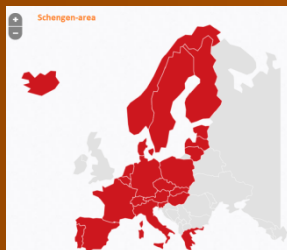




Justice & Home Affairs

EU External Border Control



The policing of:

- 44,000 km of external sea borders
- 9,000 km of land borders
- hundreds of airports and maritime ports
- hundreds of millions of border crossings per year

2002

*EU Schengen
Catalogue*

*Commission
Communication*

2004

- 2002: exchanges on definition of *‘integrated border management’*
 - Council: *‘EU Schengen Catalogue’* (February 2002)
 - *focus on intra-state cooperation*
 - Commission: *Communication ‘Towards integrated management’* (May 2002)
 - *focus on common EU instrument, “in the run up to a European Corps of Border Guards”* (Communication p. 12)

2004

Frontex

2006

- Frontex established in 2004 by Council Regulation 2007/2004 (not – yet – EP)
- *its main tasks:*
 - *coordination of joint operations by member states,*
 - *training of border guards,*
 - *risk analysis,*
 - *technical and operational assistance to member states, and support for member states in joint return operations*

2004

Frontex

2006

JHA Council
on IBM

2006

- Further clarification of 'IBM' terminology in Council Conclusions (December 2006).

Council's idea of 'integrated border management'

- border control including risk analysis and crime intelligence;
- detecting and investigating "cross-border crime"
- the four-tier/filter access control model;
- inter-agency cooperation including border guards, customs and police, national security and military services; and
- coordination between national and transnational level



1



(mainly consular) activities in third countries

'four-tiers' approach: four-filter access

2



international border cooperation (with third countries)

3



checks and surveillance at external borders

4



activities inside the territory (limited "internal border checks")



2004

Frontex

2006

JHA Council
on IBM

2006

- Further clarification of 'IBM' terminology in Council Conclusions (December 2006).
- It was the go-ahead for:
 - *a common corpus of legislation;*
 - *more operational capacity at EU level (i.e. Frontex)*

2006

Schengen
Borders Code

2007

- Schengen Borders Code (Regulation 526/2006)
 - *rules on temporary re-introduction internal border checks*
 - *entry conditions (valid visa, short-stay, long-stay, etc.)*
 - *border checks on EU citizens*
 - *'minimum checks' as a rule*
 - *border checks on third-country nationals*
 - *'thorough checks' as a rule*
 - *conditions for relaxation of border controls (in case of intense traffic and excessive delays)*
 - *very topical (because of Ukraine): the humanitarian exception clause*
 - *rules on border surveillance*
 - *operational coordination and cooperation*

2006

Schengen
Borders Code

2007

RABIT
Regulation

2008

- RABIT Regulation (863/2007) was first amendment of the 2004 Frontex Regulation
 - *it foresees in the creation of Rapid Border Intervention Teams from a pool of national border guard services*
 - *in particular for surveillance of border lines between formal crossing points*
 - *they are emergency border teams which can be called in by member states*
 - *the first time a RABIT was invited by a state to assist was at the Greek Turkish borders in 2010*

2008

VIS

2009

- Visa Information System (VIS)
 - *VIS is established by Regulation 767/2008*
 - *it is a large-scale IT system (containing biometric data) allowing Schengen States to exchange visa data, thereby facilitating checks and the issuance of visas*

2008

VIS

2009

Lisbon
Changes

2016

- Lisbon Changes

- *concept of 'integrated management' system enshrined in TFEU*
- *art. 77(2)d: the EU can adopt "any measure necessary for the gradual establishment of an integrated management system for external borders"*
- *which proved to be the basis for upgrading Frontex*

2016

EBCG

2016

EBCG

2017

EBCG (2016)

- *Regulation 2016/1624: upgrading of Frontex to European Border and Coast Guard (EBCG)*
- stronger coordinating power “placing it ‘functionally’ above the MS administration” (Ferrara & de Capitani 2016: 393)

'EBCG' Regulation 2016/1624

- It transformed Frontex *“from an element of horizontal network to the core of hierarchically integrated structure.”*



(Ferrara & de Capitani 2016: 392)

- the 2015 refugee crisis was the catalyst for establishing EBCG

- In case of “disproportionate” migratory pressure the Agency may, either at the request of EU country or on its own initiative, organise and coordinate rapid border interventions and deploy its own teams

- EBCG staff would be more than doubled

- ability to purchase own equipment and deploy it as it sees fit

2016

EBCG

2017

EBCG (2016)

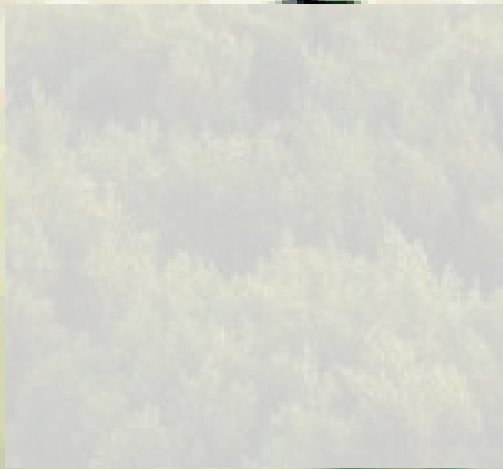
- *Regulation 2016/1624: upgrading of Frontex to European Border and Coast Guard (EBCG)*
- stronger coordinating power “placing it ‘functionally’ above the MS administration.” (Ferrara & de Capitani 2016: 303)
- Which also included availability of monitoring tools.
 - *“common integrated risk analysis model” (being less dependent on national analyses)*
 - *vulnerability assessments (i.e. monitoring & assessing capacity and readiness of Member States)*

"Smart Borders" Package

Objective:

address the problem of bottlenecks at cross-border points (by introducing categories of 'trusted traveller', facilitating pre-screening procedures at consular posts, the use of automated border gates, etc.)

One of the initiatives: Entry-Exit Regulation (2017)



2017

'Smart
Borders'

2020

today

IBMF & revision SBC

- *Integrated Border Management Fund (IBMF) a financial instrument for supporting border management*
- *is allocated € 6,5 billion (for 2024-2027 period)*
- *EU Summit February 2023:*
 - *with the MS in want of even more EU money for financing external border policing*
 - *revision of the Dublin 'first entry rule' (into redistribution system based on quotas) has chance to materialize*



Critical Issues

Implementation mainly deals with security perspective and intelligence-led policing (Ferrara & de Capitani 2016: 396; see also: Hess & Kasperek 2017: 49-50)

weak implementation of 'integrated' management

- Weak implementation of 'integrated' management (Ferrara & de Capitani 2016: 387)

- Focus on security

Yet, MS objective is preventing migrants from reaching the EU's territory by irregular means

However, the 'Smart border package' indicates also facilitation of legal migration through development of traveller-friendly services

The overall

Therefore, no capacity to calculate and share costs "fairly" between all member states (Ferrara & de Capitani 2016)

A compensatory mechanism under construction (IBMF)



Focus on security

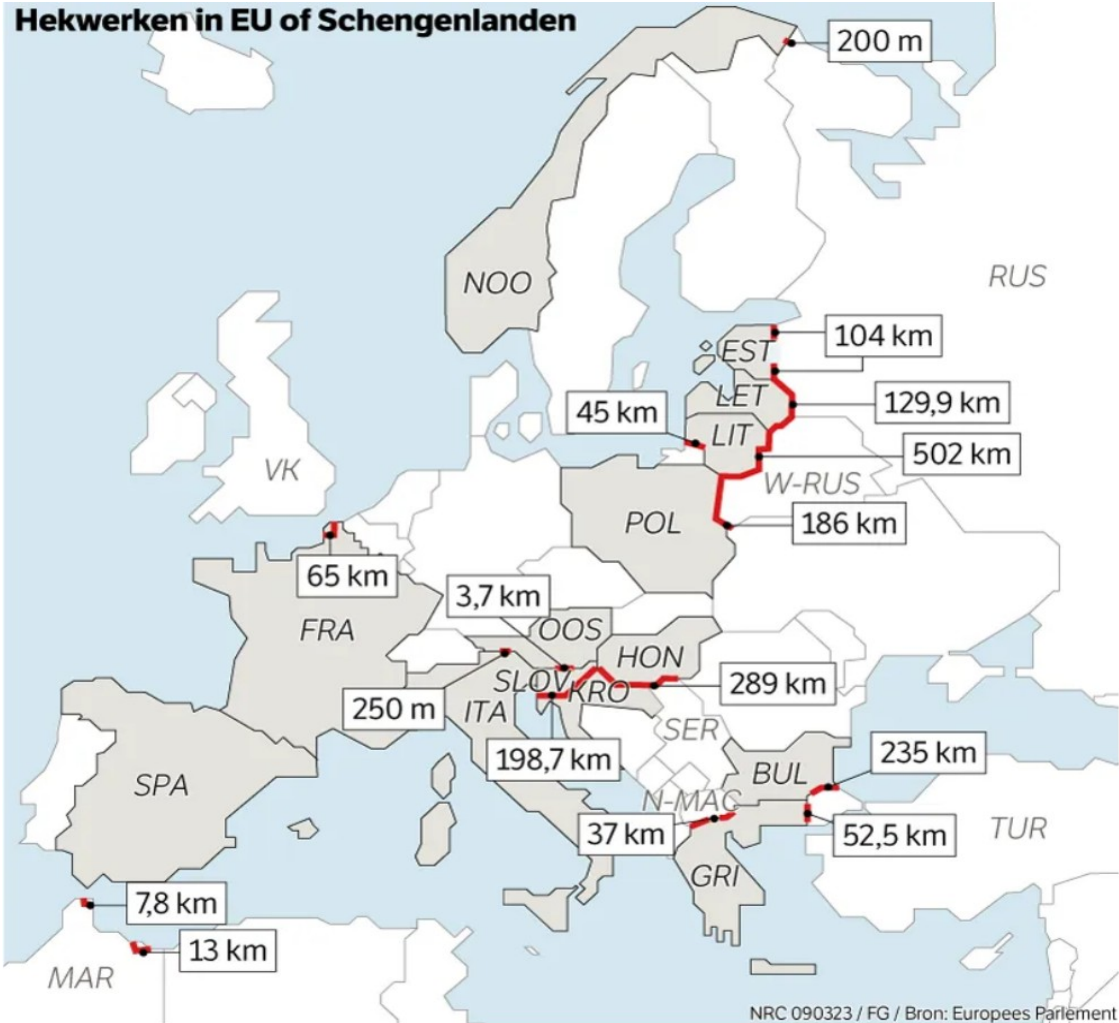
**Leading statement for in-class debate of
tomorrow:**

***Europol should acquire more operational
powers.***

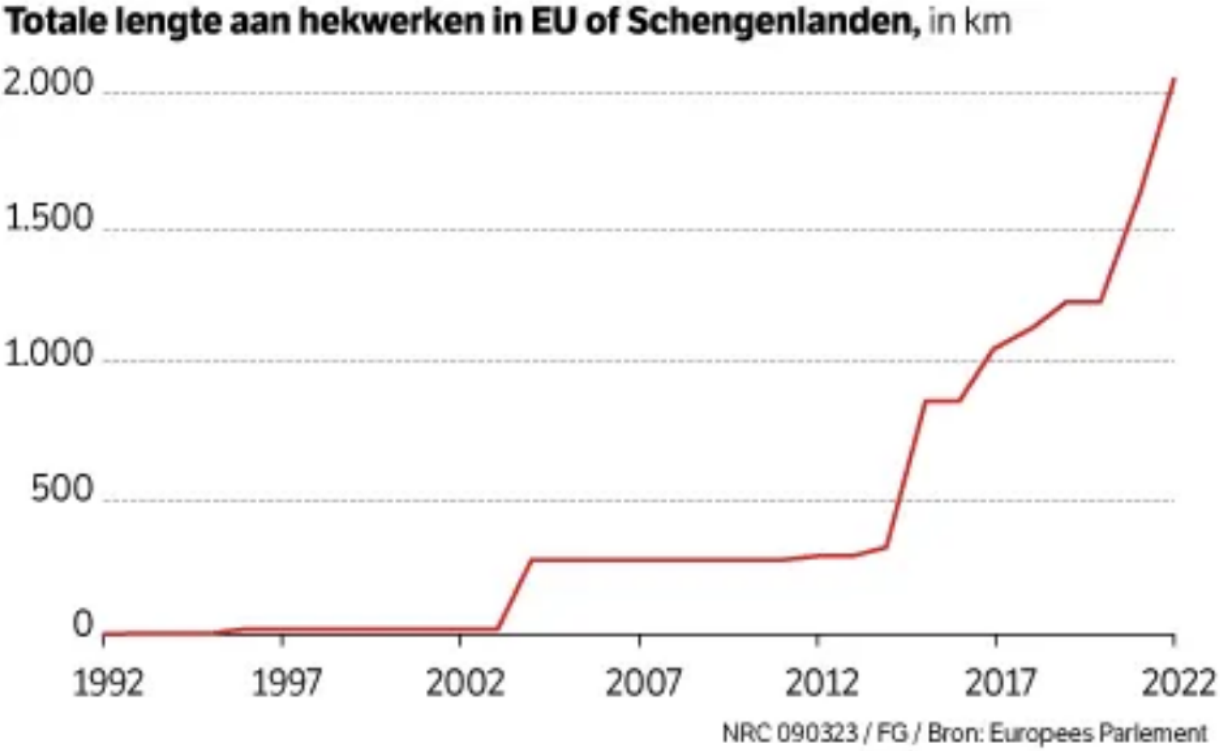
**Leading statement for in-class debate of
today:**

***Member states should be allowed to
(continue to) externalize reception and
registration in neighbouring (third-state)
countries***

The 2022 shift in discourse: 'fences around Europe'



The 2022 shift in discourse: 'fences around Europe'



Extra info on 'hotspots'

- *'Hotspot'*
- *'Relocation'*
- *'Pushback'*
- *externalization by member states of reception and registration in neighbouring (third-state) countries.*

Refugee crisis 2015

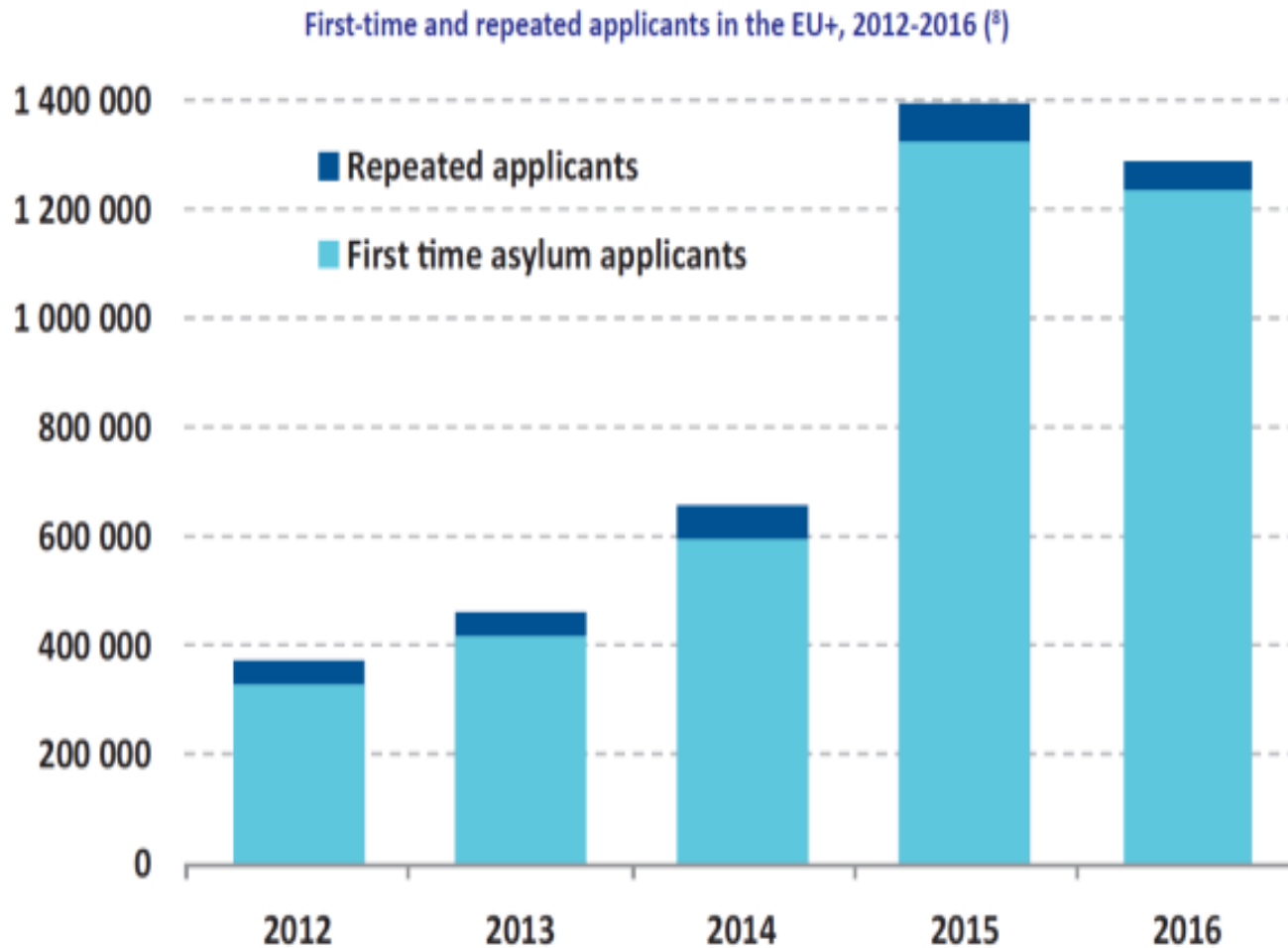


Figure 1: Small decrease in the number of applicants in the EU+ compared to 2015

Creation of 'Hotspots'

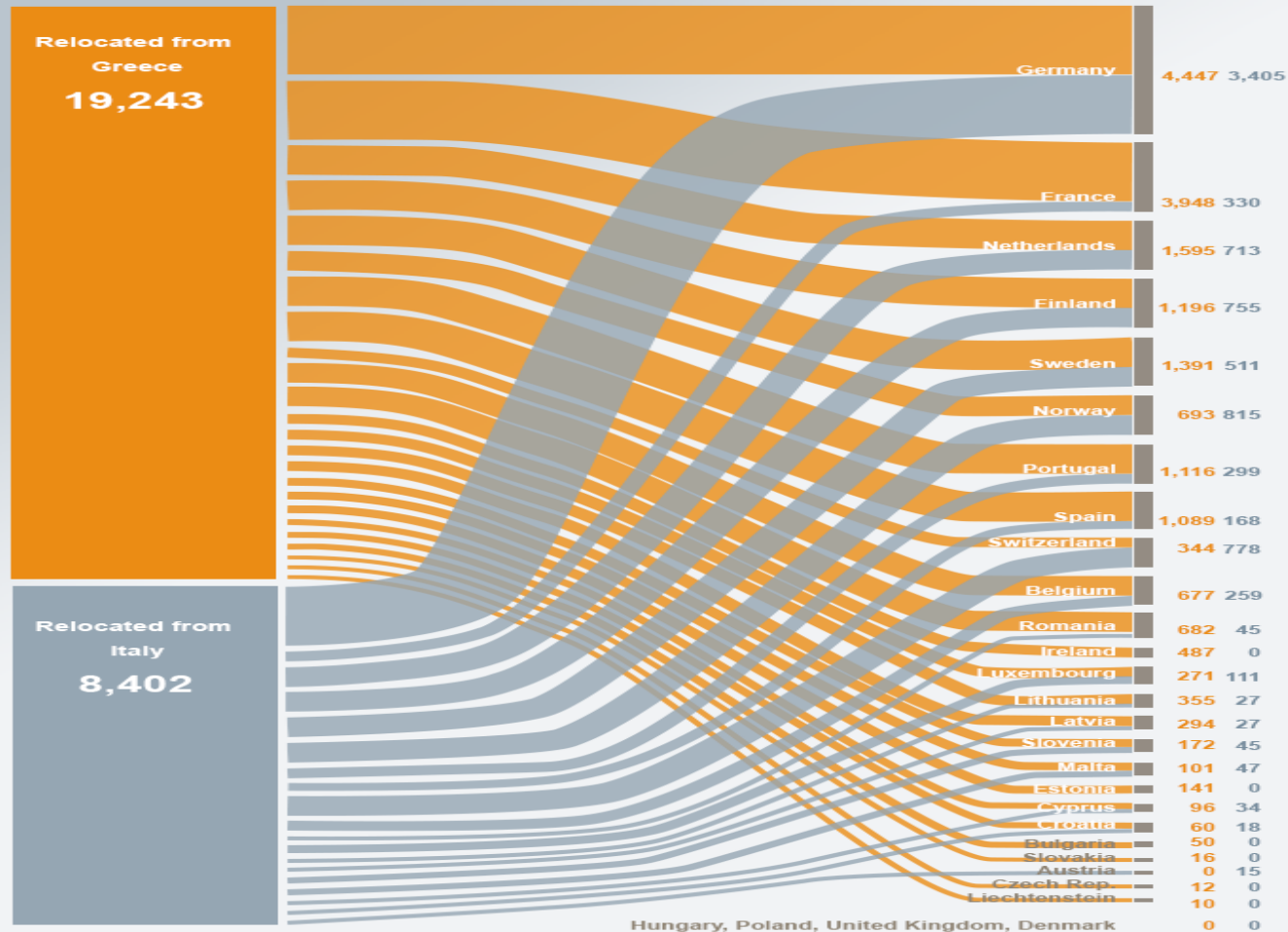


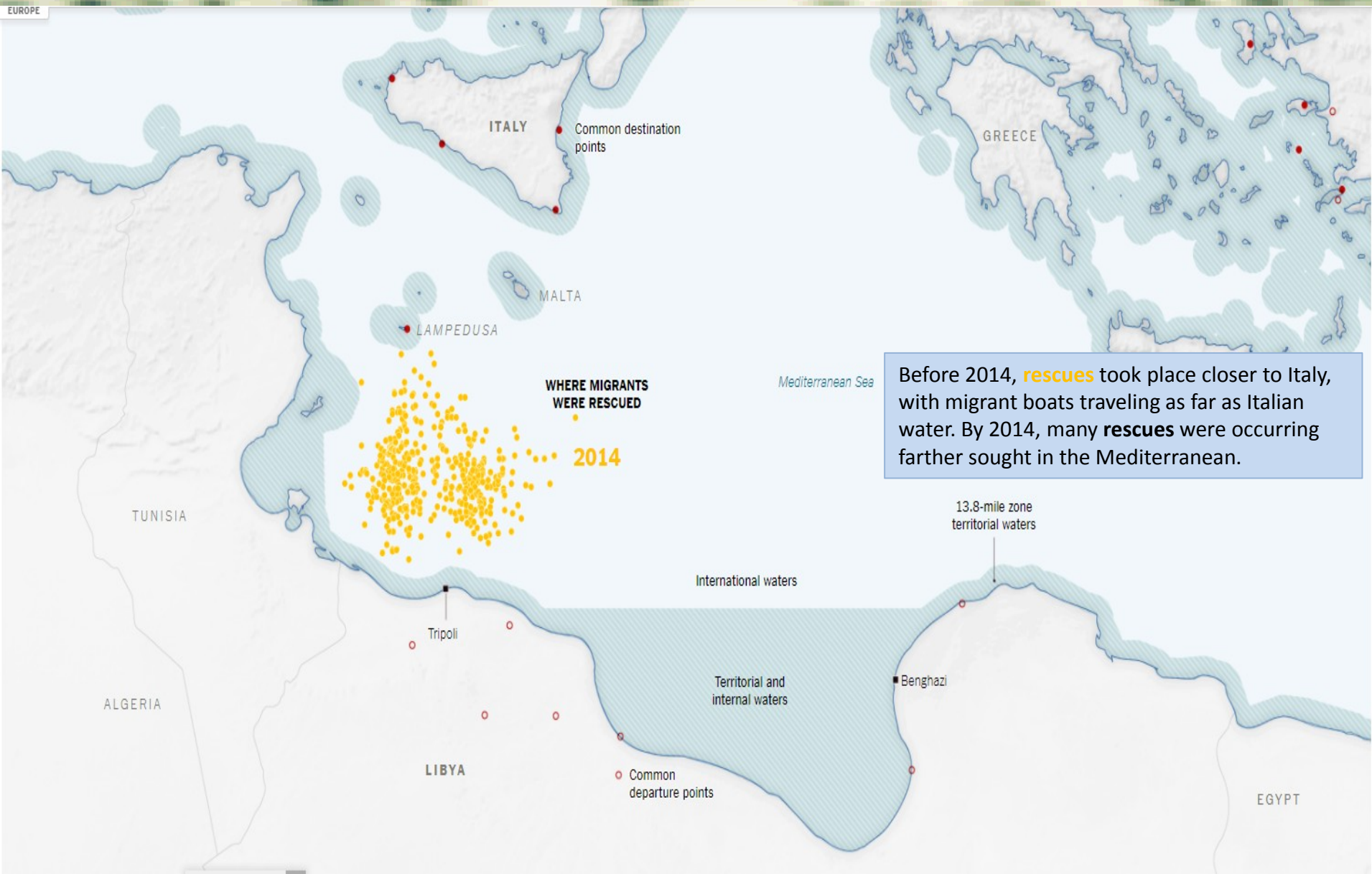
Source: European Agency for European Rights, 'Map of hotspots in Greece (5) and Italy (5) as of February 2018'

2015 Relocation Plan

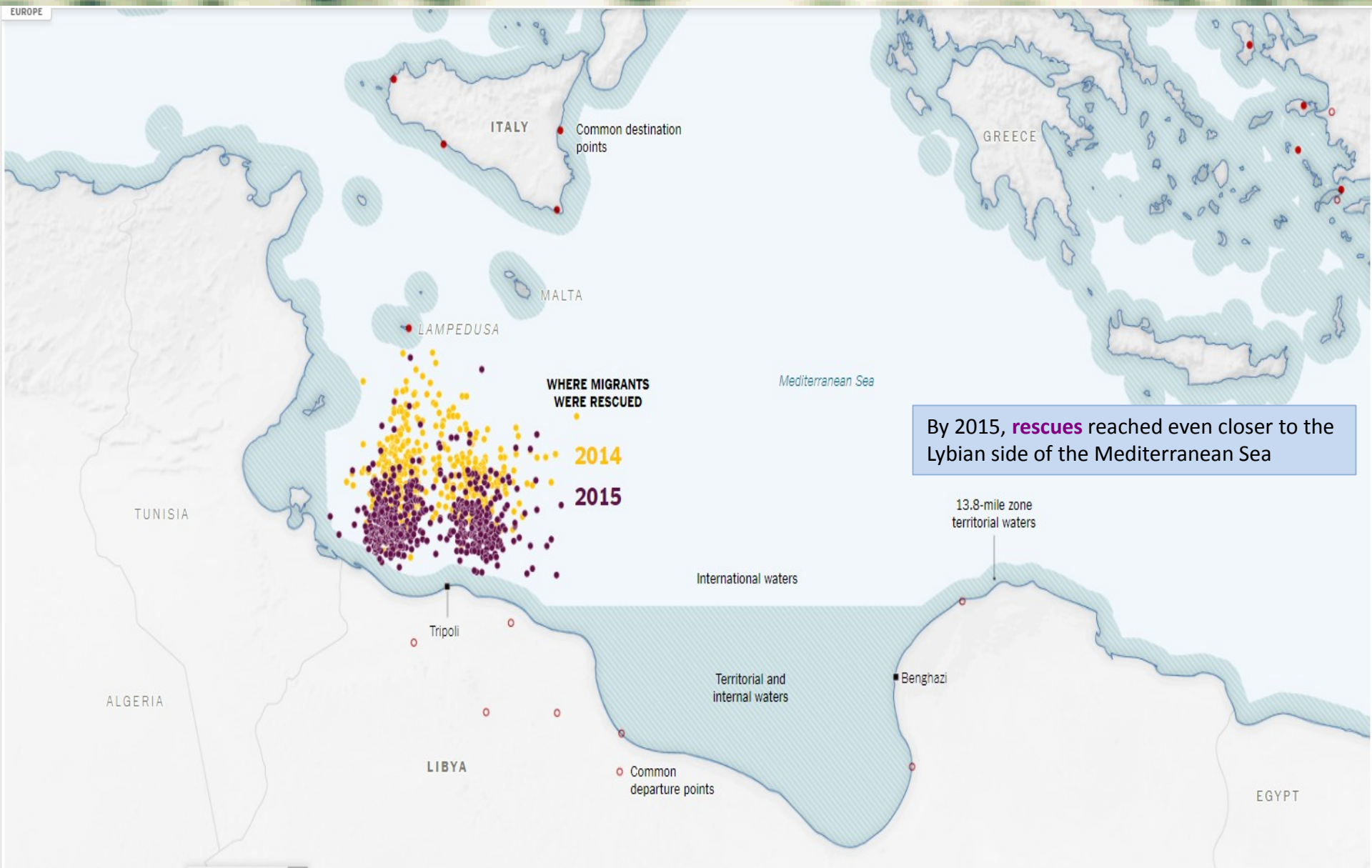
EU relocations of asylum seekers since September 2015

The EU's relocation and resettlement scheme pledged to move a total of 160,000 migrants from Greece and Italy to other EU countries. This graphic shows how many have been moved, and where, so far.



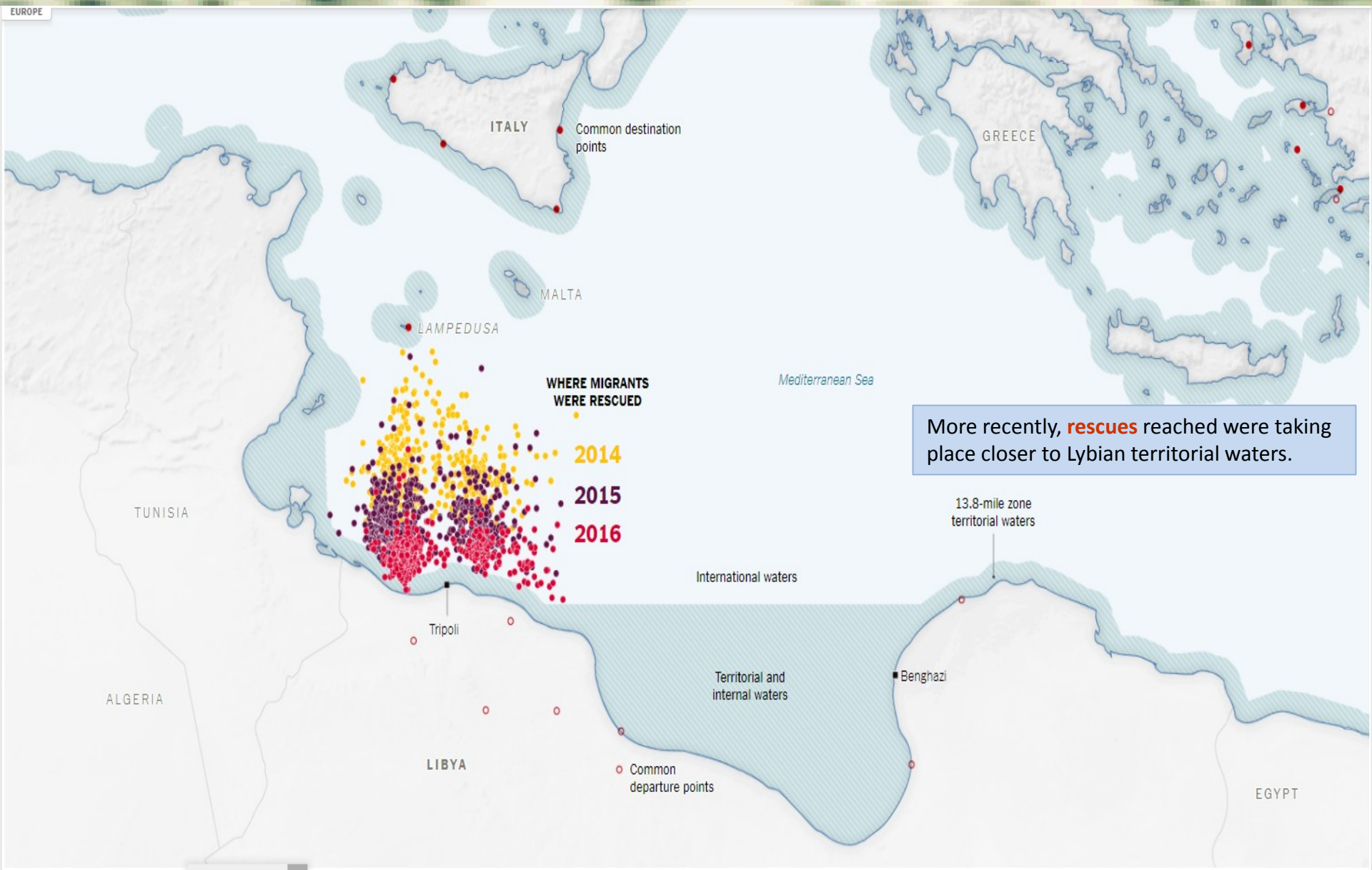


Before 2014, **rescues** took place closer to Italy, with migrant boats traveling as far as Italian water. By 2014, many **rescues** were occurring farther sought in the Mediterranean.



By 2015, **rescues** reached even closer to the Libyan side of the Mediterranean Sea

Source: Stuart A. Thompson and Anjali Singhvi, 'Efforts to Rescue Migrants Caused Deadly, Unexpected Consequences', *The New York Times*, June 14, 2017



More recently, **rescues** reached were taking place closer to Libyan territorial waters.

Source: Stuart A. Thompson and Anjali Singhvi, 'Efforts to Rescue Migrants Caused Deadly, Unexpected Consequences', *The New York Times*, June 14, 2017

END

Santino Lo Bianco PhD

Email: santinolobianco@outlook.com