

MEMORANDUM OF UNDERSTANDING

BETWEEN THE PUBLIC SECURITY DEPARTMENT OF THE ITALIAN INTERIOR MINISTRY AND THE NATIONAL POLICE OF THE SUDANESE INTERIOR MINISTRY FOR THE FIGHT AGAINST CRIMINALITY, MANAGEMENT OF FRONTIERS AND MIGRATION FLOWS AND ABOUT REPATRIATION

PREAMBLE

The public security department of Italian Interior ministry and the national police of Sudanese Interior ministry, named below, separately, as the "Party" and, jointly, as the "Parties";

CONSCIOUS of the negative repercussions which criminality, in its various forms, has on States' order and public security, especially as concerns the well-being of citizens and the international community:

RECOGNISING the necessity to enhance police cooperation in the fight against transnational organized criminality, especially against smuggling of migrants and irregular immigration, smuggling of human beings, drug-smuggling and terrorism;

FULLY COMMITTED to stop the dangerous travels of migrants who seriously risk their lives, as well as to promote and respect human rights by implementation of a bilateral cooperation, in accordance with the relevant international law and the Geneva Convention on the refugee status of 1951;

PERSUADED that an effective repatriation policy would have a considerable deterrent effect, contributing to prevent irregular migration and human tragedies related to it;

REFERRING to the Resolution n. 45/123 of the General Assembly of United Nations, on the 14th December 1990, concerning international cooperation in the fight against organised crime, as well as the Single Convention on Narcotic

Drugs (New York, 30 March 1961), just as amended by the Additional Protocol (Geneve, 25 March 1972), the Convention on psychotropic substances (Vienna, 21 February 1971), the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 20 December 1988), the "Global Action Plan" (New York, 23 February 1990), as well as the United Nations Convention against Transnational Organized Crime (Palermo, 12/15 December 2000) and related additional Protocols "against the Smuggling of Migrants by Land, Sea and Air" and "to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children", United Nations Convention against Corruption (Merida, 9–11 December 2003), as well as the relevant UN Security Council resolutions and the Conventions against Terrorism adopted under the aegis of United Nations, to which Italian Republic and Sudanese Republic adhered;

CONSIDERING the participation of Italian Republic and Sudanese Republic in "International Criminal Police Organization – INTERPOL" (O.I.P.C.–INTERPOL).

WHILE RESPECTING the sovereignty and the principle of equality between States;

IN ACCORDANCE WITH the respective systems and national legislations and with international obligations accepted by both States, as well as, regarding Italy, with those derived from the membership of European Union and, as regards Sudan, with those derived from the membership of the African Union;

HAVE AGREED as follows:

CHAPTER I
POLICE COOPERATION

Article 1

Purpose

The Parties agree that the purpose of the this Memorandum is to promote and develop the police collaboration to prevent and fight criminality in its various forms. By the cooperation implementation, the Parties grant and promote the full respect of human rights.

Article 2

Competent authorities

The competent authorities for the implementation of this Memorandum are:

- a. as regards the Italian party, the Public Security Department of Interior Ministry;
- b. as regards the Sudanese party, the National Police of Interior Ministry.

Article 3

Cooperation sectors

1. The Parties work together to prevent and fight criminality in its various forms, with particular reference to the following sectors:
 - a. transnational organised criminality;
 - b. production and illicit smuggling of narcotic or psychotropic substances and its chemical precursors, as well as basic chemical substances used in the fabrication process;
 - c. trafficking in persons and smuggling of migrants;

- d. irregular migration;
 - e. international smuggling of stolen motor vehicles;
 - f. illicit smuggling of weapons, ammo, explosives and radioactive, toxic and nuclear material;
 - g. cybercrime;
 - h. economical and financial crimes, laundering included;
 - i. crimes concerning counterfeiting of money, documents and other commercial falsifications;
 - j. corruption.
2. The Parties work together, in addition, in border management, migration flows and in the repatriation field, as well as in the prevention and fight of international terrorism, in accordance with the national legislation and international obligations of the respective States, including International Convention against terrorism and resolutions adopted by United Nations, and, in particular, as regards Italy, with obligations derived from the membership of European Union and, as regards Sudan, with those derived from the membership of the African Union.
3. This Memorandum does not produce effects in the field of extradition and judicial mutual assistance in the criminal field.

Article 4

Collaboration procedure

1. The Parties, in accordance with the national legislation and with international obligations of respective States, in particular, as regards Italy, with those derived from the membership of European Union and, as regards Sudan, with those derived from the membership of the African Union, will promote and develop the collaboration by the following modes:
- a. information exchange about crimes, organised criminal groups, structured groups and persons involved in them, their structure, management and

modus operandi, as well as about the implementation of *misure di prevenzione personali e patrimoniali* (seizure and confiscation);

- b. information exchange on terrorist groups acting in the respective territories and persons involved in them, as well as on their activities;
- c. information exchange on crimes related to drugs, psychotropic substances and their precursors and on crimes connected to them; as well as on places and drug production and fabrication procedures, on new types of drugs, routes, itineraries, ways and means used by traffickers, including the cloaking modes and the main analysis techniques;
- d. information exchange on scientific and legislative instruments to fight crime, including investigation analysis techniques;
- e. information exchange on the training of police officers, with the possibility to organize exchanges of experience and experts, courses and training activities;
- f. information exchange with the aim to identify and localize goods which have been gathered illegally;
- g. information exchange, techniques and operating practices aimed at preventing and repressing criminal infiltrations in enterprises which participate in procurement for work contracts, supplies and public services;
- h. information exchange in the field of irregular migration;
- i. information exchange to fight trafficking in human beings and migrant smuggling across borders;
- j. information exchange on passports and other travel documents, visas and stamps on entry and on exit, in order to avoid fake documents;
- k. identification and repatriation of own citizens present in the territory of the other Party in an irregular position with regard to the rules about migration;
- l. possible combined participation to operating cooperation initiatives at regional or international level, even, where possible, as part of the activities performed by EU competent agencies, such as Frontex and Europol.
- m. execution of assistance requests laid down in Article 5;

- n. exchange of other information of mutual interest to competent Authorities;
 - o. performance of training activities in sectors of cooperation mentioned under Article 3.
2. The collaboration laid down in this Memorandum is achieved by contact points designated by competent Authorities for every matter or by Interpol channels. The Parties will inform each other of the respective contact points, in writing, using diplomatic or Interpol channels.

Article 5

Assistance requests

1. The collaboration laid down in this Memorandum occurs on the basis of assistance requests, which must be done in writing. In urgent cases, the assistance requests can be done orally, but they must be confirmed in writing within seven (7) days.
2. The assistance requests contain:
- a. the name of the requiring competent Authority and of the receiving one;
 - b. details of the case;
 - c. a description of the assistance request;
 - d. the aim and the reasons for the request;
 - e. possible other information useful for the execution.

Article 6

Refusal of assistance requests

1. The assistance request, required in accordance with the provisions of the present Memorandum, can be refused if the required competent Authority estimates that the implementation is prejudicial to human rights and fundamental freedoms, sovereignty, security, public order or any other essential interest of the own State or estimates that it is against the juridical system and international obligations of own State and, in particular, as regards Italy, those derived from the membership of European Union and, as regards Sudan, those derived from the membership of the African Union.
2. The assistance can be also rejected if the execution of the request implies an excessive burden on the resources of the required competent Authority.
3. The required competent Authority can, before refusing the required assistance within the meaning of this Memorandum of Understanding, consult the requiring competent Authority in order to verify if the assistance can be supplied under the terms and the conditions that are considered necessary. In case of acceptance of these conditions by both competent Authorities, they are obliged to obey them.
4. In case of total or partial refusal of assistance, the required competent Authority will give the requiring competent Authority notice in writing. The notice shall include an explanation of the reasons of the refusal.

Article 7

Execution of assistance requests

1. The competent Authorities shall take the necessary measures to grant the execution of the assistance requests, within the limits of this Memorandum.
2. The requiring competent Authority is immediately informed on any circumstances which can stop or delay the execution of the request.

3. If the execution of the assistance request is outside the duties of the required competent Authority, the same Authority shall give immediate notice to the requiring competent Authority.

4. The required competent Authority, if considered necessary to perform or facilitate the execution of the assistance request, can ask for supplementary information from the requiring competent Authority.

5. The required competent Authority shall inform as soon as possible the requiring competent Authority with regard to the results of the effective execution of the request.

CHAPTER II

COLLABORATION IN THE MANAGEMENT OF FRONTIERS AND MIGRATION FLOWS AND IN RELATION TO REPATRIATION

Article 8

Counsel, technical assistance and training

1. Parties can supply mutual counsel, training and support in order to improve the respective capacity of managing frontiers and migration flows and of contrasting irregular migration and related crimes.
2. For the purposes indicated in paragraph 1, the Italian party takes into consideration the possibility of offering to the Sudanese party, on an annual basis, support and technical assistance in terms of training and supply of means and equipment, compatibly and within the limits of its effective financial availability. In this regard, the Italian Party can decide to ask for the financial support of European Union.
3. Beyond what is provided by paragraph 2, each Party can invite the designated staff of the other Party to attend professional seminars and training courses on the subjects related to the present Memorandum.
4. Furthermore, staff exchanges and study visits can be organized at agencies and organs of each Party responsible of the management of frontiers and migration flows, repatriation and investigation on smuggling of migrants and related crimes.

Article 9

Cooperation in the subject of repatriation

1. The Sudanese competent authorities supply assistance and support in the inspection concerning the nationality of irregular migrants, proceeding to their identification, in order to let the Italian competent authorities execute the repatriation measures, in accordance with the national and international relevant legislation and, in particular, for Italy, with obligations arising from the membership to European Union and, for Sudan, with obligations arising from the membership to the African Union, as well as with the respect of human dignity and fundamental rights of migrants.
2. For the purposes of paragraph 1, the Sudanese diplomatic/consular competent authorities, upon request of the Italian competent authorities,

proceed without delay to interview people who have to be repatriated, in order to ascertain their nationality and, on the basis of the results of the interview, without carrying further investigations on their identities, promulgate, as early as possible, emergency Sudanese travel documents (*laissez passer*), in that way allowing the Italian competent authorities to organize and execute repatriation operations through scheduled flights or charter. The aforementioned travel documents must be valid at least for 10 days, renewable.

3. The interviews described in paragraph 2 generally take place where people who have to be repatriated are hosted or kept. If possible and in case of repatriation of a small amount of migrants, the interview can take place at the Sudanese Embassy or Consulate.
4. The Italian Party takes back without delay on the Italian territory each person repatriated to Sudan with documents issued on the basis of the interview described in paragraph 2 if, after detailed inspections on his identity executed by the Sudanese competent authorities, it resulted that the involved person is not a Sudanese citizen. Each eventual fee connected to the repatriation to Italy is borne by the Italian Party. Such provision does not imply any further financial obligation for the Italian State balance sheet.

Article 10

Dispatch of experts on short term missions

1. If an increased number of people would have to be repatriated, the Sudanese competent authorities can dispatch, if necessary, with the consent of the Italian competent authorities, one or more experts on a short term mission to Italy, in order to support these authorities and the diplomatic/consular competent authorities in the performance of interviews described in article 9, aimed at ascertaining the nationality of people who have to be repatriated, in that way making quicker and simpler the procedures for the release of emergency travel documents and repatriation operations.
2. In addition to what provided by paragraph 1, if it is appropriate and in the mutual interest of the Parties, one or more Sudanese experts can be dispatched on a short term mission to Italy, in accordance with the Italian competent authorities, in order to supply counsel and technical support

in the investigation on criminal networks implied in the smuggling of migrants and related crimes.

3. In accordance with national legislations, the organization of missions described in paragraphs 1 and 2, included the duration and all other practical aspects, will be arranged case by case by the Parties' competent Authorities.

Article 11

Dispatch of experts on long term missions

1. In alternative to the dispatch of experts on short term missions, provided by article 10, the Sudanese Party can dispatch to Italy, on request of the Italian Party, one or more experts for a longer period, having the main task of making the interviews described in article 9, in order to support the Italian competent authorities in the field of repatriation.
2. Experts on long term missions as described in paragraph 1 will be detached to the Italian Police offices, at a central and local level (migrants landing points included), depending on the requirements of the Italian competent authorities, for a period of six or twelve months, that can be extended with the previous agreement of the Parties.
3. Experts on long term missions will also perform connection tasks, in order to facilitate the realization of other sectors of practical cooperation which are conceived by the present Memorandum.
4. The practical procedures connected to the dispatch of experts on long term missions are defined in the reference terms alleged to the present Memorandum.

Article 12

Status and responsibility of experts

1. The experts described in articles 10 and 11 perform their tasks, which are limited to technical support and counsel, for the aims of the present Memorandum. These experts act always in accordance with the guidelines and instructions supplied by the Italian competent authorities and in strict collaboration with the Sudanese diplomatic/consular authorities. Experts cannot practice any police power nor perform control activities.

2. The experts dispatched to Italy under the conditions provided by the present Memorandum are subject to the Italian law concerning civil and criminal liability.

Article 13

Expenses related to interviews and to dispatch of experts

The Italian Party bears the expenses arising from the activities performed by the Sudanese diplomatic/consular authorities in relation to interviews of people who have to be repatriated and to the release of Sudanese emergency travel documents, as well as of the expenses, including those for travel, subsistence and accommodation, connected to the eventual dispatch of Sudanese experts described in articles 10 and 11.

Article 14

Repatriation procedures in cases of necessity and urgency

1. If the Parties recognize, by common accord, the existence of cases of necessity and urgency, the procedures related to the identification of people who have to be repatriated can be executed in Sudanese territory, in accordance with their respective legal systems and national legislations and international obligations accepted by both States, as well as, for Italy, with those arising from the membership to European Union and, for Sudan, with those arising from the membership to the African Union.
2. In such cases, the Parties agree on times and means of transports, as well as on the guarantees concerning the repatriation to Italy of those who don't appear to be Sudanese citizens, under the following conditions.
 - a) The aforementioned procedures are enacted exclusively in cases of necessity and urgency, which are evaluated, previous common accord, by the Central Direction of Migration and of Frontier Police of the Public Security Department and by the Sudanese competent authorities.
 - b) The air carrier transporting people who have to be repatriated will not leave the Sudanese territory until when the Sudanese authorities will have executed the relevant controls, in such a way that those who don't appear to be Sudanese citizens will be brought back to Italy by the same air carrier. If, for particular circumstances, it is not possible to follow this procedure, the Italian Party ensures the repatriation on its territory, without any delay, with the first available flight, of people who do not appear to be Sudanese citizens.
 - c) The presence of security staff on board of the air carrier transporting people who have to be repatriated will be ensured by the Italian Party or the Sudanese Party, under conditions to be laid down case by case.

CHAPTER III DATA PROTECTION

Article 15

Protection of personal data and classified information

1. The Parties agree that the personal data transferred within the context of this Memorandum, is to be used only for the purposes here provided and in accordance with the national legislation and the international Humans Rights obligations of the respective State, inter alia for Italy those arising from the European Union and for Sudan those arising from the African Union.
2. Each Party guarantees the same level of protection for the personal data information that corresponds to the other Party, and takes the necessary measures to reduce the risk of destruction or loss, even accidental of the data, the non-authorized disclosure, alteration, non-authorized access of people or any processing of those data.
3. Upon request from the competent Authority that transmitted the data, the competent Authority that received them is obliged to correct, block or cancel the data which is inaccurate or incomplete, or if the acquisition or the processing oppose the provisions of this Memorandum or the legal system applicable to that competent Authority supplying the data.
4. The competent Authorities if aware that the data received through the context of this Memorandum, is inaccurate or incomplete, shall take the necessary measures to prevent the erroneous reliance on that data, possibly progressing to integrate, cancel or correct it. If the data is inaccurate, incomplete, unreliable or creating difficulties on its interpretation, the competent Authority that received it shall notify the competent Authority that supplied it.

5. The data and information exchanged in the context of this Memorandum cannot be disclosed by the competent Authorities to others subjects, States or international organizations, without the previous consent of the competent Authority that supplied it.
6. The classified information is exchanged and protected by the competent Authorities using the modalities and measures of protection used for the system of communication of information, in accordance with the national legislation and international obligations on exchange and protection of classified information of the respective States.

CHAPTER IV FORMAL PROCEDURES AND EXPENSES

Article 16

Meetings and consultations

1. For the implementation of this Memorandum, as well as the evaluation and improvement of the collaboration, the representatives of the competent Authorities may, if necessary, hold meetings and consultations.
2. The meetings will take place, alternately, in Sudan and Italy.

Article 17

Expenses

1. Except as otherwise provided by this Memorandum, the ordinary expenses of execution of the requests of assistance, shall be supported by the competent Authority that makes the request, if not otherwise agreed on paper by the competent Authorities. If the request of assistance implies a high amount of expenses, the competent Authorities will consult each other and decide the terms and conditions of the

execution of the request, as well as the modalities of sharing of the expenses.

2. Except as otherwise provided, the cost of the meetings is supported by the competent Authority receiving, meanwhile the cost of the trip and stay is supported by the competent Authority sending.

Article 18

Working language

For the implementation of the collaboration expected in this Memorandum the competent Authorities use the English language, accompanied by the translation in the respective national languages.

Article 19

Settlement of disputes

Any disputes arising from the interpretation or implementation of this Memorandum are settled between the Parties amicably, through consultations and negotiations.

Article 20

Efficacy, amendments and termination

1. This Memorandum enters into effect from the moment of its signing and has an unlimited standing.
2. This Memorandum can be amended with the mutual consent of the Parties.
3. This Memorandum stays effective until one of the Parties notify the other on paper, through the diplomatic channels, his intention of terminating it. In that case, the Memorandum ceases to have effect after six (6) months from the date of the notification of termination.

HAVING FAITH WHEREOF, the undersigned had signed this Memorandum on two originals, each in Arabic, Italian and English, each one of them having equal faith. In case of differences on interpretation of this Memorandum, the English version shall prevail.

DONE in Rome, on the 3rd day of August of the year 2016.

TERMS OF REFERENCE (ToR)

For the practical fulfilment of article 11 and 13 of the Memorandum of Understanding between the Italian Public Security Department and the Sudanese national police for the fight against crime, the management of borders and the migration flows and the delicate issue of repatriations, signed in Rome on 3 August 2016 (hereafter referred to as Memorandum)

1. Costs

In compliance with article 11 of the Memorandum, the Central Management for Immigration and the Borders Police of the Italian Public Security Department (hereafter referred to as CMIBP) will pay for the following costs related to the employment of one or more experts from Sudan :

- a) Travel from/to Sudan at the beginning and at the end of the expert's mission.
- b) Release of the Permit to Stay.
- c) Accommodation in a police receiving structure or, when not available, in a private structure chosen by CMIBP.
- d) Full board (breakfast, lunch, dinner) in a police receiving structure or, when not available, in a private structure chosen by CMIBP.
- e) A round-trip flight ticket to the mother land, in the case in which the mission period is of at least 12 months. Shorter mission periods (e.g. 6 months) do not entitle to this right.
- f) A card for local transportation service, if it is necessary to reach the work place.
- g) A daily wage of 40 euros (per diem). The expert has no right to the wage when he is off duty. The expert has to open a bank account where the daily will be accredited. The expert has to close his bank account before leaving Italy to permanently return to Sudan.
- h) Enrollment to the national healthcare service.

2. Points of Contact

For any matter related to the expert's stay in Italy, the following points of contact will be designated within the CMIBP setting:

- a) For the Italian matters:

CMIBP-immigration service

3° Division (international cooperation in migration matter)

Via Tuscolana, 1558 – 00173 Rome

Tel. +39 06 46530910

+39 06 46530906

+39 06 46530904

E-mail : dipps.servizioimmigrazione.3div@interno.it

b) For the Sudanese matters :

National police – international cooperation management

Tel. +249 183 773350

Fax +249 183794110

Email: awad0911@cloud.com

Khartoum – Sudan

3. Reports writing by the expert

- A) If particulars events occur during the daily service , the expert needs to report to the Borders Police Office's Director or to the Immigration Office's Director where deployed or to the person of contact designated by the latter ,as well as the Points of Contact mentioned in point 2.
- B) Furthermore the expert will draft a report on his activity , both monthly and at the end of his mandate, which will be submitted to the subjects mentioned in letter A)
- C) The activities referred to in letter A) and B) do not jeopardize the potential duty of the expert to report to his own national authorities and diplomat/consular.

4. Conduct Rules

- A) During service or during free time ,the expert must always behave in compliance with the rules established for the Italian State Police's personnel.
- B) Acquaintances , friends and relatives of the expert cannot be hosted in the police structure where the latter is lodged.
- C) The expert will carry out his functions without any kind of weapons and in civilian clothes. The use of the national uniform in certain circumstances can be authorized only by the CMIBP.

5. Final dispositions

- A) Beyond the dispositions of the current ToR, the CMIBP, if necessary, can adopt all the decisions and initiatives that ensure that the expert's mission in Italy will be carried out in a simple and efficient way, accordingly to the spirit and the scope of the Memorandum.
- B) The current ToR have the only objective to enforce the pertinent dispositions of the Memorandum. They will be applicable until the Memorandum is in force.

In witness whereof, the undersigned have agreed upon the current ToR.

Signed in Rome, the 3 August 2016 , in two original copies, in italian and in english , both texts equally authentic. In case of divergences in the interpretation of the current ToR, the english text will prevail.

FOR THE ITALIAN PUBLIC SECURITY DEPARTMENT

Prefetto Franco Gabrielli

Police Chief- General director of Public Security

FOR THE SUDANESE NATIONAL POLICE

Hashim Osman Elhussein

General director of Sudanese Police Forces