



A PERFECT STORM

THE FAILURE OF EUROPEAN POLICIES IN THE CENTRAL
MEDITERRANEAN



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First published in 2017

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: EUR03/6655/2017

Original language: English

amnesty.org



Cover photo: Refugees and migrants are seen swimming and yelling for assistance from crew members from the Migrant Offshore Aid Station (MOAS) 'Phoenix' vessel after a wooden boat bound for Italy carrying more than 500 people capsized on May 24, 2017 off Lampedusa, Italy.
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GLOSSARY

A **refugee** is a person who has fled from their own country because they have a well-founded fear of persecution and their government cannot or will not protect them. Asylum procedures are designed to determine whether someone meets the legal definition of a refugee. When a country recognizes someone as a refugee, it gives them international protection as a substitute for the protection of their country of origin.

An **asylum-seeker** is someone who has left their country seeking protection but has yet to be recognized as a refugee. During the time that their asylum claim is being examined, the asylum-seeker must not be forced to return to their country of origin. Under international law, being a refugee is a fact-based status, and arises before the official, legal grant of asylum. This report therefore uses the term refugee to refer to those who have fled persecution or conflict, regardless of whether they have been officially recognized as refugees.

A **migrant** is a person who moves from one country to another to live and usually to work, either temporarily or permanently, or to be reunited with family members. Regular migrants are foreign nationals who, under domestic law, are entitled to stay in the country. Irregular migrants are foreign nationals whose migration status does not comply with the requirements of domestic immigration legislation and rules. They are also called “undocumented migrants”. The term “irregular” refers only to a person’s entry or stay.

EXECUTIVE SUMMARY

A humanitarian crisis continues to unfold in the central Mediterranean as thousands of people die at sea in the desperate attempt to reach safety or a better life in Europe. In the first half of 2017 73,000 refugees and migrants reached Italy by sea: 14% more than in the same period the previous year. Around 2000 have lost their lives, bringing the mortality rate this year to 2.7%. This represents a three-fold increase over the second half of 2015, when EU-led search and rescue efforts were at their height.

The immediate cause for the rising death toll is that the conditions in which refugees and migrants have been made to cross the sea have deteriorated. Partly in response to EU-led efforts to disrupt their activities, smugglers in Libya have been loading more people onto boats of a lesser quality, mostly inflatable rubber ones, with insufficient fuel, no lifejackets or other safety features, and often with no means to call for help, such as a satellite phone. These boats have virtually no chance of reaching European coasts by themselves and they are in need of rescue from the moment they depart.

The magnitude of the loss of life so far and the likelihood of imminent large shipwrecks occurring at any moment, as departures continue, should have prompted European leaders to deploy more ships dedicated to rescue operations as close as possible to Libyan territorial waters. Instead, European leaders have prioritized measures to prevent refugees and migrants from departing from Libya in order to keep the number of arrivals in Europe down, notably through increased cooperation on migration with the internationally recognized Libyan authorities. In the past year, the centrepiece of their strategy has been cooperation with the Libyan coastguard. With the purported aim of saving lives at sea by preventing dangerous crossings, European governments have provided the Libyan coastguard with training and assets and have encouraged it to intercept refugees and migrant boats trying to reach international waters.

This reckless European strategy is not just failing to deliver the desired outcome of stopping departures and preventing further loss of life, but is in fact exposing refugees and migrants to even greater risks at sea and, when intercepted, to disembarkation back in Libya, where they face horrific conditions in detention, torture and rape.

The first part of this report, which follows a series of earlier publications on this subject¹, examines the current situation along the central Mediterranean route and looks back at the summer of 2015 when, following two major shipwrecks which cost the lives of 1,200 people, European leaders stepped up resources for rescuing refugees and migrants at sea, successfully bringing the mortality rate down. The report examines the various operations currently deployed in the central Mediterranean (the European border control agency operation Triton, the EU military operation EUNAVFOR MED dedicated to destroying smugglers' boats, and the Italian Navy Mare Sicuro) and at the vital contribution to rescue efforts provided by the non-governmental organizations which have tried to fill the gap created by the failure of European leaders to prioritize saving lives at sea. It concludes that European leaders have ceased to view search and rescue as a priority and have failed to respond to the changing conditions and increased dangers refugees and migrants are now exposed to.

The second part of the report, dedicated to the human rights impact of cooperation with Libya in search and rescue operations, details concerns regarding the Libyan coastguard's conduct at sea with particular reference to cases of interception which have endangered those involved; and at the consequences of disembarkation in Libya for the safety of refugees and migrants. The report describes the broader risks to

¹ Lives adrift: Refugees and migrants in peril in the central Mediterranean September 2014), <https://www.amnesty.org/en/documents/EUR05/006/2014/en/>; Europe's sinking shame: The failure to save refugees and migrants at sea (April 2015), <https://www.amnesty.org/en/documents/eur03/1434/2015/en/>; and A safer sea: The impact of increased search and rescue operations in the central Mediterranean (July 2015), <https://www.amnesty.org/en/documents/eur03/2059/2015/en/>

which refugees and migrants are routinely exposed in Libya, which include widespread and grave human rights violations and abuses including killings, torture, rape, kidnappings, forced labour, and arbitrary detention in cruel, inhuman and degrading conditions.

In the absence of sufficient safe and legal routes for refugees and migrants to access European territory, and for so long as dangerous departures from Libya continue, European leaders must commit to deploying dedicated resources for search and rescue near Libyan territorial waters and disembark those rescued at a place of safety. In short, a multi-country humanitarian operation under the operational coordination of the Italian authorities, similar to what was in place in 2015 is urgently needed.

Cooperation with the Libyan coastguard must be driven exclusively by search and rescue concerns and made conditional on the Libyan authorities agreeing to the following measures:

- The Libyan coastguard should not carry out search and rescue activities outside Libyan waters;
- The Libyan coastguard should allow search and rescue operations by civilian vessels, including boats operated by NGOs to take place unhindered in Libyan territorial waters;
- The Libyan coastguard should not be allowed to claim and exercise on scene command during a search and rescue operation and should transfer any rescued person onto EU or foreign vessels participating in the operation to be disembarked in a place of safety; and
- The Libyan coastguard should accept the immediate establishment of a mechanism to ensure solid monitoring of their conduct and operations at sea, and of an accountability process in case of breaches of international law and standards.

More broadly, European leaders should make cooperation on migration with Libyan authorities conditional on verifiable progress towards ending automatic detention of irregular migrants in Libya, the establishment of an asylum system and the granting of unhindered access to detained refugees and migrants for international agencies.

METHODOLOGY

This briefing is based on information provided by representatives of the Italian coastguard at the Maritime Rescue Coordination Centre in Rome; non-governmental organizations engaged in search and rescue activities in the central Mediterranean; as well as on information gathered at the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017. The records of the parliamentary inquiries conducted by the Italian Senate Commission on Defence and by the Italian Chamber of Deputies Committee on the Implementation of the Schengen agreement, Europol activity and to exercise oversight on immigration have also been reviewed. Official data and information including from UN agencies such as UNHCR and IOM, the EU Commission, the EU border agency Frontex, the EU military operation EUNAVFOR MED Operation Sophia, the Italian Ministry of the Interior and the Italian coastguard have also been used, as well as academic, media, experts' and non-governmental organizations' reports. The testimonies of 18 refugees and migrants were collected in the course of a mission to Sicily between 23 and 26 May 2017, during which researchers visited the reception centres of Mineo (Catania), Ragusa Ibla (Ragusa), Borgo La Croce (Ragusa) and Villa Sikanìa (Agrigento).

1. THE CENTRAL MEDITERRANEAN ROUTE IN 2016 – 2017 – A CONTINUING HUMANITARIAN CRISIS

“Every rescue now is a tragedy waiting to happen.”

Representative of an NGO involved in search and rescue activities, June 2017.

1.1 MORE PEOPLE TAKING EVER MORE PERILOUS JOURNEYS

The central Mediterranean crossing has been taken by refugees and migrants hoping to reach Europe for over two decades. In the last three and a half years, however, the number of those departing from northern African shores towards Italy has increased significantly, with more than 170,000 arrivals recorded by the Italian Ministry of the Interior in 2014; 153,800 in 2015; and 181,400 in 2016.² As of 27 June 2017, over 73,380 people had reached Italy by sea, 14% more than in the same period in 2016.³ The end of year figures will likely match, if not exceed, 2016.

Those risking their lives trying to reach Europe through the central Mediterranean include refugees fleeing persecution, conflicts and wars, as well as migrants wanting to escape poverty and find a better life. The nationalities of those who reach European shores offer some indications as to the geo-political factors pushing people to attempt the sea crossing. The vast majority of people arriving in Italy as of June 2017 were from sub-Saharan Africa, with Nigerian being the number one nationality declared at arrival, followed by Guinea, Ivory Coast, Gambia, Senegal and Mali. These nationalities together accounted for nearly half of the total. Bangladeshis were the second largest group – accounting for 10% of the total. Eritreans, who had been the second largest group after Syrians in 2014 (with over 34,000 people), the first in 2015 (with over 38,000

² http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31_dicembre_2016.pdf

³ <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>

people) and the second in 2016 (with over 20,000 people) were down to 4% of the total, with just over 2,600 people as of 21 June 2017. Syrians, who had been the biggest group on the Libya – Italy route in 2014 with over 42,000 people, arrived in lower numbers in the first half of 2017. New nationalities were being recorded too, in particular Moroccans, 4% as of 21 June; and a small number of Libyan nationals.

While fewer prima facie refugees, such as Syrians and Eritreans, whose asylum claims have had a high rate of success across EU countries in recent years, travelled from Libya to Italy in the first few months of 2017, about 40% of people requesting asylum were found to be entitled to some form of protection in Italy in 2016⁴, and 44% as of mid-June 2017, according to data of the Italian Ministry of the Interior.⁵

Some of the people Amnesty International interviewed in Sicily in May 2017 cited political persecution and human rights violations, such as extra-judicial executions, arbitrary detention, torture and open ended military service in conditions amounting to forced labour as the main reasons prompting them to leave their countries. Others, desperately seeking work, spoke of the difficulty of reaching Europe through regular channels. A 28 year old Gambian man who arrived in Lampedusa in May 2017, told Amnesty International that before leaving Gambia in 2015 to start his journey towards Europe he had tried, unsuccessfully, to get a visa to go to the UK. Another Gambian man interviewed by Amnesty International in Agadez, Niger, in February 2017 explained he had requested a visa to Italian consular authorities four times before deciding to travel irregularly. Although these cases are anecdotal, they are symptomatic of the very limited regular avenues of entry for would-be migrant workers. The European Council at the meeting on 22-23 June 2017 agreed that “pragmatic arrangements with third countries shall be put in place at EU level without any further delay by using all possible levers, including by reassessing visa policy towards third countries, as needed.”⁶ This welcome pragmatism is still some way from being reflected in the migration policy of the EU and its member states, who are continuing to prioritise the prevention and obstruction of irregular arrivals in Europe through border control cooperation with neighbouring and transit countries, rather than comprehensive migration management including for migrant workers.

The choice of route migrants and refugees take to reach Europe depends on many factors. There can be little doubt, however, that enhanced border controls – at Europe’s external borders and in neighbouring countries, such as Turkey, have driven those with little prospect of reaching Europe through legal channels to take the perilous route through Libya and across the sea, in the hope of reaching Italy. The relatively high number of Bangladeshi nationals who have arrived in Italy in 2017 can, for instance, probably be explained in part by the closure of the land and sea border between Turkey and Greece.

The reasons behind these desperate journeys are ultimately personal and can only be understood as part of each individual’s story. However, it is a measure of refugees and migrants’ despair and determination that tens of thousands of them continue to choose a route that, even before embarking on an extremely perilous sea crossing, exposes them to violence, rape, beatings and other abuses during the crossing of the desert, and again once in Libya. Deaths occurring during the desert crossing and resulting from killings, exhaustion, or being abandoned by smugglers, go largely unaccounted for.

The experience of **Abukafir**⁷, a 20 year old Gambian man aged 20 who left Gambia after unsuccessfully confronting his uncle about the inheritance of his father’s farmland, provides a horrifying insight into the dangers migrants face before they even reach the Libyan coastline:

“It was December 2016. We left Agadez, in Niger, at 6am, six Toyotas together, driving very, very fast. We drove for 12 hours, without stopping, 27 people. We were chased. Five Toyotas were caught. The people on them were abandoned in the desert. Our car was the last. When they shot at us, I nearly fainted. They hit the tyre, but did not stop to take our car. The driver changed the tyre and we continued the journey until the next day, when we were stopped again. They had guns. They took us to the back of a hill and made us lie down. They were wearing black uniforms with Arabic words at the bottom of the trousers, and turbans. If we raised our head, they would hit us. They searched us for money “or we kill you” they said. They separated the women from us and took them behind another hill - I do not know what happened to them. They took our bags and water and drove away with our car. We walked under the sun for days. There were three girls with us. They begged us for our urine to drink... Four of our group died. We were just following the car tracks. Sometimes at night we would meet cars, but they only gave us water. We walked for many days. We left five people along the way. On a Friday, we were lying down along the road, when a car arrived and the driver told us: I take you to Libya but you must pay me back. He stopped for

⁴ http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/riepilogo_dati_2015_2016_0.pdf

⁵ <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/i-numeri-dellasilio>

⁶ See paragraph 22 of the European Council meeting (22 and 23 June 2017) – Conclusions at <file:///intsec.amnesty.org/data/users/edepieri/Downloads/22-23-euco-final-conclusions.pdf>

⁷ Interviewed in May 2017, in Ragusa. He arrived in Italy in March 2017

two days to give us food and make us rest because we needed to be strong. We buried another one of the group in the desert. We drove again for another two nights and reached Libya.”

This briefing does not dwell on the broader migratory pressures on Europe and the obvious need, if such perilous journeys are to be reduced, to provide safe and regular avenues of entry for refugees and migrant workers alike. It focuses exclusively on the disastrous human consequences of the priority European leaders are giving to the prevention of departures from Libya over the rescue of those at sea.

1.2 A SIMPLE RECIPE THAT WORKED: MORE RESCUE BOATS CLOSER TO THE LIBYAN COAST WOULD SAVE MORE LIVES

According to IOM, 3,165 deaths were recorded in the central Mediterranean in 2014; 2,876 in 2015; 4,581 in 2016 and 2,072 as of 28 June 2017.⁸ UNHCR has estimated that in the whole of the Mediterranean sea 2,030 people had died or gone missing as of 28 June 2017.⁹ With 2.5 deaths for every 100 people attempting the crossing, 2016 was the deadliest year to date for refugees and migrants on the central Mediterranean. At current rates, the death toll in 2017 promises to be just as high, if not higher.¹⁰

YEAR	PERIOD	NO. OF ARRIVALS*	NO. OF DEPARTURES	NO. OF DEATHS**	DEATH RATE
2014	JAN-DEC	170,100	173,265	3,165	1.8
2015	JAN-DEC	153,842	156,718	2,876	1.8
	JAN-APR	26,221 1	27,722 1	1,721	6.2
	27 APR-31 DEC	127,622***	128,996	1,155	0.89
2016	JAN-DEC	181,436	186,017	4,581	2.5
2017	JAN-JUNE	73,380	75,452	2,072	2.7

*Data from the Italian Ministry of the Interior

**Data from IOM

***Data covering the period between 1 May and 31 December

With so many lives already lost and more tragedies looming at any moment as boats continue to depart in extremely risky conditions, the situation in the central Mediterranean constitutes an urgent humanitarian crisis which European leaders have the moral and legal obligation to address without delay in full compliance with the international law of the sea, international human rights and refugee law.

⁸ See IOM data at: missingmigrants.iom.int/Mediterranean. These figures are mere estimates, as only the number of people arriving and bodies retrieved at sea are certain. There is no official information about the number of boats and people departing. Considering that an inflatable rubber boat in 2016 carried on average 122 people (Italian Coast Guard estimate), unknown shipwrecks with no survivors would significantly alter recorded mortality rates

⁹ <https://data2.unhcr.org/en/situations/mediterranean>

¹⁰ Based on Italian Ministry of the Interior data for arrivals and IOM data for deaths in the central Mediterranean

Because of the inherent level of risk involved in all sea journeys organized by smugglers in the central Mediterranean - using utterly unseaworthy, overcrowded boats with no safety features, little fuel, no trained personnel and, often, no means to call for help – it will never be possible to prevent all shipwrecks. In fact, it is already an immense achievement by all those involved in search and rescue activities that so many lives are saved every day. It is clear, however, that current EU and member states' efforts are failing to adapt to shifting patterns in sea-crossings (prompted, at least in part, by their own policies) and the persistently high number of crossings being made, resulting in a significant increase in mortality rates over the last 18 months, after the relative search and rescue success witnessed in the second half of 2015, when the issue was briefly a priority.

Indeed, in July 2015, Amnesty International called the central Mediterranean “a safer sea” after documenting the positive impact of measures implemented by EU leaders to strengthen search and rescue capacity in the central Mediterranean from the end of April 2015.¹¹ The death rate between 27 April (when the first additional ship was added to Frontex Joint Operation Triton, see below) and 31 December 2015 fell to 1 in 112, or 0.89%, people attempting the crossing.

The death rate had peaked at 1 person in 16, or 6.2%, between 1 January and 26 April that year, when the Italian coastguard was coordinating rescue activities relying almost exclusively on its own assets and on merchant ships. This was the consequence of the calamitous decision by European leaders and the Italian government to end the humanitarian operation specifically aimed at rescuing refugees and migrants at sea called Mare Nostrum, motivated by the fear of a political backlash as tens of thousands of people disembarked in Italy continued their journey towards northern European countries. Mare Nostrum was set up by Italy in October 2013 following two major shipwrecks which claimed over 560 lives on 3 and 11 October 2013. Between 18 October 2013 and 31 October 2014, Mare Nostrum had ensured the rescue and safe disembarkation of 166,000 people.¹²

European leaders had wrongly regarded Mare Nostrum as a pull-factor for refugees and migrants, arguing that the increased safety was encouraging more and more people to risk the journey.¹³ To assist Italy with patrolling European southern sea borders, European leaders set up Frontex Joint Operation Triton, and mandated it to patrol at about 30 nautical miles from Maltese and Italian shores from 1 November 2014. Its resources, in quality and quantity, were proportionate to the limited scope of its mandate, but manifestly not to the task of delivering search and rescue capabilities. Contrary to European leaders' assumptions regarding the pull-factor represented by Mare Nostrum, during the winter of 2014/2015 departures, especially from Libya, continued and deaths at sea predictably soared.

Two major shipwrecks in the space of one week between 12 and 19 April 2015, claiming over 1,200 lives, finally brought home to European leaders that the decision to end Mare Nostrum had been wrong and that Triton was an inadequate response to the unfolding humanitarian crisis at sea.

At an emergency European Council meeting on 23 April 2015, European leaders agreed to rapidly reinforce Triton and Poseidon (Frontex operation deployed in the Aegean sea) by at least tripling their financial resources and reinforcing the number of assets available to Frontex. In the following weeks several governments provided Triton with additional naval and aerial assets which would allow it to patrol in rough weather and rescue sizeable numbers of people. On 26 May, Frontex adopted a new operational plan for Triton, allowing it to patrol at roughly 70 nautical miles south of Lampedusa. Between May and September 2015, Triton deployed six offshore patrol vessels, 12 patrol boats, three aeroplanes and two helicopters. In addition, some EU governments, including France, Germany, Ireland and the UK, deployed aerial and naval assets outside Triton in national humanitarian operations to assist refugees and migrants at sea, joining the five Italian Navy ships also operating outside Triton. In its European Agenda on Migration, issued on 13 May 2015, the European Commission, emphasised the priority given to saving lives, including by restoring rescue efforts to the level of intervention provided under Mare Nostrum. It stated that “This welcome solidarity will need to be maintained for as long as the migratory pressure persists.” This clear commitment to search and rescue has not been maintained.

By the end of May 2015, however, the level of resources which had been available to Mare Nostrum had been surpassed: Triton was patrolling at the southern border of Malta's search and rescue area and European vessels, deployed south of Triton's expanded operational area, had been able to reach boats in distress at 30 nautical miles (55km) off Libyan coasts in about two hours.

¹¹ Amnesty International, “A safer sea: The impact of increased search and rescue operations in the central Mediterranean”, July 2015, <https://www.amnesty.org/en/documents/eur03/2059/2015/en/>

¹² Amnesty International, “Europe's sinking shame: The failure to save refugees and migrants at sea”, April 2015, <https://www.amnesty.org/en/documents/eur03/1434/2015/en/>

¹³ Amnesty International, “Lives adrift: Refugees and migrants in peril in the central Mediterranean”, September 2014, <https://www.amnesty.org/en/documents/EUR05/006/2014/en/>

In addition, on 22 June 2015, the EU launched EUNAVFOR MED, a joint military operation with the mission to “identify, capture and dispose of vessels used by smugglers and traffickers” in order to “disrupt the business model of human smuggling and trafficking networks in the Southern Central Mediterranean”. Sea patrolling to find refugees and migrant boats in distress and assist them was not included in EUNAVFOR MED mandate; however, as they were deployed in areas of the central Mediterranean where incidents were commonly reported, its naval and aerial assets contributed from the beginning of the operation to saving lives.

Non-governmental organizations (NGOs) started to set up private rescue operations funded by civil society. The Migrant Offshore Aid Station (MOAS), which had been the first NGO to send a vessel to the central Mediterranean between August and September 2014, deployed its vessel, the Phoenix, between 2 May and 28 September 2015, operating jointly with Médecins sans Frontières (MSF) medical teams on board to assist refugees and migrants.¹⁴ MSF also deployed the Bourbon Argos from 9 May 2015 until September and the Dignity I, from 13 June 2015. The German NGO Sea-Watch deployed the Sea-Watch I between June and September 2015.

The result of such strengthened, readily available search and rescue capacity deployed near where it was needed was a plummeting death toll, even while the number of crossings increased. As an NGO representative put it, the summer of 2015 was a time of very intense activity, during which all actors present at sea worked cooperatively together in an effective manner, and during which rescues were happening with a foreseeable, regular pattern which facilitated operations and the saving of lives.¹⁵

By the end of 2015, 152,343 people had been rescued at sea. Of these 41,341 were rescued by the Italian coastguard, including with assets co-financed by Frontex; 29,178 by the Italian Navy; 6,290 by Italian custom police, including with assets co-financed by Frontex; 16,158 by merchant ships; 20,063 by the NGO rescue boats; 15,428 by Frontex Triton assets, excluding Italian assets; and 23,885 by EUNAVFOR MED and foreign navies.¹⁶

The next sections analyse the shifting trends in departures from Libya and the increasing risks that those afloat are now exposed to; and set these against the changes in search and rescue capacity in the Central Mediterranean. It quickly becomes clear that the spiralling death toll is the result of changes in the practices of smugglers to which EU-led search and rescue efforts have not adapted.

1.3 A CHANGING SCENARIO IN THE CENTRAL MEDITERRANEAN: REFUGEES AND MIGRANTS DEPARTING IN INCREASINGLY RISKY CONDITIONS

There is no simple explanation for the record number of deaths at sea that occurred in 2016. It is, possible, however, to identify a number of contributing factors. Starting in 2015 and continuing in 2016, smugglers’ practices changed. In its 2016 Search and rescue activities report¹⁷, the Italian coastguard noted a marked deterioration in safety conditions aboard boats used for human smuggling from Libya, in particular:

- satellite phones were frequently absent, rendering the discovery of boats in distress more difficult and time-consuming. Search and rescue activities initiated through a satellite phone call to MRCC Rome were only 45% in 2016, a decrease of 56% compared to 2015, when 80% of the rescues started with a satellite phone call. In 2016, 55% of rescues were initiated following the sighting of boats in distress by aerial or naval assets in the area;
- departures from Libya were increasingly taking place at night and in bad weather and sea conditions, whereas in past years departures tended to be in the early hours of the day and in favourable sea conditions;

¹⁴ Information provided by the group of NGOs active in search and rescue as of June 2017

¹⁵ Interviewed in June 2017. A similar assessment of search and rescue activities in 2015 is reached in *Blaming the Rescuers*, p.9, a report produced by Forensic Oceanography (Charles Heller and Lorenzo Pezzani), part of the Forensic Architecture agency (Directed by Eyal Weizman) at Goldsmiths (University of London) and published in June 2017, available at <https://blamingtherescuers.org/report/>

¹⁶ Italian maritime rescue coordination centre, Search and rescue activity and migratory flows in the central Mediterranean, 2016, <http://www.guardiacostiera.gov.it/en/Pages/search-and-rescue.aspx>

¹⁷ Italian maritime rescue coordination centre, Search and rescue activity and migratory flows in the central Mediterranean, 2016, <http://www.guardiacostiera.gov.it/en/Pages/search-and-rescue.aspx>

- the use of large wooden boats drastically decreased, to be replaced by rubber boats (676 in 2015 and 1,094 in 2016). Wooden boats can carry between 500-600 people, which makes them more valuable to smugglers and in the past they have tried to re-use them. However, since EUNAVFOR MED started destroying smugglers' boats, they have started to use cheaper rubber boats. Since 2016, they have also been loading more people onto rubber boats. While in 2015 on average 103 people travelled in one rubber boat, in 2016 the average rose by 18% to 122 people, in some cases even reaching 200¹⁸; and
- the practice of launching numerous boats at the same time, thus multiplying simultaneous search and rescue events, which had already been noticed by the Italian coastguard in 2015¹⁹, persisted, stretching MRCC Rome coordination capacity and search and rescue resources. Multiple SAR events became the norm in 2016, with peaks of 112 events between 28 and 31 August, involving 13,762 people; and 77 events between 3 and 4 October, involving 10,850 people. According to EUNAVFOR MED, smugglers have sought to divert the attention of the military assets of the EU operation from their mission priority of capturing and disposing of vessels by launching several rubber boats at the same time, as they know that EUNAVFOR MED vessels will be required to prioritize rescuing lives, in compliance with the law of the sea.²⁰

In EUNAVFOR MED's six-monthly report covering the period up to 31 December 2015, the Operation Commander noted that although wooden boats are more valuable than rubber boats because they can carry more people, are more resilient to weather and can be reused, "following operation SOPHIA entering into Phase 2A (High Seas), smugglers can no longer recover smuggling vessels on the High Seas, effectively rendering [wooden boats] a less economic option for the smuggling business." He also noted that "analysis has shown that the fuel supply provided has been halved [compared to before the start of the EUNAVFOR MED operation], from a level that already before the reduction was far insufficient to reach anywhere farther than some 30-50 nautical miles from the coast. Reaching European mainland, Malta or even Lampedusa is very difficult for these boats. Effectively, with the limited supply and the degree of overloading, the migrant vessels are SOLAS cases from the moment they launch [in breach of requirements for navigation set out in the International Convention for the Safety of Life at Sea, and thus requiring rescue]."²¹

The physical conditions of people travelling also deteriorated, making rescues harder. A representative of one NGO involved in search and rescue activities told Amnesty International in June 2017:

"We noticed that there was a lot more violence at departure by smugglers. People were leaving in worse and worse physical conditions. We were finding lots of injuries, also from firearms, and there were more heavily pregnant women. And there were mass departures. We decided we had to operate closer and closer to Libyan territorial waters, because people were not leaving in a condition to travel. Every rescue now is a tragedy waiting to happen."

Testimonies collected by Amnesty International in Sicily in May 2017 consistently confirmed the new, deadly features of sea crossings.

A mass departure, the absence of a satellite phone, and insufficient fuel featured prominently in the story of **Idris**²², a 21 year old man from Nigeria, who arrived in Sicily at the end of July 2016. He said he fled Nigeria after being threatened by a gang which he said was responsible for the killing of his father at the end of 2015. Having worked in Libya for a number of months without pay, his "employer" arranged for him to board a boat, departing from a beach near Tripoli:

"On the beach there were thousands of black men, women and children ... when only one boat was left [after the others had sailed], my Libyan boss [the "employer"] told me to board and remain calm. Nobody had a satellite phone. We spent five days at sea. We had no fuel. The Libyans stayed with us in the boat for one hour until the end of territorial waters, then a very fast boat picked them up. They had lots of guns. They left one gallon of fuel and appointed a guy to drive the boat. When the water finished, we started drinking our urine... We were rescued at 6am. The white man said 'welcome'. We were in the middle of the sea and he said 'welcome, it is six o'clock'. He spoke

¹⁸ <http://www.guardiacostiera.gov.it/en/Pages/search-and-rescue.aspx>

¹⁹ Amnesty International, "A safer sea: The impact of increased search and rescue operations in the central Mediterranean", July 2015, <https://www.amnesty.org/en/documents/eur03/2059/2015/en/>

²⁰ Information provided at the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017

²¹ EUNAVFOR MED – Operation SOPHIA, Six Monthly Report: June, 22nd to December 31st 2015, p. 7, available at <https://wikileaks.org/eu-military-refugees/EEAS/EEAS-2016-126.pdf>

²² Interviewed in May 2017 in Ragusa, Sicily

English. We were very, very happy, we thought we were going to lose our life because we had no more fuel.”

The rubber boat in which **Kwakese Junior**, a Ghanaian man who arrived in Catania, Italy on 23 October 2016, was also extremely overcrowded. There was no food, nor water and smugglers had not provided the refugees and migrants with a satellite phone. Kwakese Junior left Libya after spending nearly four years there. He said he lost his young wife in a street shooting in Zintane in 2015, shortly after she had reached him there to work, having left their baby girl with Kwakese Junior’s mother in Pristia, Ghana. He was rescued after the rubber boat he was travelling on had been adrift for a week. The bodies of nine people who died during the crossing were retrieved from the boat and taken to Italy.

“I was so confused, very unwell and tired when I was rescued. My legs were swollen. We had our legs in water during the journey. I had a headache, all my body was aching. There was no food or water. It was so hot. We were jam-packed, stepping on each other. If you fall you cannot get up again. Nobody could sleep. Many were thirsty and hungry. Many were sick. Nobody had a phone. We were lost...”²³

Efosa Idehen, 25, from Nigeria, spent over a year in Libya, where he was held for ransom and tortured for several months (see below), before being able to make his way to Tripoli and contact a smuggler to organize his sea crossing. He paid the smuggler, a man from Ghana, 1,200 dinars in cash. He left from Sabratha on a rubber boat on 4 March 2017 at 5pm, with 140 people. “When I saw the boat I thought, God is this the way! A Libyan man sailed the boat for about five, six hours, then he left on one of the speedboats which had been escorting us. In one of these boats, an Arab man was wearing a police uniform. They were all working for the man from Ghana.” As they reached international waters, the sea starting getting rough.

“Some people, nine I think, fell into the water. Only two were rescued. We didn’t have lifejackets. I was sitting on top of the balloon [inflatable rib], so I could not see what was happening at the back. Nine hours passed before we were rescued, at 2am on 5 March. All of us were praying. When I saw the lights [of the rescue boat] I thought: please, please, not the Libyan police. But it was a Spanish boat that rescued us. They said: calm, calm, just be calm. We are the EU rescue team from Spain, sit down. Then they rescued the ladies and the babies first. I thought: I am in heaven. When we were taken on board the Spanish boat, they played music, Bob Marley, Don’t worry, everything is going to be all right. People were singing the song. They gave us water, food, clothes.”

Senait a young Eritrean woman, also crossed the sea on an extremely overloaded boat in December 2016, with her nephew and niece. After crossing from Sudan into Libya, smugglers took her to a fenced, open-air area by the sea, where she, with many other refugees and migrant were held for several weeks waiting for the time to sail. Beatings and abuses by the Libyan guards were common. Smugglers provided very little food, mostly bread and pasta, and little water. Some people died there, including Senait’s sister in law. They had met in Sudan, where Senait’s brother still is, and had continued the journey together, with Senait’s little nephew, Freab. Senait’s sister in law was heavily pregnant with her second child. She entered into labour shortly before the Libyan smugglers told them they should travel to the sea. She gave birth to a girl, Hiamir, but, with no medical assistance available she haemorrhaged and died as the smugglers were loading people onto trucks. The smugglers did not wait to check on her and loaded her body onto the truck together with Senait, Freab, the baby and some 200 people.

The journey to the sea took about two hours. Senait left the body of her sister in law on the Libyan beach and faced the sea crossing with her nephew and niece. They spent about 18 hours at sea.

“We were in trouble. The rubber boat was full of water. We left with two rubber boats, 150 people in each one. Most people were Somalis, and there were about 10 Eritreans on my boat. They helped me with the children. When the smugglers put people in the boats, they are out of control, they smoke drugs or are drunk.”²⁴

The deterioration of travel conditions in the past 18 months, which these cases illustrate, has heightened the level of risks of the sea crossing, leading an increasing number of refugees and migrant boats to get into difficulties, often involving imminent danger to life, soon after departure, very near the Libyan coast.

As explained in the next section, European leaders have failed to adapt to the changing search and rescue scenario in the central Mediterranean, leaving a dangerous gap which non-governmental organizations have had to fill.

²³ Interviewed in May 2017 in Mineo, Sicily

²⁴ Interviewed in May 2017, in Agrigento, Sicily

1.4 SEARCH AND RESCUE IN 2016 AND 2017

In the past 18 months the Italian Coastguard's MRCC Rome and rescuers in the central Mediterranean have had to meet new challenges to deliver search and rescue operations.

First, they were confronted with a very significant increase not only in the number of departures and deaths at sea, but also in the number of search and rescue cases, as the number of individual boats needing rescue went up. In 2016 the Italian coastguard coordinated 1,424 search and rescue cases, 52% more than in 2015 and 46.5% more than in 2014.²⁵

This trend continued in the first quarter of 2017. On 19 and 20 March 2017 MRCC Rome coordinated 41 search and rescue cases, and between 14 and 16 April 2017, 73 search and rescue cases in 72 hours, leading to the rescue of 9,262 people.²⁶

Between 25 and 27 June, according to initial media reports some 13,500 people were rescued during at least 23 search and rescue operations involving 18 rubber boats and five boats. The coordination and implementation of such numerous, simultaneous major search and rescue operations is extremely complex and requires the contribution of a high number of assets, both naval and aerial, particularly for medical evacuations.

Secondly, in the past 18 months, according to the Italian coastguard, most search and rescue cases started when a vessel or aircraft "sighted" a boat in distress and contacted MRCC Rome. In 2016, as seen above, 55% of rescues were initiated in this way, while the remaining 45% by a satellite phone call to MRCC Rome. In the first quarter of 2017, over 60% of search and rescue cases started with a sighting.²⁷

While sightings are very important to discover boats in distress, the absence of a satellite phone aboard the boat needing rescue means that determining its precise location and ensuring that rescue boats find it is more laborious. Furthermore it does not allow for direct communication with the people in danger, thus rendering it harder to determine how many people are actually on board and whether there are specific critical situations, for example people requiring immediate medical help, all details which are very precious in setting up from the very beginning a search and rescue operation with the highest chances of success, as rescuers arrive as best prepared as they can to the boat in distress.

Thirdly, in the past 18 months, search and rescue cases occurred closer and closer to the Libyan coasts, at the limit between Libyan territorial and international waters, and sometimes within Libyan territorial waters. Search and rescue operations have steadily moved closer to Libya over recent years, according to the Italian coastguard. However, in 2016 and 2017 it has become clear that refugees and migrant boats are being made to sail in conditions requiring rescue from the moment they depart and that are so poor that it would be almost impossible for them to reach European shores on their own.

So many search and rescue cases so far south of European coasts can only be successfully addressed if a sufficient number of rescue boats are near enough Libyan territorial waters to reach those in danger before it is too late.

The elements illustrated above, the absolute increase in search and rescue cases and the increase in double digit multiple search and rescue cases, often protracted for days; the increase in search and rescue cases initiated via a sighting, often from the air, and the fact that search and rescue cases are occurring very close to the Libyan coast have all contributed to making the successful delivery of search and rescue operations more complex and time and resource consuming, stretching coordination capacity and available rescue assets.

This reality has not been met with the necessary increase in assets focusing specifically on search and rescue operations where they are needed. While several EU, Italian and other Navies assets are deployed at any one time in the central Mediterranean as part of various operations, there are no assets patrolling the area of sea close to Libyan waters on a dedicated humanitarian mission to assist refugees and migrants, with

²⁵ Italian maritime rescue coordination centre, Search and rescue activity and migratory flows in the central Mediterranean, 2016, <http://www.guardiacostiera.gov.it/en/Pages/search-and-rescue.aspx>

²⁶ Information provided at the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017

²⁷ Information provided at the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017

the exception of the Irish LE Eithne²⁸, and of NGOs vessels (while Italian coastguard assets are sent to attend to specific rescue cases whenever required).

While all agencies at sea continued to lend their assets, and cooperate when requested by MRCC Rome to contribute to search and rescue operations, the EU border patrol operation Triton and the EU military operation EUNAVFOR MED have remained focussed on their respective primary objectives: border control and surveillance around Italy's southern sea borders for Triton; and disrupting smugglers' business model by identifying, capturing and disposing of smugglers' vessels for EUNAVFOR MED. In June 2016 EUNAVFOR MED's mandate was expanded to include training of the Libyan coastguard and Navy and contributing to the implementation of the UN arms embargo on the high seas off the coast of Libya. Neither operation includes a humanitarian focus on rescuing lives at sea. Consequently, their assets were and continue to be deployed as required by their principal objectives.

Even the Italian Navy vessels employed in the national operation Mare Sicuro, which have performed a large number of rescues in 2016 (over 36,000 people taken on board), are deployed in order to ensure the overall safety of navigation and the protection of national interests at sea, including the activities of the Italian coastguard, but are not on a humanitarian mission.²⁹

The current situation is therefore quite different from what happened in the summer of 2015, when in addition to a more active role played by operation Triton assets, several Navies deployed their ships. While these ships remained under their national line of command, all search and rescue operations were coordinated by MRCC Rome, as required under the law of the sea. The Italian Navy, which also was deploying up to five ships outside Triton as it is currently, ensured local coordination to make the best use of available assets.³⁰

However, with European leaders shifting their attention towards ways of preventing departures, rescuing refugees and migrants is now once more not a concerted, planned effort, but a relentless series of emergency responses by assets primarily deployed for other purposes.

²⁸ <http://www.defence.ie/website.nsf/Release+ID/95EE2D1FC563A14A80258141005B2589?OpenDocument>

²⁹ Five vessels operate as part of Mare Sicuro. See: <http://www.difesa.it/OperazioniMilitari/NazionaliInCorso/MareSicuro/Pagine/default.aspx>

³⁰ These included the British flagship HMS Bulwark, under the UK operation "Weald", together with three Merlin helicopters; the German Navy ships Berlin and Hessen; and the Irish Lé Eithne. See Amnesty International, "A safer sea: The impact of increased search and rescue operations in the central Mediterranean", July 2015, <https://www.amnesty.org/en/documents/eur03/2059/2015/en/>

1.5 THE ROLE OF NGOS

This has left NGO vessels filling the gap; and but for their efforts the death toll would certainly be far higher. In 2016 and in the first quarter of 2017 NGOs rescued an increasingly larger number of people.

RESCUERS	NO. PEOPLE RESCUED			
	2014	2015	2016	2017 JAN TO APR
ITALIAN COASTGUARD	38,047	41,341	35,875	10,673
ITALIAN NAVY	82,952	29,178	36,084	1,364
OTHER ITALIAN POLICE FORCES (INCL. CO-FINANCED BY FRONTEX)	1,627	6,290	1,867	173
FRONTEX (EXCL. ITALIAN ASSETS) TRITON SINCE 1 NOV 2014	978	15,428	13,616	2,726
EUNAVFOR MED SINCE 22 JUNE 2015	--	23,885	22,885	3,141
FOREIGN NAVIES	705	INCL IN EUNAVFOR MED	7,404	INCL IN EUNAVFOR MED
NGOS	1,450	20,063	46,796	12,647
MERCHANT VESSELS	40,611	16,158	13,888	5,698
TOTAL	166,370	152,343	178,415	36,422 JAN TO APR

NGOs involvement in search and rescue operations, which started in 2015 with four boats grew in 2016 picking up particularly from June 2016. Nine NGOs are currently deploying or about to deploy their vessels in the central Mediterranean: MOAS, MSF, Jugend Rettet, Life Boat, Proactiva Open Arms, Save the Children, Sea-Eye, Sea-Watch, SOS Mediterranee. Some of the NGOs assets are large boats capable of rescuing and taking on board hundreds of people and safely transporting and disembarking them to Italy, while others are smaller boats which provide support to rescue operations by distributing life-jackets and other supplies and maintaining communication with people in danger until a larger vessel arrives to lift them from the boat in distress.

The contribution that NGOs have provided to saving lives at sea in the past two years has been acknowledged and welcomed by politicians and representatives of institutions, including the head of the Italian coastguard and the Commander of EUNAVFOR MED.³¹ This has not stopped a number of other politicians and representatives of institutions from directing baseless accusations against them, alleging collusion between NGOs and smugglers. The claims were the subject of parliamentary inquiries in Italy which did not find any evidence of wrongdoing. Amnesty International criticized the slur campaign, which has been putting at risk crucial lifesaving activities carried out by civil society organizations which have stepped in voluntarily where governments should have deployed their navies and resources to save lives.³²

NGOs vessels at sea come under the broader category of merchant vessels. They have operated in compliance with the law of the sea and, during rescue operations, under the coordination and following the instructions of the MRCC Rome. They have tended to position themselves between 20 and 50 nautical miles from Libyan coasts, with a few keeping closer to the border with Libyan territorial waters.

The involvement of NGOs in search and rescue has been shown to have brought the mortality rate at sea down. Even though deaths at sea increased in 2016, when the presence of NGOs increased, a closer, month-by-month look at the trend of deaths compared with the presence of NGOs vessels, shows that deaths were higher before NGOs presence picked up in 2016 and went down when more NGOs vessels were at sea.³³

Furthermore, the overall quality of the search and rescue system improved because of the activities of NGOs which, effectively, substituted commercial merchant vessels in carrying out rescues, offering rescue boats designed and equipped for refugees and migrants' rescues, with well-trained staff, including medical staff on board. While commercial vessels continue to contribute to rescuing lives at sea (in 2014 they rescued over 40,600 people), they are not suited to mass rescues at sea, because of their often tall sides, of their small crews and limited supplies on board and because they sometimes carry dangerous load.

Since NGOs have started operating, a sort of "division of labour" seems to have emerged whereby, while EU and other state assets contribute to search and rescue often from a distance, for example through sightings, NGO boats are being relied on to take refugees and passengers on board and take them to Italy. While on one hand NGOs have stepped in for this purpose, on the other the NGOs to whom Amnesty International has spoken have consistently stated that while they are at sea to prevent deaths, ensuring search and rescue is ultimately a task for governments. The situation as it stands is hardly sustainable for NGOs, which depend on voluntary contributions and whose operations can easily be disrupted by decisions of governments, such as restrictions on disembarkation.³⁴

European government and institutions must acknowledge the reality of the situation in the central Mediterranean and adapt to it. Their strategy of blocking departures from Libya is not working and, as

³¹ Including during statements to the Italian parliament during recent parliamentary inquiry. See the transcript of the hearing of the head of the Italian coastguard Maritime Rescue Coordination Centre at the Senate defence committee at: <http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=1022010>; see also the transcript of the hearing of the head of EUNAVFOR MED operation at the same committee at: <http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=1011982>

³² Amnesty International, "Italy: Losing the moral compass: Innuendoes against NGOs which rescue lives in the central Mediterranean", April 2017, <https://www.amnesty.org/en/documents/eur30/6152/2017/en/>

³³ Blaming the Rescuers, p.9, a report produced by Forensic Oceanography (Charles Heller and Lorenzo Pezzani), part of the Forensic Architecture agency (Directed by Eyal Weizman) at Goldsmiths (University of London) and published in June 2017, available at <https://blamingtherescuers.org/report/>

³⁴ Notwithstanding their contribution towards saving lives, NGOs have been the target baseless accusations by some representatives of institutions and politicians. These accusations followed allegations in a Frontex report of last year – also to date unproven – that some NGOs were colluding with smuggler. In the course of two inquiries by the Italian parliament in the first quarter of 2017 no evidence emerged of any link between smugglers and NGOs. As to the accusation of constituting a pull factor, as Amnesty International argued when the same accusation was laid against the Italian operation Mare Nostrum, the real issues are push factors leading people to leave their countries and try the crossing towards Europe. See Amnesty International "Italy: Losing the moral compass: Innuendoes against NGOs which rescue lives in the central Mediterranean" (April 2017) <https://www.amnesty.org/en/documents/eur30/6152/2017/en/>

detailed below, traps people in horrific conditions. It also goes against the recommendation of UNHCR, which in 2015 called on all countries to allow civilians (Libyan nationals, habitual residents of Libya and third country nationals) fleeing Libya access to their territories.³⁵ Attempts to enlist the Libyan coastguard in the search and rescue efforts are also fraught with danger for refugees and migrants: both in the course of poorly conducted search and rescue operations and as a result of their being taken back to Libya.

European leaders must ensure that there are sufficient dedicated resources for rescuing people as near to Libyan territorial waters as necessary and for as long as departures continue. A multi-country humanitarian operation under the operational coordination of the Italian authorities, similar to what was in place in 2015 is urgently needed.

³⁵ <http://www.refworld.org/docid/561cd8804.html>

2. THE HUMAN RIGHTS’ IMPACT OF COOPERATION WITH LIBYA FOR SEARCH AND RESCUE AT SEA

“I was taken from the street and sold to a Libyan prison. The guards asked me if I had anybody who could pay for me, or I would die there or be taken back to Sabha. The Libyan guards flogged me. I was tied by the arms, with my legs not touching the ground”.

Amadou, Gambia, May 2016.

2.1 COOPERATION WITH LIBYA TO STOP PEOPLE REACHING EUROPE

European efforts to assist Libya since the fall of Gaddafi have addressed several areas. The EU is supporting the political transition and a negotiated settlement among all legitimate groups in the country, through institution building and projects aimed at restoring public infrastructure. The EU is also providing humanitarian aid to internally displaced people and other vulnerable groups in areas affected by the conflict.³⁶

However, reducing irregular migration from Libya towards Europe is a top priority for the EU. The European Commission joint communication on “Migration on the Central Mediterranean route - Managing flows, saving lives” of January 2017 set out in some detail the EU plan to cooperate with Libya in the area of migration.³⁷

³⁶ For an overview of EU programmes to support Libya, see EU-Libya relations, Factsheet https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations,%20factsheet

³⁷ Joint Communication of the European Commission to the European Parliament, European Council and the Council on Migration on the Central Mediterranean route - Managing flows, saving lives, at <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we->

The plan includes measures to step up the fight against smuggling and trafficking networks by strengthening information exchanges and coordination between the Libyan coastguard and border control agencies in other North African countries. It also includes a commitment to continue to fund training programmes for the Libyan coastguard; assist the Libyan authorities in establishing a Maritime Rescue Coordination Centre and improving operational cooperation with EU Member States; and support the provision to the Libyan coastguard of additional patrolling assets and ensure their maintenance.

On 3 February 2017 the European Council meeting in Malta agreed a Declaration (the Malta Declaration) focussing on the central Mediterranean route.³⁸ In the Declaration, EU leaders agreed to prioritize, among other measures, the provision of “training, equipment and support to the Libyan national coast guard and other relevant agencies”. EU leaders also agreed to implement measures “to ensure adequate reception capacities and conditions in Libya for migrants, together with the UNHCR and IOM”; and to support IOM in “significantly stepping up assisted voluntary return activities”.

In the Malta Declaration, EU leaders also welcomed and affirmed their support for Italy’s bilateral efforts to cooperate with Libya in the area of migration, through the implementation of a Memorandum of Understanding (MoU) signed on 2 February 2017 by the Italian Authorities and the Chairman of the Presidential Council al-Serraj.³⁹ The MoU commits Italy to provide financial and technical support not only to the Libyan coastguard but also to the Libyan Ministry of the Interior, which is responsible for migrants’ detention centres. Although the status of the agreement was unclear after a Tripoli court suspended it in March 2017, the two governments have continued to implement the measures and programmes articulated therein.

The centrepiece of this strategy of cooperation with Libya to reduce migration towards Europe is the strengthening of the Libyan coastguard, through training and the provision of equipment, with the clear expectation that the Libyan coastguard will prevent departures and intercept refugees and migrants in territorial waters to disembark them back in Libya.

This objective has been pursued since 2016 at considerable pace. On 20 June 2016, the EU Foreign Affairs Council expanded the mandate of EUNAVFOR MED to include capacity building and training of the Libyan Navy Coast Guard and Libyan Navy. The training of Libyan personnel was authorized on 30 August 2016 by the EU Political and Security Committee (PSC).⁴⁰ The Libyan authorities have established a dedicated Libyan committee of experts to work with EUNAVFOR MED to implement the training.

The initial training took place on board EUNAVFOR MED assets on the high seas for 93⁴¹ embarked trainees and focused on basic seamanship, more advanced specialist skills as well as human rights and international law. A second package has been delivered ashore in Crete and Malta and is ongoing, with further modules due to take place in 2017 in Spain and Italy.⁴²

do/policies/european-agenda-migration/proposal-implementation-package/docs/20170125_migration_on_the_central_mediterranean_route_-_managing_flows_saving_lives_en.pdf

³⁸ <http://www.consilium.europa.eu/en/press/press-releases/2017/01/03-malta-declaration/>

³⁹ Memorandum d’intesa sulla cooperazione nel campo dello sviluppo, del contrasto all’immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, available at <http://www.statewatch.org/news/2017/feb/it-libya-memo-immigration-border-security-2-2-17.pdf>. The MoU repeatedly uses the term “clandestine” referred to migrants and does not mention refugees and asylum-seekers. The MoU states at Article 1 that Italy will provide technical and technological support to Libyan agencies in charge of combating “clandestine migration”, namely “border guards and coast guards of the Ministry of Defence, and competent agencies and departments of the Ministry of Interior”. At Article 2, the parties commit to take action with regard to the upgrading and financing of “above mentioned reception centres” for migrants (the preamble to the agreement refers to “temporary reception camps under the exclusive control of the Libyan Ministry of Interior” rather than to centres) through EU and Italian funds, with Italy contributing medicines and medical equipment to treat transmissible and grave chronic diseases. Also under Article 2 the parties commit to take action with regard to the training of Libyan personnel inside the reception centres to tackle “illegal migrants’ conditions”, and to support “Libyan research centres operating in this sector, so that they can contribute to the identification of the most appropriate methods to tackle clandestine migration and trafficking of human beings”. Under Article 3 a committee of representatives of the two countries is set up to oversee the implementation of the agreement and the prioritization of measures. In Article 5 the parties commit to implement the agreement in compliance with international law, including human rights treaties.

⁴⁰ EUNAVFOR MED Operation Sophia starts training of Libyan Navy Coast Guard and Libyan Navy (27 October 2016), https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/13195/eunavfor-med-operation-sophia-starts-training-libyan-navy-coast-guard-and-libyan-navy_en

⁴¹ According to information provided at the SHADE MED Forum organized by EUNAVFORMED operation SOPHIA in Rome on 8-9 June 2017

⁴² EUNAVFOR MED Operation Sophia starts training of Libyan Navy Coast Guard and Libyan Navy, 27 October 2016, https://eeas.europa.eu/csdp-missions-operations/eunavfor-med/13195/eunavfor-med-operation-sophia-starts-training-libyan-navy-coast-guard-and-libyan-navy_fr. According to information provided at the At the SHADE MED Forum organized by EUNAVFORMED operation SOPHIA in Rome on 8-9 June 2017, the training has been organized to include three packages: the first package, which took place afloat on EU ships between 16 October 2016 and 13 February 2017, has been completed, delivering the training of three patrol boat crew members; the second package, to be delivered ashore, is ongoing, with modules completed in Crete and Malta and other modules ongoing in Spain and Italy; the third package, envisaging advanced training aboard Libyan boats and possibly in Libyan territorial waters, is for the future. The first package involved training teams from several countries – Belgium, Germany, the UK, Greece, Italy and the Netherlands, as well as from international organizations such as UNHCR and IOM, and was delivered to 93 Libyan trainees. The completed modules of the

Italy has also agreed to return to Libya 10 coastguard speedboats which had initially been donated to Libya during Colonel Gaddafi's rule. Four of these were delivered to Libyan authorities in May 2017, while the rest are expected to be delivered shortly. The speedboats constitute a very significant strengthening of the Libyan coastguard capacity to patrol territorial waters and the high seas beyond.⁴³

In March 2017, Italian coastguard officials at MRCC Rome confirmed to Amnesty International that they had been requested by the Italian government to assist the Libyan authorities in setting up a Libyan MRCC, with a view to Libya eventually being able to coordinate search and rescue activities in its own search and rescue (SAR) zone. They estimated that the process would take at least 18 months, and underscored that it was very much dependent on the success of broader institution-building efforts. A stable national authority was, in their view, essential to establishing and adequately servicing a SAR zone.

2.2 CONCERNS REGARDING THE LIBYAN COASTGUARD

There can be no mistaking the objective of European leaders in focusing on training and empowering the Libyan coastguard and navy. One of the conclusions put forward as part of the Operational Update provided by EUNAVFOR MED at the 8-9 June 2017 SHADE MED Forum was that the Libyan coastguard training is "the fastest way to deliver effect in reducing irregular migrant flows and intercepting the smuggler activities inside territorial waters". In 2016, according to IOM data, the Libyan coastguard intercepted and brought back to Libya 18,904 people.⁴⁴

There are two glaring problems with this approach. The first is that the Libyan coastguard is currently very far from being able to carry out search and rescue functions properly. The second is that the disembarkation of those rescued back in Libya exposes refugees and migrants to a whole host of violations and abuses. All migration control and search and rescue cooperation with the Libyan authorities needs to acknowledge these fundamental facts and be designed to minimise the dangers and human rights violations to which they expose refugees and migrants. This requires a very different approach to the one adopted currently, which appears almost exclusively driven by the desire to reduce departures from Libya and secure the interception and return to Libya of those who do embark. While the EU should, certainly, be exploring every avenue to save lives at sea – including through improving search and rescue capacity in Libyan territorial waters – it is critical that it does this with due regard – and due influence over – the performance of the Libyan coastguard.

Currently, however, the cooperation with, and the training of, the Libyan coastguard are taking place without an adequate accountability framework and of monitoring systems to assess the conduct and performance of the Libyan coastguard and navy officers to ensure that they uphold international human rights law and standards. The lack of such accountability and monitoring framework emerged clearly from the dialogue with EUNAVFOR MED officers at the working group on cooperation with the Libyan coastguard during the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017.

The training and cooperation with the Libyan Coastguard and Navy is being implemented at speed, while there remains considerable uncertainty regarding the level of control exercised by the internationally recognized Libyan government and the Libyan coastguard authorities over all its units and officers, in light of reports that irregular groups and militias are de facto exercising coastguard-like functions in certain areas of territorial waters.

second package took place in Greece between 30 January and 9 February, for 20 senior officers, covering migration, maritime law enforcement, crime scene investigation and evidence collection, legal coastguard organization and gender awareness; and in Malta between 6 and 17 March and 27 March and 7 April, covering operational maritime law for 12 trainees; and on scene coordination for eight students. Planned modules will take place in Italy in September, for five patrol boat crews (75 students); maintainers (25 students), on topics including electrical and main engines, auxiliary machines and electronics; operation room operators (for 25 students); trainers (for eight students); deck and petty officers (for 56 students); as well as in Spain, also in September, for maintainers and on international maritime law (for 36 students).

⁴³ According to information provided by the Libyan coastguard at the SHared Awareness and DEconfliction (SHADE MED) Forum organized by EUNAVFOR MED operation SOPHIA in Rome on 8-9 June 2017, the Libyan coastguard currently has five patrol boats (including the four returned by Italy); three smaller size patrol boats; six RHIB (rigid hull inflatable boats); and two fibreglass dory boats

⁴⁴ IOM, EU Train Libyan Mediterranean Migrant Rescuers, 6 January 2017, <https://www.iom.int/news/iom-eu-train-libyan-mediterranean-migrant-rescuers>

The report published on 1 June 2017 by the UN Panel of Experts on Libya and addressed to the UN Security Council President contains serious allegations of collusion between factions of the coastguard and smugglers and of violations and abuses committed by coastguard factions against migrants.⁴⁵

Under the heading Human rights violations against migrants, the report states:

“104. Abuses against migrants were widely reported, including executions, torture and deprivation of food, water and access to sanitation. The International Organization for Migration (IOM) also reported enslavement of sub-Saharan migrants. Smugglers, as well as the Department to Counter Illegal Migration and the coastguard, are directly involved in such grave human rights violations. [...]”; and “105. Abd al-Rahman Milad (alias Bija), and other coastguard members, are directly involved in the sinking of migrant boats using firearms. In Zawiyah, Mohammad Koshlaf opened a rudimentary detention centre for migrants in the Zawiyah refinery. The Panel collected information on abuses against migrants by several individuals (see annex 30). In addition, the Panel collected reports of poor conditions in migrant detention centres in Khums, Misratah and Tripoli [...]”

Another UN report by the UN Support Mission in Libya (UNSMIL) and the Office of the High Commissioner for Human Rights, published in December 2016 also contained scathing allegations against members of the Libyan coastguard, alleged to be corrupt or of colluding with smugglers and of abusing migrants they intercepted:

“When migrant boats have been intercepted by the Libyan Coast Guard, migrants are typically transferred to DCIM [Department to Counter Illegal Migration] detention facilities or to private houses and farms, sometimes for a fee, where they are often subjected to forced labour and, in the case of women, rape and other sexual violence. Libyan Coast Guard staff have apparently also seized boats and engines, and then sold them onwards. A number of migrants interviewed by UNSMIL who were intercepted at sea by armed men believed to be members of the Libyan Coast Guard, said that some were in military camouflage uniforms and others were in civilian clothes. The migrants were brought back to shore and made to queue, sometimes for many hours without adequate shelter. Several migrants recounted being beaten with sticks or gun butts, and robbed of their belongings, usually mobile phones and money.”⁴⁶

Some of the refugees and migrants interviewed by Amnesty International in May 2017 also reported that smugglers sometimes pay coastguard officials to allow boats to leave territorial waters, or to obtain the release of intercepted people from detention centres to make them try the crossing again. The practice appears to have the effect of exposing refugees and migrants to yet more violations and abuses and adds to the danger of the sea crossing, which for some has to be attempted several times.⁴⁷

⁴⁵ Final report of the Panel of Experts on Libya established pursuant to resolution 1973(2011), S/2017/466, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

⁴⁶ United Nations Support Mission in Libya, Office of the United Nations High Commissioner for Human Rights “Detained and Dehumanised”, Report on human rights abuses against migrants in Libya, 13 December 2016, available at http://www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf

⁴⁷ See also the report Blaming the rescuers, in which the authors argue that the Libyan coastguard’s intervention simultaneously conflicts with and is embedded within the smuggling business, at p. 22, <https://blamingtherescuers.org/report/>

MARUF, BANGLADESH

Maruf⁴⁸, a young man from Bangladesh who arrived in Italy in December 2016 from Libya, after travelling via Oman, Dubai, Egypt and Turkey by plane, attempted to cross twice before succeeding on the third attempt:

“We had already been stopped twice at a place with lots of lights [an oil plant off the Libyan coast]. There was a man with us with a police jacket with the writing POLICE on the back. He paid for us the first two times, and then he was taken back on a Libyan coastguard boat. So when the pirates came there was nobody who could pay anymore, so they took us back. They had guns, no uniform. The smuggler had to pay for us. The second time we were stopped by the Libyan coastguard, wearing grey uniform and big guns, on a big boat. We had left from Sabratha. Our engine broke down. We had to go back to change it. We had it repaired, then sailed again for about one hour, when we were stopped by the Libyan coastguard. I saw our connection man negotiating. I could tell by their body language, and I also asked somebody who spoke Arabic. They [the Libyan coastguard] wanted 50%. The connection man said no. We were 170, on a rubber boat. We were taken back to prison and we were asked for more money. They told us: if you pay, nobody will stop you this time, because we are the coastguard. In the ‘police station’ [likely to have been an irregular detention centre] in Sabratha there are about 50 people per cell. If you agree to pay more, they take you out of the cell and put you in an open area. You wait until the sea is good. If you don’t pay, a Bangladeshi man will come and buy you. Libyan prisons are just hell. I was there only for two days and it was hell. There was a Pakistani guard there, the most vile person I have met. I could understand he was Pakistani because he spoke Urdu. They tell you to ring your family [to arrange for them to pay for your ‘freedom’]. They test your patience... Everything has to do with the police. The ‘connection man’ makes a deal with the police. If the connection man decides not to pay the police, you get captured...”

Several incidents involving units of the Libyan coastguard reportedly shooting or otherwise putting at risk the safety of refugees and migrants and of NGOs’ vessels involved in search and rescue operations have also been reported in the past year, leading to considerable concerns about the Libyan coastguard’s practices, chain of command, accountability and operational skills and methods.

INCIDENT INVOLVING MSF BOAT BOURBON ARGOS, 17 AUGUST 2016

On 17 August 2016 armed men in an unidentified speedboat fired 13 shots against the decks and wheelhouse of an MsF rescue boat, the Bourbon Argos, while it was sailing in international waters at 24 nautical miles from Libyan coasts. The attackers did not identify themselves nor did they respond to communication attempts by the Bourbon Argos. The attackers shot from a distance of about 400-500 metres, and then proceeded to board the Bourbon Argos. No rescued people were on board at that point. The armed men stayed on board the Bourbon Argos for some 50 minutes, without hurting MsF staff or removing anything. Later, seemingly as a result of media pressure, the Libyan coastguard admitted taking part in a confrontation with the Bourbon Argos. They alleged to have fired warning shots, but not to have boarded the MsF vessel. They maintained that the Bourbon Argos had not identified itself.⁴⁹ The recent report of the UN Panel of Experts on Libya states, with regard to this incident: “59. On 17 August 2016, a speedboat attacked a Médecins sans frontières vessel off the Libyan coast. Two coastguard officers from the Dallah coastguard were involved in the attack. The two identified attackers are loyal to Abd al-Rahman Milad (alias Bija), head of the Zawiya coastguard and involved in smuggling activities.”⁵⁰

⁴⁸ Interviewed in May 2017 in Ragusa, Sicily

⁴⁹ <https://www.theguardian.com/world/2016/aug/28/libyan-navy-admits-confrontation-charity-rescue-boat-msf>
<https://www.theguardian.com/world/2016/sep/03/libyan-naval-attack-on-charity-ship-adds-new-danger-to-migrant-rescue>

⁵⁰ Final report of the Panel of Experts on Libya established pursuant to resolution 1973(2011), S/2017/466, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

INCIDENT INVOLVING SEA-WATCH, 21 OCTOBER 2016

According to the crew of the NGO boat Sea-Watch, on 21 October 2016, at around 2-3am, a speedboat with the writing Libyan Coastguard and some 20 armed people in some kind of military uniform approached at high speed as had started to assist a rubber boat with some 150 people on board about 14 miles off the Libyan coast (two miles into international waters). One of the men on board the Libyan vessel threw a rope onto the rubber boat in distress, a dangerous practice which has been used by the Libyan coastguard units to tow back refugees and migrant boats. Another man stepped into the rubber boat and attacked the refugees and migrants with a baton. The attack caused panic on board the rubber boat. The Libyan vessel decided to retreat, but the rubber boat started to deflate, causing the majority of the people on board to fall in the water. The Sea-Watch crew managed to save 120 people, including four people retrieved unconscious from the water, but also recovered four lifeless bodies. The following day a spokesperson for the Libyan navy in Tripoli denied attacking the migrants but acknowledged that Libyan coastguard personnel had boarded the rubber boat. The survivors and the four bodies were later disembarked in Palermo, Sicily, where prosecutors opened a criminal investigation into the incident.⁵¹

INCIDENT INVOLVING SEA-WATCH 2, 10 MAY 2017

In the early morning of 10 May 2017, a Libyan coastguard vessel approached a wooden boat in distress in international waters carrying almost 500 refugees and migrants at high speed, cutting in front of a small lifeboat which the Sea-Watch 2 had already lowered into the water to assist the people on the wooden boat. The Sea-Watch 2 had been directed by the Italian coastguard Maritime Rescue Coordination Centre in Rome (MRCC Rome) to assist the boat in distress. Because the request for help had reached MRCC Rome while the refugees and migrants were still in Libyan waters, MRCC Rome had also alerted the Libyan coastguard, which had decided to intervene and coordinate the rescue, exercising “on scene command.” According to the Sea-Watch 2 master, the high-speed manoeuvre by the Libyan coastguard vessel endangered both its own and the Sea-Watch 2’s crew. The Libyan coastguard vessel then proceeded to stop the refugees and migrant boat. The Libyan coastguard captain threatened the refugees and migrants with a gun and took over the boat in distress. Some of the refugees and migrants were transferred onto the Libyan vessel. Libyan officials boarded the boat in distress, with most of the refugees and migrants still on board. Both the Libyan coastguard vessel and the wooden boat sailed back to Tripoli.⁵²

⁵¹ <http://uk.reuters.com/article/uk-europe-migrants-italy-idUKKCN12011E>; <https://hras-seawatch.org/2016/11/04/mission-13-update-libyan-coastguard-push-back-a-personal-report/>; <https://sea-watch.org/en/breaking-news-libyan-coast-guard-attack-on-sea-watch-rescue-operation-causes-multiple-dead/>

⁵² Amnesty International, “Italy: Refugees and migrants in the central Mediterranean, cutting the lifelines”, May 2017, <https://www.amnesty.org/en/documents/eur30/6319/2017/en/>

INCIDENT INVOLVING NGOS JUGEND RETTET, SOS MEDITERRANEE AND SAVE THE CHILDREN'S BOATS, 23 MAY 2017

On 23 May, according to NGOs' reports, MRCC Rome directed several vessels including their own to assist eight boats in distress about 14 nautical miles off the Libyan coast, in international waters.⁵³ According to initial estimates, the boats needing assistance were carrying around 1,800 people.⁵⁴ Rescue operations started at about 10.30am. After about two hours, Libyan coastguard speedboats, including one with four stationary machine guns, approached the rescue area at high speed, reportedly creating large waves. Libyan armed personnel reportedly opened fire first at a fishing boat in the vicinity, and then in the air but in close proximity of the refugees and migrants' rubber boats. The Libyan officers boarded two of the refugees and migrant boats, started hitting the people on board and pointed large guns at them. Panic ensued and a large number of people, up to 100, jumped in the water. Because the NGOs' crews had already distributed lifejackets shortly before the Libyan coastguard arrived, many managed to stay afloat. 67 people were rescued and taken on board the Aquarius boat of SOS Mediterranee. Two rubber boats were taken back towards Libyan waters by the Libyan coastguard. The NGOs could not say whether any of the people taken back to Libya were injured.⁵⁵

As these episodes illustrate, the intervention of Libyan coastguard units in the past year has repeatedly put in danger the safety and lives of both NGOs' crews engaged in rescue operations in international waters and also of refugees and migrants, both because they have resorted to firearms and violence but also because of their operating at sea in plain disregard of basic security protocols and standards.

After years of working on search and rescue operations in the specific context of rescuing refugees and migrants in the central Mediterranean, in addition to complying with the guidelines contained in the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual, professional military, coastguard and civilian rescue crews have developed good practices which have proven highly successful in preventing panic and capsizing and ensuring that rescues are carried out as safely as possible.

The incidents described above raise the glaring concern that the Libyan coastguard is often – even routinely – disregarding the following basic safeguards: approaching slowly to prevent destabilizing further the boats in distress; communicating with other vessels at the scene to ensure effective and best use of all resources available to maximize the saving of lives (rather than firing gunshots); avoiding approaching a boat in distress from one side, a manoeuvre which has in the past caused boats to capsize as the people on board tend to move all on the side of the vessel approaching to rescue them; identifying particularly vulnerable cases in need of emergency medical help among the refugees and migrants to be transferred first onto the rescuers' vessel; lowering a small lifeboat into the water to carry out quick rescues during the transfer of people from the boat in distress to the rescue vessel in case someone falls in the water; distributing life-jackets; and attempting to create a calm environment to carry out the rescue in optimal safety conditions. The methods applied by the Libyan coastguard suggest that their priority is not ensuring the safe rescuing of lives, but rather returning people to Libya.⁵⁶

In light of the above, Amnesty International considers that the Libyan coastguard cannot and should not be relied upon to undertake or contribute to search and rescue operations in international waters as its presence increases already high risks to safety. In the context of cooperation with Libyan authorities, EU leaders should clarify that there should be no intervention of Libyan coastguard units outside Libyan waters unless, according to the MRCC in charge of coordinating an operation (in most cases this is likely to be MRCC Rome), their intervention is absolutely necessary to save lives. In such cases, rescued people should be transferred to non-Libyan vessels involved in the operation and disembarked in a place of safety, which, as explained below, cannot currently be Libya.

⁵³ See a detailed account of the incident by Human Rights Watch in EU: Shifting Rescue to Libya Risks Lives, June 2017, at: <https://www.hrw.org/news/2017/06/19/eu-shifting-rescue-libya-risks-lives>

⁵⁴ Between 23 and 24 May the Italian coastguard coordinated 11 operations in the central Mediterranean leading to the rescue of a total of 2,100 people, including about 200 people who had fallen in the water after a large wooden boat carrying about 500 passengers capsized. 34 bodies, including of several small children, had been retrieved from the water. See Italian coastguard press releases of 23, 24 and 25 May 2017 at www.guardiacostiera.gov.it

⁵⁵ <http://sosmediterranee.org/1004-people-rescued-operations-disrupted-by-gunshots/?lang=en>; <http://www.independent.co.uk/news/world/europe/refugee-crisis-deaths-mediterranean-libya-coastguard-opens-fire-drowned-gunshots-ngos-rescue-boat-a7754176.html#gallery>

⁵⁶ See for example video footage of ill-treatment of refugees and migrants by the Libyan coastguard at this link: <https://www.thetimes.co.uk/article/video-shows-libyan-coastguard-whipping-rescued-migrants-6d8g2jgz6>;

European authorities should also remind competent Libyan authorities and the Libyan Committee of Experts which meets with the representatives of EUNAVFOR MED that rescues by foreign boats within Libyan territorial waters is lawful under the law of the sea and should be allowed to take place unhindered, under the coordination of the competent MRCC (which in most cases is likely to be MRCC Rome). They should also obtain a verifiable assurance that such rescues by foreign civilian vessels including NGOs' vessels, will be allowed to take place undisturbed and in safety.

Despite being a party to the 1979 International Convention on Maritime Search and Rescue, Libya has not - so far - officially declared a search and rescue area nor created an MRCC capable of delivering the functions required under the 1979 SAR Convention. In addition, Libya is not a party to the Refugee Convention, whose principles are key in determining the place of safety where rescued people should be disembarked on the basis of the 1979 SAR Convention.⁵⁷

The coordination of search and rescue operations in international waters in compliance with international law and standards requires stable institutions which Libya currently does not have. In this context, to pursue the establishment of a Libyan MRCC with a view to having it operational in 2018, as confirmed by EU official sources to Amnesty International appears at best delusional, at worst a cynical attempt to ensure that those rescued are brought back to Libya. Despite current efforts by EU and UN agencies to provide assistance to refugees and migrants at some disembarkation points in Libya, the reality remains that the vast majority of those disembarked in Libya are still transferred to detention centres to face serious human rights violations and abuse, as the next chapter documents.

2.3 HUMAN RIGHTS VIOLATIONS AND ABUSES AGAINST REFUGEES AND MIGRANTS IN LIBYA

Amnesty International has repeatedly warned EU leaders that their cooperation with Libyan authorities – and particularly cooperation to enhance border and coastguard agencies' capacity to stop people attempting to leave Libya – would result in trapping more people in Libya, where they are exposed to widespread and systematic violations and abuses.

Despite such warnings, European leaders have enhanced their cooperation with Libyan authorities, especially those responsible for border control, in the absence of any guarantees that this cooperation would prioritize or guarantee the much-needed advancements in human rights protection in the country, including the abolition of automatic detention of refugees and migrants, measures to combat their systematic ill-treatment by ending impunity and cracking down on criminal networks to bring them to justice, as well as the creation of an asylum system in the country that meets international legal standards.

Italian and European authorities are well aware of the dramatic situation faced by hundreds of thousands of refugees and migrants in Libya, who are exposed to ill-treatment and arbitrary detention if held in detention centres, as well as to arbitrary killings, violence and exploitation when they are free.

The descent of Libya into lawlessness and civil conflict since the end of Gaddafi's rule in 2011 has contributed significantly over the past few years to people resorting to the central Mediterranean sea journey towards Italy as the only way out of such widespread violence and insecurity. Thousands of people originally intending to stay in Libya have found themselves unable to continue living there and with no other way out than the sea.

Living conditions have become especially unbearable for African migrants, as testimonies collected by Amnesty International show. Widespread racism accompanies endemic violations and abuses against black Africans who are routinely exploited for labour, kidnapped and held for ransom, bought and sold, as the cases below demonstrate.⁵⁸

⁵⁷ Rescue at sea, A Guide to principles and practice as applied to refugees and migrants, by the International Maritime Organization, UNHCR and the International Chamber of Shipping, at http://www.imo.org/en/MediaCentre/HotTopics/seamigration/Documents/UNHCR-Rescue_at_Sea-Guide-ENG-screen.pdf

⁵⁸ Amnesty International documented violations and abuses consistent with those described in this report also in 2016 in Refugees and migrants fleeing sexual violence, abuse and exploitation in Libya, <https://www.amnesty.org/en/latest/news/2016/07/refugees-and-migrants-fleeing-sexual-violence-abuse-and-exploitation-in-libya/>

Joseph⁵⁹, a Nigerian man in his early 20s left his country after his sister died in a Boko Haram bombing in 2014, in which he was also hurt. He arrived in Italy in July 2016, but had initially wanted to stay in Libya:

“In Sabha I was kidnapped for six months and imprisoned by the Asma boys (criminal gangs). I did not have anybody to call [to pay ransom]. I escaped, while Libyan guards were shooting at us. I was very weak because they did not give us food. An Arab man took me home with him. I stayed with him for two months, working to build houses, without being paid. I had been in Libya for a year and wanted to stay there, one day in 2016, I was still in Sabha, the Arab man I was living with told me to pick up my clothes and follow another Arab man, who took me to Tripoli and organized my boat crossing.”

In the accounts of people who have travelled through Libya in the past few years, the figure of the ‘connection man’ is often mentioned. The ‘connection man’ is the link between the refugee or migrant and the smuggler who organizes the boat journey. He receives the payment for the crossing. The ‘connection man’ often places those who want to cross in a ‘connection house’. This is a closed place, where people are held for a few days up to some months until a boat for them becomes available. In the ‘connection house’ conditions can vary, but they can often be abysmal. Extreme overcrowding, lack of food and clean water, occasionally beatings, are frequently reported. In recent testimonies, those held in the ‘connection house’ often have to pay for their food and drinks.

Samuel⁶⁰, a 22 year old Nigerian man who left Nigeria after his parents died in a Boko Haram attack against a church in Maduga in 2010, told Amnesty International that between December 2016 and January 2017 lots of black people were terrified of being shot at in Tripoli:

“I worked in a hospital and was sleeping in a rented house. After Christmas, there was a lot of fighting. I could not go to work anymore because it was too dangerous. Lots of black people were being killed. God saved me. I was hiding. I could not come out. I had friends, but after this attack, they all scattered. The attack lasted a month. Nobody was coming out of their refuges. In February, a man rescued us [sic]. He asked us: what are you going to do, the only way out is the sea. He took us to Sabratha, to a ‘connection man’.” The ‘connection man’ asked for 1000 dinars. I paid. I had the money on me because one cannot put it anywhere else in Libya. I stayed in the ‘connection house’ until 21 May. It was terrible. There were 80 of us, all men. We were given two meals a day. If we wanted anything else, like drinks or water, we had to ask the ‘connection man’ to buy them for us and pay him. On 21 May in the afternoon they told us they would push us out at sea that night.”

Abukafir (mentioned above) was detained, bought and sold while in Libya:

“The driver took us to Sabha and sold us to Abukafir prison [after which he chose his name for this report]. I spent one month there. They give you a telephone to call your people. [He laughs] The Libyan people are crazy! Every day they used a baton to beat me under the knees and the soles of my feet, all the weak points. The moment somebody answers the phone, they shoot a gun by your head. I paid 96.000 Gambian dalasi. Now, I had no more money. I spent one month in Sabha, working. It was not safe, there was fighting, blacks were killed randomly. I managed to go to Tripoli. There was a Gambian man called Sanko in Benwalid. I gave him money to reach Tripoli through the desert. Before getting there, I do not know if he sold us, but another car came to pick us up to get to Tripoli. In Tripoli we were slaves. We had a boss and employers would come and take us and pay him. We were transporting bricks. One day there was a Libyan woman looking for workers. She took me to her home, to do cleaning. She had one child and told me her husband had died. She wanted to force me to sleep with her. She threatened to report me. I knew that if she reported me I would be killed. I did not like what she was doing to me. After some time, she asked me if I wanted to leave Libya. She gave me three choices: I could become a soldier for the Libyans; or I could be smuggled to Tunisia; or she could pay me a boat ride to Italy. I was scared of being smuggled again to go to Tunisia. I chose to become a soldier. In Libya, every city has its own soldiers. The Libyans want blacks because they think blacks are strong. But the person the woman was in contact with did not want me. So I only had one choice, the boat. I don’t know if the woman paid for me, but one day she told me: you have to go.”

Illegal entry is criminalized under Libyan law and those found guilty are fined and can also face a prison sentence. There is no asylum framework in Libya, so automatic detention applies to irregular migrants as well as to asylum-seekers and refugees. UN agencies and several human rights non-governmental organizations, including Amnesty International, have documented systemic, serious human rights violations

⁵⁹ Interviewed in May 2017 in Ragusa, Sicily

⁶⁰ Interviewed in May 2017 in Ragusa, Sicily

in Libyan detention centres. They are indefinitely detained and subjected to torture and other ill-treatment, beatings, exploitation and sexual violence by the guards in government-run detention centres or those run by armed groups outside the effective control of the government. These abuses are committed with absolute impunity as in practice there is no judicial oversight of these detention centres and no remedy for those detained.

AMADOU, GAMBIA

Amadou⁶¹, from Gambia, told Amnesty International: “In October 2016 I was in Surman, between Sabratah and Zawiyah. I was taken from the street and sold to a Libyan prison. The guards had no uniform. Prisoners who stay in the prison for a long time sometimes become guards. The Libyans, though, had guns and camouflaged uniform. Employers come and pick up people to work for free for them, and then they pay the guards. I spent three months in prison. We were sleeping on mattresses on the floor. You sleep like sardines in the cell, on your side, because there is no space. They beat you if you do not lie down in the right way. The water for the toilet was also for drinking. Sometimes they give you no water all day. They give you one portion of macaroni for two people and we took turns with a spoon to eat. Breakfast is at 1pm, lunch at 3pm, and dinner, when they give it, at 7pm. There are no medicines. If you are really sick, they throw you out...

Once, an Arab man and an IOM white lady came to the prison. The visit did not last long. We were not allowed to speak to them. People are in separate cells according to nationality and only the “leader” of each nationality group spoke and they said only good things. They gave soaps and towels to the Libyan guards. They also took samples of the water we were drinking. Some prisoners said they brought medicines, but nothing was distributed. The IOM lady said that somebody would come to make arrangements to send people back to their homes. I did not see them again. Their visit did not last more than 15 minutes. I saw three people being tortured while I was in prison. One boy died during torture. They threw him out of the prison. I do not know where he was from. They tortured him because he had tried to escape. A Liberian man also tried to escape and they tortured him until he was sick. Another man from Gambia was heavily tortured and they took him back to Sabha because they did not agree on the price [to release him]... I was tortured too... The guards asked me if I had anybody who could pay for me, or I would die there or be taken back to Sabha. The Libyan guards flogged me. I was tied by the arms, with my legs not touching the ground. They hit all parts of my body. They beat prisoners with pipes. I was beaten at night, around 11pm. I was very weak. If you are too sick to recover, they throw you somewhere back into the desert. They put me in a car at night and I passed out. They threw me in a bush. When I woke up, I saw African men working in a farm. They helped me and I stayed with them.”

Hundreds of thousands of people are currently trapped in Libya with no other way out than a dangerous journey across the central Mediterranean towards Italy. According to IOM data, there are over 270,000 migrants in Libya, but according to some estimates there could be up to 1 million. Over 40,700 people are registered as refugees or asylum-seekers with UNHCR. Even if going back to their countries for some of them was an option, crossing the desert again would be just as dangerous and expensive as crossing the sea. Some of them may be able to benefit from IOM Assisted Voluntary Return programmes, which are being expanded with financial contributions from the EU and its member states. In any case, for refugees escaping war or persecution, for whom return is not an option, risking their lives in dangerous sea crossings is virtually the only way to leave the country.

⁶¹ Interviewed in May 2017, in Agrigento, Sicily

3. RECOMMENDATIONS

- EU Member States and institutions, including Frontex, should ensure that an adequate number of EU vessels with search and rescue as their primary purpose are deployed along the routes taken by refugees and migrant boats, including near Libyan territorial waters for as long as departures of refugees and migrants from Libyan shores continue.
- Amnesty International considers that the deepening of cooperation with and training of the Libyan coastguard and navy especially with regard to the creation of a Libyan MRCC and Libyan search and rescue area, and the provision of additional resources, including vessels, remains deeply problematic. Its continuation should be made conditional by EU Member States and institutions on the acceptance by the Libyan authorities of a number of limitations to their activities, namely that:
 - The Libyan coastguard should not carry out search and rescue activities outside Libyan waters;
 - The Libyan coastguard should allow search and rescue operations by civilian vessels, including boats operated by NGOs to take place unhindered in Libyan territorial waters;
 - The Libyan coastguard should not be allowed to claim and exercise on scene command during a search and rescue operation and should transfer any rescued person onto EU or foreign vessels participating in the operation to be disembarked in a place of safety;
 - The Libyan coastguard should accept the immediate establishment of a mechanism to ensure solid monitoring of their conduct and operations at sea, and of an accountability process in case of breaches of international law rules. European leaders should pause plans for the creation of a Libyan MRCC until Libya has stable and reliable institutions which can credibly deliver search and rescue coordination to the standard required by the relevant international laws and standards.
- EU Member States should open safe and legal routes into Europe, in particular by making humanitarian admission available to the thousands of people in need of protection and stranded in Libya.
- EU Member States and institutions should make all migration-related cooperation with, and funding to, Libya conditional on the Libyan authorities taking concrete and verifiable steps towards ending automatic detention of migrants and creating a protection system in Libya (including by ratifying the Refugee convention; recognizing UNHCR and allowing access to all detention places to humanitarian agencies). European leaders should be prepared to stop cooperation on migration if these conditions are not met.
- EU Member States and institutions should ensure that non-governmental organizations rescuing lives at sea can continue to contribute to rescuing refugees and migrants, in compliance with relevant international law and standards

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A PERFECT STORM

THE FAILURE OF EUROPEAN POLICIES IN THE CENTRAL MEDITERRANEAN

A humanitarian crisis continues to unfold in the central Mediterranean as thousands of people are dying at sea in the desperate attempt to reach safety or a better life in Europe. Over 2000 have already lost their lives in 2017.

Instead of trying to prevent further loss of life by deploying more ships dedicated to rescue operations near Libyan territorial waters, European leaders are focused on preventing refugees and migrants from departing from Libya to keep the number of arrivals in Europe down.

This report shows how this reckless European strategy, whose centrepiece is cooperation with the Libyan coastguard, is exposing refugees and migrants to even greater risks at sea and, when intercepted, to disembarkation in Libya, where they face horrific conditions and violations in detention, torture and rape.

The report calls on European leaders to deploy dedicated resources for search and rescue near Libyan territorial waters and to ensure disembarkation of those rescued at a place of safety: a multi-country humanitarian operation similar to what was in place in 2015 is urgently needed. Any cooperation with the Libyan coastguard must be circumscribed to cases where their intervention is essential to prevent immediate loss of life and made conditional on measures to mitigate against the risks of disembarkation in Libya. European leaders must also redouble efforts to provide sufficient safe and legal routes for refugees and migrants to access European territory.