affairs

MoI
- Directorate of Combating Illegal Migration
- Directorate of Border Security
- Directorate of Coastal Security
- Department of Passport, Nationality and Foreigners Affairs
- Civil; status Authority

MoD
- Coast Guard and Port Security
- Border Guards

MoF
- Customs Service

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[2]   All Directorates and Authorities mentioned in the Decree 145/2012, fall under the MoI.

Department (PNFAD), with indirect links to BM, are independent bodies but report to the MoI. For these two organisations EUBAM-Libya has so far not been able to identify any interlocutor that could give credible insights into their duties and responsibilities.

Within the MoD, the Libyan Coast Guard and Port Security (LCGPS) as well as the Libyan Border Guards (LBG) are assigned with BM tasks.

The MoF/Customs Service also participates in BM.

4.2. MoI – General Administration for the Security of Border Crossing Points (GASBCP)

The GASBCP is an administration within the General Directorate of Border Security (DBS) of the MoI. Their main task is to oversee the security and protection of Air, Land and Sea entry points. The GASBCP has the responsibility for 25 BCPs (8 Sea BCPs, 8 Land BCPs and 9 Air BCPs) and each of them is under the coordination of a director. The Director acts as a chairman over the BCP and channels cases towards the responsible authority.
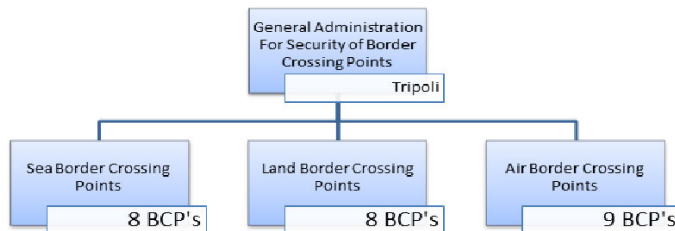
The following entities have an office at the border crossing points: the Passport department, police, customs, general investigations, criminal investigations and intelligence service. Due to the situation on the ground, it is not clear who is currently operating and responsible for the BCPs. It is understood that the GASBCP cooperates with the LBG, DCIM and the other above mentioned organisations.

The GASBCP has a total of 2,800 employees on paper. They are deployed at one Headquarter (HQ) and the mentioned BCPs. The GASBCP HQ has been occupied by a militia and cannot be used. At the moment, it is not clear which of the above- mentioned staff is deployed and where.

The GASBCP has no training capacity of its own and depends upon the MoI/Department of Training (DoT).

GASBCP officials who were interviewed could not specify their means and equipment, but it was stated that they lack all basic necessities to do their work properly. The GASBCP have not yet responded to the questionnaire which had been developed by the Mission's Border Management Team (BMT) and distributed to inform the mapping exercise.

The GASBCP represents a central organ that manages the BCPs and oversees the other organisations operating there, thus theoretically providing for a good cooperation and collaboration. In reality, it is weak in terms of situational awareness and intelligence led BM.

More specifically, there is lack of central control, coordination, cooperation, training, equipment, information exchange and reporting.

4.3.   MoI - General Directorate for Combating Illegal Migration (DCIM)

The Department for Combating Irregular Migration (DCIM) was set up, within the MoI in 2012, to retake control of militia and military council-controlled DCs across Libya. Its overall objective and mandate is to combat illegal migration, including the return of illegal migrants through the assistance of International Organization for Migration (IOM) and foreign embassies. Under Law 19 of 2012, persons entering Libyan territory illegally, and who are unable to produce appropriate documentation, commit a criminal violation and are restricted to DCs for the purpose of deportation, without a definite term of detention.

The DCIM HQ is based in Tripoli and its HQ has a Central Administrative Unit, a Financial Unit, a Registration Office and an Investigations Office. Theoretically, the Investigation Office is gathering intelligence on human smugglers and sets up operations leading to the opening of criminal cases and the arrest of human traffickers and migrant smugglers.
However, due to the present situation, their main activity consists of the detention of illegal migrants and the administration of the relevant DCs.

Due to the volatile security situation, it has been reported that DCIM only controls 20 DCs of the 31 DC's, while others are *de facto* controlled by local militias. Additionally, some DCs are located in the east of Libya and under the control of the Tobruk-based HoR.

There are reports about these DCs which describe gross human rights violations and extreme abuse and mishandling of detainees, including sexual abuse, slavery, forced prostitution, torture and maltreatment. Detainees do not have access to proper medical facilities. The trafficking of migrants for organs has also been reported.

Several sources stated that a basic registration of detained migrants is conducted at the moment of their apprehension. The registration includes information on nationality, name, date of birth, etc. The hard copies of the registration forms are then transported to the DCIM HQ where data are uploaded into a central database. At this point, in regard to detainees it has not been possible to verify this registration process.

Due to the lack of proper registration and the lack of control and access to all DCs, DCIM does not possess any valid statistics on the numbers of migrants currently detained (estimated at around 4,000 and mainly from West African countries, according to data available from the DCs being monitored by UN agencies). It remains unclear how many individuals are detained in facilities currently controlled by militias. There are no current attempts from UN agencies to access these latter centres as long as they are not controlled by DCIM.

DCIM collaboration with other national authorities appears to be very weak and on an *ad hoc* basis depending on the local situation. UNHCR currently has access to 10 DCs where they provide the detainees with basic needs such as food and non-food items, hygiene kits, etc.

DCIM and IOM are implementing a voluntary return programme. IOM is also involved with other activities such as mobile clinics, distribution of food, blankets etc.

DCIM and IOM had also previously started a registration project. According to sources, most of the technical equipment was ready and staff had been trained, when it was decided to stop the programme due to the escalating violence as the security situation deteriorated in 2014.

DCIM has approximately 8,000 staff. 80 % are police and the remaining staff are civilian employees with expertise in different areas such as law, research etc. Some of the staff are involved with militias and absent from work for varying periods of time, while still receiving salaries. Presently, there is no policy and/or plan to tackle this issue. It is believed that there are no female staff working at the DCs at present which is very obviously a major shortcoming.

DCIM staff used to be mainly recruited from the police. For a police officer joining DCIM at any level there is no specific curricula outlined for his/her specialist training on migration, but what is happening at present is very much "on the job training". Different specialist courses have been given at one time or another, including training from international organisations such as IOM and the United Nations High Commission for Refugees (UNHCR).

It was reported to us, that 24 DC's are in dire need of renovation and refurbishment which are a pre-condition to manage the proper registration of the detainees.

The DCIM is a relatively new department of the MoI and, as with all the government institutions in Libya, is facing severe difficulties to exert authority outside Tripoli. Consequently, there is very limited communication and work relations between the DCIM HQ and the DCs. The latter are more or less independent entities under the direct control of different militias and/or local communities. This situation has fatal consequences for staffing and hiring procedures, which seem almost random.

4.4. MoI - General Administration for Coastal Security (GACS)

The General Administration for Costal Security (GACS) is a Law Enforcement entity established within the structure of the MoI and headed by a Director General. The Law 10/1992 on Security and Police defined ITS competences at sea up to 3 nautical miles (NM). Cabinet Decree 145/2012 and MoI instruction 982/2012 extended its area of responsibility up to 12 NM. Beyond this limit, the Libyan Coast Guard is responsible. They are also responsible for a 30 Km band of land along the coast line, which is 1700 km long.

The construction of the envisaged HQ at the That-Al-Imad complex in Tripoli has still not been completed. The current HQ is in Tajoura (32 Km out of Tripoli) and does not contain proper infrastructure and offices. This is also the situation for the rest of the country. Some simple facilities, dispersed along the coast, are being used for operational purposes.

The GACS has law enforcement powers, thus it is in charge of countering any illegal activities in its area of responsibility, including irregular migration and trafficking of human beings. Moreover, they are in charge of controlling the violation of any administrative regulations within the territorial waters and along the coast line.

They not only do coastal patrolling but also coastal surveillance on land. They have no mobile (land patrols) and/or fixed technical means for surveillance on land (e.g. cameras and radars). For example, the administration has 34 vehicles, which is less than the numbers of branches.

The GACS has 5 Head Offices at HQ level and 10 Operational Regional Sectors (Tripoli, Sabratha, Khoms, Zawiyah, Misuratah, Sirte, Ajdabiya, Benghazi, Green Mountain and Tobruk). At local level, there are 55 Maritime Stations.

It is understood that there is a good cooperation and relationship between the Operational Regional Sectors in the East and West. However, no information is available about the way they operate (e.g. operational policy and/or concepts, deployment of human resources and use of technical means).
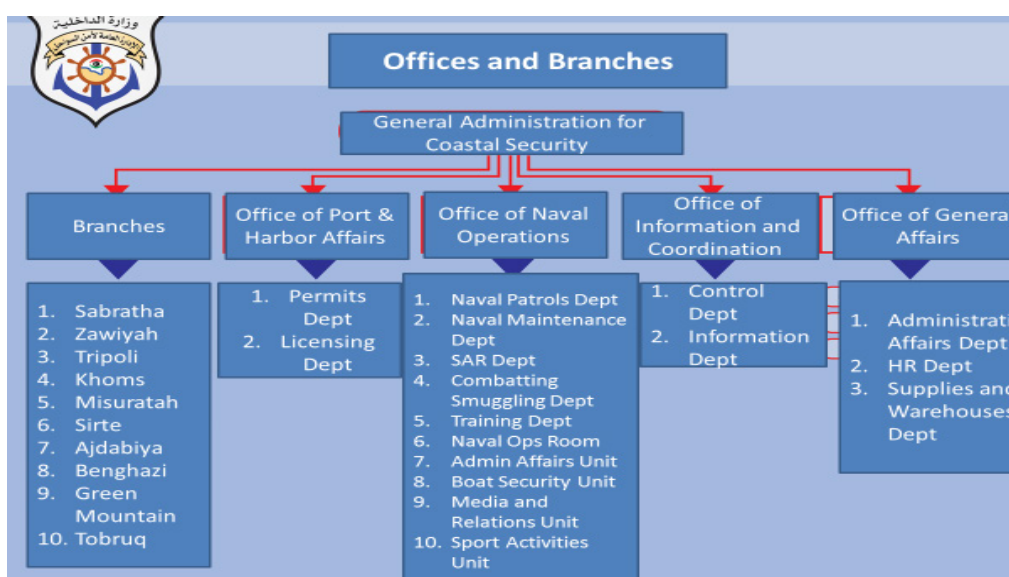
The LCGPS and the GACS have established regular and official meetings as a coordination tool for decision-making. So far, they have agreed on procedures and tasks related to illegal migration. However, the function of an Operational Room with 20 staff from both organisations, is unclear.

On the international level and due to the efforts of EUBAM-Libya, the GACS have now participated in the launch by Frontex of the Coast Guard Cooperation Network. Cooperation has also been reported with IOM, UNHCR, ICRC and some NGO´s such as Doctors without Borders.

The reported total number of staff is 3,675, 310 Commissioned Officers (Senior Management), 2,920 Non-Commissioned Officers (Petty Officers and Sailors) and 445 Civil Servants.

Regarding their training capacity, none of the training centres are operational at present including the Maritime Studies Academy, the Institute for Police Officers, the Mahahid Education and Training Centre and Navy Secondary School for Police Personnel.

There are no annual training plans. It appears that currently 3,288 officers have not received any training (the latter are militia members integrated through the so called "reconciliation programme").

8 Coastal Patrol Vessels (CPV) and Coastal Patrol Boats (CPB) belonging to the GACS, of between 14 and 35 metres in length, are not operational: 6 are in Tunis for maintenance, while 1 is in Tripoli and 1 is in Zwara.

On one hand, the overlapping responsibility with the LCGPS should be avoided, but on the other hand, the structure should fit to accomplish the envisaged mission.

4.5. MoD - Libyan Coast Guard and Port Security (LCGPS)

The LCGPS is part of the Libyan Navy and, as such, belongs to the MoD. The LCGPS was established under Government Decision 372/1996.

The LCGPS is the institution responsible for exercising the sovereignty and law enforcement of the Libyan State, within their waters, in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, national law, as well as agreements and resolutions related to maritime activities. The duties include surveillance of the national waters, controlling and combating any illegal activities at sea (smuggling, illegal migration, pollution, fishing, etc.), Search and Rescue (SAR), as well as relations and cooperation with other national and international agencies.
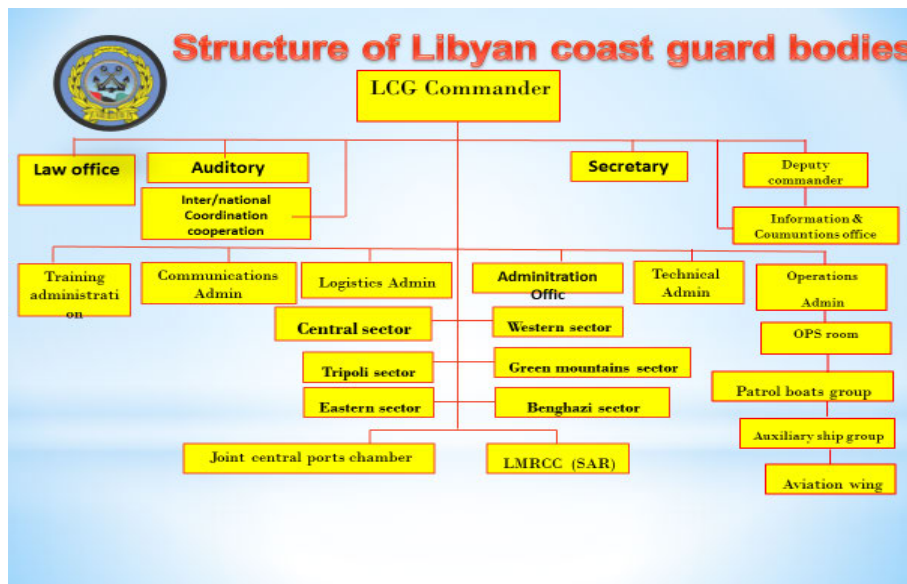
The HQ of the organisation is located in Sidi Bladi (20 Km from Tripoli) in the Navy premises. There are 6 Sectors and 50 local stations (3 Sectors in the East are under the command of the Tobruk-based HoR). Reportedly, there is cooperation and contact among all

6 sectors as well with the central level. All Sectors have their own administrative building with offices. All maritime stations have an office located in the ports within their operational sector.
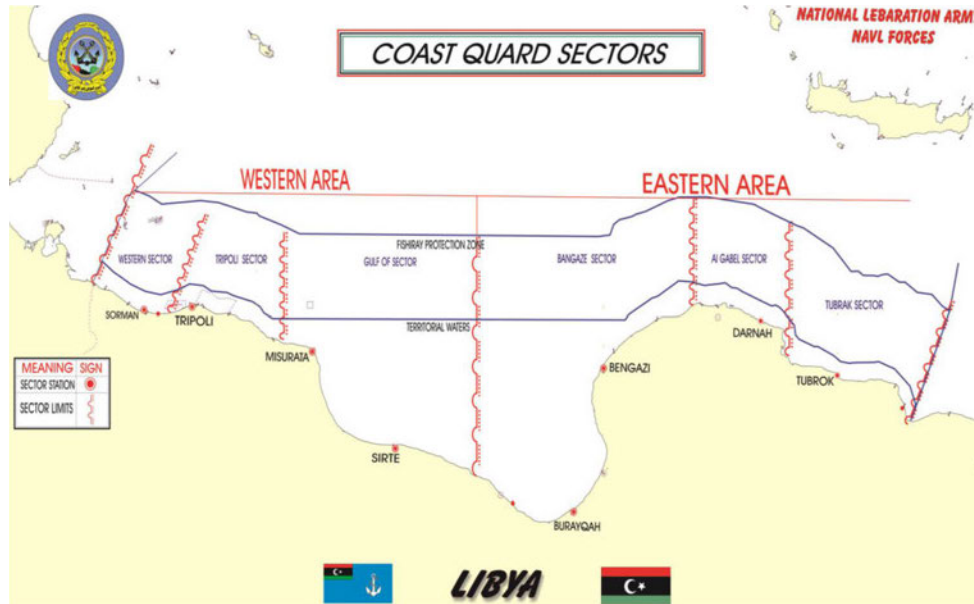

The SAR Region of Libya is still pending approval from the International Maritime Organization (IMO) although it has already been agreed with Italy, Malta and Greece. There are still some unresolved issues with Tunisia and Egypt. Libya has established a Fishing Area where all the fishing boats must have permission to carry out their activities.

The Coast Guard Operational Maritime Centre is located in Tripoli and coordinates all of the activities, including SAR, and it serves as the acting Maritime Rescue Coordination Centre (MRCC) for Libya.

An Operations Room was established in 1991 and serves as a Maritime Traffic Control Room / Vessel Traffic System Centre (VTC). This is the coordination tool for all Ministries involved in maritime activities: Ministry of Oil, Agriculture (fishing department), Transport (Port Authority), Department of Environment, Finance (Customs, currently not represented) etc. The traffic control room is still in place but does not have any automatic system for Maritime traffic control and everything is done manually. All radar equipment was destroyed during the revolution.

A working group for maritime activities was created by the Libyan Prime Minister in 2013. The WG is still active and all the authorities with any involvement in sea faring activities are represented. The LCGPS is also represented in the recently created NTBSM.
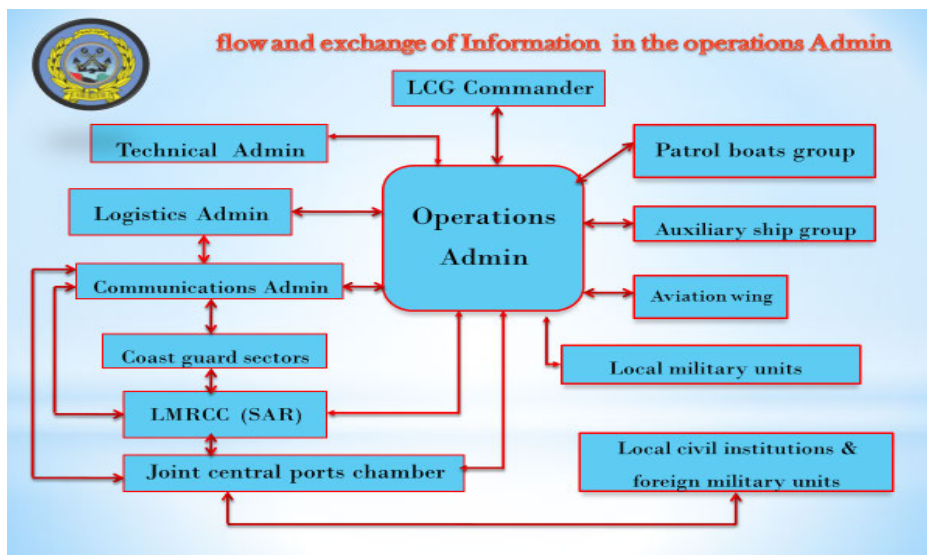
The role of Ministry of Transport (Port Authority) is important in relation to the LCGPS. The Port Authority is responsible for all administrative issues, while the LCGPS is the operational body in charge. Additionally, the Port Authority is in charge of the signing of the international agreements regarding the Territorial Waters, Contiguous Zone and Economic Zone, environment control and implementation of ISPS Code (International Ship and Port Facility Code).

As mentioned above, in the mapping of the CGPS, both administrations (LCGPS & GACS) have established regular official meetings.

The LCGPS stated that the coordination and cooperation with the GACS is appropriate, although both authorities fall under different Ministries (respectively MoD and MoI). According to Decision 160/2008, the original competences of the GACS were up to 3 NM, but after the revolution they were extended to 12 NM. Within this maritime space, both have similar law enforcement competences with a clear overlapping of competencies.

Before 2011, there was also close cooperation with the Italian *Guardia di Finanza,* which included carrying out the joint patrolling and practical training on board patrol vessels donated by Italy.

EUBAM-Libya carried out several training activities in the first half of 2014, which were reported as being very positively received by the LCGPS.

At EU level, the LCGPS cooperates with EUBAM-Libya, EUNAVFORMED Op. Sophia (training), Spanish *Guardia Civil* through the project SEAHORSE, EEAS, Commission´s DG HOME and Frontex.

The establishment of the Libyan MRCC in Tripoli is foreseen by an EU project led by the Italian *Guardia Costiera*. In SAR activities, the LCGPS have close cooperation with the aforementioned authority.

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The reported total number of staff is presently 3,369 of which 261 are Commissioned Officers (Senior Management), 3,100 Non-Commissioned Officers (Petty Officers and Sailors) and 8 Civil Servants. Most of the staff are deployed in the main cities of Tripoli, Zabratha, Misratah and Benghazi.

Currently none of the LCGPS training centres are functional and the only officers trained since 2012 have been those trained under the following International Community (IC) initiatives:

- EUBAM-Libya delivered several training courses on SAR, the treatment of migrants and maintenance, during the first half of 2014;
- The ongoing training of EUNAVFORMED Op. Sophia (30 officers out of a total of 80 personnel);
- The ongoing SEAHORSE Project (EU project led by the Spanish *Guardia Civil*).

The LCGPS has 4 Coastal Patrol Vessels (CPV), 26,4 metres (mt). long, 770 NM range. They are all at present in Italy (Naples) for maintenance. There were 6 of them but 2 were bombed and destroyed by NATO. Additionally, the LCGPS possesses:

- 4 fast boats (14,5 mt. long) and all operational: 1 in Sabratha, 1 in Khoms and 2 in Kinmas (Turasnarub in Middle Sector);
- 3 small fibre glass boats in Zabratha;
- An undefined number of dinghy boats of 12 mt. long. They are used for patrolling, rescue activities and to counter any kind of illegal activities (even at great distance from the coast and up to 24 NM if provided with extra fuel.

Despite the lack of technical means, the LCGPS has rescued more than 13,500 immigrants in close cooperation with the Italian *Guardia Costiera* (MRCC Rome).

The LCGPS is divided into two command centres, one in the East and one in the West. Presently, EUBAM-Libya does not have any contact with the eastern command centre.

After the integration of militia members in 2012, this staff did not attend any maritime or law enforcement training.

Due to the limited capacity of the LCGPS, they are only focusing on SAR operations in coordination with MRRC Rome at present.

4.6. MoD - Land Border Guards (LBG)

The Libyan Land Border Guards were established by General People's Committee Decree 392/2000 (1429 AH) under the MoD. The, Cabinet Decree 145 of 2012 adopted the organisational structure and powers of the LBG under the MoI.

The commander of the Libyan LBG is appointed by virtue of an MoD decision. The LBG operates under the supervision and oversight of a committee called the Land Border and

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Crossing Security Committee. The committee is composed of one or more representatives from the following bodies, which meets every Sunday:

- General People's Committee for Justice and Public Security;
- General People's Committee for Finance (Customs Authority);
- General People's Committee for Transportation and Transport;
- General People's Committee for Health and Security;
- General People's Committee for Agriculture;
- General People's Committee for National Livestock.

The mission of the LBG is to maintain the safety and security of Libya's land crossings and borders.

The recently created NTBSM, and its LBG member, meet on a regular basis with EUBAM-Libya. Only a few border regions are reported as being under the central control of the LBG. The border sectors, claimed to be under control of the LBG, are at the Tunisian and Algerian borders. It has been reported that the LBG is in contact with the Tunisian and Algerian authorities.

It is understood, that the LBG have a total strength of 18,000 soldiers divided into 6 border sectors. Every sector has three stations and three battalions. However, 80% of the troops are not under the complete control of the central command due to the fact that they have loyalties and ties to local *katibas* or militias.
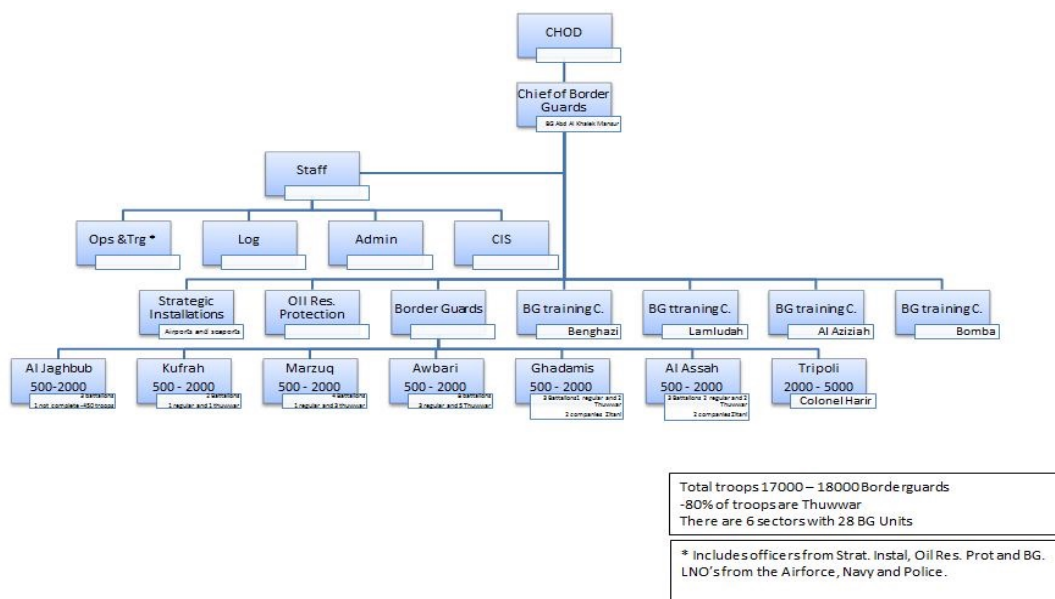

Some stations have been destroyed in the past resulting in the fact that there are no stations left in the South.

Finally, the LBG is a military organisation with a military structure, which should enable the LBG to quickly deploy staff even in remote and hostile environments such as the South of Libya. The surveillance of the border, in particular in the South, is important to control

migration flows and to deal with illegal migration. Most of the tasks of the border guards, as described in Decree 392/2000, are a combination of law enforcement (MoI) and military (MoD) competences.

4.7. MoF - Libyan Customs Administration (LCA)

The Customs Administration of Libya (LCA) is an executive authority of the Ministry of Finance which implements the customs policy of Libya. Libyan Customs exercises its authority throughout the whole territory of Libya and it is divided into General Directorates, Staff Offices and 9 Regional Customs Houses, the latter located in Tripoli, Misratah, Zwara, Gabel Nfousa, Sebha, Tobruk, Benghazi, Ghat and Koufra.
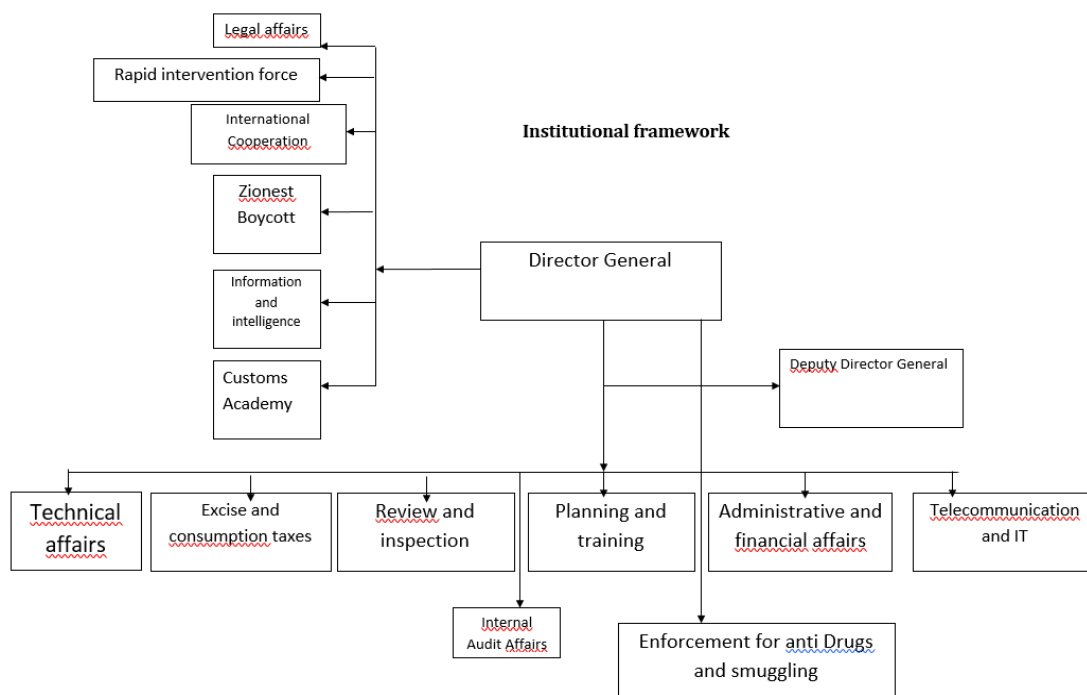
The current mission of the LCA is the result of the strong support undertaken by EUBAM-Libya during its first mandate. The Strategic Document, which was prepared and approved by the LCA Director General in November 2014, clearly outlines the main tasks of this key border administration. In principle, the LCA shall:

- Contribute to the national budget through the collection of customs duties;
- Prevent and fight smuggling of prohibited and restricted goods;
- Protect the customs areas within ports, airports and land borders;
- Support the international competitiveness of the private sector;
- Facilitate international trade;
- Secure the supply chain;
- Ensure the security and health of its citizens and environment.

Unfortunately, most of the outlined responsibilities cannot adequately be fulfilled due to a number of reasons including the security situation in the country.

The current level of cooperation with the other law enforcement agencies is quite weak, based on personal relationships, and not institutionalised.

The LCA is a member of the World Customs Organisation (WCO) and quite active in participating in the different meetings and activities organised in Brussels, where the WCO's HQ is located. The WCO is planning to provide Regional Training Plans for the MENA Region (Middle East and North Africa) open to the participation of Libyan Customs officers and a Computer Laboratory Centre for distance learning under the WCO CLICK Programme[3].

The Libyan Customs signed a number of customs cooperation agreements before the revolution with neighbouring countries (e.g. Tunisia, Algeria, etc.). There is the will to sign further agreements with EU countries such as Italy and the U.K, with a particular focus on the exchange of information.

Reportedly, the Libyan Customs is composed of 13,000 staff, of which 2,000 are civilians. The staff, deployed both at central and field level, include an unspecified number of personnel hired according to the Reconciliation Programme.

EUBAM-Libya provided a large amount of support to the LCA Training Sector, which has produced some progress. A Training Needs Analysis on control methodologies was prepared in 2013. Training courses on IBM, the search of vehicles, risk analysis, and cooperation at international level were delivered in 2013 and 2014. For the time being, the Training Centre is not fully operational due to the security situation in the country and budget shortages. The 2014 Training Plan, that was prepared under EUBAM-Libya guidance, has not been implemented to date.

In terms of infrastructure, the LCA strategy is to make use of their own buildings. For the time being, the following LCA directorates are using buildings owned by the agency (Headquarters, Financial department, Technical Affairs administration, Customs Academy, Tripoli directorate, Anti-smuggling (Tajoura, Tripoli), Telecommunication and IT, and Coast & Beaches Control unit (Zawia). It is also worth mentioning that the infrastructure of BCPs is in need of renovation and refurbishment.

The current state-of-play in regard to the equipment available is quite peculiar. The LCA purchased very advanced mobile and fixed scanner machines that have partly been installed in the main land and sea BCPs. The LCA/Anti-Smuggling Department patrols are reportedly equipped with mobile radios. The Customs offices are, generally, not equipped with computers, the sole exception being the Statistics offices.

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[3]   The World Customs Organisation (WCO) Customs Learning and Knowledge Community

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According to updated information received by the LCA, the weaknesses identified during the elaboration of the **2015 – 2020 Business Strategy** appear to continue in the same vein today. The LCA is still suffering from:

- Serious gaps in IT hardware and software that are undermining the collection of the customs duties;
- A weak institutional framework due to an outdated organisational structure and management practices. The impact of the new directorates and staff offices should be properly assessed. The HQs are still lacking a business orientated approach while there is not enough decentralisation to streamline the activities of the regional Customs Houses;
- A very limited human resource management, due to the absence of a separate HR Department and the lack of a clear HR policy in terms of recruitment, career development and performance evaluation system, which should have an impact on merit-based promotions. Despite some progress, the overall training capacity is still very limited;
- Out-dated processes, which have not been reviewed in a long period of time. In particular, roles and responsibilities of the different Departments and Staff Offices have not been clearly defined with a high risk of overlap in some processes, e.g. the customs clearance process;
- A legal framework, which has not been aligned with international best practice. The 2010 Libyan Customs Law, in particular, should be reviewed in the light of the EU customs legislative framework;
- A lack of a risk management approach based on intelligence-led activities to improve the quality of the customs controls and the effectiveness of the investigation sector. Methodologies to determine the areas that are most exposed to risks and threats have not yet been developed and the vast majority of containers and cargos are physically inspected;
- Limited relations with other government agencies. Taking into consideration the importance of building up a comprehensive system to secure the porous borders of Libya, the current level of cooperation and coordination between LC and other law enforcement agencies (border police, immigration, border guard, coastal police and naval coast guard) is very limited and mainly based on personal relations.

5. INTERNATIONAL COOPERATION AND COORDINATION

5.1. Police Working Group

As in many countries, Libyan law enforcement functions are not performed by one single entity. In addition, as a product of post-revolutionary decisions and based on political affiliations, different public security actors perform as Law Enforcement Agencies (Military/CivPol, Gov. forces/Armed Groups, east/west, etc.) which have led to a fragmented security landscape across the Libyan institutional architecture.

Despite its best intentions, the PC has not been able to assert its control over armed militia groups and has hastily made political decisions to integrate huge numbers of individuals into the security institutions. The current security environment, dominated by militias, does not constitute a proper security framework. It rather lacks appropriate coordination and allows criminal activities such as smuggling, kidnapping, trafficking and other (trans-national) organised crimes to flourish.

In acknowledging EUBAM-Libya's expertise in the field of policing, UNSMIL has entrusted EUBAM-Libya with taking the lead in the Police Technical Working Group (PTWG). Originating from an initial Libyan request on training support, the PTWG promises to be an adequate platform to coordinate international efforts on capacity building in the law-enforcement sector, in coordination with the works of the Security Sector Working Group. While a similar and more institutionalised platform on border management was established with Libyan counterparts by EUBAM-Libya, the same has not been done for the police. The body will duly integrate organised crime and counter-terrorism aspects, including relevant intelligence aspects. The *leitmotif* of this coordination should remain the setup of a solid Libyan-led process and a sustainable approach for police reform in Libya.

5.2. Criminal Investigation Roundtable

As a sub-format to the PTWG, EUBAM-Libya has organised a Criminal Investigations Roundtable. It meets on a monthly basis at the Mission's offices in Tunis.

The purpose of this roundtable is to provide a subject-matter coordination platform, starting with stakeholders and potential donors from the IC in the field of criminal investigation and expanding towards the other Criminal Justice institutions. Its initial primary focus has been on the specific needs of Libyan Law Enforcement organisations which are fighting serious and organised crime. During the first two meetings of the roundtable, the newly established Task Force for combatting serious crimes, composed of Central Security Forces, CIS and Public Investigation in close cooperation with the Public Prosecution was discussed as well as potential support for advanced criminal investigation training of the MoI. The Roundtable is open to police advisers from EU and interested third states as well as Libyan governmental and non-governmental organisations in the field of criminal investigation and prosecution. Informal agreement between EUBAM-Libya and the head of the CIS Training section was reached, that CIS representatives will join the next roundtable, presenting their specific training plan for 2017.

Through this technical sub-format, EUBAM-Libya aims at identifying potential quick-wins for criminal investigation agencies, although subject to the availability of potential donors (in particular EU MS) to commit to a coordinated approach rather than through purely bilateral activities.

6. JOINT COOPERATION

6.1. Border Management Working Group (BMWG)

The BMWG was established as a multilateral working party in 2013 during the "old EUBAM-Libya" Mission. The Libyan participants were drawn from all the relevant border management authorities and nominated by a governmental decree. Bar EUBAM-Libya, EUDEL and UNSMIL, other members of the working group came from intergovernmental organisations and foreign embassies active in Tripoli. Due to the evacuation of the international community from Tripoli in 2014, the BMWG was suspended.

In August 2016, a meeting was held in Tunis between the Libyan Deputy Prime Minister, the Ministers of Interior and Defence, representatives from EUDEL and EUBAM-Libya to create a committee of technicians and experts on land borders management to assess the situation and to identify possible future actions. EUBAM-Libya proposed to re-launch the BMWG with a focus on legal and institutional reforms, including coordination of border management activities. An inter-ministerial coordination function between the relevant ministries to implement the proposals coming from the BMWG and a future land borders expert committee were also suggested.

Consequently, the Libyan PC/GNA decree 373 of 25 October 2016 established a National Team of Border Security and Management (NTBSM) where all relevant authorities involved in border management are represented. Moreover, a Ministerial High Committee for Border Affairs is planned to support the re-established BMWG. Regarding the proposal of a "Land Border Committee", the Libyan counterparts did not wish to have another committee. Such issues should be dealt within the BMWG and its already existing sub working groups.

Since then, the BMWG has met three times with the intention to reconvene at least once a month. The nature of the meetings has mainly been bilateral (Libya-EU), although the participation of international actors, such as Frontex, UNDP, EULPC, UNSMIL, etc., has been ensured. The main purpose of these meetings is to contribute to the mapping of, and planning for, the Libyan border management sector.

At the last BMWG meeting, it was proposed that the following meetings should be thematic and thereby allow deeper discussions. So far, the cross-agency training matrix has been discussed, outlining the training needs of border guards, border police, the coast guard and customs. It is modelled on the European Union Common Core Curriculum for Border Guards (being translated at present into Arabic) with additional training specifics for Libya. This training matrix had already been developed by the EUBAM in its former mandate but never implemented. Now it has been reviewed and presented to the Libyan counterparts to identify immediate training needs. Another document developed then was the "Concept Note Towards a White Paper" outlining institutional reforms that could lead to a National Integrated Border Management (IBM) Strategy. The BISON project[4] has been on the BMWG agenda, which in short is an information and intelligence project including the development and establishment of a multi-agency operational coordination centre.

6.2. Engagement with international border management actors

In support of EUBAM-Libya's mapping and planning, cooperation and information exchange was initiated with EUDEL-Libya, EULPC, EUNAVFOR MED, Frontex, Europol, EASO, Eurojust, SatCen, INTERPOL, WCO, EUCAP Mali and Niger, AFRICOM and OSCE. Regarding Official contact and cooperation with Frontex, it has also been established between the agency and EUBAM-Libya.

Formal and informal contacts exist with a number of Embassies located in Tunis. EUBAM-Libya also cooperates with UNSMIL, IOM, UNHCR, UNDP, UNODC, ICMPD and ICRC.

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[4]   Border Integrated Security Operations Network

Regarding CEPOL, African Union and Arab League no formal contacts have been established yet.

These interactions have led to the initiation of a Project Matrix aimed at getting an overview on the international initiatives with an impact on EUBAM-Libya's activities.

6.3. MoI & GID Panel on Training

Following an invitation by EUBAM-Libya, the MoI formed a panel of experts, acting as a focal point for the Mission on any needs related to Law Enforcement training.

Chaired by the Deputy Head of the General Administration for Training, the panel joined a workshop organised by EUBAM-Libya for a joint assessment in mid-November 2016. The purpose of the first workshop was to obtain a deeper understanding about the current state of play regarding the organisational structure of the MoI and affiliated Law Enforcement bodies, including the independent General Investigation Department.

Some represented bodies could give a comprehensive brief on the current status and already provided concrete training plans which will be translated in English and assessed by EUBAM-Libya's experts.

In addition to its own mapping and planning exercise, EUBAM-Libya will use these outcomes to further specify Libyan training needs to potential donors participating in the Police Working Group, chaired by EUBAM-Libya.

7.   CONCLUSIONS AND RECOMMENDATIONS FOR THE WAY AHEAD

7.1.   Principles

7.1.1. No functionality without legality

Any further engagement in terms of capacity building measures needs the buy-in of the legitimate Libyan authorities. Accountability and functioning oversight mechanisms demand minimal standards of the general administration. Any capacity building action for Law Enforcement Agencies or Judicial Bodies will require legal instruments and implementing measures in terms of institutional reform.

7.1.2. Do not harm

The Mission will ensure a balanced approach, taking the impact of single actions along the criminal justice chain into account. Reinforcing Law Enforcement agencies leads to the appropriate strengthening of Criminal Justice actors such as the Prosecution, Defence, Courts and Penitentiary.

7.1.3. Sustainability

A balance must be struck between quick wins and confidence-building measures on the one hand; and taking time to understand each particular context with the appropriate analysis and

assessment on the other hand. All in all there will need to be a legitimate political counterpart/Libyan government with a minimum of control over different institutions and their respective leadership. Without this, it will be unlikely that any institution, lacking basic control and identity of its staff, would be able to absorb and benefit from training and equipping in a sustainable manner. Any capacity building measures will need to be tailored to match strategic objectives.

7.1.4. Local ownership

The EU strongly promotes local ownership and local buy-in in its projects and missions. This principle follows common sense. It is necessary to ensure the strong political commitment and leadership of national counterparts. Local ownership is essential and therefore a precondition for successful development assistance. A bottom up approach is not enough since it needs to be combined with a top down approach: The mission must strive to link the activities at political / strategic level to those at the operational level. This includes the need for coordination with all related ministries and agencies. Policies and regulations that are imposed from outside will not be superficially accepted by the Libyan Authorities and the general public. Evidence can be seen in daily press publications where politicians and media complain about too much international interference. Therefore, local ownership is an overarching objective for donor engagement with Libya.

7.2. Governance

The more the Mission engages with Libyans and the IC, the more a need for additional skills becomes evident. More specialised know how is required to address governance and accountability, such as on institutional reform, change management, financial management, strategic planning, human resources and training. There is a need to develop Libyan skills to manage SSR support programmes strategically.

Another significant challenge is to encourage and support Libyan ownership. There is limited absorption capacity within the local public administrations to assess, design and implement reform processes. Investing to support the development of such capacity and providing training for strategic analysis, policy formulation, strategic planning, organisational design, change management, evaluation and budgeting are identified as priorities, as well as for human resources management and including sufficient processes and means for vetting.

Providing strategic planning assistance to the MoI is critical to ensure that further technical support is adequately directed.

7.3. Public safety and security

At the moment the police have poor operational capacity. The dominance of militias and armed groups hinder the effective course of justice. Prosecutors are systematically threatened if one of their members become the possible subject of an investigation.

This also impacts severely on countering organised crime and terrorism. Police Directorates, with their patrolling and investigation activities, are important contributors to criminal

databases, essential for intelligence-led policing and structured OC and CT-related investigations.

The local police services lack properly trained and equipped staff to meet the expectations of the population as a trustworthy security provider. Police support forces (Central Security) are theoretically available but suffer from a lack of properly skilled and equipped staff to compete with armed groups.

7.3.1. Recommended way ahead

Further engage and support the legitimate Libyan authorities, aim to identify their particular needs (e.g. in terms of resources, training, equipment, etc.) to regain control of the public space by a phased approach, starting with the Tripoli Security Directorate by establishing "**Areas of Legality**", expanding from selected areas in Tripoli to greater Tripoli, combining all entities along the Criminal Justice Chain:

- ☐ Model-Police Station(s), (Tripoli Security Directorate)
- ☐ Central Security Forces as Support Units, (MoI)
- ☐ Prosecution Offices, (MoJ)
- ☐ Public Defenders Offices, (MoJ)
- ☐ Local Courts, (MoJ)
- ☐ Prisons. (MoJ, Judicial Police)

Desired outcomes would include:

- ☐ The ousting of militias and armed groups who are present.
- ☐ A safe and Secure Tripoli is vital for EUBAM-Libya´s return to Libya
- ☐ It would act as a stabilisation instrument for the legitimate Government.
- ☐ Available forces to carry out operations against criminal groups.
- ☐ Regaining trust of the population.
- ☐ Enabling public prosecution to carry out their tasks.
- ☐ Resumption of proper investigation and case handling processes.
- ☐ Contributing to Criminal Databases.
- ☐ Ensuring sufficient standards and treatment in prisons.

7.4. On Counter Terrorism, in particular

Counter-terrorism in Libya has in the past decades been traditionally in the hands of the *Moukhabarat*. *Moukhabarat* is an Arabic word that encompasses the western concepts of intelligence and security services. In Libya, these services do not only act as purely intelligence agencies, running the full intelligence cycle, but also as law enforcement agencies.

After the revolution, the National Transitional Council (NTC) created the National Commission for National Security that included the remnants of the different intelligence and security services operating in Libya during the Gadhafi regime.

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The subsequent Governments formed two main services that still exist today, both under the Prime Minister's Office (PMO). They can be assessed as partially functioning and somehow competing in Tripolitania at present. In the East, the situation could not be assessed to date, but there is certainty that there are at least two civilian (security and intelligence) services active in fighting terrorism and a military intelligence agency to support Haftar's efforts in the fight against Islamist groups.

With the arrival of the Presidential Council (PC) and the Government of National Accord (GNA) a new law enforcement service with counter-terrorism tasks will be created: the Presidential Guard (PG).

The Criminal Investigations Service (CIS) of the MoI does not possess a specialised asset to investigate terrorism, mainly leaving that burden to the GID. Nevertheless, the CIS has some technical capacities that are properly reinforced and in some cases built, could support the GID and ensure an adequate division of labour.

At political and strategic level, the Libyan authorities are well aware of the need to develop a national counter terrorism strategy to tackle a problem that will unfortunately remain in Libya for a long time to come in all likelihood. This policy should deal with terrorism and extremism in a holistic and effective manner. The UNODC drafted an Action Plan that was endorsed by the Libyan Government in July 2013. It aimed at supporting Libya's efforts towards the development and implementation of a comprehensive CT strategy in the fight against terrorism, and to promote a comprehensive effective and rule of law-based criminal justice response to terrorism. However, security and political developments in Libya since July 2014 have led to the suspension of this Action Plan.

On the same page are the senior-officials of the Libyan security sector.

All are well aware that this is a shared priority with the EU and they are keen to cooperate in this field.

Libya still faces a hybrid threat ranging from a war-like confrontation to political and religious motivated crimes. Thus, a national CT capacity is required that includes all relevant State resources able to prevent, pursue, protect and respond.

7.4.1. Recommended way ahead

In the short-term, to further engage and support the legitimate Libyan authorities to develop an effective and efficient Counter-Terrorism coordination capacity among the:

- ☐ General Investigation Department (GID)
- ☐ Libyan Intelligence Service (LIS)
- ☐ Criminal Investigation Service (CIS, MoI)
- ☐ Central Security Forces, MoI
- ☐ Presidential Guard (PG)
- ☐ Local Courts (SJC)
- ☐ Libyan Armed Forces.

In the longer term, this Coordination capacity will:

- ☐ Enable the development of a National Counter Terrorism Strategy, as part of the National Security Strategy.
- ☐ Link to the Border Management Agencies (Border Guards, Border Police, Coast Guard, Coastal Security, Customs)
- ☐ Link to the Organised Crime Coordination Capacity.
- ☐ Administer a CT database.
- ☐ Be the National focal point for bi-/multilateral cooperation within the regional and international CT network.

The Mission recommends a further focus on possible support by mid to long term capacity building measures in terms of advising, mentoring, training and – possibly – also equipping.

7.5. On other forms of Organised Crime, in particular

After the revolution of 2011 state capacity to combat criminal organisations and markets has fallen away and the shifts in the political situation have supported the increase and development of new forms of organised crime. Organised crime, corruption and the fight for illicit resources are a cause of conflict and have the capacity to seriously undermine efforts to build a modern democratic state. Transparency International lists Libya as 161st out of 168 states on its corruption list in 2015. Organised Crime is likewise overbearing. The geographical position of Libya covers some of the oldest trans-Saharan trade and smuggling routes. The absence of border control and capable police provide ever increasing opportunities for gangs and armed groups that have no interest in a strong state. The organised crime economy includes four main markets: migrants (smuggling and trafficking), smuggling of subsidised goods, drugs, weapons and other illicit trade. These markets are inter-connected and interdependent but have different strategic importance. In addition, the emerging market for protection is growing in importance. The majority of the Libyan population is concentrated along the coastal belt in the north. The southern regions are scarcely populated (the main population centres in the southern regions are Al Kufrah in the East and Sabha in the West). Consequently, these three areas are the hubs of Organised Crime.

The PC is still struggling to exercise control in Tripoli. In reality, it has no real control in the East and the South of the country. Consequently, the MoI influence is rather restricted to Tripoli at present.

The main source of income for OC-groups is generated through the smuggling of migrants and the trafficking of human beings. These are businesses with high gains and very low risks.

At least nine organisations are tasked with fighting organised crime, all lacking equipment and properly skilled staff. Indicators show the lack/absence of professional coordination and cooperation to ensure:

- ☐ Intelligence sharing management,
- ☐ Data storage,
- ☐ Clear responsibilities.

7.5.1. <u>Recommended way ahead</u>

Engaging, through the support of Libyan organisations to disrupt and destroy OC-networks is in the best interest of the EU. For a durable solution, focus should be expanded to the southern borders as well as at transnational operating OC networks. The Mission could engage and support the legitimate Libyan authorities to establish a Coordination Capacity to Fight Organised Crime among law enforcement agencies and along the criminal justice chain. This Coordination Capacity to Fight Organised Crime will:

- ☐ Link to the Counter Terrorism Coordination Capacity;
- ☐ Design and implement a Criminal and Intelligence Database policy and infrastructure;
- ☐ Improve OC Analysis (potential cooperation with INTERPOL);
- ☐ Support the development of a National Organised Crime Strategy, as part of the National Security Strategy;
- ☐ Be the national focal point for bi-/multilateral cooperation within the international OC network;
- ☐ Facilitate the design and implementation of tailored projects on forensic equipment training with EU MS donors;
- ☐ Facilitate the design and implementation of tailored on advanced criminal investigation training (in particular Train the Trainer) with EU MS donors, based on the CIS Training Plan for 2017.

7.6. **Criminal Justice**

In order to institutionalise the cooperation with the judicial sector, EUBAM-Libya is working to establish a joint Criminal Justice (Reform) Working Group with representatives from the Supreme Judicial Council, Criminal Judges, Prosecutors, Defence Lawyers and the Ministry of Justice. On the international side, EUBAM-Libya, in coordination with UNSMIL, will address international organisations, Libyan NGO's (legally qualified experts), and legally qualified representatives from EU MS and Non-EU countries. Priority should be given to reform of the Penal Code and the Code of Criminal Procedure to encompass violations of international human rights and humanitarian law, including crimes under international law, and to ensure that procedures are consistent with international human rights standards. The UN Convention against Transnational Crime and its Protocols of which Libya is signatory party needs to be implemented in Libya's domestic law (e.g. Penal Code). Core human rights treaties like UNCAT, CEDAW and CRC should be correctly implemented into the domestic legal system in order to prevent torture, combat sexual-based violence and ensure women rights and the rights of children. Hence, based on Libya's historical and political *status quo*, Libya's legal framework pertaining to criminal justice is contractionary, overlapping and needs (after 4 decades of dictatorship and lack of Rule of Law) to establish rather than re-establish Rule of Law standards; the envisioned Criminal Justice (Reform) Working Group under Libyan ownership would be an asset to Libya's Security Sector Reform.

Furthermore, a Penitentiary and Rehabilitation Working Group is being planned to specifically address the situation in prisons. As evaluated in this report, arbitrary and prolonged detention as well as torture and ill-treatment are currently major concerns.

7.7. Border Management

The mapping exercise has shown, to date, a number of common challenges for all the relevant Border Management entities. The most important shortfalls are the following:

☐ Very limited central command and control as well as a national overview of the situation as underpinned by internal power dynamics;
☐ Several Border Management organisations have no strategic vision or planning capacity;
☐ Borders are still neglected, particularly in the south, and out of governmental control;
☐ Overlapping mandates both intra-agency and inter-agency;
☐ No human resources policy and technical management are in place;
☐ General absence of operational training facilities, no training plans and very limited training activities;
☐ High turnover of key personnel.

The Mission should aim to develop a border management system where the performance of each Libyan individual border agency is improved and where inter-agency cooperation and coordination mechanisms, both at national and international level, are introduced to achieve open, but controlled and secure, borders.
This will also require support to be provided for the design and implementation of a National IBM Strategy.

In order to achieve this aim, the BM Team has identified a number of potential activities, divided into Generic and Specific Recommendations, with the latter focusing on each single border management entity.

7.7.1. Recommended way ahead:

☐ Development of a comprehensive National IBM strategy with a focus on the three IBM pillars aimed at securing the borders and at the same time facilitating the legal trade and movement of passengers;
☐ Legislative reforms are necessary, including the regulation of the cooperation between Libyan law enforcement / border management agencies;
☐ Institutional reforms are necessary;
☐ Enhancement of the operational capacity (e.g. information and intelligence collection, analysis, risk management, investigations, joint operations);
☐ To review HR management concept including recruitment, staff numbers and the distribution of staff across the agencies, develop clear staffing roles and structures;
☐ Development of the training capacity with a greater focus on training institutions and the design of requirement based training curricula;
☐ Address the shortfall of information technology and equipment;
☐ Address the issue of gender balance;
☐ Strategic advising for capacity building;
☐ The overlap of mandates should be addressed, for example, with the merging of organisations.

<u>Specific recommendations include:</u>

☐ GASBCP and LBG:
☐ The GASBCP and LBG headquarters and BCPs are in need of complete overhauls (infrastructure, administration, procedures, etc.);
☐ Improve inter agency cooperation.
☐ DCIM:
☐ In general, it can be stated that the DCIM headquarters and DCs are in need of a complete overhaul (infrastructure, administration, procedures, etc.);
☐ To enhance the registration system and a screening of the detainees. A proper registration is a requirement to combat human trafficking within the DCs and to reduce sudden disappearances of migrants;
☐ To review staff numbers and the distribution of staff across DCIM controlled DCs;
☐ To address the shortage of female staff at the DCIM, with a particular focus on the DCs;
☐ To review and update the current Libyan laws in regard to the detention/treatment of illegal migrants and to adopt a National Refugee and Asylum law as well as a policy according to international standards.
☐ GACS
☐ To implement an operational concept on coastal surveillance, using the Frontex BORTEC feasibility study[5];
☐ The second step would be the implementation of the continuation of the operational concept at sea, which means best practices of coordination and utilisation of human and technical resources;
☐ According to the competences of the LCGPS and GACS, there is a clear overlap in parts of their mandates. With the present situation, no competition exists between the two entities. However, competition could be a future scenario and issue.
☐ LCGPS
☐ The establishment of a coastal surveillance system is much needed and recommended;
☐ The current threats of crime and terrorism in Libya are within their own territory. Consequently, the countering of these threats should be done proactively on the ground instead of reactively at sea;
☐ The overlap in mandates between LCGPS and LGACS is not efficient and cost-effective. EUBAM-Libya proposed in the past two possible solutions. LGACS to only have competences close to the coast for patrolling in the vicinity of the ports as well as coastal surveillance or a merge with the LCGPS;
☐ It is imperative to find the balance between developing a strong technical structure (patrol vessels) for rescuing the migrants and develop a strong technical structure with an operational concept on land to prevent the departures and to counter criminal networks;
☐ The GACS should have access to information of the future radars and other technical means for the costal surveillance, currently under the exclusive competence of the LGCPS;
☐ The LCGPS does not have sufficient resources and trained personnel to counter illegal activities such as the smuggling of fuel or criminal networks involved in illegal migration.

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[5] Study on technical feasibility of establishing a surveillance system (European Surveillance System)

☐ LCA

☐ Support should be given to the LCA to implement the Action Plan that was prepared in 2014 under the guidance of EUBAM-Libya;

☐ To update the legislation to introduce a wide range of special customs procedures, to apply risk analysis techniques and to introduce the possibility of using simplified procedures for the benefits of the legal trade;

☐ To introduce an organisational structure with a clear division of roles and responsibilities of the different Customs Directorates, Staff Offices and Regional Customs Houses in order to gain proficiency and productivity;

☐ To introduce a harmonised risk management system to target high-risk consignments in accordance with international standards, with the aim of ensuring compliance with the laws and regulations that customs is responsible for enforcing;

☐ The development of an Operational Centre tasked with collecting and analysing relevant information for risk analysis and operational support as a way to improve the performances of LCA;

☐ To develop a HR policy where the quality of the personnel is recognised and the recruitment, training, promotion, deployment and rotation are conducted by using modern, unbiased and transparent procedures;

☐ To design a new CDPS (customs declaration processing system) and to equip all the customs offices with hardware.

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